

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.180/2026
(IA Nos.530 & 531/2026)

In the matter of :

M/s. Raychem RPG Pvt Ltd
Having its registered office address at RPG
House, 463, Dr. A.B. Road, Worli, Mumbai,
Maharashtra – 400 030.

...Appellant

V

M/s. Soura Natural Energy Solutions India Pvt Ltd
Having its registered office address at X/126 G,
1st Floor, SNDP Building, NH Junction,
Chirangara, Koratty P.O, Chalakundy, Thrissur,
Kerala – 680 308.

...Respondent

Present:

For Appellant : Mr. Ahsan Allana & Mr. Yohaann Limathwalla,
Advocates

ORDER
(Hybrid Mode)

10.06.2026:

Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial):-

The instant Company Appeal has been preferred by the Appellant, by invoking the Appellate Jurisdiction of this Tribunal, under Section 61 of the I & B Code, 2016, expressing its grievances being aggrieved as against the impugned order of 21.01.2026, that was passed under Rule 63 Appeal/01/KOB/2026. By virtue of the impugned order under challenge, the order of 31.10.2025, as passed by the Registrar of the Tribunal in the exercise of powers under Rule 28(4) of the NCLT Rules, 2016, has been affirmed,

consequentially, resulting into declining to entertain the appeal under Rule 63 of NCLT Rules and to register the petition filed by the Appellant, on the ground that the Appellant had not rectified the defects, as it was pointed out by the Registry of the Tribunal by email dated 15.12.2024.

2. This Company Appeal, was preferred before this Appellate Tribunal. It was reported by the Registry that, the Appeal suffers from a delay of 14 days. We had issued notices to the Respondent, by an order passed by us on 02.04.2026. The Appellant has informed that he has taken steps to serve the Respondent through the email, and despite of the services having been effected, none has put an appearance for the Respondent till date.

3. Having heard the Learned Counsel for the Appellant on the condone delay application and being satisfied with the reasons given therein, the delay of 14 days would stand condoned. Accordingly, **IA No.531/2026** would stand allowed.

4. Even otherwise, since the order, which was subjected to the Appellate Jurisdiction of NCLT, under Rule 63 of the NCLT Rules, 2016, was against the order passed by the Registrar under Rule 28(4) of the NCLT Rules, 2016, upon scrutiny of the petition, no right of the Respondent had been taken birth up to that stage of the proceedings which would be affected if the instant Company Appeal, as against the dismissal of the Appeal, under Rule 63 of the NCLT Rules, 2016, is taken up for consideration. Hence we proceed to decide the

Appeal on its own merits.

5. The facts, which could be made out from the records are that the Appellant, claiming itself to be the Operational Creditor of the Respondent, had initiated the proceedings under Section 9 of the I & B Code, 2016, by instituting an application before the Registry of Learned NCLT on 13.12.2024. Those proceedings had been rejected by the order of the Registrar referred to herein above, i.e., dated 31.10.2025, where the Registrar, exercising his powers conferred under Rule 17 of the Rules, had declined to register the said application in consonance to the provisions contained under Rule 28 Sub-Rule (4) of the NCLT Rules, 2016. The Registrar, while passing the said order, had made the following observations: -

*“It is found that you have failed to cure the following defects/
new defects found qua Petition/Application/Documents.*

1. *Defects Subsists: 1. Verifying affidavit to be filed in Form No: NCLT6 of Nclt rules instead of affidavit under section 9(3)(b) on page no: 13 2.Last part of the petition (Page no: 11) not in the format of Form No:5”*

Thus, in terms of Rule 28(4) of the NCLT Rules, 2016, on your failure to cure the defects pointed out in the notice dated 15.01.2024/new defects found, I decline to register your Petition/Application/Document.”

6. The refusal to register the Company Petition is obviously procedural in nature because of the consequential impact of Sub-Rule (4) of Rule 28 of the NCLT Rules, 2016, due to the failure on part of Appellant due to non-

rectification of the defects, as it was noticed on 15.01.2024. This order was subjected to a challenge, by filing appeal under Rule 63 of NCLT Rules, which has been dismissed by the impugned order dated 21.01.2026.

