

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : CODE OF CIVIL PROCEDURE

LPA NO. 1786-1787/2006 and CM Nos. 11585/2006 and 14313/2008

Reserved on : November 20, 2008

Date of Decision : December 04, 2008

Glaxo SmithKline Pharmaceuticals Limited and Anr.Appellants
Through : Mr. T.R. Andhiyarujina, Sr. Advocate,
Mr. S. Ganesh, Sr. Advocate, with
Mr. U.A. Rana and Ms. Mrinal Elker, Advs..

Versus

Union of India and Ors.Respondents
Through : Mr. P.P. Malhotra, ASG with
Mr. Gaurav Duggal and Mr. Shanker Chabbra,
Advocates.

CORAM:
HON'BLE MR. JUSTICE MUKUL MUDGAL
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T:

MUKUL MUDGAL, J.

1. The main issue involved in the present appeal relates to the interpretation of Note-III of the price notification dated 24th December, 2002 issued under Gazette Notification No. S.O.1363(E) dated 24th December, 2008. The said Notification reads as under:- (Published in Part II, Section 3, Sub Section (ii) of the Gazette of India Extraordinary, dated the 24th December, 2002) Government of India Ministry of Chemicals and Fertilizers (National

Pharmaceuticals Pricing Authority) New Delhi, the 24th December, 2002 ORDER S.O. 1363(E) - In exercise of the powers, conferred by subparagraphs (1) and (2) of paragraph 9 read with paragraph 11 of the Drugs (Price Control) Order, 1995, read with No. S.O. 637 (E) dated the 4th September, 1997 issued by the Government of India in the Ministry of Chemicals and Fertilizers, and in supersession of the order of the Government of India in the Ministry of Chemicals and Fertilizers (National Pharmaceutical Pricing Authority), No. S. O. 685(E) dated 25 August, 1999, in so far as relates to formulation packs mentioned in the table below, except in respect of things done or omitted to be done before such supersession, the National Pharmaceutical Pricing Authority hereby fixes the prices as specified in column (5) of the table below as ceiling prices exclusive of the excise duty and local tax, if any, of each of the scheduled formulations specified in the corresponding entry in column (2) of the said table with the strength and pack size specified respectively in the corresponding entries in columns (3) and (4) thereof :

Sl. No.	Name of the Formulation	Strength	Pack Size	Ceiling Price (Rs.)
(1)	(2)	(3)	(4)	(5)
	Each capsule contains 1 Capsules of Vitamin B Complex with Vitamin C and Others (Therapeutic)	Vitamin B1 10mg Vitamin B2 10mg Vitamin B6 3mg Vitamin B12 7.5mcg, Niacinamide 75mg, Calcium Pantothenate/D Panthenol 25mg, Vitamin C 150mg, Vitamin E 20mg, Zinc Sulphate Monohydrate 61.8mg eq. to Zinc-Element 22.5mg	10's Strip/Blister	8.36
	Each Coated tablet contains 2 Tablet of Vitamin B Complex with Vitamin C and Others (Therapeutic)	Vitamin B1 10mg Vitamin B2 10mg Vitamin B6 3mg Vitamin B12 10mcg, Niacinamide 50mg, Calcium Pantothenate/D Panthenol 16.3mg Vitamin C 150mg, D- Biotin 0.15mg Zinc Sulphate Monohydrate 61.8mg eq. to Zinc-Element 22.5mg	10's Strip/Blister	6.64

IMPORTANT NOTE: I. For all the other Vitamin formulations having composition within the prescribed range in schedule-V under Drugs and Cosmetics Act, 1940, the following adjustment shall be made by a manufacturer to work out the Maximum Retail Price (MRP) for a product under the said order for formulation(s) in column no. 2, when there is change in the composition and the following factors (which are inclusive of admissible MAPE) shall be added/ subtracted as the case may be to the notified ceiling price given in column no. 5 of the table on the following basis. For each 10 tablet/capsule in strip/blister. (i) For each 5mg or part thereof of Niacinamide Rs.0.036 shall be added/subtracted (ii) For each 5mg or part thereof of Calcium Pantothenate Rs.0.082 shall be added/subtracted (iii) For each 5mg or part thereof of D-Panthenol Rs.0.139 shall be added/subtracted (iv) For each 0.5mg or part thereof of Folic Acid Rs.0.023

