

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5902 OF 2024

Shri Bandu Deorao Asapwar

Vs.

The State of Maharashtra, Department of State Excise, Mumbai, through Secretary for Minister of
State Excise and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.S. Jagtap, Advocate for petitioner
Shri H.D. Futane, AGP for respondent/State
Shri A.R. Wagh, Advocate for respondent No.5

CORAM : SMT M.S. JAWALKAR, J.

DATE : 28.04.2025

Heard learned Counsel for the petitioner and learned Counsel for respondents. The present petition is filed challenging the order passed by the Office of the Commissioner of State Excise, Maharashtra State in Appeal No. 97/2024. Learned Commissioner on 03/06/2024, rejected the appeal on the ground that it is not filed within limitation. It is admitted fact that order of Collector passed on 25/10/2023, which was challenged in Writ Petition No. 883/2024. The said writ petition came to be withdrawn on 04/03/2024 and petitioner herein, presented appeal before Commissioner on 20/03/2024. In view of this position, as such, there was no delay in filing appeal before the

Commissioner, considering the fact that the petitioner was under bonafide belief pursuing the remedy under Article 226 of the Constitution of India. If that period is excluded there is no delay in filing appeal. Moreover, Counsel for respondent No.5 in paragraph No. 12, specifically stated that this Court may allow the delay in filing appeal and remand back the matter to the respondent No.2/Commissioner for consideration on merits. In view of this above factual position in my considered opinion there is no delay and even if there is some delay it is hereby condoned. The Appeal_No. 97/2024 is remitted back to the Commissioner to re-register the appeal and consider it on its own merit.

2. Parties to appear before the learned Commissioner on 13/05/2025 along with copy of this order.

3. Learned Commissioner is directed to dispose of the appeal as expeditiously as possible preferably within three months from the date of appearance by the parties.

(SMT M.S. JAWALKAR, J.)