



\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 7911/2007 & CM 14928/2007

MARUTI SUZUKI INDIA LIMITED ..... Petitioner  
Through Mr. S. Ganesh, Sr. Advocate, with  
Mr. A. Deb Kumar, Advocate.

versus

DEPUTY COMMISSIONER OF INCOME TAX  
& ANR ..... Respondent  
Through Mrs. P.L. Bansal, Advocate with  
Mr. Mohit Jolly, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE MADAN B. LOKUR**  
**HON'BLE DR. JUSTICE S.MURALIDHAR**

**ORDER**

% 30.10.2007

The Petitioner has challenged an order dated 1<sup>st</sup> October, 2007 passed by the Income Tax Appellate Tribunal (for short 'the Tribunal') in Stay No.105/Del/2007 in ITA No. 2696/Del/2007 relevant for the Assessment

*WP(C) No.7911/2007*

*page 1 of 5*



Year 2004-2005.

The principal grievance of the Petitioner is to the effect that it was directed to make a deposit of Rs.20 crores before 31<sup>st</sup> October, 2007 and furnish security for the remaining outstanding demand of about Rs.70 crores against tax dues for the Assessment Year 2004-2005.

It is submitted by learned counsel for the Petitioner that the tax due includes tax on a sum of Rs.203.65 crores, which it is stated, has already been paid in respect of the Assessment Year 2003-2004. It is submitted that if the Petitioner is asked to deposit tax in respect of this amount of Rs.203.65 crores in the present Assessment Year also, that is, 2004-2005 then it will amount to double taxation.

Yesterday when the matter was argued, learned counsel for the Petitioner had drawn our attention to paragraph 14 of the order passed by the Commissioner of Income Tax (Appeal) [CIT(A)] on 28<sup>th</sup> March, 2007 in which it is suggested that the tax on the amount of Rs.203.65 crores has been



paid by the Petitioner.

In view of the above submissions, we issued notice to the Respondents and required learned counsel for the Revenue to have instructions whether the tax due on the amount of Rs.203.65 crores has been paid, because it appeared to us that if the amount of tax has already been paid then requiring the Petitioner to deposit Rs.20 crores would really be an unnecessary financial burden on the Petitioner, considering the fact that the Petitioner would actually be entitled to a refund.

Today, learned counsel for the Revenue inform us that it is correct that the tax due on the amount of Rs.203.65 crores has already been paid by the Petitioner in respect of the Assessment Year 2003-2004. It may be mentioned that the amount of Rs.203.65 crores was disallowed as a deduction under Section 43B of the Income Tax Act, 1961 for the Assessment Year 2003-2004. Therefore, according to the Petitioner, it has deposited the tax in respect of that amount of Rs.203.65 crores. The tax paid against this amount



of Rs.203.65 crores is about Rs.130 crores. While the entire demand in respect of the Assessment Year 2004-2005 is only Rs.90 crores after adjustment of the amount of tax of Rs.61.40 crores paid by the Petitioner during the pendency of the appeal pending before the CIT(A) for this assessment year.

Learned counsel for the Petitioner has also handed over a copy of a letter dated 29<sup>th</sup> October, 2007 issued by the Deputy Commissioner of Income Tax to the effect that in respect of the Assessment Year 2003-2004, the Petitioner is entitled to a refund of Rs.7.91 crores, which is now proposed to be adjusted against the outstanding demand for the Assessment Year 2004-2005. The letter should be placed on record.

In view of the above, it appears to us that requiring the Petitioner, in terms of the order of the Tribunal, to deposit a further sum of Rs.20 crores or even furnishing a security for the balance amount of the tax due for the Assessment Year 2004-2005 would place an avoidable financial burden on



the Petitioner especially considering the fact that demand of Rs.203.65 crores claimed as a deduction by the Petitioner under Section 43B of the Act has already been added back in the income of the Assessee for the Assessment Year 2003-2004 and for which tax has admittedly been paid in full.

In the circumstances, we set aside the order dated 1<sup>st</sup> October, 2007 passed by the Tribunal. The result of this will be that the appeal, which is already fixed by the Tribunal for final hearing on 19<sup>th</sup> November, 2007, may be taken up without the Petitioner being required to deposit any amount in terms of order dated 1<sup>st</sup> October,2007.

The writ petition and the pending application are allowed.

Dasti.

  
MADAN B. LOKUR, J

  
S.MURALIDHAR, J

OCTOBER 30, 2007

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