



2025:DHC:10579



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 26<sup>th</sup> November, 2025**+ **W.P.(C) 1870/2025 & CM APPL. 8934/2025****METALROD PRIVATE LIMITED**

.....Petitioner

Through: Mr. Darpan Wadhwa, Sr. Adv. with  
Mr. Abhishek Garg, Mr. Yash, Ms.  
Rhea Bhalla, Ms. Divita Vyas and  
Mr. Amer Vaid, Advs.

versus

**REGISTRAR NATIONAL COMPANY LAW TRIBUNAL, NEW  
DELHI & ANR.**

.....Respondents

Through: Mr. Gurjas Singh Narula, Adv. for R-  
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**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****MINI PUSHKARNA, J (ORAL)**

1. The present writ petition has been received by way of marking/transfer.
2. The present petition has been filed by the petitioner seeking directions against respondent no. 2 for their failure to comply with Rule 28 of the National Company Law Tribunal Rules, 2016 ("Rules 2016"), which deals with the issue of re-filing of petitions/applications. The said Rule reads as under:

***"28. Endorsement and scrutiny of petition or appeal or document.-***

*(1) The person in charge of the filing counter shall immediately on receipt of petition or appeal or application or document affix the date stamp of Tribunal thereon and also on the additional copies of the index and return the acknowledgement to the party and he shall also affix his*



*initials on the stamp affixed on the first page of the copies and enter the particulars of all such documents in the register after daily filing and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.*

*(2) If, on scrutiny, the appeal or petition or application or document is found to be defective, such document shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.*

*(3) The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.*

*(4) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for reasons to be recorded in writing, decline to register the pleading or document.”*

3. It is the case of the petitioner that as per Rule 28(2), any defect was required to be removed within a period of seven days. However, in the present case, the petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) was filed way back on 21<sup>st</sup> January, 2022, and has undergone re-filing process nine times, despite the fact that the said defects had to be removed within a statutory period of seven days only.

4. Learned Senior Counsel appearing for the petitioner relies upon the judgment of the Supreme Court in the case of ***Surendra Trading Company Versus Juggilal Kamlatpat Jute Mills Company Limited and Others, (2017) 16 SCC 143***, and relies upon the following paragraph:

“xxx xxx xxx

***26 [Ed.: Para 26 corrected vide Official Corrigendum No. F.3/Ed.B.J./120/2017 dated 9-3-2018.].*** We are also conscious of the fact that sometimes applicants or their counsel may show laxity by not removing the objections within the time given and may take it for granted that they would be given unlimited time for such a purpose. There may also be cases where such applications are frivolous in nature which would be filed for some oblique motives and the



*applicants may want those applications to remain pending and, therefore, would not remove the defects. In order to take care of such cases, a balanced approach is needed. Thus, while interpreting the provisions to be directory in nature, at the same time, it can be laid down that if the objections are not removed within seven days, the applicant while re-filing the application after removing the objections, file an application in writing showing sufficient cause as to why the applicant could not remove the objections within seven days. When such an application comes up for admission/order before the adjudicating authority, it would be for the adjudicating authority to decide as to whether sufficient cause is shown in not removing the defects beyond the period of seven days. Once the adjudicating authority is satisfied that such a cause is shown, only then it would entertain the application on merits, otherwise it will have right to dismiss the application.*

xxx xxx xxx”

(Emphasis Supplied)

5. Learned Senior Counsel appearing for the petitioner submits that the Adjudicating Authority could have considered the petition on merits, only after satisfying itself that sufficient cause has been shown by the petitioner therein, in removing the defects beyond the period of seven days. Thus, the Registrar had to carry out the said exercise of satisfying itself. However, in the present case, no such exercise has been carried out and the petition has been registered and is now before the Adjudicating Authority.
6. He, thus, submits that such petition, which has been filed beyond the statutory period as provided by Rule 28, ought not to have been registered and entertained.
7. Responding to the same, learned counsel appearing for the respondent no. 1 draws the attention of this Court to the short affidavit filed on behalf of the respondent no.1, relevant portions of which, are reproduced as under:



“xxx xxx xxx

4. That the Petition was duly filed with the Registry vide filing no. 0710102006672022 on 21.01.2022. The details of the filing by the Respondent No. 2, Jammu and Kashmir Bank Limited, as well as the defects marked by the Registry, are outlined as follows:

