

APPELLATE TRIBUNAL FOR ELECTRICITY

SKV Law Offices Successfully Resists Restoration of Appeal Before APTEL

May 7, 2026, New Delhi: SKV Law Offices successfully represented Tata Power Company Limited Distribution (“TPCLD”) before the Appellate Tribunal for Electricity (“APTEL”), securing the dismissal of an application seeking restoration of Appeal No. 88 of 2017 — bringing finality to a long-standing dispute concerning open access, banking of wind energy, and cross-subsidy surcharge.

Background

Appeal No. 88 of 2017 was filed by Global Energy Private Limited (“GEPL”) challenging MERC’s order dated 16.11.2016, which had rejected GEPL’s claims regarding retrospective banking of wind/renewable energy, adjustment of energy credit notes, levy of cross-subsidy surcharge, and alleged abuse of dominant position by TPCLD.

While the appeal was pending, GEPL was admitted into the Corporate Insolvency Resolution Process (“CIRP”) on 02.12.2019. The appeal was eventually dismissed for non-prosecution on 12.02.2024 in the absence of any representation on behalf of GEPL. Following the approval of the Resolution Plan on 03.07.2024, GEPL filed an application seeking restoration of the appeal only on 19.11.2025 — more than sixteen months later — accompanied by an application seeking condonation of delay.

Submissions by SKV Law Offices

SKV Law Offices, on behalf of TPCLD, opposed both applications, contending that the restoration application was barred under Article 122 of the Limitation Act, 1963, with an inordinate and unexplained delay of 474 days even after excluding the moratorium period.

It was further submitted that Section 14 of the IBC was inapplicable, as the moratorium does not bar prosecution of proceedings instituted by the corporate debtor itself. The grounds urged by GEPL — alleged inaction by the Resolution Professional, delay in handover of records, and ill-health of the SRA — were demonstrated to be vague, unsubstantiated, and insufficient to constitute “sufficient cause” under Section 5 of the Limitation Act. It was also pointed out that the Resolution Plan itself did not disclose the present appeal or the dismissal order as part of any list of material litigation.

Decision of the Tribunal

By its order dated 05.05.2026, APTEL dismissed the application for condonation of delay, rejected the restoration application, and allowed the dismissal of the appeal for non-prosecution to remain undisturbed.

Significance

The order reaffirms that the moratorium under Section 14 of the IBC cannot operate as a shield to justify non-prosecution of proceedings filed by the corporate debtor itself. It also clarifies that the appointment of an SRA or alleged delay in handover of records cannot, by itself, constitute “sufficient cause” for condoning gross delay.

From the perspective of distribution licensees, the order affirms that finality attaches to dismissal orders in the absence of timely and bona fide steps for restoration, and that procurers cannot be made to defend stale claims long after the prescribed period of limitation has expired.

Team

The SKV Law Offices team representing Tata Power Company Limited Distribution was led by Shryeshth Ramesh Sharma, Senior Partner, assisted by Abhishek Nangia, Counsel, and Kunal Veer Chopra, Senior Associate.

FOR FURTHER INFORMATION PLEASE CONTACT

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