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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on:- 03.11.2025
Date of Decision:- 09.12.2025

\+ LPA 1177/2024

MULAKH RAJ DUA .....Appellant

Through: Mr. B. S. Chauhan and Mr. Ramvir Singh, Advs.

versus

THE STATE, GOVT. OF N.C.T. OF DELHI & ANR.....Respondents

Through: Ms.Avni Singh, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

1. This intra-Court appeal seeks to challenge the order dated 23.10.2024 passed by the learned Single Judge, in W.P. (C) No.14869/2024 filed by the appellant, whereby the said writ petition has been dismissed.

2. The claim put forth by the appellant in the proceedings of the writ petition before the learned Single Judge was that while allowing the refund of the value of the stamps purchased by the appellant, which were not used for executing the instrument in question, deduction of 10% amount made by

the respondents was not lawful. In addition to 10% deduction, the appellant had also prayed that he was entitled of interest @ 6% per annum on the total amount to be refunded to him, which according to him, would be the amount equal to the value of the stamps.

3. The facts put chronologically, which are necessary for adjudication of the issue involved in this appeal are as under:-

a) The appellant participated in an auction process conducted by Bank of Baroda (BoB), wherein the subject property, namely plot no.458-466, New Municipal No.537/2, out of Khasra No.372/39 to 51/2, Gali No.8, Friends Colony, Industrial Shahdara, Delhi-110095 was put to auction. Accordingly, the appellant on 09.01.2019 purchased stamps of Rs.23,58,000/- for execution of the sale deed and also paid the registration fees of Rs.3,93,136/- in the office of the Sub-Registrar concerned.

b) However, the officials of the BoB informed the appellant that the sale deed with respect to the property in question could not be executed in the light of the stay order passed by the Debt Recovery Tribunal, Delhi (DRT) in Securitization Application (S.A.) No. 344/2018 on 14.01.2019, whereby the BoB was restrained from transferring, alienating or creating any third-party interest in the said property.

c) The appellant sought his impleadment in the proceedings before the DRT in the aforesaid S.A. No. 344/2018. The said S.A. was allowed, and the symbolic possession notice dated 19.12.2017 in respect of the property in question, as well as all subsequent actions under the

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), including auction sale, were set aside. The BoB was directed by the DRT to return the auction amount to the appellant/auction purchaser with simple interest @ 10% from the date the auction amount was deposited by the appellant.

d) The appellant, on 23.03.2023, filed an application before the Collector of Stamps/respondent no.2 seeking refund of the stamp duty. He also applied to the Sub-Divisional Magistrate concerned for the refund of the e-registration fee. Accordingly, a refund voucher was issued on 30.08.2023 by the Sub-Registrar concerned for the refund of Rs.3, 93, 100/- for the unused e-registration fee. However, the amount of the stamp duty was not refunded to the appellant, which impelled him to file W.P. (C) No. 4589/2024.

e) The said writ petition was disposed of by a learned Single Judge of this Court by means of an order dated 07.05.2024, whereby the Collector was directed to consider the application of the appellant seeking refund of the amount of the stamp and decide the same within four weeks. Accordingly, in compliance of the said order dated 07.05.2024 passed by this Court in W.P. (C) No. 4589/2024, the respondents refunded the amount of Rs.21,22,000/- towards stamp duty. It may be noted that the entire amount of the e-registration fee, i.e. Rs.3,93,100/- was already refunded to the appellant. Thus, the refund made to the appellant against the value of the stamp purchased by him was made after deducting 10% of the total value.

f) The appellant thus instituted the proceedings of W.P. (C) No.14869/2024 with a prayer to release 10% of the total value of e-stamp along with interest @ 6% per annum for the period commencing on 09.01.2019 and ending on 31.08.2024. Another prayer was also made by the appellant that he be also paid interest @ 6% per annum of the amount paid to him against the e-registration fee of Rs.3,93,136/- for the aforesaid period. The said writ petition has been dismissed by the learned Single Judge by means of an order dated 23.10.2024, which is under challenge here.

