

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**IA NO. 574 OF 2017 IN
DFR NO. 2070 OF 2017**

Dated: 6th November, 2017

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. I.J. Kapoor, Technical Member**

In the matter of:

NLC India Limited

.... Appellant(s)

Vs.

Tamil Nadu Electricity Regulatory Commission & Anr.

.... Respondent(s)

Counsel for the Appellant(s) : Ms. Ranjitha Ramachandran
Ms. Anushree Bardhan

Counsel for the Respondent(s) : Mr. Sethu Ramalingam for R-1
Mr. S. Valinayagam for R-5

ORDER

There is 417 days' delay in filing this appeal. In this application, the Applicant/Appellant has prayed that delay may be condoned.

The Respondents have been served. Mr. Sethu Ramalingam appears on behalf of Respondent No.1 and Mr. Vallinayagam appears on behalf of Respondent No.2.

We have heard learned counsel for the Appellant and perused the additional affidavit filed in support of the application for condonation of delay. The following explanation is offered:

- “ 4. *I say that the Appellant is in the process of establishing a 130 MW (large project) solar power project comprising of two units of 65 MW each at different locations in Neyveli in the State of Tamilnadu. Ordinarily, the Appellant could have established the solar projects within a period of 12 months from the beginning of the financial year 01.04.2016 i.e. by 31.03.2017 and in such an event the Appellant would have been entitled to tariff determined by the State Commission for the financial year 2016-17 as per the decision of the State Commission in the above mentioned order dated 28.03.2016. The Appellant, therefore, proceeded on the above basis and did not file any appeal against the order dated 28.03.2016 i.e. within 45 days from the date of the order.*
5. *I say that in the course of time, there was a delay in the signing of the Energy Purchase Agreement. The Energy Purchase Agreement was signed by Respondent No.2 only on 15.07.2016. The Appellant attempted to establish the project in time but due to lapse of about 3 ½ months in the signing of the Energy Purchase Agreement, it became clear by February, 2017 that the project would take time. In the circumstances mentioned herein above, the Appellant filed a petition being Review Petition No. 2 of 2017 seeking, inter alia, the review of the Order dated 28.03.2016 and also extension of the validity period of the solar tariff rate of Rs.5.10/KwH beyond 31.03.2017.*
6. *I say that the Appellant filed an application for review only in February, 2017 when it became clear that the Appellant will not be establish the solar power project by 31.03.2017.*
7. *I say that the Appellant bona fide proceeded on the basis that it would minimize the time for establishment of the project from July, 2016 when the Energy Purchase Agreement was signed and the commission the project at the earliest near about 31.03.2017 with as little time overrun beyond 31.03.2017 as possible so that it can approach the State Commission for a time extension beyond 31.03.2017.*
8. *I say that as the solar project was to be delayed on account of the late signing of the Energy Purchase Agreement and also on account of other circumstances, the Appellant had to approach the State Commission in February, 2017 for review of the Order dated 28.03.2017.*
9. *I say that although a Daily Order was passed by the State Commission on 24.02.2017 with regard to the review petition, the detailed order was available to the Appellant only on 25.04.2017.*

10. *I say that the Appellant had filed the above appeal on 03.07.2017 i.e. the date of re-opening after the summer vacation.”*

We have heard learned counsel for the respondents, who have opposed the condonation of delay.

Considering the issues involved in the appeal, we are of the opinion that delay deserves to be condoned after saddling the Appellant with costs. Accordingly, the Appellant is directed to pay cost of Rs.15,000/- (Rupees fifteen thousand only) to a charitable organisation, namely, **“National Association for the Blind, Delhi State Branch, Sector – 5, R.K. Puram, New Delhi – 110 022”** on or before 27.11.2017. Application is disposed of.

After receiving the compliance report, Registry is directed to number the appeal and list the matter for admission on **18.12.2017**.

(I. J. Kapoor)
Technical Member

ts/tpd

(Justice Ranjana P. Desai)
Chairperson