

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.16387 of 2016
Date of Decision:-12.08.2016

M/s Sekhon Gram Udyog Samiti (Regd.) and others

..... Petitioners

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Sanjiv Manrai, Sr. Advocate, with
Mr.Gaurav Talwar, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

The question involved in this case is as to whether the petitioners can be allowed to challenge the order of assessment passed by the assessing authority under the Punjab Agricultural Produce Market Act, 1961 [for short 'the Act'] read with Punjab Agricultural Produce Market Rules, 1962 [for short 'the Rules'] if the petitioners have been non-suited in appeal on the ground of delay and the said order is maintained in revision as well?

The brief facts of the case are that the petitioners-firm was assessed by the assessing officer of the Market Committee, Amloh on 6.5.2003. The said assessment order was set aside in appeal and the case was remanded back to the assessing officer to pass a fresh assessment order. The assessing officer again passed the assessment order on 30.3.2005. The said order was also set aside in revision on 17.3.2006 and the case was remanded back to the assessing officer again to pass a fresh order. Finally, assessing

officer passed the impugned order dated 20.12.2010 and issued a demand notice to deposit the amount assessed. The said order is admittedly amenable to appeal in terms of Rule 31(13)(ii) of the Rules. The time prescribed for filing of the appeal is 60 days from the date of passing of the said order. However, the appeal filed by the petitioners was after a period of three years even without any application for condonation of delay and assigning the reason for not filing the appeal in time. The said appeal was dismissed by the Appellate Authority (General Manager) with the observation that the appeal has been filed after the expiry of statutory period prescribed that too after almost 3 years even without filing an application for condonation of delay. The petitioners challenged that order by way of revision before the Special Secretary Agriculture, Punjab. The revision was also dismissed on that ground alone that the appeal was filed with a huge delay without assigning any reason and even without filing any application for delay.

Learned counsel for the petitioners has submitted that the order passed by the appellate and the revisional authority will not effect his case in challenging the order of assessment if the order of assessment is basically no-nest and against the rules much less Annexure P-4.

I have heard learned counsel for the petitioners and after perusal of record, am of the considered opinion that such a remedy cannot be allowed to be taken by the petitioners because the order of the assessing officer is appealable under the statutory Rules and that appeal has been filed by the petitioners after the expiry of a huge delay i.e. after three years, while the limitation provided is of 60 days and the petitioners even did not care to file any application for condonation of delay assigning some reasons. The petitioners thereafter approached the revisional authority and remained

unsuccessful in explaining the cause of delay, occurred on their part, at the time of filing of appeal. Consequently, the revision was also dismissed on the ground of delay alone. The arguments raised by counsel for the petitioners that they need not to challenge the assessment order now by way of appeal or revision because the assessment order is *per se* illegal and contrary to the provisions of the Act or the Rules and if such a procedure is adopted then nobody will go to the appellate or revisional authorities to challenge the order passed by the assessing officer and the provisions enacted by the legislature of providing statutory appeal or revision would become redundant. Consequently, the present petition is hereby dismissed.

12.08.2016

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether non speaking

Yes/No