

Collector of Central Excise Vs. Pharmaceutical Capsules

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-12-1985

Reported in : (1986)(9)ECC137

Appellant : Collector of Central Excise

Respondent : Pharmaceutical Capsules

Judgement :

1. This is an appeal filed by the Collector of Central Excise, Bombay-1, against Order No. M-2430-2431/ BI-879-88Q/84 dated 18th December, 1984, passed by the Collector of Central Excise (Appeals), Bombay.

2. It is stated that the respondents are manufacturers of Empty Hard Gelatine Capsules. They had filed a classification list in respect of this product and claimed exemption for it as a drug intermediate, as per Notification No. 62/1978. The classification list was approved accordingly. Later on, however, it was considered that empty gelatine capsules were not "drug intermediate" and that the respondents were not eligible for exemption. Accordingly, a show-cause-cum-demand notice was issued to the respondents on 24th November, 1978, making a demand of duty amounting to Rs. 2,36,530.45 for the period from July to October, 1978. The demand notice was confirmed by the Assistant Collector on 7th October, 1981, holding that gelatine capsules are used principally as containers/carriers for drugs to be administered and do not by themselves function as drugs. Referring to the opinions of the Deputy Chief Chemist and the Drug Control authorities, it was held that the product could not be considered as a drug

intermediate. In appeal before the Collector of Central Excise (Appeals), Bombay, the decision of the Assistant Collector was reversed. It was held that empty hard gelatine capsules were drug intermediate and the Assistant Collector's Order was set aside, with consequential relief to the respondents. It is against this order of the Collector of Central Excise (Appeals), Bombay that the present appeal has been filed before us. Appellants submit that the Collector of Central Excise (Appeals) has erred in taking cognizance of the opinions of the Deputy Chief Chemist and the Drug Control authorities, which clearly stated that the item could not be considered as drug intermediate. The term "drug intermediate", it is stated, would refer chemically to such products which would fall under chemical grouping constituting finished drugs. Gelatine Capsules, it is stated, are principally used as containers/ carriers for drugs to be administered and do not by themselves function as drugs. They would not, therefore, merit classification as drug intermediate. It is also stated that the Collector of Central Excise (Appeals) has failed to apply the definition of drugs given under Section 3(b) (iii) in Drugs and Cosmetics Act, 1940, and Circular No. 3/72 dated 18th February, 1982, issued by the Government of India, Ministry of Foreign Trade, New Delhi. Appearing on behalf of the department, the learned S.D.R., Shri B.R. Tripathi, has stated that he relies on the following decisions in his favour :MSCO Pvt. Ltd. v. Union of India and Ors.Aravind Chemical Industries, Bombay, v. Collector of Customs, Bombay (3) CEGAT decision in the case of Fairdeal Corporation (Pvt.) Ltd., Bombay, 1984 (16) E.L.T. 368.

(4) Government of India decision in Hindustan Organic Chemicals Ltd., 1982 E.L.T. 721.

(5) Madhya Pradesh High Court decision in the case of Hind Syntex Ltd. v. Union of India and Ors., 1985 (19) E.L.T. 35 (M.P.).

(6) Bombay High Court decision in the case of Sainet Private Ltd, and Anr. v. Union of India and Anr., 1984 (18) E.L.T. 141 (Bom.) (7) Bombay High Court decision in the case of Chemicals and Fibres India Limited v. Union of India and Ors., 1982 E.L.T. 917 (Bom.).

(8) Bombay High Court decision in the case of Glaxo Laboratories (India) Ltd. v. Union of India and Ors., 1985 (21) ELT 72 (Bom.).

