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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10697/2017 & CM 43852/2017**

SWAPAN SETH AND ANR. Petitioner

Through Mr Rajiv Dewan, Advocate.

versus

MINISTRY OF CORPORATE AFFAIRS

GOVT. OF INDIA AND ANR. Respondent

Through Mr Sanjay Jain, ASG with Ms Ripu
Daman Bhardwaj, CGSC with Mr T.p. Singh.

Mr Dev P. Bhardwaj, CGSC for UOI.

Mr Sanjay Shorey, Joint Director 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

ORDER

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20.12.2017

1. The petitioners have filed the present petition, *inter alia*, impugning the list of disqualified directors as published on the website to the extent it includes the petitioners name.
2. The learned counsel for the petitioners unequivocally states that the petitioners seek to avail of the Condonation of Delay Scheme, 2018 (CODS-2018) however are unable to do so since the company in question M/s Sallieri India Private Limited, has also been removed from the Register of Companies.
3. Mr Sanjay Jain, learned ASG points out that the petitioners have an alternate remedy of approaching the National Company Law Tribunal (NCLT) under Section 252 of the Companies Act, 2013 (hereafter 'the Act'). He further states that if the company is revived, the petitioners would be at liberty to avail of the CODS-2018.

4. In view of the above, it is directed that in the event the petitioners / (or the company in question) files an appeal under Section 252 of the Act before the NCLT within a period of four weeks from today, the petitioners would be entitled to avail of CODS-2018 provided that the name of the company is restored on the register.

5. In the event, such an appeal is filed, NCLT is requested to dispose of the same as expeditiously as possible given that the CODS-2018 is only available till 31.03.2018. Notwithstanding, the above, it is clarified that in the event the NCLT is unable to dispose of the appeal within the time as requested for the reasons that are not attributable to the petitioners, the respondent shall ensure that the Scheme under CODS-2018 is extended in respect of the petitioners in order for the petitioners to avail of the same. In other words, the petitioners would not be deprived of the opportunity to avail the CODS-2018 only on account of pendency of the appeal before NCLT.

6. In view of the above, the learned counsel for the petitioners seeks to withdraw the present petition with liberty to file an appropriate application under CODS-2018 and an appeal before the NCLT (if not already filed).

7. In view of the CDOS-2018, the impugned list to the extent it excludes the name of the petitioners is stayed till 31.03.2018.

8. The petition along with application is dismissed as withdrawn.

VIBHU BAKHRU, J

DECEMBER 20, 2017/pkv