

Global Energy Private Limited vs Maharashtra Electricity Regulatory ... on 5 May, 2026

Order in Appeal No. 88 of 2017

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

APPEAL No. 88 of 2017 & IA Nos. 1759 & 1760 of 2025

Dated: 05.05.2026

Present: Hon'ble Mr. Virender Bhat, Judicial Member
Hon'ble Mr. Ajay Talegaonkar, Technical Member

IN THE MATTER OF:

Global Energy Private Limited
Registered office address at
207, Gera Imperium II,
Patto Plaza, Panjim,
North Goa, Goa - 403001.

...Appellant(s)

Vs.

1. Maharashtra Electricity Regulatory Commission
Through its Secretary,
World Trade Centre,
Cufe No. 1, 13th Floor,
Cuffe Parade, Mumbai - 400 005.
2. Tata Power Company Limited
Through its Head - Distribution,
Distribution Customer Services,
Dharavi Receiving Station,
Near Shalimar Industrial Estate,
Mutanga, Mumbai - 400019.

...Respondent(s)

Counsel for the Appellant(s) : Ms. Neha Nagpal
Mr. Malak Manish Bhatt

Counsel for the Respondent(s) : Mr. Shri Venkatesh
Mr. Shryeshth Ramesh Sharma
Ms. Kanika Chugh
Mr. Ashutosh Kumar Srivastava
Mr. Suhael Buttan
Mr. Nihal Bhardwaj
Mr. Abhishek Nangia
Mr. Manu Tiwari
Mr. Mohit Mansharamani

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Mr. Siddharth Nigotia
Mr. Aashwyn Singh
Mr. Adarsh Singh
Mr. Harsh Vardhan
Mr. Aniket Kanhaua
Ms. Ananya Dutta
Ms. Devishi Gupta
Ms. Priya Dhankar
Mr. Vineet Kumar
Ms. Surbhi Kapoor
Mr. Nikunj Bhatnagar
Ms. Tanishka Khatana
Mr. Kunal Veer Chopra
Mr. Vedant Choudhary
Mr. Punyam Bhutani
Ms. Drishti Rathi
Mr. Amol Rana for R-2

ORDER

PER HON'BLE MR. AJAY TALEGAONKAR, TECHNICAL MEMBER

1. The present Appeal was filed by M/s. Global Energy Private Limited ("Appellant") against the order dated 16.11.2016 whereby Maharashtra Electricity Regulatory Commission ("MERC"/ "Respondent No. 1") in Case No. 186 of 2014 partly allowed the petition filed by the Appellant.

2. The Appellant, Global Energy Private Limited (GEPL) is a company incorporated under the provisions of the Companies Act, 1956 and is engaged in the business of trading of electricity.

3. The Respondent No. 1 is the Maharashtra Electricity Regulatory Commission (MERC).

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4. Respondent No. 2 is Tata Power Company Limited- Distribution, which is a distribution licensee under the Electricity Act, 2003 in the state of Maharashtra providing electricity to the consumers in its licensed area in the said state.

5. On 22.01.2020, when the Appeal was taken up before this Tribunal, counsel for the Appellant submitted that the Appellant had been admitted into Corporate Insolvency Resolution Process (CIRP) and sought time on the ground that no instructions were forthcoming from the Appellant.

6. On 18.04.2022, the matter was taken up by video conference mode on account of pandemic conditions. The Tribunal was informed that the pleadings are complete in the matter and the appeal is already included in the 'List of Finals' and therefore shall be taken up from there in its turn.

7. Thereafter, on 05.02.2024, this Tribunal passed the following daily order:

"There is no representation on behalf of the Appellant, when the matter was called. Post the matter for Dismissal on 12.02.2024."

8. On 12.02.2024, there was again no appearance on behalf of the Appellant and the Appeal was dismissed for non-prosecution.

9. Ms Bhumika Shah, the nominee appointed by the Monitoring Committee ("the Applicant") has filed an IA bearing No.1759/2025 seeking restoration of this Appeal.

10. Also, the Applicant has filed the IA No. 1760/2025 seeking condonation of delay of 421 days in filing the accompanying application for restoration of Appeal No. 88 of 2017.

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11. In the present judgment, we are concerned only with IA No. 1760 of 2025, as its determination is a prerequisite for considering the restoration of the appeal.

Submissions of the Applicant

12. During the pendency of the Appeal, GEPL was admitted into CIRP by order dated 02.12.2019 passed by National Company Law Tribunal, Mumbai (NCLT). During the process there were repeated changes in management due to successive appointments and failures of Interim Resolution Professionals (IRPs) to take effective charge. Eventually, a Resolution Professional (RP) recommended by the Committee of Creditors (CoC) was appointed on 03.08.2022.

13. The Applicant submitted that the IRPs /RP failed to discharge their duties, resulting in lack of effective representation, unjust diminishment and nullification of assets and ultimately the dismissal of the Appeal on 12.02.2024. It is further submitted that the Appellant was incapacitated from acting due to the subsisting moratorium under the IBC. The resolution plan was approved on 03.07.2024 and a corrected order was issued on 27.08.2024 marking the end of the moratorium. The limitation period for filing restoration is stated to have commenced on 28.08.2024 and expired on 27.09.2024. The present Restoration Application was filed on 21.11.2025 along with an application for condonation of delay of 421 days. The Applicant relies on Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy (2013) 12 SCC 649 stating that delay may be condoned upon showing "sufficient cause" which is to be interpreted liberally.

14. It is submitted that post-CIRP, management vested in the Monitoring Committee and the Successful Resolution Applicant (SRA) could act only through it. The SRA was distinct from the pre-CIRP management, IRPs/RP and Monitoring Order in Appeal No. 88 of 2017 & IAs.

Committee and cannot be held responsible for their lapses. The delay is attributed primarily to the RP's failure to hand over complete records, including documents pertaining to the operations of the Appellant, despite repeated email dated 10.07.2024 and letter dated 22.07.2024 being provided only in a piecemeal manner.

15. In response to TPCL's objection, the Applicant submitted that delay in document handover was not attributable to the SRA. The inability to create an equitable mortgage arose due to an existing lien on the immovable property in favour of the Secured Financial Creditor (SFC). Despite informing the SFC, there was delay in response. The issue was eventually resolved through sale of the property in May 2025 and transfer of proceeds to the SFC, as recorded in the minutes of the Monitoring Committee dated 30.05.2025.

16. The Applicant further submitted that the SRA became aware of the dismissal of the Appeal only after assuming control, through considerable effort and conducting independent research, due to lack of information from the RP. The dismissal order dated 12.02.2024 was discovered through independent research and the Monitoring Committee was informed on 09.07.2025 about multiple dismissals during CIRP and the need to file restoration applications. The handover of documents remains incomplete, compelling the SRA to act with limited information despite continuous efforts.

17. It is contended that the requirement of "sufficient cause" under Order XLI Rule 19 CPC and Section 5 of the Limitation Act is satisfied as the SRA acted diligently and bona fide. Reliance is placed on *Reliance Naval and Engineering Limited v Dharmesh Rasikbhai Sondigara, 2024 SCC OnLine Guj 2224* where a delay of 307 days in a similar CIRP context was condoned.

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18. The Applicant further submits that the pending claims are valuable assets essential for the company's financial stability and revival and non-restoration would cause irreparable harm, contrary to the objectives of the IBC. It is asserted that there is no negligence or undue delay attributable to the SRA and a case for condonation is made out. Additionally, it is stated that the SRA was unable to act promptly due to a period of ill health, contributing to the delay which was unintentional and caused by unforeseen circumstances.

19. Respondent No. 2 submitted that the Application is barred by limitation under Article 122 of the Limitation Act which prescribes 30 days from the date of dismissal for filing a restoration application. The Appeal was dismissed on 12.02.2024 and after excluding the moratorium period till 03.07.2024, the limitation expired on 02.08.2024. The present Application, filed on 19.11.2025, suffers from an inordinate and unexplained delay of 474 days.

20. It is contended that no "sufficient cause" has been shown under Section 5 of the Limitation Act. The Applicant's submission that the delay in handover of documents and alleged ill-health of the SRA are vague, unsupported by any documents and are insufficient. The letter dated 28.03.2025 shows that delay in handover was due to the SRA's own failure to create an equitable mortgage as required under the Resolution Plan and therefore attributable solely to the Applicant's default. The Applicant cannot take advantage of its own negligence.

21. The plea of ill-health is also to be rejected as no medical records or timeline have been provided nor is there any explanation why no alternative arrangements were made. Even otherwise, it does not justify the entire delay of 474 days.

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22. It is further submitted that the law of limitation must be applied strictly and reliance is placed on judgment dated 22.08.2013 in *Basawaraj & Anr. vs. Special Land Acquisition Officer*, (2013) 14 SCC 81 and judgment dated 30.10.2024 in *L.K. Kaul v. Pradeep Kumar Khanna*, 2014 SCC OnLine Del 6640. The Application is stated to be an afterthought lacking bona fides and has been filed without any legitimate or justifiable explanation.

23. Further, it is submitted that the moratorium under Section 14 of the IBC applies only to proceedings against the Corporate Debtor not those initiated by it. Since the Appeal was filed by the Corporate Debtor, the moratorium cannot justify non-prosecution or delay. Reliance is placed on *Hafeez ur Rahman & Ors. vs. S.A. Rawther Spices Ltd.*, 2022 SCC OnLine Kar 1851.

24. Respondent No. 2 has also submitted that the Applicant concealed the NCLT order dated 14.06.2023 passed in IA No. 3164 of 2022 which required the suspended Board of Directors to cooperate with the RP, indicating that the Appellant was not incapacitated or incompetent from providing cooperation, assistance and instructions in relation to pending litigations and legal matters involving the Corporate Debtor. No action was taken against the RP for alleged lapses, showing that such claims are an afterthought.

25. Issues relating to CIRP, document handover or management have no nexus with filing the restoration application and are attributable to the SRA's own defaults. The reliance placed on *Reliance Naval and Engineering Limited v. Dharmesh Rasikbhai Sondigara*, 2024 SCC OnLine Guj 2224 is stated to be misplaced and distinguishable on facts and law. In the present case, the moratorium came to an end on 03.07.2024 and even thereafter the Applicant failed to approach this Tribunal within the prescribed period of limitation. Unlike the case relied upon, the Order in Appeal No. 88 of 2017 & IAs.

Applicant herein has failed to demonstrate any circumstance beyond its control post-moratorium and has also failed to show diligence either during or after CIRP.

26. The dismissal order dated 12.02.2024 is valid and resulted from the Appellant's negligence. The present Application is merely an attempt to overcome the consequences of such inaction and is liable to be dismissed.

Our Analysis and Conclusions

27. The Dismissal Order was issued by this Tribunal on 12.02.2024. The NCLT had approved the resolution plan vide order dated 03.07.2024. This order was later revised by NCLT vide order dated 27.08.2024. Till the NCLT approved the resolution plan, the SRA and Monitoring Committee were not in picture. Therefore, the period up to date of issuance of NCLT order should normally be condoned. The IA Nos. 1759 and 1760 of 2025 for restoration of the Appeal and for condonation of delay in filing of the application for restoration were filed on 21.11.2025. Counting limitation period of 30 days from the date of revised order of NCLT, the Applicant has claimed delay to be of 421 days.

On the other hand, the Respondent No. 2 has calculated delay from the date of original order of NCLT and has contended that the delay is of 474 days.

28. We have noticed that the revised order only had corrections of minor nature, which SRA itself had termed as "typographical error" in the application filed before NCLT. Even if we accept contention of the Applicant that the limitation period should start running from 28.08.2024, the delay of 421 days is inordinate and therefore real question before us is whether or not the Applicant has shown sufficient cause for the delay.

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29. Our analysis on the reasons furnished by the Applicant justifying delay in filing of the application after duly considering the submissions of the Applicant and by the Respondent No. 2 is contained in the following paragraphs.

30. The Appellant has given a detailed description as to how multiple IRPs were appointed one after the another and how they failed to discharge their responsibility, finally leading to appointment of RP. However, none of this is important for the question in our hand, as long as it pertains to period prior to the order of NCLT.