4. Coming to the submissions made on behalf of the appellant, we may note that the sheet anchor of the argument of learned counsel for the appellant is the judgment of the Hon'ble Supreme Court in ***Mr. Rajeev Nohwar v. Chief Controlling Revenue Authority Maharashtra State, Pune & Ors.*** *[(2021) 10 S.C.R. 623]*. It has been argued by learned counsel for the appellant that in the case of ***Rajeev Nohwar*** *(supra)*, the Hon'ble Supreme Court had directed the Collector of Stamps to process the refund and had also held that the appellant therein would be entitled to interest @ 6% per annum. It has, thus, been contended that since pursuant to the said judgment, the amount of the entire value of the stamp was paid along with interest @ 6% per annum, the Collector in the instant case has erred in law in deducting 10% of the value of the stamp while processing the prayer for refund of the amount.

5. Learned counsel for the appellant has also submitted that as directed by Hon'ble Supreme Court in ***Rajeev Nohwar*** *(supra)*, the appellant is entitled to be paid interest @ 6% on refund, both on the value of stamp and the

e-registration charges, however the Collector of Stamps has declined the same, which aspect of the matter has not been considered by the learned Single Judge while dismissing the petition. The submission, thus, is that the judgment under appeal herein passed by the learned Single Judge runs contrary to the law laid down by the Hon'ble Supreme Court in ***Rajeev Nohwar*** *(supra)*.

6. On the other hand, Ms. Avni Singh, learned counsel appearing for the respondents has argued that so far as the refund of the amount of the stamp along with interest to the appellant is concerned, the judgment rendered by Hon'ble Supreme Court in ***Rajeev Nohwar****(supra)* does not have any application for the reason that the said judgment is based on Section 52 of the Maharashtra Stamp Act, 1958, whereas refund/allowance for stamps not required for use in the State of Delhi is governed by Section 54 of the Indian Stamp Act, 1899. She has also argued that, accordingly, there is no discrepancy either in the order passed by the Collector of Stamps while he has deducted 10% amount of stamp, and has also not acceded to the prayer of payment of interest @ 6% as claimed by the appellant.

7. Having considered the respective submissions made by learned counsel for the parties, we are of the opinion that the judgment and order passed by learned Single Judge, which is under challenge herein, does not require any interference by this Court in this appeal for the reason that Section 52 of the Maharashtra Stamp Act, 1958, which is the basis of the judgment in ***Rajeev Nohwar*** *(supra)* though contains similar provision as Section 54 of the Indian Stamp Act, 1899, however the issue of deduction was neither raised nor has been considered in ***Rajeev Nohwar*** *(supra)*.

8. It is not in dispute that *allowance for stamps not required for use* in the State of Delhi is governed by the provisions contained in Section 54 of the Indian Stamp Act, 1899, which provides that, in a case where stamp purchased by any person has not been spoiled or rendered unfit or useless for the purpose intended, but the purchaser of such stamp intends to deliver the same to the Collector of Stamps for the reason that purchaser does not have immediate use of the stamp, the Collector shall repay the value of such stamp or stamps deducting *"ten naye paise for each rupee or portion of a rupee"*. Upon the purchaser of the stamp delivering the stamps for being cancelled, such refund is available under Section 54 if it is proved to the Collector's satisfaction that the stamp was purchased with a *bona fide* intention to use them and the purchaser has paid the full price for the same and further that the stamps were so purchased within a period of six months next preceding the date on which they are so delivered.

(emphasis supplied)

9. Section 54 of the Indian Stamp Act, 1899, which will apply to the facts of the present case, runs as under:-

> *"**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 1 [ten naye paise] for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Collector's satisfaction—*
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> *(a) that such stamp or stamps were purchased by such person with a bona fide intention to use them; and*
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> *(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.