- i. That the Petition was initially filed on 21.01.2022. Upon scrutiny, the Registry marked defects on 31.01.2022, with the following noting: “page: 81-86, 340, 364, not clear”.
- ii. The Petition was subsequently refiled on 21.04.2022, and the concerned scrutiny agent, on 28.04.2022, marked the following defect in the filing: “page: 81-86, 340, 364, not clear, (typed copy required)”.
- iii. The Petition was again refiled on 11.01.2023, and on 19.01.2023, upon scrutiny, the registry raised the same defect as previously noted.
- iv. The Petition was further refiled by the Respondent No. 2 herein on 24.01.2023 and the scrutiny agent raised the same defect as earlier on 01.02.2023.
- v. The Petition was again refiled on 08.02.2023, and the concerned scrutiny agent marked the same defect as earlier on 15.02.2023.
- vi. The Petition was thereafter refiled on 16.08.2023, and the scrutiny agent on 24.08.2023, marked the revised defect, stating: “page: 81-86, 340, 364, not clear, cut (typed copy required) please contact registry regarding you file”.
- vii. The Respondent No. 2 herein refiled the Petition on 29.08.2023. The scrutiny agent on 06.09.2023, marked the following defect: “page: 81-86, 340, 364, not clear, cut dated missed in vakalatnama ticket not allowed on content of vakalatnama”.
- viii. The Petition was refiled again on 12.09.2023, and the concerned scrutiny agent on 14.09.2023, marked the following defect: “ticket not allowed on content of vakalatnama”
- ix. The Petition was further refiled on 15.09.2023, and the following defect was marked by the Registry on 19.09.2023: “ticket not allowed on content of vakalatnama”

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- x. The Petition was refiled on 23.09.2023 and was subsequently registered as CP (IB) No. 579/2023 on 25.09.2023.
5. That as per the records maintained by the Registry, the Petition has undergone re-filing process nine (09) times. Respondent No.2 refiled the Petition multiple times without curing the original defect pointed out by the Registry. A copy of the scrutiny audit trail maintained by the Registry is annexed herewith as **ANNEXURE R-1/1**. The Registry, in accordance with Rule 28, could not proceed with registration of a defective petition. However, due to technical limitations in the then-operational filing module, the system permitted re-filing of petitions beyond the seven-day period.
6. That such permission for re-filings were not deliberate or intentional violations of Rule 28, but rather a consequence of system-generated permissions that allowed the petition to re-enter the scrutiny workflow. The Scrutiny Clerk had no option other than to either return the defective petition or await rectification.
7. That the NCLT, being a nascent institution, has gradually addressed such procedural and technical challenges. In the year 2023, an improved re-filing module was introduced, which now restricts re-filing beyond the statutory seven-day limit unless condonation is first obtained.
8. That further, in compliance of directions of Hon'ble Bombay High Court in WP(L) No. 34152/2023 (Bank of Broda Vs Union of India & Anr) Order dated 03.05.2024 a Standard Operating Procedure (SoP) has also been formulated to streamline the scrutiny and re-filing processes in line with Rule 28 and Rule 63 of the NCLT Rules, 2016, thereby ensuring compliance and procedural discipline. The same has come into effect from 02-04-2025 and the same has further streamlined the scrutiny process.
9. That the actions of the Registry in the instant case were bona fide, procedural, and in accordance with the rules to the extent permitted by the technical infrastructure at the relevant time.



10. That, the Answering Respondent has duly formulated a Standard Operating Procedure in reference to Rules 28 and 63 of the National Company Law Tribunal Rules, 2016, to streamline the filing and scrutiny process. A copy of the notice dated 02.04.2025 along with the Standard Operating is annexed herewith as **ANNEXURE R-1/2 (COLLY)**
11. That Company Petition (IB) No. 579/2023 is already being heard by the Hon'ble National Company Law Tribunal (NCLT), New Delhi Bench - Court-III. The matter pertains to the initiation of Corporate Insolvency Resolution Process (CIRP) under Section 7 of the IBC against the Corporate Guarantor.
12. That vide Order dated 31.01.2025 passed in CP(IB) No. 579/2023, the Hon'ble NCLT, New Delhi Bench Court-III was pleased to observe and direct that: "Parties are at liberty to file the written submission along with the case laws, if any, within one week." The party therefore has adequate opportunity to raise all issues before the concerned bench. The said proceedings are pending final adjudication before the said Bench.

xxx xxx xxx"

8. Perusal of the aforesaid affidavit filed on behalf of respondent no.1 clearly shows that the respondent no.1 has admitted that re-filing of the petition, which is the subject matter of the present writ petition, was allowed beyond the statutory period of seven days.
9. This Court records the statement made by learned Senior Counsel appearing for the petitioner that the delay in re-filing in the petition, which is the subject matter of the present petition, is 612 days.
10. In order to streamline the process of re-filing, a Standard Operating Procedure ("SOP") dated 19<sup>th</sup> March, 2025, has been issued by the respondent no. 1. The same is reproduced as under:



