

**THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**M.A. No.07/2018**

**Un-numbered Company Appeal (AT) (Insolvency) No. \_\_\_\_/2017**  
**(F.No.15/12/2017/NCLAT/UR/698)**

**In the matter of:**

Vangal Amman Health Services Ltd. .... Applicant

Versus

Bank of Baroda & Anr. .... Respondents

Appearance: Shri C. Kannan and Shri MSM ASAI Thambi, Advocates 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 appeal was presented on 02.01.2018. However, it was not accepted on the ground that it continued to be defective. The delay of one day in re-filing the appeal is stated to be neither wilful nor deliberate and hence the prayer is to condone the delay.

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 22.11.2017 in C.P./634/(I.B.)/CB/2017 of the Hon'ble NCLT, Chennai Bench.

5. The instant appeal is seen presented before the Registry on 15.12.2017. The appeal when scrutinised on 18.12.2017 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 25.12.2017. However, the appeal has been submitted after curing the defects only on 03.01.2018 and as there is a delay of about eight 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 22.11.2017. The certified copy of the impugned order is dated 29.11.2017. It is alleged in Para 3 of the appeal memorandum that the order was received by the Applicant on 29.11.2017. Therefore, the office has rightly computed the period of limitation of 30 days starting from 30.11.2017. When so computed, the period of 30 days expires on 29.12.2017.

7. The seven days' period for curing the defects granted under sub-rule (2) to rule 26 expired on 25.12.2017, which was a Sunday. Therefore, the appeal ought to have been presented after curing the defects on the next day, i.e., 26.12.2017. However, the appeal was presented after curing the defects only on 03.01.2018. The Registry was open till 27.12.2017 and thereafter was closed for the period from 28.12.2017 to 01.01.2018. As stated earlier, the period of 30 days for filing the appeal expired on 29.12.2017, a holiday, and as the Registry was closed till 01.01.2018, the period of limitation of 30 days for filing the appeal would stand extended till 02.01.2018, i.e., the re-opening date.

8. The time granted under sub-rule (2) to rule 26 for compliance can be extended by the Registrar under sub-rule (3) to rule 26 provided it is within the period of 30 days stipulated under the Code for filing an appeal. In the instant case, as the time

taken is beyond the period of 30 days, the matter be placed before the Hon'ble Appellate Tribunal for appropriate orders. Point answered accordingly.

9. **Point No.(ii):** - M.A. No.07/2018 disposed of.

List the matter before the Hon'ble Appellate Tribunal on 09.01.2018.

(C.S. Sudha)  
Registrar