

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.2200 of 2016

ORDER :

1) The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.), against the judgment dated 06.06.2016 passed in E.C.Appeal No.180 of 2013 on the file of the Sessions Judge, Krishna Division, Machilipatnam, confirming the order dated 28.12.2012 passed by the District Collector, Machilipatnam in ECP No.390 of 2012 dated 24.10.2014.

2) The facts in issue are as under:

The petitioner is owner of rice mill which was run in the name and style of Sri Syamalamba Modern Rice Mill (Trading Rice Mill), Mallaiahpalem Village, Gudivada Mandal. When the authorities inspected the premises, certain variations were found in the registers as well as in the ground stock. Hence, they seized the stock and initiated proceedings under Section 6-A of the Essential Commodities Act. Consequently, an explanation was called for from the petitioner. The District Collector, after considering the material available on record held as under:

“I have gone through the case record. The explanation of the respondent that the minus variation in respect of paddy and rice is within the permissible limits as allowed by the Government under the provisions of clause 18 (2) of Andhra Pradesh Scheduled Commodities Dealers (L, S & R)

Order, 2008 and an amendment issued to the said order vide G.O.Ms.No.40, Consumer Affairs Food and Civil Supplies (CSI) Department, dated 25.09.2012 is convincing as the variation in respect of paddy is below 8% is allowed by the Government. However, the respondent has failed to maintain the stocks as per records. In the circumstances of the case, it is decided to confiscate 2% of the seized stock to the Government.”

3) Challenging the same an appeal was filed before the Sessions Judge, Machilipatnam, wherein the findings of the District Collector were confirmed. Challenging the same the present revision is filed.

4) The order of the District Collector, clearly show that the explanation of the petitioner was that 8% of minus variation in paddy rice was allowed by the Government under the provisions of Clause 18 (2) (c) of the Andhra Pradesh Scheduled Commodities Dealers (L, S & R) Order, 2008 and as per the G.O.Ms.No.40, Consumer Affairs Food and Civil Supplies (CS-I) Department, dated 25.09.2012. The primary authority also held that the paddy is below 8% but however found that the petitioner has failed to maintain the stocks as per record. But the appellate Court held that there is lot of variation between the ground stock and the stock mentioned in the register. It is to be noted that both the authorities failed to consider the circular issued by the Government vide CCS Ref.No.PI(1)/ 2787/ 2012, dated 31.07.2012, wherein it has been held that “The requirement of maintaining a separate register for superfine preferred varieties is only to ensure

its sale within the State without levy; but at the time of inspection, the stocks mentioned in the register for (1) superfine preferred varieties meant for sale within the State and (2) other varieties meant for levy would have to be verified both for paddy and rice, book balance entered in these two registers and the stock available on ground have to be checked for arriving at the variation.” As per G.O.Ms.No.40, Consumer Affairs, Food and Civil Supplies (CS.I) Department, dated 25.09.2012, the marginal variation for the item of paddy was increased from 6%to 8%. A perusal of the order of the District Collector show that the variation is in minus and the percentage of variation of stock was below 8%. Since the variation between the ground balance and book balance was within the permissible limits, the order under challenge warrants interference.

5) Accordingly, the Criminal Revision Case is allowed by setting aside the order dated 06.06.2016 passed in E.C.Appeal No.180 of 2013.

6) Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

07.09.2016
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