

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.120/2018

In

Un-numbered Company Appeal (AT) No. ___/2018

(F.No.28/05/2018/NCLAT/UR/449)

In the matter of:

Mr. Balak Ram Nehra & Anr.

.... Applicants/Appellants

Versus

M/s Mansha Builders & Contractors
Private Limited & Ors.

.... Respondents

Appearance: Shri Sahil Gupta, Advocate for the Appellants.

02.07.2018

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 grounds mentioned for condoning the delay is that when the Appellants after removing the defects went to re-file the memo of appeal on 06.06.2018, then he was informed by the Office that it is not in prescribed format as per the NCLAT Rules and so it could not be re-filed on that day and hence there is a delay of one day.

3. Learned counsel appearing for the Appellants submitted that there is delay of only one day and so same may be condoned. After considering the averments made in the Miscellaneous Application and on perusal of the Office note, I find that although the defect was intimated to the parties on 31.05.2018, but the memo of appeal was returned to the parties on 04.06.2018 and the same was re-filed on 08.06.2018.

4. Now the points to be considered is that:-

- i) Whether the delay in re-filing the Appeal has been properly explained and the delay is liable to be condoned?
- ii) Whether the Appellant is entitled to get any other relief?

5. According to Rule 26(2) it is provided that “*if there is failure to comply within seven days from the date of return, then the same shall be placed before the Registrar who may pass appropriate orders.*” Herein, as per the Office note, the memo of appeal was returned on 04.06.2018, whereas it was re-filed on 08.06.2018, i.e., within seven days from the date of return. Of course, it is not within seven days from the date of intimation of the defects. Rule 26(2) says that the compliance must be within seven days from the date of return. So in my opinion, there is no delay in re-filing the appeal, moreover, even if there is delay as pointed out by the Office, then same 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, the application for condoning the delay stands disposed of.

8. On the request of the learned counsel, list the case on 09.07.2018 for admission before the Hon’ble Appellate Tribunal.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar