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Case Study

Medicinal And Toilet Preparations Act: An In-Depth Analysis With A Practical Case Study

Spoorthi S.¹, Deeksha K. S.², Balamuralidhara V.^{*3}

¹⁻³Centre of Excellence in Regulatory Science, Department of Pharmaceutics, JSS College of Pharmacy, JSS Academy of Higher Education and Research, SS nagara, Mysuru – 570015, Karnataka, India

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ABSTRACT

The production and sale of medicinal and toilet preparations containing ingredients like alcohol, opium, Indian hemp, and narcotic drugs are governed by the Medicinal and Toilet Preparations (Excise Duties) Act of 1955. The 7th Schedule of the Indian Constitution provides exemptions for traditional medicine systems like Ayurveda, Unani, and Homeopathy. The Act's main objectives are to collect excise duties on relevant preparations and ensure uniformity in duty rates and rules across India. It has undergone amendments to adapt to changing circumstances. A critical component of this case study is an in-depth analysis of a real legal case was raised when licenses for manufacturing ayurvedic medicines were not renewed, emphasizing the importance of upholding constitutional principles and rights while regulating these products. The MNTP Act, 1955, is a crucial legislation that regulates the production and sale of controlled substances, ensuring a balance between public health and industry interests. This act regulates the manufacture sale import and export of the preparation. It empowers the Central Government for making the rules for the pricing of the duty, exemptions and remissions. It also provides for the establishment of laboratories for testing and analysis of dutiable goods. The act aims to maintain uniformity in the regulations and tax rates that apply to preparations covered by the act.

INTRODUCTION

DEFINITIONS:(1)

The Main Definitions Under This Act Are

1. Alcohol –

Ethyl alcohol with chemical composition C₂H₅OH with any strength and purity.

2. Absolute alcohol –

alcohol refers to the alcohol that has been dehydrated according to the British Pharmacopeial specifications.

3. Medicinal preparation –

***Corresponding Author:** Balamuralidhara V.

Address: Centre of Excellence in Regulatory Science, Department of Pharmaceutics, JSS College of Pharmacy, JSS Academy of Higher Education and Research, SS nagara, Mysuru – 570015, Karnataka, India

Email ✉: spoorthigowda72582@gmail.com

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it is a preparation of drugs for human or animal use, aimed at treating, mitigating, and preventing diseases.

4. Toilet preparation –

a substance used to clean, improve the appearance of hair, skin, or teeth in cosmetics and clothing that are scented, such as deodorants and perfumes.

5. Bonded manufactory –

The premises has a license for the production and duty-free storage of medicinal and toilet preparations comprising alcohol, opium, Indian hemp, and other narcotic drugs.

6. Non-bonded manufactory –

The premises has a license for the production and storage of duty-paid medicinal and toilet remedies including alcohol, opium, Indian hemp, or narcotic substances.

7. Denatured alcohol or Denatured spirit-

By adding ingredients allowed by the Central or State Governments, with authority from the Central Government, strength of alcohol is rendered unfit for human consumption.

8. Restricted preparation-

The Schedules specify medicinal and toilet preparations, including all declared by the Central Government, which are known as restricted preparations.

9. Unrestricted preparation-

Unrestricted preparations refer to medicinal and toilet products containing alcohol, excluding restricted or spurious preparations.(2)

INTRODUCTION:

The main aim of the 1955 Medicinal and Toilet Preparation Act was to control the manufacture, marketing, and distribution of these products.(3) It ensures the public health and safety efficiency of the preparation. MNTP act provides levy collection of excise duties on alcohol-containing preparations is being implemented.(4) The act also establishes quality control laboratories for testing and analysis of these products, ensuring they meet the prescribed standards.(5) Authorized officers

are designated under the act to inspect premises, records, and products suspected of non-compliance, with the power to take appropriate action against violators.(6) Each state government in India used to set its own rates of duty and regulations for imports and exports of medicinal and toilet preparation containing alcohol due to which industries faced challenges.(7) To attain the uniformity responsibility for regulating the excise duty on such preparations was shifted from the State List to Union List.(8) This helps to attain the standardized the framework for industry and eliminate the negative effects. This act was effective from 1st April 1957. (1)

History:

The Medical and Toilet Preparations (Excise Duties) Act of 1955 was created in response to the requirement for a thorough legal framework to regulate the manufacture and distribution of the preparations.(9) This act aimed to consolidate and amend the laws regarding levying and collection of excise duties of the preparation. The act has undergone amendments to adapt the changes. (10)

OBJECTIVES OF THE ACT

The objectives of the act includes:

1. The goal is to collect levy and excise taxes on toilet and medicinal preparations that contain alcohol, narcotics.
2. To ensure uniformity across the country's excise duty rates and regulations governing these preparations.(11)

Amendments:

Medicinal and. Toilet Preparations (Excise Duties) Amendment Act, 1982: This amendment made changes to the excise duty rates for the different categories of medicinal and toilet preparation.(12)

Amendment of Section 19:

1. Subsection (4) of Section 19 of the principal Act is being substituted with a new sub-section.
2. The new sub-section(4) mandates that rules made under Section 19 must be presented to each House of Parliament during a session.(13)



3. The rule will be under consideration about thirty calendar days, which may be in one or two successive sessions.
4. If both Houses agree that the rules should be modified or that they shouldn't be modified, the rule will only take effect in its modified form or won't have any effect. Importantly, the validity of any prior modifications made in accordance with the rule will not be impacted by its modification or annulment.(14)
4. Rates of duty vary depending on whether the preparation contains alcohol, opium, Indian hemp, and narcotic drugs or narcotics.(15)
5. The Schedule specifies prices for Ayurvedic remedies, proprietary or patent medicines, and other medical and toilet preparation. Explanations are included to clarify terms such as "patent or proprietary medicine" and "London proof spirit."
6. The Medicinal and Toilet Preparations (Excise Duties) Act of 1955's taxation and control of medicinal and toilet preparations is updated and improved by the amendments, which provides a clear framework to assess and levying duties of different types of preparations.(16)

Amendment of Schedule:

1. The existing Schedule in the principal Act is being substituted with a new Schedule.
2. The new Schedule provides with a detailed rates of duty for various categories in medicinal and toilet preparations.
3. It distinguishes between medicinal preparations and toilet preparations.

OFFENCES AND PENALTIES:(17,18)

Sr. No.	OFFENCES	PENALTIES	UNDER SECTION
1.	Contravening Provisions of a Notification	1. Imprisonment of a person for a period that can extend for six months. 2. Fine will be up two thousand rupees.(OR) 3. Combination of Both the penalties	Section 7 of medicinal and toilet preparations act
	A. Evading Excise Duty		
	B. Failure to Supply Required Information		
	C. Attempts and Abetment: attempts to commit any of the crimes listed in clauses (a) or (b), as well as and abetting		
2.	Willfully gives false information to officer.	A penalty up to five hundred rupees.	Under rule 111 of medicinal and toilet preparation act.
3	Owner by himself or by his employ with his connivance commits the following: The individual is prohibited from opening any locked warehouse doors or gaining access to the warehouse unless an officer is present. The Excise Commissioner must be given prior consent before any alteration or addition to a warehouse can be made after its approval.	shall be liable to a penalty which may extend to two thousand rupees, and all goods warehoused, removed or concealed in contravention of this rule shall be liable to confiscation.	Under rule 79 of medicinal and toilet preparation act.

	warehouses goods in, or removes goods from, a warehouse otherwise than as provided by these rules Privately removes or conceals any goods either before or after they are warehoused		
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DISCUSSION:

Case study (19)

Shree Baidyanath Ayurved Bhawan ... vs State of Bihar & Ors

IN THE HIGH COURT OF JUDICATURE AT PATNA

Petitioner:

Shree Baidyanath Ayurveda Bhawan Pvt. Ltd., Samrat Chemical Industries.

Respondents:

The State of Bihar through the Chief Secretary, Government of Bihar.

The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna.

The Excise Commissioner, Excise and Prohibition, Government of Bihar, Patna.

The Collector of Patna (in Shree Baidyanath Ayurveda Bhawan Pvt. Ltd.'s case) and the Collector of Vaishali (in Samrat Chemical Industries' case).

The Assistant Commissioner of Excise, Patna (in Shree Baidyanath Ayurveda Bhawan Pvt. Ltd.'s case) and the Superintendent of Excise, Vaishali (in Samrat Chemical Industries' case).

Case no: 6415 of 2016, 6404 of 2016

Date: 27 -10-2016

Fact of the case:

The dispute centers on the invalidation of Clause 3 of a Circular dated 17.3.2016, which informs Collectors-cum-District Magistrates in Bihar that licenses granted under The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (MNTP Act) permits the manufacturing of medications containing alcohol, opium, Indian hemp, and other

narcotic drugs; however, licenses for the manufacture of narcotics will not be renewed, and no new licenses will be granted. The MNTP Act grants permits to Shree Baidyanath Ayurveda Bhawan Pvt. Ltd. and Samrat Chemical Industries for the production of ayurvedic medications, some of the preparation which contain alcohol. The petitioners are asking the Excise Commissioner to renew their licenses and to invalidate the circular.

Contention of the case:

According to the petitioners, they have been producing Ayurvedic medications for many years in line with MNTP Act and Ayurvedic principles, some of which contained alcohol and other drugs. They claimed that the Excise Commissioner's circular, which forbade the renewal of licenses for certain drugs, was illegal and had an impact on their way of life and their enterprises. The petitioners asked for the circular to be overturned and for their manufacturing licenses to be renewed so they could keep making these medications. Clause 3 of the circular was sent to the collectors cum magistrate of the state, was issued by excise commissioner of Bihar on march 17th 2016. It announced a shift in policy by not renewing licenses granted under this act.

SUMMARY:

In conclusion, The petitioners' writ applications were granted by the court. It quashed Clause 3 of the March 17, 2016, Excise Commissioner of Bihar Circular.

The petitioners' licenses must be quickly renewed, according to instructions given to the respondents in Forms L-1 and ND-1.(20)

The judgment clarified that the state could impose reasonable restrictions but could not entirely prohibit the trade or business in such medicines. It emphasized the importance of upholding constitutional principles and rights while regulating these products.

CONCLUSION:

From the above information provided on the case study related to MNTP act, the petitioners claimed that the MNTP Act, 1955, passed by Parliament in accordance with Entry 84 of List I of the Seventh Schedule of the Indian Constitution, granted the central government authority over excise duties related to these preparations. They contended that the State Government, exercising its powers under Entry 8 of List II, cannot prohibit the manufacture and sale of medicinal preparations containing specified substances as they are not equivalent to alcoholic beverages and are used for medicinal purposes. The petitioners emphasized that Article 47 of the Indian Constitution, law promotes the prohibition of harmful intoxicating drinks and drugs, but allows for the exemption of medicinal preparations containing alcohol.

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