(2010) 12 P&H CK 0356

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10384 of 1993

Mohan Lal Thapar and brothers and Others	APPELLANT
Vs	
State of Punjab and Another	RESPONDENT

Date of Decision : 02-12-2010

Acts Referred:

Citation : (2010) 12 P&H CK 0356

Hon'ble Judges : Ajay Kumar Mittal, J;Adarsh Kumar Goel, J

Bench : Division Bench

Judgement

Adarsh Kumar Goel, J.—This order will dispose of Civil Writ Petition Nos. 10384, 11899 of 1993, 3316 and 8689 of 1994 as common questions are involved in all these petitions.

2. In Civil Writ Petition No. 10384 of 1993 declaration is sought that the amount of Rural Development Fund payable under the provisions of Rural Development Act, 1987 is not liable to be included in the taxable turn over for the liability to pay sales/purchase tax under the provisions of the Punjab General Sales Tax Act, 1948. Other petitions are identical.

3. Case of the Petitioners is that they are registered dealers under the provisions of the Punjab Agricultural Produce Market Act, 1961 and while buying or selling agricultural produce they pay market fee and also on the same pattern they pay Rural Development Fund as per 1987 Act. The amount of market fee and Rural Development Fund could not be treated as part of sales/purchase price of the goods. Since the authorities under the 1948 Act were not accepting this plea, the Petitioners have filed this petition.

4. At the time of admission, the following order was passed:

The point involved in this writ petition is whether the Rural Development Fund fee is includable in the taxable turn over. On the question, whether market is so includable stands covered by a decision in Gurandittamal Shanti Parkash v. State of Punjab 1993(2) P.L.R. 185 (D.B.). We understand that almost 100 and odd writ petitions stand admitted on this point and they can be conveniently disposed of now. We, therefore, direct the Registry to list all such writ petitions for final hearing for 14.1.1994 along with all such writ petitions in which notice of motion has been issued by various Benches of this Court. This writ petition is admitted and ordered to be listed in terms of the above order.

5. We have heard learned Counsel for the Petitioners. None appeared on behalf of the Respondents.

6. Learned Counsel for the Petitioners submits that as already noticed in the admission order the matter is covered by judgment of this Court in Gurandittamal Shanti Parkash''s case which has later been affirmed by Hon''ble Supreme Court in State of Punjab and Others Vs. Guranditta Mal Shanti Prakash etc., .

7. In view of earlier judgment of this Court in Gurandittamal Shanti Parkash''s which has been affirmed by Hon''ble Supreme Court, we have to allow these writ petitions to the extent of holding that amount of market fee and Rural Development Funds are not to be included in the taxable turnover.

The petitions are disposed of accordingly.

