

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

209

CWP-11618-2023

Date of Decision : 13.12.2023

M/S SHIVOHAM RICE MILL

..... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Daman Dhir, Advocate
for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

Mr.K.K.Gupta, Advocate
for respondents No.5 to 8.

JAGMOHAN BANSAL, J. (Oral)

1. On 04.07.2023, the following order was passed :

“The petitioner through the instant petition under Article 226 of the Constitution of India is seeking setting aside of order dated 13.04.2023 (Annexure P-19) whereby claim of the petitioner qua correct calculation of storage charges has been substantially rejected though partially it has been allowed.

Learned counsel for the petitioner inter alia contends that petitioner could not replace stock beyond rejection limit well within time because godowns remained sealed from 12.09.2022 to 17.11.2022 and respondent-FCI has calculated charges even for the said period

which was beyond the control of the petitioner. There were 354 bags beyond rejection limit and total quantity involved was 13490 bags. The respondent has calculated storage charges qua entire stock where as it should be confined to quantity found beyond rejection limited.

Learned counsel for the petitioner submits that he confines his claim qua aforesaid period and quantity and would not press for the remaining period on other grounds.

Notice of motion to respondents No. 1 to 3 and 5 to 8 only at this stage, returnable for 08.08.2023.

Mr. Maninder Singh, DAG, Punjab, accepts notice on behalf of respondents No. 1 to 3 and Mr. K.K.Gupta, Advocate, accepts notice on behalf of respondents No. 5 to 8-FCI.

Learned counsel for respondents No. 5 to 8 seeks time to file reply.

Let the reply be filed on or before the adjourned date with a copy in advance to counsel opposite.”

2. Reply dated 13.12.2023 by way of affidavit of Satveer Singh Mavi, District Controller, Department of Food, Civil Supplies and Consumer Affairs, Roopnagar, is taken on record. Registry is directed to tag the same at appropriate place.

3. The respondents-FCI, in the reply, has pointed out that 354 bags which were beyond rejection limit were part of stock of 13490 bags. The petitioner had mixed BRL stock with sound quantity and on account of inspection by headquarters, the deficiency could be pointed out. The petitioner agreed to replace the entire stock which he has done, thus, claim

of the petitioner qua quantity is not sustainable. With respect to period, he submits that petitioner was informed about BRL vide communication dated 28.07.2022, however, he remained silent till 24.11.2022 and came forward to replace stock on 25.11.2022. The petitioner cannot take benefit of 67 days during which godowns of the respondents remained sealed.

4. The petitioner is not entitled to waiver of storage charges qua quantity because there was lapse on the part of petitioner. The petitioner cannot take advantage of its mistake. The claim of the petitioner with respect to quantity stands rejected.

5. This Court finds substance in the contention of the petitioner with respect to the period during which godowns of the FCI remained sealed. The petitioner was informed vide communication dated 27.07.2022 (Annexure P-2) with respect to defect in the stock. As petitioner was informed on 28.07.2022 whereas godowns were sealed on 12.09.2022, thus, he cannot claim complete waiver, however, keeping in mind the fact that the godowns remained sealed for quite long time i.e. 12.09.2022 to 17.11.2022, the petitioner cannot be asked to pay storage charges for the entire period. This Court finds that it would be just, fair and equitable if the petitioner is asked to pay 50% of storage charges for the said period i.e. 12.09.2022 to 17.11.2022.

6. The petition stands disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

13.12.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>