

COURT-II
IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(APPELLATE JURISDICTION)

IA NO. 759 OF 2018
IN DFR NO. 1539 OF 2018

Dated: 4th October, 2018

Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member
Hon'ble Mr. S.D. Dubey, Technical Member

In the matter of :

Uttarakhand Power Corpn. Ltd.

.... Appellant(s)

Vs.

M/s Uttar Bharat Hydro Power Ltd & Anr.

.... Respondent(s)

Counsel for the Appellant(s) : Mr. Pradeep Misra

Counsel for the Respondent(s) : Ms. Ranjitha Ramachandran
Ms. Poorva Saigal
Ms. Anushree Bardhan
Mr. Shubham Arya for R-1

Mr. Buddy A. Ranganadhan
Ms. Stuti Kishan for R-2

ORDER

IA No. 759 of 2018

(For Condonation of Delay in Filing the Appeal)

The instant application has been filed by the Appellant for condoning the delay of 113 days in filing the Appeal.

We have heard learned counsel appearing for the Appellant and learned counsel appearing for the Respondents.

Learned counsel, Mr. Pradeep Misra, appearing for the Appellant, submitted that, there is a delay of 113 days in filing the appeal which has been explained satisfactorily in paragraphs 2(a) to 2(f) of the application and also in

the additional affidavit dated 02.08.2018 giving dates and events in paragraphs 6 to 13 and sufficient cause has been shown therein. The delay in filing the appeal is bonafide and unintentional. Therefore, he submitted that, the delay may kindly be condoned and IA may kindly be allowed. The matter may kindly be heard on merit in the interest of justice and equity.

Per-contra, learned counsel, Ms. Ranjitha Ramachandran, appearing for the first Respondent has filed a detailed statement of objections dated 28.09.2017 opposing the condonation of delay in filing the appeal. She quick to point out and taken us through the statement made in paragraphs 3(a) to 3(f) of her reply objection and submitted that, the delay has not been explained from 09.02.2018 till the date of filing the appeal. To substantiate her submissions, she placed reliance on the judgment of this Tribunal 10.01.2014 in the case of Rajasthan Vidyut Prasaran Nigam Ltd v Rajasthan Electricity Regulatory Commission in IA No. 416 of 2013 in Appeal, being DFR No. 2309 of 2013. Further, she submitted that, in view of the delay not having been explained satisfactorily nor the sufficient cause having been shown in the application; the instant IA may kindly be dismissed on the ground of delay and latches.

After careful consideration of the submissions made by learned counsel appearing for the Appellant and learned counsel appearing for the first Respondent, and after perusal of the statement made in the application and in the additional affidavit filed by learned counsel appearing for the Appellant, it is significant to note that the bonafide reasons have been specifically stated in paragraph 12 of the additional affidavit. We accept the reasoning assigned in paragraph 12 of the additional affidavit and opine that the delay in filing the appeal is bonafide and not intentional and the same has been explained satisfactorily as sufficient cause has been shown therein. For the foregoing reasons, the delay in filing the appeal is condoned. IA is allowed.

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Registry is directed to number the appeal and list the matter for admission on **10.10.2018**.

(S.D. Dubey)
Technical Member
bn/vt

(Justice N.K. Patil)
Judicial Member