

# **State Of Haryana And Ors. vs Krishna Rice Mills on 30 July, 1981**

**Equivalent citations: AIR1982SC1106, (1981)4SCC148, [1983]52STC1(SC), AIR 1982 SUPREME COURT 1106, 1982 TAX. L. R. 3121, (1982) 52 STC 1, 1981 (4) SCC 148**

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**Bench: E.S. Venkataramiah, R.S. Pathak, V. Balakrishnan Eradi**

## **JUDGMENT**

R.S. Pathak, J.

1. This appeal is directed against the judgment dated April, 3, 1980, of the High Court of Punjab and 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 law in issuing instructions to the 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 the counsel appearing for the State that it was not proper for the Government to issue such instructions and, indeed, the 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 the 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.