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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2757 OF 2012

Sony Mony Electronics Limited a
limited company registered under the
Companies Act, 1956 having its address
at Acme Regency, Vile Parle (West) ... Petitioner

Versus

1. State of Maharashtra through
Collector of Stamp Andheri Taluka,
MMRDA Building, 1st floor, Opp. Family
Court, Bandra Kurla Complex Bandra
East, Mumbai 400 051.

2. Chief Controlling Revenue Authority
Maharashtra State Pune, New
Administrative Building Ground Floor,
Opp. Council Hall Sadhu Waswani
Chowk, Pune 411 001. ... Respondents

**Mr. M. M. Vashi, Senior Advocate a/w. Ms. Panthi Desai and
Ms.Manisha Desai i/b M/s. M. P. Vashi & Associates for
the Petitioner.**

Mr. Himanshu Takke, AGP for Respondent Nos.1 & 2.

CORAM : Jitendra Jain, J.
RESERVED ON : 4 August 2025
PRONOUNCED ON : 7 August 2025

JUDGMENT :-

1. This petition challenges an order dated 14 August 2012
passed by respondent no.2 under Section 53A of the

Bombay/Maharashtra Stamp Act, 1958 (hereinafter referred to as the 'Stamp Act') whereby a sum of Rs.8,21,000/- is demanded on account of deficit stamp duty on the instrument dated 15 December 2003. The petition also challenges order dated 21 August 2015 passed by respondent no.2 pursuant to the directions given by this Court.

2. In the impugned order dated 14 August 2012, reference was made to an audit report and the valuation report sought by respondent no.2 from the Joint Director, Town Planning, Valuation without the copy of the same being given to the petitioner. Therefore, vide order of this Court dated 15 April 2015, the respondents were directed to give a copy of the valuation report and after hearing, the petitioner were directed to pass appropriate orders. Pursuant thereto, respondent no.2 vide his order dated 21 August 2015 passed the order confirming his earlier order dated 14 August 2012 and the said order is also a subject matter of challenge in the present petition.

Brief Facts :-

3. On 2 December 2003, pursuant to the petitioner lodging agreement for sale for adjudication, a certificate under Section 32(1)(b) of the Stamp Act was issued accepting the valuation specified in the agreement and determining stamp duty of Rs.16,59,950/- under Article 25(b) of the Schedule to the Stamp Act.

4. On 12 December 2003, the petitioner executed the aforesaid agreement for sale with a Developer to purchase ground floor, basement and first floor of an immovable property which was described as 'office premises' in the agreement for a consideration of Rs.1,65,97,620/-.

5. The aforesaid certificate under Section 32(1)(b) further states that same is subject to the provisions of Section 53A of the Stamp Act. The petitioner paid an amount of Rs.16,59,950/- as stamp duty.

6. On 2 March 2007 and 29 December 2007, a notice was issued by respondent no.2 under Section 53A of the Stamp Act with respect to the valuation and the payment of stamp duty on the above instrument. The said notice was made returnable on 12 March 2007 and 7 January 2008, respectively.

7. On 14 November 2011, a notice to show cause was issued by respondent no.2 to the petitioner for payment of differential stamp duty. The said notice was issued under Section 53A of the Stamp Act. Similar notice was also issued on 29 November 2011 and made returnable on 12 December 2011.

8. On 29 February 2012, respondent no.2 issued a notice

to the petitioner requesting to attend the office of respondent no.2. The said notice was issued under Section 53A of the Stamp Act. On 30 March 2012, the respondents issued a differential demand notice of Rs.12,06,050/- to the petitioner and the petitioner was given an opportunity of hearing on 9 April 2012.

9. On 9 July 2012, a letter was addressed by Assistant Director Town Planning Valuation, Government of Maharashtra to the legal advisor of the Inspector General of Registration and Controller of Stamps regarding valuation of the above document. As per the said letter and according to the valuation authority, the valuation should be Rs.2,48,09,500/- and not Rs.1,65,97,620/- and therefore the said authority requested respondent no.2 to take further action in the matter.

10. Pursuant to the above, impugned order by respondent no.2 came to be passed on 14 August 2012 demanding deficit stamp duty of Rs.8,21,000/-.

Submissions of the Petitioner:-

11. Mr.Vashi, learned senior counsel for the petitioner submitted that the impugned orders dated 14 August 2012 and 21 August 2015 passed under Section 53A of the Stamp Act are barred by limitation since same are passed after the expiry of period of 6 years from the date of adjudication

which was on 2 December 2003. He submitted that on a reading of Section 53A(1) of the Stamp Act, the proceeding should not only be initiated within 6 years but same should also be concluded within a period of 6 years. In any case even otherwise the impugned order is not passed within reasonable period. He therefore, submitted that the impugned orders are beyond limitation period and thus bad-in-law.

12. Mr. Vashi further, submitted that the classification made by the respondents for valuing the property as “shop premises” and not “commercial property” is not borne out from the provisions of the Stamp Act but same is based merely on ready reckoner and therefore, even on this count, the valuation made by the respondents is in excess of the jurisdiction conferred under the Act.

Submissions of the Respondent:-

13. Mr. Takke, learned counsel for the respondents strongly defended the impugned orders. He submitted that on a reading of Section 53A (1) of the Act, the proceedings should be initiated within a period of 6 years from the date of adjudication but the final order can be passed at any time after period of 6 years. Mr. Takke relied upon the decision of this Court in the case of *Hillside Construction Company Private Limited & Ors. Vs. State of Maharashtra & Ors.*¹ in support of his submission.

¹ Writ Petition no.9397 of 2011 decided on 31 January 2012

14. He further, submitted that Article 25 of Schedule I to the Stamp Act only states immovable property and the valuation has to be done as per the valuation rules, which in turn, is based on annual rates and at that point of time, the classification of the property is required to be done and if the property is a shop, then different valuation will entail. He, therefore, defended the impugned orders and prayed for dismissal of the petition.

15. I have heard learned counsel for the petitioner and the respondents and with their assistance have perused the documents brought to my notice. I may state that other than what is recorded above no other submissions have been canvassed by both the counsel.

Analysis & Submissions:-

16. Sections 32C and 53A(1) of the Stamp Act reads as under :-

“32C. Revision

Subject to the provisions of section 32B and any rules which may be made in this behalf by the State Government, the Chief Controlling Revenue Authority may, suo motu, call for and examine the record of any order passed (including an order passed in appeal) under this Act or the rules made thereunder, by any officer and pass such order thereon as he thinks just and proper; and the order so passed shall be final and shall not be called in question in any Court or before any authority:

Provided that, no notice calling for the record under this section shall be served by the Chief Controlling Revenue Authority after the expiry of three years from the date of communication of the order sought to be revised and no order of revision, shall be made by the said Authority hereunder after the expiry of five years from such

date:

Provided further that, no order shall be passed under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.]”

“53A. Revision of Collector’s decision under Sections 32, 39 and 41

*(1) Notwithstanding anything contained in sub-section (3) of section 32, sub-section (2) of section 39 and sub-section (2) of section 41, when through mistake or otherwise any instrument is charged with less duty than leviable thereon, or is held not chargeable with duty, as the case may be, by the Collector, the Chief Controlling Revenue Authority may, **within a period of six years** from the date of certificate of the Collector under sections 32, 39 or 41, as the case may be, require the concerned party to produce before him the instrument and, after giving reasonable opportunity of being heard to the party, examine such instrument whether any duty is chargeable or any duty is less levied, thereon and order the recovery of the deficit duty, if any, from the concerned party. An endorsement shall be made on the instrument after payment of such deficit duty.”*

[emphasis supplied]

17. Before I advert to decide the issues, following dates are relevant:

1.	2 December 2003	Date of adjudication under Section 32.
2.	2 March 2007-	First Notice under Section 53A.
3.	2 December 2009	Six years ended from date of adjudication.
4.	14 August 2012	Order under Section 53A passed demanding deficit stamp duty.

Issue 1 :- The first issue which needs to be addressed is whether on a reading of Section 53A (1) of the Stamp Act only initiation of proceedings should be within 6 years or whether the order also should be passed within 6 years from

the date of certificate under Section 32 of the Stamp Act ?

18. Section 53A(1) of the Stamp Act provides that when through mistake or otherwise an instrument is charged with less duty than leviable then, within a period of 6 years from the date of certificate of the Collector under Section 32, 39 or 41, the Authority may require the concerned party to produce before him such instrument and after giving a reasonable opportunity of being heard to the party, examine such instrument and order recovery of the deficit duty from the concerned party.