shall be added/subtracted (v) For each 5mcg or part thereof of Vitamin B12 Rs.0.054 shall be added/subtracted (vi) For each 2mg or part thereof of Vitamin B1 Rs.0.037 shall be added/subtracted (vii) For each 2mg or part thereof of Vitamin B2 Rs.0.117 shall be added/subtracted (viii) For each 1mg or part thereof of Vitamin B6 Rs.0.03 shall be added/subtracted (ix) For each 10mg or part thereof of Vitamin C Rs.0.102 shall be added/subtracted (x) For each 5mg or part thereof of Vitamin E Rs.0.180 shall be added/subtracted (xi) For each 10mg or part thereof of Zinc with or without other trace mineral elements, single or combined, Rs.0.073 shall be added/subtracted (xii) For each 0.05mg (50 Microgram) or part thereof of Vitamin H (D- Biotin) Rs.0.402 shall be added/subtracted II. The above will be subject to the provision of S.O. No. 83(E) dated 27.1.98 issued by NPPA. III. Any other Vitamin formulation/composition not covered in the above table that has any one of the scheduled drugs in column no. 3 as one of its ingredients, it shall be subject to the price ceiling at Sr. No. 1 or at Sr. No. 2 of the table, as the case may be, subject to note I unless the manufacturer has got hereafter specific price fixed by the NPPA for that formulation. IV. For different packing material used or any specific feature claimed, companies are required to approach NPPA for approval/fixation of specific prices. (emphasis supplied) 2. The appellant has contended that it is a manufacturer of a multi vitamin and minerals formulation capsule which is not covered by any of the columns of the main table of the said notification and a mere note to the said table cannot bring into play the applicability of the notification as this will lead to an absurd result. Composition of the appellant s formulation i.e. the capsule in question (Zevit Forte) as canvassed by the appellant is as under: - Vitamin A 5000 IU (as Vitamin A Concentrate Powder form IP) Vitamin D3 (Cholecalciferol) IP 400 IU Vitamin E 15 IU (as Alpha Tocopheryl Acetate Concentrate Powder Form BP) Thiamine Mononitrate IP (vitamin B1) 10 mg Riboflavine IP (vitamin B2) 10 mg Pyridoxine Hydrochloride IP (vitamin B6) 2 mg Cyanocobalamin IP (vitamin B12) 7.5 mcg Nicotinamide IP (part of vitamin B3) 50 mg Calcium Pantothenate IP (part of vitamin B5) 10 mg Ascorbic Acid IP (vitamin C) 75 mg Heavy Magnesium Oxide IP 30 mg Manganese Sulphate Monohydrate BP 2.8 mg Copper Sulphate BP 2.0 mg Zinc Sulphate Monohydrate USP 63mg (equivalent to 22.9 mg of elemental Zinc) Selenium Dioxide Monohydrate USP 70 mcg The Ingredients in bold are Vitamins and the Ingredients shown in bold prefixed by an asterisk (*) mark are minerals) 3. It is submitted by the appellant that the formulation in question manufactured by M/s. Remidex of Bangalore and marketed by the appellant company, is multi-vitamin and minerals capsule and not capsule of Vitamin B complex with

Vitamin C and others (Therapeutic), as contended by the respondents and only a formulation of Vitamin B complex with Vitamin C and others could be covered by the notification dated 24th December, 2002. 4. The respondent had relied upon Note-III highlighted above and has contended that the appellant's formulation falls within the above notification as nine of the fifteen components in the appellant's formulation of Zevit Forte figure in Column 3 as the ingredients of its formulation. 5. The facts of the case briefly stated are as follows: - a. The Appellant is a company registered under the Companies Act, 1956 and inter alia engaged in the business of manufacture, import and export of and trade in bulk drugs and formulations. The appellant is also the distributor of the product in question i.e. Zevit Forte Capsules, which is manufactured and marketed by the M/s Remidex. b. On 23rd August, 1983, the said Remidex was registered as a Small Scale Industry (SSI) Unit vide Registration No. 08:01:22608 PMT (SSI) and thereafter, began manufacturing and marketing products under its brand name ZEVIT. By Notification No.S.O. 719 (E) Respondent No.1 in exercise of the power conferred by para 28 of The Drugs (Prices Control) Order, 1987 exempted every drug manufacturing unit registered as a small scale unit with any Central Technical Authority or State Directorate of Industries or any other appropriate authority under the Industries (Development and Regulation) Act, 1951 from the operation of the said Order insofar as they relate to formulations specified in category II of Third Schedule of the said Order subject to certain conditions. One of the conditions specified was that the unit must furnish a declaration as stipulated therein to the government alongwith a copy of the registration Certificate as a small-scale industry. On 13th May, 1988, the said Remidex informed the Bureau of Industrial Costing and Pricing with a copy marked to the Ministry of Industry, Department of Chemicals that the said Remidex was a registered SSI unit and thus claimed exemption from paras 9, 10, 11 and 22(2) of the Drugs (Prices Control) Order, 1987 for the formulations of category II drugs. c. On 2nd March, 1995, the Respondent no.1, in exercise of the power conferred by paragraph 25 of the Drugs (Prices Control) Order, 1995 (DPCO) issued Notification S.O. No. 134 (E). By way of the Notification, respondent no.1 exempted every drug-manufacturing unit registered as a small-scale industry unit from the operation of paragraph 8 of the DPCO relating to fixation of retail price of Scheduled formulations subject to the conditions specified in the Notification. One of the conditions specified was that the unit must furnish a declaration as stipulated therein to the Government alongwith a copy of the Registration Certificate as a small-scale industry unit. d. On 12th March, 1999, the said Remidex furnished the necessary declaration as required

under the Notification to respondent no.1 and also provided all other documents and information necessary to avail the benefit of the exemption under the Notification. e. On 19th August, 1999, the respondents issued a Press Note bringing to the notice of all concerned that the exemption provided under the Notification dated 2nd March, 1995 was not automatic for all small scale industry units and that therefore those units that considered that any of their products were eligible for exemption under the said Notification should submit declaration to the respondents as provided in the said notification. f. On 24th December, 2002, respondent no.1 in the purported exercise of powers conferred under paragraph 9 read with paragraph 11 of the DPCO, issued Notification S.O.1363 (E) fixing the ceiling price of certain specified scheduled formulations (scheduled formulation). Under the said Notification, ceiling price of Rs.8.36 (excluding Excise Duty) was fixed for Capsules of Vitamin B Complex with Vitamin C and Others (Therapeutic) for a pack size of 10 s (Strip/Blister). Note III to the said Notification provided that any other vitamin formulation/composition not specifically covered in the notification but containing any of the scheduled drugs as specified in Column 3 of the notification would be subject to the price ceiling specified in the Notification, unless the manufacturer had got the specific price fixed from the Respondent No.1 for that formulation. g. The appellants before this court and the writ petitioners before the learned Single Judge sought the quashing of order and demand made by National Pharmaceuticals Pricing Authority (hereinafter referred to as the NPPA) by a communication dated 9th June, 2006 whereby the appellant and M/s. Remidex Pharma Ltd. were jointly and severally directed to deposit provisionally Rs.7,52,28.272 within thirty days on account of overcharged amount of Rs.6,41,37,695 and Rs.1,11,90,577 as interest on the ground that the appellant violated the provision of DPCO in the sale of multivitamin formulation; Zevit Forte Capsules in 10 s pack and charged price in excess of the price notified by the Government/NPPA vide Gazette Notification No. S.O.1363(E) dated 24th December, 2006. 6. The learned Senior Counsel for the appellant contended as follows: - a. That the multi-vitamin Zevit Forte Capsules are multi-vitamins and minerals capsules and are not capsules with vitamin B and vitamin C and other therapeutics as contemplated under notification dated 24th December, 2002. It has been very emphatically contended by Shri T.R. Andhyarujina, the learned Senior counsel for the appellant that merely on the basis of Note III of the said notification dated 24th December, 2002 which contemplates that any vitamin formulation/composition having any one of the compound of Column 3 as one of the ingredients shall be subject to the price ceiling and

