

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Un-numbered Company Appeal (AT) No. ____/2017
(F.No.01/12/2017/NCLAT/UR/673)

In the matter of:

Satya Prakash Hotels Pvt. Ltd. Appellant

Versus

Anil Kumar Ravuri & 10 Ors. Respondents

Appearance: Shri K.J.D. Srinivas, Chartered Accountant for the Appellant

15.12.2017

The aforesaid appeal is against the order dated 18.09.2017 in C.P. No.297/2016 (C.P. (TCAA) No.22/HDB/2017) of the Hon'ble NCLT, Hyderabad Bench. The appeal was presented before the Registry on 01.12.2017. The appeal when scrutinised on 04.12.2017 was found to be defective and hence on the same day, the Appellant was informed of the defects with a direction to cure them and submit the same within a period of seven days. The appeal was re-submitted on 12.12.2017. It is reported that all the defects have not been cured by the Appellant and hence the matter has been put up before me for appropriate orders.

2. The copy of the impugned order dated 18.09.2017 produced is a certified free copy and the said order says that it was issued on 12.09.2017, which is apparently incorrect. Initially, no proof regarding the date on which the copy was served on the Appellant had been produced. Therefore, the Section computed the period of limitation of 45 days from 19.09.2017 and when so computed the period was taken to have expired on 02.11.2017. The appeal was initially presented on 01.12.2017 and hence the Section considered the appeal to have been filed beyond the period of limitation.

3. Now the appellant has produced the tracking report and a xerox copy of the envelope in which the copy of the order was sent, which shows that the order was served on them on 20.10.2017. That being so, the period of limitation computed from 21.10.2017 would expire only on 05.12.2017. The initial presentation of the appeal on 01.12.2017 is within the period of 45 days. However, the subsequent

presentation on 12.12.2017 after partially curing the defects is beyond the period of 45 days. It is true that the proviso to sub-section (3) to section 421 of the Companies Act, 2013 says that the period of 45 days for filing the appeal can be extended for a further period not exceeding 45 days. However, the power to extend the period beyond the initial 45 days can be exercised only by the Hon'ble Appellate Tribunal. The Appellant has moved an application for condonation of delay also.

4. It is further reported by the Section that some of the defects like defect no.8, 19 and 25 stated in the defects sheet still remain and have not been rectified so far. It is submitted by the learned Chartered Accountant appearing on behalf of the Appellant that the defects would be cured during the course of the day. Hence, the dealing hand concerned is directed to provide the paper books to the authorized representative of the Appellant to enable him to cure the defects. If the defects are cured during the course of the day, the appeal shall stand listed before the Hon'ble Appellate Tribunal on 19.12.2017.

List the matter before the Hon'ble Appellate Tribunal on 19.12.2017.

(C.S. Sudha)
Registrar