

**THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Un-numbered Company Appeal (AT) (Insolvency) No. \_\_\_/2017**

**In the matter of:**

Custodial Services (India) Pvt. Ltd. .... Appellant

Versus

Metafilms (India) Ltd. .... Respondent

Appearance: Shri Arnav Dash and Shri Arnav Behera, Advocates for the  
Appellant.

**13.09.2017**

The Appellant states that the aforesaid Appeal is a composite one filed under Section 61 of the I&B Code, 2016 (hereinafter referred to as the Code) and under Section 421 of the Companies Act, 2013 (hereinafter referred to as the Act).

2. The Appeal presented on 23.08.2017 is stated to be against the order dated 13.07.2017 in TCP/423(IB)/2017 of the Hon'ble NCLT, Chennai Bench.

3. The allegation in the Appeal memorandum is that the impugned order was communicated on 13.07.2017. It was submitted on behalf of the Appellant that limitation has been computed as per the Code. Sub-section (2) to section 61 of the Code says that an Appeal has to be filed within a period of 30 days. In the instant case, the period of 30 days expired on 13.08.2017.

4. The Appeal is seen presented under Rule 22 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules) on 23.08.2017. The Appeal when scrutinised on 28.08.2017 was found to be defective and hence, the Appeal was returned on 29.08.2017 with a direction to re-submit the same after curing the defects within a period of seven days. The period of seven days expired on 05.09.2017. However,

the Appeal is seen presented only on 05.09.2017. Hence, the Section has put up the matter before me under sub-rule (2) to rule 26 of the Rules for appropriate orders.

5. Sub-rule (3) to rule 26 enables the Registrar to extend the time given for compliance under sub-rule (2) to rule 26. No application has been filed seeking extension of time for compliance granted under sub-rule (2) to rule 26. However, even if an application had been filed, it would not have been possible to extend the time by invoking the power under sub-rule (3) to rule 26 as the Rules cannot override the provisions of the Act.

6. It is true that the proviso to sub-section (2) to section 61 of the Code says that a further period of 15 days can be granted for filing an Appeal if sufficient cause is shown. However, this power can only be exercised by the Hon'ble Appellate Tribunal. The power under sub-rule (3) to rule 26 can be invoked by the Registrar only if it comes within the period of 30 days prescribed by the aforesaid sub-section for filing an appeal. As the Appeal in the instant case has been re-presented/ re-submitted beyond the period of 30 days, the power under sub-rule (3) to rule 26 cannot be exercised.

7. Hence, the matter be placed before the Hon'ble Appellate Tribunal for appropriate orders.

List the matter before the Hon'ble Appellate Tribunal on 15.09.2017.

(C.S. Sudha)  
Registrar