

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

M.A. No.112/2018

In

Un-numbered Company Appeal (AT) No. ___/2018

(F.No.19/05/2018/NCLAT/UR/398)

In the matter of:

Nazura Ajaney Applicant/Appellant

^ Versus

Union of India, M/o Corporate Affairs & Ors. Respondents

Appearance: Shri Priyank Mangal, Advocate for the Appellant.

31.05.2018

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 on 19.05.2018 the Appellant filed the Memo of Appeal and the Office thereafter pointed out the defects and returned the Memo of Appeal on 21.05.2018. The Advocates of the Appellant are based out of Mumbai and also have an Office in New Delhi and since the objection were material in nature, therefore, it was sent back to Mumbai for corrections and which after correction returned back to Delhi. Further, since Saturday and Sunday, i.e., 26.05.2018 and 27.05.2018 being the holidays, therefore, it could not be filed in time and there is delay of only two days in re-filing the Memo of Appeal and so, he prayed to condone the delay in re-filing the Memo of Appeal.

3. Heard the learned counsel for the Appellant. He addressed all the facts mentioned in the Miscellaneous Application. He further submitted that after removing the defects, when the Appellant filed the Memo of Appeal, he was advised by the Office that he is required to file a Miscellaneous Application and that is the reason there is delay of two days in re-filing the Memo of Appeal.

4. Considering the submissions made by learned counsel for the Appellant as well as averments made in the Miscellaneous Application filed on behalf of the Appellant and on perusal of Office note, I find, as per the Office note the limitation for filing the Appeal was going to be expired on 19.05.2018 and on the same day the Appellant filed this Appeal, i.e., on 19.05.2018 and so as per Office Note, it appears that the Appeal was presented within time as required under Section 421(3) of the Companies Act, 2013 (hereinafter referred to as the Act).

5. Now the points to be considered is that:-

- i) Whether the delay in re-filing the Appeal has been properly explained and the delay is liable to be condoned?
- ii) Whether the Appellant is entitled to get any other relief?

6. In the light of the submissions and the averments made in the Miscellaneous Application and the Office note, I find that Office intimated the Appellant regarding the defects on 21.05.2018 and on the same day, the Memo of Appeal was returned to the Appellant and it was again filed on 30.05.2018 and Office has pointed out that there is two days' delay in filing the Memo of Appeal, after removing the defects. I have already mentioned the grounds taken by the Appellant for condoning the delay and in my opinion, the grounds taken by the Appellant for condoning the delay appear to be cogent and so, I think, it proper to condone the delay in filing the Memo of Appeal after removing the defects as required under rule 26(2) of the Rules and same 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, the application for condoning the delay stands disposed of.

List the case for admission before the Hon'ble Appellate Tribunal on 04.06.2018.

(Abni Ranjan Kumar Sinha)
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)
Registrar