$~47

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

\+ W.P.(C) 3981/2018

SUJIT THAKUR AND ORS. ..... Petitioner
Through: Ms. Arunima Dwivedi with Ms. Preeti Kumpa, Advs.

versus

UNION OF INDIA AND ANR. ..... Respondent
Through: Mr. Dev P. Bhardwaj, CGSC with Ms. Anubha Bhardwaj, Adv. for UOI.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

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

% **23.04.2018**

<u>CM. APPL. No.15705/2018</u>

1. Allowed, subject to all just exceptions.

<u>W.P.(C) No.3981/2018 & CM. APPL. No.15704/2018</u>

2. To be noted, the petitioners seek to avail of the benefits vis-a-vis the company going by the name Ecoyukti Technologies Private Limited (in short ‘ETPL’). This company ETPL evidently got strike off from the Register of Companies on account of its failure to file requisite financial statements and statutory returns. It is averred ETPL has not carried out any business since the date of its incorporation. ETPL, it appears, was incorporated on 22.10.2009.

3. The record also shows that the petitioner No. 3 is also a Director of Winsol Energy Solutions Private Limited (in short ‘WESPL’) and kisimach Energy Solutions Private Limited (in short ‘KESPL). Furthermore, it is claimed by the petitioners that while WESPL has been strike off from the Register of Companies. KESPL is still active and functional. The petitioners, however, averred that insofar as WESPL is concerned, they wish

to voluntarily strike of the said company and for this purpose filed a separate petition which has not been listed as yet before Court. This statement is taken on record.

4. Therefore, directions are sought by the learned counsel for the petitioners only vis-a-vis ETPL.

5. The petitioners have filed the present petition, inter alia, impugning a list of disqualified directors published by respondent no.1 and 2 to the extent that it includes the names of the petitioners.

6. The petitioners claim that they were appointed as Directors on the Board of company by the name: Ecoyukti Technologies Private Limited (hereinafter referred to as "Company"). The learned counsel for the petitioners states that the Company has not carried out any business for the past two years and that its bank account has not been operated. Furthermore, the petitioners state that they had not filed the Company's financial statements and statutory returns as required under the extant provisions of law. The petitioners aver that it is on account of the aforementioned infraction of law that their names came to be included in the impugned list.

7. In this matter, I am informed by the learned counsel for the official respondents that the issues raised in the captioned matter are similar to those issues which have been raised before Division Bench-I in various matters pending before it.

8. Counsel for writ petitioner(s) are agreed that the interim directions passed by this court and those which have been passed by the Division Bench can form the basis of the disposal of the present writ petition with a right to revive the captioned petition, in respect of those issues which are not addressed by the Division Bench judgment.

9. Accordingly, the captioned writ petition is disposed of with the following directions:-

(i) The operation of list of disqualified directors in so far as the inclusion of the name(s) of the writ petitioner no. 1/Mr. Sujit Thakur and writ petitioner no. 3/ Mr. Battini Naveen Kumar Varma is concerned, shall remain stayed.

(ii) The DIN and DSC of the writ petitioner no. 1/Mr. Sujit Thakur and writ petitioner no. 3/ Mr. Battini Naveen Kumar Varma will stand activated.

(iii) The writ petitioner(s) will have liberty to apply under the Condonation of Delay Scheme, 2018 (hereafter "Scheme"). Permission is granted to make the requisite filings in the form of hard copies.

(iv) The writ petitioner(s) will deposit, if not deposited already, a sum of Rs.30,000/- qua each such company *vis-a-vis* whom steps for voluntary striking off are required to be taken. The said amount will be deposited in the form of Fixed Deposit Receipt (FDR) with the Registry of this court on or before 27.04.2018. The FDR will be created in favour of the ROC.

(v) The amount deposited by way of FDR, as adverted to in clause (iv), will be in addition to other charges that would be payable under the Scheme. These sums will be deposited in the form of FDR as well. The writ petitioner(s) will also furnish their calculations in that behalf.

10. The writ petitioner(s) will abide by the Division Bench-I order dated 21.03.2018, passed in a batch of writ petitions, the lead petition being W.P. (C) 9439/2017, titled: *Atul Khosla & Anr. v. Union Of India and Ors.*

11. Liberty, however, is given both to the petitioner(s) and the official respondents to revive the petition(s), in case, there are issues which are not covered by the Division Bench judgment.

12. Needless to say, the disposal of the writ petition will not come in the way of the official respondents presenting their point of view before the Division Bench.

13. Pending application(s), if any, shall stand closed.

14. *Dasti* under signatures of the Court master.

RAJIV SHAKDHER, J

APRIL 23, 2018/pmc