

REFERENCE FROM THE BOARD OF REVENUE.

Before the Hon'ble Mr. R. Harington, Acting Chief Justice, Mr. Justice Mookerjee and Mr. Justice Richardson.

*In re R. BAXTER.**

1909
April 15.

Stamp-duty—Refund of Stamp-duty—Stamp Act (II of 1899), s. 52(a), Sch. I, Art. 30, Exemption—Attorney—Entry on Roll of Advocates.

B, who had been enrolled as an attorney of the High Court of Calcutta and paid the requisite stamp-duty of Rs. 250, was subsequently enrolled as an advocate of the same Court and paid a stamp-duty of Rs. 500. On an application by *B*. for a refund of the latter stamp-duty, by virtue of the exemption to Article 30, Schedule I of the Indian Stamp Act of 1899 :—

Held, that exemption could be claimed and that the stamp-duty of Rs. 500 should be refunded.

REFERENCE from the Board of Revenue.

This was a reference by the Board of Revenue under section 57(1) of the Indian Stamp Act (II of 1899). The material facts are fully set out in the case stated by the Board for the decision of the High Court. It was as follows :—

“Mr. R. A. Baxter, now practising as a Barrister-at-law in Bankipore, was enrolled as an attorney of the High Court of Calcutta on the 23rd November 1889, and paid stamp-duty of Rs. 250 under Article 27, Schedule I of the Indian Stamp Act I of 1879. He had not previously paid the duty of Rs. 250 for Articles of Clerkship, not having served his Articles in India.

1. In January 1908, he was enrolled as an advocate of the High Court and paid a stamp-duty of Rs. 500 under Article 30 (a), Schedule I of the Indian Stamp Act (II of 1899). The question of exemption from stamp-duty was not then raised, and, therefore, was not considered at the time of entry. Mr. Baxter subsequently raised this question, and after correspondence with the Registrar, High Court, was referred to the Revenue authorities. Mr. Baxter has accordingly applied to the Board for a refund of the stamp-duty of Rs. 500 paid by him in January 1908, on his entry as an advocate of the Calcutta High Court and has referred to the proviso to Article 30, Schedule I of Act II of 1899, and to the Madras Full Bench ruling, *In re Parthasaradi* (1).

* Reference from the Board of Revenue under s. 57 (1) of the Indian Stamp Act (II of 1899).

(1) (1884) I. L. R. 8 Mad. 14.

1903
BAXTER.
In re.

2. It appears to the Board that exemption could have been claimed and allowed; and they are disposed now to allow a refund under section 52 (a) of the Act. But, as the matter is of importance and as it touches a function of officers of the Hon'ble High Court, the Board think it right to refer the case for the decision of the Court under section 57 (1) of the Act.

W. C. MACPHERSON,
Member of the Board of Revenue, L. P."

The exemption to Article 30, Schedule I of the Indian Stamp Act of 1899, is as follows:—

“Entry of an advocate, vakil or attorney on the roll of any High Court when he has previously been enrolled in a High Court.”

Mr. C. C. Ghose, for *Mr. Baxter*, the petitioner. It is submitted that this matter falls within the terms of the exemption to Article 30, Schedule I of the Indian Stamp Act of 1899. The exemption must be read in its ordinary meaning. The petitioner, having been previously enrolled in the Calcutta High Court as an attorney, was exempted from the payment of any fee on his entry on the roll as an advocate: *In re Parthasaradi* (1). The petitioner is entitled to a refund of the sum of Rs. 500 which he paid on his enrolment as an advocate.

The judgment of the Court was delivered by

HARINGTON A.C.J. We agree in the view expressed by the Board that exemption could be claimed and allowed in the case of *Mr. Baxter*. We accordingly direct that the sum of Rs. 500 paid by him when he was enrolled as an advocate of this Court be refunded.

Attorneys for the petitioner: *B. N. Bose & Co.*

(1) (1884) I. L. R. 8 Mad. 14.