

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

Case No. 25/2024
Date of Institution: 23-11-2024
Date of Order: 24-12-2024

IN THE MATTER OF:

M/s Vellinton Healthcare, Trilokpur Road,
village Rampur Jattan, Kala Amb- 173030
District Sirmour, H.P.
(MD-VI, Licensee, Year 2024-25)

Parties Represented by:-

1. Shri Purushottam Lal Goyal, Authorised signatory for the Noticee-Firm.
2. Smt. Monica Atreya, ACSTE (Legal Cell) along with Shri Kamal Chand, ASTEO, Nahan Circle, for the Department.

ORDER

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 the present proceedings are that earlier the proceedings under proviso to Sub-Rule (1) of Rule 54 of HPNDPS Rules had been initiated against M/s Digital Vision, 176, Mauza Ogli, Kala Amb, District Sirmour for violations of the conditions of the licence in the form of MD-VI. During the course of hearing in the said proceedings, one Sh. Purushottam Lal Goyal, Authorised Signatory of M/s Digital Vision appeared on its behalf and submitted certain documents viz Job Work Invoice dated 30-06-2023, 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. All the above stated documents duly bear



the stamp of M/s Digital Vision as well as the signatures of Sh. Purushottam Lal Goyal as its Authorized signatory.

3. **Firstly**, the perusal of the said Job Work Invoice (dated 30-06-2023) (which is also relied upon as Annexure-20 with the reply to the present Show cause Notice) shows that the party name has been mentioned as M/s Vellinton Healthcare c/o M/s Digital Vision, 176, Mauza Ogli, Nahan Road, Kala Amb. The name of the product was mentioned as **"VELLMORPH-10"** Tablets A/A 10x10 pack **totalling 2100 boxes**. It was evident from the aforesaid Job Work Invoice that this product "VELLMORPH-10 Tablet" so mentioned has been manufactured by the Noticee-Firm. This fact has further been fortified from the fact that the product name **"MORPH"** has been prefixed by the word **"VELL"** and is shown to have been packed in the M/s Digital Vision's business premises;

Secondly, the commercial invoice, dated 17-07-2023, relied upon by M/s Digital Vision (qua the products named in Job Work Invoice, Dt.30-06-2023), [which is also relied upon as Annexure-24 (colly-as it includes Annexure-21) with the reply to the present Show cause Notice], the Noticee-Firm has been 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 Noticee-Firm's Drug Manufacturing License is mentioned as NL-MNB/2021/293 and NL-MB/2021/294. From the perusal of record submitted to this Department by M/s Digital Vision along with application for the grant of MD-VI, it is revealed that the Drug Licensing Authority has only issued a License in **Form 28 "N-MB/18/201"** in favour of the Noticee-Firm, which is further renewed from time to time;

Thirdly, as far as the PACKING LIST, (which is also relied upon as one of the document with Annexure-24 with the reply to the present Show cause Notice) is concerned, the address of M/s Digital Vision has been mentioned under the column **"Work"** without mentioning "M/s Digital Vision". **Whereas**, in the Airway Bill (Sri Lankan Airlines) (which is also relied upon as one of the document with Annexure-24 with the reply to the present Show cause Notice), the supplier's name and address is mentioned as M/s Vellinton Healthcare, village Rampur Jattan, Trilokpur Road, Kala Amb;



Fourthly, the Export authorisation letter dated 4th July, 2023 and Authorisation for Official Approval of Export letter dated 4th July, 2023 issued by NCB and 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, the address of Rampur Jattan, Trilokpur Road has been mentioned. It was evident from the above said documents relied upon by the M/s Digital Vision that its address has been mentioned without mentioning its name as "M/s Digital Vision". Furthermore, in some of these documents Noticee-Firm has mentioned the "M/s Digital Vision's" address and in other documents involving same transaction Noticee-Firm's address has been mentioned, which in itself raises suspicion qua the entire transaction.

4. Therefore, all the products shown to be manufactured and the transactions regarding the same are shown to have been made by Noticee-Firm and packed by M/s Digital Vision are illegal and contrary to the provisions of the HPNDPS Rules in as much as Noticee-Firm did not possess any MD-VI License in the months of June, 2023 and July, 2023 in respect of which the Narcotics Drugs are shown to have been manufactured by the Noticee-Firm, as the MD-VI License (which was later renewed up to 31-03-2025), was issued by this office in favour of the Noticee-Firm on 05-09-2023 i.e. about two months later from the date of the said manufacturing and transactions.

5. Thus, it appears that MD-VI License was issued to Noticee-Firm only on 05-09-2023 and prior to the said date (i.e.05-09-2023), the Noticee-Firm 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 sale details furnished by "M/s Digital Vision", for the period 01-01-2023 to 31-12-2023 did not mention either about Noticee-Firm or M/s Yaden International (Pvt. Ltd. No. 67, Norris Canal Road, Colombo, 10, Sri Lanka).

6. The Noticee-Firm deliberately and intentionally suppressed and concealed the factum of the above stated manufacturing and also transactions involving the sale of the Narcotics Drugs at the time of applying



for MD-VI License to the DCST&E or to the Excise Commissioner especially when Sh. Purushottam Lal Goyal, Authorised signatory and partner of the M/s Digital Vision is also the partner in the Noticee-Firm.

7. Therefore, the Show Cause Notice (dated 23-11-2024) was issued to the Noticee-Firm to explain as to why MD-VI License No.SMR-11/2023-24, dated 05-09-2023 (renewed upto 31-03-2025), be not revoked. The Copy of the Order dated 23-11-2024 passed in the matter of M/s Digital Vision along with the documents submitted by Sh. Purushottam Lal Goyal during the course of those proceedings were also supplied to the Noticee-Firm along with the Show Cause Notice with a direction to appear in person or through an authorized representative on 28-11-2024.

8. Sh.Purushottam Lal Goyal, the Partner of the Noticee-Firm put appearance on its behalf and submitted its Reply (along with as many as Twenty Four Annexures) .The factum of the issuance of the MD-VI License (No. SMR-11/2023-24) on 05-09-2023 in favour of the Noticee-Firm has been admitted.

(i) It was averred that no reasonable opportunity has been given to the Noticee-Firm and there is nothing in the notice under reference which shows that the Noticee-Firm or any person acting on his behalf has committed any breach of the terms and conditions or the rules with regard to the License No. SMR-11/2023-24 dated 05-09-2023 ;

(ii) It was also averred that the Noticee-Firm is engaged in manufacturing of injectable and eye drops, for which it has been duly issued license of manufacturing and has been exporting the various injectable and eyes drops to various countries since the year 2018.

(The Noticee-Firm relied upon Annexure-1 in support of this averment) ;

(iii) It was also averred that the Noticee-Firm has applied for Loan License for the manufacturing of tablets and syrups in the premises of M/s Digital Vision and the Noticee-Firm has been granted the Loan License No. NL-MNB/0221/293 and NL/MB/2021/294 on the prescribed Form 25-A and 28-A under the Drugs and Cosmetics Act, 1940 to manufacture Morphine Tablets on the factory premises of M/s Digital Vision on 03-05-2021. It was further averred that the Noticee-



Firm was further granted the product permission for the manufacturing of tablets containing Morphine through their works address at M/s Digital Vision vide approval dated 28-03-2023 from the Assistant Drug Controller-cum-Licensing Authority. (The Noticee-Firm relied upon Annexure-2, Annexure-3, Annexure-4, Annexure-11 in support of this averment) ;

(iv) It was also averred that the M/s Digital Vision possessed MD-VI License at the given point of time in which annual possession limit of Morphine Sulphate had been endorsed as 50KG with one time possession limit of 10KG. (The Noticee-Firm relied upon Annexure A-5 & Annexure-9 in support of this averment) ;

(v) It was further averred that the Noticee-Firm got a purchase order along with import permit from Yaden International Pvt. Limited, Colombo, Sri Lanka for export of Morphine Tablets and the Noticee-Firm further made a manufacturing agreement with M/s Digital Vision for the manufacturing of products under Loan License. (The Noticee-Firm relied upon Annexure-6 with the reply in support of this averment) ;

(vi) It was also averred that Sh. Purushottam Lal Goyal is not a Partner with M/s Digital Vision but is a Retiring Partner. (The Noticee-Firm relied upon Annexure-7 with the reply in support of this averment) ;

(vii) It was further averred that the Quota of Morphine Sulphate 2.200 KG was allocated by the Central Bureau of Narcotics to M/s Digital Vision A/c for M/s Vellinton Healthcare. It was further averred that the whole of the quota so allocated by the NCB was meant only to prepare Morphine Tablets for export to Sri Lanka and has been used for that purpose only. It was further averred that all the activities of manufacture and export of VELLMORPH-10 TABLETS had been affected strictly under the law of land without any violation much less the violation of the MD-VI License issued to the Noticee-Firm on 05-09-2023. (The Noticee Firm relied upon Annexure-8, Annexure-10, Annexure-12, Annexure-13, Annexure-14, Annexure-15, Annexure-16, Annexure-17, Annexure-18 &19, Annexure-20, Annexure-21, Annexure-22, Annexure 23 and Annexure 24 in support of these averments) ;



(viii) It was further averred that here had been no irregularity at any stage and the finished goods were manufactured at the factory of M/s Digital Vision, therefore the documents referred to in the notice mention the address of the M/s Digital Vision and the address of the Office of Noticee-Firm has been given on the other documents because the export was being conducted by the notice firm on the strength of the purchase order received from Sri Lanka;

(ix) It was further averred that the permission to manufacture on Loan Licenses is not a new concept and all the drug manufacturers obtain such licenses in accordance with the need of hour and there has not been any intention to hide anything or to misrepresent anything from the Department of Excise and taxation at any point of time.

9. Sh. Purushottam Lal Goyal, Authorised signatory appeared on behalf of the Noticee-Firm and reaffirmed and reiterated the stand taken in his reply.

10. Per contra, Smt. Monica Attreya, ACSTE (Legal Cell) along with Sh. Kamal Chand ASTEO Nahan Circle appearing on behalf of the Department submitted that they did not intend to file the Reply. However, it was argued that the contents mentioned in the Show Cause notice are self explanatory and the same was issued on the basis of the documents relied upon by the Sh. Puruhottam Lal Goyal, who is an authorised signatory of the M/s Digital Vision as well as the partner of the Noticee-Firm.

11. It was further argued on behalf of the Department that the factum of the execution and submission of the documents which formed the very basis of the initiation of the present proceedings has not only been proved but also admitted by the Noticee-Firm. The Noticee-Firm under the garb of the licenses issued by the Drug Authorities manufactured the Narcotics Drugs without any MD-VI License or any other authorisation as mandated under the HPNDPS, Rules. It was further argued that the MD-VI License was issued to the Noticee-Firm on 05-09-2023 and the Noticee-Firm indulged in manufacturing the Narcotics Drugs in the months of June, 2023 and July 2023 i.e. two months earlier from the date of issuance of the MD-VI



License. It was further argued that the Noticee-Firm has deliberately and intentionally suppressed and concealed the factum of the above stated manufacturing and also transactions involving the sale of the Narcotics Drugs at the time of applying for MD-VI License to the DCST&E or to the Excise Commissioner especially when Sh. Purushottam Lal Goyal, Authorised signatory and partner of the M/s Digital Vision is also the partner in the Noticee-Firm and therefore the MD-VI license issued in favour of the Noticee-Firm be immediately revoked.

12. 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 was involved in the manufacturing of Narcotics Drugs prior to the 05-09-2023 i.e. the date when the License in the form of MD-VI License was issued in favour of the Noticee-Firm ?
- (ii) Whether the Noticee-Firm has concealed the factum of the above stated manufacturing and also transactions involving the sale of the Narcotics Drugs at the time of applying for MD-VI License to the DCST&E or to the Excise Commissioner?
- (iii) Final Order.

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

Point No. (i): Yes

Point No. (ii): Yes

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

REASONS FOR FINDINGS :

(A) Point No.(i)

13. It is evident from the record that Sh. Purushottam Lal Goyal is the Authorised signatory of the M/s Digital Vision and Partner of the Noticee-



Firm and these facts have not been disputed at all by the Noticee-Firm. Rather, the said fact has duly been proved on record even by the conduct of the Noticee-Firm vis-a-vis the stand taken and the documents tendered during the course of the present proceedings. The factum of the License in the form of MD-VI being issued in favour of the Noticee-Firm on 05-09-2023 has also been admitted. Furthermore, it is also crystal clear from the Reply to the Show Cause Notice along with the Annexures relied thereupon in support of the same by the Noticee-Firm that the execution and the submission of the documents at different stages/period of time and which formed the very basis of the issuance of the show cause notice and the initiation of the present proceedings thereon against the Noticee-Firm has not been disputed at all. Rather, the documents which formed the subject matter and basis of the initiation of the present proceedings have also been relied upon by the Noticee-Firm in its Reply to the Show cause notice, itself.

14. As far as contention regarding the non-providing of the reasonable opportunity of being heard is concerned, it is crystal clear from the record that Shri Purushottam Goyal, who is stated to be the partner of M/s Vellinton Healthcare is the Authorised Signatory of the said M/s Digital Vision and appeared and represented M/s Digital Vision as its Authorised Signatory.

It is also evident from the record itself that the Show Cause Notice dated 23-11-2024 was also sent through E-Mail on email IDs of the Noticee-Firm as well as on the E-Mail address of Sh. Manic Goyal, who is one of the Partners of the Noticee-Firm. Since, the E-Mail(s) were reported to be "Sent" therefore, it clearly implies that the same has been duly received by the Noticee-Firm.

It is also evident from the record that Sh. Purushottam Lal Goyal, Authorised Signatory/Partner of the Noticee-Firm put appearance on 28-11-2024 and himself requested for adjournment up till 02-12-2024. Meanwhile, on 01-12-2024 an E-Mail was received from Noticee-Firm wherein the adjournment was requested on the plea that record was not available with the Noticee-Firm as the custodian of the record was on leave and requested to adjourn the matter for 03-12-2024.

However, 01-12-2024 being Sunday, the matter was taken up for hearing on 02-12-2024, being already fixed. On 02-12-2024, one Sh. Manic Goyal, Partner of the Noticee-Firm appeared and requested for adjournment and to list the matter at least after two days. Thus, at the request of Sh.



Manic Goyal, the matter was finally adjourned as last opportunity, for 04-12-2024.

Thus, it is crystal clear from the record that the matter was repeatedly adjourned at the request the Noticee-Firm, itself. Keeping in view the gravity and sensitivity of the matter especially when the present proceedings are being initiated on the basis of the documents relied upon and tendered by the one of the partner of the Noticee-Firm, the matter cannot be adjourned for long under the pretext of the reasonable opportunity.

Thus, ample opportunities have been given to the Noticee-Firm especially when the matter was repeatedly adjourned thrice on the request of Partners/Authorised Signatories of the Noticee-Firm, themselves.

15. As far as the contention qua the Loan License is concerned, the Noticee-Firm applied for Loan License to manufacture for sale of Morphine Tablets BP (VELLMORPH) in the premises of M/s Digital Vision and accordingly, the Loan License No.NL-MNB/0221/293 and NL/MB /2021/294 on the prescribed Form 25-A and 28-A under the Drugs and Cosmetics Rules, have been issued in favour of the Noticee-Firm.

In fact, Rule 69A of the Drugs and Cosmetics Rules provides for the grant of Loan License and the explanation to the said Rule 69A provides that:

"Explanation-For the purpose of this rule a loan license means a license which a Licensing Authority may issue to an applicant who intends to avail the manufacturing facility owned by a Licensee in Form-25".

16. In fact, Form-25 provides for the Licence to Manufacture for sale or for Distribution of Drugs other than those specified in [Schedules C,C(1) AND X] and Form 25-A provides for the Loan License to Manufacture for Sale or for Distribution of such Drugs. Thus, the Loan Licences No. NL-MNB/ 2021/293 and NL-MB/ 2021/294 are purported to have been issued in favour of the Noticee-Firm under Form 25A as **Loan Licence to Manufacture for sale or for Distribution of Drugs other than those specified in Schedules C,C(1) AND X.**

Thus, it is crystal clear from the Explanation to aforesaid Rule 69A that under the aforesaid Loan License the applicant i.e. the Noticee-Firm intends to avail the manufacturing facility owned by M/s Digital Vision to



manufacture Morphine tablets (VELLMORPH-10 tablets). The said admission made by the Noticee-Firm is fatal to its case as it clearly proves that the Noticee-Firm is manufacturing Narcotic Drugs that too in contravention of the HPDPS Rules as the Noticee-Firm did not possess any MD-VI License at that relevant point of time.

17. In fact, Chapter IV of the HPNDPS Rules deals with the POSSESSION, TRANSPORT, PURCHASE, SALE, INTER-STATE IMPORT, INTER- STATE EXPORT,USE OR CONSUMPTION OF MANUFACTURED DRUGS OTHER THAN PREPARED OPIUM AND OF COCA LEAF, AND ANY PREPARATION CONTAINING MANUFACTURED DRUG. Rule 50 of the above said Rules provides for grant of Chemists License and Conditions thereof in the Form of MD-VI. The Sub-clause (d) of clause (iv) of the Sub-Rule (2) of Rule 50 authorises the Licensee to sell all preparations containing more than 0.2 percent of morphine or containing any diacetylmorphine amongst other drugs mentioned in the said clause (iv) of Rule 50 (2) of the HPNDPS Rules.

18. Thus, it is crystal clear from the above said Rule 50 that the Chemists License in Form MD-VI is mandatory and condition precedent for manufacturing and sale of Morphine Tablets (VELLMORPH) and any contravention of the same not only leads to the confiscation of the said drugs but also invokes penal provisions under the NDPS Act. Furthermore, if the Noticee-Firm is not involved in manufacturing, the Noticee-Firm did not require any such Loan License. Thus, it clearly proves that the Noticee-Firm was manufacturing Narcotic Drugs even prior to the issuance of MD-VI License.

19. Notably, the Noticee-Firm did not disclose the factum of in possession of the aforesaid Loan Licenses at the time of its Application for grant of the MD-VI License. The Noticee-Firm intends to justify the manufacturing of Morphine Tablets BP (VELLMORPH 10 TABLETS) by relying upon Annexure-3. In fact, Annexure-3 contains the list of additional products i.e. Morphine Tablets BP ("VELLMORPH-10" tablets) and also contains conditions of License in its later half. The said Annexure-3 is not of any help to the Noticee-Firm as such permission could not have been granted because, Rule 50 of the HPNDPS Rules mandates for the possession of



MD-VI License before manufacturing any Morphine Tablets. Furthermore, such permission is contrary to the maxim "Expressio Unius est Exclusio Alterius" which essentially says that when a law explicitly outlines a specific way to do something any other method, even if seemingly similar or softer course is not permitted. However, as far the relevancy of the said Annexure-3 in the present proceedings is concerned, the same duly proves that the Noticee Firm was involved in the manufacturing of Narcotics Drugs prior to the issuance of MD-VI License in its favour.

20. The Noticee-Firm made an attempt to justify the source from whom the Noticee-Firm procured the Narcotics Drugs used for the manufacturing of the "VELLMORPH" Tablets sent later on sent to Sri Lanka on the basis of the **Annexure A-4 &11(Dt. 29-05-2023)** which is the letter regarding an Allocation of 2.200kg Morphine Sulphate in favour of M/s Digital Vision A/c for M/s Vellinton Healthcare; Annexure A-5 & 9 which is the Renewal of MD-VI license of M/s Digital Vision Year 2024-25; Annexure A-12 (Dt. 30-05-2023) which is an application of lifting quota by M/s Digital Vision on the basis of Annexure A-4 dated 29-05-2023; Annexure A-13(Dt. 02-06-2023)- an Allocation letter in favour of M/s Digital Vision ; Annexure A-14(Dt.03-06-2023)- an Application, to Dy. Commissioner for permit to import by M/s Digital Vision A/c for M/s Vellinton Healthcare; Annexure A-15 , which is the MD-II permit issued in favour of M/s Digital Vision A/c for M/s Vellinton Healthcare; Annexure A-16-an Application dated 06-06-2023 addressed to Account Manager for delivery of 2.200kg Morphine Sulphate a/c for M/s Vellinton Healthcare; Annexure A-17 (Dt.13-06-2023) supplies of Morphine Sulphate to M/s Digital Vision by in-charge Neemuch.

21. The documents/Annexures so relied upon by the Noticee-Firm are totally contradictory to one another which in itself raises a suspicion qua the entire transaction. For example:

- (a) In Annexure A-6 which is the copy of the Purchase order, the Column No.1 deals with the ITEM DESCRIPTION and the name of the Firm "Vellinton Healthcare" has been mentioned against the word "Manufacture" which in turn, clearly establishes that the VELLMORPH 10 Tablets have been manufactured by the Noticee-Firm and this falsifies the Job Work In voice annexed as Annexure -20 with the reply to the Show Cause Notice.



(b) The **Annexure A-8** is the Purchase Order (Dt.10-04-2023) for NRX Product addressed by the Noticee-firm to M/s Digital Vision and the product name is mentioned as "VELLMORPH-10TABS" with composition of MORPHINE SULPHATE 10mg and the box Quantity is mentioned as 2100 packets 10X10 Tabs.

This purchase order is totally contradictory to the contention of the Noticee-firm where in the Noticee-Firm posed itself to be under Loan License with M/s Digital Vision wherein the Noticee-firm as applicant, intended to avail the manufacturing facilities owned by M/s Digital Vision.

