(2019) 08 CAL CK 0177

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 12918 (W) Of 2019

Aditya Kumar Shaw & Anr APPELLANT

Vs

State Of West Bengal & Ors RESPONDENT

Date of Decision : 13-08-2019

Acts Referred:
Indian Stamp Act, 1899 — Section 54, 54(c)

Citation : (2019) 08 CAL CK 0177

Hon'ble Judges : Debangsu Basak, J

Bench : Single Bench

Advocate : Partha Pratim Roy, Dyutiman Banerjee, P. Dudhoria, Debasish Ghosh

Final Decision : Dismissed

Judgement

Debangsu Basak, J

The Court:- A refusal to refund the stamp duty is under challenge in the present writ petition.

Learned advocate appearing for the petitioners submits that, the petitioners deposited stamp duty for the purpose of presentation of two deeds of gift for registration. The petitioners did not present the documents for registration. Therefore, the deposited stamp duty remained unutilized. The petitioners applied for extension of time to register the documents. Such prayer was disallowed. Thereafter, the petitioners applied for refund. The same was disallowed.

Learned advocate appearing for the petitioners relies upon Section 54 of the Indian Stamp Act, 1899 and submits that, the authorities ought to have refunded the stamp duty. There is no provision for refusal to refund the deposited stamp duty on the ground of expiry of six months. He draws the attention of the Court to the order refusing to refund the deposited stamp duty. He submits that, the ground given in the impugned order cannot be sustained.

Learned advocate appearing for the State submits that, the petitioners deposited the stamp duty on September 13, 2017 and applied for refund for the same on August 13, 2018 by which time a period in excess of six months from the date of deposit of the stamp duty had expired. He refers to Section 54(c) of the Act of 1899 and submits that, the liability to refund is within six months from the date of deposit of the stamp duty.

The petitioners obtained two valuation reports for the purpose of registering two deeds of gifts. The petitioners deposited an aggregate sum of Rs. 1,55,875/- for the purpose of registering two deeds of gift. The petitioners deposited the same with the Directorate of Registration and Stamp Revenue on September 13, 2017. However, such deeds of gift were not presented for registration. The petitioners applied for extension of time to present the deeds of gift for registration by a letter dated October 24, 2017. The petitioners did not hear anything from the authorities. The petitioners, thereafter, sought refund of the aggregate amount of Rs.1,55,875/- from the respondents by a letter dated August 13, 2018. By the impugned writing, the authorities rejected the application for refund on the ground that, a period in excess of six months expired from the date of deposit of the stamp duty.

Section 54 of the Act of 1899 deals with allowance for stamps not required for use. It is as follows: -

"54. Allowance for stamps not required for use.- When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Collector shall repay to such person the value of such stamp or stamps in money, deducting [ten naye paise] for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and providing to the Collector's satisfaction -

(a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and

(b) that he has paid the full price thereof; and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Collector may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid."

Section 54 of the Act of 1899 allows a person who is possessed of a stamp or stamps and who did not spoil or render the same unfit or useless for the purpose intended, and who does not have any immediate use thereof can apply to the Collector for refund. The Collector is required to refund the value of such stamp or stamps in money, deducting 10% for every rupee or a portion of a rupee. However, such an application for refund is sustainable only when the stamp purchased by the person was with the bona fide intention to use them and when such person paid the full price thereof and when the stamps was so purchased was within the period of six months next preceding the date on which the stamps were delivered to the Collector for cancellation. Section 54 amongst others, prescribes a time limit within which a stamp purchased must be delivered to the Collector for cancellation. It is six months from the date of purchase.

In the facts of the present case, the petitioners deposited stamp duty on September 13, 2017. Therefore, September 13, 2017 is the date of purchase of the stamp. It applied for refund on August 13, 2018 which would be the date when the petitioners delivered the stamp papers for cancellation with the Collector. A period in excess of six months elapsed from the date of purchase of the stamp duty till the date of the delivery thereof to the Collector for cancellation. Therefore, the decision taken by the authorities in not refunding the stamp duty in terms of Section 54(c) of the Act of 1899 cannot be faulted.

W.P. No.12918 (W) of 2019 is dismissed without any order as to costs. Urgent website certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

