IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

106 ***2024:PHHC:005289-DB***

CWP-14562-2023
Date of Decision: 16.01.2024

ITC Limited .....Petitioner(s)

Versus

Haryana State Agricultural Marketing Board, Panchkula and others
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI

Present: Mr. Puneet Bali, Sr. Advocate,
with Mr. A.K. Kaundal, Advocate,
Mr. I.S. Dhaliwal, Advocate,
and Mr. Vishavjeet S. Beniwal, Advocate,
for the petitioner.

Mr. Padamkant Dwivedi, Advocate,
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

1. The challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the demand notice dated 21.06.2023 issued by respondent No.2 (Annexure P-1) wherein, an amount of Rs.3,72,15,237/- was assessed as market fees and under the Haryana Rural Development Fund was assessed at Rs.1,48,44,745/-. Penalty was also imposed of equal amounts and, therefore, a demand of Rs.10,41,19,964/- was sought to be recovered from the petitioner.

2. The stand as such of the respondents is that two assessment orders were passed which have now been appended as Annexures R-2 & R-3.

3. The case of the respondents is that the petitioner was not cooperating as such and on various occasions time had been sought to produce the records and in such circumstances since they had not come

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forward and kept on sending representations, the said orders have been passed apart from raising the issue that there would be remedy of appeal.

4. In the rejoinder (sic. replication) filed, the petitioner as such raised the issue of legality and the manner in which the assessment has been done and even the fact that the demand had been raised prior to the assessment on 21.06.2023 since one of the assessment order has been passed under the Haryana Rural Development Rules, 1987 on 28.06.2023 (Annexure R-3). It is the case of the petitioner that the records were available for three years and not beyond that and, therefore, the time had been sought and the challenge as such is on that account. The petitioner has raised the issue of limitation also on the ground that the petitioner was required to keep the record for two years under Rule 35 of the Haryana Agricultural Produce Market (General) Rules, 1962.

5. Keeping in view the apparent lacunae as such since the assessment done under the HRDA is post the demand and the said amount has already been mentioned in the demand notice, we are of the considered opinion that the Assessing Authority having approved it on 28.06.2023 (Annexure R-3), the demand could not have been raised at an earlier point of time.

6. In such circumstances, keeping in view the huge assessment which had been made which would necessarily prejudice the petitioner-company, we are of the considered opinion that since on an earlier occasion, the principles of natural justice as such had been violated and it is only the case of the respondent that the petitioner-company is not coming forth, it would be appropriate if the petitioner-company joins the proceedings and the order is passed in their presence. Resultantly, we allow the writ petition to

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the extent of quashing the said assessment orders (Annexure R-2 and R-3) and the subsequent demand notice dated 21.06.2023 issued by respondent No.2 (Annexure P-1) and direct that the petitioner shall put in appearance on 05.02.2024 at 10.00 a.m. before the Assessing Authority in pursuance to the notices already issued. It is open to the petitioner to raise all the issues including the issue of limitation before the Assessing Authority.

(G.S. SANDHAWALIA)
JUDGE

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(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking Yes
Whether reportable No

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