It is further evident from **the undertaking given by the Noticee-Firm in the said Annexure A-8 itself, that the Noticee-firm intends to buy the said "VELLMORPH-10 TABS" from M/s Digital Vision Which in turn itself contradicted the contention of the Noticee-firm regarding Loan license with M/s Digital Vision.**

(c) The **Annexure A-10** is the Letter dated 27-04-2023, addressed by mentioning the words "**For Vellinton Healthcare**" to Commissioner Narcotics, Central Bureau of Narcotics. In fact, it is an application for allocation of Quota of Morphine Sulphate, for export year 2023 for M/s Vellinton Healthcare for export, bearing the stamp of "**For M/s Vellinton Health Care**"; by mentioning "**Loan License in M/s Digital Vision 176, Mauja Ogli, Nahan Road ,Kala-Amb** .

Thus, it is evident from this application that the Noticee-firm applied for quota of Morphine Sulphate by mentioning itself as Loan License in M/s Digital Vision **which in turn clearly shows that despite without any Chemists license in form MD-VI or any other authorisation under the HPNDPS Rules, the Noticee-firm was manufacturing Narcotics Drugs and after manufacturing even exporting the same to Sri Lanka.**

(d) The **Annexure-18 & Annexure-19** are an Application dated 15-06-2023 by M/s Digital Vision addressed to ASTEO Nahan regarding issue of Morphine Sulphate for manufacturing process (Digital Vision A/C Vellinton Healthcare for Export Order).

It is evident from this application that M/s Digital Vision has sought permission for issuance of Morphine Sulphate for manufacturing purpose **Whereas, it is the Noticee-firm and not**



M/s Digital Vision who is in possession of the Loan License vide which the Noticee-Firm is availing the manufacturing facilities owned by M/s Digital Vision.

(e) As per Annexure A-2 the Loan License has been granted in favour of the Noticee-Firm wherein the Noticee-Firm was allowed to avail the manufacturing facility owned by M/s Digital Vision for the manufacture of Morphine Sulphate Tablets. This fact is totally contrary to the "Job Work Invoice (which is also relied upon as Annexure-20 with the reply to the present Show cause Notice), tendered by M/s Digital Vision during the course of proceedings initiated under proviso to sub rule (1) of Rule 54 of the HPNDPS Rules, which ultimately lead to the issuance of Show Cause Notice and initiation of present proceedings, thereon.

(f) The Annexure-20 is the Job Work Invoice. In common parlance, the expression "Job Work" means the processing of goods supplied by the principal. As far as from legal point of view, the expression "Job Work" is defined under Section 2(68) of the HPGST Act, 2017. It provides that :

"S.2(68): Job Work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "Job Worker" shall be construed accordingly."

Thus, it is evident from the expression "Loan License" as defined in Explanation to Rule 69A of the Drugs and Cosmetics Rules and the expression "Job Work" as defined in Section 2(68) of the HPGST Act, 2017, that both the terms are not only mutually destructive but also are mutually inconsistent in as much as under the Loan License, the Noticee-Firm itself is manufacturing the products by availing the manufacturing facility of M/s Digital Vision **Whereas** in case of Job Work, the M/s Digital Vision only deals with the treatment or process on goods belonging to the Noticee-Firm. Furthermore, as per Annexure-20 (Job Work Invoice) the Morphine Tablets manufactured by Noticee-firm were also packed in the premises of M/s Digital Vision by M/s Digital Vision as it is evident from the PACKING LIST, (which is also relied upon as one of the document with Annexure-24 with the reply to the present Show cause Notice). It is also evident from this Job Work Invoice that this product "VELLMORPH-10



Tablet" so mentioned has been manufactured by the Noticee-Firm as the product name "**MORPH**" having been prefixed by the word "**VELL**" and is shown to have been packed in the M/s Digital Vision's business premises.

(g) The existence of the Loan License will exclude the presence of Job Work or vice-versa. In other words, where there is a Loan License there cannot be a Job Work or vice-versa. Thus, the facts as well as the documents which formed the basis of issuance of Show Cause Notice and initiation of present proceedings vis-a-vis the stand taken by the Noticee-Firm in reply to the Show Cause Notice are totally contradictory to each other.

(h) Notably, the sale details furnished by M/s Digital Vision for the period 01-01-2023 to 31-12-2023 did not mention either about the transaction qua either the Noticee-Firm or Yaden International (Pvt.) Ltd., No. 67, Norris Canal Road, Colombo 10, Sri Lanka.

22. Furthermore, according to the Annexure-5, MD-VI License has been issued in the name of M/s Digital Vision and Morphine Sulphate Tablets (with brand name VELLMORPH) has been manufactured by the Noticee-Firm under the Loan License and the allocation of quota for the same has been obtained by M/S Digital Vision a/c for Noticee-Firm, which in itself is a violation of the terms and conditions of the MD-VI License on the part of the M/s Digital Vision on the ground that:-

Firstly, M/s Digital Vision is only authorised to "Manufacture" the formulation mentioned in MD-VI License containing Codeine Phosphate/ Morphine 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;

Secondly, it was incumbent upon M/s Digital Vision to procure the allocated quota of Morphine Sulphate 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 Morphine Sulphate



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;

Thirdly, by procuring the quota of Morphine Sulphate "On account for" the Noticee-Firm especially when the Noticee-Firm did not possess any MD-VI License tantamount to authorising the Noticee-Firm to procure and possess Morphine Sulphate through M/s Digital Vision which in turn virtually means the proxy use of MD-VI License by the Noticee-Firm 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 misuse of same;

Fourthly, the act and conduct of M/s Digital Vision itself shows that the manner in which the stocks have separately been kept by M/s Digital Vision, under the garb of MD-VI License issued in favour of M/s Digital Vision alone, M/s Digital Vision procured and kept Morphine Sulphate "on account for" Noticee-Firm, which in turn leads to the irresistible conclusion that M/s Digital Vision is acting as proxy to Noticee-Firm on a single license issued in favour of the M/s Digital Vision alone, who was authorised only to "Manufacture" the drugs containing Morphine Sulphate;

Fifthly, the admissions made by the Noticee-Firm clearly show that Noticee-Firm was dealing in the manufacturing of Narcotic Drugs admittedly without any MD-VI License. Hence, the procurement of the salt in the form of Morphine Sulphate on behalf of Noticee-Firm, who did not possess any MD-VI License under the HPNDPS Rules itself is the violation of the terms and conditions of MD-VI License by M/s Digital Vision because MD-VI license was issued only to M/s Digital Vision to use Morphine Sulphate for the manufacture of preparation containing morphine and thereafter sell the products so manufactured, in accordance with the conditions mentioned in the license which are being regulated by clause 2 of Rule 50 of the HPNDPS Rules as well as the terms and conditions of the license(s) issued by the Drug Controlling and Licensing Authority Himachal Pradesh.

Sixthly, permitting the Noticee-Firm to avail manufacturing facilities owned by M/s Digital Vision and the possession of Morphine Sulphate on "account for" Noticee-Firm who did not possess any MD-VI license at that point of time is strictly prohibited as the licenses so issued in the form of MD-VI or authorisation thereof is strictly personal to M/s Digital Vision. 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.”;

Lastly, packing the Narcotic Drugs manufactured by an unauthorised person/firm i.e. the Noticee-Firm and thereafter permitting the said firm to use its address which was specifically mentioned in MD-VI License issued in favour of the M/s Digital Vision 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.

It is evident from the above said facts that M/s Digital Vision has also violated the terms and conditions of MD-VI Licence issued in its favour. However, the license MD-VI granted in favour of M/s Digital Vision has already been revoked vide separate order dated 23-11-2024. Therefore, as far as the present proceedings are concerned, the observation made herein above are relevant only for ascertaining the conduct of the Noticee-Firm in order to reach at the just conclusion.

23. Thus, it is crystal clear from the discussions made herein above that all the products shown to be manufactured by the Noticee-Firm and purported to have been packed by M/s Digital Vision are illegal and contrary to the provisions of the HPNDPS Rules in as much as the Noticee-Firm was not possessing any MD-VI License in the months of June, 2023 and July 2023 in respect of which the Narcotics Drugs are shown to have been manufactured and the transactions regarding the same were shown to have been made as admittedly, the MD-VI License (which was later renewed upto 31-03-2025), was issued in favour of the Noticee-Firm by this office on 05-09-2023 i.e. two months later from the date of said manufacturing and transactions.

24. As far as the contention that Sh. Purushottam Lal Goyal is not a Partner with M/s Digital Vision but is a Retiring Partner which the Noticee-Firm tried to prove by relying upon Annexure A-7 is concerned, the same is totally contradictory to the details given by the Noticee-Firm with GST



registration number wherein the designation of Sh. Purushottam Lal Goyal is shown as "Partner". However, this fact has no relevancy as far as the present case is concerned as Sh. Purushottam Lal Goyal appeared as Authorised Signatory for M/s Digital Vision and the documents tendered by him during the course of the said proceedings also bear his stamp and signatures as Authorised Signatory of the M/s Digital Vision. Furthermore, sub-section (3) of Section 32 of the Partnership Act provides that:-

"Notwithstanding the retirement of a partner from a firm, he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the retirement, until public notice is given of the retirement."

