$~80

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

\+ W.P.(C) 11701/2017

SALIL AHUJA & ANR. ..... Petitioner

Through: Mr Rajeev Ranjan Pandey, Advocate alongwith Petitioner in person.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr Ripu Daman Bhardwaj, CGSC with Mr T.P. Singh, Advocate for UOI.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

<u>O R D E R</u>

% **22.12.2017**

<u>CM No. 47477/2017</u>

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

<u>W.P.(C) 11701/2017 and CM No. 47476/2017</u>

3. 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.

4. The learned counsel appearing for the petitioners unequivocally states that the petitioners seek to avail of the Condonation of Delay Scheme, 2018 (CODS-2018), however they are unable to do so since the company in question, AAC India Private Limited (hereafter 'the Company') has also been removed from the Register of Companies.

5. Mr Ripu Daman Bhardwaj, the learned counsel 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.

6. 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 petitioner would be entitled to avail of CODS-2018 provided that the name of the Company is restored on the Register.

7. 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 respondents 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.

8. 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).

9. The learned counsel for the petitioner also requests that the bank

accounts may be directed to be de-frozen in order for the Company to make immediate payments in the normal course. He states that it is necessary to make payments approximately of ₹4,74,000/- in addition to the salaries and other statutory payments.

10. In the meanwhile, the bank accounts of the petitioners are also directed to be de-frozen till NCLT considers the appeal of the petitioner. However, the petitioners would not make any payments other than as indicated above; that is, salaries, statutory dues and payments to an overseas supplier not exceeding ₹4,74,000/-. This direction is also subject to further orders that may be passed by the NCLT.

11. In view of the CODS-2018, the impugned list to the extent it excludes the name of the petitioner is stayed till 31.03.2018.

12. The petition and the application are, therefore, dismissed as withdrawn.

13. Order *dasti* under signature of Court Master.

VIBHU BAKHRU, J

DECEMBER 22, 2017
RK