



CIVIL

Refund of Stamp Duty and the Right to Interest: A Legal Perspective

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The Supreme Court of India recently addressed an important issue concerning the refund of lost stamp duty and whether interest should be granted on such refunds. The case, *Dr. Poornima Advani & Anr. vs. Government of NCT & Anr.*, revolved around the loss of an *e-stamp paper* purchased for a real estate transaction. The petitioners had sought a refund from the government, which was initially denied. While the Delhi High Court eventually ordered the refund, the question of interest on the refunded amount led to further legal battles.

The case highlights the principle that the State cannot unjustly retain money belonging to a citizen without legal justification. The Supreme Court's ruling reiterates that when the government withholds money without authority, it must pay interest, compensating the rightful owner for the delay in returning their funds.

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Background of the Case

Dr. Poornima Advani and her husband purchased an *e-stamp paper* worth ₹28,10,000 on July 6, 2016, for buying a property in New Delhi. However, due to a delay in completing the financial arrangements, the sale transaction could not be executed immediately. Unfortunately, the *e-stamp paper* was misplaced on August 4, 2016. Despite extensive efforts, including filing a police complaint and publishing a public notice, the document could not be recovered.

To proceed with the transaction, the appellants purchased a new *e-stamp paper* on August 6, 2016, and successfully executed the sale deed on August 8, 2016. They then applied for a refund of the lost stamp duty, but the government rejected their request. This led to a legal battle, with the petitioners arguing that since the lost stamp paper was never used and the transaction was completed with a new stamp paper, the government had no right to withhold their money.

Delhi High Court's Decision

When the matter was taken to the Delhi High Court, a **Single Judge Bench** ruled in favor of the appellants, holding that they were entitled to a refund. The judgment was based on the interpretation of **Section 49(a) of the Stamp Act**, which allows a refund in certain cases. The court took the view that the loss of an *e-stamp paper* should be considered as a valid ground for a refund, even though the law does not explicitly mention lost stamps. The ruling emphasized **Article 265 of the Constitution**, which prohibits the government from collecting or retaining taxes without legal authority.

The court also examined the **doctrine of unjust enrichment**, which prevents a party from benefiting unfairly at another's expense, and distinguished it from the **doctrine of retention**, which allows the government to retain funds only if it has a legal basis. While granting the refund, the court denied interest, stating that the issue had not been argued before it in detail.

Appeal and Supreme Court's Ruling

Dissatisfied with the denial of interest, the appellants filed a **Letters Patent Appeal**, but the Division Bench of the Delhi High Court dismissed it. The court reasoned that the issue of interest was not raised before the Single Judge and, therefore, could not be introduced for the first time on appeal.

The matter then reached the Supreme Court, which ruled in favor of the appellants. The court held that when a person is deprived of their money for an extended period due to the government's refusal to refund, they are entitled to **interest as compensation**. The judgment cited **Authorised Officer Karnataka Bank v. R.M.S. Granites Pvt. Ltd. (2024)**, where the court explained that interest is not a penalty but the natural return on capital. The court also referred to **Tata Chemicals Ltd. v. Union of India (2014)** and **ONGC Ltd. v. Commissioner of Customs (2007)**, both of which reaffirmed that any undue retention of money by the government must include an obligation to pay interest.

The court awarded **8% interest per annum** from August 20, 2018, to February 29, 2020, and **1.5% interest per annum** for the subsequent period. It reasoned that interest is necessary to ensure that the government does not profit from undue delays in returning money that legally belongs to a citizen. The ruling also reaffirmed that a refund should restore the principal amount and compensate for the time value of money.

Reliance on the Lahore High Court's Judgment

Interestingly, the Delhi High Court, while deciding the case, referred to a similar ruling by the **Lahore High Court in Pakistan** in *Aziz Ullah Khan vs. Government of Punjab* (2016). In that case, a petitioner who had lost his stamp paper sought a refund, but the government denied it, arguing that no provision allowed such a refund. The court, however, held that denying a refund to private individuals while allowing it for government officials under certain conditions was **discriminatory** and violated **Article 25 of the Pakistani Constitution** (right to equality). The court also stressed that laws must be interpreted in a way that serves justice rather than creating hardship for citizens.

The Supreme Court of India acknowledged the **similarity in legal principles** between the two cases, reinforcing the idea that the government cannot arbitrarily withhold money when the reason for retention is no longer valid.

Legal and Practical Implications

This judgment sets a significant precedent. It clarifies that when the government collects a tax or duty in anticipation of a transaction that does not materialize, it must return the amount with interest. It also highlights the principle that **delayed refunds should include compensation**, preventing the State from benefiting unfairly from prolonged retention.

The ruling could impact various taxation and duty refund cases where citizens face delays in reclaiming their rightful dues. It also strengthens the **doctrine of restitution**, ensuring that those who suffer financial loss due to government inaction or delay are fairly compensated.

Conclusion

The Supreme Court's decision in this case is a significant step towards protecting citizens from unfair financial retention by the government. By reinforcing the right to interest on delayed refunds, the judgment upholds the fundamental principle that no tax shall be collected or retained without the authority of law. The decision benefits individuals seeking stamp duty refunds and is also a guiding principle for all financial transactions involving government dues and tax collections.

This case reaffirms that the law must be interpreted in a way that promotes fairness and prevents undue hardship. It also ensures that government authorities remain accountable when handling public money, making it clear that they cannot retain funds indefinitely without legal justification.

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