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

\+ LPA 193/2024, CM APPL. 13324/2024 & CM APPL. 13325/2024

PUNJAB NATIONAL BANK .....Appellant
Through: Appearance not given.

versus

KALYANI (INDIA) PRIVATE LIMITED & ANR....Respondents
Through: Ms. Vaishali Gupta and Mr. Anubhav Gupta, Advocate for R-1.
Ms. Avni Singh, Advocate for GNCTD.

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

O R D E R
% 28.04.2025

1. Pursuant to our order dated 25.01.2025, learned counsel representing the GNCTD has submitted that in the facts of the present case there is no statutory provision which permits refund of the stamp duty.

2. She has further stated that Section 49 (1) of the Stamp Act, 1899 provides that in certain circumstances the Stamp Collector on an application to be made within the period prescribed in Section 50, can conduct an enquiry and on being satisfied on certain conditions given therein, may pass an order for refund of stamp duty.

3. Our attention has been drawn to Section 50 which provides for the limitation for conducting the enquiry by the Collector Stamps however, the said limitation in the instant case does not appear to be available.

4. Learned counsel for the appellant however states that Section 49(1)(d)(ii) of the Stamp Act, 1899 clearly provides that one of the situations where stamp duty used for an instrument executed by any party can be refunded, is in a situation where the instrument is subsequently found to be unfit by reason of any error or mistake therein.

5. In the instant case the learned Single Judge has set aside the same and, accordingly, we are of the tentative opinion that in case cancellation of an instrument is done in some judicial proceedings, the Collector will be bound to refund the stamp used for such an instrument.

6. However, we find it appropriate to decide the said issue as well along with the decision on the appeals.

7. Accordingly, list this appeal on 29.07.2025 for final hearing.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

APRIL 28, 2025
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