IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 2.8.2018

1. **RSA No.3906 of 2018(O&M)**

Haryana Warehousing Corporation ….Appellant

VERSUS

M/s Juna Ram and sons and others .....Respondents

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2. **RSA No.3908 of 2018(O&M)**

Haryana Warehousing Corporation ….Appellant

VERSUS

M/s Singla Trading Co. and others .....Respondents

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3. **RSA No.3914 of 2018(O&M)**

Haryana Warehousing Corporation ….Appellant

VERSUS

M/s Kissan Trading and others .....Respondents

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4. **RSA No.4166 of 2018(O&M)**

Haryana Warehousing Corporation ….Appellant

VERSUS

M/s Modi Trading Co. and others .....Respondents

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5. **RSA No.4169 of 2018(O&M)**

Haryana Warehousing Corporation ….Appellant

VERSUS

M/s Madan Lal Sandeep Kumar and others .....Respondents

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CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Harsh Aggarwal, Advocate for the appellant.

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REKHA MITTAL, J. (Oral)

This order will dispose of RSA Nos.3906, 3908, 3914, 4166 and 4169 of 2018 as identical questions of law and fact are involved for adjudication. For the sake of convenience, facts are taken from RSA No.3906 of 2018.

The respondent/plaintiff filed suit for recovery of Rs.4,82,140/- payable with interest on the premise that during the period from April 2009 to May 2009, Haryana Warehousing Corporation purchased wheat through the plaintiff /firm amounting to Rs.84,55,457.47p but made payment of Rs.80,66,633.47p, thus, illegally retained an amount of Rs.3,88,824/- on the pretext that less weight of wheat was found at the storage point.

The trial Court dismissed the suit but the judgment and decree passed by the trial Court came to be reversed in appeal by the District Judge, Fatehabad whereby the respondent/plaintiff has been held entitled to recover Rs.4,82,140/- with interest at the rate of 6% per annum from the date of filing of suit till realization of the decretal amount.

The sole submission made by counsel for the appellant is that as Haryana Warehousing Corporation is short of manpower, it is difficult for the Corporation to supervise weighment of purchased products at the business place of each commission agent, therefore, weighment of products at the storage point and finding deficiency in weighment should be accepted in public interest.

I have heard counsel for the appellant, perused the paper-book particularly the judgments passed by the Courts below.

It is surprising rather shocking that such a plea has been sought to be raised by the appellant- Corporation, a Government Undertaking, which can never stand the test of judicial scrutiny. It is for the Corporation to make arrangements that there is proper weighment of produce at the place of commission agent before the same is lifted and transported to the storage place of the corporation. It is undenied position of the case that at the time of alleged weighment at the storage point, a representative of the commission agent was not associated. No representative of the commission agent accompanies the goods when transported from the Anaj Mandi to the storage point. Meaning thereby that any such weighment at the storage point is a unilateral act of the corporation without associating authorized representative of the commission agent. If plea raised by the appellant is accepted that either the produce was less in weight or the corporation is not liable to make entire payment on the basis of weighment made in the Anaj Mandi, it would operate against principle of natural justice that no man can be condemned unheard. In this view of the matter, contention raised by counsel for the appellant is highly misconceived and liable to be rejected.

No other point has been raised.

For the foregoing reasons, the appeals fail and are accordingly dismissed in limine. No order as to costs. With the disposal of appeals on merits, miscellaneous applications shall be deemed to be disposed of.

AUGUST 2, 2018 **(REKHA MITTAL)**
'D. Gulati' **JUDGE**

Whether speaking/reasoned : yes/no
Whether reportable : yes/no