

(2025) 11 DEL CK 1920

In the Delhi High Court

Case No : Writ Petition (C) Nos. 554, 621, 633 Of 2022

Frill Infra Developers Private Limited

APPELLANT

Vs

Collector Of Stamps & Anr

RESPONDENT

Date of Decision : 14-11-2025

Acts Referred:

Constitution of India, 1950 — Article 226, 265, 300A
Limitation Act, 1963 — Section 5

Citation : (2025) 11 DEL CK 1920

Hon'ble Judges : Sachin Datta, J

Bench : Single Bench

Advocate : P.D. Gupta, Vidhi Goel, Sameer Vashisht, Manashwy Jha, Tushar Sannu, Abhinav Sharma, Avsi Malik, Aakriti Jain

Final Decision : Disposed Of

Judgement

Sachin Datta, J

1. The present petitions have been filed by the petitioners, against the respondents for their failure to refund the stamp duty and registration fees.
2. At the outset, it is noticed that the factual matrix is identical in all these petitions. There are three distinct petitioners (in each of these petitions) seeking the refund of the stamp duty and registration fees, and all respondents in these petitions are common. In the said circumstances, it is considered apposite to dispose of the petitions by way of a common order.
3. For the sake of convenience, W.P.(C)-554/2022 captioned as Frill Infra Developers Private Limited v. Collector of Stamps, New Delhi and Anr., is taken up as the lead matter. The reference to the facts as noted, unless the context indicates otherwise, are the facts as obtaining in the said petition.
4. The petitioner is seeking refund of stamp duty amounting to ₹ 12,97,500 and registration fees of approximately ₹ 2,16,500. The said amounts were paid by the petitioner towards the purchase of an e-Stamp Paper (Certificate No.

INDL92452888135437P dated 12.06.2017) and the registration fees for executing a Sale Deed concerning an agricultural land measuring 14 Bigha 06 Biswa, situated in Khasra Nos. 26/16(2-5), 17 min (2-7), 24 (4-16), and 38/4 (4-18) in Village Alipur, Delhi-110036.

5. The petitioner came across the said land in the revenue estate of Village Alipur, Delhi, through brokers/intermediaries, Mr. Sumit Goel, Mr. Lalit Mohan Goel, Mr. Amit Goel, and Mrs. Sakshi Goel. These brokers introduced the petitioner, represented by Mr. Varun Garg (a Promoter and Authorized Representative of the petitioner), to Mr. Gurmeet, who represented himself to be the owner of the said agricultural land.

6. The petitioner, upon negotiations, agreed to purchase the land for a total sale consideration of ₹ 2,16,25,000. Acting in good faith, for execution of the transaction, the petitioner purchased an e-Stamp Paper (Certificate No. IN-DL92452888135437P) on 12.06.2017 for a value of ₹ 12,97,500/-, equivalent to 6% of the total sale consideration, and also paid approximately ₹ 2,16,500/- towards registration fees, being 1% of the sale consideration. It is submitted that upon completion of all documentation and formalities, a Sale Deed dated 27.07.2017 was executed by Mr. Gurmeet Singh in favour of the petitioner and presented for registration before the E-Sub Registrar-VIE, New Delhi (respondent no. 2).

7. Subsequently, it is submitted that on 29.07.2017, the brokers provided Mr. Varun Garg (a Promoter and Authorized Representative of the petitioner) with a registered copy of the sale deed dated 27.07.2017.

8. Thereafter, the petitioner applied to the Sub-Registrar-VIE, New Delhi for a certified copy of the alleged registered sale deed. However, vide Letter dated 27.12.2017, the Sub-Registrar informed that no such sale deed was ever registered and no record of the transaction existed. Letter dated 27.12.2017 is reproduced as under –

9. It is submitted that upon receiving this reply, the petitioner realised that it had been defrauded. It transpired that Mr. Gurmeet Singh was not the genuine owner of the Said Land, and the Brokers, in connivance with him and the Sub-Registrar VIE, had fabricated documents and deceived the petitioner into parting with substantial sums of money.

