Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2950 OF 2019

1. Chandrasekhar Subramanian ... Petitioner

Vs.

1. The Inspector General of Registration and Controller of Stamps, Pune Maharashtra

2. Collector of Stamps, Mumbai

3. Additional Controller of Stamps, Mumbai ... Respondents

Mr. Zerick Dastur with Ms. Jennifer Sanjana, for Petitioner.

Mr. A. I. Patel, Additional GP with Ms. Mamta Shrivastava, AGP for State-Respondent nos. 1 to 3.

CORAM	**: AMIT BORKAR, J.**
RESERVED ON	**: JULY 20, 2026.**
PRONOUNCED ON	**: JULY 21, 2026**

JUDGMENT:

1. The present petition challenges the order dated 27 April 2017 passed by Respondent No. 1. By the said order, Respondent No. 1 rejected the Petitioner's appeal seeking refund of Rs.

2,87,400/-. This amount had been paid towards stamp duty of Rs. 2,57,400/- and registration fees of Rs. 30,000/- through an e-Secured Bank and Treasury Receipt (e-SBTR) bearing No. 13002984750403 dated 28 December 2013.

2. On 28 December 2013, the Petitioner paid Rs. 2,57,400/- towards stamp duty and Rs. 30,000/- towards registration fees through the e-payment system. An e-SBTR was generated as proof of payment. On 8 March 2014, after obtaining the e-SBTR, the Petitioner and some other officials of Air India went to the office of the Joint Sub Registrar, Thane, to register the sale deeds of their respective flats. They produced the e-SBTR as proof of payment of stamp duty and registration fees. At that time, the Joint Sub Registrar informed them that the office mentioned in the e-SBTR was wrongly shown as "Mumbai City". According to the authorities, it should have been shown as "IGR 120. THN_8 No. 8 Joint Sub Registrar, Thane". The Petitioner was informed that unless this mistake was corrected, the sale deed could not be registered.

3. Thereafter, the Petitioner approached different registration offices in Mumbai as well as the office of the Collector of Stamps, Mumbai, for correction of the error in the e-SBTR. Despite making repeated efforts and approaching several offices, the Petitioner could not get the mistake corrected. Since the earlier e-SBTR could not be corrected, the Petitioner, on 30 December 2014, again paid Rs. 2,83,000/- towards stamp duty and Rs. 30,000/- towards registration fees. A fresh GRAS GRN bearing No. MH004884977201415R and CIN No. 69103332014123054723 were generated. A new e-SBTR dated 30 December 2014 containing the correct details was thereafter issued to the Petitioner. After receiving the corrected e-SBTR, the sale deed relating to the flat was executed and registered on 31 December 2014.

4. On 20 February 2015, the Petitioner applied to Respondent No. 2 for refund of the amount paid under the unused e-SBTR dated 28 December 2013. By an order dated 15 June 2015, Respondent No. 2 rejected the Petitioner's refund application on the ground that it was barred by limitation. The Petitioner challenged the said order by filing an appeal before Respondent No. 1. However, by the order dated 25 April 2017, Respondent No. 1 also rejected the appeal on the same ground that the claim for refund was barred by limitation.

5. Mr. Dastur, learned Advocate appearing for the Petitioner, submitted that the Respondents have committed an error in rejecting the Petitioner's refund application on the ground that it was not filed within six months from the date of purchase of the e-SBTR. According to him, the authorities have wrongly calculated the period of limitation. He submitted that the Petitioner's case is governed by Section 48(2) of the Maharashtra Stamp Act and not by the provision relied upon by the Respondents. According to him, the facts pleaded in the petition clearly show that the Petitioner's case satisfies the requirements of Section 48(2). Therefore, the impugned order has been passed on an incorrect understanding of the law and cannot be sustained.

6. Learned counsel further submitted that because the authorities did not permit the use of the original e-SBTR, the Petitioner was compelled to make a fresh payment towards stamp duty and registration fees for the very same transaction. As a result, the Petitioner has paid the stamp duty and registration fees twice, whereas only one payment was actually utilised for registration of the sale deed. He submitted that despite the earlier payment remaining completely unused, the Respondents have refused to refund the amount. He further submitted that the Petitioner had also filed an application seeking condonation of delay in making the refund application and, considering the facts and circumstances of the case, the delay, if any, deserved to be condoned and the refund ought to have been granted.

7. Ms. Shrivastava, learned AGP appearing for the Respondents, submitted that the Petitioner's reliance on Section 48(2) of the Maharashtra Stamp Act is misplaced. According to her, Section 48(2) applies only when the original instrument cannot be surrendered for cancellation because of unavoidable circumstances and the application for refund is made within six months from the execution of the substituted instrument. She submitted that the present case does not satisfy these conditions. She pointed out that the Petitioner had purchased the e-SBTR on 28 December 2013 and the alleged spoilage took place on 8 March 2014, when the Sub Registrar refused to accept it. Therefore, the Petitioner could have applied for refund immediately thereafter but failed to do so. She further submitted that the fresh payment made on 30 December 2014 was not because of any unavoidable circumstance.

According to her, it became necessary only because of the Petitioner's own mistake in mentioning the wrong registration office while generating the original e-SBTR. She also submitted that the limitation prescribed under Section 48 is mandatory and cannot be relaxed unless the statute itself permits it.

8. Learned AGP further submitted that despite having sufficient opportunity, the Petitioner did not apply for refund either within six months from 28 December 2013, when the e-SBTR was purchased, or within six months from 8 March 2014, when the Thane Sub Registrar refused to accept it. Instead, the Petitioner made a fresh payment of Rs. 3,13,000/- on 30 December 2014, executed the sale deed on 31 December 2014 and thereafter got the document registered on 24 February 2015. It was further submitted that the refund application was filed only on 20 February 2015. According to the Respondents, this was nearly eleven months after the alleged spoilage on 8 March 2014. Therefore, the application was clearly beyond the prescribed period of limitation. Learned AGP also submitted that under the Maharashtra e-Payment of Stamp Duty and Refund Rules, 2013, the e-SBTR system requires correct particulars, including the name of the registering office. This requirement is necessary to maintain jurisdictional control and to prevent misuse of the system. She submitted that the mistake in the present case was committed either by the Petitioner or by the bank through which the payment was made and not by the Respondents. According to her, the Rules do not provide for correction of such mistakes after the prescribed period, as such restrictions are intended to protect public revenue.

9. As regards the claim for interest, learned AGP submitted that no interest is payable because the Petitioner is not entitled to any refund. She further submitted that even otherwise, the Act does not provide for payment of interest unless the delay is attributable to the State and is shown to be mala fide. According to her, there is no such allegation or material in the present case. She submitted that the law protects those who are diligent in enforcing their rights and not those who remain inactive. According to her, after the Sub Registrar, Thane refused registration on 8 March 2014, the Petitioner did not take prompt steps for seeking refund. Learned AGP lastly denied the Petitioner's contention that the impugned order was passed by an officer who had not heard the matter. She submitted that this allegation is incorrect. According to her, the same officer who heard the Petitioner also passed the impugned order. She further submitted that the order is dated 25 April 2017 and not 27 April 2017 as stated in the petition. According to her, on 27 April 2017 only a covering letter forwarding the order was issued from the office. She submitted that the officer concerned continued to hold the post till 27 April 2017 and was relieved from office only on that date. A copy of the relieving order dated 27 April 2017 has been placed on record in support of this contention.

10. On the above grounds, learned AGP submitted that the writ petition has no merit. According to her, the Petitioner has failed to make out any case for interference. She submitted that the impugned orders are reasoned orders passed after giving the Petitioner an opportunity of hearing and in accordance with the principles of natural justice. She, therefore, prayed that the writ petition be dismissed with exemplary costs.

REASONS AND ANALYSIS:

11. I have considered the pleadings, the documents placed on record, the impugned orders, the rival submissions advanced by the learned counsel appearing for the parties and the provisions of the Maharashtra Stamp Act, 1958, the Registration Act, 1908 and the Maharashtra e Payment of Stamp Duty and Refund Rules, 2013. The dispute is whether the Petitioner's claim for refund of the amount paid under the first e SBTR has been rightly rejected only on the ground of limitation.

12. The first objection raised by the Respondents is that Section 48(2) of the Maharashtra Stamp Act has no application to the facts of the present case. According to the Respondents, the provision applies where the original instrument cannot be surrendered because of unavoidable circumstances and another instrument is executed in its place. It is submitted that the Petitioner made a second payment because of his own mistake while generating the first e SBTR and therefore the second payment cannot be treated as a substituted instrument.

13. Section 48(2) regulates of cases where the original instrument cannot be surrendered because of unavoidable circumstances and another instrument is executed. On a plain reading, the provision is intended to protect a person who, without any fault on his part, is compelled to execute another instrument. At the same time, the expression "unavoidable circumstances" is not defined in the Act. Therefore, its meaning has to be gathered from the facts of each case.

14. In the present case, it is not disputed that the first e SBTR was purchased on 28 December 2013. It is not disputed that when the Petitioner approached the Joint Sub Registrar, Thane on 8 March 2014, the document was not accepted because the registering office mentioned in the e SBTR was shown as Mumbai City instead of the concerned office at Thane. The Petitioner thereafter approached different authorities seeking correction of the e SBTR. The Respondents do not dispute that no correction was carried out. The Petitioner was required to make a fresh payment on 30 December 2014 and thereafter could the sale deed be registered.

