Form No: HCJD/C-121
JUDGEMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.3481 of 2021

Ms. Maryam Faheem Butt

Versus

District Collector/Additional Deputy Commissioner (Revenue), Islamabad

PETITIONER BY:	Mr. Ahmed Ali Raja, Advocate
RESPONDENTS BY:	Syed Ameer Ali Shah, State Counsel. Mr. Nabeel Memon, ADCR.
DATE OF DECISION:	09.10.2026

AYYAZ SHAUKAT, J:- Through this petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the **"Constitution"**), the petitioner has called in question the order dated 25.05.2021, whereby the District Collector, Islamabad (the **"respondent"**) rejected her application for refund of the value of non-judicial stamp papers worth Rs.144,000/- on the ground that it was barred by time. Writ Petition No.3482 of 2021, which arises out of a separate transaction between the petitioner and the same vendors, is being decided through a separate judgment of even date.

2. Briefly stated, the facts are that the petitioner agreed to purchase land measuring 09 marlas situated in Mauza Kortana, Tehsil and District Islamabad, from Mst. Mahmooda Azra and Mst. Zahida Riaz for a consideration of Rs.36,00,000/-. For the purpose of the sale deed, she purchased non-judicial stamp papers worth Rs.144,000/- from the Federal Treasury Office, Islamabad on 04.11.2020, and the text of the sale deed was engrossed thereon. The transaction, however, did not materialise, and Mst. Mahmooda Azra, one of the vendors, died on 24.03.2021. On 29.04.2021, the petitioner applied for refund on the form prescribed under section 54 of the Stamp Act, 1899 (the **"Act"**) read with the Punjab Stamp (Non-Judicial Refund, Renewal and

Islamabad High Court

Disposal) Rules, 1954 (the "**Rules"**). The application was rejected through the impugned order dated 25.05.2021, which was communicated to her vide letter dated 12.07.2021.

3. Learned counsel for the petitioner contends that the sale deed engrossed on the stamp papers was not signed by any party; that the case is, therefore, governed by section 50(2) of the Act and the application was filed well within the prescribed period of six months; that the transaction failed for reasons beyond the control of the petitioner, including the death of one of the vendors and the restrictions imposed in the wake of the Covid-19 pandemic; and that the impugned order was passed without affording a hearing to the petitioner and without disclosing the basis for treating the application as time-barred. In support, he places reliance on *Zahid Pervaiz v. Commissioner Rawalpindi Division, Rawalpindi and 3 others* (PLJ 2004 Lahore 657), *Riaz Hussain v. Board of Revenue Punjab through Senior Member and 2 others* (2010 CLC 1575) and *Muhammad Idrees through Muhammad Sarwar v. District Officer (Revenue) and another* (PLD 2016 Lahore 156).

4. Conversely, learned State counsel has supported the impugned order on the basis of the para-wise comments filed by the respondent. He contends that the date of the agreement printed on the stamp papers is 06.11.2020 and the reason stated in the application is "Deal Cancelled"; that the case, therefore, falls within clause (d)(5) of section 49 of the Act, for which section 50(1) prescribes a period of only two months; and that the application was decided after affording a personal hearing to the petitioner in accordance with the prescribed procedure.

5. I have heard learned counsel for the parties and have perused the record with their assistance.

6. The impugned order, in its entirety, reads as under:

> *"The matter has been examined. It is mentioned that your request for refund of non-judicial stamp papers amounting to Rs.1,44,000/- is not tenable as it is time barred under Section 49 & 50 of Stamp Act, 1899."*

Islamabad High Court

The order does not state under which clause of section 49 of the Act the claim falls, which of the periods prescribed by section 50 applies, or the date from which that period was reckoned. It records no finding as to whether any party signed the sale deed engrossed on the stamp papers. It makes no mention of the death of the vendor. It also fails to explain whether section 54 of the Act or the Rules invoked by the petitioner apply to her claim. The impugned order thus records a conclusion without addressing the material questions on which it depends.

7. The claim required examination under the relevant statutory provisions. Section 49 of the Act provides for an allowance for spoiled stamps in distinct cases. Clause (b) thereof covers the stamp on a document which is written out wholly or in part but is not signed or executed by any party thereto. Clause (d) covers the stamp used for an instrument executed by any party thereto which, inter alia, cannot be completed by reason of the death of a person who was required to execute it but died without doing so (sub-clause (3)), or totally fails of its intended purpose by reason of the refusal of any person to act under it (sub-clause (5)). Section 50, in turn, prescribes a period of two months from the date of the instrument in the cases mentioned in clause (d)(5). Where no party has executed the instrument, section 50(2) provides six months from the spoiling of the stamp. Subject to section 50(1), section 50(3) provides six months from the date of an executed instrument or, if undated, from its first or sole execution. The statutory provisos must also be considered where attracted. The question of limitation, therefore, could not have been answered without first determining whether any party had signed the deed and which clause of section 49 was attracted. The date printed on the deed does not, by itself, establish its execution. Further, the use of a form referring to section 54 does not determine the applicable provision: that section concerns stamps not spoiled or rendered unfit or useless, whereas section 49 addresses spoiled stamps. In Zahid Pervaiz and Riaz Hussain (supra), relied upon by learned counsel for the petitioner, the Lahore High Court set aside refusals of refund precisely because the revenue authorities had applied the period of two months under section 50(1) where, on the facts

Islamabad High Court

of those cases, the period of six months under section 50(3) was attracted. In Muhammad Idrees (supra), the Lahore High Court held that a refusal premised on clause (d)(5) could not stand where the case, on its facts, fell under another clause of section 49. These authorities underscore that the applicable period of limitation turns on the facts of each case, which must be found before the question of limitation can be answered. It also bears notice that, as observed in *Mst. Sakina Bibi v. Collector, Lahore and 4 others* (1991 MLD 1959), the Rules provide for relief in cases of special hardship. If applicable to the present claim, the respondent must consider whether the circumstances relied upon attract that relief. The impugned order does not disclose consideration of these matters.

8. The respondent has sought to fill this gap through the para-wise comments by bringing the case within clause (d)(5) of section 49 of the Act. That reasoning, however, finds no place in the impugned order. The validity of an order passed by a public authority must be judged by the reasons recorded therein; it cannot be supplemented subsequently by fresh reasons furnished in comments before this Court. The Hon'ble Supreme Court in *Qazi Chand Muhammad v. Province of Sindh* (2009 SCMR 269) strongly disapproved of the tendency of public functionaries to gather material post facto in order to justify a one-line order passed in defiance of section 24-A of the General Clauses Act, 1897. In any event, even the comments do not state whether any party signed the deed or who refused to act under it. Whether a hearing was afforded is disputed; the absence of a recital in the impugned order does not, by itself, resolve that dispute. I refrain from recording any finding on these aspects, lest the case of either side be prejudiced.

9. The duty to record reasons is a statutory one. Section 24-A of the General Clauses Act, 1897 provides as under:

> ***"24A. Exercise of power under enactments.***- *(1) Where, by or under any enactment, a power to make any order or give any direction is conferred on any authority, office or person such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment.*

Islamabad High Court

> *(2) The authority, office or person making any order or issuing any direction under the powers conferred by or under any enactment shall, so far as necessary or appropriate, give reasons for making the order or, as the case may be, for issuing the direction and shall provide a copy of the order or, as the case may be, the direction to the person affected prejudicially."*

In deciding an application for refund, the respondent exercises a statutory power. He is, therefore, under an obligation to act fairly and to record reasons for his decision. Reasons demonstrate that the authority has applied its mind to the matter, and enable the claimant to understand the basis of the decision. The august Supreme Court emphasized this long ago in *Mollah Ejahar Ali v. Government of East Pakistan and others* (PLD 1970 SC 173). Although the following observations were made in respect of a judicial order, they apply with equal force to a statutory authority determining the claim of a citizen:

> *"A judicial order must be a speaking order manifesting by itself that the Court has applied its mind to the resolution of the issues involved for their proper adjudication."*

10. In *Messrs Airport Support Services v. The Airport Manager, Quaid-e-Azam International Airport, Karachi and others* (1998 SCMR 2268), the Hon'ble Supreme Court held that, by virtue of section 24-A, an order "would reflect reasons for its making". The principle was reiterated in *Muhammad Amin Muhammad Bashir Limited v. Government of Pakistan through Secretary Ministry of Finance, Central Secretariat, Islamabad and others* (2015 SCMR 630), wherein it was held that an executive authority "must give reasons for its decision" and that any action in violation of this principle "is liable to be struck down". The Hon'ble Supreme Court has applied the same principle to orders passed in the revenue hierarchy. In *Sohail Ahmed v. Haji Shafqat Ali and others* (2021 SCMR 1336), it upheld the interference of the High Court with concurrent orders of the revenue authorities on the ground that, being non-speaking, they did not meet the test of a valid order under section 24-A, and that the revenue forums had failed to examine the plea for condonation of delay raised before them. In Muhammad Idrees (supra), the Lahore High Court held that an order rejecting an application for refund of stamp papers as time-barred was "not a speaking order as it is just an intimation to the

Islamabad High Court

petitioner that his application has been rejected being time-barred". The impugned order suffers from the very same defect.

10. The requirement of reasons also serves the constitutional guarantees of lawful treatment and due process. Article 4 secures to every citizen the inalienable right to enjoy the protection of law and to be treated in accordance with law. A reasoned order enables the person affected to understand and, where necessary, challenge the application of the law. Article 10-A guarantees a fair trial and due process for the determination of civil rights and obligations. A claim for refund which the law itself recognises is a civil right, and its determination without a meaningful hearing and without disclosing the basis of the decision amounts to a denial of due process. This Court recently reaffirmed the requirement of a reasoned decision in *Munibah Qureshi v. National University of Sciences and Technology (NUST) and another* (2026 MLD 1086), wherein non-speaking orders were set aside and the matter was remanded for a fresh and reasoned determination. The petitioner's entitlement to refund, however, remains subject to determination under the applicable law.

11. The impugned order, therefore, cannot be sustained. At the same time, the questions involved turn on facts which the respondent is required to determine in the first instance, and this Court would not undertake that exercise in its constitutional jurisdiction. In the circumstances, the absence of findings on the material facts warrants remand to the statutory authority for a fresh, reasoned decision. The august Supreme Court adopted that course in Muhammad Amin Muhammad Bashir Limited (supra). A similar course was followed in Mst. Sakina Bibi (supra) and in Muhammad Iqbal v. Collector, Sialkot and others (2002 MLD 951), where refusals of refund were set aside and the matters were remitted for decision afresh, in the latter case after affording a hearing to the petitioner.

12. For the foregoing reasons, this petition is **allowed**, and the impugned order dated 25.05.2021 passed by the respondent is **set aside**. The petitioner's application dated 29.04.2021 shall be deemed pending before the respondent, who shall decide it afresh in accordance with law by a reasoned

Islamabad High Court

order, after affording the petitioner an opportunity of hearing, within **thirty days** of receipt of a certified copy of this judgment. It is clarified that this Court has expressed no opinion on the petitioner's entitlement to a refund or the question of limitation. Both issues shall be determined by the respondent on the basis of the original application and the relevant record.

(AYYAZ SHAUKAT)
JUDGE

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Islamabad High Court