REACT
Research Action for Tobacco Control

ILLICIT TOBACCO TRADE IN INDIA

What Government reports tell us?

REPORT

About REACT

Research Action for Tobacco Control (REACT) is an independent network of researchers committed to bring forward evidence and knowledge for public good through systematic and scholarly research on relevant issues to advance and mainstream tobacco control within the larger public health and development debates.

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What does illegal tobacco trade have to do with public health?

Tobacco use is the leading cause of adult death and disease in the world. In India, more than 1.3 million adults die prematurely from tobacco related-disease. However, research has shown that a robust administered tax system can effectively increase retail price and increase tobacco tax revenues, while making tobacco products less affordable for youth and vulnerable groups.

Tobacco is consumed in India in many forms—from cigarettes to gutkha, smoked and smokeless. It is also cheap and affordable in India.

Despite legal tobacco products being extremely affordable in India, there is still a massive underground economy which further pushes down the retail price of domestic and international brands.

Developing countries like India have been slow to recognise fully the hidden yet the devastating impact of the tobacco epidemic. Indian government policy has a range of measures which in fact incentivise tobacco use by providing several kinds of benefits to the industry, while making token efforts to control the consumption of tobacco, especially among the young, poor, and marginalized populations.

India's tobacco industry, led largely by cigarette manufacturers, have lobbid in various areas to make it seem like they have no role in illicit trade. As such, the tobacco industry in India has built a narrative that claims that raising taxes would increase illicit trade from India's neighbours.

The Government of India has not countered or questioned this narrative closely, and also has not responded to the illicit trade with economic regulatory measures, which could bring tobacco trade under its control and end illicit trade. Over the last few years, public health advocates in India have offered some arguments to policymakers for a stronger regulatory framework to clamp down on illicit tobacco and improve public health:

First, tobacco causes disease and death, whether legally sold or illegally. Tackling the illegal sale in tobacco will deter consumption among existing users and prevent new initiations to tobacco use. Thus, cracking down on illicit tobacco also addresses public health.

Second, illicit trade of tobacco negatively affects the most vulnerable groups like children, adolescents and marginalised communities. This is because tobacco control measures or information seldom reaches them. This is also because illicit tobacco products are cheaper than tax-paid products, thus affordable to the young and the poor. Their long-term expenditure on tobacco also reduces the money they have to spend on their health or households. This means that the young, poor or vulnerable are at risk of being pushed into poverty because of constant expenditure for their tobacco addiction, and long-term payments made to meet health costs.[1]

Third, smuggled tobacco reduces tax revenue, and governments increasingly become weaker as illicit trade grows. The illicit trade in tobacco reduces revenues for public health as tobacco taxes (partly) fund India's health, education and disaster management efforts. To overcome revenue shortfall, the government needs to raise tobacco taxes regularly and also strengthen its tax collection and administration.

Fourth, tobacco trade and its use are a gateway to drugs and other dangerous trades. This threatens the individual, society and country at large. The illicit tobacco trade network has links with other criminal networks such as those involved in smuglling drugs, counterfeit currency and arms. All these together not only threaten public health but also national security.

How was this report prepared?

This report was prepared through a collaborative effort of grassroots institutions engaged in public health and tobacco control. For a period of six months, researchers across India reviewed publicly available government reports to measure the extent of illicit trade known from India.

The researchers used four publicly available government sources: The Comptroller and Auditor General of India (CAG)[2]; Directorate of Revenue Intelligence (DRI)[3]; Central Board of Indirect Taxes and Customs (CBIC)[4]; Parliament reports[5] published online from 2005 to 2020 (Annexure III).

The report concludes that without exception, virtually every kind and type of tobacco product manufacturer - whether smoked (cigarettes, bidis) or smokeless (gutkha, paan masala, zarda, khaini) - and whether manufacturer or traders of raw material, have been involved in dodging taxes and short-changing the Government of India.

