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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 11939/2023

SURINDER PAL SINGH ..... Petitioner

Through: Mr. Manoj Kumar Garg, Advocate.

versus

UNION OF INDIA & ANR. ..... Respondents

Through: Mr. Satyakam, ASC for GNCTD.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **07.02.2024**

1. Present writ petition has been filed challenging the Constitution validity of Section 54(c) of the Indian Stamp Act, 1899 as well as for a direction to the Respondent to refund an amount of Rs. 7,20,000/- paid by the Petitioner towards the purchase of E-Stamp certificate along with interest at the rate of 9% per annum from 16th May, 2018 till the date of payment.

2. Learned counsel for the Petitioner states that though the validity and legality of Section 54(c) of the Indian Stamp Act has been upheld by a Coordinate Division Bench of this Court in ***Citius Real Estate (P) Ltd.*** *vs.* ***Union of India and Another***, ***2023 SCC OnLine Del 7514***, yet, the said Court has held as under: -

> *"60. The question that arises is that what would be the period of limitation if the provisions of Section 54(c) of the Act are inapplicable. In State of Punjab & Ors. v. Bhatinda District Cooperative Milk Producers Union*

Ltd.19, the Supreme Court held that in cases where the period of limitation is not prescribed, the application must be made within a reasonable period. In case no time is provided for an Act, the same must be done in a reasonable period. What would be a reasonable period must be construed in the context of the provisions of the Act. Section 54(c) of the Act and Section 50 of the Act indicate that the legislative intent to confine the period for seeking allowance to not exceed six months after the cause of action has arisen. Thus, in cases where the applicant applies for refund of unused stamps/stamp certificate within a period of six months of becoming aware that he has no immediate use of the same, the claim for refund cannot be stated to be delayed and must be admitted. This is, obviously, subject to the applicant satisfying clauses (a) and (b) of Section 54 of the Act– the Stamps must have been purchased for full consideration with the bonafide purpose to use them.

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62. The petitioner's claim can be looked at with another perspective. It is apparent that the petitioner had purchased the stamps under a mistaken belief that the NOC for the subject property would be forthcoming and had sought the refund immediately on being aware of the said mistake. As noted above, there is no dispute that the taxing event has not occurred, thus, the petitioner had no liability to pay the stamp duty which has been paid by it. Plainly, no such amount could be recovered if the petitioner had not purchased the stamp certificate. The instrument chargeable to tax was never executed and thus, the stamp duty collected was not chargeable. As stated above, the refund of such tax is not covered under the Act. It is well settled that the person paying tax, which is not payable, under a mistake is entitled to the refund of such tax if the same is not proscribed by the statue, either expressly or by necessary implication. The limitation as provided under the relevant Act may not strictly apply, if the refund is not covered under the enactment."

3. In view of the aforesaid, learned counsel for the Petitioner states that Petitioner is entitled to refund of the e-stamp purchased by him.

4. Since, the effect of the Division Bench judgment of this Court in ***Citius Real Estate (P) Ltd.*** *vs.* ***Union of India and Another*** (supra) has not been considered by the Collector of Stamps while passing the impugned order, this Court set aside the impugned order and directs the Collector of Stamps to decide the Petitioner's prayer for refund afresh within six weeks

in accordance with the observations made by this Court in paragraphs 60 and 62 of the aforesaid Division Bench Judgment.

5. With the aforesaid directions, the present writ petition stands disposed of.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 7, 2024/*rhc*