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

\+ W.P.(C) 4182/2019

EI-YASA GENERAL CONTRACTING PVT. LTD. AND ORS. ..... Petitioners

Through: Mr Anil Sharma and Mr Kumar Natu, Advocates.

versus

UNION OF INDIA AND ANR. ..... Respondents

Through: Mr Vijay Joshi, Senior Paneal Counsel for respondent.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **23.04.2019**

CM No.18823/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 4182/2019 & CM No. 18822/2019

2. Issue notice. Learned counsel appearing for the respondents accepts notice.

3. The petitioners have filed the present petition, *inter alia,* praying that directions be issued to the respondents to restore the name of the petitioner no. 1 company on the Register of Companies and further direct the respondents to revalidate the Director Identification Number (DIN) of petitioner nos. 2 and 3.

4. Petitioner nos. 2 and 3 have been disqualified to act as a Directors in view of the defaults committed in relation to petitioner no.1 company.

Admittedly, the requisite returns pertaining to petitioner no.1 company were not filed with the Registrar of Companies. Consequently, the name of petitioner no.1 was removed from the Register of Companies and further petitioner nos. 2 and 3 were also disqualified to act as Directors by virtue of Section 164(2)(a) of the Companies Act, 2013.

5. Being aggrieved by the removal of the name of petitioner no. 1 company from the Register of Companies, petitioner no. 1 filed an appeal under Section 252 of the Companies Act, 2013 before the National Company Law Tribunal (NCLT). The said appeal (Appeal No.552/252/ND/2018) was allowed by an order dated 04.09.2018 and the NCLT has issued necessary directions for restoration of the name of the petitioner no. 1 company on the Register of Companies. However, the aforesaid order is subject to the necessary returns being filed with the ROC and further costs of ₹25,000/- being deposited with the Prime Minister's Relief Fund.

6. The learned counsel appearing for the petitioners states that the costs, as imposed, have already been deposited. The petitioners' predicament is that the necessary returns cannot be filed since the DIN and DSC of the petitioners have been deactivated. The petitioner had also approached the NCLT for seeking appropriate relief for filing the necessary returns. However, the said application was rejected on the ground that the NCLT does not have the jurisdiction to pass any such orders.

7. Admittedly, the returns have to be filed online and the same cannot be filed until the DIN/DSC of the Director(s) is restored. Plainly, the petitioners cannot be denied the benefit of the order passed by the NCLT

on account of a procedural issue. In this view, the respondents are directed to re-activate the DIN and DSC of petitioner nos. 2 and 3 for a period of three months to enable the said petitioners to file the necessary forms pertaining to petitioner no. 1 company. The same would be revalidated/restored within a period of two weeks from today. The petition is disposed of in the aforesaid directions.

8. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

APRIL 23, 2019
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