

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1494 of 2016

ORDER:

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1. This Criminal Revision Case is filed by the petitioner aggrieved by the Judgment dated 25.4.2016 passed in E.C. Appeal No.218 of 2013 by the Sessions Judge, Krishna Division, Machilipatnam.

2. Brief facts of the case are as follows:

On receipt of credible information about hoarding of stocks causing hike in price in Dhanalakshmi Rice Company, the Assistant Supply Officer, Circle-1, Vijayawada, Tahsildar, Vigilance and Enforcement Office, Vijayawada, along with staff proceeded to Dhanalakshmi Rice Company situated at D.No.23-22-114A, Sivalayam Street, Satyanarayanapuram, Vijayawada, inspected the premises, verified the stock and found variations in the stock. They found that the petitioner is hoarding the rice stock without making any entries in the registers and causing loss to the Government by avoiding taxes and causing price hike in open market for unlawful gains 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 District Collector, Krishna, Machilipatnam after considering the explanation of the petitioner passed orders for confiscation of 30% of the value of the seized stock covered by Bank Guarantee filed by the petitioner in favour of the Government. Aggrieved by the same, the petitioner filed appeal viz., E.C.A.No.218 of 2013 before the learned Sessions Judge, Krishna Division, Machilipatnam. On appreciation of evidence, the learned Sessions Judge dismissed the appeal confirming the order of

the District Collector. However, the percentage of confiscation ordered by the District Collector was reduced by the learned Sessions Judge to 20% value of the seized stock. Being not satisfied with 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. The fact remains disputed is 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 District 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 20% 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, Krishna Division, Machilipatnam is modified as follows:

“Confiscation of 20% of the value of the seized stock ordered by the learned Sessions Judge is modified as 10% of the value of the seized stock covered by Bank

Guarantee filed by the petitioner 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: 15.6.2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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