7. The case of the Appellant, before the Learned Tribunal was that after the authorisation was conferred upon the duly constituted attorney, the application was preferred under Section 9 of the I & B Code, 2016, as against the Respondent. It was pleaded by the Appellant that, in the proceedings of the Company Petition, the counsel who was appearing on behalf of the Appellant, was not in receipt of the notices or information which were said to have been sent by the Registry for the purposes of the rectification of defects, as it was pointed out by an order of 31.10.2025, and that the advocate to whom the authority was vested by the Appellant to pursue the proceedings of the Company Petition on behalf of Appellant was, under certain professional constraints to effectively represent the cause of the Appellant for getting the Company Petition listed and heard before the Tribunal after proper rectification of defects. Hence, there was a change of vakalath and a new counsel was introduced by the Appellant, and after that only, he could get the information about the dismissal of the Company Petition under Rule 28(4) of the NCLT Rules, 2016, by the order of 31.10.2025, and only thereafter he could get the Appeal filed by the newly inducted counsel, which was preferred with a delay of 20 days.

8. The Learned Tribunal, while considering the aforesaid circumstances,

had recorded in detail the conduct of the Appellant, observing thereof that, as per the report of the Registry, the Company Petition was filed as back as on 13.12.2024, and the defect was first informed on 16.12.2024. However, for reasons not known, the counsel who was having the authority to appear on behalf of the Appellant, did not rectify the defect as pointed out on 16.12.2024, and the Appeal was not refiled till February 2025.

9. Subsequently, the notice was issued on the NCLT website notice board on 28.02.2025, requesting the counsel for the parties to cure the defects in respect of the matter, but the Appellant did not turn up the occasion occurred for despite notice and hence the Registry declined registration on 28.03.2025. The Appellant meanwhile, wrote to registry on 24.03.2025 seeking the return of the original records for resubmission, the same was permitted, and the clerk of the Advocate took back the original file from the Registry on 25.04.2025. Still, the Company Petition was not re-filed, and meanwhile, on 31.10.2025, all matters where defects were not cured and which were pending for more than 3 months were archived on 31.10.2025.

10. Thus, the Learned Tribunal, while recording its finding on the conduct of the Appellant and the diligence with, which he has taken up the proceedings, observed that the passing of an order of 31.10.2025 cannot be said to be bad for the reason that, the Registry of the Tribunal has strictly proceeded as per Rule 28 of the NCLT Rules, 2016, by declining the registration on 28.03.2025 by

prior issuance of the notice on 28.02.2025, that the process of physical filing was already closed on 28.03.2025, because the clerk of the counsel took back the physical records on 25.04.2025, and did not bother to refile the same after rectification of defects, that, the Company Petition initially filed on 13.12.2024, too does not deserve to be accepted because the defects were not cured for a long time even after granting permission to the Appellant to rectify the defects, and that the Appeal against the order of the Registrar has been filed after 388 days from the date of filing the petition. Learned NCLT has further observed that since IBC proceedings are being strictly governed by timelines and timely resolution of disputes is the essence of the Code, the Appellant's lack of diligence in pursuing the Appeal cannot be condoned and that the Appellant cannot be relieved of his duties and obligations to pursue his case in a diligent manner.

11. Learned Tribunal has further recorded that the Appellant cannot be permitted to misuse the process of law in order to pressurize the other side with the threat of Insolvency, by deliberately keeping the Company Petition pending without removing the defects, and hence no relief can be granted to the Appellant and accordingly proceeded to pass the order of dismissing the Appeal with a cost of Rs.50,000/-.

12. There cannot be any doubt that the conduct of the Appellant is not very conducive, as it ought to have been, which could have persuaded us, to

issue directions to the Registry of the NCLT to permit the Appellant to rectify the defects and to take the same on record to be heard on merits. But still even in that eventuality, we cannot be ignorant of the fact that in the midst of these procedural complications of filing/re-filing/non-refiling of the Company Petition whatsoever misconduct, with which the Appellant might be blamed with, he cannot be deprived to have his recourse to the judicial remedies by returning of the Company Petition on the ground of non-rectification of the defects by invoking the provisions contained under Rule 28(4) of the NCLT Rules, 2016. In the wider interest of an effective dispensation of justice on merits and also by way of caution to the Appellant to be careful in future while taking part in the proceedings in the judicial courts, we allow the Company Appeal and set aside the impugned order of 21.01.2026, as passed in Rule 63 Appeal/01/KOB/2026 with the following directions: -

(i) The Appellant would rectify the defects as pointed out by the Registry of the Tribunal vide its order of 31.10.2025, positively within a period of 7 days from the date of the uploading of the order.

(ii) If the defects are not rectified from the date of the uploading of the order as directed above, the Company Petition would automatically be deemed to be dismissed under the implications of Sub-Rule (4) of Rule 28 of the NCLT Rules.

(iii) The cost as imposed of Rs. 50,000/- is maintained and the permission

to rectify the defect that would be granted only after depositing the cost.

Subject to the above, the **Comp App (AT) (CH) (Ins) No.180/2026** would stand allowed. All interlocutory applications would stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

VG/MS/AK