

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH AT AURANGABAD**

**ORIGINAL APPLICATION NO. 04 OF 2017
(Subject – Recovery)**

DISTRICT :JALGAON

Shri Ramlal Bhika Brahmane,)
Age: 60 years, Occu: Pensioner,)
R/o. Pachora, Tq. Pachora,)
Dist. Jalgaon.)....**APPLICANT**

V E R S U S

- 1) **The Collector, Jalgaon,**)
Dist. Jalgaon.)
- 2) **District Supply Officer, Jalgaon,**)
Dist. Jalgaon.)
- 3) **Treasury Officer, Jalgaon,**)
Dist. Jalgaon.)....**RESPONDENTS**

APPEARANCE : Shri Vishwas B. Wagh, learned Advocate for
the Applicant.
: Shri N.U. Yadav, learned Presenting Officer
for the Respondents.

CORAM : B.P. PATIL, MEMBER (J).

DATE : 17.01.2019.

O R A L - O R D E R

1. Heard Shri Vishwas B. Wagh, learned Advocate for
the Applicant and Shri N.U. Yadav, the learned Presenting Officer
for the Respondents.

2. The Applicant has challenged the order dated 30.8.2016 issued by the Respondent No.1 directing recovery of amount of Rs.6,39,018/- by filing the Original Application.

3. It is contention of the Applicant that he was serving as a Supply Inspector Officer at Chalisgaon in the year 2013 to 2015. During that period maize weighing quantity of 16,660.50 quintal was stored in the godown in 31 rows at Chalisgaon during the period of 07.11.2013 to 14.01.2015. Tahsildar, Chalisgaon visited the godown and inspected the food-grain stored in the godown and during inspection, he found less quantity of maize to the extent of 325.20 quintal. On the basis of report made by Tahasildar, Chalisgaon, the Respondent No.2 i.e. District Supply Officer, Jalgaon has issued show cause notice to the Applicant on 23.06.2016. The Applicant has given reply to the said show cause notice on 18.07.2016. After considering his reply, the Respondent No.1 passed the impugned order dated 30.08.2016 and directed recovery of amount of Rs.6,39,018/- from the Applicant. The Applicant has challenged the said order by filing the present Original Application.

4. On perusal of record, it reveals that the Applicant was serving as Supply Inspector Officer in the year 2013 to 2015 and was incharge of the godown situated at Chalisgaon. There is no doubt about the fact that maize weighing quantity of 16660.50

quintal was stored in the godown at Chalisgaon in 31 rows. Admittedly, maize weighing quantity of 325.20 quintal found less in the godown at the time of inspection made by Tahasildar, Chalisgaon.

5. Learned Advocate for the Applicant has submitted that as per the Godown Manual, the losses due to reduction of food-grain are permissible in case of Transit Losses, Godown Losses, Cleaning Losses and Losses by decay and other causes. He has submitted that Godown losses may cause due to Shrinkage, deterioration and other causes. He has submitted that, the Collector concerned has to submit proposal for writing off losses of food-grain to the Government and also from the sanctions issued by the Collectors and Taluka Officers within the powers delegated to them for such writes off. He has submitted that, the losses were considered as reasonable being less than 1% for every 3 months storage. He has further submitted that in view of the G.R. dated 1.04.2008, the losses to the extent of 2% in the food-grain stored in the Godown has been considered as reasonable loss. He has submitted that in instant case, the loss in the food-grain noted by the Tahasildar, Chalisgaon is to the extent of 1.95% to 1.96%. He has submitted that Tahasildar, Chalisgaon has submitted the proposal to the Collector, Jalgaon for sanctioning losses in the food-grain stored in the Godown at

Chalisgaon as per the provision of G.R. and Godown Manual in the year, 2015 and requested to write off loss in the food-grain. But, the Collector, Jalgaon has not referred the matter to the Government and he had not taken decision in that regard and passed the impugned order without considering the said provision and, therefore, he prayed to allow the Original Application and to quash and set aside the impugned order of recovery passed by the Respondent No.1.

6. Learned P.O. for the Respondents has submitted that the impugned order is in accordance with provision of G.R. and Godown Manual issued by the Government and there is no illegality in the impugned order and therefore he prayed to reject the Original Application.

7. On perusal of record, it reveals that the Government has prepared Godown Manual. Chapter '7' of the Manual makes provision regarding the 'Shortage'. Para No.7.1 of the chapter 7 provides reason for reduction in the stocks of foodgrain. Para No.7.1.2 provides the classification of the losses in to 4 categories. Para No.7.2 provides Transit Loss, while Para No.7.3 provides Godown Losses. As per the para No.7.3.2, the Government as well as Collector and Taluka Officer can writes off loss and it provides that the losses, less than 1% for every 3

months storage, can be considered as reasonable loss. The provision of Para Nos.7.3 and 7.3.2 reads as follows:-

“7.3. Godown loese:- (1) Godown losses may be due to shrinkage, deterioration and other causes. These losses may be defined as the difference between the quantity of grain received in the Godown and that issued, where the grain has not in the meanwhile been cleaned. Such losses will have to be recorded as shrinkage. When a stack of bags in a godown is completely issued, the quantity recorded in the issue register should be compared with the quantity in the receipts register and the difference should be shown as shrinkage.

7.3.2. It is observed from the various proposals for write off of losses of foodgrains submitted to Government by Collector, and also from the sanctions issued by the Collectors and Taluka Officers within the powers delegated to them for such writes off, that in a large number of cases the losses were considered as reasonable being less than 1% for every 3 months storage. In many other cases the losses were written off or proposed to be written off even when the percentage of the loss was higher. In this connection it has now been specifically laid down by Government that no losses are to be considered as reasonable and ignored without detailed investigation. Government have not laid down any permissible limit upto which the loss can be ignored and each case has to be considered carefully on its merits irrespective of the percentage of the loss vis-à-vis the total quantity stored and the period of storage. It may also be pointed out that in these cases apart from monetary loss the question of loss of foodgrains in the present scarcity condition with corresponding adverse effect on the distribution has also to be kept in view. Losses cannot therefore, be written off as a matter of course. It is accordingly directed that all cases of losses of foodgrain should be investigated thoroughly and the responsibility fixed after a proper enquiry. In case it is noticed that the report of the loss has been delayed the reasonability for the same should also be fixed. The percentage indicated in paragraph 12 of the Manual of Food Accounts are merely to enable the concerned authority to judge the seriousness of the case coming up before them. It would follow that where this percentage is

exceeded, such losses should not be normally written off or recommended to the Government for write off without further investigation to ascertain if the loss, or some part of it, is due to negligence or mischief or other defaults of commission and omission. When the loss is clearly attributable to the defaults of persons handling the grain recovery to the extent feasible from such persons and/or their sureties requires to be made. The question of write off in such cases would arise only after it is decided to recover the losses to the extent possible and disciplinary action is taken against persons responsible for the loss.”

8. The Government Resolution dated 1.04.2008 provides that loss to the extent of 2% has to be considered reasonable for the food-grain stored in the amount, during the year 2004-2005 to 2006-2007. Neither the Applicant nor the Respondents has produced the recent G.R. issued by the Government in that regard.

9. On going through the above said referred provision of Godown Manual as well as G.R., it reveals that the Government can write off the loss caused in the stock of food-grain due to storage in the Godown for long period to the certain extent and limit fixed by the Government in that regard, has to be considered 'reasonable'. If the loss is more than reasonable percentage of loss prescribed by the Government, then the excess loss shall be recovered by the concerned officer at the rate of Rs.1.5 % of the basis price.

10. On perusal of impugned order, it reveals that the Respondent No.1 i.e. Collector, Jalgaon had not considered the provisions of Godown Manual as well as G.R. issued by the Government from time to time determining the permissible/reasonable percentage of loss in the food-grain stored in the godown. He ought to have excluded the reasonable percentage of the loss in the shortage from the total percentage of loss noted by Tahasildar, Chalisgaon at the time of his inspection. If the total loss is more than reasonable loss determined by the Government, then he would have calculated the quantity of loss and then fixed the amount of loss to be recovered from the concerned officer as provided in the Manual. Thereafter he ought to have passed the impugned order directing recovery of amount of loss caused to the Government from the Applicant. But, the Respondent No.1 i.e. Collector, Jalgaon had not considered the said aspect while passing the said order. Therefore, the impugned order is not legal as it is issued in contravention in the Godown Manual and G.R. issued by the Government. Therefore, the impugned order requires to be quashed and set aside by allowing the Original Application.

11. In view of the above, Original Application is allowed. Impugned order dated 30.08.2016 is hereby quashed and set aside. The Respondent No.1 is directed to consider the matter

afresh in view of the observations made in the foregoing paragraphs and to take appropriate decision on merit as per Rules, within 2 months from the date of this order and communicate the decision to the applicant in writing. There shall be no order as to costs.

PLACE : AURANGABAD.
DATE : 17.01.2019.

(B.P. PATIL)
MEMBER (J)

SAS S.B. O.A. No. 04 of 2017 BPP 2019 Recovery.