

THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment delivered on: 25.03.2015

+ **W.P.(C) 3070/2015**

NARTEL NETWORKS INDIA INTERNATIONAL INC. ... Petitioner

versus

DEPUTY DIRECTOR OF INCOME TAX, CIRCLE 2 (1), NEW DELHI

... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr Amit Shrivastava with Ms Neha Singh, Advocates.

For the Respondent : Mr N.P. Sahni with Mr Nitin Gulati, Advocates.

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

BADAR DURREZ AHMED, J (ORAL)

1. Issue notice. Notice is accepted by Mr Sahni on behalf of the respondent. 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.1087/Del/2014 before the Income Tax Appellate Tribunal being aggrieved by the order passed by the respondent No.1 on 07.01.2014. At the initial stage, the Tribunal granted unconditional stay of the demand by virtue of its order

dated 28.03.2014 for three months. It was extended from time to time and the last extension was granted on 14.01.2015 for a further period of three months.

3. 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 would elapse on 27.03.2015, 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 06.04.2015.

4. It is in these circumstances that the petitioner has approached this Court by way of this writ petition seeking grant of stay of recovery of the balance amount in respect of the assessment year 2010-11 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. We hope and expect the Tribunal to dispose of the appeal pending before it expeditiously.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

MARCH 25, 2015
st

SANJEEV SACHDEVA, J