

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.134/2018
Un-numbered Company Appeal (AT) (Insolvency) No. ___/2018
(F.No.04/07/2018/NCLAT/UR/572)

In the matter of:

Minex Metallurgical Company Ltd. Appellant

Versus

R.L. Steel & Energy Ltd. Respondent

Appearance: Ms. Smita Rastogi, Advocate for Mr. Ramesh Sarogi, Advocate for the Appellant

30.07.2018

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 facts mentioned in the Miscellaneous Application in short are that the Appellant has filed the Memo of Appeal on 04.07.2018 and after scrutiny, the Office pointed out the defects and intimated the same to the Appellant on 05.07.2018, whereas, the Memo of Appeal was returned to the Appellant on 19.07.2018. Further after removing the defects, the Appellant re-filed the Memo of Appeal on 26.07.2018. From the date of intimation to the date of return, the Appellant took 14 days. So far the delay in re-filing the Memo of Appeal is concerned, it is mentioned in the Miscellaneous Application that the Appellant used to reside at Mumbai and he has some health problem and due to that the defects could not be removed earlier. So, he prays to condone the delay in re-riling the Memo of Appeal

3. Heard learned lawyer appearing for the Appellant, perused the Office note as well as the averments made in the Miscellaneous Application. Learned lawyer appearing for the Appellant submitted that the Appellant and his counsel both are the residents of Mumbai and that is the reason the defects pointed out by the Office could not be removed within time and there is a delay of 14 days in re-filing the Memo of Appeal and so, the same may be condoned.

4. Now the point for consideration is:

- i) Whether the Appellant has explained the reasons for delay in filing the Memo of Appeal?
- ii) Whether the Appellants are entitled to get any other relief?

5. Considering the submissions made on behalf of the Appellant, averments made in the Miscellaneous Application as well as the report of the Office, I find, there is no delay in filing the Memo of Appeal, but when the defects were intimated to the Appellant on 05.07.2018 and the Appellant took back the Memo of Appeal on 19.07.2018, i.e., 14 days after the intimation thereafter re-filed the Memo of Appeal after removing the defects on 26.07.2018. The reason assigned by the Appellant is that the Appellant and his counsel are the residents of Mumbai and so, there is delay in removing the defects. Considering the averments made in the Miscellaneous Application, I think it proper to condone the delay in re-filing the Memo of Appeal. Accordingly, the delay in re-filing the Memo of Appeal is hereby condoned.

6. The Point No.1 is answered accordingly. So far as the Point No.2 is concerned, the Appellant is not entitled for any other relief.

7. With the aforesaid order, this Miscellaneous Application stands disposed of.

8. Learned lawyer submitted that the conducting lawyer is not available till 05.08.2018 and, so, the case be listed on 06.08.2018.

On her request, list the case on 06.08.2018 before the Hon'ble Bench for admission.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar