

Tax Act, 1961 which deals with settlement of cases. The provisions of Chapter XIX A are broadly akin to the provisions of Chapter V of the Act which is in question in the present case. Therefore, the principles discernible from the judgement of Hon'ble the Supreme Court in the case of **S.I. Tripathi** (supra) would apply to the facts of the present case.

(11) When the facts of the present case are examined in the light of the afore-mentioned principles then it becomes clear that there is no violation of any provision of the Act. The settlement Commission is fully clothed with the power to grant immunity from payment of interest apart from other immunities as per the provisions of Section 32J of the Act. There is no issue before us with regard to any bias or violation of the procedural formalities which may warrant interference of this Court. Therefore, the writ petition is devoid of merit and the same is liable to be dismissed .

(12) In view of the above, this petition fails and the same is dismissed.

R.N.R.

Before M.M. Kumar & Ajay Kumar Mittal, JJ

DEPUTY GENERAL MANAGER (MARKETING)
& ANOTHER,—*Petitioners*

versus

M/S AGGARWAL ROLLER FLOUR MILLS AND
ANOTHER,—*Respondents*

C.W.P. No. 8276 of 2007

31st July, 2007

Constitution of India, 1950—Art.226—Punjab Agricultural Marketing Produce Markets (General) Rules, 1962—Rl.30(13)(i)—Rl.30(13)(i) provides that no market fee could be levied on wheat and maize purchased for manufacture of products there from in the State of Punjab—A Flour Mill purchasing wheat from outside State of Punjab—Market Committee asking firm to deposit market fee—Appellate authority dismissing appeal—Revisional authority finding firm covered by Rule 30(13)(i)—Whether firm not entitled to exemption as purchase of agricultural produce made from outside Punjab—Held, no—Firm also paying market fee where wheat stock purchased—Petition dismissed.

Held, that the expression 'no market fee shall be levied on wheat and maize' has to be read in conjunction with the expression 'in the State of Punjab' because the expression 'purchased by the wheat and maize processing industries' would not go with the expression 'in the State of Punjab'. Moreover, it is a beneficial rule which has been introduced for a laudable object to encourage the wheat and maize processing industries in the State of Punjab. Therefore, the order passed by the Financial Commissioner does not suffer from any legal infirmity. Moreover, respondent No. 1—Firm has paid the market fee at Delhi and Hissar from where it has purchased the wheat stocks as is evident from the finding recorded by the Financial Commissioner in his order. Therefore, respondent No. 1—firm cannot in any case be subjected to payment of double market fee as the same is prohibited by Rule 30(1A) and (1B) of the Rules.

(Para 6)

Geeta Sharma, Advocate, *for the petitioners*.

JUDGMENT

M.M. KUMAR, J.

(1) This petition filed under Article 226 of the Constitution is directed against the order dated 6th February, 2006 (P-1), passed by the Financial Commissioner (Development) and Principal Secretary to Government of Punjab, Agriculture Department—respondent No. 2, holding that respondent No. 1 firm was not liable to pay market fee in view of the notification dated 11th September, 2001 adding Rule 30(13)(i) to the Punjab Agricultural Marketing Produce Markets (General) Rules, 1962 (for brevity, 'the Rules'). According to the aforementioned Rule no market fee is leviable on the produce of wheat and maize if the aforementioned agricultural produce are to be used for processing industries.

(2) The facts which have led to the filing of the instant petition are that respondent No. 1 firm is a Roller Flour Mills and it has purchased 12680 quintals of wheat from Delhi and Hissar, which is obviously outside the State of Punjab. The Market Committee, Kurali, had sent a notice

for the assessment in Form 'O' under Rule 31(4) of the Rules to respondent No. 1—firm to produce the account books concerning the purchase of wheat. After examining the record under Rule 35(3), the Market Committee passed an assessment order dated 6th April, 2005 recording a recovery of market fee amounting to Rs. 1,68,575 and Rural Development Fund of the same amount. A penalty of the same amount along with interest amounting to Rs. 51,666 was also calculated. Respondent No. 1-firm was asked to deposit a sum of Rs. 5,57,391 and a demand notice dated 6th April, 2005 was issued to respondent No. 1-firm. On an appeal filed by respondent No. 1-firm, the Deputy General Manager (M) being the appellate authority, dismissed the appeal,—*vide* order dated 9th August, 2005 (P-3). On a revision petition filed under Section 42 of the Punjab Agricultural Produce Markets Act, 1961 (for brevity, 'the Act'), the Financial Commissioner and Principal Secretary to Government of Punjab—respondent No. 2 found that the case of respondent No. 1—firm was covered by Rule 30(13)(i) of the Rules as the wheat and maize to be used by a processing industry including the Roller Flour Mills were exempt from payment of market fee and rural development fund. The view of the Financial Commissioner emerges from the concluding para of the order, which reads as under :—