Shri Tripathi has re-iterated the department's stand that the capsules are nothing but packing material. It is stated that the Supreme Court's judgment in MSCO Pvt. Ltd. case (supra), it was decided that for determination of correct classification under Excise & Customs Tariff, it may not always be advisable to refer to definitions under other enactments. The learned S.D.R. said that, in the case relating to Chemicals and Fibres India Ltd. (supra), the Court, in fact, refused to be guided by other enactments not relevant to the Tariff. Referring to Government of India's decision in the case of Hindustan Organic Chemicals Ltd. (supra), it was admitted that the Government of India had held that the end use should determine the classification but this was not acceptable to the learned S.D.R. It is stated that, as decided in the case of Hind Syntex Ltd. (supra), if in the case of classifying a product the authorities adopt a construction, which no reasonable person could adopt, then the Court is competent to interfere. If, however, there are two constructions which an entry could reasonably afford and one of them, which is in favour Of the Revenue, is adopted, the Court has no jurisdiction to interfere merely because the other interpretation is favourable to the appellant. Referring to the decision of the High Court of Judicature, Bombay, in the case of Fibres India Limited v. Union of India and Ors. (supra), it is stated that if a statute contains a language which is capable of being construed in a popular sense such statute is not to be construed according to the strict scientific or technical meaning of the language contained in it but if it is a word which has a technical or scientific character then it must be construed according to that which has its primary meaning, namely its technical or scientific meaning. Appellants also referred to page 565 of Hawley's Condensed Chemical Dictionary (Tenth Edition) to show that an intermediate is essentially an organic compound either cyclic (derived from coal tar, petroleum products, such as Benzene, Toluene, Naphthalene, etc.) or acyclic (for example ethyl and methyl alcohol). These compounds are chemical stepping stones between the parent substance and the final product. Relying on the Bombay High Court decision in Sainet Private Ltd. and Anr. v. Union of India and Anr. (supra), it is said that Tariff Item 68 is a residuary entry, recourse to which has to be had as a matter of last resort. Strongly relying on the decision of the Bombay

High Court in the case of Glaxo Laboratories (India) Ltd. v. Union of India and Ors. (supra), the learned Departmental Representative said that it was held by the Bombay High Court that end use of an article is absolutely irrelevant for the purpose of classification under a Tariff Entry where there is no reference to the end use of the article in the Entry itself. It was held that 'PVP' of pharmaceutical grade, known in the trade as 'plasdone' or 'Povidone', did not have any medicinal properties but was used in the preparation of medicines as a tablet compound. Admitting that under the Drugs and Cosmetics Act, 1940, such substances, which are used as components of drugs, are by definition considered as drugs, it was nevertheless held that the definition of a drug for the purpose of Drugs and Cosmetics Act, 1940, was promulgated for prevention of sub-standard drugs and to maintain high standards in medical treatment.

It was held that there was nothing in Tariff Entry 28 of the Indian Tariff Act, 1934, which suggested that the definition of drugs under the Drugs and Cosmetics Act or under the Drugs Price Control Order should be read into it. It was decided that drug is a substance which is understood ordinarily of having a physiological action in a living body and that a substance which did not react physiologically at all was not a drug. Even an ingredient in any pharmaceutical preparation, which did not have any therapeutic effect on the human body, either beneficial or harmful, could not be classified as a drug.

3. Presenting arguments on behalf of the respondents, Shri S. Ganesh, Advocate, has stated at the outset that the respondents had declared in their classification list that the empty hard gelatine capsules manufactured by them were exempted as per Notification No. 62/78. They had also stated that their products were classifiable under Item 68.

This was approved by the Department on 7th March, 1978. It is stated that in the case of Inarco Limited v. Collector of Central Excise, Bombay, this Tribunal has held, vide Order No. 167/84-D dated March 23, 1984, that demand of duty for the period preceding the date of the show-cause notice cannot, in such circumstances, be justified. Although the appellants had urged that the demand should be enforced with effect from the date of the Review Order of the Collector,

the Tribunal held that it would be justified in law as well as in equity if the demand for Excise Duty is held enforceable with effect from the date of the show-cause notice when the party was put on a notice that the department was likely to review the existing position as regards classification. It is, therefore, pleaded that no demand for duty should be enforceable prior to the date of show-cause notice.'

