

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.06/2017

In

Un-numbered Company Appeal (AT) No. /2017

In the matter of :

Bishnudeo Prasad & Ors.

.... Applicants

Versus

Bihar Janta Cold Storage Pvt. Ltd. & Ors.

.... Respondents

Appearance: Shri Devender Singh, Advocate for the Applicants.

24.07.2017

This is an application (no provision of law mentioned) for condoning the delay of 30 days in re-presenting/ re-submitting the Appeal.

2. The allegation in the application is that the counsel for the Applicants had left for his home town on 13.06.2017 and that he returned only on 10.07.2017. Thereafter, the defects were removed and the Appeal re-presented/ re-submitted on 19.07.2017. The delay in re-submitting/ re-presenting the Appeal was not intentional or deliberate. Hence, it is prayed that the delay of 30 days in re-presenting/ re-submitting the Appeal may be condoned.

3. The points that arise for consideration are:-

- i) Is the delay liable to be condoned under sub-rule (3) to Rule 26 of the NCLAT Rules, 2016?
- ii) Reliefs.

4. **Point No. (i) :-** Heard the learned counsel for the Applicants.

Initially, the Appeal was presented on 12.06.2017. The Appeal on scrutiny was found to be defective and hence, was returned to the Applicants on 13.06.2017

with a direction to cure the defects and re-submit the same within a period of seven days. The period of seven days expired on 21.06.2017. However, the Appeal was re-presented/ re-submitted only on 19.07.2017.

5. Summer vacation for the Tribunal was from 03.06.2017 to 02.07.2017. Therefore, if the period of summer vacation is excluded in the light of Section 4 of the Limitation Act, 1963, then it ought to have been re-presented/ re-submitted on the day on which the Court re-opened, i.e., on 03.07.2017. The Appeal is seen re-presented only on 19.07.2017, which is after a delay of about 16 days.

6. Sub-Rules (2) and (3) to Rule 26 of the Rules enable the Registrar to grant reasonable time provided sufficient cause is shown. Hence, for the reasons stated in the application and in the interest of justice, the delay is condoned. The point is answered accordingly.

7. **Point No. (ii)** :- In the light of the above discussion, the application is allowed. The section concerned is directed to number the appeal.

The matter be listed before the Hon'ble Tribunal on 26.07.2017.

(C.S. Sudha)
Registrar