



* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6108/2007

MARUTI UDYOG LTD

..... Petitioner

Through Mr.S.Ganesh, Sr.Advocate with
Mr.S.Sukumaran, Advocate

versus

ASSISTANT COMMISSIONER OF INCOME TAX & ORS .. Respondents

Through Ms.Rashmi Chopra, Advocate

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S. MURALIDHAR

ORDER

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26.09.2007

Rule D.B.

We have heard learned counsel for the parties. It appears that for the financial years 2001-02 and 2003-04 a demand for Rs.54.36 crores was made against the Petitioner by the Assessing Officer by an order dated 26th March, 2007 since it had not deducted tax at source while making payments to its employees under a Voluntary Retirement Scheme. The Assessee was,

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therefore, held to be an Assessee-in-default under Section 201(1A) of
Income Tax Act, 1961 ('the Act').

Against the said order dated 26th March, 2007, the Assessee preferred an appeal along with an application for stay. Both are still pending before the Commissioner of Income Tax (Appeals) [CIT(A)].

Pending disposal of the appeal as well as the stay application by the CIT (A), the Petitioner had filed an application under section 220(3) of the Act requesting the Assistant Commissioner of Income Tax ('ACIT') not to enforce the demand. This request appears to have been acceded to. By a letter dated 1st August, 2007 the Commissioner of Income Tax ('CIT') informed the Petitioner that since the appeal filed by the Petitioner was fixed for hearing before the CIT (A) on 9th August, 2007, it had been decided to keep the demand in abeyance till 10th August, 2007. The Petitioner was directed to send its representative along with a plan for payment of the demand on 10th August, 2007.



We are told that the appeal was, in fact, heard on 9th August, 2007 when the CIT (A) asked for certain particulars which were handed over to him on 13th August, 2007 by the Petitioner. The hearing was then concluded and orders were reserved by the CIT(A).

On 16th August, 2007, the ACIT wrote a letter to the Petitioner saying that since the CIT had already declined to grant a stay beyond 14th August, 2007, the Petitioner should pay the demand determined at Rs.46.14 crores by 20th August, 2007. It was also mentioned in the said letter that the representative of the Petitioner had promised to make the payment of 50% of the demand but instead of doing that only stay applications were being filed by the Petitioner with the Department at various levels.

Feeling aggrieved by the letter dated 16th August, 2007, the Petitioner approached this Court with the present petition and contended that in spite of the fact that the stay application was pending before the CIT (A), and the appeal filed by the Petitioner had been finally heard by the CIT(A), the ACIT as well as CIT were pressurising the Petitioner to make the payment of



Rs.46.4 crores.

After hearing learned counsel for the Petitioner, we passed an order dated 21st August, 2007 to the effect that till one week after the decision of the appeal filed by the Petitioner before the CIT (A), no coercive steps will be taken by the Respondents pursuant to the letter dated 16th August, 2007.

Today, we have been told that the CIT (A), who had actually heard the appeal filed by the Petitioner, was transferred before he could give the decision on the appeal. Consequently, his successor has now fixed the appeal for hearing afresh on 31st October, 2007.

There cannot be a situation where on the one hand the CIT (A) is neither deciding the stay application filed by the Petitioner nor its appeal, while on the other hand the ACIT and CIT are trying to enforce the demand which is under challenge in the appeal and a stay of which has been prayed for. Under these circumstances, we think it will be appropriate to direct that the Respondent should not take coercive steps pursuant to the letter dated 16th August, 2007 until either the appeal or the stay application is decided by



the CIT (A), whichever is earlier.

Accordingly, we direct that the interim order that we have passed on 21st August, 2007 will continue with the modification that coercive steps will not be taken by the Respondents pursuant to the letter dated 16th August, 2007 for a period of one week after the CIT (A) decides either the application for stay or the appeal filed by the Petitioner, whichever decision is earlier.

With these directions, the writ petition and interim application are disposed of.

Copy of this order be given dasti to learned counsel for the parties.


MADAN B. LOKUR, J


S. MURALIDHAR, J

SEPTEMBER 26, 2007
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