IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10768 OF 2016

M/s. Omega Reality ...Petitioner.
vs.
State of Maharashtra and ors. ...Respondents.

Ms. Mandakini Bhangale with Mr. Rahul Kadam and Sushant Tayade for the petitioner.
Ms. K.M.Salunke, AGP. for Respondent Nos.1 to 4.
Mr. Rajendra Raikar, Collector of Stamps present in court.

CORAM : C.V. BHADANG, J.
DATED : 12TH DECEMBER, 2019

PC:

1. Heard learned counsel for the parties.

2. Rule.

3. Rule made returnable forthwith by consent of the parties.

4. The challenge in this petition is to the order dated 12.2.2015 passed by the Chief Controlling Revenue Authority, Maharashtra State, Pune thereby rejecting the application for refund of stamp duty under Section 48(3) of the Bombay Stamps Act, 1958 ("Act" in short) as being barred by limitation.

5. The brief facts are that the petitioner had purchased stamp worth Rs.10,85,000/- on 11.5.2013 for the purpose of execution of sale deed with Mr. Shivram Somaji Kumbhar. It appears that the said deed was partly rescinded on 11.8.2013 as according to

the petitioner Shivram Somaji Kumbhar demanded further consideration. As the transaction had fallen through the petitioner made an application for refund of stamp duty on 11.11.2013 before the Collector , Thane which was accompanied by a copy of the sale deed as well as affidavit. The Chief Controlling Revenue Authority who ultimately considered the application found that the stamps were purchased on 11.5.2013 and the application having been made on 11.11.2013 was beyond the period of six months and has therefore rejected the same.

6. Learned counsel for the petitioner points out that the application is indeed made within six months of the purchase of the stamp duty. She points out that 9th November and 10th November , 2013 were holidays being second Saturday and Sunday and therefore, the application was clearly made within six months. Faced with this, the learned AGP on instructions states that, the application for refund shall be reconsidered by the Chief Controlling Revenue Authority on its own merits and in accordance with law within a period of eight weeks from today. Statement so made is accepted. In the result, petition is allowed. The impugned order is hereby set aside. The Chief Controlling Revenue Authority shall reconsider the application of the petitioner for refund on its own merits and in accordance with law and the same

shall be decided within a period of eight weeks from today.

7. Rule is made absolute in the aforesaid terms with no order as to costs.

(C.V. BHADANG, J.)