$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

12.

\+ **W.P.(C) 2070/2003**

M/S MALIK CABLE T.V.NETWORK ..... Petitioner

Through Mr Naresh K. Daksh, Advocate.

versus

THE DY.COMMISSIONER OF ENTERTAINMENT TAX & ANR. ..... Respondents

Through Mr Satyakam, Additional Standing Counsel with Mr Vinay Singh Tanwar, Advocates.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

O R D E R

% **02.05.2016**

CM 15140/2016 (for restoration)

1. For the reasons stated in the application, the same is allowed. The file is restored.

W.P.(C) 2070/2003

2. The short point raised in this petition is whether the impugned orders dated 11th February 2003, 14th February 2003 , 27th February 2003 and 11th March 2013 passed in Appeal No. 24 of 2003 by the Deputy Commissioner of Entertainment Tax could have insisted on pre-deposit of 10% of the assessed amount for the entertaining the Petitioner's appeal.

3. It is not pointed out by the Respondent under which provision of the law the Deputy Commissioner require the Petitioner to make a pre-deposit. In the counter affidavit filed in the present petition the Respondent has justified the demand of such pre-deposit but has not mentioned any provision of law in terms of which the pre-deposit was ordered.

4. For the above reasons, the impugned orders of the Deputy Commissioner of Entertainment Tax in Appeal No. 24/2003 is set aside and Appeal No. 24/2003 is restored to the file of Deputy Commissioner for disposal in accordance with law. The aforementioned appeal of the petitioner will now be listed before the Deputy Commissioner of Entertainment Tax on 1st June, 2016 at 11.00 a.m.

5. It is clarified that the sum deposited by the Petitioner with the Department as a condition for grant of stay of recovery of the demanding amount shall be subject to the outcome of the above appeal.

6. The appeal is disposed of in the above terms.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MAY 02, 2016/pkv