

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI
(APPELLATE JURISDICTION)**

**IA No.443 OF 2014 & IA No.470 OF 2014 &
IA No.361 OF 2016 IN DFR No.2635 OF 2014**

Dated: 2nd September, 2016.

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

IN THE MATTER OF:

ADANI POWER MAHARASHTRA LTD.)
9th Floor, Shikhar, Mithakhali Six Road)
Navrangpura, Ahmedabad.) ... Applicant/
Appellant(s)

Versus

1. **MAHARASHTRA ELECTRICITY)
REGULATORY COMMISSION)
World Trade Centre, Centre No.1,)
13th Floor)
Cuffe Parade, Mumbai-400005)**
2. **MAHARASHTRA STATE)
ELECTRICITY DISTRIBUTION)
COMPANY LTD.,)
Prakashgad, Bandra(East))
Mumbai-400051)**
3. **PRAYAS (ENERGY GROUP)) ... Respondents**

Counsel for the
Applicant(s)/Appellant (s)

Mr. J.J. Bhat, Sr. Adv.
Mr. Amit Kapur
Mr. Gaurav Dudeja
Ms. Nishtha Kumar
Ms. Poonam Verma

Counsel for the Respondent(s)

Mr. Buddy A. Ranganadhan
Mr. Raghu Vamsy for **R-1**

Ms. Kiran Gandhi
Ms. Ramni Taneja for **R-2**

Mr. M.G. Ramachandran
Mr. Kumar Mihir for **R-3**

ORDER

PER HON'BLE (SMT.) JUSTICE RANJANA P. DESAI – CHAIRPERSON

1. By Order dated 15/12/2014, this Tribunal has directed impleadment of Prayas as party Respondent in this appeal. Therefore, Prayas has preferred an impleadment application being I.A. No.470 of 2014 for its impleadment. In view of the said Order dated 15/12/2014, we grant the said impleadment application. Prayas is added as Respondent No.3 in this appeal.

2. The Applicant - Adani Maharashtra has filed the present Appeal being DFR No.2635 of 2014 challenging the findings of the Maharashtra Electricity Regulatory Commission ("**the State Commission**"), in Order dated 21/08/2013 passed in Case No.68 of 2012 whereby the State Commission while granting relief to Adani Maharashtra rejected Adani Maharashtra's submission that withdrawal of Terms of Reference *qua* Lohara coal block and subsequent de-allocation of the said block constitute *Force Majeure* as per the Power Purchase Agreement ("**PPA**"). There is 382 days' delay in filing the present appeal. Hence, the present application is preferred by Adani Maharashtra praying that the said delay be condoned. Additional affidavit has also been filed on 21/07/2016 in support of the interim application.

3. Before we go to the factual matrix of the present application for condonation of delay, it is necessary to refer to certain important facts.

- (a) On 05/07/2012 Adani Power filed Petition No.155 of 2012 before the Central Electricity Regulatory Commission (“**the Central Commission**”) praying *inter alia* for a mechanism to restore Adani Power to the economic position prior to occurrence of subsequent events (promulgation of Indonesian Regulation as well as shortage of domestic coal). On 02/04/2013 the Central Commission passed an order granting relief to Adani Power in exercise of its regulatory powers. The Central Commission directed that a Committee be constituted to go into the impact of the price escalation of the Indonesian coal on the project viability and suggest a package for compensatory tariff. While granting the relief, the Central Commission rejected Adani Power’s submission regarding *Force Majeure* and Change in Law.
- (b) On 07/05/2013 Haryana Utilities filed Appeal No.100 of 2013 in this Tribunal challenging Order dated 02/04/2013 passed by the Central Commission granting relief to Adani Power in exercise of its regulatory power while rejecting the submissions of Adani Power regarding *Force Majeure* and Change in Law.

- (c) On 17/04/2014, Adani Power filed Cross-Objections in Appeal No.100 of 2013 challenging findings in Order dated 2/04/2013 regarding Force Majeure and Change in Law. On 1/08/2014, this Tribunal dismissed the Cross-Objections holding that they were not maintainable. This Tribunal, however, held that Adani Power has got a right to file a separate appeal as regards specific findings rendered against it.
- (d) On 16/09/2014 in light of Order dated 01/08/2014, Adani Power filed appeal being DFR No.2355 of 2014 in this Tribunal challenging findings of the Central Commission rendered in Order dated 02/04/2013. Adani Power also filed an application for condonation of delay. By order dated 31/10/2014, the said application for condonation of delay has been dismissed by this Tribunal.
- (e) Adani Power filed Civil Appeal No.10016 of 2014 before the Supreme Court challenging this Tribunal's Order dated 31/10/2014 dismissing application seeking condonation of

delay. The said appeal was disposed of by the Supreme Court by order dated 31/03/2015. By the said order the Supreme Court held that Adani Power was entitled to argue any proposition, be it *Force Majeure* or Change in Law in support of order quantifying compensatory tariff which was under challenge before this Tribunal.

- (f) While deciding the appeal filed by Haryana Utilities being Appeal No.100 of 2013 and other connected appeals, in view of the difference of opinion expressed by the Hon'ble Technical Member and Hon'ble Judicial Member of this Tribunal, the Chairperson constituted a Full Bench to hear and decide all the issues involved in those matters, afresh.
- (g) The appeals being Appeal No.100 of 2013 and batch appeals filed against Order dated 02/04/2013 in Petition No.155 of 2013 and similar appeals filed against Order dated 15/04/2013 in Petition No.159 of 2013 passed by the Central Commission were listed before the Full Bench of this Tribunal from time to time. The present appeal along with appeals filed by the Respondents arising out of the

present impugned order dated 21/08/2013 and Order dated 05/05/2014 were also listed before the Full Bench along with Appeal No.100 of 2013 and batch appeals. By a common Judgment dated 7/04/2016, Appeal No.100 of 2013 and batch appeals were disposed of by the Full Bench. By a separate order, the Full Bench directed the present appeal be separated and placed before the Regular Bench.

- (h) One of the issues considered by the Full Bench during the hearing was whether in view of the judgment of the Hon'ble Supreme Court dated 31/03/2015, Costal Gujarat Power Limited ("**CGPL**") can claim parity with Adani Power to advance its submissions on *Force Majeure* and Change in Law to support the relief granted by the Central Commission in its favour.
- (i) By its judgment, the Full Bench, *inter alia*, after referring to the Supreme Court's Order dated 31/03/2015 held that Adani Power can urge its submission on *Force Majeure* and Change in Law to support the relief granted by the Central Commission in its favour. The Full Bench held that CGPL

is entitled to raise the plea of Force Majeure or Change in Law to support the compensatory tariff granted by Order dated 21/2/2014, claiming parity with Order dated 31/03/2015 passed in Civil Appeal No.10016 of 2014 in the case of Adani Power.

4. Now coming to the facts of the present application being I.A. No.443 of 2014 filed by Adani Maharashtra, it is necessary to give gist of certain dates and events relevant to the present issue.

(a) On 16/07/2012, Adani Maharashtra filed Case No.68 of 2012 before the State Commission seeking *inter alia* return of performance guarantee pursuant to termination of PPA with Maharashtra State Electricity Distribution Company Limited (“**Maharashtra Discom**”) or in the alternate revision of the tariff. It was the contention of Adani Maharashtra before the State Commission that withdrawal of Terms of Reference *qua* Lohara coal block and subsequent de-allocation of the said block constitute *Force Majeure* as per the PPA.

- (b) On 21/08/2013 the State Commission passed the impugned order thereby granting relief to Adani Maharashtra while rejecting its submissions regarding Force *Majeure*. The State Commission expressed that it needs to exercise its regulatory power to prevent an operating generating asset from becoming stranded. The State Commission directed constitution of a Committee to evaluate the impact of withdrawal of the Terms of Reference and, accordingly, determine the compensatory charge to be provided to Adani Maharashtra.
- (c) On 17/10/2013, Prayas filed Appeal No. 296 of 2013 challenging the said Order dated 21/08/2013.
- (d) On 21/10/2013, Maharashtra Discom filed review petition before the State Commission seeking review of the said Order dated 21/08/2013 on the ground that its submissions were not considered.
- (e) On 24/10/2013, Mharashtra Discom also filed appeal before this Tribunal challenging the said Order dated

21/08/2013 which was withdrawn on 30/10/2013 since Maharashtra Discom had already preferred review petition before the State Commission.

