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

CWP No. 19890 of 2018(O&M)
Date of decision : 10. 08.2018

M/s Garg Cotton Ginning Processing and Oil Mills, Sardulgarh, District Mansa **....... Petitioner**

versus

State of Punjab and others **....... Respondents**

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE AMIT RAWAL

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Present: Mr. Roshan Lal Batta, Sr. Advocate with
Mr. Jagir Singh Saggi, Advocate
for the petitioner.

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AMIT RAWAL, J.

The petitioner in the present writ petition has assailed the following orders:-

Assessment order dated 14.08.2012	(Annexure P-16)
Demand notice dated 14.08.2012	(Annexure P-17)
Order dated 21.09.2015	(Annexure P-18)
Order dated 15.03.2018	(Annexure P-20)

with a further direction for stopping implementation of the aforementioned orders.

It has been alleged that the petitioner-firm is doing the business of ginning of Narma/Cotton, Banolo at their mill, situated at Sardulgarh. M/s Singhal Traders, Cotton Merchants & Commission Agents, Anaj Mandi, Dhuri purchased about 179 quintals of cotton vide invoices No. 63

dated 7.6.1996 (Annexure P-1) and 64 dated 10.06.1996 (Annexure P-2) from M/s Amar Nath Gian Parkash, Sacha Sauda Road, Malout, District Muktsar (Punjab). Thereafter the petitioner-firm purchased Rui from M/s Singhal Traders, Cotton Merchants and Commission Agents, Anaj Mandi, Dhuri (Sangrur) vide invoices No.164 &165 dated 22.1.1997 (Annexure P-3 and P-4 respectively) and 180 and 181 dated 06.02.1997(Annexure P-5 and P-6 respectively). The assessing authority/Market Committee passed assessment order dated 29.6.99 for the assessment year 1996-97 whereby the petitioner-firm was asked to pay a sum of ₹ 2,57,784.68 ps. as market fee, ₹ 2,57,784.68 ps as RDF and ₹2,57,784.68 ps as penalty. The aforementioned order was assailed by filing an appeal but was dismissed. The revision petition was also dismissed by the Special Secretary.

Mr. Roshan Lal Batta, learned Senior counsel appearing on behalf of the petitioner submitted that the authorities below have not taken into consideration documents Annexure P-3 to P-6 which ex facie reveal that market fee had been paid, even the consignor or the petitioner had also filed Form K-1. Market Committee, Sardulgarh in this regard wrote a letter to Market Committee, Malout to verify the authenticity of the receipt but no such intimation was ever received, in such circumstances liability of payment of the market fee and other amount as noticed above, could not have been fastened upon the petitioner for no fault of it. No reasonable enquiry has been conducted by the authorities to verify the authenticity and genuineness of the aforementioned payment.

Emphasis was also laid on the notification dated 4.9.98 issued by the Punjab Government specifying that no market fee should be levied on the agricultural produce bought and sold for which market fee had already been paid, to the similar effect our attention was drawn to Rule 30(1) of the Punjab Agricultural Produce Markets(General) Rules, 1962.

We have heard learned counsel for the petitioner, perused the paper book and are of the view that there is no force and merit in the submissions of learned senior counsel. The petitioner has miserably failed to discharge the burden of payment of the market fee. If at all M/s Singhal Traders, the consignor had paid the market fee, nothing prevented the petitioner to produce the receipt of the same, thus cannot be permitted to blow hot and cold and indulge into blame game by putting the entire onus on the authorities by referring to certain letters allegedly written by Market Committee, Sardulgarh to Market Committee, Malout. No material had been placed on record to rebut the categoric and specific finding regarding closure of firm M/s Amar Nath Gian Parkash from whom M/s Singhal Traders purchased cotton material vide Annexure P-1 and P-2. The authorities had no other option but to accept the validity of assessment orders. We do not intend to differ with same as the orders do not fall within the realm of judicial review. No ground is made out to set aside the aforesaid orders.

The petition is resultantly dismissed.

(RAJESH BINDAL)
JUDGE

(AMIT RAWAL)
JUDGE

10. 08.2018
sunita

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No