IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7368 of 2023

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Munni Devi W/o Late Chandra Mani Singh, resident of 230, DVC Road, Gardanibagh, JDUNIR Anamika Apartment, P.S. Gardanibagh, Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Prohibition, Excise and Registration Department, Govt. of Bihar.
2. The Chief Secretary Department of Prohibition, Excise and Registration Department, Govt. of Bihar.
3. The Collector, Patna, Bihar.
4. The Additional Collector, Patna Collectorate, Patna.
5. The District Registrar, Registration office, Patna Sadar, Patna.
6. The Sub Registrar District Sub Registry Office Sadar, Patna.
7. The Treasury Officer, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rakesh Kumar Singh, Advocate

For the Respondent/s : Mr.Vikash Kumar (Sc11)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 13-08-2024

1. The present writ petition has been filed for quashing the order dated 06.12.2022, passed by the District Sub-Registrar, Patna whereby and whereunder the petitioner has been informed that Rule 2(i) of the Bihar Stamp (Refund of amount of non-judicial Stamp Duty, deposited by E-Challan) Rules, 2018 (hereinafter referred to as the 'Rules, 2018'), provides for filing of application for refund of Stamp duty deposited by E-Challan, within one year, however, since the petitioner has filed application for refund after one year, the refund cannot be made.

2. The facts not in dispute are that the Stamp duty was

purchased by the petitioner by E-Challan, to the tune of Rs.6,12,550/-, on 27.11.2019, however, the instrument in question could not be executed, hence the petitioner had applied for refund of the Stamp duty on 02.09.2022.

3. It is submitted by the learned counsel for the petitioner that though the application for refund has been filed beyond the period of limitation of one year, however, on account of the impending Covid-19 pandemic situation, the petitioner was prevented from applying for refund of the stamp duty, within the prescribed time period of one year. It is next contended that the Hon'ble Apex Court in the case of "In Re: Cognizance for Extension of Limitation" (Suo Motu Writ Petition (C) No.03 of 2020), by an order dated 10.01.2022, has been pleased to extend the period of limitation, paragraph no.05, whereof being relevant, is being reproduced hereinbelow:-

> *"5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:*
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> *I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021. 27.04.2021 and*

23.09.2021. it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi- judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting *proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings."*

4. The learned counsel for the petitioner has submitted that upto the period 15.03.2020, only about 3.5 months, out of the prescribed period of one year, had expired as far as filing of application for refund of stamp duty is concerned, whereafter, the limitation period had stopped running i.e. starting from 15.03.2020 to 28.02.2022, as per the aforesaid order of the Hon'ble Apex Court dated 10.01.2022 and the same started ticking only with effect from 01.03.2022, hence the period in between 15.03.2020 to 28.02.2022, is required to be excluded while calculating the period of limitation. It is thus submitted that approximately 8.5 months were remaining in hand, as on 01.03.2022, for the limitation period to expire, thus the same being greater than 90 days, the petitioner was entitled to make an application for refund of the Stamp duty upto the mid of November, 2022, however, she had applied for refund of stamp duty prior to the said period i.e. on 02.09.2022, hence it is submitted that the application made by the petitioner for refund of stamp duty is within the prescribed time limit, by virtue of the effect of the aforesaid order of the Hon'ble Apex Court dated 10.01.2022.

5. As far as the respondent-State is concerned, it does not have any quarrel with the aforesaid aspect of the matter as also

the learned counsel for the respondent-State has not disputed the correctness of the applicability of the aforesaid methodology laid down by the Hon'ble Apex Court in its order dated 10.01.2022, as aforesaid.

6. Having regard to the facts and circumstances of the case and taking into account the manner in which the methodology laid down by the Hon'ble Apex Court, in its aforesaid order dated 10.01.2022, has been applied by the learned counsel for the petitioner in the present case, as has been noted in the preceding paragraphs, this Court holds that the application filed by the petitioner, dated 02.09.2022, for refund of the Stamp duty amounting to a sum of Rs.6,12,550/-, is within time, hence the District Registrar, Registration Office, Patna is directed to ensure refund of the aforesaid amount of Rs.6,12,550/-, within a period of six weeks from today, failing which he shall not draw his salary.

7. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.08.2024
Transmission Date	NA