

1942

Present : Wijeyewardene J.

DABRERA, Appellant, and ATURUGIRIYA POLICE, Respondent.
134—M. C. Colombo, 5,490.

Control of Prices Regulations, 1942—Reg. 6—Failure to furnish return of stock of price-controlled article—Application of regulation.

Where the accused was charged with failing to furnish to the Controller of Prices, as required by regulation 6 of the Control of Prices Regulations, 1942, a return of the stock of a price-controlled article kept by him,—

Held, that the regulation was not restricted to importers or wholesale traders.

A PPEAL from a conviction by the Magistrate of Colombo.

C. Suntheralingam for accused, appellant.

G. E. Chitty, C.C., for complainant, respondent.

Cur. adv. vult.

April 13, 1943. WIJEYWARDENE J.—

The accused is charged with failing to furnish to the Controller of Prices a return as required by Regulation 6 of the Control of Prices Regulations, 1942. Regulation 6 reads:—

“Every person who desires to keep any stock or quantity of any price-controlled article at any store or other place which is not a registered store, shall furnish to the Controller a return specifying such store or other place”

The Counsel for the accused-appellant, argued that the words “Every person” in Regulation 6 should be given a restrictive interpretation so as to include *only* the “importers or wholesale traders” referred to in the earlier Regulations. He said that if the words were given their ordinary meaning, then such a construction would lead to results that could not have been contemplated by the Legislature, as, for instance, the prosecution and conviction of any householder who kept half a pound of sugar for his use.

Now the draftsman used the words “importer or wholesale trader” in Regulations 2, 3, 4 and 5 but when he came to Regulation 6, he refrained from using those words and adopted instead the words “every person”. The Legislature could not, therefore, have intended that the words “every person” should convey the same meaning as the words “importer or wholesale trader”. In fact an examination of the various Regulations shews that Regulations 2, 3, 4, and 5 form a group applicable to a restricted class of persons while Regulation 6 stands apart from that group.

I am unable to agree with the contention that by giving the words “every person” their natural meaning, the regulation would be made wide enough to bring within its provisions even a householder keeping, for instance, half a pound of sugar for his consumption. Such a contention appears to me to ignore the effect of the words “stock” and “store” occurring in the Regulation. I may add that I think that the words “quantity” and “place” in the Regulation are controlled and qualified by the words “stock” and “place” used in conjunction with them. An additional reason against such a contention is furnished by Regulation 7. The Legislature, no doubt, intended that the Controller should publish a notice under that Regulation specifying the quantity of any

price-controlled article that a person could have "in his possession or under his control" without contravening the provisions of Regulation 6. With such a notice in existence, Regulation 6 would not create the situation referred to by the accused's counsel even though the words "every person" are given this natural meaning. Even if it is open to make a charge under Regulation 6 against a householder possessing a small quantity of a price-controlled article, in the absence of such a notice, a Judge will, no doubt, take into consideration all the facts and circumstances of such a case and pass an appropriate sentence.

The accused in this case kept in a separate room in his house 50 bags of Australian flour and 6 bags of white sugar claimed by his witness William. I hold that he has kept a stock of price-controlled articles within the meaning of Regulation 6 and that he has committed an offence by failing to give the requisite notice to the Controller.

On the evidence led in the case I have no doubt that the accused kept these articles with him in order to enable William to ask for and obtain a larger supply of flour and sugar than he would have got if the Price Control Inspector found the stock in question in William's possession. The learned Magistrate has misdirected himself when he took a lenient view of the accused's conduct and fined him Rs. 75. This is a case in which the Magistrate may very well have passed a sentence of imprisonment. In any event the fine imposed by the Magistrate is grossly inadequate.

I affirm the conviction but increase the fine to Rs. 200. In default of the payment of the fine, the accused will undergo rigorous imprisonment for 2 months.

Affirmed.
