

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7582 OF 2012

	OPG POWER GENERATION P.LTD.	APPELLANT(S)	
	VERSUS	RESPONDENT(S)	
	T.NADU ELECT.BOARD & ORS.	RESPONDENT(S)	

WITH

CIVIL APPEAL NO. 7677 OF 2012

O R D E R

These appeals are directed against the order dated 4th July, 2012 passed by the Appellate Tribunal of Electricity by which the appeals were dismissed solely on the ground that there was a delay in refiling the appeals after 165 days.

Assailing the order, it was submitted that the appellant had filed the appeals before the Tribunal well within the prescribed period of limitation and only when the defects were pointed out the matters remained pending and 165 days of time was taken for refiling the appeals. It was, therefore, submitted that the delay in refiling the appeals after curing the defects should not have weighed with the Tribunal so as to dismiss the entire appeal on the ground of delay.

We find sufficient force in the submission as it is obvious that the period of limitation has to be counted from the date of the impugned judgment and order

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and if the appeal is filed within the prescribed period of limitation then the delay in refiling the appeals after curing the defects will not be a legal ground so as to dismiss the appeals being beyond the period of limitation.

It needs to be clarified that a time may be prescribed by the Tribunal or a Court of Law on the administrative side in order to curb the delay in refiling of the appeal and the counsel may be under administrative instruction to refile the appeal or a petition after curing the defects expeditiously. But that cannot be construed or given effect to as an order having statutory force so as to dismiss the appeal or a petition itself on the ground of delay. A petition or an appeal may be dismissed on the ground of delay provided the same violates the provisions of the Limitation Act, 1963.

However, as far as the present appeals are concerned, the period prescribed for filing an appeal before the Appellate Tribunal for Electricity is governed by Section 111(2) of the Indian Electricity Act, 2003 as pointed out by learned senior counsel.

UPON hearing counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order.

|(Neetu Khajuria)

|(Saroj Saini)

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|Sr.P.A.

|Court Master

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(Signed order is placed on the file.)