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

+ **W.P.(C) 6891/2018**

STEFANO NAMARI

..... Petitioner

Through: Mr Sanjeev Puri, Sr. Advocate with
Mr Rohit Puri and Mr Aditya
Chhibber, Advocates.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Ms Amrita Prakash, CGSC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.07.2018

CM No.26124/2018

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition impugning the list of disqualified Directors published by respondent no.2 (ROC). The petitioner has been disqualified under the provisions of Section 164(2)(a) of the Companies Act, 2013 (hereafter 'the Act'). This action has been initiated against the petitioner on the ground that the petitioner is a Director of M/s Stola Engineering Private Limited (having a Corporate Identity No. (CIN) – U74200DL2007PTC170026) (hereafter 'SEPL').

3. It is the petitioner's case that SEPL was a subsidiary of an Italian company (Stola SPA Italy) and the petitioner had joined the said company as a Director on 30.09.2008 to assist the said foreign company for setting up its operations in India. It is stated that SEPL became non-operational in

2008-09 and the petitioner resigned from the Board of Directors of SEPL on 31.12.2011. It is claimed that the petitioner has not been associated with SEPL since.

4. The name of SEPL has been struck off from the Register of Companies under Section 248 of the Act. And, the petitioner has been disqualified on account of non compliance with the requirement of filing returns in respect of SEPL. It is the petitioner's case since he was not a Director of SEPL after 31.12.2011, he cannot be visited with any consequence of non filing of returns of SEPL.

5. It is apparent that the aforesaid case of the petitioner has not been considered as the petitioner was not served with any show cause notice and, therefore, the petitioner was not provided an opportunity to contest the punitive measure which has now been imposed on him. The learned counsel appearing for respondent no.2 (ROC) states that respondent no.2 shall consider the specific case of the petitioner and pass an appropriate order in this regard.

6. In view of the above contention, the impugned list to the extent it includes the name of the petitioner, is set aside. In the event any further action is contemplated against the petitioner, respondent no.2 shall issue an appropriate notice and pass an order only after affording the petitioner an opportunity to be heard.

7. The petition is disposed of with the aforesaid directions.

8. Order dasti.

VIBHU BAKHRU, J

JULY 06, 2018/MK