

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

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

In the matter of:

Sanjay Bagrodia

.... Appellant

Versus

Sathyam Green Power Pvt. Ltd.

.... Respondent

Appearance: None for the Appellant.

18.09.2017

The aforesaid Appeal has been presented under Section 61(1) of the I&B Code, 2016 (hereinafter referred to as the Code) against the order dated 25.05.2017 in C.P. No.(IB)108(PB)/2017 of the Hon'ble NCLT, Principal Bench, New Delhi.

2. Sub-section (2) to section 61 of the Code says that every Appeal has to be filed within a period of 30 days. The impugned order in this case is dated 25.05.2017. The order was made available on 28.06.2017. Therefore, the scrutiny Section has correctly computed the period of limitation from 29.06.2017. The period of 30 days expired on 28.07.2017. The Appeal has been presented within the time limit of 30 days i.e. on 28.07.2017.

3. The Appeal when scrutinized on 29.07.2017 was found to be defective. The scrutiny Section reports that on 29.07.2017 they had tried to contact the person whose mobile number has been given in the Appeal paper book. However, nobody responded. Thereafter, on 04.08.2017 the defects were intimated to the Appellant, who was directed to cure the defects and re-submit the same within a period of seven days. The defects were cured and the Appeal re-presented/ re-submitted on 12.09.2017.

4. The defects sheet states that if the date of intimation of defects is taken to be 29.07.2017, then there is 37 days and if the date of intimation is taken as 04.08.2017 there is 32 days' delay in curing the defects and re-submitting the Appeal. Hence, the matter has been put up before me under sub-rule (2) to rule 26 of the NCLAT Rules, 2016 for appropriate orders.

5. None appeared for the Appellant.

6. In the instant case, the initial presentation of the Appeal is within the period of limitation. However, the Appeal has been re-submitted after curing the defects much beyond the period of 30 days. It is true that the proviso to sub-section (2) to section 61 says that the time for filing the Appeal can be extended for a further period of 15 days. However, this power can be exercised only by the Hon'ble Appellate Tribunal. Hence, the matter be placed before the Hon'ble Appellate Tribunal for appropriate orders.

List the matter before the Hon'ble Appellate Tribunal on 19.09.2017.

(C.S. Sudha)
Registrar