10. Consequently, the petitioner lodged a criminal complaint, resulting in FIR No. 0240 dated 21.08.2019, P.S. Crime Branch, registered under Sections 406, 420, 467, 468, 471, 34, and 120B IPC against Virender Singh [who represented himself to be the owner of the concerned land in W.P. (C) 621/2022], Gurmeet Singh [who represented himself to be the owner of the concerned land in W.P. (C) 554/2022], Madhav Bhumi Developers Pvt. Ltd., [represented to be the owner of the concerned land in W.P. (C) 633/2022] the Brokers named above, and the Sub-Registrar, VIE, North Delhi. The original forged sale deed was seized by the police on 22.08.2019 vide Seizure Memo.

11. It is stated that as a result of the fraud, the petitioner suffered financial loss of ₹ 2,16,25,000/-, being the sale consideration paid for the said land. Since the alleged sale deed was never validly executed or registered, the document is null and void, having no legal sanctity.

12. It is further submitted that since no genuine sale deed was executed or registered in favour of the petitioner and the purported seller was not the lawful owner of the said land, the petitioner addressed Letter dated 21.08.2020 to respondent no. 1 seeking refund of the stamp duty of ₹ 12,97,500/- and registration fees of ₹ 2,16,500/-, paid towards the failed transaction.

13. It is pointed that despite such representation, no response was received from the respondents. The petitioner, therefore, issued a Reminder Letter dated 03.10.2020 reiterating the request for refund of the said amounts. However, both letters went unheeded.

14. Aggrieved by the respondents' failure to act, the petitioner has now filed the present petition.

15. The respondent no. 1 has opposed these petitions by submitting as under –

i. The claim for a refund of stamp duty is hopelessly barred by limitation under the Indian Stamp Act, 1899 and therefore, cannot be granted.

ii. As per Section 50(3) of the Stamp Act, when an instrument has already been executed on a stamped paper, an application for a refund must be filed within six months from the date of the said instrument. It is submitted that in this case, the sale deed was executed on 27.07.2017, but the petitioner first sought a refund only on 25.08.2020, after a delay of over three years, which is far beyond the statutory period.

iii. The petitioner was aware of the fraud as early as 27.12.2017, when the Sub-Registrar confirmed that the sale deed was never registered. Despite having knowledge of this, the petitioner failed to act within the statutory time frame.

iv. The original E-Stamp Certificate has not been surrendered by the petitioner to the respondent no. 1 till date.

16. To counter the respondent no. 1's argument the petitioner has argued as under –

i. Section 50(3) of the Indian Stamp Act, 1899 does not apply to the present case as the petitioner was compelled to seek refund due to fraud. The fraud was discovered only on 27.12.2017. The petitioner had no knowledge at the time of stamp duty payment that the transaction was fraudulent. The petitioner came to know about such fraud after expiry of more than 6 months from the date of issuance of stamp paper.

ii. The original E-Stamp Certificate and registration fee receipts were seized by the police on 22.08.2019 as part of the criminal investigation, making it

impossible for the petitioner to surrender the documents to the respondents.

iii. The respondents failed to respond to the petitioner's multiple requests for a refund, failed to either reject the request on valid grounds or guide the petitioner on the correct procedure.

iv. The petitioner has been left remediless due to the respondents' failure to act on its refund request. Since there is no specific bar under the law preventing the refund in cases of fraud, this Court has power to:

- a. Condone any delay in seeking the refund due to the peculiar facts of this case.
- b. Issue directions to the respondents to process the refund.

REASONING AND FINDINGS

17. I have carefully considered the arguments advanced by the respective counsel for the parties.

18. Given my anxious consideration to the matter, it is evident that in the peculiar facts and circumstances of the present case, the petitioner is entitled to a refund of the stamp duty and registration fees. The reasons are enumerated hereunder:

(i) Although it is true that the petitioner applied for a refund beyond the period contemplated under Section 50(3) of the Indian Stamp Act, 1899, a bare perusal of the statutory framework reveals that Section 50(3) of the Act is not couched in negative or prohibitory terms. It does not expressly extinguish the right of the concerned party in whose favour an entitlement is created under Section 49 of the Act.

(ii) It is also evident from the factual conspectus of the present case that the petitioner has been a victim of fraud. This is apparent from a perusal of the duly executed copies of the sale deed on the stamp papers procured by the petitioner. The sale deed appears to have been signed by all the concerned parties and even bears the seal of the concerned Sub-Registrar. The sale deed also refers to a Registration Number and inscribes the following certificate thereon:

The petitioner is right in contending that a fraud of this kind is required to be unravelled, and the petitioner (victim of fraud) cannot be saddled with the cost/expense incurred in purchasing the stamp papers, especially when it is not disputed that the petitioner made a bonafide attempt to conclude the transaction; however, the same was frustrated due to reasons not attributable to the petitioner.

