HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Revision Case No.1567 of 2015

ORDER:-

The petitioner is the respondent in EC Act Case No.279/2013-S7, dated 07-07-2014, before the Collector and District Magistrate, Guntur. The petitioner is said to be the owner of Rice Mill at Itikampadu Road, Ponnur.

2. This is a case of seizure of 2835 Qtls. Of paddy, 703.50 Qtls., of BPT Rice and 333.00 qtls. Of Brokens, all worth Rs.66,95,028/- from the mill premises of the petitioner as he failed to maintain the records properly which lead to variations in stocks and also doing clandestine business with PDS Rice stocks for his personal gain..

3. A show cause notice was issued and the explanation of the petitioner was obtained. The Collector and District Magistrate framed the following charges:-

i) That the respondent indulged in clandestine business by purchasing the PDS Rice stocks and stored the same in the mill with an intention to sell the same in open market at higher rates for his personal gain. Thus, he violated Counsel.7(1) of APSPDS (Control) Order, 2008.

ii) That the respondent failed to maintain the records properly which lead 1055. Qtls. Shortage in paddy, 132.47 Qtls. Excess in Rice and 170.96 Qtls. Excess in broken stocks with reference to book balance and ground stocks. Thus, he violated Cond.3(i) of licence issued under Counsel.3(ii) of APSCD (LSR) Order, 2008.

After conducting detailed enquiry, the learned Collector and District Magistrate held that the 1st charge levelled against the respondent/petitioner herein is not proved. With regard to 2nd charge, the learned Collector and District Magistrate held that the respondent/petitioner herein failed to maintain the records properly and as such directed to confiscate 20% of the seized stocks to the Government by releasing the remaining 80% of the seized stocks to the respondent/petitioner herein as per Section 6-A of the E.C.Act.

4. Aggrieved by the said orders, the petitioner preferred Criminal Appeal No.257 of 2014 on the file of the Sessions Judge, Guntur, and by Judgment, dated 18-03-2015, the learned Sessions Judge taking into consideration the totality of the facts and circumstances held that the confiscation of 20% of the seized stock is liable to be reduced to 10%. The appeal was accordingly disposed of confirming the order of the Collector and District Magistrate, Guntur, subject to the reduction of the value of the confiscation from 20% to 10%.

5. The petitioner preferred the present revision contending that the authorities erred in not taking into consideration the explanation offered by him. Therefore, the orders need to be set aside.

6. The point that arises for consideration is as to whether the prosecution could prove its case beyond reasonable doubt?

7. **Point:-** Both the authorities found that the petitioner has failed to maintain the records properly and thus, he violated Cond.3(i) of Licence issued under Counsel.3(ii) of APSCD (LSR) Order, 2008 and imposed penalty.

8. Learned Counsel appearing for the petitioner submits that in the absence of there being any specific allegations against the petitioner that he is indulging in clandestine business by purchasing the PDS Rice stocks and stored the same in the mill with an intention to sell the same in open market at higher rates for his personal gain, it is unreasonable to impose the punishment of confiscation of 10% of the value of the stock. It is submitted that the relevant stock register and other registers could not be maintained properly and for that violation, the confiscation order is excessive.

9. Taking into consideration the above facts and circumstances, the nature of the allegations, the findings of both the authorities, I am of the opinion that the ends of justice will be met if the confiscation is modified to an extent of 5% as against 10% directed by the learned Sessions Judge. Subject to this modification, the revision case is liable to be dismissed. The point is answered accordingly.

10. In the result, the Criminal Revision Case is dismissed while confirming the order of the authorities below, it is directed that 5% of the seized stock or the value thereof may be confiscated to the Government while releasing the remaining stock or value thereof in favour of the petitioner.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.S.K.Jaiswal, J

August,, 2015

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