

464 CARL F. PARKER, COMMISSIONER OF REVENUES [223
v. KERN-LIMERICK, INC.
CARL F. PARKER, COMMISSIONER OF REVENUES v.
KERN-LIMERICK, INC.

4-9924 266 S. W. 2d 298

Per Curiam opinion delivered April 5, 1954.

[On Mandate from United States Supreme Court.]

Appeal from Pulaski Chancery Court, Second Division; *Guy E. Williams*, Chancellor; affirmed.

O. T. Ward, for appellant.

Rose, Meek, House, Barron & Nash and Berryman Green, for appellee.

PER CURIAM. Our opinion of January 12, 1953, held that the commissioner of revenues was not liable to Kern-Limerick for gross receipts taxes the corporation had paid under protest when two diesel tractors were purchased. The actual amount involved is \$342.93. See *Parker, Commissioner, v. Kern-Limerick, Inc.*, 221 Ark. 439, 254 S. W. 2d 454. In concluding that the tax was payable we reversed a decree of Pulaski Chancery Court, Second Division. On appeal to the United States Supreme Court it was held, in effect, that the Armed Service Procurement Act mentioned in our opinion was broad enough to permit the contractors to rely upon the Navy Department's authorization to purchase the machinery without incurring liability under our Use Tax Act, the Federal government being exempt from such payments.

Accordingly our opinion is recalled as to that part not in harmony with the holding of the U. S. Supreme Court, February 8, 1954, *Kern-Limerick, Inc. v. Scurlock*, 347 U. S. 110, 74 S. Ct. 403, 98 L. Ed. 313, and that court's mandate of March 25, 1954. The Chancery Court order is therefore reinstated.