

**THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL**

**NEW DELHI**

**M.A. No.117/2018**

**In**

**Un-numbered Company Appeal (AT) No. \_\_\_/2018**

**(F.No.21/05/2018/NCLAT/UR/403)**

**IN THE MATTER OF:**

**Global Canesugar Services Pvt. Ltd.**

**...Appellant**

**Vs**

**KGS Sugar & Infra Corporation Ltd.**

**....Respondent**

**Present: None.**

**13.06.2018**

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 taken for condonation of delay in re-filing the Memo of Appeal is that after receiving the certified copy of the impugned order on 26.04.2018, the Appellant filed the Memo of Appeal before the Registry on 21.05.2018 and after scrutiny of the Appeal, the defects pointed out by office were communicated to the Appellant on 21.05.2018 and according to the provisions of Law, the Appellant was required to re-file the Memo of Appeal within 7 days i.e. 28.05.2018, from the date of receipt of the copy of Memo of Appeal after the scrutiny but it was re-filed on 05.06.2018.

3. Further, the case of the Appellant is that one of the defects, defect no.3 pointed by the Office is that letter dated 25.06.2015, Page No. 104-110 is not legible and since the original was not with the Appellant's lawyer, therefore, it could not be filed within the time. It is further stated that to obtain the original

copy from the client, the clerk of the counsel tried his best to obtain the same as earliest but it could not be obtained prior to 02.06.2018, rather same was sent to the clerk of the counsel on 02.06.2018 and due to this, there is a delay of 7 days, as pointed out by the Office in re-filing it. From the perusal of the Memo of Appeal, I find, the impugned order was passed on 03.04.2018 but the certified copy of the impugned order was issued on 26.04.2018 and this Memo of Appeal was presented on 21.05.2018 and according to the Report of the Office, the period of limitation of filing of Appeal was going to expire on 26.05.2018 which shows that the Memo of Appeal for the first time be presented within the time, that is the reason the Office has not pointed out any defect regarding the limitation in filing the Memo of Appeal.

4. Now, the point for consideration is:
  - i. Whether the delay in re-filing the Memo of Appeal after removing the defect is liable to be condoned?
  - ii. Whether the appellant is entitled to any other relief or not?
5. On call, no one appeared on behalf of the Appellants.
6. I have gone through the grounds taken by the Appellants in the Miscellaneous Appeal No. 117 of 2018 and on the perusal of the same, I find, the ground taken by the Appellant for not re-filing the Appeal within the time is that in order to remove the defect no. 3, which relates to the letter, which according to the Report of the Office was not legible, the clerk of the conducting lawyer of the Appellant had made contact with the client to obtain the fresh copy of the said letter and in doing so, the period prescribed for re-filing the appeal i.e. 7 days as provided under Rule 26(2) of NCLT Rules has been expired and according to the Report of the Office there is 7 days delay in re-filing the application. In my

opinion, the reason explained by the Appellant in not filing the appeal after removing the defect within the time is cogent one and so it is liable to be condoned. Accordingly, I hereby condone the delay in re-filing the Appeal.

7. Let the case be listed for admission before the Hon'ble Tribunal on 21.06.2018.

8. With this order the M.A. No. 117 of 2018 stand disposed of.

(AbniRanjan Kumar Sinha)  
Registrar

Dictated and corrected by me.

(AbniRanjan Kumar Sinha)  
Registrar