IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Date of Decision: 10.04.2015

1. **Civil Writ Petition No. 5812 of 2015**

M/s Food Corporation of India ..Petitioner
versus
Union of India and others ..Respondents

2. **Civil Writ Petition No. 6037 of 2015**

M/s Food Corporation of India ..Petitioner
versus
Union of India and others ..Respondents

3. **Civil Writ Petition No. 6038 of 2015**

M/s Food Corporation of India ..Petitioner
versus
Union of India and others ..Respondents

4. **Civil Writ Petition No. 6039 of 2015.**

M/s Food Corporation of India ..Petitioner
versus
Union of India and others ..Respondents

CORAM: HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE.
HON'BLE MR. JUSTICE G.S.SANDHAWALIA.

Present : Mr. Avneesh Jhingan, Advocate, for the petitioners.
Mr. Yogesh Putney, Advocate, for the respondents.

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S.J.VAZIFDAR A.C.J. (Oral)

Rule. Rule returnable and heard forthwith.

2. The issues that arise in these writ petitions are similar to those which arose in a group of writ petitions including writ petition No. 6226 of 2015 ***Punjab State Civil Supply Corporation Ltd.*** **v.** ***Union of India and others*** which we disposed of vide order and judgment dated 09.04.2015. It is sufficient, therefore, to note the issues only briefly.

3. The common petitioner, namely, Food Corporation of India, purchases paddy and *inter-alia* forwards the same to the millers for milling. The millers send back the rice to the petitioner-FCI but are entitled to retain by-products such as husk and rice bran. The revenue contends that a value ought to be attributed to the by-products and, consequently, the petitioners were bound to deduct the TDS under Chapter XVII(B). The petitioner-FCI on the other hand contends that they are not concerned with the by-products and that no value can be attributed to the same. They accordingly have admittedly not either deducted the TDS nor paid over the same to the Government.

4. In our said judgment and order dated 09.04.2015, we had referred the judgment of Andhra Pradesh High Court in ***Food Corporation of India v. State of Andhra Pradesh (1999) 115 STC 148*** and observed that the judgment, though in relation to sales tax, would require consideration. We granted a stay in those matters as the petitioner therein, namely, Punjab State Civil Supply Corporation Ltd. , a Government of Punjab undertaking, received financial facilities from the Reserve Bank of India and was engaged in an important public duty, namely, the procurement and distribution of foodgrains throughout the State of Punjab.

5. It is not necessary to elaborate that the functions of the petitioner-FCI before us are equally, if not more important. The matter involves procurement and distribution of foodgrains all over the India. We do not intend granting the stay merely because the petitioner has an arguable case. Most important is the fact that the petitioner is a Government of India undertaking involved in various public utility services which may be affected in the event of its cash flow being adversely effected.

6. The petitioner agrees and undertakes not to seek any time before the C.I.T. (Appeals) on any grounds whatsoever.

7. All the writ petitions are accordingly allowed. The undertaking of the petitioner-FCI not to seek adjournment before the C.I.T. (Appeals) is accepted.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S.SANDHAWALIA)
JUDGE

10.04.2015
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