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

+ W.P.(C) 9826/2018

A.D.S. HITECH POLYMERS PRIVATE LIMITED
& ANR.

..... Petitioners

Through: Mr. Vivek Kohli and Mr. Mudit
Gupta, Advs.

versus

PUNJAB NATIONAL BANK & ORS

..... Respondents

Through: Mr. Hashmat Nabi, Ms. Farah Naaz
and Mr. Abhinav Thareja, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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04.10.2018

CM. No. 38291/2018 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 9826/2018

This petition has been filed by the petitioner challenging the order dated 29th August, 2018 of the Debt Recovery Appellate Tribunal ('DRAT' in short) whereby the DRAT has dismissed the Appeal as the petitioner through its counsel has expressed inability to make payment of pre-deposit of 50% as directed by the DRAT.

Mr. Vivek Kohli, learned counsel appearing for the petitioner states

that the plea of the petitioner before the Tribunal was that out of the four properties, two properties which have been sold and the amount fetched pursuant thereto needs to be adjusted for computing 50% of the amount due as pre-deposit, which plea was not accepted by the DRAT.

On the other hand, Mr. Hashmat Nabi, learned counsel appearing for the respondent has filed a statement showing the amount due and states that after adjusting an amount of Rs.11,01,11,223.77/-, a further amount of Rs.27,16,94,840.50/- is due and recoverable from the petitioner. He concedes to the fact, the amount of Rs.11,01,11,223.77/- is liable to be adjusted against the pre-deposit. He further states, still the petitioner is liable to pay a further sum so as to meet the 50% threshold of pre-deposit.

At this stage, Mr. Vivek Kohli, learned counsel appearing for the petitioner submits that Tribunal has power to reduce the amount of pre-deposit to 25% by recoding the reasons therefor. He states in view of the submission made by Mr. Nabi, petitioner shall approach the DRAT by filing a proper application for reducing the pre-deposit to 25% by adjusting the amount of Rs.11,01,11,223.77/-.

In view of the submission made by Mr. Kohli, the petition is disposed by giving liberty to the petitioner to file an application as adverted to by

Mr. Kohli which shall be considered by DRAT in accordance with law without being influenced by the fact that on the failure of the petitioner to deposit the 50% of the pre-deposit, the appeal has been dismissed.

In the eventuality, DRAT agrees with the plea of the petitioner, it goes without saying that the appeal shall stand revived.

CM No. 38290/2018 (for stay)

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 04, 2018/jg