“I have duly considered the arguments advanced by the contesting parties and have gone through the record placed on the file. It is an admitted fact by the parties that the petitioner firm is a processing/manufacturing unit. *Vide* notification dated 11th September, 2001 rule 30(13) has been added to the Punjab Agricultural Produce Markets (General) Rules, 1962. This rule has been made to give encouragement to the wheat and maize processing Industries. The petitioner firm has purchased wheat from outside the State of Punjab for processing and paid Market fee there. Now if the market fee and RDF is charged from the processing industries for purchasing wheat from outside the State of Punjab then the notification dated 11th September, 2001 would become redundant and the very purpose of the Government to give encouragement to such industries will fail. There is another aspect which also deserves

to be mentioned. On the one hand wheat purchased outside the State by a Processing Industry is being sought to be subjected to market fees and RDF on the ground that it has been 'deemed' to have been bought or sold within the notified market area under Rule 29(7) of the Rules framed under the Act. If this were not so, market fee and RDF would not be applicable to the transaction made in the notified area. On the other hand, the stand of the respondent is that the Notification dated 11th September, 2001, exempting purchase of wheat within the State by Wheat and Maize Processing Industries, is not applicable in this case because the Notification does not exempt wheat which has been bought outside the State. The stand of the respondent is thus contradictory and untenable.

In the light of the above discussions, facts and circumstances of the case Revision Petition is allowed and impugned order dated 9th August, 2005 and assessment order dated 6th April, 2005 are set aside.”

(3) Ms. Geeta Sharma, learned counsel for the petitioners has argued that the exemption envisaged by Rule 30(13) of the Rules is available if the purchases have been made within the State of Punjab and since in the instant case the purchases of agriculture produce like wheat was made from Delhi and Hissar, therefore, respondent No. 1—firm was not entitled to exemption. According to the learned counsel, respondent No. 1—firm is under legal obligation to deposit the market fee and rural development fund as per the assessment order dated 6th April, 2005 along with penalty and interest.

(4) We have thoughtfully considered the submission made by the learned counsel and regret our inability to accept the same. It would be appropriate to read Rule 30(13)(i) of the Rules and the same is reproduced as under :—

“30(13)(i) No market fee shall be levied on wheat and Maize purchased by the wheat and maize processing industries for

manufacture of products therefrom such as wheat flour and its secondary/tertiary products such as bread, biscuits, paste, noodles etc. starch and its derivatives glutton etc, in the State of Punjab.”

(5) A plain reading of the Rules makes it obvious that no market fee could be levied on wheat and maize, which has been purchased by the wheat and maize processing Industry for manufacturing of products such as wheat flour and its secondary products such as bread, biscuits, paste, noodles etc. The notification No. GSR 96/PA, incorporating the aforementioned rule was issued on 11th September, 2001 and respondent No. 1—firm had made purchase of wheat from outside the State of Punjab in the year 2003-04.

(6) We are further of the view that the expression '*no market fee shall be levied on wheat and maize*' has to be read in conjunction with the expression '*in the State of Punjab*' because the expression '*purchased by the wheat and maize processing industries*' would not go with the expression '*in the State of Punjab*'. Moreover, it is a beneficial rule which has been introduced for a laudable object to encourage the wheat and maize processing industries in the State of Punjab. Therefore, the order passed to the Financial Commissioner does not suffer from any legal infirmity. Moreover, respondent No. 1—firm has paid the market fee at Delhi and Hissar from where it has purchased the wheat stocks as is evident from the finding recorded by the Financial Commissioner in his order. Therefore, respondent No. 1—firm cannot in any case be subjected to payment of double market fee as the same is prohibited by Rule 30(1A)&(1B) of the Rules.

(7) In view of the above, the writ petition fails and the same is dismissed.

R.N.R.