15. Therefore, although the Respondents describe the second payment as voluntary, the surrounding circumstances do not support that description. The record indicates that the Petitioner attempted to get the original e SBTR corrected. Thereafter, another payment made. Prima facie, the second payment appears to have become necessary because the authorities declined to accept the earlier e SBTR. Whether this situation falls within Section 48(2) is another matter. However, it cannot be held that the second payment was voluntary.

16. The next objection of the Respondents is that limitation commenced either from 28 December 2013, when the first e SBTR was purchased, or at least from 8 March 2014, when the Sub Registrar refused registration. According to them, the Petitioner ought to have applied for refund immediately and his application filed on 20 February 2015 is beyond limitation.

17. The Respondents proceed on the footing that the Petitioner's right to seek refund became complete on 8 March 2014. However, the material placed on record shows that after the refusal by the Sub Registrar, the Petitioner continued approaching offices for rectification of the e SBTR. It is after those attempts failed that another payment was made on 30 December 2014.

18. Viewed in this background, the question is whether limitation should begin because the Sub Registrar declined registration on particular date, even though the Petitioner was pursuing rectification before the competent authorities. This aspect assumes significance because if rectification had been permitted, no occasion would have arisen either for a second payment or for seeking refund. Therefore, the cause of action cannot be examined in isolation from the conduct of both parties.

19. The Respondents have argued that the mistake in the e SBTR was attributable either to the Petitioner or to his banker and the State cannot be made responsible.

20. The question before this Court is not whether the mistake was committed by the Petitioner. The question is whether the State can retain stamp duty paid under an e SBTR which was never utilised, merely because the refund application has been treated as barred by limitation.

21. The Supreme Court in Harshit Harish Jain v. State of Maharashtra, (2025) 3 SCC 365, while interpreting Section 48 of the Maharashtra Stamp Act, has explained that the provision relating to limitation cannot be applied in a manner which defeats an accrued right. In paragraph 17, the Court observed that the High Court had placed undue emphasis on one particular date while ignoring the point of time when the right had actually accrued. In paragraph 18 the Supreme Court observed that although limitation provisions are procedural, a subsequent provision prescribing a shorter period cannot be interpreted so as to extinguish an accrued right of action.

22. The Supreme Court in paragraphs 19 and 20 of *Harshit Harish Jain* observed that the object of refund provisions is to ensure fairness where the transaction has failed for bona fide reasons and observed that a genuine claim should not be defeated merely on technical grounds. The Court held that delay should not extinguish an otherwise legitimate claim.

23. The same principle finds support in *Bano Saiyed Parwaz v. State of Maharashtra, (2025) 2 SCC 201*. The Supreme Court observed that while dealing with citizens, the State should not rely upon technical defences where the claim is otherwise just. The Court recognised that although limitation may bar the remedy, it does not destroy the right, particularly where the applicant has acted bona fide and has pursued the remedies available under law.

24. Similar observations are made in *Rajeev Nohwar v. State of Maharashtra,* (2021) 13 SCC 754, where the Supreme Court observed that refund provisions should not be interpreted in a manner which frustrates the object behind them. Similarly, in *Satish Buba Shetty v. Inspector General of Registration and*

Collector of Stamps, 2024 SCC OnLine Bom 108, this Court held that the time spent by a bona fide applicant while pursuing lawful remedies should not operate against him. In *Kasthmandup Developers (P) Ltd. v. State of Maharashtra,* 2023 SCC OnLine Bom 1143, refund was granted because refusal would have resulted in the State retaining money without proper justification.

25. These principles apply with considerable force to the present case. The Petitioner did not seek refund after abandoning the transaction. The first payment became unusable because the e SBTR was not accepted for registration. Thereafter, the Petitioner attempted to secure rectification from the authorities. Those efforts did not succeed. A second payment had to be made because the authorities insisted upon a fresh e SBTR before registration could proceed. Consequently, the State received stamp duty twice in relation to the same transaction, though only one payment served the purpose.

26. The contention of the Respondents that fiscal statutes require strict interpretation is correct. However, strict interpretation of a fiscal statute does not mean that every provision has to be applied without regard to the purpose for which it has been enacted. The Supreme Court has held that refund provisions are intended to prevent unjust retention of money by the State in cases where the statutory conditions are satisfied. The Court must therefore interpret Section 48 in a manner which advances its object and not in a manner which frustrates it by relying upon technicalities.

