

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI
M.A. No.133/2018
In
Un-numbered Company Appeal (AT) No.403/2018
(F.No.09/07/2018/NCLAT/UR/589)

IN THE MATTER OF:

Yogesh Kumar & Ors.

...Appellant

Vs

Shantanu T.Ray, R. P., AML Steel and Power & Ors.

....Respondent

Present: S.K Goel for Appellant.

27.07.2018

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. Facts mentioned in the Miscellaneous Application in short is that the Appellant filed Memo of Appeal on 09.07.2018 and the office after scrutiny, Memo of Appeal communicated the defects to the Appellant on 10.07.2018 and the Memo of Appeal was returned to the Appellant on 11.07.2018. Further, as per the provision of law, the defects were required to be removed within 7 days from the date of the communication but it could not be removed within that period due to the reasons beyond the control of the Appellants and in doing, so there is a delay of 7 days and to the same may be condoned.

3. Heard learned lawyer for the Appellant. The learned lawyer for the Appellant submitted that the Memo of Appeal was filed within time and the office after scrutiny, pointed out the defects and the defects were intimated to the Appellant on 10.07.2018, but the Memo of Appeal was returned to him on 11.07.2018. He further submitted that after removing the defects, when the Appellant's counsel came to re-file the Memo of Appeal then he was advised since there is a delay of 1 day so for that Miscellaneous Application should be filed but in the meantime the conducting lawyer had gone to his native place to see his ailing mother and when he returned back from his native place, the Memo of Appeal was re-filed and in doing so there is a delay of 7 days and the same may be condoned.

4. Considering the submissions of learned counsel for the appellant, and on perusal of the averments made in the Miscellaneous Application as well as the office note, I find, the grounds taken by the Appellant for delay in re-filing of Appeal was beyond control of the Appellant. Therefore, considering the grounds mentioned in the Miscellaneous Application, I think, it is appropriate to condone the delay in re-filing the Memo of Appeal. Accordingly, the delay in re-filing the Memo of Appeal is hereby condoned.

6. Let the matter be listed before the Hon'ble Bench on 30.07.2018.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar