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

\+ **W.P.(C) 10492/2017**

SANJAY TIKU AND ORS. ..... Petitioners

Through Mr Amit Swami, Advocate.

versus

THE RAGISTRAR OF COPANIES AND ANR. ..... Respondents

Through Mr Sanjay Jain, ASG with Ms Ripu Daman Bhardwaj, CGSC with Mr T.p. Singh.
Mr Dev P. B hardwaj, CGSC for UOI.
Mr Sanjay Shorey, Joint Direrctor Legal Ministry of Corporate Affairs and Sh Raesh K. Tiwari, ROC, NCT of Delhi & Haryana MCA for UOI.

**CORAM:**
**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**O R D E R**

**% 19.12.2017**

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. The learned counsel further states that by virtue of taking benefit of the stay order granted by this Court, the petitioners have already filed the necessary forms pertaining to M/s. Primus Real Estate Private Ltd (petitioner no.3).

3. In view of the above, it is clarified that if the petitioners have already filed the annual returns and the final accounts, they are not required to do so

again. However, the petitioner would file an application for condonation of delay under the CODS-2018 along with necessary fee and charges.

4. Paragraph 6 of the 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.

5. The petition is dismissed as withdrawn with the aforesaid clarification.

6. In view of the CODS-2018, it is also directed that the DIN of the petitioners shall remain temporarily activated.

**VIBHU BAKHRU, J**

**DECEMBER 19, 2017**
pkv