

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.09/2018

In

Un-numbered Company Appeal (AT) No. /2018
(F.No.26/12/2017/NCLAT/UR/719)

In the matter of:

Alpha Overseas International Pvt. Ltd. & Ors. Applicants

Versus

Navneet Rohatgi Respondent

Appearance: Shri Goutham Shivshankar, Advocate for the Applicants.

09.01.2018

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 for the Registry from 27.12.2017 to 01.01.2018. The delay is alleged to be not wilful or wanton and hence the prayer is to condone the delay of seven days in filing the appeal after curing the defects.

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 Applicants.

The aforesaid Appeal under Section 421(1) of the Companies Act, 2013 (hereinafter referred to as the Act) is against the order dated 12.12.2017 in C.P. No.70/2014 of the Hon'ble NCLT, Kolkata Bench. As per sub-section (3) to section 421 of the Act an appeal has to be filed within a period of 45 days from the date on which a copy of the impugned order is made available to the person aggrieved.

5. The appeal herein is seen presented before the Registry on 22.12.2017. The appeal when scrutinised on 26.12.2017 was found to be defective and hence on the same day, the Applicants were 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 02.01.2018. However, the appeal has been submitted after curing the defects only on 08.01.2018 and hence, the Section has put up the matter before me under sub-rule (2) to rule 26 for appropriate orders.

6. The copy of the impugned order produced is only a xerox copy and not a certified copy. The impugned order is dated 12.12.2017 and so the office has rightly computed the period of limitation of 45 days starting from 13.12.2017. When so computed, the period of limitation would expire only on 26.01.2018.

7. Here, the initial presentation of the appeal under Rule 22 on 22.12.2017 and the subsequent presentation after curing the defects on 08.01.2018 are obviously much before the expiry of the period of limitation of 45 days. Hence, exercising the power under sub-rule (3) to rule 26, the time granted for compliance given under sub-rule (2) to rule 26 is extended as prayed for in the application. Point answered accordingly.

8. **Point No.(ii):** - M.A. No.09/2018 allowed.

List the matter before the Hon'ble Appellate Tribunal on 11.01.2018.

(C.S. Sudha)
Registrar