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

+ W.P.(C) 6980/2018

DEVAL PURUSHOTTAM PARIKH Petitioner

Through: Mr Abhishek Bansal, Advocate.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr Nawal Kishore Jha, Advocate for
UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **09.07.2018**

1. Issue notice. The learned counsel appearing for the respondents accepts notice.
2. The petitioner has filed the present petition, *inter alia*, impugning the list of Directors disqualified under Section 164(2)(a) of the Companies Act, 2013 (hereafter 'the Act') published by respondent no.2 (the Registrar of Companies – hereafter 'the ROC'), to the extent that it includes the petitioner's name.
3. It is the petitioner's case that the said action has been taken by the ROC on the assumption that the petitioner is a Director of a company – Mangosense Private Limited – which had failed to file the requisite returns as required under the Act for consecutive period of three years. The name of Mangosense Private Limited has also been struck off from the Register of Companies maintained by the ROC. The petitioner states that he was not appointed as a Director but as an Additional Director on 01.06.2014 by the Board of Directors of Mangosense Private Limited. According to the

petitioner, he was not confirmed as a Director in the ensuing General Body Meeting and, therefore, by operation of law his term, as an additional Director expired on 30.09.2014. Notwithstanding the same, the petitioner had by abundant caution also tendered his resignation on 06.07.2016, which it is stated was accepted by the Board of Directors by the promoters of the company on 11.07.2016.

4. In the event, the petitioner was an additional Director only for a period of three months, the petitioner could not be visited with disqualification under Section 164(2)(a) of the Act.

5. In view of the aforesaid averments made by the petitioner in the petition, the impugned list of disqualified Directors to the extent it includes the petitioner's name, is set aside. However, the ROC is not precluded to consider the averments made in present petition and pass an appropriate order after affording the petitioner an opportunity of being heard. In the event, the ROC is of the view that the petitioner is disqualified under Section 164(2)(a) of the Act, the ROC shall also indicate the reasons for his view.

6. The ROC may examine the matter within a period of eight weeks from today. In the event, an order adverse to the petitioner is not passed by the ROC within a period of eight weeks from today, the respondents shall restore the petitioner's DIN.

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

VIBHU BAKHRU, J

JULY 09, 2018/MK