

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

**M.A. No.27/2018**

**In**

**Un-numbered Company Appeal (AT) No.     /2018**  
**(F.No.11/01/2018/NCLAT/UR/30)**

**In the matter of:**

S.D. Bio-Tech Ltd. & Ors.

.... Applicants

Versus

Registrar of Companies NCT of Delhi & Haryana

.... Respondents

Appearance:       None for the Applicants.

**29.01.2018**

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 Directors of the Applicants' Company were not available, which caused the delay in curing the defects. Therefore, the prayer is to condone the delay of five 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):** -     None for the Applicants.

The aforesaid Appeal is against the order dated 12.12.2017 in C.P. No.16/203/ND/2017 of the Hon'ble NCLT, New Delhi 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 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 19.01.2018. However, the appeal has been submitted after curing the defects only on 24.01.2018 and hence, 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 12.12.2017 produced is a paid copy, which is seen issued on 09.01.2018. The application for the certified copy is seen filed on 04.01.2018. Therefore, computing the period of limitation of 45 days starting from 13.12.2017 after excluding the period taken for obtaining the certified copy, i.e., from 04.01.2018 to 09.01.2018 would expire on 01.02.2018.

7. In the case on hand, the initial presentation of the appeal under Rule 22 on 11.01.2018 and the subsequent presentation after curing the defects on 24.01.2018 are/is apparently within the period of 45 days. Therefore, exercising the power under sub-rule (3) to rule 26, the time granted for compliance under sub-rule (3) to rule 26 is hereby extended. Point answered accordingly.

8. **Point No.(ii):** - M.A. No.27/2018 allowed.

List the matter before the Hon'ble Appellate Tribunal on 30.01.2018.

(C.S. Sudha)  
Registrar