

Can unused stamp duty be refunded?

The Indian Stamp Act and state stamp acts list conditions under which refund or repayment of any amount against unused stamps is permissible

Sunil Tyagi
htestates@hindustantimes.com

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Payment of prescribed stamp duty is important for successful completion of any transaction related to immovable property such as sale, gift, certain kinds of mortgages, etc or documentation related to movable assets such as transfer of shares, debentures etc. Stamp duty is payable on such instruments, as mentioned under stamp duty schedule of relevant state stamp acts. Rates of stamp duty levied on instruments differ from state to state.

The India Stamp Act, 1899, governs the law relating to payment of stamp duty. Several states such as Uttar Pradesh, Rajasthan, Kerala, Karnataka and Maharashtra have enacted their own stamp acts and rules. The Indian Stamp Act states that an instrument executed by any person in India and chargeable with stamp duty needs to be stamped before or at the time of execution. Accordingly, the practice is to pay the stamp duty and get stamp papers before exe-

cuting the documents. However, there have been cases when, after payment of the stamp duty but before the execution of the documents, the transaction fails to materialise and the stamp duty papers purchased by the parties to the transaction remain unused. The party which purchased then is left with huge losses, as stamp duty amount could in many cases run into lakhs or even crores. What is the way out for such parties?

The Indian Stamp Act and state stamp acts provide for conditions under which refund/repayment of any amount against unused stamps is permissible. The amount paid towards value of stamp after requisite deductions is allowable to be refunded if it was purchased within the period of six months (except for Karnataka, where this period is one year) immediately preceding the date on which the stamp paper was



surrendered, provided such stamp paper was not spoiled or rendered unfit or useless for the purpose intended.

In respect of the validity of the stamp papers, it may be noted that there is no time limit prescribed under the stamp laws within which the stamp papers purchased are to be utilised, ie to say that there is no expiry date for stamp papers and there is no

prescription on any time period within which such stamp papers purchased are to be used. Once the stamp duty has been paid and the stamp papers have been purchased by the party, the stamp paper can be used at any point of time. This position has been clarified by the Supreme Court in the matter of Thiruvengada Pillai v Navaneethammal and Anr in which the Supreme Court

discussed the similar provision being Section 54 under The Indian Stamp Act.

It is clear from the provision of The Indian Stamp Act as well as respective state stamp acts and the above stated judgment that the condition of validity period of six months (one year in case of Karnataka) is applicable only in cases of seeking refund of amounts/allowance

paid for unused stamp papers. However, no time limit is applicable or has been prescribed for use / validity of the stamp papers.

The author is a senior partner of ZEUS Law Associates, a corporate commercial law firm. One of its areas of specialisation is real estate transactional/litigation work

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