- (f) On 05/05/2014 the State Commission passed an order dismissing the review petition filed by Maharashtra Discom and quantifying compensatory tariff to be provided to Adani Maharashtra pursuant to the impugned order dated 21/08/2013.
- (g) The said Order dated 05/05/2014 passed on the review petition was communicated to Adani Maharashtra on 03/06/2014.
- (h) Maharashtra Discom filed Appeal No.166 of 2014 challenging the said order dated 05/05/2014. Prayas also filed Appeal No.218 of 2014 challenging the said order. Notices were issued in these matters. They were served on Adani Maharashtra.

- (i) On 22/07/2014, this Tribunal issued notice in Appeal No.166 of 2014 filed by Maharashtra Discom challenging Order dated 05/05/2014 passed by the State Commission dismissing review petition filed by it and quantifying compensatory tariff to be provided to Adani Maharashtra pursuant to impugned order dated 21/08/2013.
- (j) On 18/10/2014 in the light of the Order dated 2/04/2013 passed by this Tribunal in Cross-Objections filed by Adani Power in Appeal No.100 of 2013 and after receiving legal advice, Adani Maharashtra filed the present appeal as an abundant caution. By the present appeal Adani Maharashtra has sought to support the relief granted by the State Commission in its favour by challenging the findings regarding *Force Majeure*.

5. We have heard Mr. J.J. Bhatt, learned counsel appearing for the Applicant on application for condonation of delay. He has reiterated the explanation offered in the written submissions.

- (a) Though this application was listed along with other appeals before the Full Bench, by a separate order dated 11/05/2016, the Full Bench directed the present application and other appeals filed against impugned Order dated 21/08/2013 and Order dated 05/05/2014 to be listed on 25/04/2016.
- (b) By Order dated 25/04/2016 this Tribunal directed Adani Maharashtra to submit a brief note within 3 days after serving copy on the other side. Adani Maharashtra accordingly submitted a brief note raising therein the point of *Force Majeure* referring to various findings on *Force Majeure* given in the Full Bench judgment. This note was a common note in Appeal Nos.296 of 2013, 166 of 2014, 218 of 2014, 81 of 2016 and DFR No.2635 of 2014.
- (c) Adani Maharashtra stated in the said note that all these appeals may be remanded to the State Commission for grant of relief in terms of the provisions of the PPA and the principles laid down by this Tribunal in the Full Bench judgment. Thus, in defence to the appeals filed by the

Respondents and also in its appeal, Adani Maharashtra supported the relief granted by the State Commission in its favour *inter alia* on the ground of *Force Majeure*.

- (d) On 11/05/2016 the present application along with other appeals challenging impugned order dated 21/08/2013 was listed before the Full Bench of this Tribunal. Following is the gist of the orders passed by this Tribunal on 11/05/2016.

“(a) Appeal No.296 of 2013 [Appeal filed by Prayas challenging impugned Order]: This Tribunal set aside the Impugned Order except to the extent it holds that withdrawal of TOR is not a Force Majeure event. This Tribunal clarified that it has not expressed any opinion on the aspect of Force Majeure.

(b) Appeal Nos.166 of 2014 and 218 of 2014 [Appeals by Maharashtra Discom and Prayas challenging Order dated 05.05.2014]: This Tribunal set aside Order dated 05.05.2014 and clarified that it has not expressed any opinion on the aspect of Force Majeure.

(c) DFR No.2635 of 2014 [Present Appeal]: This Tribunal directed the registry to place the present Appeal before Regular Bench since issue regarding Force Majeure had been kept open.

(d) Appeal No.81 of 2016 [Appeal filed by the Applicant challenging Order dated 05.05.2014]: This Tribunal disposed of the Appeal clarifying that dismissal of the said Appeal will not come in the way of consideration of present Appeal, which has been transferred to Regular Bench.”

- (e) Adani Maharashtra had a right to argue point regarding *Force Majeure* in Appeal No.296 of 2013 to defend the relief granted in its favour. Since the said appeal is disposed of, Adani Maharashtra will be deprived of its valuable right, if the delay in filing the present appeal is not condoned. Adani Maharashtra and Maharashtra Discom were participating in the process of quantification of compensatory tariff and, hence, Adani Maharashtra did not want to hinder the process. In the circumstances, the delay deserves to be condoned. If it is not condoned grave prejudice will be caused to Adani Maharashtra.

