
(2008) 03 P&H CK 0081
In the Punjab And Haryana At Chandigarh

Singla Rice Mills	Vs	APPELLANT
Market Committee and Another		RESPONDENT

Date of Decision : 05-03-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2008) 151 PLR 550 : (2008) 3 RCR(Civil) 762

Hon'ble Judges : Satish Kumar Mittal, J;Rakesh Kumar Garg, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—M/s Singla Rice Mills, Barnala, a sole proprietorship firm, has filed this petition under Articles 226/227 of the Constitution of India for quashing the assessment order dated 22.5.2006 (Annexure P-12) for the period from 1.4.1999 to 31.10.2000 and the order dated 19.7.2007 (Annexure P-14) passed by the Appellate Authority, whereby the appeal against the aforesaid assessment order and the demand notice dated 1.8.2006 has been dismissed.

2. In the present case, the petitioner firm is a registered dealer for the notified market area Barnala under the Punjab Agricultural Produce markets Act, 1961 (hereinafter referred to as. "the Act"). It is engaged in the milling and shelling of paddy into rice. It is the case of the petitioner firm that for this purpose, it used to purchase paddy within the State of Punjab including the market yards of Barnala and from outside the State of Punjab. The petitioner firm after purchasing paddy from different areas used to process the same for making the rice and thereafter sells the rice to different traders in and outside the State of Punjab. It is the case of the petitioner firm that it is not liable to pay the market fee and Rural Development Fund on the paddy purchased by it from outside the State of Punjab. As per Rule 29(7)(8) and Rule 30 of the Punjab Agricultural Produce Markets (General) Rules, 1962 (hereinafter referred to as "the Rules), as framed under the Act, the agriculture produce shall be deemed to have been brought and sold in a notified area if the agreement of sale or purchase is

entered in that notified area; agricultural produce is weighed in said area; agricultural produce is delivered to the purchaser in the said area, and only then a person is liable to pay the market fee. Since the petitioner firm has purchased the paddy from Uttar Pradesh, which was weighed in Uttar Pradesh and delivery had also taken place in Uttar Pradesh, and then the same was transported by the petitioner firm at its own risk, responsibility and expenditure, therefore, the petitioner firm was not liable to pay market fee and Rural Development Fund on the said purchase. It is the case of the petitioner firm that while ignoring these purchases, the Assessing Authority-Market Committee, Barnala, wrongly framed the assessment vide order dated 22.5.2006 for the period from 1.4.1999 to 31.10.2000 and a demand of Rs. 1,60,100/- was created. Thereafter, a demand notice dated 1.8.2006 was also issued.

3. Undisputedly, against the said assessment order and the demand notice, the petitioner firm filed an appeal under Rule 31(13) of the Rules before the Appellate Authority. The said appeal has been dismissed vide order dated 19.7.2007 and the order of assessment has been confirmed.

4. Against the aforesaid orders, the instant writ petition has been filed by the petitioner firm.

5. We have heard counsel for the petitioner firm and gone through the impugned orders.

6. Section 42 of the Act provides an alternative remedy of revision against the impugned order, but the petitioner firm has filed the instant writ petition without availing the said remedy and without giving any reason as to how the said remedy is not efficacious remedy in the facts and circumstances of the case. Rather, in para 22 of the petition, the petitioner firm has specifically stated that there is no other statutory remedy of appeal or revision, available to the petitioner, except to approach this Hon'ble Court under Articles 226/227 of the Constitution of India. Section 42 of the Act provides as under:

42. Revision.- Notwithstanding anything in this Act, the State Government shall have the power of reversing or modifying any order of the Board or any of its officers passed or purporting to have been passed under this Act, if it considers it to be not in accordance with this Act or the rules or bye-laws made thereunder.

From a reading of the aforesaid provisions, it is clear that the State Government has power to revise or modify any order of the Board or any of its officers passed or purported to have been passed under this Act, if it considers it to be not in accordance with this Act or the rules or bye-laws made thereunder.

7. Counsel for the petitioner firm contends that against the impugned order, the petitioner firm cannot file any revision and in support of his contention, he has relied upon a decision of the Division Bench of this Court in Bhagwant Singh Dhanoa, Asstt. Engineer, Punjab Mandi Board, Patiala v. Punjab State Agricultural Marketing Board 1996(3) S.C.T. 757 (P&H).

8. We do not find any force in the contention raised by learned Counsel for the petitioner firm. The provision of Section 42 of the Act clearly provides that the State Government can revise or modify the order which is passed by any officer of the Board under the Act, if it considers it to be not in accordance with the Act, Rules and bye-laws made thereunder. Any order in this Section includes even the order of assessment passed by the Assessing Authority and the order of Appellate Authority confirming the assessment order. The judgment cited by learned Counsel for the petitioner firm does not speak that no revision against an order passed by the Appellate Authority confirming the assessment order would lie to the Government. The said case was not pertaining to the assessment, but was regarding promotion of the employee of the Board. In the facts and circumstances of the said case, it was observed by the Division Bench of this Court that the remedy of Section 42 of the Act was not an effective alternative remedy so as to non-suit the petitioner from invoking the writ jurisdiction. Since in the instant case, it has not been alleged that the remedy of revision provided under the Act is not efficacious remedy, therefore, we are not inclined to entertain this writ petition on the ground that the petitioner firm has efficacious alternative remedy of revision u/s 42 of the Act, against the impugned order.

Dismissed.