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ALLAHABAD HIGH COURT ON INTEREST ON ILLEGALLY RETAINED STAMP DUTY

A. Introduction

The Allahabad High Court (“**HC**”), in *Vinod Kumari* case,¹ ruled that the government is obligated to pay interest on any excess stamp duty that has been wrongfully retained by the authorities, as per the Indian Stamp Act, 1899 (“**Act**”). This is required even in the absence of a specific legal clause mandating the payment of such interest.

B. Brief Facts

1. On September 19, 2013, an order was passed wherein a department of the Government of Uttar Pradesh (“**Department**”) directed refund of stamp duty worth over Rs. 5 lacs (“**Dues**”) to Vinod Kumari (“**VK**”).
2. The Department refunded the duty only on December 5, 2023 (“**Payment Date**”).
3. Given the delay in payment of the Dues, VK approached the Additional District Magistrate (Finance/Revenue), Aligarh (“**ADM**”) seeking interest on the delayed payment of Dues.
4. The DM rejected MK’s application. Aggrieved, VK approached the HC by a writ petition (“**WP**”).

C. Contention of the Department

The Department contented that no interest is payable since there is no provision in the Act for refund of excess stamp duty even if there is a delay in refunding the Dues.

D. HC’s Judgement and Reasoning

1. The HC rejected the Department’s contentions and held that:
 - a. *“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 de hors 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.”*²
 - b. Despite there being no express provision in the Act, Department is required to pay interest for the delay in refund.
2. The HC disposed of the WP by ordering the Department to pay within 6 weeks interest at 5% from October 19, 2013 (one month after passing of refund order) till Payment Date.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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¹*Vinod Kumari. v. State of Uttar Pradesh & Ors.*, 2024:AHC:625645.

² Paragraph 5 of the Judgement.