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

+ **W.P.(C) 10944/2017 and IA No. 19358/2018**

RAMANJEET SINGH AHULWALIA

AND ANR.

..... Petitioners

Through: Counsel (appearance not given).

versus

MINISTRY OF CORPORATE AFFAIRS

AND ANR.

..... Respondents

Through: Mr Abhay Prakash Sahay, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.05.2018

1. The present petition was listed on 19.12.2017 along with a batch of writ petitions, where the action taken by the respondents in disqualifying the petitioners (in the respective petitions) as directors, was impugned. However, on that date, some of the petitions were withdrawn in view of the Condonation of Delay Scheme (CODS-2018) floated by the respondents and some of the similar petitions were directed to be listed on 20.12.2017 since lawyers were abstaining from work on that date. The present petition was directed to be listed on 20.12.2017.

2. The learned counsel appearing for the petitioner states that the petitioner was under the impression that the present petition was disposed of on 19.12.2017 in terms of the orders passed in other petitions on that date. On subsequent enquiry, the error was discovered and the present petition is listed today.

3. The learned counsel appearing for the petitioner requests that orders similar to those that were passed in the batch of matters on 20.12.2017 be also passed in the present petition. In terms of the said order, directions were also given to the petitioners (in those matters) to take steps by filing necessary returns and documents for dissolution of the companies that had been struck off from the Register of Companies under section 248(1) of the Companies Act, 2013 (hereafter 'the Act'). Such orders were passed only in cases where the companies in question had not carried on any business and had not operated the bank account for three years or more. These directions were considered necessary as the petitioners in those cases were not entitled to avail the benefits of CODS- 2018 on account of being directors of such companies that had been removed from the Register of Companies.

4. This Court is of the view that the petitioner cannot be deprived of orders similar to those that were passed in the batch of matter as the petitioner had applied within time but the petition could not be disposed of due to the error on the part of the registry in not listing the present petition on 20.12.2017 along with the batch of petitions relating to a similar issue.

5. The learned counsel appearing for the petitioner states that although the petitioner was desirous of availing the benefit of CODS-2018, he has been unable to apply as he was a director of M/s MSL Interact Pvt. Ltd. (petitioner no.2 herein), which has been struck off from the Register of Companies under Section 248 of the Act. He states that the petitioner is also not in a position to seek revival of the said Company by filing an appeal under Section 252 of the Act, since it is not disputed that the said Company has not carried out any business and was liable to be struck off from the

Register. The learned counsel states that, in fact, the petitioner would voluntarily seek dissolution of the Company under Section 248(2) of the Act, if he is provided an opportunity to do so.

6. This Court is of the view that since, admittedly, M/s MSL Interact Pvt. Ltd. was not carrying out any business and its bank account had not been operated for over three years, the petitioner ought to be provided the benefit of the CODS - 2018. Accordingly, this Court directs as under:-

- (a) The petitioner may file all the requisite returns in relation to the Company to avail the CODS - 2018 before 15.05.2018.
- (b) The petitioner 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) The petitioner would also make a necessary application under CODS - 2018 before 15.05.2018. The requisite charges for the same would be deposited with the Registry of this Court in the form of a fixed deposit.
- (d) The aforesaid documents and applications will not be submitted online but in hardcopies to the Registrar of Companies.

7. 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 petitioner 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.

8. The petition and the pending application are disposed of.
9. Order *dasti* under signature of Court Master.

MAY 10, 2018
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VIBHU BAKHRU, J