6. Mr. M.G. Ramachandran, learned counsel appearing for Respondent No.3 - Prayas has strenuously opposed the application seeking condonation of delay. He has also submitted written submissions. Gist of his submissions is as under:

- (a) Adani Maharashtra was aware that Prayas and Maharashtra Discom would challenge the impugned order so far as it had dealt with the aspect of compensatory tariff in exercise of its regulatory power after having held against the claim of Adani Maharashtra that *Force Majeure* provision will have no application. Adani Maharashtra, therefore, had due notice of the consequence of the said challenge being successful.
- (b) Adani Maharashtra was also fully aware that Order dated 02/04/2013 passed by the Central Commission dealing with compensatory tariff under exercise of regulatory power in Petition No.155 of 2012 in the case of Adani Power had been challenged before this Tribunal and the challenge was pending. Adani Power's contention regarding *Force Majeure* was rejected by the Central Commission. In spite of having the knowledge of the above facts Adani Maharashtra chose not to file an appeal in time.
- (c) There has been negligence and inaction on the part of Adani Maharashtra in pursuing the remedy of appeal. Hence, the

application is liable to be dismissed. Reliance is placed on the following judgements:

- i) **M/s Brijesh Kumar & Ors v. State of Haryana**¹
- ii) **Basawaraj & Ors v. The Spl. Land Acquisition Officer**²
- iii) **Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project & Anr.**³
- iv) **Ajit Singh Thakur Singh & Anr. v. State of Gujarat**⁴
- v) **State of Uttar Pradesh v. Kamal Mustafa Khan**⁵
- vi) **Vellaithai K. Thangavadivel v. Duraisami**⁶
- vii) **Shri Victor Albuquerque v. Saraswati Cooperative Bank Ltd.**⁷
- viii) **Gridco Limited v. M/s Global Energy Pvt. Ltd.**⁸
- ix) **Coastal Gujarat Power Limited v. CERC and Ors**⁹

(d) At this stage, this Tribunal has to only consider whether 382 days' delay in filing the present appeal should be condoned. The aspect of entitlement of Adani Maharashtra to raise plea

¹ 2014(11) SCC 351

² 2013 (14) SCC 81: Paras 9-15

³ 2008 (17) SCC 448

⁴ AIR 1981 SC 733: Para 6

⁵ 2004 (55) ALR 539 AWC 2192 (ALL)

⁶ (2010) a MLJ 1092

⁷ AIR 1998 BOM

⁸ 2012 ELR (APTEL) 916: Para 21

⁹ IA No.276 of 2014 in DFR 1579 of 2014 dated 15.9.2014

of *Force Majeure* is not relevant nor is the aspect of any parity to be given to Adani Maharashtra in terms of the decision of this Tribunal dated 07/04/2016 is relevant. Adani Maharashtra and Adani Power are two independent and separate legal entities and the order passed in Adani Power has no relevance to the order passed in Adani Maharashtra. Similarly, the fact that Maharashtra Discom had filed review petition before the State Commission on 21/10/2013 cannot be a ground for condoning the delay in filing the present appeal. The two proceedings are different and independent of each other. The claim of parity made by Adani Maharashtra for raising the plea of *Force Majeure* is devoid of any merit. The Supreme Court's Order dated 31/03/2015 in Civil Appeal No.10016 of 2014 relates to Adani Power. CGPL had also filed a civil appeal before the Supreme Court against order passed by this Tribunal rejecting the plea of condonation of delay. CGPL had also filed an application before this Tribunal during the pendency of the proceedings specifically raising the plea of parity. In any case, the course adopted by this Tribunal in special circumstances of the case of CGPL cannot be claimed by

Adani Maharashtra as a matter of right. The delay caused by Adani Maharashtra for filing the present appeal is not *bona fide* and the explanation offered by it to condone the delay is not satisfactory and, therefore, is liable to be rejected.

7. Ms. Gandhi, learned counsel for Respondent No.2 has adopted the submissions of Mr. Ramachandran.

8. Before examining how far the explanation offered by Adani Maharashtra is acceptable, it is necessary to state at the cost of repetition, that essentially the exercise of its regulatory power by the Appropriate Commission to grant compensatory tariff to generators was challenged before this Tribunal by several parties. There were certain interim orders constituting Committee, pursuant to whose report compensatory tariff was granted. As stated above, the Full Bench of this Tribunal after examining the legal position by its Order dated 07/04/2016, *inter alia*, held that the Central Commission has no regulatory power under Section 79(1)(b) of the said Act to vary or modify the tariff or otherwise grant compensatory tariff to the generating companies in case of