19. Section 53A(1) of the Stamp Act can be dissected in three parts :-

- (i) The Collector/Chief Controlling Revenue Authority may, within a period of six years from the date of certificate of the Collector under Sections 32, 39 or 41, as the case may be**
- (ii) require the concerned party to produce before him the instrument and, after giving reasonable opportunity of being heard to the party, examine such instrument whether any duty is chargeable or any duty is less levied, thereon**
- (iii) and order the recovery of the deficit duty, if any, from the concerned party.**

20. In my view, on a reading of Section 53A(1) the order of recovery should be passed within 6 years preceded by

compliance of natural justice and application of mind. The first part is to be read with the third part and between the said two parts, there has to be a compliance of natural justice and application of mind. This is fortified by the conjunctive phrase “and” used before the phrase “order the recovery of the deficit duty.” The second part also contains the phrase “and” but that conjunctive is used to comply with the principles of natural justice by requiring the production of the instrument and giving reasonable opportunity and after complying with the same to apply one’s mind on chargeability of the instrument. Therefore, the first part and third part are connected with the conjunctive word “and” and consequently, the period of 6 years provided in Section 53A(1) should be read to mean that the order of recovery should be passed within the said time frame.

21. It is also important to note proviso to Section 32C of the Act which states that no notice calling for the record under Section 32C shall be served by the Chief Controlling Revenue Authority after the expiry of three years from the date of communication of the order sought to be revised and no order of revision shall be made by the said Authority after expiry of 5 years from such date. Similar proviso does not exist in Section 53A(1) of the Stamp Act. Section 53A does not provide for any period for passing the final order after the issuance of the notice. Therefore, in the absence of similar provisions as that contained in proviso to Section 32C in

Section 53A, the contention raised by Mr. Takke that only the proceedings should be initiated within 6 years and the final order can be passed at any time thereafter cannot be accepted. Wherever legislature wanted to specify different time period for initiation and completion they have specified so but in the absence of different periods it should be presumed that legislature intended to complete the proceedings within one time limit specified therein which in the case of before me is 6 years.

22. The interpretation given by me of Section 53A(1) of the Stamp Act to the effect that the order should be passed within a period of 6 years also finds support from the scheme of the Stamp Act. Section 32C of the Stamp Act which deals with similar powers of revision provides for a maximum of 5 years from the date of order sought to be revised within which, the authority has to pass the order of revision. It is settled position in revenue laws that the proceedings have to be concluded within certain time frame and same cannot be kept pending for long which would lead to uncertainty which is contrary to the canons of any fiscal legislation.

23. In the instant case, Section 53A(1) of the Stamp Act, in my view, provides for maximum of 6 years from the date of certificate for not only exercising the power under the said Section but also to conclude by passing an order for the recovery of the deficit duty, if any, from the concerned party.

Therefore, the contention raised by the respondents that the time limit is provided only for initiation and not for passing the order cannot be accepted on a reading of the Scheme of the Stamp Act and the context in which the period of 6 years is specified.

24. In *Hariom Agrawal vs. Prakash Chand Malviya*², the Supreme Court had an occasion to interpret provisions of Section 48-B of the Madhya Pradesh Stamp Act which reads as under :-

“48-B. Original instrument to be produced before the Collector in case of deficiency.—Where the deficiency of stamp duty is noticed from a copy of any instrument, the Collector may, by order, require the production of original instrument from a person in possession or in custody of the original instrument for the purpose of satisfying himself as to the adequacy of amount of duty paid thereon. If the original instrument is not produced before him within the period specified in the order, it shall be presumed that the original document is not duly stamped and the Collector may proceed in the manner provided in this Chapter:

Provided that no action under this section shall be taken after a period of five years from the date of execution of such instrument.”

25. The Supreme Court in paragraph 19 observed as under :-

*“By virtue of proviso to Section 48-B, the Collector's **power to adjudicate** upon the adequacy of stamp duty on the original instrument on the basis of copy of the instrument is restricted to the period of five years from the date of execution of the original instrument.”*

(emphasis supplied)

² (2007) 8 SCC 514

26. The substance of the provision before the Supreme Court and the substance of Section 53A(1) before me is similar and therefore, the interpretation given by the Supreme Court on proviso to Section 48-B of the Madhya Pradesh Stamp Act supports the view that the order adjudicating deficit duty under Section 53A(1) should also be passed within a period of 6 years from the date of the certificate of the Collector thereby resulting into adjudication within time limit provided under the Act.

