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

Regular Second Appeal No.4649 of 2014(O&M)
Date of Decision: March 29, 2016.

Food Corporation of India & others

..........APPELLANT(s).

VERSUS

M/s Bharat Flour Mills Ltd.

........RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vikas Chatrath, Advocate
for the appellant (s).

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SURINDER GUPTA, J.

Heard.

2. This appeal has been filed by Food Corporation of India and others against the judgment and decree passed by learned Civil Judge (Junior Division), Pathankot, decreeing the suit of the respondent-plaintiff for recovery of ₹47,705/-. This amount was deducted from the payments to be made to the respondent-plaintiff by the appellants and deposited with Sales Tax Department towards 1% cess on the cost of wheat and gunny bags. The appellants took the plea that the amount deducted from dues of plaintiff was deposited with the Sales Tax Department, as such, it is not in a position to refund the same. However, the appellant had filed suit for recovery of this amount from the Sales Tax Department.

3. It is not disputed that the amount recovered from plaintiff was not payable by the plaintiff towards 1% cess on the cost of wheat and gunny bags.

4. Learned counsel for the appellants submits that this amount was paid to Sales Tax Department, as such, Sales Tax Department was necessary party to this case but was not impleaded by the respondent-plaintiff, as such, the suit filed by the plaintiff is bad for non-joinder of necessary parties.

5. The above contention of learned counsel for the appellants carries no weight as the suit amount was not paid by the plaintiff to Sales Tax Department. It was deducted by the appellants of their own, may be under some wrong impression or by mistake. It is the liability of the appellants to repay this amount to the plaintiff and to pursue its legal remedy against the Sales Tax Department. The appellants had already pursued their remedy against the Sales Tax Department for recovery of the above amount which it is legally entitled to pursue.

6. However, this appeal has no merits.

7. No substantial question of law requiring determination arises in this appeal.

8. Dismissed.

(SURINDER GUPTA)
JUDGE

March 29, 2016.
Sachin M.