

2. Mr. Prabhu, the learned advocate for respondents no.2 and 3 does not dispute that the revision application arose out of the order passed by the Additional Collector refusing to condone the delay in filing the appeal before him. In that circumstance the scope of the revision application was limited to considering whether refusal to condone the delay was justified.

The Additional Commissioner instead of restricting himself to the scope of the revision has decided the dispute between the parties on its merits without even touching upon the aspect of delay. In the circumstances, Mr. Prabhu states that he has no objection if the revision is remanded to the Additional Commissioner to consider the issue arising therein i.e. condonation of delay in filing appeal before the Additional Collector. He also states that though there were in all three prayers to the appeal preferred by respondents no.2 and 3, they will restrict themselves only to prayer (a) and the first prayer (b). They do not press for the second prayer (b) in the RTS revision.

3. Respondents no.2 and 3 had preferred the RTS revision because the Collector had refused to condone the delay in filing Appeal No. 94 of 2011. The prayers (a) and (b) relate to the grievance of these respondents in rejection of the prayer for condonation of delay. Perusal of the impugned order shows that there is no consideration of this grievance at all. The petition is therefore partly allowed. The order dated 2nd February, 2016 is set aside. The RTS Revision No. 520 of 2013 is remanded to the Additional Commissioner, Konkan Division, Mumbai for fresh hearing. The hearing would be restricted to prayers (a) and first prayer (b) of the appeal.

4. In view of disposal of the petition, Civil Application No. 1637 of 2016 does not survive. The same is accordingly disposed off.

[Smt. R. P. SondurBaldota, J.]