

Sr. No.204

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.3695 of 2015 (O&M)

Date of Decision: 20.05.2019

M/s Mahajan Fruit Company and another

... Petitioners

Versus

Union Territory, Chandigarh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sanjiv Pandit, Advocate,
for the petitioners.

Mr. Karanvir Singh, Advocate for
Mr. J.S.Toor, Standing Counsel
for respondent No.1 and 2.

Mr. Kuldeep Tiwari, Advocate,
for respondent No.3.

ARUN MONGA, J.(ORAL)

Impugned herein is order dated 30.01.2015 (Annexures P-33 and P-34) passed by the Assessing Authority, Market Committee, Chandigarh whereby an amount of Rs.40,15,406/- and Rs.62,530/- was directed to be deposited by the petitioner on account of an alleged evasion of market fee.

2. At the outset, learned counsel for the respondent No.3 submits that the said order is appealable under Section 40 of the Punjab Agricultural Produce Market Act, 1961.

3. Per contra, learned counsel for the petitioners submits that, at the relevant time, appeal was not filed as allegations of malafide and prejudice have been made against the then Deputy

Commissioner-respondent No.6 who was the appellate authority under Section 40 of the Act, *ibid*.

4. However, petitioner is willing to deposit the principal amount which was demanded by the Market Committee vide letter (Annexure P-29).

5. Learned counsel for the respondents points out that the said Deputy Commissioner has since been transferred and no allegations against the new incumbent has been made in the petition which were against the then appellate authority.

6. In view thereof, the writ petition is disposed of with liberty to the petitioners to file appropriate appeal under Section 40 of the Act. The period of pendency of the writ petition shall be excluded from the period of limitation, if any, to file the appeal. Petitioners are permitted to file the appeal within 30 days from today.

7. In view of the interim protection having been granted to the petitioners throughout the pendency of the writ petition, the respondents are directed not to insist for deposit of 50% of the demanded market fee during pendency of the appeal.

8. Petition is disposed of in above terms.

(ARUN MONGA)
JUDGE

20.05.2019
vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No