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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CO.APP. 13/2016**

SOFTWAREONE INDIA PVT LTD

..... Appellant

Represented by: Mr.R.Jawaharlal and
Mr.Siddharth Bawa,
Advocates.

versus

MAYANK SRIVASTAVA

..... Respondent

Represented by: None.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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29.08.2016

CM Nos.30991 & 30992 of 2016

Allowed subject to all just exceptions.

CM No.30990/2016

1. For the reasons stated in the application 65 days' delay in filing the appeal is condoned.
2. The application is disposed of.

CO.APP. 13/2016

1. Grievance of the appellant is to an order dated May 13, 2016 passed in C.P.No.405/2016 by the learned Single Judge taking cognizance of a petition filed by the respondent under Section 433(e) read with Sections 434(1) and 439 of the Companies Act, 1956 seeking winding up of the appellant.
2. The learned Single Judge has issued notice to the appellant to show cause as to why it should not be wound up. The notice is returnable for

December 07, 2016. The learned Single Judge has also directed that within six weeks the Managing Director of the appellant or in his absence a Director of the appellant company shall file an affidavit setting down the information listed on the subjects in sub-paras (i) and (xii) of the impugned order.

3. Grounds urged by the appellant to challenge the impugned order relate to the merits of the defence of the appellant.

4. Suffice it to state vide impugned order the learned Single Judge has simply issued a show cause notice to the appellant. The appellant has first to show the defence to the learned Single Judge pursuant to the show cause notice issued.

5. As regards the twelve heads of information on which the learned Single Judge has directed the Managing Director of the appellant and in his absence a Director to file the necessary affidavit, it is open to the appellant to move an application before the learned Single Judge seeking variation in the directions by bringing to the notice of the learned Single Judge such facts which appellant desires for the directions to be modified.

6. We hold the appeal to be not maintainable and thus we dismiss the appeal without there being any order as to costs.

CM No.30993/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 29, 2016/ 'st'