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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-7268-2003
DECIDED ON: 16.10.2024

M/S SOHAWA RAM MOHINDER PAL SINGH
.....PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Pal Singh, Advocate, for
Mr. Vikramjit Singh, Advocate,
for the petitioner.

Mr. D.S. Lamba, DAG, Punjab.

Mr. S.P. Garg, Advocate,
for respondent Nos.2 and 3.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. Mr. Pal Singh, Advocate, appearing on behalf of Mr. Vikramjit Singh, Advocate, for the petitioner again seeks an adjournment.

However, considering that present writ petition is pending since the year 2003, we have rejected his prayer and asked him to assist the Court. Counsel has, however, refused to make any submissions.

2. The petitioner has preferred present writ petition against the assessment of the petitioner/firm. A demand notice was issued under Rule 31(8) to the firm, demanding market fee of Rs.1,50,556/-, along with RDF and penalty of like amount, vide notice dated 16.02.1999.

3. The appeal preferred by the petitioner was dismissed, vide order dated 23.11.2001, and further, the revision was also dismissed, vide order dated 27.03.2003.

4. The petitioner, in the writ petition, has essentially raised an argument that if the partners of the firm have conducted personal transaction involving the produce from fields owned by the partners, the firm cannot be held liable for the said transaction, and the market fee cannot be imposed on the firm.

5. Learned counsel for respondent Nos.2 and 3 – Market Committee has invited our attention to the provisions of the Section 2 (O) of the Punjab Agricultural Produce Markets Act, 1961, to submit that it is the 'producer' which is defined under the said section alone, who can claim exemption from payment of market fees. As the partners of the petitioner – firm cannot be treated as producers, it is the firm alone which has already taken licence from the Committee, who would be liable to pay the market fees.

6. In the present factual aspect, it has been pointed out that the petitioner did not get itself declared as a producer, in terms of Section 2(O) of the Act, and the partners of the petitioner – firm dispatched the two trucks load of potatoes, each containing 165 bags after storing them at M/s Rai Cold Store, Jalandhar and Jalandhar Cooperative Cold Store and subsequently, dispatched them to Bangalore. Petitioner/firm was, therefore, asked to deposit the market fee, vide notice dated 23.06.1998. Further, business relating to depositing of bags of potatoes at the cold storage was also done by the partners of the petitioner/firm in their own name, which

could also not have been done in terms of Section 2(O) of the Act, as partners of the firm cannot be individual producers.

7. We have considered the submissions made by respondent Nos.2 and 3 – Market Committee. Section 2 (O) of the **Punjab Agricultural Produce Markets Act, 1961,** reads as under:-

> *"Producer" means a person who in his normal course of avocation grows, manufactures, rears or produces, as the case may be, agricultural produce personally, through tenants or otherwise, but does not include a person who works as a dealer or a broker or who is a partner of a firm of dealers or brokers or is otherwise engaged in the business of disposal of agricultural produce other than that grown, manufactured, reared, or produced by himself, through his tenants or otherwise. If a question arises as to whether any person is a producer or not for the purposes of this Act, the decision of the Deputy Commissioner of the District in which the person carries on his business or profession shall be final."*

8. From the perusal of the aforesaid section, it is apparent that while individual persons, who in normal course, grow, manufacture, rear or produce any agricultural produce, would be treated as 'producers', partners of any firm cannot be individually treated as 'producers'. The firm, of course, can get itself declared as a 'producer' by moving an appropriate application before the Deputy Commissioner of the District, but no such declaration or action was taken by the firm.

9. Considering the fact that the produce (potatoes) were stored in the cold storages, and thereafter, sold to various places by the partners

through the firm, we do not find any reason to deny the Committee to receive their requisite market fees from the firm.

10. Accordingly, the demand of market fee as well as the penalty imposed for non-payment, cannot be said in any manner to be wrongful and unjustified and the writ petition is found to be without merits.

11. It is also noticed that the petitioner had preferred a civil suit for permanent injunction and declaration along with application under Order 39 Rules 1 and 2, the application seeking interim injunction, under Order 39 Rules 1 and 2, was dismissed. Appeal thereto, was also dismissed by the Additional Civil Judge, (Senior Division), Jalandhar, as is apparent from the document placed on record as Annexure R-3/1.

12. In view of the above, the petitioner's writ petition itself is not maintainable, thus, the same is accordingly dismissed.

13. Pending miscellaneous application(s), if any, also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

16.10.2024
Lavisha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*