Shri Ganesh pointed out that gelatine capsules were not packing material, as shown by the appellants. They are used sometimes to ensure that drug goes to the digestive system without going to the blood stream. They also are useful as carrier of the drug where the drug to be administered is of an obnoxious character or where, otherwise, the medicine requires to be released to the system in a controlled manner over a period of time. It would be, therefore, wholly mistaken to view the gelatine capsules as neutral containers in the nature of ordinary packing. It is pointed out that capsules figure in the Indian Pharmacopia. In fact, it is stated that capsules are not to be viewed as a packing having an identity separate from the drug to be administered. It is pointed out that hard gelatine capsules are drugs within the meaning of Section 3(b) (i) of the Drugs and Cosmetics Act, 1940, according to which drug includes all medicines for internal or external use on human beings and animals and all substances intended to be used for or in the diagnosis, treatment, mitigation or prevention of disease in human beings or animals. It is claimed that gelatine capsules would certainly be included in the category of "substances" intended to be used in treatment, prevention, etc. of diseases in human beings. In connection with this, respondents have cited the decision of the Supreme Court in the case of *Chimanlal Jaggivandas v. the State of Maharashtra* (AIR 1963 Supreme Court 665). In this matter the Supreme Court decided that absorbent cotton wool, roller bandages and guazes fall within the definition of a drug, as contained in Section 3(b) of the Drugs Act, 1940, as amended by the Drugs (Amendment) Act, 1951. It was held that the definition under the Act is comprehensive enough to take in not only medicines but also substances intended to be used for or in the treatment of diseases of human beings or animals. Pointing out that the Drugs Act did appear to contain an "artificial definition", it was held that a [distinction existed between medicine and substances which were not medicines, strictly so called, but used for treatment. In the material case, the products in question were held to be substances intended to

be used for or in such treatment.

Respondents have referred to the decision of the Calcutta High Court in case of *Ram Chander Sunderka v. State of West Bengal* (1971 Criminal Law Journal 1369), in which it was held that even water meant to be used for dissolving other medicines for injection into human bodies is a drug within the meaning of Section 3(b) of the Drugs and Cosmetics Act (1940). Pointing out that not any or every water can be used for such purpose and that the water for injections in the instant case was distilled for the purposes of being used along with the medicine for injection into human body, it was held that, clearly, this would come within the definition of drug as contained in Section 3 of the Drugs and Cosmetics Act. On the ratio of both these decisions, it was contended by the respondents that their product also should be held to be falling within the definition of drug. Further, they pointed out that in a letter of the Government of India, Ministry of Finance (D.R.), Letter No. 102/26/79-CX3 dated 11-3-1980, it had been clarified that surgical cotton (absorbent cotton wool), guazes, bandages and other non-medicated surgical dressings are drugs within the definition of the term as contained in Section 3(b) (i) of the Drugs and Cosmetics Act. Therefore, there was nothing repugnant to the accepted interpretation in holding gelatine capsules also to be drugs within the meaning of the Drugs and Cosmetics Act. Respondents have also relied on the following other decisions, in support of their case :*J.L. Morison, Son and Jones (India) Ltd., Bombay v. Collector of Central Excise, Bombay*, 1984 (15) E.L.T. 251 (Tribunal).

(2) Calcutta High Court decision in the case of *Calcutta Clinical Research Association Ltd. v. Union of India and Ors.*, 1971 Tax. L.R. 1073.

(3) Madhya Pradesh High Court decision in the case of *Ramesh Chemical Industries v. Union of India and Ors.*, 1980 E.L.T. 598 (M.P.).

(4) CEGAT West Regional Bench decision in the case of *Baboobhai Patel & Company v. Collector of Customs, Bombay.*, 1985 (19) E.L.T. 287 (Tribunal).

(5) Government of India decision in the case of *Shasun Chemicals (Madras) Pvt. Ltd.*, 1982 ELT 786 (G.O.I.).*Trichem Laboratories Bombay., v. Collector of*

Customs, Bombay, Countering the department's case that, as per the advice of their Deputy Chief Chemist and the Drug Controller, the product cannot be called drug intermediate, it is pointed out that empty hard gelatine capsules are included in a list of 15 items of drug intermediates, as notified by the Government of India, Ministry of Foreign Trade, Office of the Chief Controller of Imports and Exports, in their REP Circular No. 3/72 dated 18-2-1972. It is stated that while collecting details of production of drugs and Pharmaceuticals, the Ministry of Petroleum and Chemicals of the Government of India also addressed the respondents for particulars regarding the gelatine capsules manufactured by them. In fact, in the licence granted to them for import of machinery for the manufacture of empty hard gelatine capsules, it is shown that their Licence for Import Trade Control pertains to licences issued for manufacture of drugs and pharmaceuticals. The Ministry of Petroleum and Chemicals are regulating the prices of bulk drugs and in their letter No. 8/8/74-CH.I dated 25th December, 1974, they noticed the prices of gelatine capsules as an item of bulk drug. It is pointed out that if we are to understand the meaning of term in commercial and technical parlance, we must inter alia relate it to the authorities who are regulating the activities pertaining to the particular product. Clearly, the above-cited Circulars/Orders, etc. are evidence of the fact that empty hard gelatine capsules are treated as drugs by the Chief Controller of Imports and Exports, the Ministry of Petroleum and Chemicals and the Ministry of Finance, Department of Revenue. It is further pointed out that as early as on 18th September, 1978, respondents had asked the department for copies of the opinions of the Drug Controller and the Deputy Chief Chemist or to allow them inspection of the same. They were only furnished extracts in a letter dated 9th November, 1979, but denied access to the entire reports and they were in no position to examine the contexts in which these reports had been asked for and furnished. Shri Ganesh also emphasises that, clearly, the product in question falls in the category of a pharmaceutical. For this purpose, he referred to the meaning of Pharmacy and Pharmaceutical, as appearing in Chambers Twentieth Century Dictionary and Webster's Dictionary.

According to these definitions Pharmacy is the art of preparing and compounding medicines and pharmaceuticals refers to the knowledge of art of pharmacy, medicine or drug product. Respondents have strongly relied on the decision of the

Government of India in Shasun Chemicals (Madras) Private Limited (supra) in which it was held that it is well settled in law that where the words in a taxing statute are not defined and have to be construed by implication or by indirect manner, the words have to be construed in their popular sense, i.e. in the sense in which the people conversant in the trade understand them and that for the purpose of application of Exemption Notification No. 55/75, the meaning of a drug intermediate is to be understood not in the scientific and technical sense but in the commercial sense. A product can be regarded as a drug intermediate when used in the manufacture of drug and, merely because it has other uses, a drug intermediate would not cease to be so. This decision was also supported by another decision of the Government of India in the Hindustan Organic Chemical Limited [1982 ELT 721], in which it was held that if there was ample evidence to the effect that certain products were used as drug intermediates then the benefit of the relevant Notification cannot be denied to the product. Shri Ganesh also laid emphasis on the decision of the Madhya Pradesh High Court in the case of Ramesh Chemical Industries v. Union of India and Ors. (supra) holding that although there is no. definition of drugs contained in the Central Excises and Salt Act, 1944, yet the definition of drug in Section 3 (b) of the Drugs and Cosmetics Act, 1940, inter alia shows that drug includes substances other than food and that the scope of patent and proprietary medicines in Item No. 14(E) must be understood in accordance with the provisions of Drugs and Cosmetics Act. Referring to the CEGAT decision in the case of Trichem Laboratories v. Collector of Customs, Bombay (supra), it is stated that all that was necessary for according exemption to a substance as a drug intermediate was that it should be used as an intermediate in the manufacture of a drug, whatever the drug may be and whatever the stage the substance enters the process by which the finished product is made. It was said that to put a narrow interpretation is to shut our eyes to science and technology and that better techniques and/or different processes/procedures can change not only the products and the raw materials but the system of production itself. Respondents have also referred to CEGAT decision in the case of Aravind Chemical Industries v. Collector of Customs, Bombay (supra), in which it was held that the impugned product was clearly shown to be used as a drug intermediate. Two Govt. authorities concerned with the Drug

Industry also treated the item as such. Therefore, it was entitled to exemption to duty in terms of Notification No. 55/75.

4. We have carefully considered the facts of the case and the submissions made by both sides. The Department's case is that gelatine capsule is used principally as a container or carrier for drug to be administered and it does not by itself function as a drug. Mere use in the manufacture of drugs for filling medicament would not qualify the product for classification as a drug intermediate. Reliance is heavily placed on the advice of the Deputy Chief Chemist, Drug Control authorities and the classification by authorities such as DGTD, Chief Controller of Imports and Exports, as well as decision of the Supreme Court in the case of Chimanlal Jaggivandas (*supra*), which was dismissed by the Assistant Collector as, in the first case, not relevant and, in the second, not applicable, without elaborating on the reasons for this view. We find that the learned Departmental Representative is disagreeing with the decision, of the Government of India in the case of Hindustan Organic Chemicals Ltd. (*supra*). He also states that some of the CEGAT decisions cited in favour of the respondents are based on the Government of India's decision in Shasun Chemicals (Madras) Pvt.

Ltd. (*supra*) and that the department has already filed appeals in those cases. Referring to the definition of Pharmaceuticals in the Hawley's Condensed Chemical Dictionary, it is re-iterated that the product is fit for neither treatment nor for diagnosis. The Departmental Representative is not impressed "by the fact that hard gelatine capsules figure in Indian Pharmacopia. He points out that even sugar and contraceptives fall in I.P. We feel that all these arguments did not help the department's case very much against substantial case law cited by the respondents, supported by Circulars and Orders of various technical and administrative authorities of Government of India, which leave little doubt that the impugned product is covered by the Drugs and Cosmetics Act. Quite apart from this, there is a Circular of the Ministry of Finance, Department of Revenue, No. 102/26/79/CX3 dated 11th March, 1980, which while pointing out that surgical cotton, gauzes, bandages and other surgical dressings are drugs within the meaning of Drugs, given in Section 3(b) of the Drugs and Cosmetics Act, clarifies that they would be entitled to exemption from duty under the Central Excises and

Salt Act, 1944, vide Notification No. 55/75. We find that there is one important decision of the Bombay High Court in the case of Glaxo Laboratories (India) Ltd. v. Union of India and Ors.

(supra), which has been cited by the department in their favour, which gives considerable strength to their case inasmuch as it was decided in that matter that for purposes of classification under the Customs Tariff, a drug should be a substance which should be understood ordinarily as having a physiological reaction in a living body and that a substance which did not react physiologically at all was not a drug.

As pointed out by the respondents, however, this finding was given as a part of the total view taken by the Court that there is nothing in the Customs Tariff which suggests that the definition of drugs under the Drugs and Cosmetics Act, 1940, or under the Drugs Price Control Order should be read into it. As against this, a large number of other decisions have been cited by the respondents in their favour. The most important of these is Supreme Court decision in the case of Chimanlal Jaggivandas v. the State of Maharashtra (supra), which held that absorbent wool, roller bandages and gauzes fall it to the definition of drug in Section 3(b) of the Drugs and Cosmetics Act, 1940, as amended.

Again, in the Calcutta High Court decision in the case of Ram Chandra Sundarka (supra), it was held that even distilled water used for dissolving other medicines for injection into human bodies would be considered as a drug within the meaning of the Drugs and Cosmetics Act, 1940. We have also a very clear pronouncement of the Madhya Pradesh High Court in the case of Ramesh Chemical Industries v. Union of India and Ors. (supra), holding that although there is no definition of drugs contained in the Central Excises and Salt Act, 1944, yet the definition of drug in Section 3(b) of the Drugs and Cosmetics Act should guide the interpretation of the Central Excise Tariff. The Bombay High Court decision in the case of Glaxo Laboratories (India) Ltd. v. Union of India and Ors. (supra) has successfully been differentiated by the respondents as relating to interpretation not of the Central Excise' Tariff but the Customs Tariff. As against this, we have the decision of the Madhya Pradesh High Court in Ramesh Chemical Industries,

Bombay v. Collector of Customs, Bombay (supra), which is squarely on the interpretation of Central Excise Tariff and it remains uncontroverted by any other High Court or Supreme Court decision. We feel that, both in logic and in law, it fully binds us. We have taken note of the department's contention, firstly, that they do not accept the ratio of Government of India's decision in the case of Shasun Chemicals (Madras) Pvt. Ltd. (supra), and, secondly, that they have filed appeals against the CEGAT decisions based on this decision of the Government of India.

This does not affect the binding character of the CEGAT decision until reversed. We feel that the end use of empty hard gelatine capsules as an intermediate, in the manufacture of finished products, is beyond dispute. The point is well made that in terms of the definition of the Drugs Act itself a distinction is made between medicines and substances other than the medicines which are used for treatment. In the instant case, the impugned product can certainly be placed in the category of "substances" used for treatment, even though it is obviously not shown that by themselves, the products produce any physiological reaction which is favourable or harmful to the human bodies. At the same time, we cannot lightly brush aside the claim made by the respondents that hard gelatine capsules serve a medicinal purpose ensuring where required, the release of the drugs carried in a controlled manner over a period of time and ensuring also that the drug goes to the digestive system without going to the blood stream. We also feel that the respondents have a strong case inasmuch as they are fully supported in the matter of classification of the impugned product as a drug by the authorities who are administering and regulating activities relating to the production, sale, import, export, etc. of drugs. Interpretation by these authorities is clearly indicative of popular understanding and trade parlance in respect of the impugned product.

5. Accordingly, we hold that empty hard gelatine capsules are a drug intermediate and would be covered by Exemption Notification No. 62/78.

In view of this finding, we do not consider it necessary to deal with the alternative plea that the demand of duty would not in any case, be valid for the period preceding the date of the show cause notice.

6. Pursuant to our findings, we dismiss the appeal and confirm the order of the Collector of Central Excise (Appeals), Bombay.

7. I have perused the Order proposed by my learned Brother Shri K.Prakash Anand. I agree with the final conclusion to dismiss the appeal but I would rather base it on the footing that empty gelatine capsules are drugs rather than drug intermediate. Drug intermediates, as the Tribunal has held in a number of decisions, notable one among them being Satyadev Chemicals Ltd., Baroda v. Collector of Central Excise, Baroda, 1985(5) E.T.R. 804 are chemical substances which contribute to the ultimate chemical structure of the drug. From this point of view, it would not be proper to held gelatine capsules as drug intermediates since they do not enter into the chemical structure of drugs.

8. However, it would be correct, in my view, to appropriately describe gelatine capsules as "drugs" for the following reasons : (i) They are substances used for or in the treatment of disease in human being though they may, by themselves, have no therapeutic role. This view is supported by the Supreme Court's decision in *Chimanlal Jagjivandas Sheth v. State of Maharashtra* (supra) holding that absorbent cotton wool, roller bandages and gauze are substances used for or in "treatment" within the meaning of Section 3(b) of the Drugs and Cosmetics Act, 1940. The Court held that the definition of "drugs" was comprehensive enough to take in not only medicines but also substances intended to be used for or in the treatment of disease of human beings or animals. The expression "substances", said the Court, must be something other than medicines but which are used for treatment. This was the basis for the aforesaid finding. In that case, gauze for instance, had to conform to a standard of absorbancy in order that it might serve its purpose; otherwise, the fluid which oozes would be left to accumulate at the site of the wound or sore. In the present case, the capsules are required to conform to pharmacopial standards. They aid in the controlled or slow release of the drug proper into the system over a period of time, unlike in oral administration of the non-capsulated drug or in injections. The ratio of the Supreme Court's decision is obviously applicable.

(ii) No good reason can be found to take a different view when even the Central Board of Excise and Customs has, in its letter No. 102/26/79-CX3 dated 11-3-1980, considered surgical cotton (absorbent cotton wool), gauzes, bandages and other non-medicated surgical dressings to be "drugs" within the meaning of the term "drugs" in Section 3(b) (1) of the Drugs and Cosmetics Act and entitled to exemption under Central Excise Notification 55/75.

(iii) The Indian Pharmacopoeia recognises gelatine capsules as preparations in which drugs are enclosed; this should dissolve or disintegrate in water at 37C in such a way as to release the medicament completely.

(iv) The Chief Controller of Imports and Exports has, in his REP' Circular No. 3/72 dated 18-2-72, on the basis of a list drawn up by the D.G.T.D., recognised empty hard gelatine capsules as a drug intermediate. (Of course, Capsules are not drug intermediates properly so-called as pointed out earlier - which view the Deputy Chief Chemist and the Drug Control Authority also held in their opinions - but the circular clearly indicates that capsules are not regarded as something entirely divorced from the manufacture or preparation of drugs.) (v) The Ministry of Petroleum & Chemicals, which is administratively concerned with the drug industry has, in letter No. 8(8)/74-CH I dated 19.4.1974 to the respondent, fixed the maximum selling prices of gelatine capsules which has been shown under the description of bulk drug.

(vi) The Central Excises and Salt Act does not contain a definition of "drug". Therefore, one has to fall back on the trade of commercial understandings on the term. But the drug industry has to work within the parameters laid down by the Drugs and Cosmetics Act.

The term "drug" has been defined in this Act. Though, as a general proposition one should not turn to other enactments for ascertaining the meaning of expressions in a given Act, in the present case, having regard to the all-pervasive nature of the Drugs Act, the understanding of gelatine capsules as a drug by the administrative authority (Ministry of Petroleum & Chemicals) and the other circumstances narrated above, we do not see any good reason not to rely on this understanding for the purpose of determining whether gelatine capsules are

"drugs" for the purpose of notification No. 55/75.

9. In the result, I would hold that gelatine capsules are "drugs" and are eligible for the benefit of notification No. 55/75. I agree that the appeal merits to be dismissed and the impugned order of the Collector (Appeals) confirmed.

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