(iii) It was only much after the execution of the sale deed that it transpired that a fraud had been played and the said document/sale deed had not been registered. Given the peculiar circumstances, the complete factual scenario did not unravel, particularly since the concerned instrument also bears the stamps / certificate of the concerned Registrar.

During the course of the hearing, no categorical explanation was forthcoming as to how the concerned sale deed was processed or handled in the office of the Registrar. In these circumstances, it would be wholly incongruous to impute 'factual knowledge' to the petitioner for the purposes of Section 50(3).

(iv) The Supreme Court in *Bano Saiyed Parwaz v. Chief Controlling Revenue Authority And Inspector General Of Registration And Controller Of Stamps And Others*, 2024 SCC OnLine SC 979, while dealing with the issue of limitation in seeking refund of stamp duty under a stamp legislation observed as under: -

"10. Admittedly, the appellant being a bona fide purchaser is a victim of fraud played upon her by the vendor. She has paid a sum of Rs 25,34,400 towards stamp duty for registration of conveyance deed. However, the conveyance deed was not lodged for registration as she became aware of the fraud played by the vendor and thereafter, she immediately applied online on 22-10-2014 for refund of the stamp duty. Her effort to contact the vendor to execute a cancellation deed did not fructify immediately because of unavailability of the vendor which led to a police complaint and it is only at this point of time, due to intervention of the police, the vendor could be traced, and a cancellation deed was executed on 13-11-2014.

11. From the above admitted facts, prima facie it appears that the appellant herein was pursuing her remedies in law and she was not lax in her approach towards seeking refund of the said stamp duty paid by her and she has been denied the same only on the ground of limitation.

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14. In *Committee-GFIL v. Libra Buildtech (P) Ltd.*, wherein the issue of refund of stamp duty under the same Act was in question, this Court has observed and held inter alia as under : (SCC pp. 44-45, paras 29 & 32)

"29. This case reminds us of the observations made by M.C. Chagla, C.J. in *Kaluram Sitaram (Firm) v. Dominion of India*. The learned Chief Justice in his distinctive style of writing observed as under in para 19 : [*Kaluram (Firm) case*, SCC OnLine Bom]

'19. ... we have often had occasion to say that when the State deals with a citizen it should not ordinarily rely on technicalities, and if the State is satisfied that the case of the citizen is a just one, even though legal defences may be open to it, it must act, as has been said by eminent Judges, as an honest person.'

We are in respectful agreement with the aforementioned observations, as in our considered opinion these observations apply fully to the case in hand against the State because except the plea of limitation, the State has no case to defend their action.

32. In our considered opinion, even if we find that applications for claiming

refund of stamp duty amount were rightly dismissed by the SDM on the ground of limitation prescribed under Section 50 of the Act yet keeping in view the settled principle of law that the expiry of period of limitation prescribed under any law may bar the remedy but not the right, the applicants are still held entitled to claim the refund of stamp duty amount on the basis of the grounds mentioned above. In other words, notwithstanding dismissal of the applications on the ground of limitation, we are of the view that the applicants are entitled to claim the refund of stamp duty amount from the State in the light of the grounds mentioned above.”

15. The legal position is thus settled in *Libra Buildtech* that when the State deals with a citizen it should not ordinarily rely on technicalities, even though such defences may be open to it.

16. We draw weight from the aforesaid judgment and are of the opinion that the case of the appellant is fit for refund of stamp duty insofar as it is settled law that the period of expiry of limitation prescribed under any law may bar the remedy but not the right and the appellant is held entitled to claim the refund of stamp duty amount on the basis of the fact that the appellant has been pursuing her case as per remedies available to her in law and she should not be denied the said refund merely on technicalities as the case of the appellant is a just one wherein she had in bona fide paid the stamp duty for registration but fraud was played on her by the vendor which led to the cancellation of the conveyance deed.

17. For the foregoing reasons, the appeal is allowed, and we set aside the impugned order dated 2-8-2019 as well as orders of Respondents 1 and 2 dated 9-6-2015 and 25-2-2016 and direct the State to refund the said stamp duty amount of Rs 25,34,400 deposited by the appellant.”

