



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2661 OF 2002

Sahakar Maharshi Shankarrao Mohite
Patil Sahakari Sakhar Karkhana Limited,
Shankar Nagar, Akluj, District SolapurPetitioner

Vs.

1. State of Maharashtra
Through Secretary,
Government of Maharashtra,
Home (Transport) Department,
Mantralaya, Mumbai – 400 020.

2. Commissioner of State Excise,
Old Custom House,
Mumbai – 400 032.

3. The Collector of Solapur,
(State Excise Department),
District Solapur.

.....Respondents

Mr. Vinayak R. Salokhe, for the Petitioner.
Mr. M. M. Pabale, AGP, for the Respondents-State.

**CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.**
DATE : 18th JULY 2025.

P. C.:

1. By way of this Petition, the Petitioner assails the validity and legality of Rule 23 of the Maharashtra Foreign Liquor (Import and Export) Rules, 1963 and quashing of the recovery of the Export Fees under the said Rules. The Petition was admitted on 30th April 2002.

2. Mr. Vinayak Salokhe, learned counsel appeared for the Petitioner and Mr. M. M. Pabale, learned AGP represented the State.

3. Mr. Salokhe has placed on record a decision of this Court dated 6th May 2011 reported in 2011 (3) ALL M.R. 852, in which an identical issue was raised and determined by this Court. The impugned Rule was set aside in the said decision. We are told that the larger issue is pending determination before the Apex Court in many such matters. Mr. Pabale also confirms the same.

4. In view of the fact that this issue is already decided in the aforesaid decision and although the issue is pending final determination in the Supreme Court, there is no stay to the orders passed by this Court in those matters, this Petition also deserves to be allowed.

5. It is however, made clear that in case, that the Supreme Court reverses the decision of this Court reported in 2011 (3) ALL M.R. 852, the Petitioner shall pay the necessary Export Fees under the Rule 23 of the Maharashtra Foreign Liquor (Import and Export) Rules, 1963 as computed by the Competent Authority along with

applicable rate of interest as computed by the said Authority. The Petitioner is directed to furnish an indemnity bond to that effect.

6. The Petition is thus, allowed. Rule is accordingly made absolute.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)