

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.23/2018

In

Un-numbered Company Appeal (AT) No. /2018
(F.No.11/01/2018/NCLAT/UR/27)

In the matter of:

Doloo Tea Co. (India) Ltd. Applicant

Versus

Gaurangika H. Patel & Ors. Respondents

Appearance: Shri Kunal Singh, Advocate for the Applicant.

24.01.2018

This is an application under sub-rule (2) to rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules) seeking extension of time granted for compliance.

2. The allegation in the Application is that the defects pointed out by the Registry were got cured by the counsel for the Applicant in Delhi with the assistance of the counsel for the Applicant in Kolkata. This caused the delay in curing the defects, which delay is alleged to be neither intentional nor deliberate. Hence, the prayer is to condone the delay of four days' in re-filing the appeal.

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 is against the order dated 18.12.2017 in I.A. No.45/2017 in T.P. No.04/397/398/GB/2016 (arising out of C.P. No.994/2011) of the Hon'ble NCLT, Guwahati Bench. As per sub-section (3) to section 421 of the Companies Act, 2013 (hereinafter referred to as 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 11.01.2018. The appeal when scrutinised on 12.01.2018 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 19.01.2018. However, the appeal has been submitted after curing the defects only on 23.01.2018. As there is a delay of four days, the matter has been put up before me under sub-rule (2) to rule 26 for appropriate orders.

6. The certified copy of the impugned order dated 18.12.2017 is seen issued free of cost on 28.12.2017. Therefore, the office has rightly computed the period of limitation starting from 29.12.2017 and when so computed, the period of 45 days would expire on 11.02.2018.

7. The initial presentation of the appeal under Rule 22 on 11.01.2018 and the subsequent presentation after curing the defects on 23.01.2018 are well within the period of 45 days provided under sub-section (3) to section 421 of the Act. Therefore, exercising the power conferred under sub-rule (3) to rule 26, the time granted under sub-rule (2) to rule 26 for curing the defects is extended. Point answered accordingly.

8. **Point No.(ii):** - M.A. No.23/2018 allowed.

List the matter before the Hon'ble Appellate Tribunal on 25.01.2018.

(C.S. Sudha)
Registrar