Government records show sufficient evidence that domestic tobacco producers contribute to illicit trade. It finds that domestic industry (manufacturers, traders, vendors) are primarily responsible for supplying tobacco products to states and jurisdictions with lower excise taxes (tax avoidance) or profits made by overproduction or concealing profits by under-declaring sales (or tax evasion). There is also a massive counterfeit market of all tobacco.

The Comptroller and Auditor General of India (CAG) is a constitutional authority and the primary auditor of all government offices, autonomous bodies and corporations financed by the Government. A survey of the 108 CAG reports[2] from 2009 to 2018 shows that the tobacco industry uses a variety of means to avoid paying taxes and selling their products illicitly. The CAG reports have discovered tax fraud by tobacco companies to be Rs. 390.38 crore between 2009-2018.

Directorate of Revenue Intelligence (DRI) is India's apex anti-smuggling intelligence, investigations and operations agency. DRI reports show massive quantities of illicit cigarettes seized from Maharashtra, hundreds of tonnes of tax-evaded betel nuts from Andhra Pradesh, and large quantities of paan masala is trafficked using trains and railway stations.[3]

Central Board of Indirect Taxes and Customs (CBIC) is the nodal national agency responsible for administering customs, GST, central excise, service tax and narcotics in India. CBIC reports show the pathway of illicit trade of imported and domestically produced tobacco products, and in particular cigarettes. Most movement of illicit products occurs through India's extensive railway systems. In June 2020, a special mission termed Operation Kark[6] (cancer in Hindi) unearthed a Rs 250 crore smokeless tobacco fraud in Indore, among others across the country.

The Parliament of India keeps records of parliament debates and committee reports which show a range of tobacco industry malfeasance. A recent reply by the Minister of State of Finance in the Parliament said that there are a total 189 cases of evasion of excise and customs duty greater than Rs 100 crore since 2017[7]. And of these, at least 25 cases (14%) were by tobacco companies. Earlier parliament replies revealed links between major gutkha manufacturers and the Bombay underworld.

How do we address illicit tobacco trade?

Government reports find that the tobacco industry in India employs a range of legal and illegal activities including stockpiling, manipulating prices, non-disclosure of revenues, and tax evasion. The proliferation of India's tobacco industry and trade needs a regulatory framework, and the current lifecycle of products is regulated by a piecemeal approach by multiple agencies. To meet the dual goals of revenue generation and reducing tobacco-related disease, it is critical to reduce illicit trade of tobacco products. Based on the findings of the report, it makes the following recommendation to the Government of India:

Recommendation 1: Tobacco sector must be treated at par with other sin goods, like alcohol, guns and the like. Monitoring the supply chain will bring collateral benefits for governance, and improve overall tax administration, compliance, and enforcement, which will translate into reduced illicit trade and higher revenue.

Recommendation 2: The Government of India must develop a robust data and information system to monitor the tobacco sector, from cultivation to consumption, which will enable better fiscal management and regulation.

Recommendation 3: The trade and tax regulatory framework needs to develop a strategy to maximize revenues from tobacco products and the industry. For example, India's Goods and Service Tax (GST) council must adopt an inflation-linked dynamic tax rate that is corrected annually, remove distinctions like segments and slabs between products, phase out subsidies and concessions to tobacco trade, and peg all inputs that make tobacco products at 'sin tax' rate.

Recommendation 4: Government of India needs to build mechanisms to curb internal and external illicit trade by aligning with global good practices, recommendations and guidelines which it has committed to under the WHO's Framework Convention for Tobacco Control's (FCTC) Illicit Trade Protocol.

Recommendation 5: Government of India should promote measures like compulsory registration for the manufacture, trade and retail sale of tobacco products and take control of the supply chain. This will improve the collection of revenues and deter leakage through illicit trade.

How big is illicit tobacco trade?

We looked for and analysed tobacco-related tax violations and other financial frauds from various publicly available government documents (2009 to present). We found that illicit trade by both registered and unregistered or unlicensed entities is widespread and they deal in legal, smuggled, counterfeit and fake tobacco products.