covered under the said notification, the petitioner's formulation cannot be included as the said notification does not cover a formulation of multivitamin and minerals and only relates to Vitamin B complex and Vitamin C formulation as stated in Column I. b. That the Zevit Forte capsules formulation is neither vitamin B, vitamin C and other category of capsules but a multivitamin and mineral capsule. The said notification is not meant for multivitamin or minerals and therefore it is not applicable to the vitamin formulation/composition of the appellant. The learned counsel for the Appellant referred to various other notifications pertaining to multi vitamin products and also multi-vitamin and minerals tablets and submitted that all the subsequent notifications which were applicable for multivitamin formulation/composition had referred only to multivitamin or minerals and eloquently demonstrated by contrast that the impugned notification dated 24th December, 2002 did not apply to the petitioner's formulation i.e. Zevit-Forte. c. While placing reliance on Annexure C containing various notifications particularly notification dated 20th December, 2004 issued in respect of multi- vitamin and minerals tablets; notification dated 2nd April, 2003 pertaining to multivitamin tablets with Selenium; notification dated 7th February, 2006 pertaining to multi vitamin and minerals tablets and the notification dated 24th December, 2002 regarding multi vitamin syrup he contended that all the notifications for multivitamin formulations/compositions refer to Multivitamin. According to the learned counsel since notification dated 24th December 2002 is pertaining to Capsules of Vitamin B complex with Vitamin C and others, therefore, this notification does not and cannot cover Zevit Forte capsules of the appellant company which is a capsule of Multivitamin and Minerals and pursuant to said notification no ceiling price of the appellant's capsules could be fixed under said notification. According to the appellant since the notification is not pertaining to multivitamin and minerals, merely on the basis of Note III of notification dated 24th December, 2002, it cannot be made applicable to the capsules of the appellant nor could any ceiling price be fixed therefore. The appellant thus submitted that the appellant's product (Zevit- Forte) containing multivitamin and minerals cannot be covered by the notification dated 24th December, 2002. 7. It is further contended by the learned Senior Counsel for the appellant that the Column 2 of the original notification described the formulation as capsules of Vitamin B complex with Vitamin C and others (Therapeutic). The constituent of the said formulation include Vitamin B1, B2, B6, B12, Calcium Pantothenate/D Panthenol, Vitamin C, Zinc Sulphate, Zinc Element. It is submitted on behalf of the appellant that the formulation stipulated in the Notification dated 24th December, 2002

contains 9 ingredients. It is the further plea of the appellants that out of the ingredients of the appellant that only Vitamin B1, B2 and B12, Pantothenet, Vitamin C, Magnesium Oxide, Manganese Sulphate Monohydrate, Zinc Sulphate and Selenium Dioxide Monohydrate which are the component of formulation of the appellant are to be found in the main table of the Notification. It is submitted that in addition to nine components indicated above, the appellant s product has six more components namely, 1. Vitamin A 2. Vitamin D3 3. Heavy Magnesium Oxide 4. Maganese Sulphate Monohydrate BP 5. Copper Sulphate BP 6. Selenium Dioxide Monohydrate USP Consequently, it is submitted on behalf of the appellant that Note III to the main table which provides that any other part of Vitamin formulation/composition not covered in the above table that has any one of the drugs indicated in Column-3 as one of its ingredients shall be subject to the price at First Schedule or Second Schedule of the table cannot apply to the appellant s product. 8. In support of his plea, Shri Andhjarujina, the learned Senior Counsel appearing for the appellant further submitted that M/s Remidex, the manufacturer of the said Capsule of which the appellant was only the distributor, had challenged the denial of small scale exemption to M/s Remidex and the claim of M/s Remidex as to whether it was covered by the Notification dated 2nd March 1995 where small scale industries were exempted from the retail price fixation. It was submitted that accordingly it would have been appropriate for this Court to await the decision of the Karnataka High Court in the writ petition in that court. 9. The pleas advanced by Shri P.P. Malhotra, the learned Additional Solicitor General, appearing on behalf of the respondent are as follows: (a) Note-III in clear language covers the appellant s formulation and there is no question of resorting to any other meaning of the plain and simple words of Note-III of the Notification and the plea of absurd results cannot be countenanced when the meaning of Note-III is clear. (b) That the relevant definitions under the DPCO issued under the Essential Commodities Act reads as follows: (a) bulk drug means any pharmaceutical, chemical, biological or plant product including its salts, esters, stereo-isomers and derivatives, conforming to pharamacopoeial or other standards specified in the Second Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940), and which is used as such or as an ingredient in any formulation; XXXX XXXX XXX XXXX (u) scheduled bulk drug means a bulk drug specified in the First Schedule; (v) scheduled formulation means a formulation containing any bulk drug specified in the First Schedule either individually or in combination with other drugs, including one or more than one drug or drugs not specified in the First Schedule except single ingredient formulation based on bulk drugs

specified in the First Schedule and sold under the generic name. (c) That it is not in dispute that the components of the appellant formulation fall within the First Schedule as Vitamin C, Vitamin B1, B2 and Vitamin E and Pantothenate figure in the First Schedule as per the above definition in the DPCO, therefore, Note-III of the Notification dated 24th December, 2002 which refers to the scheduled drug thus clearly covers the appellant's formulation. (d) That all that is required as per the terms of the notification and in particular Note-III thereto is that any other vitamin formulation/composition referred to in Note-III must figure in Column 3 and this itself pre-supposes that the Note was in reference to formulation stipulated in the main table. (e) That not only one but nine of the components mentioned in the column-3 of the table form part of the formulation of the appellant and the Note-III thus clearly applies to the appellant's formulation. It was submitted that this was without prejudice to his plea that the Note III only required one of the ingredients of the formulation to occur in Column 3. 10. In our view, awaiting the decision of the Karnataka High Court may not be appropriate as the issue whether the notification dated 24th December, 2002 applies to the appellant is and should be decided prior to Remidex's claim that even if the aforesaid notification applies, then also Remidex would be entitled to exemption being a small scale industry. Moreover, the present appeal has been pending in this Court by way of writ petition decided in the year 2006 by the learned Single Judge and accordingly we are of the view that the appeal needs to be decided on merits. 11. Before we go into the merits of the plea of the appellant, it is noteworthy that the appellant has not challenged the validity of Note III, but has merely termed the interpretation put thereupon by the respondent as leading to absurd and wholly unforeseen results. It is, therefore, necessary to consider the pleas of the appellant in the light of the stand adopted and canvassed by the appellant on the interpretation of the notification. 12. We first deal with the plea that the appellant's formulation, six ingredients out of fifteen was not found in column-3 and ex-facie therefore, appellant's products do not come in Column-3 of the Notification dated 24th December, 2002. In our view, the above plea is not worthy of sustenance. Note-III clearly states that even if one of the products stipulated in Column-3 forms part of the ingredients of the formulation of any manufacturer it would be covered by the said notification. In the present case, the appellant's plea falls within the Column-3 of the table whereas Note-III merely requires even one ingredient being sufficient to bring the formulation within the scope of Note-III of the Notification. Accordingly, a plain reading of the above note clearly indicates that the product of the appellant clearly falls within the said Note-

