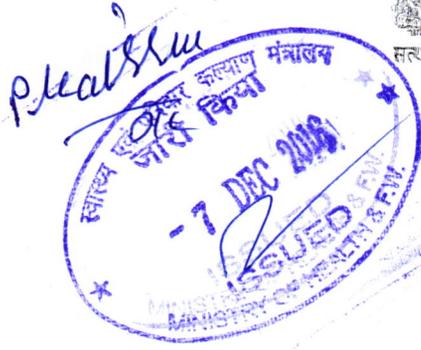




सी.के.मिश्रा
सचिव
C.K.Mishra
Secretary



SPEED POST

भारत सरकार
स्वास्थ्य एवं परिवार कल्याण विभाग
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
Government of India
Department of Health and Family Welfare
Ministry of Health & Family Welfare
D.O.No. 16019/2/2014-PH-I
Dated : 5th December, 2016

Tobacco use is the foremost preventable cause of death and disease globally as well as in India. As per the Global Audit Tobacco Survey – India (GATS) 2010, smokeless tobacco/chewing forms are the most prevalent forms with 206 million Indians using it. As such the consequent burden of mortality and morbidity due to consumption of smokeless tobacco is very high in India. Available evidence suggests that India shares the maximum burden of oral cancer in the World.

The Food Safety Standards Authority of India (FSSAI) has issued the Food Safety and Standards (Prohibition and Restrictions on sales) Regulations, 2011 dated 1st August, 2011 in exercise of power conferred under the Food Safety & Standards Act, 2006. Regulation 2.3.4 thereof says that tobacco and nicotine shall not be used as ingredients in any food products. Thus, Regulation 2.3.4 bans sale of all food products where tobacco is present as ingredient in the final product, whether going by the name of gutka, pan masala or zarda.

However, to circumvent the ban on the sale of gutka, the manufacturers are selling pan masala (without tobacco) with flavoured chewing tobacco in separate sachets. Often these sachets are sold together by the same vendors from the same premises, so that consumers can buy the pan masala and flavoured chewing tobacco and mix them and consume the same. Hence, instead of the earlier "ready to consume mixes", chewing tobacco companies are selling gutka in twin packs to be mixed as one.

In this context, the Hon'ble Supreme Court of India in Central Areca-nut Marketing Corporation & Others Vs Union of India & Ors (Transfer Case (C) 1 of 2010) on 23rd October, 2016, passed an order recording and directing as under:

"Ld Amicus Curiae has also pointed out that this court has not granted any stay of Regulation 2.3.4 of the Food Safety and Standards (Prohibition and Restrictions on sales) Regulations, 2011 and the concerned authorities are duty bound to enforce the said regulation framed under Section 92 readwith Section 26 of the Food Safety & Standards Act, 2006.

In view of the above, the concerned statutory authorities are directed to comply with the above mandate of law. We also direct the Secretaries,

Health Department of all the States and Union Territories to file their affidavits before the next date of hearing on the issue of total compliance of the ban imposed on manufacturing and sale of Gutkha and Pan Masala with tobacco and/or nicotine." (copy enclosed)

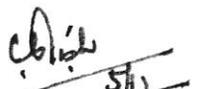
It is relevant to mention in this context that, States such as Bihar, Karnataka, Mizoram, Kerala and Madhya Pradesh have issued orders in compliance of the Hon'ble Supreme Court order dated 23.09.2016. (copy of order of Bihar and Karnataka is enclosed).

In view of the above, I request you to please get the necessary orders passed in compliance of the Hon'ble Supreme Court direction/order dated 23.09.2016 and ensure that the manufacture, storage, distribution or sale of gutka and pan masala (containing tobacco or nicotine) and any other products marketed separately having tobacco or nicotine in the final product by whatever name called, whether packaged or un-packaged and/or sold as one product, or though packaged as separate products, sold or distributed in such a manner so as to easily facilitate mixing by the consumer is prohibited in your jurisdiction.

I would be grateful if a copy of the order could be endorsed to the Ministry for information and record.

Yours sincerely,

O/c


(C.K. Mishra)

Chief Secretaries of all States
(except Bihar, Karnataka, Mizoram, Madhya Pradesh and Kerala)

Copy to : Principal Secretaries (Health)