

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

WRIT PETITION NO.9153 OF 2018

Wooden Boxes Manufactures
Co-operative Industrial Estate Ltd. ..Petitioner
V/s.
The Collector of Stamps, Thane & Ors. ..Respondents

Mr.Sachin S. Punde for the Petitioner.

Ms.M.S. Bane, AGP for the Respondent Nos.1 to 4-State.

Mr.Ravindra Aade, Clerk from the Office of The Collector of Stamps,
Thane is present.

CORAM : C.V. BHADANG, J.

DATE : 20th DECEMBER 2019

P.C.

1. Rule made returnable forthwith. The learned AGP waives service on behalf of the respondents. Heard finally by consent of parties.

2. This petition can be disposed of on a short count. The petitioner is challenging the order dated 31st January 2014 passed by the third respondent refusing to allow the refund of the stamp duty as claimed on behalf of the petitioner. The said order has been confirmed by the respondent No.3 itself stating that the appeal is

not maintainable. By an order dated 21st March 2016 the petitioner sought a reference of the dispute to this Court under Section 54 of the Maharashtra Stamp Act which reference has been refused by an order dated 25th April 2017 which orders are subject matters are challenge in this petition.

3. The main contention on behalf of the petitioner is that the observation in the order dated 31st January 2014 that the transfer of the TDR is complete and as such the purpose of obtaining the stamp duty has materialized, is factually incorrect. The learned counsel for the petitioner points out that the third respondent has found that the application was filed within a period of limitation of the six months and therefore could not have refused to grant the refund..

4. The learned AGP on instructions from representative from the Collector of Stamps, Thane, states that the third respondent shall reconsider the matter and shall pass appropriate orders after hearing the petitioner. The statement so made is accepted.

5. In the result, by consent of the parties the impugned orders are hereby set aside. The application filed by the petitioner on 23rd June 2011 is restored back to the file of the third respondent for deciding it afresh on its merits and in accordance with law. Considering the fact that the application is quite old, the third respondent shall decide the same within a period of three months from today.

6. The petitioner to remain present before the third respondent on 06th January 2020.

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

[C.V. BHADANG, J.]