

Record of proceedings dated 17.12.2020

O. P. No. 30 of 2020

M/s. GMR Energy Trading Limited Vs. TSPCC & TSDISCOMs

Petition filed seeking reimbursement of late payment charges for delayed payments to the petitioner.

Sri. Aman Sheikh, Advocate representing Sri Matrugupta Mishra, counsel for the petitioner and Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents appeared through video conference. The representative of the respondents stated that they are yet to file counter affidavit in the matter and sought further time. The counsel for the petitioner has no objection. Accordingly the matter is adjourned. The respondents shall file counter affidavit on or before 11.01.2021 duly serving a copy of it to the counsel for the petitioner.

Call on 11.01.2021 at 11:30 A.M.

Sd/-
Member

Sd/-
Member

Sd/-
Chairman

O. P. (SR) No.26 of 2020

M/s. Sri Sai Ram Ice Factory Vs. TSSPDCL & its officers

Petition filed seeking penal action against the TSSPDCL and its officers for the alleged violation of the tariff for 2018-19 as extended to 2020-21 by raising incorrect bills.

Ms. Nishtha, representative of the petitioner and Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the respondents have appeared through video conference. The counsel for the petitioner stated that the counter affidavit is not yet received by them and based on counter affidavit, she is required to file the rejoinder and also written arguments. The representative of the respondents stated that the counter affidavit is filed on the other day itself and will ensure serving a copy of the same on the counsel for the petitioner immediately. Considering the request of the counsel for the petitioner, for which the representative of the respondents has no objection, the matter is adjourned. The counter affidavit shall be served on the counsel for the petitioner immediately, who shall file the rejoinder on or before 07.01.2021 and the Commission will hear the matter on the said date.

Call on 07.01.2021 at 11:30 A.M.

Sd/-
Member

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Member

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Chairman

R. P. (SR) No. 38 of 2019
&
I. A. (SR) No. 41 of 2019
in
O. P. No. 61 of 2018

TSSPDCL Vs. M/s. Sarvotham Care

Review petition filed seeking review of the order dated 02.01.2019 in O. P. No. 61 of 2018 passed by the Commission by modifying the relief [44(b)] of the order directing adjustment of unutilized energy (banked energy for the period from 30.11.2015 to 13.01.2016) to the developer as per subsisting Regulation 2 of 2014.

I. A. filed seeking condonation of delay in filing the review petition.

Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the review petitioner and Sri. Challa Gunaranjan, Advocate for the respondent have appeared through video conference. The representative of the review petitioner stated that the Commission is required to decide the application for condoning the delay in filing the review petition. The review petitioner filed the petition initially seeking review of the order dated 02.01.2019 passed by the Commission in O. P. No. 61 of 2018 filed by the respondent / petitioner, however, it was returned by the Commission and required the review petitioner to file an application for condoning delay in filing the review petition. Thereafter, the review petition has been resubmitted along with the application for the delay. The reasons attributed in the application is that the order had been passed on 02.01.2019 and the then Chairman demitted office on 09.01.2019.

Thereafter, the Commission was not functional in the absence of members of the Commission till 30.10.2019, on which date the present members assumed the office. Also, it is stated that the order passed by the then Chairman being sole member of the Commission is contrary to the Act, 2003 and the regulation made by the Commission. As per the regulation, the Commission has to take a decision on initiating proceedings in the matter review either suo moto or on an application. This action was not feasible due to absence of the members of the Commission.

Therefore, the Commission may consider condoning the delay in filing the review petition and allow the petitioner to submit arguments on the review petition.

The counsel for the respondent stated that the review petition as well as interlocutory application for condoning the delay in filing the review petition are not maintainable and are contrary to the provisions of the act and regulations. Inasmuch as the review petitioner sought for condoning the delay beyond the period for which the Commission could have condoned the delay under the Conduct of Business Regulation, 2015. The Commission has specifically set forth a time of 75 days for filing the review petition and another 30 days on application for condoning the delay in filing the review petition. The Hon'ble Supreme Court had held in the decision rendered in Chhattisgarh State Electricity Board vs Central Electricity Regulatory Commission and others reported in 2010 (5) SCC 23 with respect to limitation under section 125 of the Act, 2003 read with section 5 of the Limitation Act, 1908 that the delay occurred cannot be condoned violating the period that is specifically provided in the regulation or statute. Accordingly, the present application of the review petitioner cannot be allowed beyond the stipulated period. The Commission may consider the submissions and reject the application for condoning the delay in filing the review petition.

Heard the submissions of the parties and the interlocutory application for condoning the delay in filing the review petition is reserved for orders.

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| Member | Member | Chairman |

R. P. (SR) No. 39 of 2019
&
I. A. (SR) No. 42 of 2019
in
O. P. No. 46 of 2018

TSSPDCL Vs. M/s. Medak Solar Project Private Ltd.

Review petition filed seeking review of the order dated 02.01.2019 in O. P. No. 46 of 2018 passed by the Commission by modifying the relief [43(b)] of the order directing adjustment of unutilized energy (banked energy for the period from 31.12.2016 to 19.04.2017) to the developer as per subsisting Regulation 2 of 2014.

I. A. filed seeking condonation of delay in filing the review petition.

Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the review petitioner and Sri. Challa Gunaranjan, Advocate for the respondent have appeared through video conference. The representative of the review petitioner stated that the Commission is required to decide the application for condoning the delay in filing the review petition. The review petitioner filed the petition initially seeking review of the order dated 02.01.2019 passed by the Commission in O. P. No. 46 of 2018 filed by the respondent / petitioner, however, it was returned by the Commission and required the review petitioner to file an application for condoning delay in filing the review petition. Thereafter, the review petition has been resubmitted along with the application for the delay. The reasons attributed in the application is that the order had been passed on 02.01.2019 and the then Chairman demitted office on 09.01.2019.

Thereafter, the Commission was not functional in the absence of members of the Commission till 30.10.2019, on which date the present members assumed the office. Also, it is stated that the order passed by the then Chairman being sole member of the Commission is contrary to the Act, 2003 and the regulation made by the Commission. As per the regulation, the Commission has to take a decision on initiating proceedings in the matter review either suo moto or on an application. This action was not feasible due to absence of the members of the Commission. Therefore, the Commission may consider condoning the delay in filing the review petition and allow the petitioner to submit arguments on the review petition.

The counsel for the respondent stated that the review petition as well as interlocutory application for condoning the delay in filing the review petition are not maintainable and are contrary to the provisions of the act and regulations. Inasmuch as the review petitioner sought for condoning the delay beyond the period for which the Commission could have condoned the delay under the Conduct of Business Regulation, 2015. The Commission has specifically set forth a time of 75 days for filing the review petition and another 30 days on application for condoning the delay in filing the review petition. The Hon'ble Supreme Court had held in the decision rendered in Chhattisgarh State Electricity Board vs Central Electricity Regulatory Commission and Others" reported in 2010 (5) SCC 23 with respect to limitation under section 125 of the Act, 2003 read with section 5 of the Limitation Act, 1908

that the delay occurred cannot be condoned violating the period that is specifically provided in the regulation or statute. Accordingly, the present application of the review petitioner cannot be allowed beyond the stipulated period. The Commission may consider the submissions and reject the application for condoning the delay in filing the review petition.

Heard the submissions of the parties and the interlocutory application for condoning the delay in filing the review petition is reserved for orders.

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Member

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Chairman

R. P. (SR) No. 40 of 2019
&
I. A. (SR) No. 43 of 2019
in
O. P. No. 47 of 2018

TSSPDCL Vs M/s. Dubbak Solar Projects Private Limited

Review petition filed seeking review of the order dated 02.01.2019 in O. P. No. 47 of 2018 passed by the Commission by modifying the relief [43 (b)] of the order directing adjustment of unutilized energy (banked energy for the period from 30.07.2016 to 18.11.2016) to the developer as per subsisting Regulation No. 2 of 2014.

I. A. filed seeking condonation of delay in filing the review petition.

Sri Mohammad Bande Ali, Law Attachee of TSSPDCL for the review petitioner and Sri. Challa Gunaranjan, Advocate for the respondent have appeared through video conference. The representative of the review petitioner stated that the Commission is required to decide the application for condoning the delay in filing the review petition. The review petitioner filed the petition initially seeking review of the order dated 02.01.2019 passed by the Commission in O. P. No. 47 of 2018 filed by the respondent / petitioner, however, it was returned by the Commission and required the review petitioner to file an application for condoning delay in filing the review petition. Thereafter, the review petition has been resubmitted along with the application for the delay. The reasons attributed in the application is that the order had been passed on 02.01.2019 and the then Chairman demitted office on 09.01.2019.

Thereafter, the Commission was not functional in the absence of members of the Commission till 30.10.2019, on which date the present members assumed the office. Also, it is stated that the order passed by the then Chairman being sole member of the Commission is contrary to the Act, 2003 and the regulation made by the Commission. As per the regulation, the Commission has to take a decision on initiating proceedings in the matter review either suo moto or on an application. This action was not feasible due to absence of the members of the Commission. Therefore, the Commission may consider condoning the delay in filing the review petition and allow the petitioner to submit arguments on the review petition.

The counsel for the respondent stated that the review petition as well as interlocutory application for condoning the delay in filing the review petition are not maintainable and are contrary to the provisions of the act and regulations. Inasmuch as the review petitioner sought for condoning the delay beyond the period for which the Commission could have condoned the delay under the Conduct of Business Regulation, 2015. The Commission has specifically set forth a time of 75 days for filing the review petition and another 30 days on application for condoning the delay in filing the review petition. The Hon'ble Supreme Court had held in the decision rendered in Chhattisgarh State Electricity Board vs Central Electricity Regulatory Commission and others reported in 2010 (5) SCC 23 with respect to limitation under section 125 of the Act, 2003 read with section 5 of the Limitation Act, 1908 that the delay occurred cannot be condoned violating the period that is specifically provided in the regulation or statute. Accordingly, the present application of the review petitioner cannot be allowed beyond the stipulated period. The Commission may consider the submissions and reject the application for condoning the delay in filing the review petition.

Heard the submissions of the parties and the interlocutory application for condoning the delay in filing the review petition is reserved for orders.

Sd/-
Member

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Member

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Chairman

O. P. No. 25 of 2020

M/s Dr. Reddy's Laboratories Limited Vs SLDC, TSTRANSCO & TSSPDCL

Petition filed u/s 86 (1) (c) read with section 86 (1) (k) of Electricity Act, 2003 seeking directions to the respondents to approve short term open access.

Sri. Challa Gunaranjan, Advocate for the petitioner, Sri. Y. Rama Rao, Advocate for the respondent Nos. 1 and 2 and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for respondent No. 3 have appeared through video conference. The counsel for the petitioner stated that the issue in the petition is with regard to giving permission for short term open access in accordance with the Regulation No. 2 of 2005 as adopted by the Commission. The factual matrix has already been submitted on the earlier date of hearing.

The counsel for the petitioner stated that from the counter affidavit, it is seen that the DISCOM is not inclined to allow STOA owing to the reason that 24 hours power supply to the agriculture is being extended and also the capacity on the line is exhausted. The said action is contrary to their own stand earlier as in the year 2015, they had allowed STOA to the petitioner and now reverting to state that other technical difficulties are prohibiting them from allowing STOA, which is not correct. It is strange that the petitioner is denied STOA facility while the other consumers on the same line with higher capacities are being allowed open access.

The counsel for the petitioner stated that section 42 of the Act, 2003 clearly emphasizes on allowing open access. In continuation of the said provision only, the State Commission had made Regulation No. 2 of 2005 as adopted by it from erstwhile APERC and the CERC notified similar regulation in the year 2008. The counsel for the petitioner sought to rely on the provisions of the said regulations. It is his case that the licensees are denying STOA on irrelevant grounds contrary to the Act, 2003 and the regulation mentioned earlier. The counsel for petitioner explained the provisions in sections 42 and 86 of the Act, 2003 and also elaborated on the functions of the Commission therein. It is his case that the Commission is required to ensure compliance of open access facility in each and every case, however, the Commission in its wisdom without burdening itself had delegated its task to the SLDC by specifying the time lines. Therefore, non-compliance of the regulation requires interference by the Commission itself.

The counsel for the petitioner relied on the provisions of the Act, 2003, wherein the Commission is required to ensure that open access has to be provided and the licensees cannot deviate from the provisions of the Act, 2003 and regulations thereof. The petitioner would be availing STOA within the capacity availed from the DISCOM and in any case, the DISCOM would have to supply the demand by themselves or from any other source to the petitioner. Since, the petitioner is seeking to avail the demand that is within the demand agreed between the licensee and the petitioner, there cannot be an issue of operational constraints like congestion in the line. For this reason, the DISCOM cannot aver or deny the facility of STOA to the petitioner.

The counsel for the respondent Nos. 1 and 2, while reiterating the submissions on the earlier occasion relied on the provisions of section 86 (1) (a) and (b) of the Act, 2003 to support their case that the respondents No. 1 and 2 have complied with the provisions of the Act, 2003 and the regulations thereof. He also explained the provision of the regulation of the Commission and that of the CERC insofar as their understanding is concerned. It is his case that the regulations require SLDC to consult the transmission and distribution licensee, but at the same time discretion is given to them to consider the cases without any consultation. Even otherwise, the transmission and distribution licensees being system operators have to be consulted while deciding the application on open access.

The representative for the respondent No. 3 stated that the regulations provide for open access, however, such facility is dependent on several factors. While reiterating the contents of the counter affidavit, he sought to highlight the various technical details shown in the counter affidavit as regards the petitioner and also allowing open access to various consumers. The representative explained the difficulties faced by the licensee in extending open access and also rebutted the submissions made in the rejoinder. It is his case that though the Act and Regulation emphasize on providing open access, it requires the suitability and availability of the capacity to extend such facility. He opposed the contention of the petitioner that earlier open access was provided to the petitioner and now the same is being denied for extraneous reasons as the licensee has made all efforts to provide the same but it is unable to do so due to system constraint only.

