



**TELANGANA STATE ELECTRICITY REGULATORY COMMISSION**  
**5<sup>th</sup> Floor, Singareni Bhavan, Red Hills, Hyderabad-500 004**

I. A. No. 5 of 2020  
in  
R. P. (SR) No. 22 of 2019  
in  
O. P. No. 8 of 2017

**Dated.15.03.2021**

**Present**

Sri T. Sriranga Rao, Chairman  
Sri M. D. Manohar Raju, Member (Technical)  
Sri Bandaru Krishnaiah, Member (Finance)

Between:

Southern Power Distribution Company of Telangana Limited,  
H. No. 6-1-50, 5<sup>th</sup> Floor, Mint Compound,  
Hyderabad – 500 063. ... Applicant / Review Petitioner / Respondent No. 1.

AND

M/s. Shree Cement Limited,  
114 Hans Bhawan, 1–Bahadur Shah Zafar Marg,  
New Delhi – 110 002. ... Respondent / Respondent / Petitioner.

This application came up for hearing on 15.02.2021 and 22.02.2021. Sri. Mohammad Bande Ali, Law Attaché TSSPDCL for applicant / review petitioner / respondent No.1 and Sri M. Abhinay Reddy, Advocate for respondent / respondent / petitioner have appeared through video conference on 15.02.2021. Sri D. N. Sarma, OSD (Legal & Comml) for applicant / review petitioner / respondent No.1 and Sri. P. Vikram, Advocate for respondent / respondent / petitioner have appeared through video conference on 22.02.2021. Having been heard and having stood over for consideration to this day, the Commission passed the following:

**ORDER**

Southern Power Distribution Company of Telangana Limited (applicant) has filed the present Interlocutory Application under clause 32 of Regulation No. 2 of

2015 being Conduct of Business Regulations, 2015 for condonation of delay in filing the Review Petition seeking review of the Commission order dated 01.11.2018 in O. P. No. 8 of 2017. The contention of the Applicant in I. A. is as under:

- a) The applicant has filed a Review Petition on 12.04.2019 seeking review of the Commission order dated 01.11.2018 in O.P.No.8 of 2017 to the extent of the direction given in the said order at para 24 (d) in the matter of payment (reimbursement) of PoC charges before delivery point (SR periphery) against STOA approvals during backing down by TSSLDC and SRLDC in respect of short-term purchase order dated 13.10.2014.
- b) The Review Petition has been filed by the Applicant on 12.04.2019 with a delay of 87 days.
- c) The delay in filing Review Petition has occurred as the implication of the Commission's Order have been examined at length by TSPCC (Apex Committee) and it has finally decided in January 2019 to file Review Petition to a limited extent.
- d) The Apex Committee, appointed by Government of Telangana for overseeing the commercial activities of TSDISCOMs having observed that since there has been no functioning of the Commission after the Chairman of the Commission demitted the office in January 2019, directed the Applicant to file the Review Petition during April 2019. Accordingly, the Review Petition has been filed.
- e) Subsequently, the Receiving Officer, TSERC has pointed out certain defects in the Review Petition and returned the same on 24.04.2019, suggesting to cure the defects such as filing of separate Interlocutory Applicant for delay condonation. Hence, the Applicant filed this I.A.
- f) The Applicant has sought the following relief in the I.A.  
*"to condone the delay of 87 days in filing the Review Petition by the Applicant for the reasons stated above."*

2. The respondent in the counter on the review petition of the applicant [R. P. (SR) No. 22 of 2019 in O. P. No. 8 of 2018] sought dismissal of the petition wherein against para (9) of the contention in the Review Petition *"to condone the delay of 87 days in filing the Review petition, which is due to obtaining administration approval"*

the Respondent submitted that *“the Review Petitioner has failed to sufficiently justify the reasons for delay in filing the review petition and the same out to be dismissed.”*

3. The point for determination in this application is

***“Whether the delay which caused in filing of Review Petition by the applicant is liable to be condoned or not?”***

4. Heard both sides.

5. The Commission is vested with the power of reviewing its decisions, directions and orders under section 94 (1) (f) of the Act 2003 and that power has to be exercised in terms of its Conduct of Business Regulations, 2015 [Regulation No.2 of 2015] wherein clause 32 (1) provides for entertaining petitions/applications for undertaking review of the order. For better appreciation the clause 32 (1) is extracted below -

***“32. Review of the decisions, directions, and orders***

*(1) The Commission may on its own motion, or on the application of any person or parties concerned, within 75 days of any decision, direction, or order, review such decision, direction or order as the case may be and pass such appropriate orders as the Commission thinks fit. Provided that the Commission may allow on production of sufficient cause to the petitioner, a further period not exceeding 30 days for filing the review petition on such terms and conditions as may be appropriate.”*

6. A plain reading of above clause in the regulation makes it clear that a review petition has to be preferred within 75 days from the date of the order and the Commission may allow a further period of 30 days beyond the 75 days stipulated in the clause for filing of a review petition, if the person or party intending to file such review shows sufficient cause.

7. In the instant matter, this Commission has passed the order on 01.11.2018 in O.P.No.8 of 2017, the applicant herein, if felt aggrieved with the said order was expected to file a petition for reviewing the said order within 75 days of the order i.e., on or before 16.01.2019. The applicant neither made any attempt to file the review petition within the stipulated time period of 75 days nor within further allowable

period of thirty (30) days by showing sufficient cause as per the proviso of clause 32(1) of Regulation 2 of 2015. Needless to say, the filing of the Review Petition on 12.04.2019 in the first instance itself (without delay condonation as pointed out as deficiency by the office of the Commission and returned the same on 22.04.2019) was beyond the stipulated period of 105 (75+30) days.

8. Thereafter, the petitioner / applicant resubmitting the review petition on 18.05.2019 along with the present Interlocutory Application seeking condonation of delay for 87 days is further delayed by 26 days. Moreover, the cause shown for the delay cannot be said to be sufficient and is not containing any cogent reason to accept as the explanation is sustainable, even otherwise also section 5 of Limitation Act, 1963 cannot be invoked to condone the delay by the Commission. The Commission notices that Hon'ble Supreme Court in a case reported in 2010 (5) SCC 23 between "*Chhattisgarh State Electricity Board Vs Central Electricity Regulatory Commission and others*", it is held that section 5 of Limitation Act of 1963 cannot be invoked for allowing the aggrieved person or party to file an appeal under section 125 of the Act, 2003 after more than 120 days from the date of communication of the decision or order the Hon'ble Appellate Tribunal for Electricity. The relevant portion of the said judgement is reproduced below for better understanding.

*"25. Section 125 lays down that any person aggrieved by any decision or order of the Tribunal can file an appeal to the tribunal within 60 days from the date of communication of the decision or order of the tribunal, proviso to section 125 empower this court to entertain an appeal filed within a further period of 60 days, if it is satisfied that there was sufficient cause for not filing appeal within the initial period of 60 days. This show that the period of limitation prescribed for filing appeals under sec. 111 (2) and 125 is substantially different from the period prescribed under the limitation Act for filing suits etc. The use of the expression within a further period of not limiting for filing an appeal is 120 days. There is no provision in the Act under which this court can entertain an appeal filed against the decision or order of the tribunal after more than 120 days."*

9. The observations made therein by the Hon'ble Supreme Court squarely apply to the facts and circumstances of the present case. While this Commission is to follow the principles laid down and the law settled by the Hon'ble Supreme Court, this Commission is of the considered view that delay cannot be condoned beyond the specified period of thirty (30) days over and above seventy-five (75) days from the date of the order as provided in clause 32 (1) of Regulation No.2 of 2015 applying the principle rendered by the Hon'ble Supreme Court and as extracted above.

10. For the above said reasons the point is answered against the applicant. In the result, the I. A. No. 5 of 2020 is dismissed, consequently the review petition filed by the applicant vide R. P. (SR) No. 22 of 2019 is refused to be entertained. No costs.

***This order is corrected and signed on this the 15<sup>th</sup> day of March, 2021.***

**Sd/-**  
(BANDARU KRISHNAIAH)  
RAO)  
MEMBER

**Sd/-**  
(M. D. MANOHAR RAJU)  
MEMBER

**Sd/-**  
(T. SRIRANGA)  
CHAIRMAN

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