27. This issue came for consideration before this Court in ***Uma Niwas Co-operative Housing Society Vs. The Collector of Stamps & Ors.***³. Paragraph 13 of the said decision reads as under:

“13. Section 53A empowers revision of Collector's decision under Section 41 within a period of 6 years from the date of certificate of the Collector under Section 41 for raising the demand on account of deficit stamp. In the instant case, the certificate issued under Section 41 is dated 2nd March 1995 and the period of 6 years had expired on 1st March 2001. The impugned order raising the demand (interim) is dated 2nd July 2015 and (final) is dated 2nd May 2016. Both these communications of 2015 and 2016 would be beyond the year 2001 and, therefore, on this count itself the orders passed on 28th September 2015 and 2nd May 2016 raising demand of deficit stamp duty payable with respect to Flat no.320 is required to be quashed and set aside.”

28. In this case, the certificate under Section 32 of the Stamp Act was given on 2 December 2003 and the order of

³ Writ Petition no.10602 of 2016 decided on 3 October 2024

recovery of the deficit duty is passed on 14 August 2012 which is beyond the period of 6 years and therefore, the impugned orders are beyond the limitation period provided under Section 53A(1) of the Act.

Issue 2 :- If Section 53A(1) provides only for initiation of the proceedings within six years then within what time from the date of initiation should an order be passed under Section 53A(1) of the Stamp Act ?

29. It is settled position that once any proceedings are initiated then, same has to be concluded within a “reasonable time” frame. In such cases, the reasonable period would not start from the last day of the expiry of time specified in the provision but from the date of initiation.

30. In my view, the “reasonable period” to conclude the proceedings under Section 53A(1) after initiation of the proceedings would be maximum 2 years. This is so because Sections 32C of the Stamp Act provides for issuing notice for revision within 3 years from the date of communication of the order sought to be revised and to pass the order of revision before the expiry of 5 years from the date of order sought to be revised. Thereby the Scheme of the Act dealing with similar provision gives a period of 2 years (5 years minus 3 years) for completion of the proceedings. Therefore, taking clue from the provisions of Section 32C, period of 2 years is considered to be reasonable to conclude the proceedings from the date of initiation.

31. In this case, the period of 2 years from the date of initiation would expire on 2 March 2009 because first notice under Section 53A was issued on 2 March 2007 and the impugned order is passed on 14 August 2012 and, therefore, on this count also, the impugned orders are passed beyond the limitation period.

32. In revenue matters, the proceedings cannot be kept in abeyance for a long period. The reasonable period has to be construed based on the Scheme of the Act. First proviso to Section 32C of the Stamp Act gives a clue that the proceedings can be initiated within 3 years from the date of communication of orders sought to be revised and the revision order can be made after expiry of 5 years from the date of communication of the order. Therefore, what it conveys is that the maximum period within which revision order can be passed is 5 years from the date of communication of the order. The said 5 years consists of 3 years for initiation and 2 years for completion. Even if the parameters laid down in first proviso to Section 32C are considered then also in the instant case, the impugned orders are beyond reasonable period.

33. In the case of *State of Gujarat v. Patil Raghav Natha*⁴, the Hon'ble Supreme Court held as under:-

"11. The question arises whether the Commissioner can revise an order made under Section 65 at any time. It is true

⁴ AIR 1969 SC 1297

that there is no period of limitation prescribed under Section 211, but it seems to us plain that this power must be exercised in reasonable time and the length of the reasonable time must be determined by the facts of the case and the nature of the order which is being revised."

34. In the case of the ***State of Punjab v. Bhatinda District Co-op. Milk Producers' Union Ltd.***⁵, the Hon'ble Supreme Court followed the above principle and applied it to even tax law. The Hon'ble Supreme Court in the context of revisional powers conferred by the Punjab General Sales Tax Act, 1948 enabling reopening of the assessment, followed the above principle quoted and held as under:-

"17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefor, the same would not mean that the suo motu power can be exercised at any time.

18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors."

35. Then, again in the case of ***Santoshkumar Shivgonda Patil v. Balasaheb Tukaram Shevale***⁶, the Hon'ble Supreme Court followed the ratio in the judgments of *Patil Raghav Natha (supra)* and the *Bhatinda District Co-op. Milk Producers Union Ltd. (supra)* and reiterated the principle as referred above.

⁵ [2007] 11 SCC 363

⁶ [2009] 9 SCC 352

36. The same view appears to have been taken earlier also in the case of the *Government of India v. Citadel Fine Pharmaceuticals*⁷.

37. In *Bhatinda District Co-op. Milk Producers Union Ltd. (supra)*, the question that arose before the Supreme Court was regarding initiation of proceedings by exercise of jurisdiction by the statutory authority. The Supreme Court held that exercise of jurisdiction must be within a reasonable period of time and considering the provisions of the Punjab General Sales-Tax Act, 1948, it was held that a reasonable period of time for initiating proceedings would be five years.

