(1980) 04 GUJ CK 0018

In the Gujarat High Court

Case No : Special Civil Application No. 1798 of 1975

Suhrid Geigy Ltd. APPELLANT

Vs

Union of India RESPONDENT

Date of Decision : 07-04-1980

Acts Referred:
Medicinal and Toilet Preparations (Excise Duties) Act, 1955 — Section 2

Citation : (1980) CENCUS 558 : (1980) 2 GLR 16

Hon'ble Judges : S.L. Talati, J;S.H. Sheth, J

Bench : Division Bench

Advocate : I.M. Nanavati, for the Appellant; A.J. Patel, V.P. Shah and S.B. Vakil, for the Respondent

Judgement

S.H. Sheth, J.—Suhrid Geigy Limited, the petitioner, has been manufacturing the following two medicinal preparations :

1. Hygroton Reserpine Tablets.

2. Tofranil-Ampules and Tablets.

2. The first mentioned medicinal preparation is issued as an anti-hypertension drug. The second-mentioned medicinal preparation is used as anti-department (sic). According to Mr. Nanavaty, they do not contain a ''narcotic drug'' or a ''narcotic'' within the meaning of the definition of that expression given at the relevant time in Section 2(h) of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.

3. The question which has, therefore, been raised in this petition is whether they contain a ''narcotic drug'' or ''narcotic'' and liable to be taxed under the Item I(iii) in the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. The only argument which Mr. Patel on behalf of respondent No. 3 has raised before us is that these two medicines contain tranquilisers and that, therefore, they are medicinal preparations containing a ''narcotic drug'' or a ''narcotic''. In Special Civil Application No. 1347 of 1975 decided by us today, we

have held that tranquilisers do not contain a ''narcotic drug'' or a ''narcotic'' within the meaning of the definition of that expression given at the relevant time in Section 2(h). Therefore, the argument raised by Mr. Patel cannot be accepted. It is common ground that except that they contain the tranquilisers, they contain no ''narcotic drug'' or ''narcotic''. Mr. Nanavaty states that the petitioner has been paying excise duty on these two medicinal preparations under Item 14E in the First Schedule to the Central Excises and Salt Act, 1944, under which duty is payable on Patent and Proprietary medicines not containing a ''narcotic drug'' or a ''narcotic''.

4. In the result, the petition succeeds. "A writ of mandamus shall issue restraining the respondents from levying and collecting excise duty under Item I(iii) in the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, on the aforesaid two medicinal preparations." Rule is made absolute with costs.

