

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.171/2018
Un-numbered Company Appeal (AT) (Insolvency) No. ___/2018
(F.No.26/07/2018/NCLAT/UR/661

In the matter of:

Dinesh Kumar & Ors. Appellants

Versus

Kalyanpur Cements Ltd. Respondent

Appearance: Ms. Kritika, Advocate for the Appellants.

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

3. Learned Lawyer appearing for the Appellants submitted that the Memo of Appeal was filed within time, but when the Office intimated the defects for curing the Memo of Appeal, then it could not be re-filed within time. She further submitted that the reason for delay in re-filing the Memo of Appeal is that some renovation work was going on in the Office of the Counsel and, so, few files including this file could not be traced out and when the renovation work was completed and the file was traced, then the Appellants re-filed the Appeal, so, delay in re-filing the Memo of Appeal of 47 days may be condoned. She further submitted that so far the defects pointed out by the Office is concerned, she undertakes to remove the defect No.4, which relates to Memo of Appeal not according to Form NCLAT-1, in

course of day and so far defect No.1 caveat clearance is concerned, she has already filed a certificate stating that the Appellants have not received caveat notice.

5. Now the point for consideration is:

- i) Whether the Appellants have explained the reasons for delay in filing the Memo of Appeal?
- ii) Whether the Appellants are entitled to get any other relief?

6. Considering the averments made in the Miscellaneous Application and the submissions of the learned Counsel appearing for the Appellant, 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. So far defect No.1 is concerned, as the Appellants have already removed the defect and so far defect No.4 is concerned, learned Lawyer appearing for the Appellants undertakes to remove this defect in course of day. Therefore, let the case be listed before the Hon'ble bench, even if defect is not removed, on 25.09.2018 for admission with defect.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar