

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.148/2018
Un-numbered Company Appeal (AT) No. ____/2018
(F.No.02/08/2018/NCLAT/UR/685

In the matter of:

Yogendra Pal Jain

.... Appellant

Versus

M/s South Eastern Carriers
Pvt. Ltd. & Ors.

.... Respondents

Appearance: Shri Robin Singh Sirohi, 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 presented on 02.08.2018 and the Office after scrutiny intimated the defects to the Appellant on 04.08.2018 and on the same day, Memo of Appeal was returned to the Appellant. The Appellant after removing the defects, came to re-file the Memo of Appeal, but since on 11.08.2018 and 12.08.2018, the Office was closed on account of holiday and when on 13.08.2018 the Appellant came to re-file the Memo of Appeal, on that day again an objection was raised that on few pages, white fluid was used and so, in order to remove the fresh defect, the Appellant took time and in doing so, there is delay of six days, hence, same may be condoned.

3. Heard learned Lawyer appearing for the Appellant, perused the averments made in the Miscellaneous Application and the Office note.

4. Learned Lawyer appearing for the Appellant submitted that Memo of Appeal was presented within time and there is only six days'

delay in re-filing the Memo of Appeal. He further submitted that after removing the defects, when the Appellant came to re-file the Memo of Appeal on 13.08.2018 as the 11.08.2018 and 12.08.2018 were the holidays, the Appellant was informed by the Office that on few pages, white fluid is used, so, in order to remove the fresh defects, the Appellant took one more day and in doing so, there is a delay of six days, 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 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. As prayed by learned Counsel, list the case before the Hon'ble Bench on 28.08.2018 for hearing.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar