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

+ W.P.(C) 9453/2018

SUBHASHISH SARKAR & ANR.

..... Petitioners

Through: Ms Manmeet Arora, Mr Sarad K.
Sunny and Mr Harkirat Singh,
Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr Sanjib Kumar Mohanty, Senior
Panel Central Govt. Counsel with Mr
Amit Acharya, Advocate for R-1 & 2
with Ms Nupur Aishwarya, AROC
and Mr Shobhit Srivastava, Deputy
ROC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.05.2019

1. The petitioners have filed the present petition, *inter alia*, impugning a notice dated 08.08.2018 (Form STK-7) (hereafter the 'the impugned notice') issued by the respondent, deleting the name of M/s Llevan Lifestyle Private Limited (hereafter 'the company') from the Register of Companies.
2. The said company was incorporated on 01.09.2014. However, it is stated that the said company could not carry on any business. Admittedly, the said company also did not file the requisite returns, as required under the provisions of the Companies Act, 2013 (hereafter 'the Act').
3. On 19.06.2018, the petitioner received a notice under section 248(1) of the Act (Form STK-1), informing the said company that it was proposed to delete the name of the company from the Register of Companies. The

Director of the Company (petitioner no.1) was also called upon to submit a representation along with the documents, within a period of 30 days from the date of receipt of the letter.

4. Taking note of the notice, the said company filed an application dated 30.06.2018 in terms of Section 248(2) of the Act for removing its name from the Register of Companies. The said application was accepted and the respondents sent an email dated 01.08.2018, identifying three separate deficiencies/issues and calling upon the company to furnish the necessary documents within a period of 15 days (till 16.08.2018).

5. The grievance of the petitioner is that before the said deficiencies could be cured, respondents issued the impugned notice, deleting the names of the said company from the Register of Companies.

6. The controversy involved in the present petition had highlighted an important question as to the manner in which Section 248 of the Act is to be implemented, considering that a company is also enabled under Section 248(2) of the Act, to file an application on the same grounds as listed in section 248(1) of the Act, after the procedure under Section 248(1) has commenced. The said controversy has now been put to rest by the Companies (Removal of Names of Companies from the Register of Companies) Amendment Rules, 2019 notified on 08.05.2019. A plain reading of the amendments introduced by virtue of the said rules, indicate that a company is also enabled to file a Form STK-2 after filing all overdue returns notwithstanding that a notice under section 248(1) of the Act (in Form STK 1) has been issued to the company. It has also been clarified that

no such application can be made after the name of the company has been deleted from the Register of Companies (by issuance of Form STK-7).

7. Insofar as the petitioner's case is concerned, the learned counsel appearing for the respondents states that the name of the said company would be restored on the Register of Companies, and the STK-2 Form filed by the petitioner would be opened once again to enable the petitioner to comply with the statutory requirements by submitting the necessary returns/documents, within a period of 15 days from today.

8. The returns/documents furnished by the petitioner would be examined and if the same are found to be in order, the application for removal of the name of the said company would be accepted and the name of the said company would be deleted from the Register of Companies, at the instance of the petitioner.

9. In view of the above, the grievance of the petitioner is addressed and no further orders are required to be passed in this petition.

10. The petition is disposed of.

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

VIBHU BAKHRU, J

MAY 10, 2019
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