**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

206 **CWP No. 1864 of 2020 (O&M)**
DATE OF DECISION: 19.11.2025

M/s Classic Displays Systems Pvt. Ltd.

....Petitioner

VERSUS

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Salil Sabhlok, Advocate for the petitioner.

Mr. Chirag Wadhwa, DAG Haryana
for the respondents.

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JASGURPREET SINGH PURI, J (ORAL)

The present petition has been filed under Article 226 of the Constitution of India, seeking issuance of a writ in the nature of *Mandamus* or any other writ, direction or order, directing the respondents to refund the excess Stamp Duty paid along with interest at the rate of 18% from 11.07.2018 till the date it is refunded.

2. Learned counsel appearing on behalf of the petitioner while giving brief facts of the present case submitted that the petitioner-company is a purchaser of a Plot No. 119, Sector 6, IMT Manesar, Gurugram, and had deposited a sum of Rs.27,65,000/- towards the stamp duty in the Treasury for which a certificate was issued on 07.07.2018. Thereafter, on 11.07.2018, the sale deed was duly registered by the Sub/Joint Registrar Officer Manesar, vide Annexure P-2. The actual stamp duty calculated on the subject matter was

only Rs.19,75,000/- but inadvertently, the petitioner paid an amount of Rs.27,65,000/- and these two figures are so reflected in the aforesaid sale deed (Annexure P-2). He submitted that there is no dispute with regard to the aforesaid factual position that the actual stamp duty which was required to have been paid was only Rs.19,75,000/- but the same was paid to the tune of Rs.27,65,000/- which was an inadvertent mistake and therefore, just after about a few days i.e. on 23.07.2018, the petitioner immediately moved an application vide Annexure P-4 to the Deputy Commissioner, Gurugram, by way of Registered post, for refund of the excess amount of Rs.7,90,000/-, photocopies of the registered post receipts are also attached along with the aforesaid Annexure P-4. When no response was received from the respondents then another application dated 02.08.2018 was filed vide Annexure P-5 for the refund of the aforesaid excess amount and photocopy of the receipt of the registered letter is also attached alongwith aforesaid Annexure P-5. Still no response was received from the respondents and it was thereafter on 14.08.2019 vide Annexure P-6, a legal notice was sent but still no response was received from the respondents. He submitted that admittedly when excess stamp duty has been paid to the respondents which they have retained for a long period of time i.e. from 07.07.2018 and have been earning interest out of the same and the fact that two times immediately after deposit of the aforesaid excess stamp duty, the petitioner vide registered post sought for the refund of the aforesaid amount but no response was received from the respondents and they remained silent and therefore, the petitioner was constrained to file the present writ petition for refund of the amount.

3. Learned counsel for the petitioner submitted that it is a case where the fact that an excess amount has gone to the State Exchequer is not disputed, however, in the reply filed by the respondents, they have not denied

the aforesaid excess amount being deposited by the petitioner with the respondents but an objection has been taken that the same is not refundable, in view of a Division Bench judgment of this Court ***in LPA No. 847 of 2019 titled as State of Haryana and another Versus ASP Sarin Reality Pvt. Ltd., decided on 15.10.2025***, (Annexure-R1), which has been attached along with the reply. He submitted that as per the aforesaid judgment of a Division Bench of this Court in LPA No. 847 of 2019, the reason for setting aside the judgment passed by learned Single Judge, was that in that case, the refund was sought after a period of three months and therefore, it was in violation of the Provisions of Section 45(2) of the Indian Stamp Act, 1899 (hereinafter referred to as 'the Act') and therefore, the judgment passed by learned Single Judge was set aside. Learned counsel submitted that in the present case, however, it is an admitted position that the petitioner acted promptly and within a few days vide Annexures P-4 and P-5 had moved an application to the respondents for refund of the amount and therefore, the aforesaid judgment passed by a Division Bench of this Court in **ASP Sarin Reality's case (supra)**, is distinguishable on the facts from the present case. Learned counsel submits that once extra amount has been inadvertently paid to the State Exchequer on which the State has enjoyed interest they are liable to refund the same back along with interest and there is no justification for retaining the aforesaid amount because otherwise it will amount to unjust enrichment of the State Exchequer at the costs of hard earned money of the petitioner. Therefore, the petitioner has prayed for refund of the aforesaid amount along with interest at the rate of 18% per annum.

4. On the other hand the learned State counsel submitted that in pursuance of the earlier order passed by this Court, the concerned Officers are present in the Court. He submitted that he has also sought instructions from the

aforesaid Officers out of them, one namely Mr. Vijay Yadav is posted presently where the sale deed was regitered. On a specific query being raised from the aforesaid two Officers as to whether the aforesaid amount of Rs.27,65,000/- was an excess amount, which the petitioner was not bound to deposit and whether at the time of registration of Sale deed, he had deposited the stamp duty charges extra to the tune of Rs.7,90,000/- or not to which they submitted that aforesaid was an extra amount because he was to purchase the stamp duty of only Rs.19,75,000/- and not of Rs.27,65,000/-. However, at the same time they submitted that the petitioner cannot seek refund because there is no provision for seeking refund and in view of aforesaid Division Bench judgment of this Court Annexure R-1, he cannot seek refund.

5. Learned State counsel submitted that in this way it is therefore an admitted position that at the time of registration of the sale deed, the petitioner had deposited an excess amount of Rs.7,90,000/-. However, the petitioner cannot seek refund of the same because there is no provision of seeking refund and apart from the above, as per the judgment of Division Bench of this Court vide Annexure R-1, the same cannot be refunded.

