HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Revision Case No.3331 OF 2016

ORDER:

The partly successful appellant in the lower appellate Court in Crl.A.No.242 of 2012 aggrieved by the modified order dated 06.10.2016 of confining the confiscation to variation of stock of 69 bags instead of entire seized stock of 336 bags, against the order of the learned Joint Collector dated 24.09.2012 in Rc.B.No.355 of 2012 ordering confiscation of the entire seized stock of 336 bags of DAP for the difference in stock of 69 bags only, preferred the present revision impugning the same.

Heard the learned counsel for the revision petitioner and also the learned Public Prosecutor representing the revision respondents and perused the material on record including the two expressions viz; in Dilip Kumar Vs. State[1] with regard to A.P. Scheduled Commodities Dealers(Licensing and Distribution) Order,2008 (for short, 'Order,2008') and Kyasa Narayana Vs.State of Andhra Pradesh[2] that also for the alleged violation of the Order, 2008, where 30%of the stock was ordered to be confiscated from the variation rather than entire stock. It is the submission therefrom by the learned counsel for the revision petitioner that the lower appellate Court vis-à-vis the Collector ought to have at best ordered maximum 30% of the stock in variation supra and ordering of 100%confiscation of the entire stock seized by the Collector and even modified to the 100% of the variation of stock by the lower appellate Court are unsustainable and arbitrary and in exercise of the discretion apart from DAP is available freely in the market. Thereby the discretion could have been exercised if at all to confiscate only minimal stock from out of the variation. The other contention of shortage of stock is not a

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[1] (2004) 1 ALD(Crl.) 360 (AP)

[2] 2013(2) ALD Crl.358

ground to order for confiscation in the absence of allegations in panchanama and proved from the material on record of there shall be a clandestine dealing.

Whereas, it is the submission of the learned Public prosecutor for the respondents that the very panchanama and the affidavits filed for the sale of the stocks, without bills itself amounts to a clandestine dealing and nothing more requires to prove and thereby the order requires no interference.

Heard and perused the material on record.

The explanation including from the affidavits of the stock said to have been purchased in the absence of the petitioner when entrusted to her mother-in-law while he was on pilgrimage and from her sale without consent is for the 69 bags accounted for but for no bills passed for not in custody of the bill book by her. Once such is the case, though there is a clandestine dealing admittedly, the reason for it is not a continuous clandestine dealing but on occasion, thereby it is just to order 50% of the variation in stock rather than 100%.

In the result, the revision is allowed in part. There is no order as to costs. Pending miscellaneous petitions, if any in this revision, shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:03.02.2017.
Vvr.