



| SL. No | Date       | Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures | COURT'S OR JUDGES'S ORDERS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|        | 06.06.2023 |                                                                                                  | <p>SPA No. 574 of 2015<br/><b><u>Sri Vipin Sanghi, C.J.</u></b><br/><b><u>Sri Rakesh Thapliyal, J.</u></b></p> <ol style="list-style-type: none"><li>1. Mr. Pradeep Joshi, learned Additional Chief Standing Counsel for the State- appellants.</li><li>2. Mr. B.P. Nautiyal, learned Senior Counsel for the respondents.</li><li>3. The order dated 01.04.2019 passed in these proceedings has been perused. In Paragraph No.6, this Court had observed as follows:-<br/><br/><p style="text-align: center;"><i>"6. Questions as to whether the respondents-writ petitioners are entitled to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for refund of amounts relating to the period from 2001 to 2012, or whether they should be relegated to the remedy of filing a Civil Suit, would necessitate examination in the special appeal when it is finally heard. The question whether a writ petition filed in the year 2015, seeking refund of the amounts allegedly paid by them in excess during the year 2001 to 2012, is hit by inordinate delay and laches, requiring this Court to refrain from interference in proceedings under Article 226 of the Constitution of India, would also necessitates examination when the appeal is finally heard."</i></p></li><li>4. So far as the statement made by the respondents before the Court on that date, that the respondents would file a supplementary affidavit giving details of the agreements towards which excess payment of stamp has been made, is concerned, Mr. Nautiyal, today submits that there is no need to file such a supplementary affidavit, as all the data is already on record in the writ proceedings.</li><li>5. In this regard, he has drawn the attention of the Court to the documents filed by the appellants along with their counter-affidavits in writ proceedings.</li></ol> |



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|  |  |  | <p>6. The issues which arise for consideration whether the relief of refund was sought by the writ petitioners in the writ petition wherein they questioned the levy of stamp duty @8% on <i>lisa</i> purchased by the writ petitioners from the State. If such a relief was not sought, would such a relief be barred on the principles, as incorporated under Order 2 Rule 2 of the Code of Civil Procedure? Secondly, the issue would arise whether such a direction for refund would be passed in writ proceedings, when the refund of the excess amount of stamp duty may tantamount to unjust enrichment?</p> <p>7. Pertinently, the writ petitioners were the auction purchasers of <i>lisa</i> auctioned by the State. They are not the consumers of the said product and passed it on to others down the line such as wholesaler, dealers etc. Therefore, they would have recovered from their customers, their purchase price, which would include the entire stamp duty paid by them, apart from their profits. The respondents would, therefore, have to satisfy this Court, firstly, that such a relief could be claimed in the second round of litigation, when it was not claimed in the first round, and secondly, whether there would not be any unjust enrichment, if they are refunded the excess 6% stamp duty charged from them by the State.</p> <p>8. Mr. Nautiyal seeks a short adjournment to address this Court on both these issues.</p> <p>9. At his request, list on 22.06.2023.</p> <p style="text-align: center;"><b>(Rakesh Thapliyal, J.)</b><br/><b>06.06.2023</b></p> <p style="text-align: center;"><b>(Vipin Sanghi, C.J.)</b><br/><b>06.06.2023</b></p> <p>NISHANT</p> |
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