Thus, the Supreme Court recognized that the legal right for obtaining refund is not obliterated even where the statutory mechanism for availing remedies of refund, is framed in narrow terms.

(v) A Division Bench of Bombay High Court in the case of *Nanji Dana Patel v. State of Maharashtra, Through Government Pleader and Others*, 2024 SCC OnLine Bom 2817, has taken a view that under Article 226 of the Constitution of India, in deserving cases, this Court is not precluded from condoning the delay in case of refund of stamp duty. The said Court relies upon the judgment of Supreme Court in *Bano Saiyed Parwaz* (supra) and emphasised that a strict and mechanical application of the statutory prescribed period may not always be appropriate. The relevant observations of the Court are reproduced as under:

“13. The Apex Court in *Bano Saiyed Parwad* (supra) in paragraph Nos. 14 to 17 held as under:—

“14. In *Committee-GFIL v. Libra Buildtech Private Limited*, wherein the issue of refund of stamp duty under the same Act was in question, this Court has

observed and held inter alia as under:

29. This case reminds us of the observations made by M.C. Chagla, C.J. in *Firm Kaluram Sitaram v. Dominion of India* [1953 SCC OnLine Bom 39 : AIR 1954 Bom 50]. The learned Chief Justice in his distinctive style of writing observed as under in para 19 : (Firm Kaluram case, SCC OnLine Bom) "19.... we have often had occasion to say that when the State deals with a citizen it should not ordinarily rely on technicalities, and if the State is satisfied that the case of the citizen is a just one, even though legal defences may be open to it, it must act, as has been said by eminent Judges, as an honest person."

We are in respectful agreement with the aforementioned observations, as in our considered opinion these observations apply fully to the case in hand against the State because except the plea of limitation, the State has no case to defend their action.

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32. In our considered opinion, even if we find that applications for claiming refund of stamp duty amount were rightly dismissed by the SDM on the ground of limitation prescribed under Section 50 of the Act yet keeping in view the settled principle of law that the expiry of period of limitation prescribed under any law may bar the remedy but not the right, the applicants are still held entitled to claim the refund of stamp duty amount on the basis of the grounds mentioned above. In other words, notwithstanding dismissal of the applications on the ground of limitation, we are of the view that the applicants are entitled to claim the refund of stamp duty amount from the State in the light of the grounds mentioned above."

15. The legal position is thus settled in *Libra Buildtech* (supra) that when the State deals with a citizen it should not ordinarily rely on technicalities, even though such defences may be open to it.

16. We draw weight from the aforesaid judgment and are of the opinion that the case of the appellant is fit for refund of stamp duty in so far as it is settled law that the period of expiry of limitation prescribed under any law may bar the remedy but not the right and the appellant is held entitled to claim the refund of stamp duty amount on the basis of the fact that the appellant has been pursuing her case as per remedies available to her in law and she should not be denied the said refund merely on technicalities as the case of the appellant is a just one wherein she had in bonafide paid the stamp duty for registration but fraud was played on her by the Vendor which led to the cancellation of the conveyance deed.

17. For the foregoing reasons, the appeal is allowed, and we set aside the impugned order dated 02.08.2019 as well as orders of respondent nos. 1 and 2 dated 09.06.2015 and 25.02.2016 and direct the State to refund the said stamp duty amount of Rs. 25,34,400/-deposited by the appellant."

14. The Apex Court in the recent judgment in case *Mool Chandra v. Union of India* has observed that it is not the length of delay that would be required to be considered while examining the plea for condonation of delay, it is cause for delay which has been propounded will have to be examined. If the cause for delay would fall within the four corners of "sufficient cause", irrespective of length of delay same deserves to be condoned.