In the present case no public notice has been given by Sh. Purushottam Lal Goyal, qua his retirement.

Since, no notice of retirement has been given by Sh. Purushottam Lal Goyal, therefore, he continues to be liable as partner to third parties for any Act done by any of them which would have been an Act of the firm if done before his retirement.

Even otherwise, as stated earlier Sh. Purushottam Lal Goyal has appeared as Authorised Signatory. Therefore, it can be reasonably concluded that the stand taken by him during the course of proceedings will be treated to be taken on the basis of authority of M/s Digital Vision and the Noticee-firm.

(B) Point No.(ii)

25. As far as the question as to Whether the Noticee-Firm has deliberately and intentionally suppressed and concealed the factum of the above stated manufacturing and also transactions involving the sale of the Narcotics Drugs at the time of applying for MD-VI License is concerned, it was stated that the Noticee-Firm has not concealed any fact from the Department while applying for obtaining the Licence in MD-VI or before that, and all the information as was required /or was asked for had been furnished.
26. However, it is evident from the discussions made herein above that the Noticee-Firm was not only involved in the manufacturing of the Narcotics Drugs even prior to about two months from the actual issuance of the MD-VI License in its favour but also exported the Narcotics Drugs so manufactured to Sri Lanka. Even, the Noticee-Firm has not disclosed the factum of the grant of Loan License at the time of making an application for the grant of



MD-VI license. These are the very material facts and ought to have been disclosed by the Noticee-Firm as the Noticee-Firm was not having MD-VI License and was guilty of Manufacturing Narcotics Drug without any MD-VI License and in contravention of the HPNDPS, Rules at that relevant point of time, which disclosure, if made, could have been the valid and just ground for the rejection of the Application for grant of MD-VI License made by the Noticee-Firm.

27. The Latin maxim "*Suppressio veri, suggestio falsi*" which means "suppressing the truth is equivalent to suggesting the false". It refers to the idea that intentionally concealing the truth is the same as providing false information. This maxim has emerged not only as a Rule of Equity but also as a Rule of Law. Therefore, by intentionally withholding or hiding crucial information from the Licensing authority and essentially trying to obtain a License by not disclosing important details/material facts that could potentially disqualify them from receiving it, the same is considered as a serious legal offence as it constitutes fraud and undermines the Integrity of the entire Licensing process. The Noticee-Firm has not specifically disputed the factum of the concealment and suppression the facts qua the manufacturing of the Narcotics Drugs without any MD-VI License, at the time of making an Application for the grant of MD-VI License.

FINAL ORDER

In view of the discussions and the reasons stated herein above, I am of the considered opinion that the Noticee-Firm has suppressed and concealed the factum of the above stated manufacturing and also transactions involving the sale of the Morphine Tablets to Sri Lanka in the months of June, 2023 and July, 2023 at the time of applying for MD-VI License either to the DCST&E or to the Excise Commissioner, despite that fact that Sh. Purushottam Lal Goyal, Authorised signatory and partner of the M/s Digital Vision is also the partner of the Noticee-Firm. Therefore, the MD-VI License Number SMR-11/2023-24 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-Firm, the Noticee-Firm 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. 17 of the Licence No.SMR-11/2023-24,forthwith. Let the copy of this Order be supplied to all concerned. File after completion be consigned to the record room.



Announced on 24th of December 2024.

**Excise Commissioner
Himachal Pradesh**

Endst. No. EXN/EC(NDPS)-Reader-/2024/ Shimla 171009 Dated: 24-12-2024

32203-209

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.17 of the Licence No.SMR-11/2023-24 issued in favour of the Noticee-Firm.
4. 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. 17 of the Licence No.SMR-11/2023-24 issued in favour of the Noticee-Firm.
5. M/s Vellinton Healthcare, village Rampur Jattan, Trilokpur Road, Kala Amb, District Sirmour (HP).
6. Legal Cell, HQ.
7. M/s Digital Vision, 176 Mauja Ogli, Kala Amb, District Sirmour (HP).

**Excise Commissioner
Himachal Pradesh**

IT Cell for uploading on site