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

+ **W.P.(C) 9902/2017 & CM No.40347/2017**

RAHUL GUPTA

..... Petitioner

Through

Mr. Gaurav Varma, Advocate.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through:

Mr. Sanjay Jain, ASG with Mr Dev P. Bhardwaj, CGSC for UOI.

Mr. Sanjay Shorey, Joint Director (Legal) MCA.

Mr. Rakesh Tiwari, ROC, D&H, MCA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.12.2017

1. Learned counsel for the petitioner seeks to withdraw the present petition with liberty to avail of the Condonation of Delay Scheme, 2018 (CODS-2018).

2. Paragraph 6 of CODS-2018 provides that the scheme is without prejudice to any action under Section 167 (2) of the Companies Act, 2013 or any Civil or Criminal liabilities, if any, of such disqualified directors during the period they remained disqualified. Mr Sanjay Jain Learned ASG clarifies, on instructions, that this provision would be applicable only in respect of those directors who do not avail of the CODS-2018. He states that

this is amply clarified by the opening sentence of paragraph 6, which expressly indicates that that the Registrar will withdraw prosecution(s) for all documents filed under the scheme. Thus, the question of instituting fresh prosecution against those disqualified directors who avail of the CODS-2018 does not arise.

3. Learned counsel further requests that the DIN numbers of the petitioners may be temporarily activated as contemplated under the scheme.

4. It is seen that the scheme itself contemplates that the DIN Numbers of the disqualified directors would be temporarily activated with effect from 01.01.2018.

5. In view of the request made by the petitioners, the impugned list to the extent it includes the name of the petitioner is stayed. This is to enable the petitioners to carry on their business. This order is passed on the basis of the unequivocal statement made on behalf of the petitioner that he would be availing of the CODS-2018.

6. It is clarified that if the petitioner does not avail of the CODS-2018 as stated by him; in addition to other consequences, the petitioner would also be liable to be prosecuted for contempt of Court.

7. The petition is dismissed as withdrawn, with the aforesaid clarification/observations. The pending application is also disposed of.

VIBHU BAKHRU, J

DECEMBER 20, 2017

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