

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 11.03.2015

+ **W.P.(C) 2358/2015**

TOLUNA INDIA PRIVATE LTD

... Petitioner

versus

**DIRECTOR OF INCOME TAX
(INVESTIGATION) CIRCLE 12(1)**

... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Prakash Kumar

For the Respondents : Mr Rohit Madan with Mr Ruchir Bhatia

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

CM 4237/2015

Allowed subject to all just exceptions.

WP(C) 2358/2015 & CM 4236/2015

1. Issue notice. Notice is accepted by the learned counsel appearing on behalf of the respondents. Since the facts are not in dispute, the matter is taken up for hearing at the first instance itself.

2. The petitioner has filed an appeal being ITA No. 989/Del/2014 before the Income Tax Appellate Tribunal being aggrieved by the

assessment order. The Tribunal, at the initial stage, that is, on 28.02.2014, had granted stay of the demand which had been raised subsequent to the said assessment order, subject to certain conditions which have been fulfilled by the petitioner.

3. A subsequent order dated 19.09.2014 was passed by the Tribunal extending the interim stay. By virtue of the decision of a Division Bench of this Court in **CIT v. Maruti Suzuki (India) Limited: [WP(C) 5086/2013]** decided on 21.02.2014, it is made clear that the Tribunal has no authority to extend the period of stay beyond a period of 365 days from the initial date of grant of stay. As 365 days elapsed on 27.02.2015, the petitioner cannot approach the Tribunal for any further extension of stay. It is also to be noted that, in the meanwhile, the petitioner's said appeal before the Tribunal was listed for hearing but could not be taken up for reasons not attributable to the petitioner. Now, the appeal is listed for hearing on 18.03.2015.

4. It is in these circumstances that the petitioner has approached this Court by way of this writ petition seeking extension of stay in respect of the assessment year 2009-10 till the disposal of the appeal by the Tribunal. The learned counsel for the petitioner has placed before us several orders

passed by this court, whereby this Court has extended the stay initially granted by the Tribunal till the disposal of the appeal by the Tribunal in exercise of its jurisdiction under Article 226 of the Constitution. In fact, it is settled law that there is no bar for grant of such a relief if the Court is of the opinion that the circumstances and the ends of justice so warrant. This has also been stated clearly in *Maruti Suzuki (supra)*.

5. We feel that since the petitioner had already been granted conditional stay by the Tribunal in respect of the said appeal and that the Tribunal is in the midst of hearing the appeal, it would be in the interest of justice that the stay order granted by the Tribunal is continued till the disposal of the appeal by the Tribunal. It is ordered accordingly. The writ petition stands disposed of.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

**MARCH 11, 2015
SR**

SANJEEV SACHDEVA, J