

**BEFORE THE COMMISSIONER OF STATE TAXES &
EXCISE-CUM-EXCISE COMMISSIONER
HIMACHAL PRADESH**

Case No. 20/2024

Date of Institution: 21-05-2024

Date of Order: 23-11-2024

IN THE MATTER OF:

M/s Digital Vision, 176 Mauja Ogli,
Kala Amb, District Sirmour (HP)
(MD-VI, Licensee, Year 2024-25)

Parties Represented by:-

1. Shri Purushottam Lal Goyal, authorised signatory for the noticee.
2. Smt. Monica Attreya, ACSTE (Legal Cell) along with Shri Kamal Chand ASTEO Nahan Circle for the Department.

ORDER

**(Under Rule 50 of the Himachal Pradesh Narcotic Drugs and Psychotropic
Substances Rules, 1989)**

1. This order shall dispose of the proceedings initiated in pursuance to the Show Cause Notice issued under proviso to Sub-Rule (1) of Rule 54 of the Himachal Pradesh Narcotic Drugs and Psychotropic Substances Rules, 1989 (hereinafter referred to as the "HPNDPS Rules").
2. The brief facts giving rise to the initiation of present proceedings are that M/s Digital Vision, 176, Mauza Ogli, Kala Amb, District Sirmour (hereinafter referred to as "Noticee-Firm") is a holder of License No.5/2011 granted in Form of MD-VI (hereinafter referred to as 'MD-VI License") by this Department.
3. The Excise and Taxation Commissioner, in exercise of powers conferred under Rule 50 and 54 of the HPNDPS Rules, constituted a committee (vide office order dated 06-07-2024) to inquire and report regarding the adherence to the conditions of grant of licence and its process, procedure and operations so required to be complied with in



its letter and spirit. The said Committee comprised of as many as five officers headed by the Addl. Commissioner of State Taxes and Excise-cum- Collector (SZ), Shimla.

4. The said Committee submitted its detailed report on 22nd July, 2024. As far as the Noticee-Firm is concerned, it was reported that in addition to allocation of quota (of Narcotic Drug namely Codeine Phosphate) to the Noticee-Licensee/Firm. The Noticee-Firm also got allotted quota on account of M/s Shiva Medical Hall, 1st Floor, Industrial Area, Ambala Cantt. (Haryana) and M/s Skincare Creation, 1st Floor, Village Ogli Nahan Road, Kala Amb, District Sirmour (H.P). Admittedly, M/s Shiva Medical Hall and M/s Skincare Creation did not possess any MD-VI Licence.
5. After the perusal of the Report, the Show Cause Notice (dated 14-08-2024) under proviso to Sub-Rule (1) of Rule 54 of the HPNDPS Rules was issued to the Noticee-Firm and the Notice of present proceedings was also issued to the Zonal Collector and DCST&E, Sirmour, directing them to produce the record and file reply.
6. The Noticee-Firm submitted its Reply (dated 17-08-2024) to the Show Cause Notice, wherein the factum of issuance of MD-VI License for the Manufacturing of Codeine based Drugs was admitted. It was averred by the Noticee-Firm that it is not manufacturing any Narcotic Drug under loan license arrangement. It was also averred that these two firms i.e. M/s Shiva Medical Hall and M/s Skincare Creation are not holding any manufacturing License under the Drugs Act and the Noticee-Firm is manufacturing Narcotic Drugs for these two firms and for that purpose the Central Bureau of Narcotics, Gwalior has made allocation of Codeine Phosphate qua separately to the Noticee-Firm on account of these two firms and for that purpose, three different enclosures are stated to have been kept in the same Stock Room so as to keep distinct the stock of Codeine Phosphate on account of Noticee-Firm, itself, M/s Shiva Medical Hall and M/s Skin Care Creations as separate allocations have been made by CBN, Gwalior for three of them (including Noticee-Firm). It was also averred that M/s Shiva Medical Hall and M/s Skin Care Creations are not Manufacturing

Narcotic Drugs and are also not holding any MD-VI License. It was also averred that it is a case of sale and purchase transactions between the seller and the buyer, as the drugs have been sold to these firms against proper Invoice, e-way bill, transport builty etc. and is not a case of manufacturing of drugs under Loan License.

7. The representatives for the Department also submitted the written replies filed by the DCST&E Sirmour wherein the factum of the quota being procured by the Noticee-Firm on account of M/s Shiva Medical Hall and M/s Skin Care Creations have not been disputed. The Collector (South Zone) admitted the Reply filed by the DCST&E. Notably, the Reply filed by the DCST&E did not dispute the contraventions pointed out by the committee in its Report dated 22-7-2024.
8. Sh. Purushottam Lal Goyal, Authorised signatory appeared on behalf of the Noticee-Firm and reaffirmed and reiterated the stand taken in his reply. In order to buttress his case, Sh. Purushottam Lal Goyal also submitted the Job Work Invoice, Commercial Invoice, Packaging List, Airway Bill, Export Authorisation Letter no. EXP-147/2023 dated 04-07-2023, Authorisation for Official Approval of Export dated 04-07-2023, Certificate dated 20-03-2023 issued by the Director General of Health Services, Ministry of Health Sri Lankan Govt, Documents containing the Shipping Bill Summary, Invoice Details, Item Details, Export Scheme Details etc. Notably, all these documents submitted on behalf of the Noticee-Firm bear its stamp and signatures of Sh. Purushottam Lal Goyal, the Authorised signatory.
9. Per contra Smt. Monica Attreya, ACST&E (Legal Cell) along with Sh. Kamal Chand ASTEO Nahan Circle who appeared on behalf of the Department submitted that the report submitted by the Committee is self-explanatory and the Noticee-Firm has violated the terms and conditions of MD-VI Licence & hence requested for revocation of MD-VI License issued in favour of the Noticee-Firm.

10. I have heard both the parties and gone through the record of the case. Arguments advanced by both the parties give rise to the following points for determination:

- (i) Whether the Noticee-Firm as a manufacturer can procure Codeine Phosphate on account of/for other firms not possessing any authorisation/License either to possess or to sell the preparations containing Codeine Phosphate or Narcotic Drugs under the HPNDPS Rules?
- (ii) Whether the Noticee has violated the terms and conditions of MD-VI License in the light of the documents relied upon the Noticee, itself, during the course of present proceedings?
- (iii) Final Order

For the reasons to be recorded hereinafter my findings on the same are as under:-

Point No. (i): No

Point No. (ii): Yes

Point No.(iii) Final Order: Noticee License MD-VI License is revoked as per operating part of the order.

REASONS FOR FINDINGS:

A. Point No.(i): **Whether the Noticee as a manufacturer can procure Codeine Phosphate on account of/for other firms not possessing any authorisation/license either to possess Codeine Phosphate or to sell the preparations containing Codeine Phosphate or Narcotic Drugs under the HPNDPS Rules?**

(a) Admittedly, the Noticee-Firm has applied for the grant of MD-VI License for the manufacture of Codeine based Drugs and accordingly MD-VI License to use the Codeine Phosphate salt in the formulation for the **Manufacture** of "XCOF Syrup & ROSCOF Syrup" was granted in favour of the Noticee-Firm. Thus, it is evident from MD-VI License issued in favour of the Noticee-Firm that the Noticee-Firm has only been authorised by the Excise Commissioner to use the Codeine Phosphate salt for the **Manufacture** of "XCOF Syrup & ROSCOF Syrup".

In other words, the Noticee-Firm is only authorised to "**Manufacture**" the formulation mentioned in MD-VI License containing Codeine Phosphate salt and thereafter to sell the products/preparations/Narcotic Drugs with strict adherence to the provisions of the NDPS Act and the HPNDPS Rules, any other Rules which may from time to time be made under the said Act as well as the Drugs and Cosmetic Act and the Rules framed there under.

(b) Thus, it is incumbent upon the Noticee-Firm to procure the allocated quota of Codeine Phosphate in its own name being "**Manufacturer**" on the basis of MD-VI License issued only in its name and thereafter to sell the preparations/products/Narcotic Drugs containing Codeine Phosphate manufactured, thereon, after maintaining the proper records as per the terms and conditions of MD-VI License which are regulated by clause (2) of Rule 50 of the HPNDPS Rules. This fact is further fortified from Rule 41 of the HPNDPS Rules which deals with the limited possession etc. of Codeine, Dionion etc. by the licensed Chemist. It provides that:

"Rule 41.Limited possession etc.of Codeine, Dionion etc. By Licensed Chemist: -

The provisions of these Rules shall not apply to the interstate import,, inter-state export, transport, possession or sale of Codeine, Dionion, and their respective salts, by a licensed Chemist having the requisite facilities or processing Narcotic Drugs into various preparations, unless the quantity involved in any transaction or possessed at any one time exceeds 500grams."

Thus, as far as the facts and circumstances of the present case, it is crystal clear from the aforesaid Rule that the Noticee-Firm being licensed Chemist and Manufacturer has to process the Narcotic Drugs into preparations authorised in MD-VI License and further to sell the same in accordance with the terms and conditions of MD-VI License as well as Clause (2) of the Rule 50 of the HPNDPS Rules.

(c) The perusal of the quota allocation letter issued by the NCB shows that the same is issued to the Noticee-Firm "**account for**" M/s Shiva Medical Hall, 1st Floor, 51, Industrial Area, Ambala Cantt and also "**account for**" M/s Skincare Creation, 1st Floor, village Ogli, Nahan Road, Kala Amb, District Sirmour. The perusal of the record shows that the said quota has

been allocated on the strength of MD-II permit issued by the Deputy Commissioner State Taxes & Excise, District Sirmour, Nahan.

(d) Thus, by procuring the salt in the form of Codeine Phosphate "On account for" M/s Shiva Medical Hall as well as M/s Skin Care Creation especially when these firms did not possess any MD-VI License tantamount to authorising these firms to procure and possess the salt in the form of Codeine Phosphate through the Noticee-Firm which in turn virtually means the proxy use of MD-VI License by these two firms without having any MD-VI License and this is a violation of the provisions of the HPNDPS Rules. Furthermore, the same not only causes loss to the Government exchequer but may also lead to the possibility of its misuse for want of License/authorisation.

(e) Notably, the Noticee-Firm has also specifically mentioned in the reply that the quota imported on account of M/s Shiva Medical Hall and M/s Skin Care Creation is supplied exclusively to these two firms and proper sale invoices are issued. Thus, the act and conduct of the Noticee-Firm and the manner in which the stocks have separately been kept by the Noticee-Firm, shows that under the garb of MD-VI License issued in favour of the Noticee-firm, alone, the Noticee-Firm is procured and possessed Codeine Phosphate on "account for" M/s Shiva Medical Hall and M/s Skincare Creation, which in turn leads to the irresistible conclusion that the Noticee-Firm is acting as proxy to these two firms on a single license issued in its favour, alone, and the Noticee-Firm being authorised only to "**Manufacture**" the drugs containing Codeine Phosphate.

(f) Significantly, the Noticee-Firm in its Reply (dated 17-8-2024) to the Show Cause Notice (dated 14-08-2024) itself admitted that these two firms are not holding any Manufacturing license under the Drugs Act but are Wholesale Traders of pharma products including "**Narcotic Drugs**". It has also been specifically mentioned in the Reply by the Noticee-Firm that all the Narcotic Drugs are manufactured under the name of Noticee-Firm and the said Narcotic Drugs are supplied to the above stated two firms.

(g) Thus, the admissions made by the Noticee-Firm clearly show that once the above stated two firms are dealing in the Narcotic Drugs, these two

firms, either require MD-VI (Chemist's License) or MD-V (Druggists License) under the HPNDPS Rules. Admittedly, these two firms did not possess any license under the HPNDP Rules. Hence, the procurement of the salt in the form of Codeine Phosphate on behalf of other firms who did not possess any MD-VI License and thereafter dispensing the Narcotic Drugs to the firms, who also did not possess any authorisation/Druggists' License under the HP NDPS Rules, itself is the violation of the terms and conditions of the License.

(h) Thus, the procurement of quota of Codeine Phosphate by the Noticee-Firm "on account for" the above stated firms, who admittedly did not possess any MD-VI license, itself is the violation of the terms and conditions of the license, because MD-VI License was issued only to the Noticee-Firm to use "Codeine Phosphate" salt for the "Manufacture" of XCOF Syrup, ROSCOF Syrup and thereafter to sell the products manufactured thereon in accordance with the conditions mentioned in the License which are regulated by Clause 2 of Rule 50 of the HPNDPS Rules as well as the terms and conditions of license(s) issued by the Drug Controlling-cum-Licensing Authority, Himachal Pradesh.

In other words, the possession of Codeine Phosphate salt on "account for" other firms/company not possessing any license in the form of MD-VI is strictly prohibited as the licenses so issued in the form of MD-VI or authorisation thereof is strictly personal to the firm/person in whose favour it is issued. This fact is further fortified from Rule 55 of the HP NDPS Rules which provides that the License or permit is non-transferable. It says:

"Rule 55(1): Every license or permit granted under these Rules shall be held to have been granted personally to the person named therein and shall not be transferable."

(i) Since, the permit in Form MD-II has been issued on "account of" the above stated firms by the DCST&E despite the fact that these two firms did not possess MD-VI/Druggist's License as the Narcotic Drugs with which these two firms were dispensing/selling are either medicinal opium or preparation containing medicinal opium. Thus, separate proceedings in the matter need to be initiated qua issuance of MD-II Permit against the Dy. Commissioners State Taxes and Excise (District-in-Charge, Sirmour).

B. Point No. (ii). Whether the Noticee has violated the terms and conditions of MD-VI License in the light of the documents relied upon the Noticee during the course of present proceedings?

(a) As mentioned earlier the Noticee-Firm submitted the Job Work Invoice, Commercial Invoice, Packaging List, Airway Bill, Export Authorisation Letter no.EXP-147/2023 dated 04-07-2023, Authorisation for Official Approval of Export dated 04-07-2023, Certificate dated 20-03-2023 issued by the Director General of Health Services, Ministry of Health Sri Lankan Govt, Documents containing the Shipping Bill Summary, Invoice Details, Item Details, Export Scheme Details etc. which duly bears its stamp and signatures of Sh. Purushottam Lal Goyal, Authorised signatory. Remarkably, as per record, Sh. Purushottam Lal Goyal, who appeared as Authorised signatory on behalf the Noticee-Firm is also a Partner in the Noticee-Firm as well as in M/s Vellinton Healthcare, but this fact has been concealed by him during the course of the proceedings.

(b) As far as the Job Work Invoice dated 30-06-2023 is concerned, the perusal of the same shows that the party name has been mentioned in it as M/s Vellinton Healthcare c/o M/s Digital Vision, 176, Mauza Ogli, Nahan Road, Kala Amb. The name of the product is mentioned as **"VELLMORPH-10" Tablets A/A 10x10 pack totalling 2100 boxes.**

It is evident from this Job Work Invoice relied upon by the Noticee-Firm that this product "VELLMORPH-10 Tablet" so mentioned has been manufactured by M/s Vellinton Healthcare, as it also evident from the product name "**MORPH**" having been prefixed by the word "**VELL**" and is shown to have been packed in the Noticee-Firm's premises.

(c). Therefore, the act and conduct of the Noticee-Firm of packing Narcotic Drugs being manufactured by other firm itself is a violation of the terms and conditions of MD-VI License as MD-VI License has been issued in favour of the Noticee-Firm to manufacture XCOF Syrup, ROSCOF Syrup, containing Codeine Phosphate salt and not for packing of any Narcotic Drugs, whatsoever. The said act and conduct of the Noticee-Firm is also violation of the Good Manufacturing Practices and Requirements of

Premises, Plant and Equipment for Pharmaceutical Products envisaged under **Schedule "M"** of the Drugs and Cosmetics Rules.

(d) Furthermore, it is evident from the commercial invoices, dated 17-07-2023, relied upon by the Noticee-Firm qua the products named in Job Work Invoice dated 30-06-2023 that M/s Vellinton Healthcare was shown as "**Exporter**" with the address mentioned as Vill. Rampur Jattan, Trilokpur Road, Kala Amb and under the column "**Works**" the address of M/s Digital Vision has been mentioned and the address of consignee is mentioned as "Yaden International (Pvt.) Ltd., No. 67, Norris Canal Road, Colombo 10, Sri Lanka" and the Drug Manufacturing License is mentioned as NL-MNB/2021/293 and NL-MB/2021/294.

From perusal of record submitted to this Department by M/s Vellinton Healthcare along with application for the grant of MD-VI, it is revealed that the Drug Licensing Authority has issued only a License in **Form 28 "N-MB/18/201"** in favour of M/s Vellinton, which is further renewed from time to time. Thus, the Drug Manufacturing License mentioned in the said commercial invoice appears to be totally false.

(e) As far as the PACKING LIST, is concerned, the address of Noticee-Firm has been mentioned under the column "**Work**" without mentioning "M/s Digital Vision".

As far as the Air way Bill (Sri Lankan Airlines) is concerned, supplier's name and address is mentioned as M/s Vellinton Healthcare, village Rampur Jattan, Trilokpur Road, Kala Amb;

As far as the Export authorisation letter dated 4th July, 2023 and Authorisation for official approval of export dated 04-07-2023 issued by NCB is concerned, the address of the Noticee-Firm was mentioned by M/s Vellinton Healthcare.

As far as Import Certificate dated 20-03-2023 issued by the Director General, Health Services Ministry of Health Colombo, Sri Lanka and Letter issued by Customs, IGI Airports is concerned, the address of Rampur Jattan, Trilokpur Road was mentioned by M/s Vellinton Healthcare.

Thus, it is evident from the above said documents relied upon by the Noticee-Firm that its address has been mentioned without mentioning its name as "M/s Digital Vision". Furthermore, in some of these documents the M/s Vellinton Healthcare has mentioned the Noticee-Firm's address and in other documents involving same transaction the address of the M/s Vellinton Healthcare has been mentioned, which in itself raises suspicion qua the entire transaction.

(f) Not only this, all the products shown to be manufactured by M/s Vellinton Healthcare and purported to have been packed by Noticee-Firm are illegal and contrary to the provisions of the HPNDPS Rules in as much as M/s Vellinton Healthcare was not possessing any MD-VI License in the months of June, 2023 and July 2023 in respect of which the transactions were shown to have been made by M/s Vellinton Healthcare, as MD-VI License (which was later renewed upto 31-03-2025), was issued by this office on 05-09-2023 i.e. two months later from the date of alleged transactions. Significantly, M/s Vellinton Healthcare has deliberately and intentionally concealed the factum of the above stated transactions at the time of applying for MD-VI License to the DCST&E or to the Excise Commissioner despite the fact that Sh. Purushottam Lal Goyal, Authorised signatory of the Noticee-Firm is also the partner in the M/s Vellinton Healthcare.

In other words, M/s Vellinton Healthcare was not authorised to manufacture any drugs during the period qua which the Job Work Invoice and Commercial Invoice and consignment of 2100 boxes, containing 210000 tablets of Morphine Sulphate (Morphine 1.575Kg) was exported to Sri Lanka. Even the sales either to M/s Vellinton Healthcare or M/s Yaden International (Pvt. Ltd. No. 67, Norris Canal Road, Colombo, 10, Sri Lanka) have also not been reported by the Noticee-Firm in its sales returns submitted to the Department for the period 01-01-2023 to 31-12-2023.

(g) Even otherwise, the Chemist License in Form MD-VI issued in favour of M/s Vellinton Healthcare is to possess and sell the medicines containing Narcotic substances (mentioned in the license itself) and not to manufacture the Narcotic Drugs. Thus, separate proceedings be also initiated against

M/s Vellinton Healthcare, Kala Amb, Sirmour, under proviso to Sub-Rule(1) of Rule 54 of the HPNDPS Rules.

Thus, packing the Narcotic Drugs manufactured by an unauthorised person and thereafter permitting the said firm to use its address which was specifically mentioned in MD-VI License is not only contravention of the terms and conditions of license issued by this authority but is also contravention of the terms and conditions of the license granted by the Drug Controlling-cum-Licensing Authority, Himachal Pradesh.

FINAL ORDER

In view of the discussions and the reasons stated herein above, I am of the considered opinion that the Noticee-Firm has contravened the terms and conditions of MD-VI License thus, MD-VI License issued in favour of the Noticee-Firm is liable to be revoked and the same is revoked accordingly. In view of above order of revocation of MD-VI License in respect of Noticee, the Noticee and the Deputy Excise Taxation Commissioner is further directed to comply with the conditions mentioned in sub rule (xiv) of Rule 2 of Rule 50 of the HPNDPS Rules as well as the Condition No.18 of the Licence No.5/2011(issued in its favour), forthwith. Let the copy of this Order be supplied to all concerned. File after completion be consigned to the record room.

Announced on 23th Day, November 2024.


**Excise Commissioner
Himachal Pradesh**

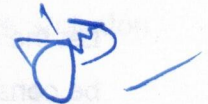
Endst. No. EXN/EC(NDPS)-Reader-/2024/ 29802-809 Shimla 171009

Dated: 23-11-2024

Copy forwarded to:

1. The Central Bureau of Narcotics, The Mall, Morar, Gwalior (MP) 474006 for information and with the request to Inquire into the matter in terms of the observation made in the Order.
2. The State Drugs Controller for information and with a further request to inquire into the violations of the provisions Drugs and Cosmetics Act and the rules framed there under.

3. The Collector-cum-Addl. Commissioner (ST&E), South Zone, Shimla-05 to ensure the compliance of sub rule (xiv) of Rule 2 of Rule 50 of the HPNDPS Rules as well as the Condition No.18 of the Licence No.5/2011 issued in favour of the Noticee-Firm.
4. Joint Commissioner State Taxes & Excise Admn./HQ) for initiating separate proceedings qua issuance of MD-II Permit by the then DCST&E(s) to M/s Digital Vision "on account of/for" M/s Shiva Medical Hall, Ambala Cantt. and M/s Skincare Creation District Sirmour (H.P).
5. Dy. Commissioner State Taxes & Excise, District Sirmour with a direction to ensure the compliance of sub rule (xiv) of Rule 2 of Rule 50 of the HPNDPS Rules as well as the Condition No.18 of the Licence No.5/2011 issued in favour of the Noticee-Firm.
6. Legal Cell, HQ, Shimla-09.
7. M/s Digital Vision, (HP) (MD-VI, Licensee, Year 2024-25)
8. M/s Vellinton Healthcare, Vill. Rampur Jattan, Trilokpur Road, Kala Amb, District Sirmour along with the Transactions Details including **Job Work Invoice, Commercial Invoice, Packaging List, Airway Bill, Export Authorisation Letter no.EXP-147/2023 dated 04-07-2023, Authorisation for Official Approval of Export dated 04-07-2023, Certificate dated 20-03-2023 issued by the Director General of Health Services, Ministry of Health Sri Lankan Govt, Documents containing the Shipping Bill Summary, Invoice Details, Item Details, Export Scheme Details etc.** (submitted by Sh. Purushottam Lal Goyal, the authorised signatory of the M/s Digital Vision) to submit reply to the Show Cause Notice issued separately.



**Excise Commissioner
Himachal Pradesh**