15. On an analysis of the Stamp Act, we find that there is no provision which excludes applicability of Section 5 of the Limitation Act, 1963 to the Stamp Act and more particularly in Section 48 of the said Act which provides for time limit for making the application for refund of stamp duty. We also note that the authority constituted under the Stamp Act does not have the power to condone the delay if the application is made beyond the time specified in Section 48 of the said Act. However, the present petition is filed under Article 226 of the Constitution of India for seeking condonation of delay in making application for refund of the stamp duty. Admittedly, there is no dispute that Petitioner is entitled to apply for the refund under consideration, but the only ground of the denial of the refund is the delay on the part of Petitioner in making the refund application. The merits have not been discussed in the impugned order. In our view, the present petition is to be treated as an application under Section 5 of the Limitation Act which provides that any application may be admitted after the prescribed period if the applicant satisfies the Court that he had sufficient cause for not making the application within the period specified. In the instant case, Petitioner has averred in the petition that as he was ill-advised, there was a delay in making the application for refund. However, that would prima-facie not result into Respondent-State to retain the amount which, is admittedly refundable to Petitioner. Moreover, retention of stamp duty of the amount of Rs. 78,65,000/- would be contrary to Article 265 and 300A of the Constitution of India. Therefore, in our view, the present petition can be treated as an application under Section 5 of the Limitation Act and accepting the reason for the delay, the petition is required to be allowed by condoning the delay in making the refund application.

16. The view which we have taken above by invoking Section 5 of the Limited Act, 1963 is supported by a recent decision of the Supreme Court in *Mohd. Abaad Ali v. Directorate of Revenue Prosecution Intelligence*, wherein the Supreme Court observed that unless there is an express or implied bar to the applicability of the Limitation Act in a particular Special Act, the provisions of Section 5 of the Limitation Act would apply. That was a case where a belated appeal against acquittal was filed under Section 378 of the Code of Criminal Procedure and the appeal was accompanied by an application for condonation of the appeal. The delay condonation application was allowed by Delhi High Court and, thereafter, an application was moved for recalling of the said order on the ground that Section 5 of the Limitation Act would not apply, since the period of filing an appeal against acquittal has been prescribed under Section 378(5) of the Code of Criminal Procedure itself and there is no provision for condonation of

delay. The said application came to be dismissed which was challenged before the Supreme Court and the Supreme Court after analyzing the provisions of the Criminal Procedure Code, 1973 and Limitation Act, 1963 held that the benefit of Section 5 can be availed in an appeal against acquittal in the absence of exclusionary provision under Section 378 of the Code of Criminal Procedure or at any other place in the Court. In our view, the ratio laid down by the Supreme Court would apply to the facts of the present Petitioner before us moreso, when this Court is exercising its extra-ordinary jurisdiction under Article 226 of the Constitution of India and when there is no dispute that Petitioner is admittedly entitled to apply for refund. The fiscal lis is not an adversarial proceeding but if a particular person is entitled to refund, since he has paid the excess tax then certainly the State cannot retain it. Therefore, in our view, the belated application made by Petitioner for refund of the duty is required to be considered on merits by condoning the delay in making such application.

17. Mr. Reis submits that Petitioner was ill-advised and did not make the requisite application within the prescribed period of 6 months, but it does not take away the fact that a total amount of Rs. 1,78,65,000/- has been paid by him for a transaction where only Rs. 1 crore had to be paid as stamp duty. Respondents have collected a surplus amount of Rs. 78,65,000/- and Petitioner only wants the refund of that amount which according to Petitioner, the Revenue is not entitled to collect. In our view, Respondents should consider the matter on merits and pass an order then rejecting on technicalities.

18. Therefore, we condone the delay in filing the application for refund. The authorities will decide the application for refund of the stamp duty of Rs. 78,65,000/- that was paid on the development agreement on merits.

19. Consequently, the impugned order dated 3rd July 2018 is hereby quashed and set aside. The matter is remanded to Respondent No. 2 for denovo consideration on merits only. The application for refund shall be disposed on merits on or before 31st October 2024 by passing a reasoned order dealing with all submissions of Petitioner, notice for personal hearing shall be given atleast 5 working days in advance. After personal hearing, if Petitioner wishes to record what transpired during the personal hearing or what was submitted during the personal hearing, Petitioner may file written submissions within 3 working days thereof."

(vi) Learned counsel for the petitioner has also drawn attention to the fact that the original E-Stamp Certificate was seized by the police on 22.08.2019 as part of criminal investigation. As such, given the totality of circumstances, there is justification for not surrendering the original E-Stamp certificates and/or strictly adhering to the rigours of Section 49/50 of the Act.

19. For all the above reasons, this Court is inclined to allow these petitions in terms of prayer (a) thereof. It is ordered accordingly.

20. The present petitions stand disposed of in the above terms.