IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3445 OF 2014

Kailashwati Vishwamitter Khosla Petitioner
Vs
State of Maharashtra .. Respondent

Mr. Mahesh Menon i/b Mahesh Menon & Co, Advocate for Petitioner.

Ms. Vaishali Nimbalkar, A.G.P for Respondent.

CORAM : R.G.KETKAR,J.
DATE : 10/09/2015

PC:

1. Heard Mr.Mahesh Menon, learned counsel for the petitioner and Ms. Vaishali Nimbalkar, learned A.G.P for the respondent at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the Judgment and order dated 5.2.2014 passed by Chief Controlling Revenue Authority, Maharashtra State, Pune (for short, 'Authority') in Misc. Application NO. 1/2014. By that order, the Authority dismissed the Appeal preferred by the petitioner for refund of stamp duty.

3. Mr. Menon submitted that the petitioner who is presently 82 years old, wanted to execute Gift Deed. She, therefore, paid stamp duty of Rs.5,27,350/- (through e-stamping) as per Maharashtra Stamp Act (for short, 'Act') from Stock Holding Corporation of India Ltd (for short, 'Corporation') on 31.5.2012.

As the Gift Deed was not executed, the petitioner wrote a letter on 14.6.2012 to the Corporation for refund of stamp duty. On 23.1.2013, the petitioner made application to the Collector of Stamps. The said application was duly acknowledged on 21.3.2013. He submitted that on 22.1.2013 the Corporation also issued certificate in favour of the petitioner for refund of e-stamp amount.

4. Mr. Menon submitted that the petitioner having made application to the Corporation on 14.6.2012, the Authority committed error in holding that the application was not made within six months as per Section 48(3) of the Act. He submitted that the application made by the petitioner to the Corporation has to be treated as application made to the Agent of the State Government. The said application was admittedly made within a period of six months from the date of purchase of stamp duty. The Authority, therefore, was not justified in dismissing the Appeal.

5. In any event, he submitted that period of six months will begin from 22.1.2013 when the Corporation had issued certificate so as to enable the petitioner to apply for refund of e-stamping amount. The period of six months stipulated under Section 48(3) will begin to run from 22.1.2013 and even on this count the Authority was not justified in dismissing the Appeal.

6. On the other hand, Ms Nimbalkar supported the impugned

order. She submitted that the petitioner had purchased stamp duty on 31.5.2012. The petitioner made application for refund on 21.3.2013. As per Section 48(3) the application has to be made to Collector as contemplated by Section 47 within six months from the date of purchase of stamp. The petitioner made application on 21.3.2013 which is beyond period of six months and, therefore, the Authority was justified in dismissing the appeal.

7. I have considered the rival submissions advanced by the learned counsel appearing for the parties. I have also perused the material on record. It is not in dispute that the petitioner has paid stamp duty on 31.3.2012. The moot question is whether the application for refund made by the petitioner is within six months from the date of purchase of stamp. Mr Menon submitted that the petitioner has made application for refund on 14.6.2012 to the Agent of the State Government and, therefore, the same has to be treated within limitation of six months. Alternatively, he submitted that the Agent of the State Government had issued certificate on 22.1.2013. Time of six months will start running from this date.

8. It is not possible to accept this submission. Section 47 provides that application for refund has to be made to Collector within the period prescribed in Section 48. Section 48 (3) lays down that in any other case, not covered by sub-sections (1) and

(2), application has to be made within six months from the date of purchase of stamp. In the present case, the application is made to the Collector only on 21.3.2013. The Authority held that the petitioner ought to have made application on or before 30.11.2012. As the application was made on 21.3.2013, the same was not within time.

9. It is material to note that Section 69 of the Act empowers the State Government to carry out generally the purpose of the Act. Clause (ca) of sub-section (2) lays down that such rules may regulate, or provide for the mmaner of payment of stamp duty, and refund thereof, by e-payment. In exercise of that power, the State Government has made the Maharashtra e-Payment of Stamp Duty and Refund Rules, 2013. Rule 14 deals with refund. Clause (a) thereof lays down that the procedure for refund of stamp duty to be adopted by the collector against simple receipt or e-SBTR shall be the same as applicable in case of the impressed stamp under the Act.

10. In the light of the above discussion, I do not find that the Authority committed any error in dismissing the appeal. Hence, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R.G.KETKAR, J.)