

OFFICE OF THE SPECIAL COMMISSIONER / APPELLATE AUTHORITY
DEPARTMENT OF FOOD SUPPLIES AND CONSUMERS AFFAIRS
GOVT. OF NCT OF DELHI
K-BLOCK, VIKAS BHAWAN, I.P. ESTATE, NEW DELHI-110002

No. Spl.Comm./AA/FPS Appeal/F&S/2023/738.741

Dated: 22.8.2023

Appeal No. 18/2023

In the matter of:

M/s Uday Ram & Sons,
FPS No. 8303, Circle-25,
Moti Nagar, Delhi.

Mr. Uday Ram, Prop.
R/o 117, TRB, Najafgarh Road,
Moti Nagar, New Delhi-110015

Versus

Appellant

The Assistant Commissioner (Central)
Deptt. of Food Supplies & Consumer Affairs
Delhi

Respondent

Date of Hearing: 03/08/2023

ORDER

The instant appeal is filed by Sh. Uday Ram, Proprietor of M/s Uday Ram & Sons (FPS No. 8303) under Clause 6 (6) of Delhi Specified Articles (Regulation of Distribution) Order, 1981 against Cancellation Order dated 17.05.2023 passed by the Respondent i.e. Assistant Commissioner/Licensing Authority.

Shri Uday Ram, Appellant/Proprietor was present.

Shri Manoj Kumar, Assistant Commissioner (Central)/Respondent was present.

The Case was called and both the parties were heard at length.

Brief facts of the case are as under:-

A surprise inspection of this FPS was conducted on 24.01.2023 by the Circle FSI in the presence of Hon'ble Area MLA (Moti Nagar), Sh. Shiv Charan Goel and found the variation of 200 kgs of excess rice in the stock of FPS. Accordingly after considering all the facts and records the FPS was suspended vide order dated 20.02.2023 and subsequently cancelled vide Licensing Authority's (Assistant Commissioner/Central) order dated 17.05.2023. The appellant filed the present appeal against the above mentioned cancellation order.

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The Appellant argued through submission which inter-alia summarized as under:-

There was no formal inspection carried out by the inspecting team of department as per the extent instructions of Delhi Specified Articles Order 1981 and the visit of the Hon'ble area MLA was politically motivated. Accordingly, there seems to be mala fide intention on the part of respondent authority in not following the due procedure. It is also important to mention here that neither any independent witnesses were present at the time of inspection nor any such independent witnesses were produced for cross-examination. There is also absence of any inspection memo. Moreover, the Appellant vehemently denies that he has agreed to an excess of 200 kgs rice. In absence of independent witnesses and inspection memo, it would not be wrong to say that the procedure adopted was neither transparent nor fair upon the Appellant.

Further, the Respondent while hearing the appeal did not considered the reply filed by the Appellant inter-alia stating that due to crowd, five beneficiaries had taken their slips and took only the assigned wheat and left without collecting the allotted rice. Therefore, excess of 174 kgs of rice was noticed. Suspension order states that the appellant has submitted the justification of 178 kgs of rice of 04 beneficiaries whereas as per cancellation order it is stated that justification of 05 beneficiaries was given of 178 kgs of rice. It clearly shows the casual behavior of the respondent towards the justification submitted by the appellant without application of mind.

The Assistant Commissioner (Central)/Licensing Authority/ Respondent submitted and argued as under:-

The physical inspection of the FPS M/s Uday Ram and Sons was conducted on behest of Hon'ble area MLA, Sh. Shiv Charan Goel (Moti Nagar) along with FSI, C- 25 on 24.01.2023 and 200 Kgs of the rice was found excess in the stock of FPS. Accordingly, a Show Caused Notice was issued to the owner of the FPS by the FSO of the Circle concerned. Sh. Uday Ram filed his reply justifying the extra rice as some beneficiaries couldn't collect the Rice and also some rice was eaten by the Rats.

The reply filed by the FPS holder was duly examined and found that the beneficiaries who's statement was submitted, availed their monthly quota of SFAs on different dates, very much prior to inspection, two of which are even 9 days before the inspection hence, this indicates that entire story was an afterthought just to justify the rice found excess during the inspection. Hence the license of the FPS was cancelled after issuing a clear speaking order dated 17.05.2023, which has been challenged.

After hearing contentions of the parties, examining their written submissions and perusing other relevant records placed before me, it is noted that:-

The inspection was carried out in the presence of Hon'ble MLA who is also the chairman of Circle Level Vigilance Committee, by the Circle inspector and in presence of the FPS holder. The Hon'ble MLA is the area public representative and the integrity cannot be doubted upon merely on allegations of the FPS holder. Moreover the Government Official i.e. concerned Area Inspector was also present during the inspection and whole process was carried out in transparent manner as the FPS holder didn't raise any doubt at the time of



inspection. Furthermore, the FPS holder on one hand denies the excess stock in the premises at the time of inspection and on the other hand himself submitting the explanation of excess SFA at the FPS through the statements of the cardholders. Both the submissions are contradictory hence the contention of appellant creates doubt and is not tenable.

The version of the appellant regarding non consideration of his reply is not at all acceptable as the Licensing Authority passed the cancellation order dated 17.05.2023 clearly elaborating all the submissions and decisions. The same is also observed by undersigned and found that the five cardholders whose statements submitted by FPS holders availed their monthly quota on 15/01/2023, 17/01/2023, 19/01/2023 & 22/01/2023 i.e. very prior to the date of inspection. Furthermore, the FPS holder stated that some of the rice was eaten by rats, if same is true, than the stock must further fall short but in the instant case stock is excess. Hence the submissions of FPS holder are just an afterthought to justify his lapse with one or another excuse.

Therefore, considering the above facts, I do not find any merit in the appeal hence, the Order dated 17.05.2023 of Assistant Commissioner (Central)/Licensing Authority is upheld and the appeal is accordingly dismissed. Further, the Appellant is at liberty to file appeal to the next higher authority i.e. Financial Commissioner, Govt. of NCT of Delhi against the above mentioned orders if he desires so.

The appeal is disposed of in the aforesaid terms.

Parties be informed accordingly.



(SUSHIL SINGH)

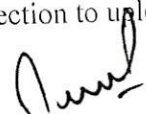
SPECIAL COMMISSIONER(F&S)/APPELLATE AUTHORITY

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Dated: 22.8.2023

Copy to:-

1. The Asstt. Commissioner (Central), F&S Department, GNCT of Delhi.
2. Mr. Uday Ram, Prop. of M/s Uday Ram & Sons (FPS No. 8303) Circle-25, through Assistant Commissioner (Central).
3. Mr. Uday Ram, Prop. of M/s Uday Ram & Sons (FPS No. 8303), R/o 117, TRB, Najafgarh Road, Moti Nagar, New Delhi-110015.
4. SSA (IT), F&S Deptt., K-Block, Vikas Bhawan, Delhi with the direction to upload the order on Departmental website.



(SUSHIL SINGH)

SPECIAL COMMISSIONER(F&S)/APPELLATE AUTHORITY