

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.07 of 2017

In

Un-numbered Company Appeal (AT) (Insolvency) No. of 2017

In the matter of :

M/s. Bhagwan Motors Pvt. Ltd. Applicant

Versus

Harshad V. Vora Respondent

Appearance: Ms. Apoorva Shukla, Advocate for the Applicant.

26.07.2017

This is an application (no provision of law mentioned) praying for condonation of delay of three days in re-presenting/ re-submitting the Appeal after curing the defects.

2. It is alleged in the application that the delay occurred as the signature of the parties had to be obtained again. The delay caused is neither deliberate nor intentional and hence, the prayer to condone the delay of three days in re-presenting/ re-submitting the Appeal.

3. The points that arise for consideration are: -

- i) Is the time for complying the direction to cure the defects liable to be extended under sub-rule (3) to Rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules)?
- ii) Reliefs.

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

Initially, the appeal was presented on 07.07.2017 against the order dated 06.06.2017 of the Hon'ble NCLT, Ahmedabad Bench in C.P. No.(IB)29/9/NCLT/AHM/2017. The appeal on scrutiny was found to be defective

and hence was returned on 10.07.2017 with a direction to cure the defects within a period of seven days. The period of seven days expired on 18.07.2017. However, the appeal was re-presented/ re-submitted only on 22.07.2017, i.e. after a delay of four days and not three days as stated in the application.

5. Sub-Rule (2) to Rule 26 of the Rules provide that if the Appeal on scrutiny is found to be defective, the same shall after notice to the parties, be returned for compliance, i.e., for curing the defect(s) and in case there is a failure to comply or cure the defects within seven days from the date of return, the Section/ dealing hand shall put up the same before the Registrar, who may pass appropriate orders.

6. In this case, the defects ought to have been cured and the Appeal re-submitted/ re-presented by 18.07.2017. However, the defects were cured and the Appeal re-submitted only on 22.07.2017. Hence, the Section concerned put up the matter before me under sub-Rule (2) to Rule 26 of the Rules for appropriate orders.

7. Sub-Rule (3) to Rule 26 enables the Registrar on sufficient cause(s) being shown to return the Appeal again for rectification or amendment to the party and for the said purpose can allow the party concerned such reasonable time as is considered necessary or extend the time for compliance.

8. In the case on hand, the defects have been cured though after the period of seven days granted under sub-Rule (2). Therefore, for the reasons stated in the application and also in the interest of justice, the time given for compliance of the direction under sub-Rule (2), is extended exercising the power under sub-Rule (3) to Rule 26 of the Rules.

9. **Point No. (ii)** :- In the light of the above discussion, MA 07/2017 is allowed.

The section concerned is directed to number the appeal. The matter be listed before the Hon'ble Tribunal on 27.07.2017.

(C.S. Sudha)
Registrar