

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.05/2018

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

(F.No.28/12/2017/NCLAT/UR/694)

In the matter of:

ANTZ Age Technologies Pvt. Ltd.

.... Applicant

Versus

Durha Infracon Pvt. Ltd.

.... Respondent

Appearance: Shri Ashok Kumar Juneja, Advocate for the Applicant.

05.01.2018

This is an application (no provision of law mentioned) to extend the time granted for compliance given under sub-rule (2) to rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules).

2. The allegation in the application is that the delay occurred due to the intervening holidays during the period from 23rd December, 2017 to 25th December, 2017 and 28th December, 2017 to 1st January, 2018. Therefore, the prayer is to extend the time for compliance by 10 days.

3. The points that arise for consideration are: -

- i) Is the time given for complying the direction to cure the defects liable to be extended under sub-rule (3) to rule 26 of the Rules?
- ii) Reliefs.

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

The aforesaid Appeal under Section 61 of the I&B Code, 2016 (hereinafter referred to as the Code) is against the order dated 28.11.2017 in (I.B.)-330/ND/2017 of the Hon'ble NCLT, New Delhi Court-III.

5. The instant appeal is seen presented before the Registry on 28.12.2017. The appeal when scrutinised on 16.12.2017 was found to be defective and hence on the same day the Applicant was informed of the defects with a direction to cure them and submit the same within a period of seven days. The period of seven days expired on 23.12.2017. However, the appeal has been submitted after curing the defects only on 03.01.2018 and as there is a delay of 10 days, the Section has put up the matter before me under sub-rule (2) to rule 26 for appropriate orders.

6. Sub-section (2) to section 61 of the Code says that every appeal under sub-section (1) shall be filed within 30 days before the Appellate Tribunal. As noticed earlier, the impugned order is dated 28.11.2017. The certified copy of the impugned order is dated 06.12.2017. It is alleged in Para 2 of the appeal memorandum that the order was communicated to the Applicant on 06.12.2017. Therefore, the office has rightly computed the period of limitation of 30 days starting from 07.12.2017. When so computed, the period of 30 days would expire on 06.01.2018. The initial presentation on 28.12.2017 and subsequent presentation on 03.01.2018 is well within the period of 30 days for filing the appeal. Hence, exercising the power under sub-rule (3) to rule 26 of the Rules, the time for compliance granted under sub-rule (2) to Rule 26 is extended as prayed for in the application. Point answered accordingly.

7. **Point No.(ii):** - M.A. No.05/2018 allowed.

List the matter before the Hon'ble Appellate Tribunal on 08.01.2018.

(C.S. Sudha)
Registrar