IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.118

CWP No.21753 of 2017
Date of decision : 22.09.2017

M/s Goyal Traders Commission Agents ..... Petitioner

VERSUS

State of Punjab and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Arun Kaundal, Advocate, for the petitioner.

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SUDHIR MITTAL, J.

The petitioner was served with a notice for non-payment of Market Fee and Rural Development Fund for the period from 01.04.2007 to 31.03.2009 under Rule 31 (4) of the Punjab Agricultural Produce Markets (General) Rules, 1962 (hereinafter referred to as 'the Rules'). The reply submitted by the petitioner was found to be unsatisfactory and therefore, the assessment order directing the petitioner to pay the shortfall in the Market Fee and Rural Development Fund alongwith penalty and interest was passed. The petitioner preferred a statutory appeal, which was rejected and the revision filed against the appellate order has also been dismissed. Thus, the petitioner is before this Court by way of present writ petition.

2. The case of the petitioner is that in the year 2007 certain quantity of wheat was purchased by him from M/s Prem Nath Satish Kumar, a licensed dealer, doing his business within the jurisdiction of Market Committee, Guruharsahai, District Ferozepur. The payment was allegedly

made by way of cheque and Market Fee alongwith Rural Development Fund (for short RDF) was included in the amount paid to the said dealer. Thereafter, Form KK/K-1 was submitted to Market Committee, Nabha, and the said Market Committee verified the same from Market Committee, Guruharsahai. The notices dated 18.10.2010 and 21.10.2010 (Annexure P-3) raising a demand for payment of Market Fee and RDF were also illegal and without jurisdiction as the said amounts already stood paid. The assessment orders and the subsequent orders passed by the Authorities were also illegal as they have failed to take into consideration the fact that the dues demanded had already been paid by the petitioner. Further, the Market Fee and RDF is payable by the seller and is to be assessed by the Market Committee within whose jurisdiction the transaction of sale has taken place. Therefore, Market Committee, Nabha, did not have the jurisdiction to pass the assessment orders.

3. Having heard learned counsel for the petitioner, we are of the opinion that the present writ petition deserves to be dismissed. The petitioner has sought exemption from the payment of Market Fee from the Market Committee, Nabha, i.e. the Market Committee within whose jurisdiction it is carrying on business. Therefore, the decision whether to grant exemption or not is to be taken by the said Market Committee. In an enquiry conducted by the Punjab Mandi Board, the Forms KK/K-1 submitted by the petitioner have been found to be forged. Thus, the impugned show cause notices are justified. The record shows that the petitioner was directed to produce its accounts for the relevant period, but it failed to do so. The only defence taken by it was that in the event of Form KK/K-1 being forged, liability to pay the relevant due lay upon the dealer

from whom the agricultural produce had been purchased by the petitioner. This argument has been rejected by the Assessing Authority as well as the Appellate & Revisional Authorities on the ground that the forged Form KK/K-1 did not entitle the petitioner to seek exemption from the payment of Market Fee and RDF and therefore, the petitioner was liable to pay the amounts due.

4. In our opinion, the orders passed by the Authorities are perfectly just and legal. The person seeking exemption from the payment of dues has to establish that all documents filed in support of his claim for exemption are genuine. In case, he is unable to do so, he is bound to bear the consequences of filing the forged documents. The submission of the learned counsel for the petitioner that under Rule 29 (2) of the Rules, the Market Fee and RDF were recoverable only within the jurisdiction of the Market Committee, where the transaction of sale had taken place is also mis-placed. Reliance upon a judgment of Division Bench of this Court in '**Market Committee, Rajpura and another Vs. State of Punjab and another, 2005(3) RCR (Civil), 201,** also cannot be accepted. In that case, there were no allegations regarding forgery of the Form KK/K-1 submitted by the assessee-purchaser. The demand raised upon the assessee-purchaser was found to be unjustified as he had already paid Market Fee and RDF to his seller and under the circumstances, it was held that the remedy was to initiate proceedings against the seller. In the present case, the question of initiating proceedings against the seller would only arise, if the Form KK/K-1 is genuine. The said Form has been found to be a forged document and therefore, the judgment relied upon by the learned counsel for the petitioner is distinguishable on facts.

5. Learned counsel for the petitioner has also argued that a verification letter dated 04.07.2007 has been sent by Market Committee, Guruharsahai to Market Committee, Nabha, verifying the transaction in favour of the petitioner. This has been accepted by the Market Committee, Nabha, and therefore, issuance of the impugned notices is not justified. This argument also deserves to be rejected for the simple reason that the Form KK/K-1 submitted by the petitioner had been found to be forged in an enquiry subsequently conducted by the Punjab Mandi Board. This is apparent from letter dated 18.10.2010 (Annexure P-3) issued by the Market Committee, Nabha. It is not the case of the petitioner that the Punjab Mandi Board was not entitled to conduct an enquiry to verify the documents submitted by the petitioner. Thus, reliance upon doctrine of estoppel by the petitioner cannot be accepted.

6. For the reasons mentioned hereinabove, there is no merit in this writ petition and the same is, accordingly, dismissed. However, it shall be open to the petitioner to pay the dues demanded from it and to recover the same from his seller, namely, M/s Prem Nath Satish Kumar of Market Committee, Guruharsahai.

(SUDHIR MITTAL)
JUDGE

(SURYA KANT)
JUDGE

September 22, 2017
Ramandeep Singh

Whether speaking / reasoned Yes / No

Whether Reportable Yes/ No