**(2014) 08 TP CK 0035**

**In the Tripura High Court**

**Case No :** W.P.(C) No. 338 of 2008

**Narayan Ch. Saha VsThe State of Tripura**

**Date of Decision :** 05-08-2014

**Acts Referred:**

**Citation :** (2014) 08 TP CK 0035

**Hon'ble Judges :** Deepak Gupta, C.J;S. Talapatra, J

**Bench :** Division Bench

**Advocate :** B.N. Majumder, Advocate for the Appellant; S. Chakraborty, Addl. GA, Advocate for the Respondent

**Final Decision :** Disposed Off

# Judgement

Deepak Gupta, C.J.—By means of this writ petition, the petitioner has challenged the order of seizure, whereby padlocks being transported by the petitioner were seized. According to the petitioner, he had purchased some padlocks at the rates mentioned in the invoice which is attached as Annexure-P/3 of the writ petition. When the goods were at Churaibari Check Post, the Officer-in-Charge of the check post found that the petitioner had under-valued the price of the goods in the invoice. He has specifically given reasons for two items i.e. iron padlocks measuring 35 mm and iron padlocks measuring 60 mm.

2. This Court in a number of decisions has held that the Officer-in-Charge of the check post must give some grounds as to why he has come to the conclusion that the goods are under-valued. In the present case, we find that he has given certain grounds. The Officer-in-Charge of the check post has stated that the iron padlocks of 35 mm were declared to be valued at Rs. 45/- per dozen i.e. Rs. 3.75/- per piece but the MRP mentioned on the packing of each lock was Rs. 35/- per piece. In respect of the iron padlocks of 60 mm. the price was shown to be Rs. 11.25 per piece but the MRP was shown to be Rs. 82/- per piece. He came to the conclusion that the market value of the 35 mm. padlock was Rs. 12/- per piece and that of the 60 mm. padlock was Rs. 38/- per piece. This according to him was the market price which is also much lower than the MRP shown in the packet items.

 

3. True it is, that MRP may not reflect the true value of the goods especially at the stage of wholesale sale. However, it must have some reasonable relationship with the price which the wholesaler declares. In the present case, if the version of the petitioner is believed then the padlock which is priced at Rs. 3.75/- per piece is going to be sold at Rs. 35/- per piece i.e. a profit margin of Rs. 31.25 i.e. about 1000 per cent. This sort of profit margin amounts to extortionist and this Court will not be privy to any such transaction and shall not put its seal or imprimatur on any such transaction which amounts to extortionist activities.

4. In this given background, the Officer-in-Charge of the Churaibari Check Post would be justified in seizing the entire goods because he cannot at the check post, assess the value of each and every type of padlock. He has given reasons for a representative sample which in our opinion ex facie shows that the goods are highly under-valued. However, it is not for this Court to decide what is the exact value of the goods is. For that evidence will have to be led. As far as the seized materials are concerned those have been released in favour of the petitioner by interim order on his furnishing bank guarantee. Therefore, this writ petition is disposed of with the following directions:

(a) That the petitioner shall appear before the assessing authority on 1st September, 2014. The assessing authority shall give an opportunity to the petitioner to produce his books of account and other books to show at what rate he sold these padlocks or similar padlocks before and after this transaction.

(b) The assessing authority will also be permitted to look at the sale instances of similar padlocks by other dealers at the relevant time and thereafter, he shall decide the case as to what is the exact value of the padlocks.

5. Before parting with this case, we would be failing in our duty if we do not express our grave concern about the extortionist margin of profit reflected in this transaction. If the allegation of the petitioner is correct, then what it shows is that the poor villagers of remote corners of Tripura are being sold goods at such high rates which are totally unjustified. The purpose of fixing the maximum retail price is not that an extortionist maximum retail price is fixed. It must have some reasonable connection with the cost of production, the value of transportation and all the inputs which go into the transaction and a reasonable margin of profit. If we are to believe the statement of the petitioner, he in turn sells these goods at a nominal margin as the wholesaler. But our experience in Tripura is that no shop keeper sells any goods at even one paisa less than the market price, so, what the customer actually pays, is grossly disproportionate to what the wholesaler paid and this is a matter which needs to be looked into seriously by the State.

6. With this observation, the writ petition is disposed of. No costs.

 