31. The Applicant has submitted that the RP was duty bound to pursue the Appeal filed by the Corporate Debtor-GEPL. It has also been alleged that there was considerable delay in handing over of the documents including those relating to the Appeal in question. The judgment in *New Delhi Municipal Council v. Minosha India Ltd.* (2022) 8 SCC 384 as well as *Sundaresh Bhatt, Liquidator of ABG Shipyard vs. Central Board of Indirect Taxes and Customs*, (2023) 1 SCC 472 and *Swiss Ribbons Private Limited and another vs. Union of India and others*, (2019) 4 SCC 17 have been relied upon to emphasize the scheme and objectives of the Insolvency and Bankruptcy Code, 2016 and the role of the Resolution Professional/ liquidator in preserving the value of the corporate debtor. None of these authorities deal with condonation of delay in restoration proceedings or dilute the mandatory requirement of demonstrating "sufficient cause" under Section 5 of the Limitation Act. In the present case, the issue is not the scope of IBC Act or duties of the RP but whether the Applicant has satisfactorily explained the inordinate delay after the cessation of moratorium. Hence, these judgments are inapplicable to the present case.

32. We note the reply of the Respondent No. 2, pointing out the email dated 28.03.2025 from Deepak Gupta (Nominee of the Secured Financial Creditor) to Order in Appeal No. 88 of 2017 & IAs.

SRA, wherein the onus of this delay has been put on the SRA in that he had failed to fulfil one of the conditions contained in the Resolution Plan namely to create the equitable mortgage. It has been submitted that it was this failure on the part of the SRA which resulted in the delay in handover of management of GEPL. In particular, despite the resolution plan having been approved, the transfer of control, records and operational documents was delayed. The Applicant in turn has responded by submitting an explanation for the same.

33. In these proceeding, it would neither be feasible nor is it our intention to ascertain where the fault lay. However, we find considerable weight in the submissions of the Respondent No. 2 that if RP was not discharging his duties, the correct action on the part of the SRA would have been to approach NCLT. In our opinion, failure on the part of the SRA and the Monitoring Committee (which through its nominee has filed instant Application) to approach NCLT can at best lead to the conclusion that the filing of the applications for restoration of the Appeal and for condonation of delay, is an afterthought. The objective of maximization of value of assets under the IBC Act is not only the duty of RP but collective responsibility of all the stakeholders.

34. The Applicant has also contended that since the documents were not handed over in time, the SRA had no knowledge of the court proceeding instituted by the Corporate Debtor-GEPL. It has been claimed that even now the full set of the documents have not been handed over. It is also stated that the SRA through considerable effort and independent research came to know about Appeal and the Dismissal Order. We, however, find it intriguing that, despite the inclusion of numerous details and dates, the most material date, namely, the date on which the SRA became aware of the Appeal, has not been disclosed. The SRA could have made efforts and carried out independent research immediately upon approval of Order in Appeal No. 88 of 2017 & IAs.

the Resolution Plan by the NCLT, which would have been a rational step towards maximization of asset value.

35. The other reason furnished by the Applicant is that ill health of the SRA prevented from timely filing of the application. This has been contested by the Respondent No. 2 stating that no medical record whatsoever has been placed on record to show specific ailment or medical condition. In this regard, the Respondent No. 2 has placed reliance on the Judgment dated 30.10.2024, L.K. Kaul v. Pradeep Kumar Khanna, 2014 SCC OnLine Del 6640. The relevant extract is as under:

"10. In the facts of the present case, what we find to our surprise is that the appellant failed to disclose any reason, much less any plausible or adequate to be taken into consideration for condoning the delay of 548 days, except for stating that he was suffering from Alzheimer's disease. Moreover, no medical documents/proof had been placed on record by the appellant which would prima facie disclose that he was suffering from the said disease during the relevant period. Whenever, an application for condonation of delay is filed, the burden of proof is prima facie on the applicant to show that there was sufficient cause for not filing the application within the prescribed period. We are conscious that in a matter for condonation of delay, when there is no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice. However, atleast an explanation is expected from the applicant to show sufficient cause for not filing the application in time. It is settled law that a litigant/party cannot claim condonation of delay as a matter of right without offering any explanation for such delay, as non-filing of the application within the prescribed period of limitation creates a valuable right in favour of the other party. It is only when the delay is properly explained by disclosing sufficient cause, will the Court be able to come to the rescue

of such a party and not otherwise. In the aforesaid judgments, the Supreme Court had held that if a party has been thoroughly negligent and the delay is a direct result of such negligence, fault or inaction of that party or that the delay smacks of mala fides, then it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law by virtue of it acting vigilantly. Here is a case where the appellant seeks condonation of delay in filing the restoration application without offering any explanation, much less a reasonable or plausible explanation for condoning the delay of 548 days. Not only that, even from the date of knowledge i.e., 22.10.2010 the appellant failed to offer any explanation for not filing the restoration application till the expiry of the five months period. In the light of the above discussion, we find no merit in the present appeal. It is hereby dismissed leaving the parties to bear their own costs."

(Emphasis Supplied) Order in Appeal No. 88 of 2017 & IAs.

36. In our view, this judgement clearly brings out that in the absence of details of illness and medical records, there is no reason to accept ill health of SRA as the contributing factor for the delay.

37. We also note that this application has been filed by the representative of the Monitoring Committee and not by the SRA. Therefore, if the SRA was indisposed, nothing prevented the Monitoring Committee from approaching this Tribunal in a timely manner for restoration of the Appeal.

38. The reliance on *Reliance Naval and Engineering Limited v. Dharmesh Rasikbhai Sondigara*, 2024 SCC OnLine Guj 2224 is also misplaced. There are some fundamental differences in the cited case and the present proceeding. In the case of *Reliance Naval*, the proceeding sought to be restored was against the Corporate-Debtor and involved a payout. In the absence of the restoration, the payout would have become final, and since this payout was not known to SRA while submitting the resolution plan, it would have been unfair. In the present case, restoration of the proceedings may result in additional revenue that was not envisaged at the time of submission of the Resolution Plan. Further, in the present proceeding there is a controversy as to who is at fault for the delay in handing over of the documents relating to the pending or dismissed proceedings, which this Tribunal is clearly not in a position to ascertain. As opined by us, the SRA should have approached NCLT, which was the right forum for alleged non-performance by the RP. Therefore, in the present proceedings, the delay post 27.08.2024 is at least partly attributable to the SRA and the Monitoring Committee themselves.

39. The Appellant's reliance on *Inder Singh v. State of Madhya Pradesh*, 2025 INSC 382 and *Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy* (2013) 12 SCC 649 for adopting a liberal approach in condonation of delay is also misconceived. While it is well settled that courts may adopt a liberal Order in Appeal No. 88 of 2017 & IAs.

approach in appropriate cases, the same is not unqualified or automatic. In the present case, the Applicant has not only failed to provide a satisfactory and credible explanation for the prolonged delay but has also failed to establish due diligence on its part.

40. In view of the above analysis, we have come to the conclusion that the reasons furnished by the Applicant for delay in filing of the application for restoration of the Appeal are not convincing. Further, certain actions, which were due on the part of SRA were not taken by him such as approaching NCLT, if RP was not performing his duties and carrying out expeditious research about the Appeal filed by the Corporate-Debtor. It is clarified that the observation made in this order are without prejudice to, and without expressing any opinion on the merits of the Appeal.

ORDER For the forgoing reasons as stated above, I.A. No. 1760 of 2025 seeking condonation of delay in filing the restoration application lacks merit and is dismissed. Accordingly, the IA No. 1759 of 2025 for the restoration of the Appeal also does not survive. Consequently, Appeal No. 88 of 2017 shall remain dismissed for non-prosecution.

PRONOUNCED IN THE OPEN COURT ON THIS 5th DAY OF MAY, 2026.

(Ajay Talegaonkar)
Technical Member

(Virender Bhat)
Judicial Member

REPORTABLE / NON-REPORTABLE
kns/mkj/kks