a tariff determined under tariff based competitive bidding process as per Section 63 of the said Act. The Full Bench further held that if a case of *Force Majeure* or Change in Law is made out, relief provided under the PPA can be granted under the adjudicatory power. The Full Bench after rejecting Adani Power's case of Change in Law held that the increase in price of coal on account of promulgation of Indonesian Regulation as also the non-availability/short supply of domestic coal constituted a *Force Majeure* event in terms of the PPA. The Full Bench set aside Order dated 21/2/1994 passed in Petition No.155/MP/2012 filed by Adani Power and remanded the matter to the Central Commission with a direction to assess the extent of impact of *Force Majeure* event on the projects of Adani Power. In the case of other generators, orders consistent with the above view, were passed. It is important to note that similar issue is involved in the instant appeal.

9. In Adani Power's Petition No.155/MP/2012, on 02/04/2013 the Central Commission had in exercise of its regulatory power, directed that a Committee be constituted to go into the impact of the price escalation of the Indonesian coal on the project viability

and suggest a package for compensatory tariff. While granting this relief, the Central Commission rejected Adani Power's submission regarding *Force Majeure* and Change in Law. On 08/05/2013, Haryana Utilities filed Appeal No.100 of 2013 in this Tribunal challenging the said order. On 17/04/2014, Adani Power filed Cross-Objections in Appeal No.100 of 2013 challenging the findings in Order dated 02/04/2013 regarding *Force Majeure* and Change in Law. On 01/08/2014, this Tribunal dismissed the Cross-Objections filed by Adani Power holding that they were not maintainable. However, it held that Adani Power has got a right to file a separate appeal as regards specific findings rendered against it. Pursuant to these findings, Adani Power filed appeal being DFR No.2355 of 2014 challenging Order dated 02/04/2013 with an application for condonation of delay. We find nothing wrong in the submission of Adani Maharashtra that Adani Maharashtra was not required to file appeal against the impugned order as the State Commission had granted it relief but in view of Order dated 01/08/2014 passed by this Tribunal and on the basis of legal advice Adani Maharashtra filed present appeal on 18/10/2014 as an abundant caution to support the relief granted by the State Commission in its favour

by only challenging the findings regarding *Force Majeure* and Change in Law. We are not impressed by Mr. Ramachandran's contention that Adani Maharashtra and Adani Power are two different and separate legal entities and, therefore, order passed in Adani Power has no relevance to order passed in Adani Maharashtra. Adani Maharashtra is admittedly a subsidiary of Adani Power. Though the proceedings may be independent of each other, there is nothing wrong in Adani Maharashtra taking clue from the order passed on Adani Power's Cross-Objections and filing appeal on 18/10/2014 by way of abundant caution to support the relief granted by the State Commission in its favour by only challenging the findings regarding *Force Majeure* and Change in Law.

10. As we have already noted, by the impugned order the State Commission granted some relief to Adani Maharashtra while rejecting its prayer of *Force Majeure*. Prayas filed Appeal No.296 of 2013 challenging the impugned order. Maharashtra Discom filed a review petition before the State Commission seeking review of the impugned order. It also filed an appeal before this Tribunal which was withdrawn on 30/10/2013. On 05/05/2014 the State

Commission passed an order dismissing Maharashtra Discom's review petition. It quantified compensatory tariff to be provided to Adani Maharashtra pursuant to the impugned order. Maharashtra Discom filed Appeal No.166 of 2014 challenging the said order. Prayas filed Appeal No.218 of 2014 challenging the said order. Notices were issued in these matters. They were served on Adani Maharashtra. As rightly contended by counsel for Adani Maharashtra, Adani Maharashtra had a right to argue the point in the above mentioned appeals filed by the Respondents regarding *Force Majeure* in support of the relief granted to it by the State Commission.

11. On 11/05/2016, Appeal No.296 of 2013 filed by Prayas challenging impugned Order dated 21/08/2013 was disposed of by the Full Bench by partly allowing it. In the light of its judgment dated 07/04/2016, the Full Bench set aside the impugned Order dated 21/08/2013 except to the extent it holds that the plea of Adani Maharashtra that the withdrawal of the Terms of Reference, which led to the inaccessibility of the coal block by Adani Maharashtra and the subsequent de-allocation of the said block was not a Force Majeure event as per the terms of

