IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2622 of 2015
Date of Decision.16.02.2015

M/s Bee Pee Traders ....Petitioner

Versus

State of Punjab and others ......Respondents

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The writ petition challenges the order passed by the authorities constituted under the Punjab Agriculture Produce Markets Act, 1961. The challenge before the Authority was to an assessment made for certain sales during a period in the year 2005 when according to the petitioner there had been no sales and there was a strike in the market. The General Manager, who was the appellate authority while dismissing the appeal filed by the petitioner had reasoned that the petitioner had deposited ₹ 2,06,444/- each on account of the market fee and rural development fee and this could not have been possible unless there were some transactions and there was no total strike. The authority also observed that no records were produced before him during the appeal with regard to the transaction done by the firm. This order was confirmed in the revision.

2. The counsel for the petitioner points out that the revisional

authority has gone one step further to say that there was no proof that there was strike and that the order must have been interfered with. He also referred to the fact that the relevant rules requires a particular procedure to be adopted which has not been done.

3. I would find that the objections to the order passed by the appellate authority or the revisional authority are not justified at all, for, the case has gone on a singular aspect of a person not submitting necessary returns and when an assessment was made, it was made on the basis that the relevant records have not been submitted and that the petitioner made himself liable for penalty as well. The Rules 31(2) to (7) which the petitioner makes reference to in the writ petition, refer to the duty to submit return as prescribed under Rule 31(1) and states that after issuing a notice in Form 'O' to the dealer concerned and if such enquiry as it is considered fit, the Authority may proceed to assess the amount. The provisions contained under Rule 32(5) to (7) deal with situations where the authorities or the committee has the power also to call for inspection of the dealer's account. There cannot be an argument before me that the authorities had not called for inspection of the account and therefore, assessment could not have been made. If there was a fundamental duty cast for the dealer to submit the returns and that had not been done, if an assessment was made on the basis of the fact that appropriate returns had not been submitted, it should have been possible for the petitioner to provide the necessary information regarding the actual transactions done during the period when the petitioner was claiming that there was a strike. It was not as if the appellate authority or the revisional authority denied to him the right of

hearing when the assessment was challenged. When it was put to the petitioner that the petitioner himself had voluntarily paid a fee of more than ₹ 4 lacs towards market fee and the rural development fee and even the counsel admits before me that there had been transactions during that period, there is simply no justification for the petitioner to withhold what was surely in the hands of the petitioner. If a particular procedure had not been followed in the manner in which the petitioner complains of, he still cannot complain of any serious prejudice since he had adequate opportunity to point out to the prejudice and show before the authorities the records of what he ought to have had in his custody for even supporting the minimal transactions that gave rise to the admitted liability which he had suffered and for which he had paid also the market fee and the rural development fee did not still offer any scope to make the impugned demand.

4. I find no reason for interfering with the order impugned in the writ petition. The order is maintained and the writ petition is dismissed.

(K. KANNAN)
JUDGE

February 16, 2015
Pankaj*