Apart from government sources, even the tobacco industry admits to widespread cigarette smuggling. Industry associations like Federation of Indian Chambers of Commerce and Industry (FICCI) which produces a report titled CASCADE (Committee Against Smuggling and Counterfeiting. Activities Destroying the Economy) states that India is the fourth largest illegal cigarette market in the world, which account for a fourth of the domestic cigarette market in 2016.[8] These reports do not mention illicit trade undertaken by domestic producers.

1. Tobacco-related illicit trade reported in the Indian Parliament

On 8th February 2021, the Indian finance minister responded to a question in the Indian parliament about companies evading excise and customs duty, exceeding Rs. 100 crores. The Minister said there are a total 189 cases of evasion of excise and customs duty, of which 25 cases (14%) involved tobacco companies[7]. Two major cigarette companies are a part of this list (Godfrey Phillips India Ltd and ITC Ltd) while most (21) other companies are of smokeless tobacco.

Most of the tobacco companies which were evading excise and customs duty are from Uttar- Pradesh, Maharashtra, and Delhi (4 companies each).

A follow-up question asked for the names of companies against which there are pending cases at the Central Excise Gold Control Appellate Tribunal, High Courts or Supreme Court. The government responded that there 71 cases, of which 7 cases involved companies manufacturing/selling smokeless tobacco. These companies are Prabhat Zarda Factory Ltd. (Bihar), Vishnu Pouch packaging Pvt. Ltd.(unit-I) (Gujarat), New Kamath Tobacco Pvt. Ltd. (Maharashtra), Kay Pan Sugandh (Odisha), Harsingar Gutkha Pvt. Ltd. (U.P), and Shree Meenakshi Food Products Pvt. Ltd. and Yogesh Associates (Dadra & Nagar Haveli and Daman & Diu). The government said that the recovery of the tax evasions by these companies is being pursued by other government agencies[7].

Despite these tax evasions by tobacco companies, the government also said in parliament that there is no proposal to raise the excise duty on cigarettes, 'beedis' and smokeless tobacco. In the financial year 2019-2020, the GST and cess collection from tobacco was Rs 53,540 crore and excise collection Rs 1,610 crore, according to this year's union budget[9] .

2. Tobacco-related illicit trade reported by the CAG

CAG reports find that the majority (68.26%) of tobacco tax violations or evasions were because of the non-levy of tax or the short-levy of tax (Annexure I, Table 1). This implies that tobacco industry business entities have strong motivation to evade several types of taxes (entry tax, excise duty, non-levy or short levy of trade tax, value-added tax (VAT)).

The primary ways in which this took place were: irregularly allowing tax concessions and claims, incomplete documentation, applying incorrect tax rate or surcharge, concealing inter-state purchase, suppressing purchase turnover, wrongly declaring goods and production address, sustaining business through unregistered dealers.

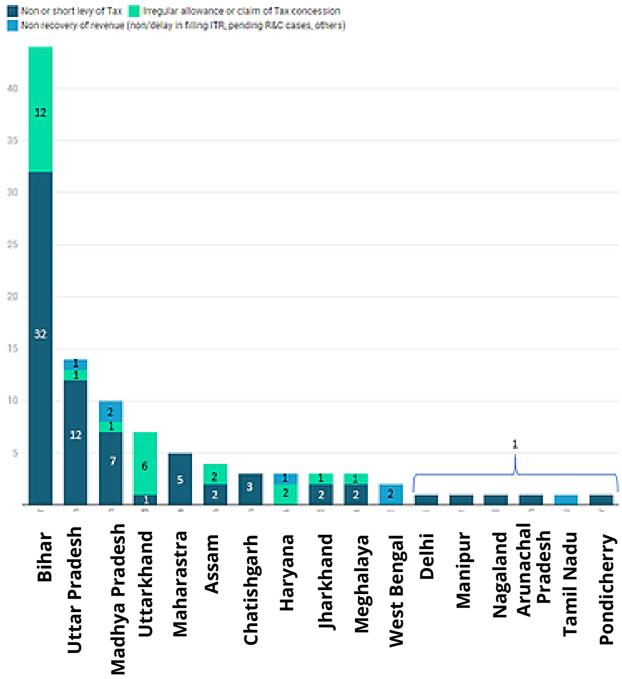

Figure 1: Number of Tobacco tax violations reported by CAG from 17 states of India (2009-2018)

90 CAG reports have documented violations for specific tobacco products (cigarette, bidi, gutkha, zarda, tendu leaves, paan masala, kattha, and areca nut, supari), along with the quantum of violations. These violations spanned 14 states (Annexure I, Table 2).