the PPA. However, it kept open the question whether there was event of *Force Majeure* without expressing any opinion on it. Adani Maharashtra was a Respondent in the said appeal. On the same day, Appeal Nos.166 of 2014 and 218 of 2014 filed by Maharashtra Discom and Prayas respectively challenging consequential Order dated 05/05/2014 were disposed of by the Full Bench. Order dated 05/05/2014 was set aside by the Full Bench by clarifying that no opinion was expressed on the aspect of *Force Majeure*. On the same day, the present appeal was directed to be placed before the Regular Bench. This was obviously subject to condonation of delay. Similarly, Appeal No.81 of 2016 filed by Adani Maharashtra challenging Order dated 05/05/2014 was disposed of clarifying that dismissal of the said appeal will not come in the way of consideration of the present appeal which has been transferred to the Regular Bench. Counsel for Adani Maharashtra is right in submitting that Adani Maharashtra's right to argue any proposition of law, including *Force Majeure* and Change in Law in support of order of the State Commission, as a Respondent in the above appeals was lost on account of their disposal. These events have created a peculiar situation which denied Adani Maharashtra an opportunity which

was earlier available to it, to argue the point regarding *Force Majeure* as a Respondent in those appeals and to defend the relief granted in its favour by the State Commission. Mr. Bhatt is right in submitting that technically, there was no need for Adani Maharashtra to file a separate appeal against orders of the State Commission since it was entitled to argue any proposition of law including *Force Majeure* and Change in Law in support of the State Commission's order as a Respondent in those appeals. Moreover, the major issue involved in this appeal is partly allowed in similar matters and they have been remanded to the Appropriate Commission to assess the impact of promulgation of Indonesian Regulation.

12. Another relevant circumstance which has persuaded us to condone the delay needs to be stated. We have already referred the Supreme Court's Order dated 31/03/2015 passed in Civil Appeal No.10016 of 2014 filed by Adani Power challenging Order dated 31/10/2014 passed by this Tribunal dismissing the application filed by Adani Power seeking condonation of delay in filing Appeal being DFR No.2355 of 2014. The Supreme Court disposed of Adani Power's appeal by observing that Adani Power

is entitled to argue any proposition of law, be it *Force Majeure* or Change in Law in support of the order quantifying compensatory tariff which was under challenge before this Tribunal. CGPL had filed an application claiming parity and praying that it may be allowed to assail the findings on *Force Majeure* and Change in Law. The Full Bench by its Order dated 07/04/2016 allowed the said prayer. We have already noted that in the present appeal similar issues are involved. Adani Maharashtra is also claiming parity drawing support from the Supreme Court's Order dated 31/03/2015 and Full Bench judgment dated 07/04/2016. We see no reason why having regard to the Supreme Court's Order dated 31/03/2015 and Full Bench judgment of this Tribunal dated 07/04/2016, in the interest of justice, delay in filing the present appeal should not be condoned so as to give an opportunity to Adani Maharashtra to assail the findings on *Force Majeure*. Merely because CGPL had filed an application claiming parity and Adani Maharashtra had not filed such an application, we cannot deny the benefit of the Order dated 31/03/2015 passed by the Supreme Court and Judgment dated 07/04/2016 passed by the Full Bench of this Tribunal to Adani Maharashtra, when such a prayer is made before us.

13. We have gone through the judgements of the Supreme Court to which our attention is drawn by Mr. Ramachandran, learned counsel for Respondent No.3. There can never be any debate over the principles laid down by the Supreme Court. Having regard to the above circumstances, we are of the opinion that in this case it cannot be said that Adani Maharashtra's explanation for condonation of delay lacks *bona-fides*. In our opinion, in the peculiar facts and circumstances of the case, when the issue involved in this appeal is important and is involved in other appeals which we have remanded, the delay needs to be condoned in the interest of the justice after saddling Adani Maharashtra with costs. Hence, delay in filing the present appeal is condoned on the condition that Adani Maharashtra pays a sum of Rs.1,00,000/- (Rupees One Lakh only) as costs to **“Sai Deep Dr. Ruhi Foundation”** A/c No.952663443, A-508, Sector-19, Noida-201301 within two weeks from today. On proof of costs being paid as ordered, Registry of this Tribunal is directed to number the appeal. Thus, the application for condonation of delay being I.A. No.443 of 2014 and application for intervention being I.A. No.470 of 2014 are disposed of.

14. Pronounced in the Open Court on this **2nd day of September, 2016.**

I.J. Kapoor
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]

~~REPORTABLE~~/NON-REPORTABLE