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

+ W.P.(C) 3392/2018, CM APPL. 13411/2018

MANOJ KUMAR JHA

..... Petitioner

Through: Mr. Madhan Khurana, Adv. alongwith
Mr. Ankit Bhatia, Adv.

versus

D.R.I

..... Respondent

Through: Mr. Satish Aggarwala, Sr. Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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03.12.2018

The petitioner's grievance is with respect to the order of the CESTAT, which declined his request to dispense with the condition of pre-deposit of ₹2,34,34,328/- i.e. the penalty on a substantial quantity of gold which he allegedly smuggled. The petitioner's explanation was that he merely acted as a courier and was not the owner of the goods. The adjudicating authority however, concluded that the petitioner was in conscious possession of the confiscated quantities and therefore, imposed the penalty determined upon him.

The CESTAT which had been approached by the petitioner for waiver of the condition of pre-deposit was of the opinion that the circumstances of the case did not warrant that relief. The petitioner in support of these proceedings has furnished a copy of his bank

statement and other documents to show that he is not possessed with the means to deposit any meaningful amount, which is a condition for the hearing of the appeal – given that the CESTAT declined his application for waiver of the pre-deposit. The respondent's counsel submits that the petitioner was not forthcoming with respect to the assets owned by his father.

To this Court, it appears that the petitioner is a man of limited means. It is not clear whether any prosecution has been launched against the petitioner. In these circumstances, in view of the material on record which suggests that the petitioner has very limited means to deposit any amounts, this Court is of the opinion that the relief is warranted. The requirement of pre-depositing of any amount is hereby directed to be waived, however, the petitioner shall furnish a bond and also provide reasonable security, having regard to the list of immovable properties produced before the Court. Subject to this, the requirement of pre-deposit is hereby waived. The petitioner's appeal shall be revived and now CESTAT shall proceed to hear the parties on its merits after issuing adequate notice to the counsel.

The writ petition is disposed of in the above terms.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

DECEMBER 03, 2018/akv