



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

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**CM-2025-LPA-2019 in/and
LPA-847-2019 (O&M)
Decided on : 15.10.2025**

STATE OF HARYANA AND ANOTHER

. .Appellant.

Versus

ASP SARIN REALITY PVT. LTD.

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

**PRESENT: Mr. Sandeep Chhabra, Additional A.G., Haryana
for the appellant.**

Mr. Mohit Garg, Advocate for the respondent.

HARSIMRAN SINGH SETHI , J. (Oral)

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The prayer in the present application is for condonation of delay of 129 days in filing the present appeal (**LPA-847-2019**).

Keeping in view the averments enumerated in the application, which are duly supported by an affidavit, the same is allowed. Consequently, the delay of 129 days in filing the present appeal (**LPA-847-2019**) is condoned.

LPA-847-2019

1 The present appeal has been filed against the judgment dated 15.03.2018 passed by the learned Single Judge by which, the civil writ petition No. 6883 of 2016 filed by the respondent/petitioner for the refund of the excess stamp duty paid by him on the eight sale deeds of the



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agricultural land situated outside the municipal limits of District Gururgram executed and registered in the year 2013, has been allowed.

2. Learned counsel appearing on behalf of the appellant argues that though, Section 45 of the Indian Stamp Act, 1899 (herein after referred to 'the 1899 Act') has been reproduced by the learned Single Judge in the judgment dated 15.03.2018, but the same has been held to be inapplicable, and directions have been given to refund the excess stamp duty paid by the respondent/writ petitioner.

3. Learned counsel for the appellant further submits that Section 45 (2) of the Indian Stamp Act, 1899 will be applicable, which fact has not been appreciated by the learned Single Judge, in a correct perspective while passing the impugned judgment dated 15.03.2018.

4. Per contra, learned counsel appearing on behalf of the respondent/writ petitioner submits that although Section 45 (2) of the 1899 Act governs the refund of excess stamp duty paid by the respondent/petitioner but, the limitation period of three months will only be applicable qua the stamp duty charged and paid under Section 35 or Section 40 of the 1899 Act as the case may be, hence, the interpretation given by the learned Single Judge, while passing the impugned judgment dated 15.03.2018 is perfectly valid that any stamp duty paid beyond the liability, refund thereof can be sought at any point of time.

5. We have heard learned counsel for the parties and have gone through the case file with their able assistance.

6. Once, it is a conceded position that the claim raised by the



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respondent/writ petitioner rests solely upon the provisions of Section 45 (2) of the 1899 Act. The core question that arises for consideration is whether any distinction or bifurcation can be drawn regarding the nature of the claim for refund of excess stamp duty particularly in light of whether such payment was made voluntarily or pursuant to directions issued by the competent authorities under Sections 35 and 40 of 1899 Act.

In this regard, the relevant Section 45 of the 1899 Act has been reproduced by the learned Single Judge in the impugned judgment dated 15.03.2018, but for the purpose of the present order, the same is also being reproduced for the ready reference.

“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.

(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. ”



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7. It may be noticed that in case, the assertion of the learned counsel for the respondent/writ petitioner is accepted, then the excess stamp duty which is paid by the respondent/writ petitioner pursuant to the directions issued by the competent authority under Section 35 or Section 40 of the 1899 Act, can be refunded only if the application seeking such refund is submitted by the respondent-petitioner within the period of three months. In the absence of any other provisions conferring jurisdiction upon the authorities, there exists no statutory basis for claiming refund of voluntarily paid stamp duty beyond the liability prescribed under the Act.

8. Once, it is acknowledged that there is no provision under 1899 Act, to seek the refund of the voluntarily paid stamp duty paid beyond the liability and only Section 45 (2) of the 1899 Act will be made applicable, even qua the voluntarily paid excess stamp duty, which was also the case of the respondent/writ petitioner, under Section 45 (2) of the 1899, limitation of three months for submission of an application seeking refund of the excess stamp duty has been provided, which limitation has to be made applicable for all kinds of refunds sought including the stamp duty paid beyond the liability paid voluntarily.

9. Keeping in view the above, the learned Single Judge has erred in the interpretation given to the said clause of 1899 Act, so as to mean that refund of excess stamp duty paid voluntarily can be sought at any given point of time irrespective of the time lapse as that said view will be contrary to the legislature intent and basic nature of the refund provided by the Legislature under Section 45 (2) of the 1899 Act which specifically



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prescribes a time bound mechanism for seeking refund of duty paid in excess as per Section 45 (2) of the 1899 Act.

10. That being so, the judgment dated 15.03.2018 passed by the learned Single Judge is perverse keeping in view the facts and settled principle of law, hence, the same cannot be sustained in the eyes of law. Consequently, the judgment dated 15.03.2018 passed by the learned Single Judge is hereby set-aside and the writ petition filed by the respondent/petitioner stands dismissed.

11. The present appeal stands allowed.

12. Pending civil miscellaneous application(s), if any, stand disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

15.10.2025

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Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*