

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.136/2018
Un-numbered Company Appeal (AT) No. ____/2018
(F.No.28/05/2018/NCLAT/UR/450)

In the matter of:

Mr. Sushil Kumar & Anr. Appellants

Versus

M/s Shilpa Garments Pvt. Ltd. & Ors. Respondents

Appearance: Mr. Sahil Gupta, Advocate for the Appellant

02.08.2018

This is an application under sub-rule (2) to Rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules) to extend the time granted for compliance.

2. The facts mentioned in the Miscellaneous Application in short is that when the defects were intimated to the conducting Lawyer Mr. Rakesh Kumar, at that time he was under medical treatment for severe back and shoulder injury and he informed his Office Clerk, but the Office Clerk had gone on vacation from 2nd June, 2018 without informing him about the defects. Further, this fact was not known to the Counsel and he was under impression that the defects were cured and the case was expected to be listed after vacation. Further, when on 11.06.2018, the Counsel visited the Registry, then he came to know about the defects. Further, the Memo of Appeal was again prepared as per the format prescribed under the NCLAT Rules and it was re-filed on 25.07.2018 and in doing so there is a delay of 50 days.

3. Learned Lawyer appearing for the Appellants submitted that the Appellants have filed the Medical Prescription in support of their contention that the learned Counsel, who was conducting the case

was ill and under treatment. He further submitted that in view of the aforesaid facts, the Appeal could not be re-filed within the period prescribed under the law and also in view of intervening summer vacation, there is delay of 50 days and the same may be condoned.

4. Now the point for consideration is:

- i) Whether the Appellants have 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 submissions made by the learned Lawyer appearing for the Appellants, the averments made in the Miscellaneous Application as well as the Medical Prescription filed by the Appellants in support of their contention that the conducting Lawyer was ill, 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. As prayed by learned Counsel, put up the case before the Hon'ble Bench on 08.08.2018 for hearing.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar