

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.121/2018

Un-numbered Company Appeal (AT) (Insolvency) No. /2018
(F.No.11/06/2018/NCLAT/UR/492

In the matter of:

Aditya Enterprises Applicant/Appellant

Versus

Rajratan Exim Pvt. Ltd. Respondent

Appearance: Shri Jaspal Singh, Advocate for or the Applicant.

03.07.2018

This is an application (no provision of law mentioned) to extend the time granted for compliance given under sub-rule (2) to rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules).

2. The grounds taken for condoning the delay in re-filing the Memo of Appeal is that an authorization letter was required for signing and verifying the Appeal and the said letter was received in Delhi only on 19.06.2018. Further, since the Office of the Registry was closed at 01:00 p.m., therefore, the Appellant could not cure the defects on 20.06.2018 and in this way there is delay of two days' in re-filing the Memo of Appeal.

3. Heard the learned counsel for the Appellant and perused the grounds mentioned in the Miscellaneous Application as well as the Office report. Learned counsel appearing for the Appellant submitted that there is delay of two days in re-filing the Memo of Appeal and the reasons have already been mentioned in the Miscellaneous Application, hence the delay may be condoned. As per the report of the Office, it appears that there is also delay in filing the Memo of Appeal. So far as delay in filing the Memo of Appeal is concerned, the matter relates to the Hon'ble Bench and so, I have to consider only the delay in re-filing the Memo of Appeal. From the perusal of the grounds mentioned in the Miscellaneous Appeal, it appears

that the Appellant has assigned the reason for not re-filing the Memo of Appeal within the period prescribed under the law, i.e., seven days from the date of the return and the ground is that after obtaining the authorisation letter on 19.06.2018 when the Appellant approached the office, the Office of the Registry was closed at 01.00 p.m. and that is the reason defects could not be cured by the Appellant on 20.06.2018 and in doing so there is delay of only two days.

4. Now the point for consideration is:

- i) Whether the Appellant has explained the reasons for delay in filing the Memo of Appeal?
- ii) Whether the Appellants are entitled to get any other relief?

5. Considering the averments made on behalf of the Appellant, Office notes and the grounds taken by the Appellant for re-filing the memo of appeal, I think it proper to condone the delay in re-filing the memo of appeal. Accordingly, the delay in re-filing the memo of appeal is hereby condoned.

6. The Point No.1 is answered accordingly. So far as the Point No.2 is concerned, the Appellant is not entitled for any other relief.

7. With the aforesaid order, this Miscellaneous Application stands disposed of.

8. On the request of the learned counsel, list the case on 06.07.2018 before the Hon'ble Bench for hearing on the point of limitation and admission.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar