

S.MURUGAPPAN

ADVOCATE, HIGH COURT

ASSISTED BY:

K.NANCY, B.COM., B.L. (HONS.),
G.GAUTHAM RAM VITTAL, L.L.B.

CONSULTANTS:

GST, CUSTOMS, FOREIGN TRADE LAWS,
FOREIGN EXCHANGE MANAGEMENT ACT.

OPINION

1. **Querist :**

M/s. Scope Ingredients Pvt. Ltd.,
S-10, 2nd Floor, Raja Annamalai Building,
No.19, Marshalls Road, Egmore,
Chennai – 600 008.

2. **Facts :**

The querist has indicated that they would like to import non-narcotic hemp oil (CBD oil) and also non-narcotic hemp oil powder, which is in micro encapsulated form. It is reported that these are used for medicinal purposes and they don't have the effect of narcotic drugs. It is reported that the product is made of aerial parts of Cannabis plant and the THC content is non-detectable.

3. **Query :**

In the above context, the querist wants to know the importability of the above goods and the application of NDPS Act 1985 to the subject goods.

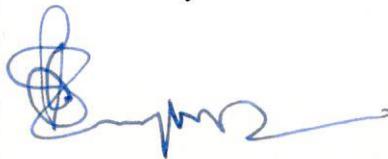
4. **Opinion :**

4.1 NDPS Act defines Cannabis plant as meaning any plant of genus 'Cannabis'. Section 2(iii) of the Act defines Cannabis and the sub-sections refers to parts of the plant that come under the purview of NDPS Act. Charas is a separated resin extract from Cannabis plant and the Act applies to separated resin in whatever form, whether crude or purified and also includes the concentrated preparation and resin known as Hashish Oil or Liquid Hashish. Section 2(iii)(b) of the Act defines Ganja as the flowering or fruiting tops of the Cannabis plant but it excludes the seeds and leaves when not accompanied by the tops. Trade names for the Ganja drug, include, weed and marijuana.

4.2 It is also to be noted that as per the Act, any mixture, with or without any natural material, of any of the two forms of Cannabis i.e. Charas and Ganja or any drink prepared from it, will be illegal.

4.3 It is reported that in India, 'Bhang' which is made from the Cannabis leaves and used widely during Holi festival does not come under the purview of NDPS Act and that in many States in India the use of the same is permitted.

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- 4.4 It is to be noted that if the THC content is more than 0.3% then, the same will not be within the purview of NDPS Act, subject to the condition that these are made from leaves. According to the querist that, as per the supplier, the presence of THC in these products is negligible and that, in fact, it is non-detectable. However, as per the supplier's product specification sheet the product is made of aerial parts of Cannabis plant. The data sheets do not categorically confirm that these are made of leaves only. The querist also has indicated that when the suppliers were requested to examine the feasibility of naming the product as Cannabis extracts from the leaves only or Cannabis leaves extract, the suppliers have stated that 'it is not possible'.
- 4.5 As such, it will be difficult to conclude that the product is made only from leaves. Besides, the presence of THC content needs verification each time. Therefore, prima facie, the products under reference can get covered under the category of 'prohibited' goods.
- 4.6 In the above background, it will be appropriate that the querist seeks the confirmation from NCB itself as to whether the Hemp Oil / Hemp Oil Powder made from '**aerial parts**' of Cannabis plant with non-detectable THC content can be imported without attracting NDPS Act provisions. As the issue is not entirely free from doubt, this course will be safe.
- 4.7 In any case, it is to be noted that even if the product under reference is treated as not falling within the purview of NDPS Act, and permitted import for medicinal purposes for treatment of depression, cancer etc. it is to be noted that the provisions of Drugs & Cosmetics Act will have applicability and the querist would require appropriate registrations and licence under the above Act and Rules to import and trade in them.



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Disclaimer:- The above opinion is provided based on the information and documents made available to us by the querist and further based on the laws and rules prevalent as on date and the understanding of such provisions by the author and is meant for the private use of the person to whom it is provided without assuming any liability for any consequential action taken based on the views expressed here.