

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8643 OF 2013

Pepsico India Holding Pvt Ltd., through Accounts Manager Mr Yashpal Jajodia ...Petitioner

Versus

The Commissioner, Sangli Miraj and Kupwad Municipal Corporation & Ors ...Respondents

WRIT PETITION NO. 3396 OF 2012

M/s. Hindustan Coca-Cola Beverages Pvt Ltd ...Petitioner

Versus

Sangli Miraj and Kupwad Municipal Corporation & Ors ...Respondents

Mr Rajeev V Talashikar, *for the Petitioner in WP/8643/2013.*

Mr Chirag Shetty, *with Jitendra Motwani, i/b Economic Laws*

Practice, for the Petitioner in WP/3392/2012.

Mr SS Patwardhan, *for Respondents Nos. 1 to 3.*

Mr Sudhir Prabhu, *for Respondents Nos. 1 & 2 in WP/3396/2012.*

Mr BV Samant, *AGP, for Respondent No. 4- State in both the petitions.*

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ**

DATED: 11th June 2019

PC:-

1. In the light of the communication received by Mr Samant, a copy of which is taken on record and marked “X” for identification, we do not think that we should pursue the petitions any further. The Petitioners, who are aggrieved by the imposition, levy and collection of the duty, have an alternate and equally efficacious remedy under Section 406 of the Maharashtra Municipal Corporation Act, 1949 to approach the Appellate Authority. A Civil Court having been chosen by the legislature to decide these disputes, if approached even now can be requested to condone the delay in filing of the appeal, including for the reason that the proceedings before this Court were pending from the time of filing of the Petition in 2013, and all this time was spent bona fide in obtaining the relief. That may be excluded in the period of limitation prescribed for filing of the appeal. We have no doubt that if such a request is made consistent with the mandate of Section 5 and 14 of the Limitation Act 1963 or principles analogous thereto, the Civil Court will apply its mind and pass appropriate orders in accordance with law after hearing both sides.

2. We dispose of these writ petitions in these terms by clarifying that this Court has expressed no opinion on the rival contentions.

(G. S. PATEL, J)

(S.C. DHARMADHIKARI, J)