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## National Company Law Tribunal

Block No.3, 6<sup>th</sup> floor, C.G.O. Complex, Lodhi Road, New Delhi-110003

Date: 19.03.2025

### Fresh Matter filed: -

1. A Party filing any Petition/Application/Documents in the e-filing portal of NCLT will be provided with a filing/diary number.
2. The Petition/Application/Documents so filed, will be scrutinized by the Registry and will be registered if it is free of from any defect.

### 1<sup>st</sup> Defect Notice Issued: -

3. However, if there are defects in the Petition/Application/Documents, then the same will be intimated to the party concerned vide **Defect Notice-1** through registered E-mail id/User login.
4. A party is required to cure the defects intimated by **Defect Notice-1**, within 7 days from the date of Defect Notice-1 and refile.
5. Consequent to **Defect Notice-1**, if the Petition/Application/Documents so refiled is free from all defects, then the matter will be registered.



**Matter refiled with Defects: -**

6. If in the Petition/Application/Documents refiled consequent to **Defect Notice-1**, same defects/new defects are present, then the Petition/Application/Documents will be forwarded to the Registrar under Rule 28 (2) of NCLT Rules 2016.
7. The party concerned may make a request to cure the defects to the Registrar and the Registrar may on the request of the applicant or otherwise, give 07 days' time to the party to refile, under Rule 28 (3) of NCLT Rules 2016, **vide Registrar Order**.
8. If the Party fails to refile within 07 days from the date of **Registrar Order** or upon refiling same defects are present/new defects found, then no further opportunity shall be given by the Registrar and the Registrar would decline to register the Petition/Application/Documents, under Rule 28 (4) of NCLT Rules 2016.

**Matter Not refiled after defect notice 1: -**

9. If a party fails to refile within 7 days from the date of **Defect Notice-1**, user will not be allowed to refile and the matter will be forwarded to the Registrar for appropriate orders. On receipt of same from the registry, the registrar may give 7 days' time under rule 28(3) of NCLT Rules 2016 vide registrar order (template 2.1) to party to remove the defects and refile the Petition/Application/Documents.
10. If the Party fails to refile within 07 days from the date of **Registrar Order** or upon refiling same defects are present/new defects found, then no

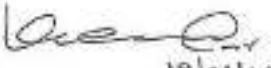


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further opportunity shall be given by the Registrar and the Registrar would decline to register the Petition/Application/Documents, under Rule 28 (4) of NCLT Rules 2016.

11. Any Party aggrieved by the Order of the Registrar, may prefer an appeal under Rule 63 of NCLT Rules, 2016 within 15 days from the date of Order, before the designated Appellate Authority.

  
19/08/25  
Registrar  
NCLT

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11. This Court further takes note of the submission made by learned counsel appearing for respondent no. 1 that the action of the Registry in allowing re-filing beyond the seven-day period, was on account of procedural defect, on account of system-generated permissions that allowed the petition to re-enter the scrutiny workflow.

12. Thus, the respondent no. 1 has adopted and improved re-filing module, which restricts re-filing beyond the statutory limit of seven days, unless condonation of such delay is first obtained.

13. Further, this Court also notes that respondent no. 1 has formulated a SOP in reference to Rules 28 and 63 of the Rules, 2016, to streamline the filing and scrutiny process.

14. Accordingly, the respondent no. 1 is directed to ensure that the SOP, in line with Rules 28 and 63 of the Rules, 2016, shall be scrupulously followed by the respondent no. 1.

15. This Court takes note of the fact that the petition, which is the subject



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matter of the present writ petition, already stands registered as *Company Petition (IB) No. 579/2023*, which is pending before the National Company Law Tribunal (“NCLT”), New Delhi Bench Court-III.

16. Accordingly, considering the submissions made before this Court and in view of the judgment of the Supreme Court in the case of *Surendra Trading Company (Supra)*, it is directed that the Adjudicating Authority shall decide the issue as to whether sufficient cause has been shown in not removing the defects beyond the statutory period of seven days, in the present case.

17. The said issue shall be decided by the Adjudicating Authority, before proceeding on the merits of the case.

18. With the aforesaid directions, the present writ petition, along with the pending application, stands disposed of.

**MINI PUSHKARNA, J**

**NOVEMBER 26, 2025/KR**