
(1999) 08 AHC CK 0178
In the Allahabad High Court
Case No : C.M.W.P No. 37919 of 1995

Krishna Rice and Dal Mills and another	APPELLANT
Vs	
Union of India and others	RESPONDENT

Date of Decision : 18-08-1999

Acts Referred:

Uttar Pradesh Krishi Utpadan Mandi Adhiniyam, 1964 — Section 17

Citation : (1999) 4 AWC 2934

Hon'ble Judges : Lakshmi Bihari, J; Binod Kumar Roy, J

Bench : Division Bench

Advocate : C.K. Parekh, for the Appellant; B.D. Mandhyan, H.R. Mishra, S.C., S.P. Gautam, G.C. Bhattacharya and S.K. Srivastava, for the Respondent

Final Decision : Dismissed

Judgement

Binod Kumar Roy and Lakshmi Bihari, JJ.—The moot question urged by Sri Parekh is as to whether when an agricultural produce is sold by the trader to the State Government, the market fee payable to the market committee constituted under the Krishi Utpadan Mandi Adhiniyam, 1964 has to be paid by the seller-petitioner or the purchaser State Respondent No. 2.

2. Shri C. K. Parekh, learned counsel appearing in support of this writ petition with reference to a Division Bench decision of our own High Court in Shri Vijay Rice Mills Rudrapur v. State of U. P. 1998 (33) ALR 684 contended that this writ petition be disposed of in the same manner as it was done in Vijay Rice Mills (supra).

3. Shri B. D. Madhyan. learned counsel appearing on behalf of Respondent No. 6. on the other hand, contended that the question raised by the petitioner now stands authoritatively concluded by two Division Bench judgments rendered by three Judges of the Supreme Court (i) Krishi Utpadan Mandi Samiti, Haldwani Etc. Etc. Vs. M/s. Indian Wood Products Ltd., and another, and (ii) Civil Appeal No. 3844 of 1999. Krishi Utpadan Mandi Samiti Bareilly v. R. N. Rice Mills Pvt.

Ltd. and others, disposed of by Judgment and order dated July 19. 1999, and thus accordingly following the ratio laid down therein this writ petition be dismissed.

4. In our view the question urged on behalf of the petitioner stands answered authoritatively by the Hon"ble Supreme Court In *Krishi Utpadan Mandi Samiti, Bareilly* (supra) the relevant part of which reads thus :

"The precise question, which we have noticed above came up for consideration by a three Judges Bench of this Court in *M/S. Mahaluxmi Rice Mills and Others Vs. State of U.P. and Others*, . wherein it was held that the Market Committee was entitled to collect the market fee from the seller and it is for the seller to pass the burden on the purchaser, if he so chooses. The Bench went on to say that the respondents cannot shirk the responsibility to pay the market fee to the Market Committee when the transaction falls within the purview of sub-clause (3) of Section 17 (iii) (b) of the Act and that it would open to them to receive the same from the purchaser Government.

The Judgment of the three Judge Bench (supra) has answered the precise question. We are not persuaded to take a different view, we may. at this stage, also point out that the judgment relied upon by the High Court In the case of *India Wood Products Ltd.* (supra) was considered by the three-Judge Bench In *Mahaluxmi Rice Mitts* case (supra) and not approved.

Since the matter Is covered by the Judgment In *Mahalwcmi Rice Mills* case (supra) following that judgment, we allow these appeals and set aside the impugned orders. Consequently, the writ petitions filed In the High Court shall stand dismissed."

5. Following the ratio laid down aforementioned, we, too, dismiss this writ petition. In the peculiar facts and circumstances, however, we make no order as to cost.

6. A copy of this order shall be handed over within one week to Shri H. R. Mishra, the learned standing counsel, appearing for respondent No. 2 for Its communication to the authority concerned.