HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE No.229 of 2017

ORDER:

The revision is maintained impugning the judgment in Crl.A.No.109 of 2006 of the learned Principal Sessions Judge, Chittoor, dated 31.08.2016, in ordering confiscation of the seized stock however by reducing 100% pursuant to the order of the learned District Collector in Roc.No.D1/23/2016 dated 05.03.2016, by sitting in appeal to 50%; with the contentions in the grounds of revision that the charges leveled in ordering confiscation of the schedule commodities is contrary to law and there is a marginal variation so also the permissible marginal time for rectification of entries in records and there is no violation much less of the LS & R schedule commodities Order 2008 or for the Food Grain Control Order 2008 in relation to licensing conditions of alleged violation of condition No.9 of Control Order, non issuance the bills or receipts issued for the sale of the oil and the revision petitioner is not liable for confiscation of any stock or its value and the impugned orders are liable to be thereby set aside.

Learned counsel for the revision petitioner reiterated the same. Whereas it is the submission of the learned Public Prosecutor representing the State on behalf of the respondents that the impugned order no way requires interference by sitting in revision within the limited scope.

Heard and perused the material on record.

As per the panchanama on the printed form by filling the gaps regarding the seizure of the stock worth Rs.19,07,000/- of different variety viz., Moong dal, Green dal, Urud dal, Palmolive oil, GN oil and Sunflower oil etc., the violation mentioned is condition Nos.3, 9 and 11 of Form-B license of the LSR Order 2008 and also C-form not furnished and online bills not regularly to be maintained with the bill books not properly maintained so also the stock register and for these violations in the course of conducting panchanama, there is no genuine specific explanation from the revision petitioner and the contention that there was no opportunity to him or his version not incorporated cannot be accepted thereby. Now coming to his version before the learned Collector, that the essential commodities were sold and bills were issued under TIN and oil were sold and bills under VAT and for remaining variations bills were about to issue and by the time the complainant came and took the stock registers and non-billing of those items was neither willful nor wanton and he availed cash credit loan of Rs.43,00,000/- from Federal Bank Limited, Chittoor and filed writ petition before the High Court to dispose of case within two months and he is doing business with license and not violated any Rules or Regulations in seeking to drop the further action on the charges leveled against him. The learned Collector negated the same with observations regarding non-maintaining of accounts and registers for each commodity and for all quantities received and delivered and not submitted copy of online/computerized bills by contravening condition No.3 of LSR Order 2008 and not issued receipts/bills to the consumers and contravening condition No.9 of LSR 2008 and not adhered to directions of the licensing authority are all by contravening the condition No.11 of LSR 2008. Even from his explanation, he was silent regarding non-maintaining the accounts and Registers prescribed of commodity wise pending and closing stocks and stocks received and delivered and not issued receipts or bills and his version that he about to issue for the sales concerned but that is not his version in the panchanama at the time of seizure and not even immediately thereafter much less by any notice and there were no purchasers from even much less with identity of bills to pass for any such version introduced with after thought. Thereby the order of confiscation no way requires interference and so far confiscation of 100% of the stock variation, the same since modified by the learned District Judge to 50% by upholding the order even by reiterating the facts supra, it no way requires interference but for to reduce from 50% to 30% of the variation in the seized stock.

According and in the result, the criminal revision is allowed in part by reducing 50% to 30% of the variation in the seized stock.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 01.03.2017
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