Maharashtra reported the maximum quantum violations (Rs 219.03 crore, from 2013, 2017-18) followed by Bihar (Rs 94.63 crore, 2011-2015, 2017). Bihar has reported the highest number of violations (30.77% of non or short levy of tax evasion cases and 11.54% of irregular allowance or claim of tax concession cases), followed by Uttar Pradesh (tax violations with 11.53% of non or short levy of tax evasion cases) (Figure 1).

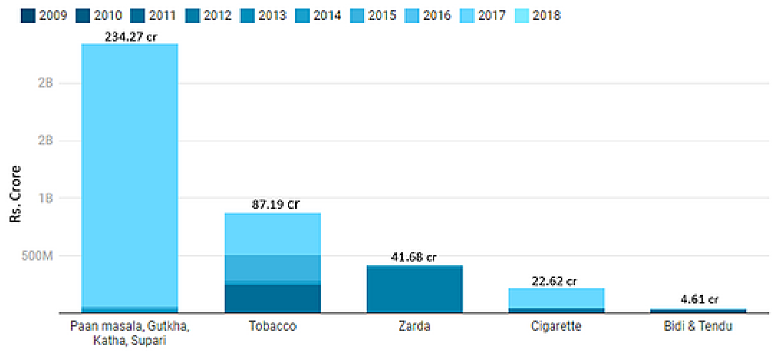

Figure 2: The most illegally traded Tobacco Products

Among different tobacco products, the highest quantum of violation is on paan masala (Rs. 230.12 crore) followed by mixed (smokeless) tobacco products (Rs. 87.19 Crore), zarda (Rs.41.68 crore), cigarettes (Rs. 22.62 crore), bidi (Rs. 4.22 crore), and followed by gutkha (Rs.3.76 crore) respectively (Figure 2) (Annexure I, Table 3). In addition, CAG reports also show illicit trade in raw materials like tendu leaves used for making paan masala and the banned gutkha.

3. Tobacco-related trade violation reported by DRI

The DRI has found tobacco related violations from 15 states from 2018 to 2020. DRI recovered illicit tobacco goods worth Rs 130 crore (Annexure-II, Table-I), and several goods for which the value was not determined. Cigarettes (11 crore sticks), followed by betelnut (177 metric ton), and paan masala dominate the illicit tobacco trade as per DRI. Largest seizure of cigarettes took place from Maharashtra (1.80 crore sticks valued at Rs.30.80 crore), followed by Tamil Nadu (1.11 crore sticks valued at Rs.15.89 crore), and Delhi (1 crore sticks valued at Rs.13.46 crore) (Figure 3) (Annexure II-Table II). Betel nut and paan masala was seized from five states: Andhra Pradesh (113 MT), Mizoram (39.15 MT), Delhi (21 MT), West Bengal (3.9 MT) and Gujarat (Annexure-II, Table III), their net worth is not reported [according to CAMPCO, the average arecanut price was USD 4000 per tonne]. Only one state, Gujarat, reported seizure of paan masala (worth Rs 38 lakhs in 2018) (Annexure-II, Table III). Most seizures of tobacco products were in trains or railway stations (15.62%), followed airports (7.82%), container freight stations or inland container depot (7.82%), and ports (7.82%) (Annexure II, Table IV).

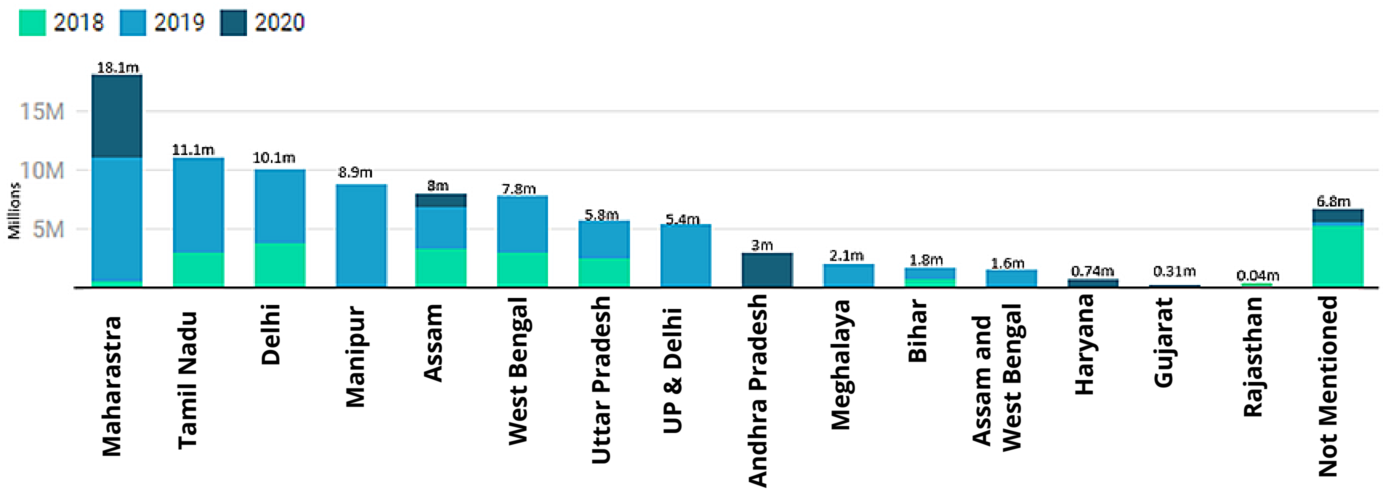

Figure 3: Quantity of cigarettes (in sticks) seized by DRI across India from 2018-2020

4. Tobacco-related violations reported by the CBIC

Customs department officials in Delhi seized 4.5 lakh cigarettes of foreign origin in July 2020. The cigarettes branded 'Paris' and valued at Rs 40 lakhs were being smuggled from Bangladesh and Myanmar and were being clandestinely brought to Delhi from Howrah via Varanasi in a COVID-19 special train.According to media reports, customs officials made another seizure of illegal cigarettes in July 2020, again on a COVID-19 special train in Delhi. This time, they seized 10 lakh cigarette sticks worth over Rs. 1.5 crore in 100 cartons. The brand names were 'Special Gold Esse' and 'Super slim Esse Light'. Officials also found 9 lakhs cigarette sticks of another brand, valued at Rs 36 lakhs in the same train. The cartons were seized from a goods compartment of a COVID-19 special train which arrived from Varanasi to Delhi.

Case Study: Illicit tobacco trade during COVID-19 pandemic Madhya Pradesh, 2020 to present

On 30 May 2020, the Directorate of Revenue Intelligence (DRI) began an 'Operation Kark' in Madhya Pradesh, to investigate and raid gutkha, paan masala and cigarette factories and operators in the business. They uncovered a complex network of illegal paan masala manufacturing units, undeclared warehouses, evidence of tax evasion, smuggling of tobacco products and counterfeit product manufacturing all over Indore.

In the first major case, investigators found the involvement of a father and son duo (Sanjay Mata and Sandeep Mata) in manufacturing and trade of counterfeit tobacco products. They had a license to make and distribute Rajnigandha paan masala, but they were using it to make counterfeit gutkha and paan masala of other brands like Vimal, Rajshree and Pan Bahar. Investigations revealed that the duo have connections to businesses in Karachi, Pakistan[10]. Their involvement in money laundering was shown and nearly Rs. 3 crore in unaccounted cash was recovered from their office.

Over the next two months, investigators uncovered the network of several underground operations. The vehicles used to transport counterfeit tobacco products had "Press Duty" stickers on it, and the drivers were in possession of fake press cards. This made it easy for them to ferry goods without being stopped at checkpoints. Authorities estimated that these smugglers had trade gutkha and paan amsala worth Rs 30 crore (USD 4.3 million) and had no receipts, bills or any other documentation .

Noticing widespread abuse during COVID-19 period by the tobacco industry, the CBIC issued a notification dated 13 July 2020 to intensify operations against the malpractice.

A second underground gutkha-paan masala operation was also unearthed by investigators in Indore. The investigators also raided the premises of a Indore-based businessman dealing in paan masala, Kishore Wadhwani. Investigators found Wadhwani was linked to manufacturing counterfeit products, and he was booked for his trade malpractice and for conspiracy and fraud. The investigators found Wadhwani linked to black money earned from gutkha/paan masala smuggling, which was used to set up eight companies in the hotel, real estate, and media sector. Some of this black money was traced back to Dubai. The investigators estimated tax evasion and illicit transfer of funds of upto Rs. 512 crore[6] spread across India, Pakistan and Dubai.

Investigators also raided Elora Tobacco Company Limited, a company not licensed by Tobacco Board of India but which has been in operations for over two decades. The raiding authorities uncovered tax evasion of nearly Rs. 105 crores between April 2019 to May 2020 and eight cigarette-making machines. Another raid at a godown uncovered packaging material of various brands in which 5000 cartons were seized, and each of these contained 12,000 cigarettes.[12] The authorities estimated that the volume of cigarettes translated a sale of around Rs. 8 crore worth of cigarettes, and 95% of the cigarettes sold had paid no tax. The company received a supply of cigarette fillers from three firms which made unregistered brands of cigarettes like K10, A10 Impact, Snobus, Forever, Red Rose. These cigarettes manufactured in Indore are commonly called 'Bangladeshi cigarettes' in the market. Multiple agencies cooperated to undertake the operation; the DRI carried out the operation, the Central Board of Indirect Taxes and Customs and the Department of GST Intelligence gathered information and monitored the trade.

The cases which emerged from Operation Kark offer a few learning-points. Firstly, most regulators have little intelligence of such operations and have limited authority to bust such massive underground operations of illicit tobacco trade. Such units use license to make a legal product (like Rajnigandha) but also abuse it to make other brands illegally. This situation occurs with locally manufactured legal products (like Rajnigandha) or illicitly produced brands (like Vimal, Pan Bahar) or assembled products (a variety of cigarettes).

Secondly, the central and state regulators show limited coordination and sharing of information. Thus, even when large illegal operations get exposed, the due diligence and process to bring justice rest with multiple agency. As a result, most often such violators go scot-free.

Finally, the legal and implementation gaps have enabled smugglers to expand their networks through other illicit currency transfers. Underground networks of illicit trade of tobacco and currency have grown over the last few decades. Cities like Indore, Faridabad, Hyderabad, Coimbatore, National Capital Region among others have become major hubs for illicit tobacco trade.

Case Study: Politician-police-gutkha lobby complicit in smuggling scam Tamil Nadu, 2017 to present

In 2013, the government of Tamil Nadu prohibited the manufacture, storage, distribution or sale of gutkha and paan masala of any kind. However in 2016, officials from the Central Bureau of Investigation (CBI) uncovered a Rs 250 crore (USD) scam of banned gutkha products in the state. The investigation showed the involvement of several people in the state government, bureaucracy and police.

The CBI conducted around 40 raids in Tamil Nadu and arrested promoters of the Jayam Group which manufactures MDM gutkha along with three government officers (director general of Police, a former city police commissioner and health minister). Following these arrests, the income tax department also conducted raids and uncovered tax evasion of Rs 250 crore on the sale of banned gutkha products in Chennai alone. Further investigations uncovered details on bribes given to politicians, bureaucrats and police. Ironically, Rs 56 lakhs was paid to the Health Minister of Tamil Nadu, to allow the sale of banned gutkha. Bribes were paid to the Commissioner of Police (Rs 60 lakhs), Assistant Commissioner of Police (Rs 30 lakhs), officials of the Food Safety Department (Rs 35 lakhs), officials in the Central Excise department (Rs 16 lakh) and councillors of the Chennai Municipal Corporation (Rs 14 lakhs) to allow trade and sale of gutkha and paan masala. In addition, the Enforcement Directorate (ED) also seized estate and properties valued Rs. 246 crores of those involved in the case[13].