10. Section 52 of the Maharashtra Stamp Act, 1958, is extracted here under:

*"**52. 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 [thereform such amount as may be prescribed by rules made in this behalf by the State Government] upon such person delivering up the same to be cancelled, and proving 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 [one year] next preceding the date on which they were so delivered:

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

11. Section 52 of the Maharashtra Stamp Act, 1958, which is the basis of the judgment of Hon'ble Supreme Court in ***Rajeev Nohwar*** *(supra)*, however does not contain the phrase *"deducting ten naye paise for each rupee or portion of a rupee"* otherwise the language used in Section 52 is

ad-verbatim the same as the language applied in Section 54 of the Indian Stamp Act, 1899. Non-occurrence of the phrase *"deducting ten naye paise for each rupee or portion of a rupee"* in Section 52 of the Maharashtra Stamp Act, 1958 makes all the difference and it is because of this reason, we are unable to accept the submission made by learned counsel for the appellant based on the law laid down by Hon'ble Supreme Court in ***Rajeev Nohwar*** *(supra)*.

12. It is true that Section 52 of the Maharashtra Stamp Act, 1958, covers the cases where allowance for stamps is to be permitted in respect of stamps, which are not required for use as is the case with Section 54 of Indian Stamp Act, 1899 and, therefore, we cannot have any quarrel so far as the law laid down by Hon'ble Supreme Court in ***Rajeev Nohwar*** *(supra)* is concerned. However, since Section 52 of the Maharashtra Stamp Act, 1958 does not permit deduction of *ten naya paisa for each rupee or portion of a rupee "10%"*, rather it permits deduction as per prescription by Rules made by the State Government, whereas Section 54 does permit so, the contention of the appellant based on the said judgment, in the facts of the case, is not acceptable.

13. When, thus, we examine the claim of the appellant seeking refund of the entire amount of the stamp in the light of the above discussion, what we find is that the Collector of Stamps has not erred, as he is empowered to deduct 10% in terms of what has been provided for in Section 54 of the Indian Stamp Act, 1899.

14. A perusal of the order passed by learned Single Judge, which is under challenge here reveals that the learned Single Judge has returned a finding

that deduction of 10% made by the respondent is in consonance with the statutory provisions and in this regard refers to Section 53 (c) of the Indian Stamp Act, 1899. Section 53 (c) of the Indian Stamp Act, 1899, however, has no application in the facts of the instant case for the reason that refund was sought by the appellant not for spoiled or misused stamps, but in fact refund was sought as the stamps were not required to be used for the reason that the auction held in favour of the appellant was set aside by the DRT in proceedings under Section 17 of the SARFAESI Act. This mention of Section 53(c) appears to be a clerical error which has crept in the judgement of the learned Single Judge. It is thus a case where Section 54 of the Indian Stamp Act, 1899, will have application. Since Section 54 explicitly permits the Collector of Stamps to deduct 10% amount of the value of the stamp, we do not find any reason to interfere in the order passed by the learned Single Judge, which is under challenge herein.

15. We may also notice that Section 52 of the Maharashtra Stamp Act, 1958 also permits deduction; however, the said provision does not fix the quantum of deduction, rather it provides that the value of stamp shall be allowed deducting such amount as may be prescribed by the rules made in this behalf by the State Government. Further, the issue raised and decided in ***Rajeev Nohwar*** *(supra)* by Hon'ble Supreme Court was not in respect of permissibility or impermissibility of deduction from the value of stamp, in case, the amount was to be deducted. The issue raised and decided in ***Rajeev Nohwar*** *(supra)* was in relation to the limitation to claim refund. For this reason as well, we do not find ourselves in agreement with the submission

made by learned counsel for the appellant regarding the applicability of the law laid down in ***Rajeev Nohwar*** *(supra)* in the facts of the present case.

16. The appeal is, therefore, hereby dismissed.

17. There will be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TUSHAR RAO GEDELA)
JUDGE

DECEMBER 09, 2025
S.Rawat