

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI**

**Interlocutory Application No.594 of 2017  
with  
Company Appeal (AT) No.306 of 2017**

**IN THE MATTER OF:**

- 1. Shri Manish Vipinchandra Patel  
8, Manichandra Society,  
Vibhag-1, Surdhara Circle,  
Drive-In Road,  
Ahmedabad.**
- 2. Shri Krunal Vipinchandra Patel  
8, Manichandra Society,  
Vibhag-1, Surdhara Circle,  
Drive-In Road,  
Ahmedabad.**

**Appellants**

**Vs**

- 1. Ambika Food Products Pvt Ltd.  
National Highway No.8A, Rajoda,  
Post Bavla,  
District Ahmedabad, Gujarat**
- 2. Shri Hasmukhlal Madhavlal Patel,  
174, Satyagrah Chhavni,  
Sector-7, Satellite Road,  
Jodhpur, Ahmedabad**
- 3. Shri Dilipkumar Madhavlal Patel,  
174, Satyagrah Chhavni,  
Sector-7, Satellite Road,  
Jodhpur, Ahmedabad**
- 4. Shri Kiritkumar Occhhavlal Sheth,  
67, Surdhara Bungalows,  
Near Sal Hospital,  
Surdhara Circle, Drive-In Road,  
Ahmedabad.**
- 5. Shri Ashwinkumar Occhhavlal Sheth,  
67, Surdhara Bungalows,  
Near Sal Hospital,  
Surdhara Circle, Drive-In Road,  
Ahmedabad.**

**6. The Registrar of Companies,  
Opp Rupal Park,  
Near Ankur Bus Stand,  
Naranpura,  
Ahmedabad.**

**Respondents**

**Present: Mr. Malak Bhatt Advocate with Ms Sonali Malik, Advocate for the Appellants.  
Mr. Vijay Assudani, Advocate for Respondent No.2 and 3.  
Mr Ashok Mehta, PCS for Respondent  
Mr. Pradeep Tiwari, Advocate for Respondent.  
Mr. Sujeet Gupta, Advocate for Respondent No.4 and 5.**

**ORDER  
(17.10.2017)**

1. Heard Learned counsel for the appellants and the counsel for the Respondent No.2 to 5 on Interlocutory Application No.594/2017 in Company Appeal No.306/2017. Perused the interlocutory application. Learned counsel for the appellant submits that the impugned order in TP No.197/397-398/NCLT/AHM/2016(New)-CPNo.16/397-398/CLB/MB/2012(Old) – Manish V. Patel & Ors Vs Ambica Food Product Pvt Ltd & Ors was passed on 17.5.2017 and the certified copy of the order was received by appellants on 27.6.2017. Learned counsel pointed out that thus the statutory period of 45 days for filing the appeal would end on 11.8.2017. He further submitted that after presenting the appeal and curing the defects the appeal was treated as filed on 12.9.2017 and according to him it would be 30 days delay over the 45 days permitted and thus the same could be condoned under Section 421 of the Companies Act, 2013.

2. Learned Counsel for the Respondent No.2 and 3 refers to his affidavit in reply filed and has stated that the appellants have falsely claimed that they have received the certified copy of the order on 27.6.2017. It is a matter of

record that the appellant in this matter had filed an Interim Application No.212/2017 for clarification before National Company Law Tribunal, Ahmedabad and for the purpose of clarification they had themselves filed certified copy which showed that the certified copy of the impugned order was received on 7.6.2017. This is shown from Page 32 of the affidavit in reply. Thus according to the learned counsel if this is considered then the appeal has been presented more than 45 days after the permitted period of 45 days. Thus the Tribunal can not condone the delay, it is stated.

3. In response the learned counsel for the appellant in Company Appeal (AT) No.306/2017 submits that may be there was some error on the part of the Registry at Ahmedabad in writing the date.

4. Looking into the documents and records, when the Learned counsel for the respondent is able to show from the record that the certified copy of the order was issued to the appellant on 7.6.2017, the present matter filed on 12.9.2017 must be said to be barred by limitation by at least 6 days. Not only the 1<sup>st</sup> page of the certified copy of the order shows date as 7.6.2017, (Page 32 of the affidavit in reply of Respondent No.2 and 3) but also Page 70 shows that the certified copy of the order was issued on 7.6.2017. Learned counsel for the respondent has pointed out that there is the 'true copy' endorsement of the Advocate "MJD" who was representing the present applicants in the National Company Law Tribunal.

5. Going through the record, it must be said that the present appeal is barred by limitation. I.A. No.594/2017 is rejected and Company Appeal (AT) No.306/2017 is disposed off as time barred. Applicants may take admissible

stand in reply to Company Appeals (AT) No.272/2017 and 273/2017 filed by  
other side

(Justice A.I.Cheema)  
Member(Judicial)

(Mr. Balvinder Singh)  
Member (Technical)

Bm/sh/nn