

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.166/2018

Un-numbered Company Appeal (AT) (Insolvency) No. ___/2018
(F.No.27/07/2018/NCLAT/UR/665

In the matter of:

M/s Radius Synergies Pvt. Ltd. Appellant

Versus

M/s Shree Nursingsahay Mudungopal
Engineering Pvt. Ltd. Respondent

Appearance: Shri Niraj Kumar Singh, Advocate for the Appellant

18.09.2018

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 27.07.2018 and the Office after scrutiny of the Memo of Appeal intimated the defects to the Appellant on 30.07.2018 and on the same day, the Memo of Appeal was returned to the Appellant, but it was re-filed on 11.09.2018 and so, there is a delay of 36 days in re-filing the Memo of Appeal. Further, the Appellant's Counsel sent the rectified copy of the Appeal to the Appellant company for getting it signed by the authorised person and since the authorised person was not available, therefore, the Appeal could not be re-filed within time, so, delay in re-filing the Memo of Appeal may be condoned.

3. Apart from that, as per the Office report, the Appeal is also barred by limitation, but no condonation of delay petition has been filed.

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

5. In the course of hearing, learned Lawyer appearing for the Appellant filed the application for condonation of delay as pointed out by the Office.

6. Learned Lawyer appearing for the Appellant submitted that since the Appellant was required to file the rectified copy duly signed by the authorised person, but there was a sad demise in the family of the authorised person, therefore, the documents could not be signed by him in time and, so, there is a delay of 36 days, hence, the delay may be condoned.

7. 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?

8. Considering the averments made in the Miscellaneous Application, 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.

9. 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.

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

11. So far the defect regarding non-filing of the petition for condonation of delay is concerned, since in the course of hearing, learned Counsel has already filed the petition for condonation of delay, hence, let the matter be listed before the Hon'ble Bench on 19.09.2018 for hearing.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar