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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12238/2018, CM Nos. 47415/2018 & 47416/2018**
SHREE KRISHNA ENTTERPRISES AND ORS.

..... Petitioners

Through: Mr. Arvind Sharma, Adv.

versus

CENTRAL BANK OF INDIA

..... Respondent

Through: Mr. Kartik Rathi, Adv. for
Ms. Reema Khorana, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **16.11.2018**

CM No. 47415/2018 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 12238/2018

1. This writ petition has been filed by the petitioners challenging the order dated April 19, 2018 passed in Miscellaneous Case Nos. 886 & 887/2017 in Appeal No.149/2017 by the learned Debt Recovery Appellate Tribunal whereby the DRAT has refused to restore the appeal, unless the petitioners herein make the deposit of 50% of the demand in question.
2. It is the submission of the learned counsel for the petitioners that no

doubt, the Appellate Tribunal on March 30, 2017 had directed the petitioners to make pre-deposit of 25% of the amount due for entertaining the appeal, the said amount could not be deposited, as the petitioners did not had the money.

3. On April 04, 2017, the petitioners sought extension of time for making 25% of the pre-deposit amount, but the request was not acceded to and the appeal was dismissed by the learned Appellate Tribunal. That later, on December 07, 2017, the petitioners made deposit of 25% of the amount due along with an application for revival of the appeal, which application was dismissed by the learned Appellate Tribunal vide impugned order.

4. He states that since the petitioners have deposited the 25% of the amount due, a direction be given to the Appellate Tribunal to hear the appeal on merit.

5. We are unable to accept the submissions made by the learned counsel for the petitioners for the simple reason that the initial order was passed in the month of March 2017, but even after more than three months, the petitioners did not deposit the amount, instead they filed an application for extension of time, which request was declined. Having deposited the amount of 25% on December 07, 2017 almost eight months after the initial

order was passed on March 30, 2017, we find that the request for revival of the appeal, rejected by the Appellate Tribunal is proper. The Appellate Tribunal has exercised its discretion whether to seek pre-deposit of 25% or 50%. Even though, the petitioners were granted liberty to deposit the 25% of the amount which they could not avail it for more than eight months, the Appellate Tribunal was justified in rejecting the revival of the appeal without pre-deposit of 50%. The discretion exercised cannot be interfered with.

6. The writ petition is dismissed.

CM No. 47416/2018

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

NOVEMBER 16, 2018/aky