HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.6251 of 2015

ORDER:

Heard.

The petitioner herein is carrying on business in the name and style of M/s.Indian Traders situated at Jadcherla Village and Mandal, Mahaboobnagar District. The petitioner states that though the business carried out by him is duly supported by valid bills, the 3rd respondent is stated to have visited the petitioner's shop on 23-12-2014 and seized 13,800 kgs., of black jaggery, 10 kgs. of alum and 50 kgs of Navasagaram and accordingly, registered a case in PCR No.835 of 2014-15 under Section 34(a) of the A.P.Excise Act read with Sections 3(b) and 4(i) (iii) of GUR Regulation Order, 1968. While the said crime is pending, the petitioner approached the 2nd respondent-Deputy Commissioner of Prohibition and Excise, Mahaboobnagar seeking release of the seized stock. By order of the 2nd respondent, dated 07-03-2015, the stock has been permitted to be released subject to the condition of the petitioner furnishing bank guarantee for the assessed value of the seized stock and also with a condition that he shall not sell the same and shall produce the same as and when required. Aggrieved by the said conditions, the present writ petition is filed.

Learned counsel for the petitioner states that the stock seized is perishable and the condition imposed by the 2nd respondent not to sell the seized stock and to produce it as and when required would virtually cause hardship to the petitioner. He also states that the bank guarantee sought for on the basis of valuation obtained by the 2nd respondent from the Station House Officer, Jadcharla, is highly inflated and therefore requests the court to modify that direction also.

Heard the learned counsel for the petitioner and the learned

Government Pleader for Excise.

Evidently, the 2nd respondent passed the impugned order imposing certain conditions. Normally, this court would not interfere with the conditions unless they are found to be onerous. The condition imposed by the 2nd respondent that the petitioner shall not sell and produce the stock as and when required, does not appear to be justified inasmuch as the seized stock is perishable in nature and no purpose would be served by restraining the petitioner from selling and compelling him to produce as and when required. The said condition is therefore relaxed.

To the extent of bank guarantee assessed is concerned, the valuation appears to be for Rs.3,47,250/- and since the petitioner claims that the said valuation is inflated, I deem it appropriate to modify the said condition by directing the petitioner to furnish bank guarantee for Rs.3,00,000/- with two sureties for a like sum in favour of second respondent and on complying with the said condition, the 2nd respondent shall release the seized stock and also give appropriate direction for completion of investigation in the aforesaid crime.

Accordingly, the writ petition is disposed of. No order as to costs.

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

VILAS V.AFZULPURKAR, J

Date: 17-03-2015

Prv

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.6251 of 2015

17-03-2015