



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

202

CWP-17275-2018 (O&M)
Date of decision: 03.07.2025

Amarjeet Singh Chhabra

...Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jatinder Nagpal and Mr. Yoginder Nagpal, Advocates
for the petitioner

Ms. Shruti, AAG Punjab

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for quashing of the order dated 06.03.2018, whereby the application for refund of unused stamp duty amounting to Rs.5,40,000/- has been wrongly denied.

2. The stamp papers were purchased on 19.04.2017 by the petitioner in the name of his wife and himself for the purpose of registration of flat in Zirakpur, Mohali, for which the amount was duly credited in the Government Treasury through RTGS. However, the petitioner did not have sufficient money due to his mother having taken ill in the month of June, 2017 and a huge amount spent on hospitalisation and even his wife had also passed away, the E-stamp papers remained unused. He, thus, on 13.07.2017, Annexure P-2 (Colly) submitted an



application for refund thereof to the SDM, Derabassi, which was forwarded vide letter dated 11.01.2018, Annexure P-3 to Deputy Commissioner, SAS Nagar, Mohali observing therein that the request has been received on 24.07.2017 and is beyond two months, however, approval and necessary orders to refund were sought under Section 54 of the Indian Stamp Act, 1899 (for short, 'the Act'). Having not received any response thereto, a legal notice dated 05.04.2018, Annexure P-5 was served, which failed to evoke any response.

3. Learned State counsel relies on Clause (d) (5) of Section 49 of the Act to justify refusal of refund, it being not within the prescribed time frame of two months.

4. So as to determine the issue involved, it would be apposite to refer to Section 50 of Act, which read thus:

50. Application for relief under Section 49 when to be made.--

The application for relief under Section 49 shall be made within the following periods, that is to say, --

(1) in the cases mentioned in clause (d) (5), within two months of the date of the instrument:

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled:

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed:

Provided that, --

(a) when the spoiled instrument has been for sufficient reasons sent out of 1 [India], the application may be made within six



months after it has been received back in [India];

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution of the substituted instrument.

5. A worthwhile reference can be made to a Division Bench judgment in **Ramesh Chandra Kalra vs. Union of India and others**, W.P (C) 10786/2019, decided on 22.11.2023, to which no further challenge was made wherein the refund was allowed under Section 50(2) of the Act, relevant paras whereof read thus:

“12. It is the respondents' case that the challenge as laid to Section 54 of the Act does not arise as the said section has no application in the facts of the present case. It is contended on behalf of the respondents that Section 54 of the Act is applicable only in cases where the stamp paper is not spoiled or rendered unfit or useless for the purpose intended but for which a person has no immediate use. It is contended that in the facts of the present case, the stamp paper has been spoiled as the petitioner has put a mark on it (his initials /signature). It is thus contended that, the provisions of Section 49(a) of the Act cannot be applied.

13. At this stage, it is relevant to refer to the statutory provisions of the Act. As noted above, Chapter-V of the Act contains provisions regarding allowance for stamps in certain cases. Section 49 of the Act provides for allowance for spoiled stamps. Section 51 of the Act provides for allowance in cases of printed forms which are no longer required by Corporations. Section 52 of the Act provides for allowance for misused stamps and Section 54 of the Act provides for stamps which are not required for immediate use but have not been Supplementary Affidavit affirmed on 04.12.2020 spoiled or rendered unfit for the purpose intended. Sections 54A and 54B of the Act contain provisions regarding allowances for stamps in the denominations of annas and the allowance for Refugee Relief Stamps, respectively. Section 55 of the Act provides for allowance on renewal of certain debentures.

15. According to the respondents, Section 49(a) of the Act is



applicable. It is stated that e-stamp certificate has been inadvertently and undesignedly spoiled by writing on the stamp paper.

16. Although, this Court has certain reservations whether the stamp paper can be stated to have been spoiled by a party initialling the same, however, the learned counsel appearing for the petitioner did not seriously contest the said contention. Therefore, for the purpose of the present petition, we consider it apposite to proceed on the basis that e-stamp certificate has been spoiled.

19. In terms of Section 50(2) of the Act, an application for relief under Section 49 of the Act is required to be made within a period of six months from the date “after the stamp has been spoiled”. However, in the present case, the petitioner’s application has been rejected on the ground that the application was filed six months after the date of purchase of the stamp certificate.

20. It was contended on behalf of the petitioner that the stamp paper was marked just prior to applying for its refund. In view of the above, the impugned order dated 12.02.2019 is liable to be set aside as the petitioner’s application would not be barred in terms of Section 50(2) of the Act.

26. As stated above, in the facts of the present case, most of the issues sought to be agitated do not arise since it is the respondents’ case that the stamp paper stands spoiled and is covered under Clause (a) of Section 49 of the Act. Mr Joseph, learned counsel for the petitioner, did not press the challenge to Section 53(c) of the Act, which postulates a deduction of ten per cent of the value of stamps.

27. As noted above, according to the respondents, the present case is covered under Section 49(a) of the Act. Thus, concededly, the period of limitation, as specified under Section 50(2) of the Act for applying for refund would be applicable. It is, therefore, not open for the respondents to thus, deny the petitioner’s application for refund on the ground that it has been made after a period of six months from the date of purchase of the e-stamp certificate.”

6. Hon’ble the Supreme Court in **Bano Saiyed Parwaz and Chief Controlling Revenue Authority and Inspector General of Registration and Controller of Stamps and Others**, SLP (C) No.4111 of 2020, 2025(2) SCC 201,



allowed refund, holding that the technicalities could not be brought in to defeat the right.

7. Examining the present case in wake of aforesaid legal position, the petitioner having bona fide paid the stamp duty on 19.04.2017, for registration, however, it was for the reasons beyond his control could not complete the process thereof, the refund of which was sought on 13.07.2017, the denial of the same by the respondent on premise of writings on it and both the parties put their signatures thereupon by invoking provision of 49(d)(5) of the Act for request having been made beyond two months, is misconceived, as it fairly and squarely falls within the ambit of Clause 2 of Section 50 of the Act, even, if taken to have been applied for on 24.07.2017, was within six months of these being spoiled.

8. In view of the afore discussion and ex-consequenti, the present petition merits acceptance.

10. Allowed.

(AMAN CHAUDHARY)
JUDGE

03.07.2025

M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No