

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.147/2018
Un-numbered Company Appeal (AT) (Insolvency) No. ____/2018
(F.No.26/07/2018/NCLAT/UR/657)

In the matter of:

S.C. Sekaran Appellant

Versus

Amit Gupta & Ors. Respondents

Appearance: Ms. Priyanka Anand, Advocate for the Appellant

20.08.2018

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 the Memo of Appeal was filed on 26.07.2018 and Office after scrutiny of the Memo of Appeal intimated the defects to the Appellant on 28.07.2018 and on the same day the, Memo of Appeal was returned to the Appellant. Further, the Appellant was required to submit some documents and since those documents were not available with the Appellant and the Appellant was the resident of Mumbai, therefore, Appellant took some time to arrange the copy of those documents and the said documents was received by the counsel for the Appellant on 10.08.2018 and since, 11.08.2018 and 12.08.2018, the Office of NCLAT was closed on account of holiday, the Appellant could re-file the Memo of Appeal only on 13.08.2018, but on that day, the Appellant's counsel was informed by the Registry that Miscellaneous Application is required to be filed and that is the reason the Memo of Appeal was re-filed on 14.08.2018

and so there is delay of 10 days in re-filing the Memo of Appeal, hence, the same may be condoned.

3. Heard learned Lawyer appearing for the Appellant, perused the averments made in the Miscellaneous Application as well as the Office note. As per Office note, there is a delay of 10 days in re-filing the Memo of Appeal.

4. Learned Lawyer appearing for the Appellant submitted that the Appeal was filed within time, but when the defects were communicated to the Appellant and the Memo of Appeal was returned. Thereafter, the Appellant took some time because the Appellant was required to file some documents, which were not available here and the Appellant had to obtain the same from Mumbai and in doing so there is a delay of 10 days and so the same may be condoned.

5. 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 Appellant is entitled to get any other relief?

6. Considering the submissions made on behalf of the learned Lawyer appearing for the Appellant and the averments made in the Miscellaneous Application as well as the Office note, I find that the Memo of Appeal was filed within time and after removing the defects, when it was re-filed, then there is a delay of 10 days. For the reasons mentioned in the Miscellaneous Application, 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.

7. 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.

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

9. In the course of hearing, learned counsel informed that the connected matter is ordered to be listed on 29th August, 2018 by the Hon'ble Bench, so, this case may be listed along with the Company Appeal (AT) (Insolvency) No.358 and 359 of 2018.

10. Considering the submission, list the case on 29th August, 2018 before the Hon'ble Bench for hearing.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar