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FOOD

State-Specific FSSAI Bans: Supply Chain Compliance & Inter-State Transit Risks for Retailers

In State of Maharashtra v. Anurag Awasthi, the Bombay High Court set aside the interim release of pan masala and tobacco seized near Pune and ordered the stock destroyed, holding that an inter-state transit claim fails where invoices and the physical consignment do not match. What the ruling means for retailers, FBOs and logistics providers.

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Table of contents

- The Legal Context & Procedural Background
  - 1. Inter-state transit defense is not absolute
  - 2. Discrepancies in tax invoices & inventory reconciliation
  - 3. Public health priorities vs. commercial rights
- Decision of the Court
- Takeaways for retailers, FBOs & supply chains

The rapid expansion of multi-state retail distribution networks, tech-driven supply chains, and quick-commerce logistics has significantly increased the movement of consumer goods across state borders. However, operating across multiple states requires navigating a complex matrix of state-level food safety regulations and product bans. A recent judgment by the Bombay High Court, in *State of Maharashtra v. Anurag Awasthi* (Criminal Writ Petition No. 3748 of 2026, decided on September 9, 2026), underscores the severe legal risks and operational vulnerabilities that retail businesses, food business operators (FBOs), and logistics providers face when transporting restricted or banned food articles.

While the underlying litigation originated from police interdictions and vehicle seizures, the central legal issue offers vital risk-management lessons under the Food Safety and Standards Act, 2006 framework.

The Legal Context & Procedural Background

The case arose following the interception of a transport vehicle by local authorities near Pune, Maharashtra. The vehicle was carrying substantial quantities of Vimal Pan Masala and Vimal Tobacco.

In Maharashtra, the Commissioner of Food Safety issued a statutory order under Section 30 of the Food Safety and Standards Act, 2006 banning the manufacture, storage, distribution, and sale of Gutkha, pan masala, and flavored/scented tobacco due to the documented public health hazards associated with their consumption.

The respondent-trader sought interim custody of the seized goods before the Magistrate Court, claiming that the consignment was in transit from Karnataka to Rajasthan and merely passing through Maharashtra. Both the trial court and the Sessions Court granted interim release of the inventory, relying on earlier judicial precedents holding that mere inter-state transit does not automatically constitute an offense under local state-wide bans. The State of Maharashtra challenged these orders before the High Court of Bombay.

Reversing the lower courts' rulings, the Bombay High Court set aside the interim custody order and directed the destruction of the seized inventory. The court highlighted three crucial legal and operational considerations:

1. Inter-state transit defense is not absolute

Under Section 30(2)(a) of the Food Safety and Standards Act, 2006, State Food Safety Commissioners are empowered to prohibit the manufacture, storage, distribution, or sale of any food article in the interest of public health. While Entry 42 of List I (Union List) of the Seventh Schedule reserves inter-state trade and commerce to Parliament, local enforcement agencies maintain the authority to verify whether goods claimed to be "in transit" are legitimately passing through or being illegally introduced into the state market.

2. Discrepancies in tax invoices & inventory reconciliation

A decisive factor in the High Court's ruling was the material discrepancy between the purchase manifests and the physical inventory recovered during the search. Tax invoices showed a purchase of 200 bags (100 bags of pan masala and 100 bags of tobacco) in Karnataka, but only 150 bags were recovered during seizure within Maharashtra.

The discrepancy between the quantity reflected in the purchase documents and the physical inventory recovered was a significant circumstance supporting the State's contention that part of the consignment had been illegally offloaded within Maharashtra. The defense of legitimate transit cannot stand when documentary records fail to align precisely with physical stock during transit checks.

3. Public health priorities vs. commercial rights

The court emphasized that statutory public health mandates under the Food Safety and Standards Act, 2006are aligned with the constitutional protection of life under Article 21 and they take precedence over commercial interests. Where reasonable grounds exist to suspect that restricted food articles are leaking into a state market under the guise of inter-state transit, courts will enforce regulatory prohibitions strictly.

Decision of the Court

In its conclusive findings, the Bombay High Court held that both the Magistrate Court and the Additional Sessions Judge completely failed to evaluate the material discrepancies in the inventory records and the overarching public health implications. Consequently, the High Court quashed and set aside the orders of the JMFC, Pune and the Additional Sessions Judge, Pune, which had previously allowed interim release of the inventory to the respondent. The respondent's application for interim custody of the seized goods of 115 bags of Vimal Pan Masala and 25 bags of Vimal Tobacco was also formally dismissed. The High Court directed the State of Maharashtra to take immediate and effective steps for the destruction of the entire seized stock.

Takeaways for retailers, FBOs & supply chains

Mismatches between tax invoices (GST) and physical truck payloads trigger immediate regulatory seizure, so businesses should enforce strict real-time stock reconciliation and digital manifest verification prior to dispatch across state borders. Further, route deviations through states with active FSSAI product bans expose consignments to interception and companies should establish optimized logistics corridors that bypass states enforcing blanket bans on specific inventory items wherever feasible.

Notably, liability shifts onto brand owners and distributors when third-party logistics (3PL) drivers offload partial cargo illegally. It is advisable that contracts incorporate strict indemnity clauses, GPS tracking mandates, and seal-verification protocols in 3PL service agreements. Lastly, an inability to demonstrate legitimate end-to-end transport documentation leads to confiscation and destruction. Transporters must maintain verifiable e-way bills, destination purchase orders, and state-transit permits inside every transport vehicle at all times.