

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3381 OF 2016

Samvara Buildtech Pvt. Ltd. .. Petitioner.
Vs.
State of Maharashtra and Others .. Respondents.

Dr. Milind Sathe, Senior Advocate with Mr.Ravi Gandhi, Mr.M.A. Kamdar and Mr.Amit Kanani i/b Kanga & Co. for the Petitioner.

Mr. Manish M. Pabale AGP for the Respondents.

CORAM : A.S. OKA & A.K. MENON, JJ.

DATED : 18TH APRIL, 2017

P.C.

1. Heard learned Senior Counsel appearing for the petitioner and learned A.G.P. for the respondents.

2. The challenge in this petition is to the communication dated 22nd February, 2016. The petitioner applied for refund of the stamp duty by making an application to the Collector of Stamps, Thane by invoking the provisions of the Maharashtra Stamp Act, 1958 (for short 'the said Act'). By the impugned communication, the prayer made by the petitioner for hearing the application for refund and adjudication proceedings together, has been rejected.

3. During the pendency of this petition, the Joint District

Registrar Class-I, (Higher Grade) Class I and Collector of Stamps, Thane has passed the final order on 2nd March, 2016 under Section 32(A) of the said Act. The learned Senior Counsel appearing for the petitioner has tendered on record a draft amendment for incorporating a challenge to the said order dated 2nd March, 2016. He states that an appeal under Section 32(B) of the said Act has been preferred against the said order dated 2nd March, 2016. As the petitioner has availed of an efficacious statutory remedy, an amendment for challenging the order dated 2nd March, 2016 cannot be permitted.

4. However, if the application for refund, a copy of which annexed as Exhibit-G to the petition, is pending, the same will have to be decided by the Collector of Stamps or the Appropriate Authority empowered to decide the said application. Accordingly, we dispose of the petition, by passing the following order:

- (i) If the application made by the petitioner, a copy of which is annexed at Exhibit-G to the petition, is still pending, the concerned Competent Authority shall decide the application as expeditiously as possible and in any event within a period of three months from today;
- (ii) We make it clear that no adjudication is made on the merits of the order dated 2nd March, 2016;
- (iii) To enable the petitioner to move the Appellate Authority in the appeal preferred under Section 32(B) of the Act for grant of appropriate ad-interim relief, the ad-interim relief granted on 21st

March, 2016 shall continue for a period of six weeks from today. We make it clear that the Appellate Authority shall decide the prayer for the ad-interim without being influenced by the ad-interim order granted on 21st March, 2016 and continuation thereof under this order;

(iv) We dispose of the petition in above terms.

(A.K. MENON, J.)

(A.S. OKA, J.)