

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.44795 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner assailing the action of the second respondent in rejecting to release the stocks i.e., 50 bags of Jaggery each containing 30 kgs (total 1500 kgs), seized in Crime No.353 of 2017, on the file of the Station House Officer, Atmakur Prohibition and Excise, Kurnool District.

2. Heard Sri Babuji Tenneti, learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise for the respondents and perused the material available on record.

3. Learned counsel for the petitioner submits that the petitioner is running a small kirana shop at village and that he purchased the jaggery from the wholesalers so as to sell the same to the retailers. The said jaggery was seized and was produced before the second respondent, who is the competent authority under the provisions of the Andhra Pradesh Excise Act, 1968 (for short, 'the Act'). Black Jaggery is not an excisable article as per the provisions of the Act and Government Orders. Hence, the petitioner is entitled to release of the Black Jaggery seized. The value of the Jaggery would be approximately Rs.7,500/-.

4. Learned Government Pleader for Prohibition and Excise appearing for the respondents would submit that since the seizure of the Black Jaggery is reported to the second respondent, the Deputy Commissioner of Prohibition and Excise, he is competent

to pass appropriate orders; the petitioner has to approach the said competent authority for release of the Black Jaggery.

5. Learned counsel for the petitioner submits that in similar cases with identical facts, this Court is releasing the stocks of Black Jaggery and that in this case also an appropriate order releasing the stock of Black Jaggery may be passed in the interests of justice.

6. Having regard to the facts and submissions, the second respondent is directed to release the stocks of the petitioner i.e., 50 bags of Jaggery each containing 30 kgs (total 1500 kgs) seized in the afore-stated crime, on condition of the petitioner furnishing a Demand Draft for a sum of Rs.45,000/- (Rupees forty five thousand only) in favour of the Deputy Commissioner of Prohibition and Excise, Kurnool District. However, this order shall not preclude the authorities concerned from further proceeding in the matter, in accordance with procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

CHALLA KODANDA RAM, J

Date: 29th December, 2017

Note: Issue C.C. in two (02) days.

(B/o.)
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HON'BLE SRI JUSTICE CHALLA KODANDA RAM**WRIT PETITION No.44795 of 2017**Date: 29th December, 2017

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