IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.4098 of 2015
Date of Decision: March 10, 2015

Jain Industries, Rice & General Mills

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. D.D. Bansal, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

It is the contention of the counsel for the petitioner that vide communication dated 30.01.2015 (Annexure P-3), Market Committee, Faridkot, had called upon the petitioner to submit self assessment under Rule 31, which was required to be submitted within seven days. It has further been stated that under Rules 29 and 30, there is no exemption of market fee on rice/paddy. Since the petitioner had not submitted the required self assessment as per Rule 31, penalty on the market fee and interest on Rural Development Fund (RDF) was to be deposited within a period of seven days. To this the petitioner responded on 09.02.2015 (Annexure P-4) that according to the Agriculture Marketing Rules, market fee and RDF on agriculture produce purchased from outside the State, if it has been paid at the first stage. Petitioner had produced the receipts of mandi fee paid on paddy purchased from the places which were outside the State of Punjab along with the copies of the bill and bilty along with M Form return. The notice was, therefore, requested to be withdrawn. A further communication dated 11.02.2015 (Annexure P-5) has been received by the petitioner from the Secretary, Market Committee, Faridkot, wherein again the earlier stand has been reiterated with an addition that the market fee and RDF on the rice brought from outside is not exempted. The petitioner was again called upon to submit his details of the market fee deposited at the first stage. In response thereto vide communication dated 12.02.2015 (Annexure P-6) submitted that the requisite forms have already been submitted along with documents and, therefore, no fee is leviable from the petitioner as provided under Rule 30(9) of the Punjab Agricultural Produce Markets (General) Rules, 1962.

It is the contention of the counsel for the petitioner that as per Rule 30(9) of the 1962 Rules, no fee is leviable where the fee has already been paid at the first instance for the paddy/rice (basmati), which has been bought from outside the State. The counsel has referred to the notice dated 30.01.2015 to state that only paddy was purchased by the petitioner and at no stage, rice has been purchased by it and, therefore, on the deposit of market fee/mandi fee from the places where the paddy was bought by the petitioner-industry, no market fee and RDF is leviable. The petitioner having submitted the requisite forms and the documents along therewith showing the deposit of the mandi fee from where the paddy was purchased the demand of respondent No.3-Market Committee,Faridkot is not sustainable in law. The contention as raised by the counsel for the petitioner is being sought to be supported by relying upon the judgment passed by this Court in **CWP No.2291 of 2007** titled as **Punjab State Agricultural Marketing Board and another Vs. State of Punjab and another,** decided on 20.02.2007 (Annexure P-7), where it has been settled that no market fee is leviable on paddy, if it is bought from outside the State and at that place mandi fee stands deposited.

In view of the above, liberty is granted to the petitioner to file a detailed representation highlighting therein the correct legal position and supporting the same on the basis of judicial precedents and projecting the correct status of the petitioner with regard to the deposit of the mandi fee from the place where the paddy was purchased appending therewith the proof thereof. The said representation if filed to respondent No.3 within a period of two weeks from today, the same shall be considered and decided by the said respondent by passing a speaking order within a period of four weeks of receipt of such representation. Decision so taken be conveyed to the petitioner. It goes without saying that if the penalty has already not been imposed, the same shall not be imposed till the decision on the representation of the petitioner.

Copy of the order be given *dasti* to the counsel for the petitioner under signatures of Bench Secretary of this Court.

March 10, 2015 **(AUGUSTINE GEORGE MASIH)**
Puneet **JUDGE**