

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No. 13 of 2017

In

Un-numbered Company Appeal (AT) No. /2017

In the matter of:

Venumbaka Vijaya Sai Reddi & Ors.

.... Applicants

Versus

Registrar of Companies,
Hyderabad, Andhra Pradesh & Telangana

.... Respondents

Appearance: Shri C.P.N. Karthik, Authorized Representative of the
Applicants

02.08.2017

This is an application (no provision of law mentioned) filed to condone the delay in re-submitting/ re-presenting the appeal after curing the defects.

2. The allegation in the application is that the appeal was returned to the appellant with a direction to cure the defects within a period of 7 days. The appellant could not re-submit the appeal within a period of 7 days as directed by the Registry as the counsel for the appellant resides in Bangalore. Hence the delay, which is not deliberate or intentional. Therefore, the prayer in the application is to take the appeal on record.

3. The points that arise for consideration are: -

- i) Is the time for complying the direction to cure the defects liable to be extended under sub-rule (3) to Rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules)?
- ii) Reliefs.

4. **Point No. (i):** - Heard the learned counsel for the applicant.

The aforesaid appeal has been presented against the order dated 28.06.2017 in C.A No.37/621A/HDB/2016 of the Hon'ble NCLT, Hyderabad Bench. According to the applicants they received the impugned order on 04.07.2017. Sub-section (3) to section 421 of the Companies Act, 2013 (hereinafter referred to as the Act) says that an appeal has to be filed within a period of 45 days from the date on which the impugned order is made available to the person aggrieved. Here the period of 45 days will expire only on 18.08.2017.

5. The present appeal is seen presented under Rule 22 before the Registry on 17.07.2017. The appeal which was scrutinized on 18.07.2017 was found to be defective, and so the applicants were informed about it on the very same day and were directed to cure the defects and re-submit the appeal within a period of 7 days. The defective appeal was taken back on 25.07.2017 and re-submitted/ re-presented on 31.07.2017, that is after a period of 6 days from the date on which it was directed to be re-presented/ re-submitted.

6. Sub-rule (3) to Rule 26 of the Rules enable the Registrar to extend the time given for compliance under sub-rule (2) to Rule 26. The appeal has been re-presented / re-submitted beyond the period of 7 days given under sub-rule (2) to Rule 26, but within the period of 45 days provided under sub-section (3) to section 421 of the Act.

7. Hence for the reasons stated in the application and in the interest of justice, the time given by the Registry under sub-rule (2) to Rule 26 is extended by invoking the powers under sub-rule (3) to Rule 26 of the Rules. Point answered accordingly.

8. **Point No.(ii)** – M.A 13/2017 allowed.

List the matter before the Hon'ble Appellate Tribunal on
04.08.2017.

(C.S. Sudha)
Registrar