

TAX ON PHARMACEUTICAL PRODUCTS AND FUNDAMENTAL RIGHTS OF PEOPLE IN INDIA – ANALYSIS

Abstract

No government can exist without taxes. If that government exists without imposing such taxes, it means that the wealth is more in that country. As much as taxes are important to a country, a person needs medicine to recover from illness. Government should take necessary steps for that. The right to life is one of the fundamental rights of India as it has been emphasized by the Supreme Court of India in many cases and the Constitution of India also mentions it. This has been addressed not only at the Indian level but also at the global level through the Human Rights Act. In this ever-changing scenario, the prices of the things we consume go up and down. Not only food but pharmaceutical products are also subject to fluctuations in employment. Due to this people are facing great difficulty in buying it. Medicines for some rare diseases are very difficult to obtain and the cost is high when a work is imported from the country where it is available. When Indian Medicine manufacturers buy materials from abroad for manufacturing drugs, the Indian government imposes a levy on the goods. The Supreme Court cannot reduce or increase the duty on importable pharmaceutical products because it has been stated that it is the policy of the government. Although India is a leading producer of pharmaceuticals, it depends on other countries for medicines for some rare diseases. In this, medicinal products such as Ayurveda Siddha, which are manufactured and used in India, are also taxed.

Keywords: Tax, pharmaceutical, Medicine.

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I. INTRODUCTION

It is well known that there are two types of taxation in India namely direct taxes and indirect taxes. Direct taxes are levied on all personal income and indirect taxes are levied on all goods and services and are ultimately paid by consumers as part of the maximum retail price of such goods and services. Managing patients with the disease is very difficult.

When imposing taxes, the government should look at what goods are to be taxed and what are the benefits and harms caused to the people by imposing taxes. It should not only serve the society but also fulfill the basic needs of the people. India is one of the leading manufacturers of generic drugs in all over the world not only that India is the third largest pharmaceutical manufacturing country in the world. In that case, the tax percentage on medical products should be reduced

The population is growing rapidly, so India is a country that is concerned about providing better healthcare services and we need to know when Goods and Services Taxes were introduced in India because this will be easy for us to understand later. It is an indirect tax which has replaced many indirect taxes in India. GST is the only indirect tax across the country. The GST (Goods and Services Tax) was passed by the Parliament of India on 29 March 2017 and came into effect from 1 July 2017.

Goods and Services Tax is an important factor capable of covering the economic base of the country. The right to life is a fundamental right and a human right as per the Constitution of India and international law. Not only that, many rights have been highlighted in the right to life and In several cases the Court has emphasized that the right to life includes the right to health.

II. TAX POWER ON PHARMACEUTICAL SECTOR

If a tax is to be levied, it must be empowered So the Constitution of India confers this power on the Government of India Taxes not to be imposed save by authority of law No tax shall be levied or collected except by authority of law Authority in this place means Government of India and State Government only. No one else can interfere.

The Indian Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

It is the world's largest vaccine supplier, accounting for more than 50% of all vaccines produced in the world. With industry-standard huge -manufacturing capabilities and a large number of skilled domestic labourforce, Indian exports meet the standards and requirements of the highly regulated markets of the US, UK, EU and Canada.

Certain provisions regulate drug prices i.e. under the Essential Commodities Act, drug price controls have been put in place to ensure prescription of highly needed drugs. These are fair to everyone. It is helping people to some extent. Import duties impose barriers to trade

and distort market competition with negative financial implications. This may cause problems in the manufacture of pharmaceutical products.

III. HEALTH IS A FUNDAMENTAL RIGHT

Health is a basic and global human right. WHO's fundamental mission is to achieve the highest quality of health for all people. The Preamble to the WHO Constitution emphasizes the need for international coaction to promote health.

The peace and health of all people rests in the hands of the Government of that country and depends upon the full co-operation of the States. The Court declared that the right to life enshrined in the Constitution of India (Article 21) imposes an obligation on the State to protect the right to life of every individual and that the protection of human life is paramount.

