

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP 17746/2018
Date of decision:24.07.2019.

M/s Chawla Trading Company

.....Petitioner

v.

Secretary,Punjab State Agricultural Marketing Board and others

.....Respondents

**Coram: Hon'ble Mr.Justice Jaswant Singh
Hon'ble Mr.Justice Lalit Batra**

Present:- Mr. S.S.Sodhi,Advocate for the petitioner.

Jaswant Singh,J,(Oral).

This order shall dispose of seven* connected writ petitions, as detailed in the footnote of this order, filed by different petitioners,*inter alia* seeking a writ in the certiorari for quashing the impugned revisional order dated 12.10.2017 (P-5) passed by Secretary,Punjab State Agricultural Marketing Board-respondent no1; appellate order dated 13.2.2017(P-4) passed by Appellate Authority-cum-Chief General Manager,Punjab Mandi Board-respondent no.2; demand notice dated 25.5.2016 (P-1); and assessment order dated 25.5.2016 (P-2) passed by Market Committee,Sunam-respondent no.3, being illegal and in violation of Section 23 of the Punjab Agriculture Produce Market Act,1961 by illegally invoking the provisions of Punjab Rural Development Act,1987.

Since all the seven writ petitions involve identical facts

and common question of law, hence are being decided together. However, for the sake of clarity, facts are being taken from CWP 17746 of 2018.

The petitioner firm, based at Sabzi Mandi, Sunam and duly licenced, is running its business of sale of purchase of fruits and vegetables. It is averred that sale or purchase of fruits and vegetables is carried out with the permission and knowledge of staff of Market Committee-Sunam-respondent no.3, who used to keep the account of sale proceed of all such firms/Commission Agents and thus there being no scope of secret sale/purchase of fruits or vegetables.

Market Committee Sunam, vide demand notice (P-1) raised a demand of Rs.1,45,098/- towards chargeable market fee, RDF and penalty on RDF for the period from 1.4.2012 to 31.3.2015. As per records of the the Market Committee, Sunam, during the said period petitioner firm had transacted assessed value of business to the extent of 1,92,76,300/- on which it was liable to pay market fee to the tune of Rs.3,85,526/-; and RDF to the tune of Rs.3,85,526/-. Against this the petitioner firm paid market fee of Rs.3,85,526/- but against RDF it paid only an amount of Rs.3,44,826/- thus there being a deficit of Rs.40,700/- of RDF on which penalty @ 18% p.a., to the tune of Rs.19,752/- was imposed.. Since the petitioner firm failed to deposit the raised demand, Assessment Order dated 25.5.2016 (P-2) was issued to it. The petitioner firm challenged the Demand Notice (P-1) and Assessment Order(P-2) by way of appeal under Rule 31

(13) of the Punjab Agricultural Produce Markets (General) Rules, 1962 before the Secretary, Punjab State Agricultural Marketing Board, SAS Nagar. Before the Appellate Authority, it was the case of the petitioner firm that it had deposited the due market fee/RDF and nothing was due from it. The Appellate Authority vide order dated 13.2.2017 (P-4) gave a categorical finding that the petitioner firm, to prove its stand, was given number of opportunities through various letters to produce its records but it did not do so nor filed any reply and hence the appeal was rejected. Still dissatisfied, the petitioner firm filed Revision No.5/31/17-M3 before Special Secretary Agriculture and Former Welfare Department, Punjab. The Revisional Authority vide order dated 12.10.2017 (P-5) while dismissing the revision petition affirmed the findings of Appellate Authority by reiterating the fact that petitioner firm, despite opportunity to produce the record did not produce any record nor gave any record based reply qua the Demand Notice/ Assessment Order (P-1 and P-2 respectively). Hence the present writ petition.

This Court on 11.3.2019 passed the following order:-

"Prays for time to place on record the receipt indicating payment of the assessed amount.

Adjourned to 28.3.2019.

A photocopy of this order be placed on the files of aforesaid connected cases."

Thereafter neither on 28.3.2019 nor on next date i.e. 9.5.2019 the petitioner placed on record the receipt indicating payment of assessed amount, as directed by this Court vide order dated 11.3.2019.

At the time of hearing today, counsel for the petitioner states that despite repeated intimations, neither the petitioner firm has supplied the requisite receipts nor contacted him and hence he is unable to assist the Court any further.

In view of the above, it is evident that the Demand Notice (P-1), Assessment Order(P-2), Appellate Order (P-4) and Revisional Order (P-5) are perfectly legal and valid and suffer from no illegality or perversity so as to warrant interference in the present writ petition. Dismissed.

A copy of this order be placed on the files of connected cases.

(Jaswant Singh)
Judge

24.07.2019.
joshi

(Lalit Batra)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No

- 1.CWP 17746/2018 M/s Chawla Trading Co., v Secretary,Punjab State Agricultural Marketing Board and others
- 2.CWP 17971/2018 M/s Shree Ganesh Fruit Co., v Secretary,Punjab State Agricultural Marketing Board and others
- 3.CWP 17917/2018 M/s Thind Fruit Co., v Secretary,Punjab State Agricultural Marketing Board and others.
- 4.CWP 17789/2018 M/s Gulshan Fruit Co., v Secretary,Punjab State Agricultural Marketing Board and others
- 5.CWP 17750/2018 M/s Sunam Fruit Co., v Secretary,Punjab State Agricultural Marketing Board and others
- 6.CWP 17748/2018 M/s Hardev Singh and Co., v Secretary,Punjab State Agricultural Marketing Board and others
- 7.CWP 17749/2018 M/s Shankar Fruit Co., v Secretary,Punjab State Agricultural Marketing Board and others