

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

Criminal Revision Case No.2452 of 2013

ORDER:-

The petitioner is the respondent in Rc.No.CS1/EC.No.135/2012, dated 23-02-2013, before the Collector Kurnool. The petitioner is said to be the owner of M/s.Balaji Rice Industries, Bellary Road, Kurnool.

2. This is a case of seizure of 3532.90 Qtls. of paddy, 388 Qtls., of Rice, 45 qtls. of Broken Rice, and 59 qtls., of PDS Rice from the mill premises of the petitioner. It is alleged that on 24-12-2012 at about 10.30 a.m., the Assistant Supply Officer along with his staff surprised the mill of the petitioner on the ground that he stored PDS Rice and delivering the same rice as Mill Levy to the FCI, and the petitioner was present at that time and on verification of the book balance with the ground balance, the officials found some variations. On enquiry, the petitioner has not submitted C-Form returns to the DSO Office and also has not given satisfactory answer about the variation in the stock and availability of PDS Rice in his mill.

3. The proceedings under Section 6-A of the Essential Commodities Act, 1955 were initiated by the District Collector, Kurnool. After receiving the explanation of the petitioner, not satisfied with the same, the learned District Collector ordered confiscation of 10% of the value of the seized stock amounting to Rs.5,39,406/- to Government. Aggrieved by the same, the petitioner preferred Criminal Appeal No.67 of 2013 before the Principal Sessions Court. The learned Principal Sessions Judge by Judgment, dated 17-08-2013, agreed with the learned District Collector that storing of PDS rice and variation were unexplained by the petitioner properly. He, however, reduced the quantum of the confiscation from 10% to 5%.

4. 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.

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

6. **Point:-** Both the authorities found that the petitioner has stored PDS Rice in the mill premises and failed to maintain the records properly.

7. 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 storing PDS Rice and supplying the same rice as Mill Levy to the FCI with an intention to gain more profits, it is unreasonable to impose the punishment of confiscation of 5% 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.

8. 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 2% as against 5% directed by the learned Sessions Judge. Subject to this modification, the revision case is liable to be dismissed. The point is answered accordingly.

9. In the result, the Criminal Revision Case is dismissed while confirming the order of the authorities below, it is directed that 2% 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

26th August, 2015

Gsn/smr