$~102

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

\+ W.P.(C) 12927/2018

M/S GLOBUS PHARMA LTD ..... Petitioner

Through: Mr. Govind Rishi, Adv.

versus

PUNJAB & SIND BANK ..... Respondent

Through: Ms. Seema Gupta, Adv.

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

O R D E R

% **30.11.2018**

1. Challenging orders dated 26.07.2018 and 28.09.2018 passed by the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal, this petition has been filed under Article 226 and 227 of the Constitution.

2. Petitioner filed SA No.181/2014 before the Debts Recovery Tribunal-III, Delhi for declaring action taken by the respondent – Bank under Section 13 and 14 of the SARFAESI Act as illegal and to quash a notice dated 26.12.2013 issued under Section 13(2) and further action taken under Section 13 of the SARFAESI Act. The application has been dismissed by the Tribunal on 26.07.2018 and challenging the same, the appeal in question has been filed which was registered as Appeal No.420/2018 before the Debts Recovery Appellate Tribunal, Delhi. It seems that when the appeal was placed for consideration before the Tribunal on 07.09.2018 with regard to complying with the provisions of the pre-deposit condition, the counsel appearing for the petitioner undertook and volunteered to deposit 25% of the amount as determined or claimed by the Bank and sought waiver of the remaining 25% amount. This was allowed.

In spite thereof, when the amount was not deposited, the appeal has been dismissed by the impugned order dated 28.09.2018. Challenging the original order passed by the Tribunal on 26.07.2018 and the order dismissing the appeal for non-compliance with the pre-deposit condition, this writ petition has been filed and the only ground canvassed before us was that the petitioner had financial hardship in depositing the pre-deposit amount. The amount could have been recovered by attachment or sale of certain other properties of the petitioner and it is stated that without insisting upon making the pre-deposit, the condition should have been waived and appeal heard on merits.

3. In our considered view, once there was a determination of debt due by the petitioner, compliance with the statutory requirement under Section 18 for pre-deposit is a mandatory requirement and the petitioner's counsel having volunteered to deposit 25% of the amount, if the Tribunal found that the petitioner has not complied with the statutory requirement of pre-deposit and dismissed the appeal, we see no reason to make any indulgence into the matter in the light of the fact that the statutory provisions of pre-deposit as contemplated under Section 18 warrants strict compliance and if the petitioner in spite of the submission made by his counsel failed to comply with the aforesaid provision, no fault or error could be found with the action of the Tribunal in rejecting the appeal.

4. Finding no merit, the appeal stands dismissed.

CHIEF JUSTICE

NOVEMBER 30, 2018/kks **V. KAMESWAR RAO, J**