27. Considering the matter as a whole, I am of the opinion that the impugned orders cannot be sustained. The authorities have rejected the Petitioner's claim by adopting a technical view of limitation without examining the surrounding circumstances, the Petitioner's bona fide conduct and the object the refund provisions. The approach adopted is inconsistent with the principles explained by the Supreme Court in *Harshit Harish Jain, and Bano Saiyed Parwaz*. It is therefore held that where a citizen has bona fide paid stamp duty, has not derived any benefit from the unused instrument and has been pursuing available remedies, the State should not deny refund merely on technical grounds.

28. The next question is regarding interest. Refund of stamp duty and payment of interest are two different issues. Refund is return of money which belongs to the citizen. Interest is compensation because that money remained with the State for a long time. Under the Maharashtra Stamp Act, interest becomes payable where the refund, after becoming due, is not released within the time contemplated under the statutory scheme. The Act also recognises that where delay is attributable to the applicant, such period is liable to be excluded. Therefore, while considering interest, the conduct of the claimant and the authorities has to be seen.

29. Apart from the statutory provisions, the law relating to restitution is also well settled. In *Union of India v. Tata Chemicals Ltd.,* (2014) 6 SCC 335, the Supreme Court held that where money is retained by the State without authority of law, interest follows because the person who has been deprived of the use of his money is entitled to reasonable compensation. The same principle has been laid down in *Poornima Advani v. State (NCT of Delhi),* (2025) 7 SCC 269, wherein the Supreme Court recognised that where a citizen is deprived of money which is legally refundable, grant of interest is a normal consequence, unless the statute provides otherwise or the facts justify denial of such relief.

30. In the present case, this Court has held that the Petitioner acted bona fide after the first e SBTR was found unusable. Instead of seeking refund, the Petitioner approached the concerned authorities requesting correction of the e SBTR. Those efforts failed and thereafter the Petitioner was required to make a second payment. Thus, the initial period cannot be viewed as deliberate inaction or negligence on the part of the Petitioner. At the same time, it cannot be overlooked that the refund claim was under consideration before the statutory authorities till the appellate order came to be passed on 25 April 2017. Therefore, this Court is of the opinion that interest need not be awarded for the period preceding the final appellate decision.

31. However, once the appellate authority rejected the Petitioner's claim on a ground which has now been found to be legally unsustainable, the continued retention of the Petitioner's money ceased to have lawful justification. From that stage onwards, the State continued to enjoy the benefit of money which has now been held to be refundable. If interest is denied even thereafter, the Petitioner would not receive complete restitution and the State would continue to derive advantage from retaining money to which it was ultimately found not entitled.

32. Having regard to the statutory scheme of the Maharashtra Stamp Act, the principles governing restitution and the law laid down by the Supreme Court, this Court is of the opinion that the Petitioner is entitled to refund of stamp duty amounting to Rs.2,57,400/-. The registration fees are not directed to be refunded since no independent statutory entitlement for such refund has been established in the present proceedings.

33. Accordingly, the Respondents are directed to refund to the Petitioner the stamp duty amount of Rs.2,57,400/- within a period of eight weeks from the date of receipt of an authenticated copy of this judgment.

34. The Petitioner shall also be entitled to simple interest at the rate of 6% per annum on the said refundable amount from 25 April 2017, being the date on which the appellate authority finally rejected the refund claim, till the date of actual payment. While computing the amount payable, the Respondents shall also give due effect to the provisions governing payment of interest under the Maharashtra Stamp Act, if the statutory entitlement works out to be more beneficial to the Petitioner.

35. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

(i) The Writ Petition succeeds;

(ii) The impugned order dated 15 June 2015 passed by Respondent No.2 rejecting the Petitioner's application for refund and the appellate order dated 25 April 2017 passed by Respondent No.1 are quashed and set aside;

(iii) It is declared that the Petitioner is entitled to refund of stamp duty of Rs.2,57,400/- paid under e-SBTR No.13002984750403 dated 28 December 2013;

(iv) Respondent Nos.1 and 2 shall refund the aforesaid amount of Rs.2,57,400/- to the Petitioner within a period of eight weeks from the date of receipt of an authenticated copy of this judgment;

(v) The Petitioner shall also be entitled to simple interest at the rate of 6% per annum on the refundable amount from 25 April 2017, being the date of the appellate order, till the date of payment;

(vi) The amount shall be paid to the Petitioner by electronic transfer or by any other mode permissible under law after completing the necessary formalities;

(viii) The aforesaid exercise shall be completed within the time stipulated above without insisting upon any fresh application from the Petitioner;

(ix) Rule is made absolute in the aforesaid terms.

(x) In the facts and circumstances of the case, there shall be no order as to costs.

(xi) Pending interim applications, if any, stand disposed of.

(AMIT BORKAR, J.)