Despite four years of investigation and trials, only three traders of the Jayam group and three government employees were arrested in this case but they were soon released on bail. The tainted State Health Minister continues to retain his position in the government and seat in the Party and constituency. The CBI prosecuted two State health department officials in the scam, and the rest, including the police officials, the municipal councillors and the Health Minister are yet to be pressed for charges.The case on this matter is also pending before the Madras High Court.

Case Study: Courier company and customs officials involved in cigarette smuggling - West Bengal, 2017 to present

In October 2017, officials at the Directorate of Revenue Intelligence began investigating a smuggling racket of an assortment of goods and consignments, which they estimated to be worth Rs 195 crore. The smuggling was taking place at a courier company - Trinity Express Services- which was operating out of Kolkata's NSCBI Airport.

The items being smuggled included cigarettes along with a host of other imported goods like protein supplements, steroids, hormone supplements, stickers for garments, mobile accessories and unbranded mobile parts. The courier company used several methods to escape detection of authorities. They would misrepresent descriptions of items in terms of their quantities, brands and values, so that items could be declared as duty free consigments of household goods or gifts from Dubai and Hong Kong. This is a fraud as per regulation 14 of Courier Imports and Exports (Clearance) Regulation, 1998.

Out of 18 containers investigated by officials, 17 contained cigarettes[14]. The consignment had cigarette packets containing 3,40,000 sticks of leading brands like Benson & Hedges. The declared value of the cigarettes was Rs. 1,02,088 and seizure value was Rs. 40,80,000.

The owner of the courier company, BP Upadhyay, confessed some of his involvement in this scam of smuggling contraband and undeclared goods, during the investigation and confessed the involvement of key government officials in the smuggling racket. Not all packages in a consignment get examined by Customs officials, and Upadhyay identified which packages would get examined by the officials. Upadhyay confessed that he paid Rs 128 per carton to the government's shed examiner and Rs 6500 per carton to customs officers.

Following their investigation, the DRI issued 13 show-cause notices to Trinity Express Services, the courier company, and customs officials were also investigated for their involvement in the smuggling ring. The officials were charged under Section, 108 of Customs Act, 1962.

Even when widespread smuggling is unearthed, corrupt officials and private companies with little or no political affiliation walk away with light punishment. Thus legal measures are not only weak and poorly administered but it also deters honest officials from doing their duty. As a result, officials find that there is no real benefit or impact that they can make to reduce illicit trade and activities.

Case Study- Illegal sale of banned paan masala Jharkhand, 2020 to present

As union and state governments were tackling the rising number of COVID-19 cases, the tobacco industry was continuing its manufacture and sale of illegal products. Like many states, Jharkhand also banned the sale of tobacco on 8 May 2020. The state commissioner of food safety issued an order of a complete ban of eleven paan masala brands (such as Rajnigandha, Raj Niwas, Pan Parag, Shikhar, Dilruba, Musafir, Madhu, Vimal, Bahar, Sehrat, Pan Parag Premium) which were found tainted as per the Food Safety and Standard Authority Act, based on which the state government imposed a ban on sale, manufacturing, warehousing and distribution of these brands for 12 months.

The state government gave traders time until 31 May 2020 to dispose of their existing stock by selling it in another state. To do this, traders were required to make a list of all the paan masala kept in their godowns and account for the goods that have been taken away or disposed of in another state. In the state's capital, Ranchi, just six traders shared the lists and made applications to dispose of their materials. Authorities in other districts did not receive any applications from traders.