38. Therefore, in my view, impugned order is passed beyond reasonable period from the date of initiation.

Issue 3 :- Whether the impugned order can be said to have been passed within reasonable period from the expiry of six years, if we accept the submissions of the respondents ?

39. Assuming, for the sake of argument the contention of Mr. Takke is to be accepted, that six years period applies for initiation and conclusion of the proceedings, then also the impugned orders cannot be sustained. The certificate under Section 32 was issued on 2 December 2003. The period of 6 years from the date of certificate under Section 32 would expire on 2 December 2009. After the expiry of 6 years period

⁷ [1990] 184 ITR 467 (SC)

i.e. from 2 December 2009, no order was passed till 14 August 2012 i. e. order was passed after almost 2 years and 8 months.

40. In my view, even if the contention of Mr. Takke is to be accepted then the respondent no.2 ought to have passed the final order within a “reasonable period”. The impugned order is passed on 14 August 2012 which after 2 years 8 months from 2 December 2009 being expiry of six years period which is beyond reasonable period of 2 years as observed by me above and therefore even on this count, the order is beyond limitation.

41. I have not been shown any judgment by the respondents in support of their submissions except the decision of this Court in the case of *Hillside Construction Company Private Limited (supra)*. The said decision only records that notice under Section 53A was issued within 6 years and the proceedings were therefore initiated within 6 years. The issue whether the order under Section 53A(1) ought to be passed within a period of 6 years or not does not appear to be an issue before the Court or atleast same cannot be ascertained from the order and therefore, this decision is not applicable.

42. After the hearing in the morning session to give an opportunity, to the counsel for respondents the matter was

kept in the afternoon session for bringing to the notice of the Court any decision on this issue. In the afternoon session, the respondents informed the Court that there are no judgments on the issue under consideration of this Court or any other Court.

43. I also note that respondents have issued notices under Section 53A of the Stamp Act on 14 November 2011 and 29 February 2012. These notices are admittedly after a period of 6 years and therefore, cannot revive a dead cause which on the basis of respondents submissions itself expired on 2 December 2009. Therefore, for the purpose of present adjudication, I have taken first notice issued on 2 March 2007 under Section 53A(1) of the Act.

44. To conclude, looked from any angle, either by accepting the submissions on limitation made by the petitioner or by the respondents, the impugned order dated 14 August 2012 cannot be said to have been passed within the limitation period of 6 years provided under Section 53A(1) of the Stamp Act nor within reasonable period from the issue of notice under Section 53A(1) or within reasonable time from the expiry of the 6 years period. Therefore, on this short ground of limitation, the impugned orders dated 14 August 2012 and 21 August 2015 are quashed and set aside.

45. Since the impugned orders are quashed on the

ground of limitation the submission made on valuation aspect does not survive and is left open to be considered in an appropriate case.

46. Petition is allowed in terms of prayer clauses (a) and (a1). Rule is made absolute in the above terms.

47. By our order dated 18 March 2018, interim reliefs were granted on the condition that the petitioner would deposit 50% of the demanded amount with the Prothonotary and Senior Master and same shall be invested in Fixed Deposit. Since I have quashed the impugned orders, consequently the petitioner is entitled to the refund of the amount, if any, deposited alongwith the interest accrued, if any, thereon. The Prothonotary and Senior Master is directed to refund the said amount, if deposited, alongwith accrued interest, if any, after a period of 4 weeks from the date of uploading of the present order.

48. In the course of the hearing, the Court pointed to the learned senior counsel for the petitioner that various notices issued under Section 53A by the respondent has neither been referred nor enclosed in the petition although the petitioner has raised ground of limitation. These notices were annexed by the respondent in their reply. Learned counsel for the petitioner submitted that since the ground of limitation was based on the date of final order and the date

of adjudication and since both the documents in connection therewith were referred to and annexed with the petition, the petitioners may have inadvertently not referred to various notices. I have considered the said submissions. Although, the submission of limitation was based on the said two documents, but for the sake of complete disclosure, the petitioners ought to have referred to and annexed various notices. Therefore, in my view there may not be intentional suppression but the fact of suppression cannot be ruled out. In the light of this fact, the petitioner is directed to donate a sum of Rs.50,000/- to Tata Memorial Hospital, Parel within a period of 2 weeks from the date of uploading of the present order.

49. Petition is allowed. No order as to cost.

(Jitendra Jain, J)