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

\+ W.P.(C) 3783/2015 and CM No. 6759/2015

MARUTI SUZUKI INDIA LTD. ..... Petitioner
Through: Mr Ajay Vohra, Ms Kavita Jha and Ms Mehak Gupta

versus

DEPUTY COMMISSIONER OF INCOME TAX ..... Respondent
Through: Ms Suruchi Aggarwal

CORAM:
HON'BLE MR. JUSTICE BADAR DURREZ AHMED
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

O R D E R

% **20.04.2015**

This writ petition is directed against the order dated 27.03.2015 passed by the Income Tax Appellate Tribunal in stay application No. 104/Del/2015 in I.T.A No. 961/Del/2015. By virtue of the said order, the Tribunal has granted conditional stay of recovery of the balance amount subject to the petitioner depositing Rs 50 crores with the revenue on or before 25.04.2015. From the impugned order it appears that there is a disputed demand of approximately Rs 763 crores. The learned counsel for the petitioner submitted that out of the demand raised by the revenue, a substantial part amounting to approximately Rs 345 crores was based on issues already decided in favour of the assessee either by the Commissioner of Income Tax (Appeals) or by the Tribunal or by the High Court. He further submitted that another part amounting to approximately Rs 206 crores were based on issues decided by the jurisdictional high court / Supreme Court in respect of other parties. The sum and substance of the submission made by the learned counsel for the petitioner was that the figure of Rs 50 crores which the Tribunal has required the petitioner to deposit is not on a sound basis.

He submitted that the gross demand payable after excluding decided issues would come to about Rs 161 crores. The said figure of Rs 161 crores includes interest of approximately Rs 59 crores. It is, therefore, submitted that the requirement of depositing Rs 50 crores as a condition for the stay is very high compared to the demand (after excluding decided issues). He submitted that the Tribunal ought to have considered the above circumstances before fixing the figure of Rs 50 crores.

We have heard the learned counsel for the respondent also on this issue and we are of the view that the submissions made by the learned counsel for the petitioner are worth considering and it is for this reason that we remit the matter to the Tribunal to consider the stay application afresh and pass an order with regard to the condition for stay. To enable the Tribunal to do so, the impugned order is set aside. The stay application No. 104/Del/2015 is restored and the same be listed before the Tribunal in the first instance on 01.05.2015. We make it clear that the revenue shall be permitted to make its stand clear with regard to the demand that is outstanding and they shall be entitled to raise their objections to oppose the grant of stay.

The writ petition is allowed as above.

Dasti under signature of the Court Master.

BADAR DURREZ AHMED, J

APRIL 20, 2015 **SANJEEV SACHDEVA, J**

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