

State of Haryana and Others

Vs

Krishna Rice Mills

Civil Appeal No. 2963 (NT) of 1980

(R.S. Pathak, E.S. Venkataramiah, V.B. Eradi JJ)

30.07.1981

JUDGMENT

PATHAK, J. –

1. This appeal is directed against the judgment dated April 3, 1980 of the High Court of Punjab & Haryana disposing of a writ petition filed by the respondent. It seems that the principal grievance embodied in the writ petition was that the Government of Haryana acted contrary to the law in issuing instructions to assessing authorities under the Haryana General Sales Tax Act, 1973 and the Central Sales Tax Act, 1956 directing them to treat the supply of rice to the State Government in pursuance of a levy procurement scheme under the provisions of the Punjab Rice Procurement (Levy) Order, 1950 as transactions of sale liable to sales tax. When the writ petition came on for hearing before the High Court it was conceded by counsel appearing for the State that it was not proper for the Government to issue such instructions and, indeed, learned counsel assured the Court that the State Government would withdraw the instructions complained of. The High Court noted the assurance and on that observed that the writ petition would become infructuous. But the High Court did not stop there. It proceeded to consider the question on the merits whether the aforesaid transactions constituted a sale for the purpose of the Haryana General Sales Tax Act and the Central Sales Tax Act. The High Court held that they did not. Hence this appeal.

2. After hearing learned counsel for the parties, it seems to us that the High Court should not have proceeded beyond recording the assurance that the State Government would withdraw the instructions and holding that therefore the writ petition had become infructuous. In our opinion, no further question arose for consideration by the High Court. The High Court erred in pronouncing on the merits of the question whether the transaction constituted a sale under the aforesaid sales tax enactments. We think that its observations and findings on the question should be vacated. It will be for the assessing authorities to deal with the question on the merits in accordance with law. The assessing authorities should proceed on the basis that no opinion has been expressed either by the High Court or by us. They should also examine the cases before them without reference to the instructions issued by the Government. We order accordingly.

3. The appeal is disposed of in these terms. There is no order as to costs.

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