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

**Date of decision : 25.02.2020**

**1** **CWP No.431 of 2018 (O&M)**

M/s Lord Ganesh Roller Flour Mills
Bahumajra GT Road Khanna ....... Petitioner

versus

State of Punjab & anr. ...... Respondents

**2** **CWP No.1724 of 2018 (O&M)**

Megastar Foods Pvt. Ltd. ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**3** **CWP No.8693 of 2018 (O&M)**

Shree Ganesh Roller Flour Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**4** **CWP No.19555 of 2018 (O&M)**

Shree Ram Roller Flour Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**5** **CWP No.19562 of 2018 (O&M)**

Golden Wheat & Allied Mills (Pvt.) Ltd. ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**6** **CWP No.19592 of 2018 (O&M)**

Annapurna Roller Flour Mills ....... Petitioner
versus

Food Corporation of India & anr. ...... Respondents

**7** **CWP No.19623 of 2018 (O&M)**

Gillco Agro Pvt. Ltd., ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**8** **CWP No.18273 of 2018 (O&M)**

Sood Agro Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**9** **CWP No.20743 of 2018 (O&M)**

Satyam Roller Flour Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**10** **CWP No.20758 of 2018 (O&M)**

Ghai Agro Roller Flour Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**11** **CWP No.3477 of 2018 (O&M)**

Ludhiana Flour & General Mills Pvt. Ltd. ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**12** **CWP No.4239 of 2018 (O&M)**

Sahib Flour Mills ....... Petitioner

versus

State of Punjab & ors. ...... Respondents

**13** **CWP No.29317 of 2018 (O&M)**

M/s Nav Bharat Roller Flour Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**14** **CWP No.29318 of 2018 (O&M)**

Mohan Roller Flour Mills ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**15** **CWP No.36657 of 2019 (O&M)**

M/s Shubham Food Products ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**16** **CWP No.36762 of 2019 (O&M)**

M/s Kartar Roller Flour Mills Pvt. Ltd. ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**17** **CWP No.36574 of 2019 (O&M)**

Anmol Roller Flour Mills (P) Ltd. ....... Petitioner

versus

Food Corporation of India & anr. ...... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**
**HON'BLE MR.JUSTICE AVNEESH JHINGAN**

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Present : Mr. Deepak Sabherwal, Advocate
for the petitioner (CWP-431-2018).

Mr. Akshay Bhan, Senior Advocate with
Mr. Nitin Kaushal, Advocate and
Mr. Alok Mittal, Advocate
for the petitioners

(CWP-1724, 8693, 19555, 19562, 19592,
19623, 18273, 20743, 20758, 3477, 29317, 29318-2018,
36657, 36762, 36574-2019).

Mr. Rishab Singla, Advocate
for the petitioner (CWP-4239-2018).

Mr. Pankaj Gupta, Addl. A.G., Punjab.

Mr. Sumeet Goel, Advocate and
Mr. Manav Bajaj, Advocate
for the respondent-FCI.

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**AJAY TEWARI, J. (Oral)**

1 At the very outset, it was pointed out to the learned counsel for the parties that one of the members of this Bench (Avneesh Jhingan, J.) had represented the petitioners in some matters and therefore, this Bench would have no hesitation in recusing from hearing this case. However, counsel for the parties state that they would have no objection if we hear these matters.

2 This order shall dispose of above mentioned seventeen petitions. Since common questions of law and facts are involved therein, they are being decided by this common order.

3 The issue in these cases is about the rate of tax which was leviable on wheat sold for processing. Initially, it was to be charged @5% but w.e.f. 25.01.2014 the same was reduced to 3.3% (plus 10% surcharge). However, the respondent-FCI kept deducting it at the old rate i.e., 5% (and deposited it with the State) till September, 2016. When it realized the correct position and henceforth started charging at the correct rate of 3.3% (supra).

4 These essential facts are not disputed before us. The prayer is that the Government be directed to refund the excess tax which has been collected from the petitioners.

5 In our opinion, a more suitable course of action would be that the petitioners move detailed applications for refund before the Commissioner, Excise & Taxation, Govt. of Punjab who would decide the same in accordance with law keeping in view the above mentioned admitted factual position after associating the FCI also. Ordered accordingly.

6 It is made clear that the applications for refund must be decided within a period of three months from the date of its receipt.

7 Petitions stand disposed of.

8 Since the main cases have been decided, the pending Applications, if any, also stand disposed of.

**( AJAY TEWARI )**
**JUDGE**

**( AVNEESH JHINGAN )**
**JUDGE**

**25.02.2020**
*pooja sharma-I*

Whether speaking/reasoned Yes/No

Whether Reportable : Yes/No