

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.60/2018

Un-numbered Company Appeal (AT) (Insolvency) No. /2018
(F.No.22/02/2018/NCLAT/UR/125)

In the matter of:

B.R. Construction

.... Applicant/ Appellant

Versus

G.R. Infraprojects Ltd.

.... Respondent

Appearance: Shri Nikhil Yadav, Advocate for the Applicant.

15.03.2018

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 delay was caused in curing the defects as the Appeal paper books are voluminous and also because the counsel for the Applicant is stationed outside Delhi. Hence, the prayer is to extend the time for compliance given under sub-rule (2) to Rule 26.

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 24.01.2018 in C.P. (IB)No.145/9/NCLT/AHM/2017 of the Hon'ble NCLT, Ahmedabad Bench.

5. The aforesaid appeal is seen presented before the Registry on 22.02.2018. The appeal when scrutinised on 23.02.2018 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 02.03.2018. However,

the appeal was presented after curing the defects only on 13.03.2018. According to the Section there is a delay of 11 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 free certified copy of the impugned order dated 24.01.2018 is seen made ready on 25.01.2018. The Section has therefore computed the period of limitation from 26.01.2018. In para 2 of the appeal memorandum, it is alleged that though the impugned order was made ready on 25.01.2018, the Applicant received the same on 19.02.2018. This allegation is supported by the endorsement made in the first page of the copy, in which the date of issue is seen recorded as 19.02.2018. If that be so, the period of limitation will have to be calculated from 20.02.2018 and when so calculated, the period of limitation would expire on 21.03.2018

7. In the case on hand, the initial presentation of the appeal on 22.02.2018 and the subsequent presentation after curing the defects on 13.03.2018 are apparently within the period of 30 days. Therefore, 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.60/2018 allowed.

List the matter before the Hon'ble Appellate Tribunal on 19.03.2018.

(C.S. Sudha)
Registrar