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

\+ W.P.(C) 8626/2019 & CM APPL. 35652/2019

MARK SPLENDOUR NONWOVENS PVT LTD ..... Petitioner
Through: Mr. Anjani Kumar Singh, Adv.

versus

DEPUTY COMMISSIONER CENTRAL EXCISE ..... Respondent
Through: None.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

<u>O R D E R</u>

% 09.08.2019

1. This writ petition has been preferred for the waiver of the mandatory pre-deposit amount @ 7.5% of the duty to be levied and penalty, imposed under Section 35F of the Central Excise Act, 1944.

2. Having heard the counsel for the petitioner and looking into the provisions of the Act, it appears that after the order in original was passed, on 28.02.2017, if any appeal is to be preferred by this petitioner before CESTAT, the mandatory pre-deposit amount is to be deposited, which is @ 7.5% of the duty and penalty amount.

3. Now, after the amendment to Section 35F, as amended in 2014, the waiver applications cannot be preferred because the statute itself has waived either 90% of the amount or 92.5% of the amount, meaning thereby that it is now compulsory for the appellant, preferring appeal before the CESTAT to

pre-deposit 7.5% or 10% of the duty amount and the penalty amount, as the case may be.

4. Hence, we see no reason to entertain this writ petition and create any exception to Section 35F of the Central Excise Act, 1944.

5. The writ petition is hereby dismissed. The pending application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

AUGUST 09, 2019
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