

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7316 of 2017

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue writ of mandamus to declare the action of the 2nd respondent in not passing orders directing the 3rd respondent to release the stocks i.e., 70 bags of black jaggery each containing 50 Kgs., seized in Cr.No.2/2017 inspite of readiness of the petitioner to furnish the bank guarantee equivalent to the value of the stocks, as being illegal, arbitrary and unjust and consequently direct the 2nd respondent to issue orders for release of the seized stocks by accepting the bank guarantee.”

Heard, Sri Babuji Tenneti, learned counsel for the petitioner and learned Government Pleaders for Excise and Home for respondents.

It is the contention of the petitioner that what has been seized is the white jaggery but not black jaggery and the same is based on the invoice issued by one M/s.Sai Traders, Chittoor. However, in the First Information Report what has been stated is 3500 Kgs., of black jaggery and 50 Kgs., of alum were seized from the petitioner.

When there is a factual discrepancy, this Court cannot straight away assume that what has been seized is white jaggery, particularly in the absence of seizure panchanama.

In view of the above and in terms of the Full Bench judgment reported in case of ***Ganesh Traders (Kirana and General Merchants), Dhermapuri, Karimnagar District v. District Collector, Karimnagar and others***¹, ends of justice would be served if liberty is given to the petitioner to approach the appropriate authority for release of the seized goods.

The writ petition is closed with the above observation. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, shall stand closed. There shall be no order as to costs.

CHALLA KODANDA RAM, J

March 09, 2017

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¹ 2002 (1) ALD 210 (FB)

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