

\$~61

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

+ **W.P.(C) 11332/2017**

BIJAYA KUMAR NAYAK

..... Petitioner

Through Mr Ashish Virmani, Advocate.

versus

UNION OF INDIA

..... Respondent

Through Mr Chairanjeev Kumar, Advocate for
UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **21.12.2017**

1. The petitioner has filed the present petition, *inter alia*, impugning the list of disqualified directors as published on the website to the extent it includes the petitioner's name.
2. The learned counsel for the petitioner unequivocally states that the petitioner seeks to avail of the Condonation of Delay Scheme, 2018 (CODS-2018) however is unable to do so since the companies in question Vishwakarama Traders Pvt. Ltd., Paigam Impex Pvt. Ltd. and Shri Vinayaka Agrotech Pvt. Ltd. have also been removed from the Register of Companies.
3. Mr Sanjay Jain, learned ASG points out that the petitioner has 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 companies are revived, the petitioner would be at liberty to avail of the CODS-2018.

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

5. In the event, such appeals are 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 appeals within the time as requested for the reasons that are not attributable to the petitioner, the respondent shall ensure that the Scheme under CODS-2018 is extended in respect of the petitioner in order for the petitioner to avail of the same. In other words, the petitioner would not be deprived of the opportunity to avail the CODS-2018 only on account of pendency of the appeals before NCLT.

6. In view of the above, the learned counsel for the petitioner seeks to withdraw the present petition with liberty to file an appropriate application under CODS-2018 and an appeals 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 petitioner is stayed till 31.03.2018.

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 The petition along with application is dismissed as withdrawn.

VIBHU BAKHRU, J

DECEMBER 21, 2017

pkv