Heard the submissions of the parties and the matter is reserved for orders.

Sd/-
Member

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Member

Sd/-
Chairman

O. P. No. 26 of 2020

M/s. Arhyama Solar Power Pvt. Ltd. vs TSSPDCL, CGM (Revenue), SAO (Operation Circle), Sanganareddy & SAO (Operation Circle), Medchal.

Petition filed seeking punishment against the respondents No.1 to 4 for non-compliance of the order dated 17.07.2018 in O. P. No. 10 of 2017 passed by the Commission.

Sri. Challa Gunaranjan, Advocate for the petitioner and Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL for respondents have appeared through video conference. The counsel for the petitioner stated that the counter affidavit in the matter is yet to be filed. As the Commission is required to decide the review petition, which is heard today insofar as condoning the delay in the review petition, a decision in that matter has a bearing on this matter and hence may be taken up later. The representative of the respondent, while agreeing with the counsel for the petitioner, stated that the Commission may adjourn the matter to any other date. Accordingly, as the Commission has already reserved the interlocutory application in the review petition on the aspect of condoning the delay, this petition is adjourned to 07.01.2021.

Call on 07.01.2021 at 11.30 A.M.

Sd/-
Member

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Member

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Chairman

R. P. (SR) No. 134 of 2018
&
I. A. (SR) No. 7 of 2020
in
O. P. No. 10 of 2017

TSSPDCL Vs M/s. Arhyama Solar Power Private Limited

Review petition filed seeking review of the order dated 17.07.2018 passed in O. P. No. 10 of 2017 filed by the respondent.

I. A. filed seeking condonation of delay in filing the review petition.

Sri. Mohammad Bande Ali, Law Attachee of TSSPDCL alongwith Sri. K. Sathish Kumar, DE of TSSPDCL for the review petitioner and Sri. Challa Gunaranjan, Advocate for the respondent have appeared through video conference. The representative of the review petitioner stated that the Commission is required to decide the application for condoning the delay in filing the review petition. The review petitioner filed the petition initially seeking review of the order dated 17.07.2018 passed by the Commission in O. P. No. 10 of 2017 filed by the respondent / petitioner, however, it was returned by the Commission requiring the review petitioner to file an application for condoning the delay in filing the review petition. Thereafter, the review petition has been resubmitted along with the application for the delay. The reasons attributed in the application is that the order had been passed on 17.07.2018 by a single member and it is contrary to the regulation of the Commission.

The review petition was originally filed on 16.11.2018 and the same was returned by the Commission on 31.01.2019 by taking certain objections and pointing out certain defects in filing the said petition. It so happened that the Commission was not functional in the absence of availability of members of the Commission till 30.10.2019, on which date the present members assumed the office. Also, it is stated that the order passed by the then Chairman being sole member of the Commission is contrary to the Act, 2003 and the regulation made by the Commission. As per the regulation, the Commission has to take a decision on initiating proceedings in the matter of review either suo moto or on an application. This action was not feasible due to absence of the member of the Commission. Therefore, the Commission may consider condoning the delay in filing the review petition and allow the petitioner to submit arguments on the review petition.

The counsel for the respondent stated that the review petition as well as interlocutory application for condoning the delay in filing the review petition are not maintainable and are contrary to the provisions of the act and regulations. Inasmuch as the review petitioner sought for condoning the delay beyond the period for which the Commission could have condoned the delay under the Conduct of Business Regulation, 2015. The Commission has specifically set forth a time of 75 days for filing the review petition and another 30 days on application for condoning the delay

in filing the review petition. The review petition had been resubmitted on 06.03.2020 along with application for condoning the delay, which is beyond the stipulated time of the regulation of the Commission. The delay in this case would be more than a year, which the Commission may not be inclined to condone the same. It is also submitted that the Commission may not consider any submissions in that regard. The Hon'ble Supreme Court had held in the decision rendered in Chhattisgarh State Electricity Board vs Central Electricity Regulatory Commission and others reported in 2010 (5) SCC 23 with respect to limitation under section 125 of the Act, 2003 read with section 5 of the Limitation Act, 1908 that the delay occurred cannot be condoned violating the period that is specifically provided in the regulation or statute. Accordingly, the present application of the review petitioner cannot be allowed beyond the stipulated period. The Commission may consider the submissions and reject the application for condoning the delay in filing the review petition.

Heard the submissions of the parties and the interlocutory application for condoning the delay in filing the review petition is reserved for orders.

Sd/-
Member

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Chairman