(2012) 07 P&H CK 0007

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 7873 of 1993

M/s. Ishwar Rice Mills, Budhlada — APPELLANT

Vs

State of Punjab and Another — RESPONDENT

Date of Decision : 16-07-2012

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2012) 07 P&H CK 0007

Hon'ble Judges : G.S. Sandhawalia, J;Ajay Kumar Mittal, J

Bench : Division Bench

Advocate : Rishab Singla, for the Appellant; Gaurav Garg Dhuriwala, DAG, Punjab, for the Respondent

Judgement

Ajay Kumar Mittal, J.

1 In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks quashing of order dated 15.4.1993 (Annexure P-1) to the extent of including the amount paid as market fee as a part of turn over for calculating the demand of purchase tax under the provisions of Punjab General Sales Tax Act, 1948. Further, a direction has been sought to be issued to the respondents not to recover purchase tax on the market fees as well as rural development fund paid by the petitioner/dealer to the Market Committee. The issue raised herein is whether the purchase tax is leviable on market fee and the rural development fund by including the same in the purchase turnover of the dealer.

2. The matter is no longer res integra. This Court in CWP No. 14238 of 1993 (M/s Garg Rice & General Mills, Kharar v. The State of Punjab and another) decided on 15.11.2010 and Tilak Raj Madan Mohan v. Sate of Punjab (2009) 20 VST 351 following the judgment of the Apex Court in State of Punjab and others v. Guranditta Mal Shauti Prakash (2004) 136 STC 12 held that the element of market fee and rural development fund was not to be included in the taxable turnover for the purposes of purchase tax.

3. Accordingly, we set aside the impugned order to the extent that market fee and rural development fund shall not be included in the taxable turn over for the purpose of purchase tax. The writ petition is disposed of accordingly.