

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 5913 OF 2018**

M/s. TPV Lifespace LLP

.....Petitioner.

Vs.

State of Maharashtra & Ors.

.....Respondents.

Mr. P.S. Dani, Senior Advocate i/by J.G. Reddy for the Petitioner.
Smt. V.S. Nimbalkar AGP, for the Respondent Nos. 1 to 4-State.
Mr. Rohit Sakhadeo for the Respondent No. 5-CIDCO.

CORAM : A. S. GADKARI, J.
DATE : 27th AUGUST, 2019.

P.C.:-

The present Petition takes exception to the Order dated 25th October, 2017 passed by the Respondent No.2 rejecting the Application of the Petitioner for refund of stamp duty paid by him for Agreement to Lease Deed dated 13th May, 2016.

2 Mr. Dani, learned Senior counsel for the Petitioner submitted that, as the said Agreement to Lease Deed has been cancelled by the Respondent No.5-CIDCO by executing a Cancellation Deed dated 8th March, 2017 for the reasons stated therein. The Petitioner filed an Application for refund of said stamp duty paid on Agreement to Lease Deed, which has been rejected by the impugned Order. He further submitted that, before passing the impugned Order, which decides the rights of the Petitioner, pertaining to the issue

involved therein, an opportunity of being heard was not given to it and the same is in violation of the principles of natural justice.

3 The record reveals that, on earlier occasions the learned AGP had sought time to take instructions and file reply in the matter. The record clearly indicates that, till today the Respondent Nos. 1 to 4 have not filed reply. The learned AGP submitted that, by her communication dated 14th August, 2019, she has requested the Respondents to give instructions in the matter. She further submitted that, the said communication is sent by e-mail, as well as, by the RPAD.

 The record clearly indicates that, till today the contesting Respondent Nos. 1 to 4 did not find time to give instructions to the learned AGP, who is representing the State in the matter and for want of instructions, the learned AGP is unable to proceed with the matter.

4 In view of the above, the fact on record remains that, the contention of the Petitioner goes uncontroverted. There is no reason to disbelieve the fact that, the Petitioner was not heard before passing the impugned Order. I find substance in the arguments canvassed by the learned counsel for the Petitioner.

5 In view of the above, impugned Order dated 25th October, 2017 passed by Respondent No.2 is hereby set aside. The Application of the Petitioner for refund of Stamp Duty is restored to the file of the Respondent No.2.

 The Respondent No.2 is hereby directed to grant an

opportunity to the Petitioner of being heard before passing Order on the Application filed by the Petitioner for refund of stamp duty.

6 This be done within a period of three months from the date of receipt of the present Order.

Petition is allowed in the aforesaid terms.

(A.S. GADKARI, J.)