

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Interlocutory Application No.649/2020
Un-numbered Company Appeal (AT) No. ___/2020
(F.No.28.01.2020/NCLAT/UR/190

In the matter of:

Nitin Rekhan Appellant

Versus

Hightime Marketing Pvt. Ltd. Respondent

Appearance: Ms. Anannya Nayyar, Advocate for the Appellant.

10.02.2020

This is an application to extend the time granted for curing the defects.

2. The facts of the case are that the Appellant filed the Memo of Appeal on 28.01.2020 and the Office after scrutiny of the Memo of Appeal on 29.01.2020, intimated the defects and returned the Memo of Appeal to the Appellant on the same day. The Appellant re-filed the Memo of Appeal on 06.02.2020. It is stated in the Interlocutory Application (IA) that Registry raised various objection including objection to file an application for condonation of delay, which was not to be filed. After long persuasion, the Registry agreed that objection on condonation of delay is not required. Hence, there is delay of one day in re-filing the Memo of Appeal, so, the same may be condoned.

3. Apart from that, the Registry has pointed out that defect Nos.1 and 2 have also not been cured by the Appellant. Defect No.1 is "*Mention provision under which appeal has been preferred (i.e. 61 of IBC or u/s 421 of Companies Act, 2013), as the impugned order filed is arising out of IBC*". Defect No.2 is "*Cause title defective*"

4. Heard learned Counsel appearing for the Appellant and perused the averments made in the IA as well as Office report.

5. Considering the submissions made on behalf of the Appellant and for the reasons mentioned in the IA, which are sufficient, the delay in re-filing the Memo of Appeal is hereby condoned.

6. As regard defect Nos.1 & 2 are concerned, it is seen that an endorsement has been made on the defect sheet on behalf of the Appellant stating that *“Present Appeal is being preferred u/s 421 of the Companies Act, 2013. It is the correct provision to Appeal in the present matter. List the matter as it is”*.

7. In view of the above list the case before the Hon’ble Bench under the heading ‘for admission with defect’.

8. With the aforesaid order, this IA stands disposed of.

(Peeush Pandey)
Registrar