

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.64/2018

Un-numbered Company Appeal (AT) (Insolvency) No. /2018
(F.No.06/03/2018/NCLAT/UR/151)

In the matter of:

CKP Products Ltd.

.... Applicant

Versus

Naturon Healthcare Ltd.

.... Respondent

Appearance: Shri Abhikalp Pratap Singh, Advocate for the Applicant.

23.03.2018

This is an application under sub-rule (3) to Rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules) to extend the time granted for compliance.

2. The allegation in the application is that the necessary papers had to be sent to the Applicant, a resident of Mumbai for rectification of the defects causing delay in presenting the Appeal after curing the defects. Hence, the prayer is to condone the delay of six days' in presenting the Appeal after curing the defects.

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 05.01.2018 in TCP 903/I&BC/NCLT/MB/MAH/2017 of the Hon'ble NCLT, Mumbai Bench.

5. The aforesaid appeal is seen presented before the Registry on 06.03.2018. The appeal when scrutinised on 08.03.2018 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 15.03.2018. However, the appeal was presented after curing the defects only on 21.03.2018. 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 free certified copy of the impugned order dated 05.01.2018 is seen issued on 05.02.2018. Therefore, the period of 30 days computed from 06.02.2018 expires on 07.03.2018. The initial presentation of the appeal on 06.03.2018 is within the period of limitation. However, the subsequent presentation after curing the defects on 21.03.2018 is apparently beyond the period of 30 days.

7. The proviso to sub-section (2) to section 61 of the Code states that the period of 30 days for filing an appeal can be extended by a period of 15 days. However, this power can be exercised only by the Hon'ble Appellate Tribunal. The time granted under sub-rule (2) to rule 26 for compliance can be extended by the Registrar under sub-rule (3) to rule 26, provided it is within the period of 30 days stipulated under the Code for filing an appeal, as the Rules cannot override the provisions of the Act. In the instant case, as the time taken is beyond the period of 30 days, the matter be placed before the Hon'ble Appellate Tribunal for appropriate orders. Point answered accordingly.

8. **Point No.(ii):** - M.A. No.64/2018 disposed of accordingly.

List the matter before the Hon'ble Appellate Tribunal on 26.03.2018.

(C.S. Sudha)
Registrar