

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 679 of 1996

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals?

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UMDA PROTIN AGENCY

Versus

COLLECTOR  
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Appearance:

MR BA SURTI for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1-2  
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CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 31/03/2004

ORAL JUDGEMENT

1. The petitioner in this petition has challenged the order of the State Government dated 20th November 1995, Annexure-C to the petition, whereby the order of Collector, Amreli, dated 15th July 1994 was modified and reduced the penalty from 100% to 20% of the total stock.

2. The case of the petitioner is as under:

2.1 On 9th February 1994 the petitioner's truck was intercepted by the Civil Supplies Officer at Rajkot Road and on examining it was alleged that the petitioner had committed certain irregularities. The Civil Supplies Officer had, therefore, seized 775 Oil Tins contained in the said Truck.

2.2 The Civil Supplies Officer, submitted his report before the Collector, the respondent no.1 herein, and the Collector had issued a show-cause notice to the petitioner on 17.2.1994 to show-cause as to why the seized goods and the truck should not be confiscated.

2.3 The petitioner appeared before the Collector, Amreli and submitted his written reply and explained his case along with necessary documents. Ultimately the respondent no.1 passed an order dated 15.7.1994 ordering to confiscate the entire seized goods and a fine of Rs.1000/- in respect of the Truck. The copy of the said order is at Annexure-B to the petition.

2.4 Feeling aggrieved by the order passed by the respondent no.1 dated 15.7.1994 the petitioner preferred an appeal before the State Government. The State Government vide order dated 20th November partly modified the order dated 15.7.1994. Therefore the petitioner has filed the present petition.

3. Heard the learned counsel for the respective parties. Mr. Surti for the petitioner has submitted that though the authority has held in favour of the petitioner and even in conclusion no.2 the authority has accepted all the explanations of the petitioner and holding that the case is not that there was unaccounted stock or illegal stock was carried out by the petitioner, the impugned order came to be passed. Mr. Surti contended that though the findings are in favour of the petitioner, while imposing the penalty the authority has not taken into consideration the fact that the truck valued at Rs.2,50,000/- was imposed penalty of only Rs.5000/-, whereas when there was no fault on the part of the petitioner, a penalty of Rs.66960/- is imposed upon the petitioner against the value of Rs.3,34,800/-. He contended that in view of this position the petitioner ought to have been given the same treatment which was given to the owner of the truck.

4. I have gone through the relevant evidence on the

record. It is true that the value of the confiscated goods is Rs.3,34,800/- out of which even as per the say of the authority, only 100 tins were not reflected in the stock though subsequently all the documents were produced. Therefore, the value of the alleged stock which was not on record would have been only Rs.43,200/-. Under the circumstances, the interest of justice would be served if the petitioner is given the same treatment as is given to the owner of the truck by imposing a penalty of Rs.2000/-.

5. In the result, the petition is allowed partly. The order of the State Government dated 20th November 1995 is modified and it is directed that the petitioner is shall to pay a sum of Rs.2000/- by way of penalty against the confiscated goods instead of the penalty imposed by the respondent authority in the impugned order. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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