IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11481 OF 2024

Vivo Mobile India Pvt. Ltd.
Thr Baidyanath Banerjee ...Petitioner
Versus
State Of Maharashtra Thr
Dept Of Registration Of Stamps and Ors ...Respondents

Adv. Mahalakashmi Ganapathy a/w Tanmay Bhave, for the Petitioner.
Adv. Y.D. Patil AGP for the Respondent-State.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE : 14 JANUARY 2025

__P.C.:__

1. This petition under Article 226 of the Constitution of India is filed, praying for a relief that the petitioner is entitled to a refund of stamp duty of Rs. 10,00,000/- as also payment of Rs. 80,000/- paid by the petitioner on the document of a bank guarantee. In this context, our attention is drawn to an interim order dated 29 September 2017, passed by the Collector of Stamps, whereby such amount has been determined. The interim order is passed under the proceedings under section 31 of the Mumbai Stamp Act, 1958. Our attention is drawn also to a final order passed by the Collector of Stamp in the said proceedings, whereby on the bank guarantee of Rs. 2,199 Crores, a stamp duty of Rs. 10,00,000/- has been levied under the Article 54 of the schedule of the Stamp Act and also penalty is charged.

2. The petitioner contends that the form of bank guarantee is only a proforma and no stamp duty under Article 54 is leviable on the said document. So contending, the petitioner after making payment of the said amount of Rs.10,80,000/- immediately approached the Collector of Stamps, Mumbai, by an application/representation dated 21 February 2018, praying for refund of the said amount. However such application was not decided. The petitioner thereafter made further application. The last such application being made on 7 January 2023. All such applications are part of the paper book of the petition. As the said applications/representations are not being decided, the petitioner has chosen to approach this Court by the present petition, praying for the following substantive reliefs :-

> *"a. Pass an Order for the writ of Certiorari, quashing & setting aside the Impugned Orders 29.9.2017 and 25.1.2018 passed by the Respondent No. 1 to the effect wherein the Stamp Duty on the Bank Guarantee format was imposed along with the penalty upon the same and direct the Respondent No. 1 to refund the Said Amount of Rs. 98,76,000/- (Rupees Ninety Eight Lakhs Seventy Six Thousand Only) along with the interest at the rate 18% per annum from the date of payment of the penalty;*
> *b. Direct the Respondent to return the original IPL agreement;*
> *c. In the alternative, Direct the Respondents to adjudicate upon the letter of protest, reminders, refund applications and complaint filed by the Petitioner;"*

3. Having heard learned counsel for the parties and also having perused the record, we are of the opinion that as there was two orders, firstly the interim order dated 29 September 2017 and secondly final order dated 25 January 2018 passed by the Collector of Stamps, we are of the opinion that in the circumstances of the case, it would be appropriate that the petitioner invokes the provisions of section 32(C) of the Mumbai Stamp Act, 1958, file a revision to assail the orders passed by the Collector of Stamps on the levy of stamp duty of Rs. 10,00,000/- and on the sponsorship agreement, on which the penalty of Rs. 87,96,000/- has been levied.

4. It is clear from the record that the petitioner was *bona fide* pursuing with refund claim. In this view of the matter, we are inclined to dispose of this petition, permitting the petitioner to take recourse to the alternate remedy as available in law. Hence the following order :-

ORDER

I) The petitioner is at liberty to file a revision as per the provision of section 32(C) of the Mumbai Stamp Act, 1958 against the levy of stamp duty of Rs. 10,00,000/- and penalty of Rs. 80,00,000/- on the document of the bank guarantee, as also challenge the levy of penalty of Rs. 87,96,000/-, as levied on the sponsorship agreement.

II) Let such revision be filed within two weeks from the day a copy of this order is available. If the same is filed, the revision shall be decided by the Chief Revenue Authority in accordance with law and without an objection as to limitation.

III) The petitioner is also permitted to make a prayer for return of the original documents.

IV) The revision be decided as expeditiously as possible. More particularly on the prayer for the return of documents order be passed within two weeks from the filing of the revision petition.

III) All contentions of the parties are expressly kept open.

IV) Disposed of in aforesaid terms. No costs.

[ADVAIT M. SETHNA, J.] **[G. S. KULKARNI, J.]**