

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

**M.A. No.28/2018**

**Un-numbered Company Appeal (AT) (Insolvency) No.     /2018**  
**(F.No.15/01/2018/NCLAT/UR/41)**

**In the matter of:**

SREI Infrastructure Finance Ltd.

.... Applicant

Versus

Right Tower Pvt. Ltd. & Anr.

.... Respondents

Appearance:       Shri Amit Kasera, Advocate for the Applicant.

**31.01.2018**

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 reads - “There will be delay in refiling the present Appeal for six days. Both the Advocates and his Clerk will be refiling the appeal will be joining their work from 29.01.2018. On 29.01.2018, the Appeal is being refiled with the delay of 6 days. It is submitted that delay of six days in refiling the Appeal be condoned.”

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 02.01.2018 in C.P.(IB)No.505/KB/2017 of the Hon’ble NCLT, Kolkata Bench.

5.     The aforesaid appeal is seen presented before the Registry on 15.01.2018. The appeal when scrutinised on 16.01.2018 was found to be defective and so on the same day the Applicant was informed of the defects with a direction to cure them within a period of seven days. The period of seven days’ expired on 23.01.2018. However, the appeal was presented after curing the defects only on 29.01.2018. According to

the Section there is a delay of six days' and hence the matter has been put up before me under sub-rule (2) to rule 26 of the Rules 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. The copy of the impugned order dated 02.01.2018 produced is a paid copy, which is seen issued on 09.01.2018. The application for the copy is stated to have been filed on 05.01.2018. Therefore, the Office has rightly computed the period of limitation of 30 days starting from 03.01.2018. When so computed, the period of limitation after excluding the time taken for obtaining the certified copy, i.e., from 05.01.2018 to 09.01.2018 expires on 06.02.2018.

7. The initial presentation of the appeal on 15.01.2018 and the subsequent presentation after curing the defects on 29.01.2018 are apparently within the period of 30 days for filing the appeal. Therefore, (though no reason(s) are given for the delay in curing the defects) in the interest of justice, exercising the power under sub-rule (3) to rule 26, the time granted for compliance under sub-rule (2) to rule 26 is extended. Point answered accordingly.

8. **Point No.(ii):** - M.A. No.28/2018 allowed.

List the matter before the Hon'ble Appellate Tribunal on 01.02.2018.

(C.S. Sudha)  
Registrar