**In the High Court of Punjab and Haryana at Chandigarh.**

**1. CWP-11552 of 2014**
**Decided on 30.11.2016**

M/s. Baba Naga Rice & General Mills

--Petitioner

Vs.

State of Punjab and others

--Respondents

**2. CWP-11380 of 2015**
**Decided on 30.11.2016**

M/s. Vijj Agro Export Pvt.Ltd.

--Petitioner

Vs.

State of Punjab and others

--Respondents

**3. CWP-13522 of 2014**
**Decided on 30.11.2016**

M/s. Monga Foods Pvt. Ltd.

--Petitioner

Vs.

State of Punjab and others

--Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

Present: Mr.Sameer Sachdeva, Advocate, for the petitioners in all the petitions except in CWP-17622 of 2015;

Mr.Aman Bansal & Mrs. Anjali Bansal,Advocates,for the petitioner in CWP-17622 of 2015

Mr.Suresh Singla,Addl.A.G.Punjab

Mr.G.S.Harike, Advocate and
Mr.S.S.Rangi, Advocate, for respondent Nos.2 and 3 in CWPs-13522 of 2014 and 11380 of 2015.

**Rakesh Kumar Jain,J**: (Oral)

This order shall dispose of three petitions bearing CWP Nos.- 11552 of 2014, 11380 of 2015 and 13522 of 2014 as the issue involved in these petitions is common and have been filed in order to challenge the order of Assessing Authority under Rule 31 (13) of the Punjab Agriculture Produce Markets (General) Rules,1962 (hereafter referred to as 'the Rules') framed under the Punjab Agricultural Produce Markets Act,1961. ('the Act').

Learned counsel for the petitioner (s) has submitted that since the petitioners have purchased the agricultural produce from outside the State of Punjab, therefore, in terms of Circular dated 01.07.2003 issued by the Punjab Mandi Board, to all the Secretaries, Market Committees, in the State of Punjab, the petitioners cannot be burdened with the levy of Market Fee and Rural Development Fund. In support of his submission, he has relied upon judgments of this Court in the cases of **M/s. Shiv Foods Manwala Road, Dhuri Vs. Market Committee, Dhuri and another** (CWP- 801 of 2006) decided on 03.08.2006 and **Punjab State Agricultural Marketing Board and another** (CWP-2291 of 2007) decided on 20.02.2007 .

Learned counsel for the respondents has submitted that no doubt that if agricultural produce is purchased by the petitioners from outside the State of Punjab, then Market Fee and Rural Development Fund is not levied, but it is a pure question of fact which has to be established with regard to the purchase by the petitioner (s).

While referring to the order passed by the Assessing Authority in the case of **M/s. Baba Naga Rice & General Mills,** it is submitted that the Assessing Authority had sent repeated reminders to the petitioner therein to produce the complete record but it did not represent. Ultimately, the Assessing Authority passed the assessment order which has been challenged in the present petitions on the ground that the petitioners are not liable to pay Market Fee and Rural Development Fund.

Learned counsel for the respondents has submitted that the order of assessment is amenable to appeal under Rule 31 (13) of the Rules and have made a false statement in the petition that there is no remedy of appeal available to the petitioners.

Learned counsel for the petitioners has submitted that since the petitioners are not liable to pay any Market Fee or Rural Development Fund and also have to deposit 50% of the amount assessed to file the appeal which is not possible for them to pay and has, thus, relied upon the circular of the Punjab Mandi Board dated 01.07.2003 and the decisions rendered by this Court. Therefore, prayer is made for deciding the petitions without relegating them to their remedy of appeal. However, it is submitted that the petitioners would avail the remedy of appeal in case some concession is given about the deposit of the amount for the purpose of hearing the appeal and if no question of limitation is raised for entertaining the appeal.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that according to the respondents, it is still a question of fact to be determined by the Appellate Authority as to whether the petitioners have purchased the agricultural produce from outside the State of Punjab and they have to produce the entire record for verification and consideration of the Appellate Authority.

I have considered the rival contentions and am of the considered opinion that the petitioners should avail their statutory remedy of appeal for which instead of depositing 50% of the amount assessed, bank guarantee of the said amount shall be furnished which shall not be encashed by the respondents till the decision of the appeal and in case the appeal is filed within three weeks from today, the question of limitation shall not be raised by the respondents and the appeal shall be decided in accordance with law.

These petitions are, thus, disposed of.

**30.11.2016** **(Rakesh Kumar Jain)**
**rr** **Judge**

**Whether Speaking/Reasoned: Yes/No.**

**Whether Reportable: Yes/No**