III and the appellant's plea cannot be entertained. The appellant's case rests upon the wording of Column 2 while in our view, it lists the nomenclature of the formulation only. Significantly, Column 2 itself apart from Vitamins B complex and Vitamin C refers to others as components. In our view, Column 2 merely provides the nomenclature and the components of the formulation are to be found in Column 3. Consequently, Column 2 which merely denotes the name and not the composition of the product cannot come to aid of the appellant. 13. It is also submitted that Note-III is patently inapplicable to the appellant's products and cannot apply to a formulation of the appellant, which contains Vitamins and minerals. It is also submitted that Note III refers to any other formulation/composition containing Vitamins only. It is submitted that since the appellant formulation not only contained Vitamins but also minerals hence Note III cannot have any application. In our view, the above plea though attractive at first blush, on deeper examination cannot succeed. What is covered under the Note-III is one of the ingredients listed in Column 3 which the appellant's product undoubtedly has. However, the mere fact that the appellant's Vitamin formulation contains minerals in addition cannot take it out of the ambit of the Note-III. If the appellant's pleas were to be accepted then all that a manufacturer needs to avoid the impact of the price control regulation, is to add one mineral to vitamin formulation so as to escape the rigors of the price control regulations. We also cannot lose sight of the fact that even the formulation listed in Column 3 contains a mineral Zinc element (22.5 mg) in the form of Zinc Sulphate Monohydrate. In the present case, the formulation of the Appellants drug, in any case, carries plural Scheduled bulk drugs mentioned in Schedule I drugs of the DPCO, and is, therefore, squarely covered under the impugned notification. The reasoning adopted by the Appellant, namely, that the composition being distributed by it has a mineral which is outside the scope of the impugned notification dated 24.12.2002 is incorrect as the composition sought to be covered vide notification dated 24.12.2002 also has common scheduled bulk drugs namely Vitamin B1, Vitamin B2, Vitamin C, Vitamin E and Calcium Panthoate alongwith Vitamin B6, Vitamin B12, Niacinamide and Zinc Sulphate Monohydrate in equivalent term Zinc Element (mineral). In our view, any other interpretation particularly as adopted by the Appellant would run counter to public interest and does not commend itself for acceptance by this Court, principally in view of clear words of Note-III. 14. It was further contended that Note-III cannot be applied to the appellant's formulation merely because only one of the Scheduled drugs of the Column-3 is included in its formulation. It was submitted that if only one of the ingredients indicated in Note-3 referable to

column-3 was there in the formulation and 14 other ingredients do not figure in Table-3, then the applicability of Note-3 would lead to absurd results. Further, reliance has been placed on the Principles of Statutory Interpretation 9th Edition, 2004 by G.P. Singh, which reads as follows: If the language used is capable of bearing more than one construction, in selecting the true meaning regard must be had to be consequences resulting from adopted the alternative constructions. A construction that results in hardship, serious inconvenience, injustice, absurdity or anomaly or which leads to inconsistency or uncertainty and friction in the system which the statute purports to regulate has to be rejected and preference should be given to that construction which avoids such results. This rule has no application when the words are susceptible to only one meaning and no alternative construction is reasonably open. (emphasis supplied) Reliance has also been placed on the judgment of the Hon ble Supreme Court in the following cases: (i) In *K. Prabhakaran v. P. Jayarajan*, (2005) 1 SCC 754, it was held as follows: 32. It is rather unfortunate that the correctness of the view taken in *Manni Lal* case was not questioned in *Vidya Charan Shukla* case and an attempt was made only to distinguish the case of *Manni Lal*. While interpreting a provision of law and pronouncing upon the construction of a statutory provision the court has to keep in mind that the view of the law taken by it would be applied to myriad situations which are likely to arise. It is also well settled that such interpretation has to be avoided as would result in creating confusion, anomaly, uncertainty and practical difficulties in the working of any system. A submission based on this principle was advanced before the three-Judge Bench in *Vidya Charan Shukla* case, but unfortunately did not receive the attention of the Court forming an opinion that dealing with that submission (though forceful) would amount to indulging in hypothetical and academic exercise . 33. We may just illustrate what anomalies and absurdities would result if the view of the law taken in *Manni Lal* case and *Vidya Charan Shukla* case were to hold the field. One such situation is to be found noted in para 39 of *Vidya Charan Shukla* case. A candidate s nomination may be rejected on account of his having been convicted and sentenced to imprisonment for a term exceeding two years prior to the date of scrutiny of nomination. During the hearing of election petition if such candidate is exonerated in appeal and earns acquittal, his nomination would be deemed to have been improperly rejected and the election would be liable to be set aside without regard to the fact whether the result of the election was materially affected or not. Taken another case. Two out of the several candidates in the election fray may have been convicted before the date of nomination. By the time the election petition

