

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

**M.A. No.180/2018**  
**Un-numbered Company Appeal (AT) No. \_\_\_/2018**  
**(F.No.27/08/2018/NCLAT/UR/788**

**In the matter of:**

Universal Heat Exchangers Ltd. .... Appellant

Versus

K. Ramakrishnan .... Respondent

Appearance: Ms. S. Manjula Devi, Advocate for the Appellant.

**03.10.2018**

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 Memo of Appeal has been filed by the appellant on 27.08.2018 and the Office after scrutiny on 29.08.2018, intimated the defects on the same day to the Appellant and the Memo of Appeal was returned to the Appellant on 30.08.2018, but it could not be re-filed within the period prescribed under the Rules and there is a delay of 22 days in re-filing the Memo of Appeal. Further, the Counsel engaged in this case is residing outside Delhi and that is the reason they have engaged one Advocate Clerk to re-file the Memo of Appeal within the stipulated period, but the said Clerk could not rectify the defects, nor informed the Counsel. The Counsel of the Appellant came to know about this fact on 12<sup>th</sup> September, 2018 when they came to Delhi in relation to another case. Thereafter, the defects have been removed and in doing so, there is a delay of 22 days, in re-filing the Memo of Appeal, so, same may be condoned.

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

4. Learned Lawyer appearing for the Appellant submitted that earlier she handed over the Memo of Appeal to an Advocate's Clerk for rectifying the defects and for the purpose of re-filing the Memo of Appeal, but the said Clerk could not re-file the Memo of Appeal and when the learned Counsel came to Delhi from Chennai in another case, then she came to know that the defects have not been removed. Thereafter, the Counsel took steps to cure the defects and now she has cured all the defects, but in doing so, there is a delay of 28 days in re-filing the Memo of Appeal, so, same may be condoned.

5. Considering the submissions made on behalf of learned Lawyer appearing for the Appellant, for the reasons mentioned in the Miscellaneous Application and the Office report, the delay in re-filing the Memo of Appeal is hereby condoned.

6. Apart from that it is mentioned in the Office report that remarks of the filing Counter may be seen. In the light of the argument made by the learned Lawyer and the remarks of the Office in the defect sheet as well as the declaration given by the Counsel that the Appellant has rectified all the defects, let the case be listed before the Hon'ble Bench under the heading for admission on 11.10.2018, as prayed by the learned Counsel.

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

(Abni Ranjan Kumar Sinha)  
Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha)  
Registrar