

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

% Judgment delivered on: 21.04.2015

+ W.P.(C) 3769/2015

HONDA CARS INDIA LIMITED

.... Petitioner

versus

THE COMMISSIONER OF INCOME TAX & ANR Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Amit Shrivastava

For the Respondents : Mr Rohit Madan with Mr Akash Vajpai

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 the learned counsel appearing on behalf of the respondents. Since the facts are not in dispute we are taking up this matter for disposal at the first instance itself.

2. The petitioner has filed an appeal being ITA No. 2056/Del/2014 before the Income Tax Appellate Tribunal, being aggrieved by the order passed by the Commissioner of Income Tax (Appeals), on 31.03.2014. The Assessing Officer had raised a demand, which was reduced in appeal by the Commissioner of

Income Tax (Appeals), to approximately Rs 327 crores. At the stage, prior to the decision by the Commissioner of Income Tax (Appeals), the petitioner had voluntarily deposited a sum of Rs 50 crores. The said deposit was made before the Assessing Officer. Thereafter, the petitioner had approached this Court by way of WP(C) 5405/2013, in which an order was passed on 30.08.2013, whereby the petitioner was required to deposit a further sum of Rs 100 crores. That deposit was also made and the writ petition was finally disposed of on 04.09.2013. All this happened before the order passed by the Commissioner of Income Tax (Appeals)

3. As noted above, the Commissioner of Income Tax (Appeals) has allowed some of the grounds raised by the petitioner and reduced the demanded amount to approximately Rs 327 crores. Against this, the petitioner has filed the above mentioned appeal before the Income Tax Appellate Tribunal. On 07.04.2014, notice was issued by the Tribunal to the respondents in the said appeal. On 11.04.2014, the Tribunal, in view of the fact that the petitioner had already deposited a sum of Rs 150 crores, granted stay of the balance amount for a period of six months or till the disposal of the appeal, whichever was earlier. Thereafter, the stay was extended by the Tribunal on 29.10.2014 for a further period of six months. By virtue of the decision of a Division Bench of this Court in the case of **CIT v. Maruti Suzuki (India) Limited: WP(C) 5086/2013** decided on 21.02.2014, it has been 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. The period of 365 days has elapsed on 10.04.2015 inasmuch as the initial stay was granted on 11.04.2014. Therefore, the petitioner cannot approach the Tribunal for any further extension of stay. After the extension of stay granted by the Tribunal, the matter has been listed on several occasions, but could not be taken up for hearing for reasons not attributable to the petitioner. Now, the appeal is listed for hearing on 19.05.2015.

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 2009-10 till the disposal of the appeal by the Tribunal. In *Maruti Suzuki (supra)* itself, it has been held that while the Tribunal cannot grant any extension of stay beyond a period of 365 days, there is no bar for the grant of such a relief by the High Court, if it is of the opinion that the circumstances and the ends of justice so warrant.

5. In the circumstances narrated above, we feel that the petitioner should be granted the benefit of continuation of the stay which had been granted by the Tribunal. This would be in the interest of justice.

6. Consequently, we direct that the stay order granted by the Tribunal will continue till the disposal of the appeal by the Tribunal. We also request the

Tribunal to expedite the hearing of the appeal so that the same can be disposed of at an early date.

The writ petition stands allowed to the aforesaid extent.

Dasti under the signature of the Court Master.

BADAR DURREZ AHMED, J

APRIL 21, 2015
SR

SANJEEV SACHDEVA, J