comes to be decided, one may have been acquitted in appeal and the conviction of the other may have been upheld and by the time an appeal under Section 116-A of RPA preferred in this Court comes to be decided, the conviction of one may have been set aside and, at the same time, the acquittal of the other may also have been set aside. Then the decision of the High Court in election petition would be liable to be reversed not because it was incorrect, but because something has happened thereafter. Thus, the result of the election would be liable to be avoided or upheld not because a particular candidate was qualified or disqualified on the date of scrutiny of nominations or on the date of his election, but because of acquittal or conviction much after those dates. Such could not have been the intendment of the law. (ii) In *Modern School v. Union of India and ors.*, 2004(5) SCC 583, it was held as follows: 62. Although decisions are galore, the purpose would be better served by referring to Singh, G.P.: Principles of Statutory Interpretation, 9th Edition., 2004, pp.120-122 which is in the following terms: 4. Regard to consequences If the language used is capable of bearing more than one construction, in selecting the true meaning regard must be had to be consequences resulting from adopting the alterative constructions. A construction that result in hardship, serious inconvenience, injustice, absurdity or anomaly or which leads to inconsistency or uncertainty and friction in the system which the statute purports to regulate has to be rejected and preference should be given to that construction which avoids such results. This rule has no application when the words are suscepible to only one meaning and no alternative construction is reasonably open. (a) Hardship, inconvenience, injustice, absurdity and anomaly to be avoided In selecting out of different interpretations the court will adopt that which is just, reasonable and sensible rather than that which is none of those things as it may be presumed that the legislature should have used the word in that interpretation which least offends our sense of justice . If the grammatical construction leads to some absurdity or some repugnance or inconsistency with the rest of the instrument, it may be departed from so as to avoid that absurdity, and inconsistency. Similarly, a construction giving rise to anomalies should be avoided. As approved by Venkatarama Aiyar, J., where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence . 63. It would not, therefore, be proper to impose any further restrictions in this behalf and interpret TMA Pai Foundation in a different way so as to take

away some of the rights of the appellants which are recognized therein. (emphasis supplied) The above passage in G.P. Singh's edition is instructive and indeed would be relevant if it was applicable. In our view, the first sentence of the said passage quoted by the Hon'ble Supreme Court in Modern School's case clearly indicates that the principle stated in the said passage would apply only if the language used is capable of bearing more than one construction. In our view, Note-III is incapable of any construction except the one submitted by the respondent in view of its plain words and effect. The passage quoted by the learned counsel for the appellant from the G.P. Singh's Book and the above two judgments of the Hon'ble Supreme Court thus, do not come to the aid of the appellant. Consequently, since the meaning of the note is clear and unambiguous, the decisions relied upon by the petitioner in respect of the absurd results cannot apply.

15. It is also submitted that in furtherance of the practice of issuing price notifications, a subsequent Notification dated 7th February 2006 in respect of multi vitamins and minerals made the products of the appellant to be under drug price control regulation for the first time and the very fact that separate notification came to be issued clearly shows that the earlier notification did not cover it. We are unable to agree with the above plea of the appellant. The appellant did not dispute that its product was covered after the notification of 7th February 2006. Merely because the latter notification dated 7th February 2006 is more specific and explicit in its terms, it cannot be held that the earlier notification dated 24th December, 2002 where Note III which clearly covered the formulation could not be made applicable. In our view, the formulation of the appellant's drug would be covered by the notification dated 24th December, 2002 till the subsequent notification dated 7th February, 2006 and thereafter covered by the subsequent notification. We are also of the view that the result of the acceptance of the plea of the appellant would be to make the appellant's formulation not amenable to price control, a result which could not have been intended and would in fact lead to an anomalous situation and in fact be contrary to public interest. 16. The writ petition is accordingly dismissed and all interim orders stands vacated. The writ petition stands disposed of accordingly.

Sd/-
(MUKUL MUDGAL)
JUDGE

Sd/-
(MANMOHAN)
JUDGE