6. I have heard learned counsel for the parties.

7. Some of the dates and factual position are not in dispute. On 07.07.2018, stamp duty was paid by the petitioner to the tune of Rs.27,65,000/- and on 11.07.2018 sale deed was registered. Petitioner filed an application for refund vide Annexure P-4 on 23.07.2018 and another application was filed vide Annexure P-5 on 02.08.2018. Both the applications are supported by photocopy of the postal receipts. When the petitioner filed the present petition he specifically so averred in Para-5 of the petition that after the sale deed was registered, it transpired that he had paid an excess amount of Rs.7,90,000/- and therefore, he immediately submitted a request to

the Deputy Commissioner, vide Annexure P-4 dated 23.07.2018 for the refund of the amount and thereafter in Para-6, he so averred that a reminder was also sent vide Annexure P-5 dated 02.08.2018. A perusal of the reply, which has been filed by the respondents would show that the respondents-State has not specifically denied the aforesaid factual position that the petitioner had submitted application for refund vide Annexures P4 and P5 but only plea was taken that the petitioner was not entitled for the refund, therefore, it becomes abundantly clear and an admitted position considering the reply filed by the respondents that the petitioner filed application for refund vide Annexure P-4 dated 23.07.2018 and vide Annexure P-5 02.08.2018 and both the aforesaid applications were within the period of three months from the date of deposit of stamp duty and also the execution of the sale deed.

8. Section 45 of the Indian Stamp Act, deals with the power of the Revenue-authority to refund penalty or excess duty in certain cases. The aforesaid Section is reproduced as under:

> *"**45. Power to Revenue-authority to refund penalty or excess duty in certain cases.** — (1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.*
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> *(2) Where, in the opinion of the Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess."*

9. As per sub Section (1) where any penalty is paid under Section 35 or section 40, then Chief Controlling Revenue-authority may upon application

in writing within one year refund such penalty wholly or in part. However, in the present case it was not a case of penalty under Section 35 or Section 40 and therefore, Sub Section (1) of Section 45 would not apply in the present case. Sub Section (2) of Section 45 provides where in the opinion of the Chief Controlling Revenue-authority, stamp-duty which is in excess of that which is legally chargeable has been charged and paid under Section 35 or Section 40, such authority may upon application in writing made within three months of the order charging the same, refund the excess. In this way, Sub Section (2) also deals with the penalty which was paid under Section 35 and Section 40 but a time limit has been set for filing of an application for refund within a period of three months.

10. In the present case, the subject matter does not fall within the ambit of Section 35 and Section 40, because it is not in the nature of penalty but a case where an excess amount at the time of registration of sale deed has been paid by the petitioner inadvertently for which he is seeking refund.

11. This aspect pertaining to the application of Section 45 as to whether it is applicable to such kind of cases for excess payment at the time of registration of sale deed either voluntarily or inadvertently was discussed by a Co-ordinate Bench of this Court in a judgment titled as ***ASP Sarin Reality Pvt. Ltd. Versus State of Haryana and others, CWP No. 6883 of 2016 decided on 15.03.2018***, vide Annexure P-7 and it was held that both the aforesaid provisions either in Sub Section (1) or Sub Section (2) do not apply to the cases where the case pertains to the refund of excess stamp duty because they only pertains to Section 35 or Section 40. It was so held in the aforesaid judgment by learned Single Judge, that since the deposit of excess stamp duty does not fall either in Sub Section (1) of Section 45 or Sub Section (2) of Section 45, the question of period of limitation would not apply and in that

case the application was made after the expiry of three months and it was concluded by learned Single Judge that even if the application was made after a period of three months, the aforesaid period of limitation of Section 45(1) or (2) does not apply to deposit of excess duty either inadvertently or voluntarily, the writ petition was allowed because there was no question of application of the period of limitation.

12. The aforesaid judgment was assailed by the State by filing LPA which was allowed by the Division Bench of this Court in LPA No. 847 of 2019, decided on 15.10.2025, vide Annexure R-1. The Division Bench of this Court in the aforesaid LPA was of the view that even if it was a case of stamp duty paid voluntarily, the intention of the legislator was to refund excess amount and an amount which is in nature of refund, for which, period of limitation of three months has been prescribed as per Section 45(2) , the same will apply even to those cases where the excess amount is paid voluntarily and since in that case, the application for refund was made after a period of three months, a Division Bench of this Court set aside the judgment of learned Single Judge, on this ground.

13. However, in the present case, the facts are different. In the present case, the application for refund was made within a few days vide Annexure P-4 and Annexure P-5 and definitely before three months and therefore, even by applying the ratio of the aforesaid Division Bench judgment of this Court, the petitioner cannot be non-suited only because of reason that he has filed application beyond the period of three months because it is an admitted position that he filed two applications for refund within the period of three months and therefore, the present case is totally distinguishable from the aforesaid judgment passed by a Division Bench of this Court. So far as the right of the petitioner to seek refund of the excess amount being paid is

concerned since it was a case where it is admitted position that he paid the excess amount to the State Exchequer regarding which neither State counsel has disputed nor the two Officers who are of the rank of District Revenue Officers, who are present in Court, have disputed the same, therefore, the petitioner would certainly be entitled to refund of the amount which has been paid by him to the State Exchequer. The amount remained with the State from the year 2018 till date and the State must have earned interest on the same. Therefore, the petitioner would also be entitled for interest at the rate of 6% per annum simple interest otherwise this would amount of unjust enrichment of State Exchequer.

14. Consequently, the present writ petition is allowed and the respondents-State is directed to refund the aforesaid excess amount of Rs.7,90,000/- along with interest at the rate of 6% per annum simple interest within a period of three months from today.

(JASGURPREET SINGH PURI)
JUDGE

19.11. 2025
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Whether speaking/reasoned: Yes
Whether reportable: yes