

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.724 of 2016

ORDER:

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1. This Criminal Revision Case is filed by the petitioner aggrieved by the Judgment dated 26.11.2015 in Criminal Appeal No.410 of 2014 passed by the Sessions Judge, East Godavari at Rajahmundry.

2. Brief facts of the case are as follows:

On receipt of credible information, the Assistant Supply Officer, Kakinada, District Inspector, Legal Metrology, CSDT, Kakinada Rural along with staff proceeded to Peda Market, Kakinada, inspected the shop of the petitioner, verified the stock and found variations in the stock. They found that the petitioner is indulged in diversion of rice and thereby, he contravened clause 18(2)(c) of A.P. Scheduled Commodities Dealers (Licensing, Storage and Regulation) Order 2008. The Assistant Supply Officer gave a report to the District Collector to initiate action against the petitioner under Section 6-A of the EC Act. A notice was issued to the petitioner. The Joint Collector & Additional District Magistrate, East Godavari District after considering the explanation of the petitioner passed orders for confiscation of 40% of the value of the seized stock in favour of the Government. Aggrieved by the same, the petitioner filed appeal viz., CrI.A.No.410 of 2014 before the learned Sessions Judge, East Godavari. On appreciation of evidence, the learned Sessions Judge dismissed the appeal confirming the order of the Joint Collector. Being aggrieved by the judgment of the learned Sessions Judge, the petitioner filed this revision.

3. Heard and perused the material available on record.

4. It is the case of the petitioner that the petitioner should have been

given an opportunity to correct the accounts and mere variation in the stock cannot be construed as clandestine business.

5. It is an undisputed fact that there is variation between book and the ground balance and that since the petitioner is a wholesale dealer, there can be variation in stock upto 5 quintals or upto 10% of the ground stock, whichever is less, as rightly observed by the learned Sessions Judge. The variation of stock found in the premises of the petitioner is beyond the permissible limit. The petitioner failed to give satisfactory explanation for such variations in the stock. Therefore, learned Sessions Judge concurred with the findings of the Joint Collector.

6. Considering the facts and circumstances of the case and in view of the concurrent findings of both the authorities below, this Court is not inclined to interfere with the judgment under revision.

7. At this stage, the learned Counsel for the petitioner submitted that the petitioner is a petty trader and that the order of the confiscation of 40% of the value of the seized stock may be modified.

8. Taking into consideration the above submission made by the learned Counsel for the petitioner, the order of the learned Sessions Judge, East Godavari is modified as follows:

“Confiscation of 40% of the value of the seized stock ordered by the Joint Collector as confirmed by the learned Sessions Judge is modified as 10% of the value of the seized stock in favour of the Government. Rest of the judgment under revision shall remain.”

9. With the above modification, the Criminal Revision Case is disposed of. Consequently, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 20.6.2016
TSR