<u>IN THE HIGH COURT OF JUDICATURE AT BOMBAY</u>

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1332 OF 2017

Deepak V.Dedhia ….. Petitioner

VERSUS

State of Maharashtra & Ors. ….. Respondents

Mr.Zain Mookhi, a/w. Mrs.Dhawani Bokaria, i/b. M/s.Purnanand & Company for the Petitioner.

Ms.K.N.Solunke, A.G.P. for the State – Respondent nos. 1 to 4.

CORAM : <u>R.D. DHANUKA, J.</u>

DATE : 26th MARCH, 2018

<u>P.C</u>.

Rule. Learned A.G.P. waives service for the respondent nos. 1 to 4. Writ petition is heard finally by consent of parties.

2. By this petition filed under article 227 of the Constitution of India, the petitioner has impugned the order dated 18th September,2014 rejecting the application filed by the petitioner for seeking refund of the stamp duty paid on the ground that the said application was not filed within six months under section 48(3) of the Maharashtra Stamps Act, 1958.

3. It is the case of the petitioner that the stamp was purchased by the petitioner on 29th December,2012. The refund application was made within six months from the date of the purchase of stamp. Learned counsel appearing for the petitioner submits that the

application for refund was received by the authority on 24th June, 2013 which was within six months from the date of purchase of the stamp paper. In view of this controversy this court by an order dated 13th March,2018 called upon the learned A.G.P. to produce the original files pertaining to the application for refund made by the petitioner.

4. Pursuant to the said order, the learned A.G.P. has produced the original file for perusal of this court. A perusal of the file indicates that the said application for refund was received by the authority on 24th June, 2013. In my view, the entire oder passed by the authority proceeds on an erroneous premise rejecting the application for refund made by the petitioner on the ground that the application was not made within six months from the date of purchase of the stamp paper. The impugned order thus deserves to be set aside. The application for refund of the stamp duty is not rejected on any other ground.

5. I, therefore, pass the following order :-

(a) Impugned order dated 18th September,2014 passed by the authority is set aside. The application for refund made by the petitioner for refund of the stamp duty is allowed. The authority shall issue refund order in favour of the petitioner within four weeks from the date of the communication of this order.

(b) Rule is made absolute in the aforesaid terms.

(c) The parties to act on the authenticated copy of this order.

(d) No order as to costs.

[R.D. DHANUKA, J.]