This obligation on the government exists regardless of restrictions on financial resources. So the government should not do anything that can affect the lives of the people for any reason and under Article 21 of the Constitution, a remedy is available at common law and is based on strict liability for violation of guaranteed fundamental and inalienable rights of the citizen. The purpose of common law is not only to civilize public authority but also to ensure that citizens live under a legal system to protect their interests and protect their rights.

According to Article 25(1) of the Universal Declaration of Human Rights “Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical and necessities. Social. Right to services and protection in case of unemployment, sickness, disability, widowhood, old age or lack of livelihood due to circumstances beyond his control. It states that human rights include human life not only in Indian law but also universally.

IV. CURRENT TAX RATE ON PHARMACEUTICAL PRODUCT

The price of pharmaceutical products fluctuates depending on the country's taxation so you must know what are the taxes on pharmaceutical products of that country Other drugs, medicines, pharmaceutical products and medical technology products are taxed at 5% or 12%, often ranging from 11.5 to 12.5 percent to 18% of the total tax.

5% tax on human or animal vaccines all types of herds Diagnostic tools Drugs used in bio-chemical systems Oral diseases and test kits or drugs Formulations made from bulk drugs and similar drugs are taxed.

12%tax is levied on medicinal products such as Diagnosing Unani, Ayurveda, siddha, homeopathy etc., and the above tax is also levied on wadding, gauze, bandages etc. sterile surgical catheters, similar sterile suture materials (including sterile absorbable surgical or dental sutures) and sterile tissue grafts for surgical wound closure; Judiciary approach on Pharmaceutical product. Nicotine Polacrilex Gum is the only drug or drug product taxable at the 18% GST rate.

All Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neonatal Intensive Care Unit (NICU) room rentals in a hospital or medical institution per day Rs. 5,000 and above. 5% for GST levy by the government (without input tax credit).

V. JUDICIARY APPROACH ON PHARMACEUTICAL SECTOR

It is sad to say that the court itself cannot be involved in government policy. In this case the Supreme Court ruled that the government cannot order an exemption from the drug for spinal muscular atrophy as it is a matter of policy for the Government of India. However, in many cases, courts have ruled in favor of people in medical matters.

A hospital or medical establishment is not a dealer as it is not primarily engaged in the sale of drugs, vaccines, surgical supplies, X-ray films and plates. While it was decided in this case that doctors are not traders, this case also seems to make it clear that not all patients are traders here. Hence the Court held that the value recovered by the hospitals is the cost of drugs, implants, stents, lenses. And various charges for room rent, catering cannot be classified as sale or supply of goods. So the burden should not be imposed on the people.

Drugs, consumables and implants used in the provision of medical health services to inpatients for diagnosis or treatment by a hospital are naturally bundled services and are provided as a joint supply and are non-price. Health services are exempted under the section and not as a separate item and do not qualify as a supply. As far as this case is concerned, the court has given a judgment without any burden on the people, according to which the Government of India should provide complete exemption from tax on medicinal products that can be used by the people. Therefore the medicine or related supplies supplied to the patient are essential supplies and are a collective supply to facilitate health services and are not subject to tax.

VI. CONCLUSION

Tax is one of the essentials of a country. The government collects that tax compulsorily from the people. The quality of life and health of the people should not be affected in any way while collecting such charges even if it is a tax, it should not be a deprivation of human life. Tax on imported medicinal products is acceptable to some extent but domestically manufactured medicinal products such as Siddha, Ayurveda, Unani which are established to cure human diseases are violating the rights of the people.

The health care sector is both commercial and non commercial in nature. According health care nonprofit organization including ngo, trust etc, There are some companies operating with non-commercial purpose in the manufacture of pharmaceutical products and companies operating without commercial purpose should not be affected by this. In this situation where medicine has become an integral part of human life, the government should not engage in any activity that may cause any further harm to them.

VII. RECOMMENDATION

The government should decide to completely remove the tax on pharmaceutical products. Tobacco and other such products which cause diseases to the body should be taxed heavily.