THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL <u>NEW DELHI</u>

<u>M.A. No.168/2018</u> <u>Un-numbered Company Appeal (AT) (Insolvency) No. /2018</u> <u>(F.No.16/09/2018/NCLAT/UR/7371</u>

In the matter of:

Commissioner of Customs, (Preventive) West Bengal	Appellant
Versus	
Ram Swarup Industries Ltd. & Ors.	Respondents

Appearance: Ms. Kriti Sinha, 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 the Memo of Appeal on 16.08.2018 and the Office after scrutiny of the Memo of Appeal, intimated the defects to the Appellant on 20.08.2018 and on the same day the Memo of Appeal was returned to the Appellant. Further, since, the Appellant is Customs Commissionrate at Kolkata, therefore, the relevant documents which were required to cure the defects, was not available with the Appellant's Counsel and in order to obtain the same, there is a delay of 18 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 report of the Office.

4. Learned Counsel appearing for the Appellant submitted that there is a delay of 18 days in re-filing the Memo of Appeal. She further submitted that the reason for that is the Appellant is the Custom Commissionrate at Kolkata and so, in order to obtain the documents, there is a delay of 18 days, so, same may be condoned.

5. 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?

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. Let the case be listed before the Hon'ble Bench on 20.09.2018 for hearing.

(Abni Ranjan Kumar Sinha) Registrar

Dictated and corrected by me.

(Abni Ranjan Kumar Sinha) Registrar