

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

I.A. No.124 & 125 OF 2012
IN
DFR No.185 OF 2012

Dated:18th April, 2012

**Present : HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,
CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER**

In the Matter of:

**M/s. Shree Renuka Sugars Ltd
B.C. 105, Havelock Road,
Cantonment,
Belgaum-590 001**

...Appellant/Applicant

Versus

- 1. The Additional Chief Secretary
Government of Karnataka
Department of Energy,
Vikas Soudha,
Dr. B.R. Ambedkar Veedhi,
Bangalore-560 001**
- 2. Karnataka Power Transmission Corporation Ltd.
Cauvery Bhavan
Kempegouda Road,
Bangalore-560 001**
- 3. Hubli electricity Supply Corporation
P.B. Road, Navanagar,
Hubli-580 029
District-Dharwad,
Karnataka**

**4. Karnataka Electricity Regulatory Commission
M.G. Road,
Bangalore-1**

...Respondent(s)

Counsel for the Appellant: -

Counsel for the Respondent -

ORDER

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. The Appellant/Applicant M/s. Shree Renuka Sugars Limited has filed the Appeal as against the order dated 24.3.2011 passed by the Karnataka State Commission.
2. The Appeal was not filed within 45 days from the date of the order. It was filed only on 31.1.2012. The Registry issued defect notice on 2.2.2012 which was received by the learned Counsel for the Applicant on 8.2.2012.
3. After curing the defects, the Applicant/Appellant refilled the Appeal papers. However, the same was not cured within time of 07 days as stipulated in the defect notice but the same was filed after curing the defects only on 21.3.2012. Thus, there is a long delay both in filing the Appeal as

against the impugned order as well as in refilling the Appeal after curing defects.

4. Therefore, he filed the applications for condonation of delay of 40 days in refilling the Appeal and the Application to condone the delay of 268 days in filing the Appeal. Both these applications came up before this Tribunal for hearing on 11.4.2012. However, the Learned Counsel for the Applicant was absent on that day. Therefore, this Tribunal posted the matter for dismissal for non prosecution and adjourned it to 13.4.2012. Today, i.e. 13th April, 2012 both the Applications came up for hearing.
5. We have heard the learned Counsel for the Applicant. With regard to application to condone the delay in refilling the Appeal, the Learned Counsel submitted as mentioned in the Application that the Counsel contacted the Appellant's Company and instructed them to cure the defects objections and send back the papers and after receipt of the papers from the Appellant/Applicant, the Counsel refilled the papers only on 21.3.2012 along with the application to condone the delay of 40 days in refilling the Appeal. In the said application it is merely stated that the defect notice which was issued on 2.2.2012 was received on 8.2.2012 by the Counsel for the Applicant and therefore after getting the signatures and the demand Draft towards the Court Fee, the

Appeal was refilled after curing the defects and thus there was a delay of 40 days.

6. Though it is stated by the learned Counsel that he sent the papers to the Applicant's Company and got it back after some delay and therefore, he refiled the papers with delay, there was no explanation as to how the delay of 40 days in refilling the application was caused. In the absence of the explanation, we are unable to find out any reason to condone the said delay in refilling the Appeal.
7. As indicated above, there is not only a delay in refilling the Appeal, but also there was inordinate delay in filing the Appeal. In the application to condone the delay in filing the Appeal against the impugned order dated 24.3.2011 which was filed on 31.1.2012, it was mentioned in the application that there is a delay of 268 days. The explanation given by the Applicant in the application is that even though the impugned order had been passed on 24.3.2011, the Applicant came to know about the order only later. It was not mentioned in the application as to exactly when he came to know about this. Even after coming to know of the order, the Applicant did not think it fit to file the Appeal against the impugned order before this Tribunal.
8. On the other hand, the Applicant merely sent a representation to the State Government on 21.4.2011

seeking for a direction to the Distribution Companies not to recover the amount from the generators including the Applicable interest which was paid to them earlier.

9. However, the State Commission by the order dated 28.7.2011 refused to intervene in this matter. Only thereafter, the Appellant/Applicant decided to file this Appeal as against the impugned order dated 24.3.2011.
10. As a matter of fact, no explanation has been offered in the Application for the said delay of 268 days. The Applicant merely stated in para-6 of the application that after due deliberations, the papers were entrusted to the Counsel and the Counsel drafted the Appeal and filed the same immediately. This statement without any details cannot be construed to be valid explanation to condone the delay of 268 days.
11. According to the Applicant a representation was sent by them on 21.4.2011 to the State Government. Admittedly, there is no explanation in the Application for the period from 24.3.2011 to 21.4.2011. The Applicant has stated that on the refusal of the Government to intervene in the matter, the Applicant has decided to file the Appeal. Even according to the Applicant, the State Government refused to intervene in the matter by the order dated 28.7.2011 itself but, the Appeal had been filed only on 31.1.2012 i.e. nearly after 6

months. There is no explanation as to why there was huge delay between 28.7.2011 and 31.1.2012 in filing the Appeal.

12. From the perusal of both the Applications namely to condone the delay in refilling as well as the Application to condone the delay in filing the appeal, it is noticed that there is a continuous negligence and lack of diligence on the part of the Applicant by not pursuing the matter with promptness.
13. One more aspect to be noticed is when these Applications were called on 11.4.2012, the Learned Counsel for the Applicant was absent. Therefore, the matter was adjourned and posted today for dismissal.
14. Though the learned counsel for the Appellant is present today, representing the matter, he has not given any explanation to show the sufficient cause for this inordinate delay in filing both the Appeals as well as refilling the Appeal.
15. Therefore, we deem it appropriate to dismiss both the Applications i.e. the Application to condone the delay of 40 days in refilling the Appeal papers as well as the Application to condone the delay of 268 days in filing the Appeal in the Registry.

16. Accordingly, the same are dismissed. Consequently, the Appeal is also rejected..

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:18th April, 2012

REPORTABLE/NON-REPORTABLE