

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18816-2015

Date of Decision: January 20, 2017

M/s Guru Kirpa Fruit Company and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Akshay Jindal, Advocate
for the petitioners.

Mr.Deepak Balyan, Addl.AG, Haryana.

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SURYA KANT, J.

The petitioner being an old commission agent was allotted Plot No.569 on concessional rate in the New Grain Vegetable Market at Karnal on 12.06.2009. The allotment was cancelled on 02.12.2009 on the ground that he was a wholesale dealer and the allotment could be made only in favour of '*Kacha Arthiyas*'. The petitioner filed appeal which was dismissed. He then filed a revision petition before the State Government

under Section 40(3) of the Punjab Agricultural Produce Markets Act, 1961. The petitioner's revision petition was allowed by State government vide order dated 25.08.2011 but the order was released by the Financial Commissioner on 05.02.2013. The operative part of the order as well as endorsement of its release are to the following effect:-

“6. In view of the above legal position and the spirit of the rehabilitation policy, I am of the considered view that the purpose of eligibility criteria is to sift the bona fide old licensees of category-II from others. Therefore, in order to do substantial justice to the firm, I set aside the impugned order dated 6.1.2011 passed by the respondent No.1 and order the allotment of the same plot i.e. 577 to the petitioner firm on the reserve price. However, the reserve price would be calculated at the current rate which will be determined after increasing the reserve price initially fixed at the time of allotment by the Allotment Committee by 15% per annum on simple interest basis. I order accordingly.

Announced.

(Roshal Lal)

Chandigarh Financial Commissioner & Principal Secretary to
Govt. Haryana, Agriculture Department

Endst.No.137-Agri.Sec.(3)-2013/1487

Chandigarh, dated the 5/2/13”

It may be seen that the petitioner's claim was accepted by the Revisional Authority on the condition that reserve price to be calculated at the rate “*after increasing the reserve price initially fixed at the time of allotment by the Allotment Committee by 15% per annum on simple interest basis.*”, was required to be paid by it.

In compliance to the above-stated order the allotment was

restored but the petitioner has been asked to pay 15% additional amount upto 21.01.2014, namely, the date when Allotment Order No.86 was issued in its favour. The petitioner firstly challenges the very levy of 15% additional amount. Alternatively, it is urged that petitioner is liable to pay such additional amount only upto 25.08.2011 when the Revisional Authority passed the order, levying these charges.

We have heard learned counsel for the parties and are of the view that petitioner cannot be permitted to challenge the order dated 25.08.2011/05.02.2013 at this stage so far as imposition of additional 15% amount on simple interest basis. The petitioner accepted that order and availed the benefit of allotment on 21.01.2014. However, the respondent-authorities cannot take advantage of the undue delay caused in giving effect to the order of Revisional Authority. The petitioner cannot be asked to pay 15% additional amount upto the date of allotment order, i.e. 21.01.2014. The petitioner is liable to pay such additional amount only upto 05.02.2013, i.e. when the Revisional order was issued.

As regard to the levy of penal interest on the petitioner from the date of allotment, i.e. 21.01.2014 till the possession was allegedly offered on 15.07.2015, there appears to be some factual dispute. Hence, we grant liberty to the petitioner to submit a comprehensive representation in respect of such claim which is directed to be considered and decided by the Competent Authority within a period of three months from the date of filing of such representation.

For the reasons aforesaid, the writ petition is allowed in part

and if the petitioner has been charged 15% additional amount up the date of

allotment letter, i.e. 21.01.2014, respondent-authorities are directed to refund such amount for the period from 06.02.2013 till 21.01.2014. The refund shall be made within two months from the date of receipt of a certified copy of this order.

(SURYA KANT)
JUDGE

January 20, 2017
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |