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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9891-2009 (O&M)
DECIDED ON: 22.07.2024

TILDA RICE LAND PVT. LTD. .....PETITIONER

VERSUS

STATE OF HARYANA AND ORS. .....RESPONDENTS

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

Present: Mr. Akshay Bhan, Senior Advocate, with
Mr. Shantanu Bansal, Advocate, and
Mr. Yugank Goyal, Advocate,
for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana,
for respondent No.1.

Mr. Aman Bhari, Advocate, with
Mr. Bawa Karanveer, Advocate,
for respondent Nos.2 to 5.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. The petitioner has come before this Court, assailing the orders dated 21.11.2007 (Annexure P-6) and 07.01.2008 (Annexure P-19), passed by respondent No.3 – Zonal Administrator, Haryana State Agricultural Marketing Board, Panchkula, whereby the petitioner was directed to deposit market fee and HRDF. Challenge has also been made to the order dated 29.06.2009 (Annexure P-35) passed by respondent No.2 – Chief Administrator, Haryana State Agricultural Marketing Board, being the Appellate Authority, whereby two appeals preferred by the petitioner against the orders passed by respondent No.3 were rejected.

2. Learned Senior counsel appearing on behalf of the petitioner submits that as per Rule 30 (5) of the Punjab Agricultural Produce Market (General) Rules, 1962 (hereinafter referred to as 'the Rules, 1962'), the agricultural produce brought for processing from within the State or from outside the State, for which the market fees has already been paid in any market in the State or outside the State, shall be exempted from payment of market fees second time, and therefore, there was no occasion for imposing the market fees and penalty on the stock, which was transferred by the petitioner from the Market Committee, Nilokheri, to the Market Committee, Gurgaon.

Learned Senior counsel appearing for the petitioner further submits that the petitioner had purchased paddy from various committees, within the market area of Market Committee, Nilokheri, and the 'LL' forms were obtained, for claiming exemption in the notified market area of Market Committee, Nilokheri, as the petitioner had already deposited the market fee, while purchasing the paddy. While the stock of paddy was kept at Nilokheri, certain amount of the stock was transferred to Gurgaon, and the petitioner claimed exemption from payment of market fees at the Market Committee, Gurgaon.

However, Zonal Administrator, HSAM Board, Gurgaon, has proceeded to hold that the stock transferred to Gurgaon cannot be exempted, and the market fee shall have to be paid.

The petitioners has assailed the said orders before this Court, through present writ petition.

However, this Court (Punjab and Haryana High Court) passed an order in the writ petition i.e. CWP-1859-2009, directing to give again an opportunity of hearing to the petitioner, and decide the appeal thereafter. The Appellate Authority has proceeded to pass an order and has dismissed the said appeal.

Learned Senior counsel for the petitioner further submits that the Appellate Authority has wrongly interpreted the provisions of Rule 30 (5) of the Rules 1962, and the purpose of Rule 30 (5) of the Rules, 1962 is to grant exemption from paying market fees, second time. Once, the fees has already been paid, either to any Market Committee of the State of Haryana, or to any other State, market fee is not payable second time to any other Market Committee.

3. *Per contra*, learned counsel appearing on behalf of the respondents has vehemently supported the impugned orders passed and submits that Rules, 1962, would have to be interpreted to mean that an exemption from payment of market fees is only available, second time. However, if the said stock is further sold or transferred to another Market Committee, payment of market fee cannot be exempted.

Learned counsel for the respondents further submits that while the petitioner was granted exemption when they purchased the paddy and they were issued the 'LL' forms by the Market Committee at Nilokheri, further transferring of the stock to Gurgaon would not exempt the said stock from market fees at Gurgaon.

Learned counsel has taken us to the order passed by the Zonal Administrator, HSAM Board, Gurgaon, to submit that the action of the petitioner in transferring some stock, in the notified area of Market Committee, Gurgaon, for processing purposes, and the intimation regarding the job work of Samana has been intimated to Secretary, Market, Gurgaon, reflects that the stock was transferred for slacking/processing at Market Committee, Gurgaon, and the same therefore, is liable to market fees at Gurgaon.

4. We have considered the submissions addressed by counsel for the parties and carefully examined the provisions of Rule 30(5) of the Rules, 1962, it would be apposite to put forth firstly, the provisions of Section 23 of the Punjab Agricultural Produce Markets Act, 1961, (as amended from time to time).

For the sake of convenience, Section 23 of the Punjab Agricultural Produce Markets Act, 1961, is reproduced here under:-

> *"**Levy of fees is valid as long Market Committee shows that amount collected being spent for purposes mentioned in the Act.** - There is no provision in the Act which entitles a committee to impose law in the strict sense of the term. Thus, there is no possibility of the fees collected by a committee being amalgamated into something which may be called the general revenue of a committee. The entire revenue consists of money realised as fees which under the terms of the statute has to be spent for rendering services. It is well-established that the burden of proving that legality of a levy lines on the Revenue but in case of a Market Committee, however, there is no possibility of the amalgamation of taxes and fees because the statute does not authorise it to impose taxes. In such a case it would suffice for a committee to show that it was spending the amount collected for the purposes mentioned in the Act levy of fees in such a case could not be struck down on the ground that all the services contemplated by the Act were not being rendered."*

The Punjab Agricultural Produce Market (General) Rules, 1962, had been framed, in terms of the powers to frame rules, under the Act, 1962.

5. Rule 30 of the Rules, 1962, provides for exemption from payment of market fees in various circumstances.

For the sake of convenience, Rule 30 of the Rules, 1962, deserves to be quoted here under:-

> *"**30. Exemption from payment of market fees.** - [Sections 23 and 43(2)(vii)].*
>
> ***(1)*** *No market fee shall be levied on the sale or purchase of any Agricultural Produce manufactured or extracted from the agricultural produce in respect of which such fee has already been paid [in the notified market area in which the same was manufactured or extracted.]*
>
> ***(2)*** *The dealer concerned in the sale or purchase of any quantity of agricultural produce from which he manufactures or extracts any other agricultural produce shall maintain in form L true and correct accounts of the sale, purchase or processing, as the case may be, of the said agricultural produce and of any agricultural produce manufactured or extracted from it.]*
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> ***(3)*** *The dealer who claims exemption from the payment of market fee leviable on any agricultural produce manufactured or extracted from the agricultural produce in respect of which the market fee has already been paid in another notified market area, shall make declaration and give certificate where the to the committee in fee has already been paid [within twenty days] [Form L-1], shall be of the day of bringing of prepared in quadruplicate from the booklets duly attested and issued by the Secretary Agricultural of the Committee payment fixed by the Committee. It will be the duty of theing exemption from the market fee under this er this sub-rule against the dealer claim- to send the original of Form L-1] to the committee within whose market area the agricultural produce is brought. The*

Second copy shall be sent to the office of the committee within whose market area such agricultural produce was bought, and the third and fourth copies shall be retained by the dealer-purchaser and the dealer-seller, respectively, and the same shall be kept as a part of their accounts maintained in respect of market fees.]

(4) *It shall be the duty duty of the dealer claiming exemption from market fee under sub-rules (3),(5) and (6)] above to produce a copy of the R/R, forwarding not, bilty challan, as the case may be, duly signed by him or his authorised agent in the office the committee from whose market area the agricultural produce is brought [-] the second copy in the office of the committee with within whose market area the agricultural produce is brought [-] and the third copy to be retained by him:*

Provided that if no such copy of R/R, forwarding note, bilty or challan is produced in the office of the concerned committee, no claim for exemption shall be entertained.

(5) *The agricultural produce brought for processing from within the State [or from out side the State] and for which market fee has already been paid in any market the State [or out side the State] shall be exempt from payment of market fee second time:*

Provided that the dealer who claims exemption under sub-rule (5) from the payment of fee leviable on any agricultural produce brought for processing shall make declaration and give certificate to the committee in form LL duly attested by the Secretary of the committee where fee has already been paid within [twenty]10 days of the bringing of agricultural produce within the notified market area and complies with the provisions of sub-rule (2).])

(6) *No market fee shall be levied on agricultural and horticultural produce except Rice, Wheat, Mustard and Cotton used as raw material in food processing Industries within the State :-*

Provided that the dealer who claims exemption under sub-rule (60 form the payment of fee leviable on any agricultural produce purchased for using as raw material shall maintain a record in L-II. In case such agricultural produce is brought from another notified market area then the dealer shall make declaration and *give a certificate to the committee in Form L-ii duly attested by the Secretary from where the agricultural produce has been purchased, within twenty days of the bringing of agricultural produce."*

6. From perusal of the rule (as quoted here above), it is thus apparent that several contingencies have been laid down for exemption from payment of market fees, particularly Rule 30(5) provides for exemption from payment of market fees, second time, once the market fees has already been paid, either within the State or outside the State.

7. Thus, we are satisfied that once, market fees has been paid by any individual or the dealer/firm either within the State or outside, it need not to pay it again, on the same stock. Merely transferring the stock from one Market Committee to another, would not entail payment of additional market fees, as the market fees is required to be paid on the goods, and each and every Committee is not required to demand market fees for a product separately.

8. The interpretation taken by the Appellate Authority that exemption is to be taken once and not twice, is misconceived. The correct interpretation of Rule 30(5) of the 1962 Rules, is that transferring of stock from one Market Committee to another, would not amount to business transaction or sale. Therefore, we hold that the orders demanding market fees and penalty from the petitioner is illegal and contrary to the provisions contained under Rule 30 (5) of the 1962 Rules. The impugned orders therefore cannot be sustained.

9. Accordingly, the orders passed by Zonal Administrator, dated 21.11.2007 (Annexure P-6) and 07.01.2008 (Annexure P-19), as well as the

order dated 29.06.2009 (Annexure P-35), passed by the Appellate Authority, are worth to be set aside.

10. If any amount has been deposited, the same shall be refunded back to the petitioner, along with interest @ 6% p.a.

11. Present writ petition is allowed in the above terms.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

July 22, 2024
Lavisha

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