$~44

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

\+ W.P.(C) 4299/2015 and CM No. 7791/2015

AITHENT TECHNOLOGIES PRIVATE LIMITED ..... Petitioner
Through: Dr Rakesh Gupta, Ms Poonam Ahuja and Mr Rohit Kumar Gupta

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 1(1) ..... Respondent
Through: Mr Kamal Sawhney and Mr Mukul Mathur for revenue

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

**O R D E R**

**%** **29.04.2015**

By way of this writ petition, the petitioner is seeking extension of the stay granted by the Income Tax Appellate Tribunal to the petitioner in Appeal, being ITA No. 4536/Del/2013, which is pending before the said Tribunal. The Tribunal had earlier granted stay and had been extending the stay from time to time and the last extension of stay was granted on 10.10.2014 for a period of six months. The period of 365 days from the initial grant of stay expired on 27.03.2015.

However, in the meanwhile, the decision of the Division Bench of this Court has been rendered in the case of ***CIT v. Maruti Suzuki (India) Limited*: 362 ITR 215**, whereby it has been held that the Income Tax Appellate Tribunal cannot extend stay beyond the period of 365 days in view of the proviso to Section 254(2A) of the Income Tax Act, 1961. The said decision, however, held that in appropriate cases, the High Court could grant extension of stay in exercise of its jurisdiction under Article 226 of the Constitution of India. It is in these circumstances that the petitioner has filed this writ petition.

We have heard the learned counsel for the parties. The matter is pending before the Income Tax Appellate Tribunal and the next date of hearing is 30.04.2015. The petitioner has had the benefit of stay throughout the pendency of the appeal before the Tribunal and we, therefore, feel that this is a fit case in which this Court ought to extend the stay already granted by the Tribunal.

Consequently, we extend the stay earlier granted by the Tribunal till the disposal of the appeal by the said Tribunal. We hope and expect that the Tribunal shall dispose of the matter at the earliest.

The writ petition stands disposed of.

*Dasti* under signature of the Court Master.

**BADAR DURREZ AHMED, J**

**SANJEEV SACHDEVA, J**

**APRIL 29, 2015**
SU