

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.169/2018

Un-numbered Company Appeal (AT) (Insolvency) No. ___/2018
(F.No.28/05/2018/NCLAT/UR/456

In the matter of:

Mr. Manoj Kumar Agarwal Appellant

Versus

M/s Mehndipuar Balaji
Infra Developers Pvt. Ltd. Respondent

Appearance: Shri Ayush Sharma, Advocate for the Appellant

24.09.2018

This is an application under sub-rule (2) to Rule 26 of the NCLAT Rules, 2016 (hereinafter referred to as the Rules) to extend the time granted for compliance.

2. The facts mentioned in the Miscellaneous Application in short is that the Appellant filed this Memo of Appeal on 28.05.2018 and the Office after scrutiny intimated the defects on 31.05.2018 and on the same day, the Memo of Appeal was returned to the Appellant, but the Appellant re-filed it on 19.09.2018, i.e., 104 days after the Memo of Appeal was returned to the Appellant. Further, the reason for not re-filing the Memo of Appeal within time as stated in the Miscellaneous Application is that the Appellant's Counsel after receiving the Memo of Appeal for removing the defects became ill and, so, he was bed ridden and not able to attend the Court. In support of this, the Appellant also enclosed the medical certificate issued by Dr. A. Arun, Resident Deptt. of General Medicine and prayed for condonation of delay in re-filing the Memo of Appeal.

3. Heard learned Lawyer appearing for the Appellant, perused the averments made in the Miscellaneous Application as well as report of the Office.

4. Learned Counsel appearing for the Appellant submitted that the Appellant filed the Appeal in time, but it could not be re-filed within time because the conducting Lawyer of the Appellant was not in position to attend the Court due to his illness and in support of his contention he has also filed a certificate issued by Dr. A. Arun, Resident Deptt. of General Medicine and, so, delay in re-filing the Memo of Appeal may be condoned.

5. Now the point for consideration is:

- i) Whether the Appellant has explained the reasons for delay in filing the Memo of Appeal?
- ii) Whether the Appellant is entitled to get any other relief?

6. Considering the averments made in the Miscellaneous Application, the submissions of the learned Counsel and for the reasons mentioned in the Miscellaneous Application, I think, it proper to condone the delay in re-filing the Memo of Appeal. Accordingly, the delay in re-filing the Memo of Appeal is hereby condoned.

7. 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.

8. With the aforesaid order, this Miscellaneous Application stands disposed of.

9. Let the case be listed before the Hon'ble Bench on 25.09.2018 for admission.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar