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

\+ W.P.(C) 4427/2018 & CM Nos.17159-17160/2018

SANJEEV PRATAP SINGH AND ANR ..... Petitioners

Through : Mr.Govind Maheshwari, Adv.

versus

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

Through : Mr.Bhagwan Swarup Shukla, CGSC with Mr. Kamaldeep, Adv.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

O R D E R

% 27.04.2018

The petitioners claim to be the Directors of the private companies, namely SRE INDIA REALTY MANAGEMENT PRIVATE LIMITED and SRE INFRAPROPERTY DEVELOPER PRIVATE LIMITED, respondents 3& 4.

2. The learned counsel appearing on behalf of the petitioners, submits that the company has not carried out a business for the past three years and also not in operation since then. The petitioners also did not file the requisite returns as required under Section 164 of the 2013 Act and consequently the petitioners have incurred the disqualification under Section 164(2) (a) of 2013 Act.

3. The learned counsel appearing for the petitioners makes an unequivocal statement, on instruction of the petitioners, that the petitioners are desirous of availing of the Condonation of Delay Scheme -2018 (hereafter 'CODS - 2018'). However, since the Company has been struck off from the Register

of Companies, they have been disabled from availing the benefits of CODS-2018.

4. The petitioners are also not in a position to seek revival of the company by filing an appeal under Section 252 of the Act, since admittedly the Company has not carried out any business and was liable to be struck off from the Register. The petitioners state that, in fact, they would voluntarily seek dissolution of the Company under Section 248(2) of the Act, if they have the opportunity to do so.

5. This Court is of the view that since, admittedly, the Company is not carrying out any business and its bank account has not been operated for over three years, the petitioners ought to be provided the benefit of the CODS - 2018. Accordingly, this Court directs as under:-

(a) The petitioners may file all the requisite returns in relation to the Company to avail the CODS - 2018.

(b) The petitioners may also file the necessary resolutions for voluntarily striking off the name of the Company as required under Section 248(2) of the Act.

(c) Thepetitioners would also make a necessary application under CODS - 2018 alongwith the requisite charges.

(d) The aforesaid documents and applications will not be submitted online but in hardcopies to the Registrar of Companies.

6. The Registrar shall scrutinize the same, and if the same are found to be otherwise in accordance with Section 248(2) of the Act, the petitioners would be granted the benefit of the CODS - 2018. The removal of the

Company from the Register under Section 248(1) of the Act would be deemed as striking off the Company under Section 248(2) of the Act, and the petitioner's application under CODS - 2018 would be sympathetically considered by the Registrar.

7. Since an unequivocal statement is made by the petitioners that they would pay the necessary charges and make the necessary application under the CODS - 2018, the impugned list of the disqualified directors, in as much as it includes the name of the directors, is stayed till 15.05.2018 or up till such time as the respondents take a final decision in the matter.

8. This order has been passed with due assistance of the learned Standing Counsel, in the peculiar facts and circumstances of these cases.

9. It is clarified that the aforesaid order is made on the basis of the unequivocal statements made on behalf of the petitioners above and in the event the statements are found to be incorrect, the petitioners would be liable to be proceeded against contempt of court in addition to being subjected to other proceedings.

10. The petition and the pending applications are disposed of.

11. Dasti.

YOGESH KHANNA, J

APRIL 27, 2018
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