

Court No. - 1

Case :- WRIT - C No. - 5832 of 2024

Petitioner :- Vinod Kumari

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Jeet Bahadur Singh

Counsel for Respondent :- C.S.C.

Hon'ble Shekhar B. Saraf, J.

1. Heard learned counsel for the petitioner and the learned Standing Counsel for the State
2. This is a writ petitioner under Article 226 of the Constitution of India wherein the order dated January 24, 2024 passed by the Additional District Magistrate (Finance/Revenue), Aligarh is under challenge.
3. By the order impugned, the authority concerned rejected the application of the petitioner seeking interest on the delayed payment of the refund of stamp duty that has been deposited by the petitioner.
4. On perusal of the facts, it is clear that the order for refund of the amount of Rs.5,35,454/- was passed on September 19, 2013. However, the authority concerned refunded this amount only on December 5, 2023. The stand taken by the respondent authorities is that there is no provision in the Indian Stamp Act, 1899 for payment of interest on refund of excess stamp duty that has been collected by the revenue. In light of the same, counsel for the respondent submitted that no interest is payable even if there is lackadaisical approach by the authorities in returning of the refund.

5. The stand of the revenue is rejected outrightly as the State has no power to hold on the money that it has taken without any authority of law. Article 265 of the Constitution of India clearly provides that no tax can be collected without authority of law and any amount that has been collected is *dehors* the law and is required to be returned to the person concerned. As a natural corollary, the time for which the amount was illegally detained by the Government, is required to be compensated for by the Government by way of payment of interest thereon. There is no requirement of any specific provision for the payment of interest in such circumstances. In light of the same, I am of the view that the authority concerned is required to pay interest for the delay in refund.

6. Accordingly, the authority concerned is directed to pay interest at the rate of 5 per cent from October 19, 2013 (one month after passing of the order directing the refund) till December 5, 2023 (when the refund was made). The said amount should be paid by the authority concerned within six weeks from date.

7. With the above observations, the writ petition is disposed of.

Order Date :- 8.4.2024

Kuldeep

(Shekhar B. Saraf, J.)