Following the deadline of 31 May 2020, income tax department officials conducted raids at various locations around Ranchi to prevent illegal trade in the district. Tobacco worth over Rs 1 crore was seized from four warehouses of a diversified company, The Singhania Group, which has interests in automobiles, fireworks, FMCG and construction, with presence in 15 cities of three states (Jharkhand, Bihar and West Bengal). The owner of The Singhania Group is known as Gutkha King of Jharkhand[15]. Despite the ban, an illegal tobacco business was being run by this group. Despite the raid by income tax officials, no police case was lodged against the company for flouting the ban. Officials did not put information out into the public domain either, and the lack of transparency has prevented any further enquiry or action against the corrupt gutkha barons. Despite fair warnings and ultimatum, the tobacco industry chooses to ignore response to legal notices of authorities.

The Health Department of Government Jharkhand, backed by the High Court has made earnest efforts to flush out the paan masala and smokeless tobacco trade. Despite this, products are frequently seized in border districts which shows that the tobacco industry and its supply chain will continue their malfeasance.

Case Study: The enemy within–gutkha trade, mafia and terror
Pan India 1980s to present

Two questions were asked in the Indian parliament on 16 March 2005, regarding investigations against gutkha barons convicted of anti-national activities and if India's apex crime fighting agency, the Central Bureau of Investigation (CBI) had issued red corner notices against them.

In response, the Home Minister responded that the Mumbai police had investigated a case in which one accused person had said that two gutkha manufacturers (Rasiklal Dhariwal, founder of the Manikchand Group of Companies and JM Joshi of Goa Gutkha) had met with mafia gangster, Anis Ibrahim Kaskar, brother of Dawood Ibrahim, in connection with a financial dispute. The Mumbai Police had summoned both Dhariwal and Joshi for questioning but both said they were not in Dubai.

The Mumbai police had then moved court under the Maharashtra Control of Organised Crime Act (MCOCA), 1999, and got non-bailable and open-ended warrants in December 2004, against Dhariwal and Joshi. The Mumbai Police also moved to get Interpol red corner notices issued against these two people, and the Interpol did this by January 2005.

The reason for conflict between the Gutkha barons was made apparent in the CBI chargesheet[16]. According to the chargesheet, Rasiklal Dhariwal has been associated with Dawood Ibrahim since 1996 when Dhariwal was supplying gutkha to a front company called Golden Box Trading, floated by Ibrahim. From 1995 to 2001, over Rs 100 crore worth of transactions were carried out between Dhariwal and Ibrahim's company. Dhariwal earned around Rs 35 crore from this work.

Dhariwal had apparently promised J.M. Joshi shares worth more than Rs 250 crores, while the two were business-partners, but Dhariwal apparently cut Joshi out, using Ibrahim's clout and paid him only Rs. 11 crores instead of the shares. After sometime Dhariwal took his dispute with Joshi back to Dawood Ibrahim for a settlement. The settlement was overseen by Ibrahim himself in Karachi in September 1999.

In its chargesheet, the CBI said Rasiklal Dhariwal (founder of Manikchand brand of gutkha), and JM Joshi, his former business partner (who branched out to launch Goa brand of gutkha), received protection from Dawood Ibrahim, and in return, the two gutkha barons gave protection money to Dawood and helped his brother, Anis Ibrahim, in setting up a gutkha manufacturing unit in Pakistan.

There are no further updates in the Parliament on this matter but news reports in April 2018 suggest that a special court had rejected the discharge application of gutkha baron J.M.Joshi for his underworld links[17]. Joshi's co-accused, Rasiklal Dhariwal, founder of Manikchand Group, died in October 2017. Between February 8-13 2021 the Income Tax Department in Mumbai reported that it had conducted raids on Gutkha baron, JM Joshi and found unaccounted transactions worth Rs 1500 crores and foreign assets in the name of his company in the tax haven of British Virgin Islands (BVI). The net worth of the BVI company is Rs 830 crore, which was created by siphoning funds from India[18].

The discussion in the Parliament was perhaps the tip of the iceberg. Closer investigation of the rise of India's unregulated gutkha and paan masala industry has solidified crossborder hawala networks[11] and increased the fake currency printing network. According to several Financial Action Task Force (FATF) reports (to which Government of India makes submissions), the growth of international crime networks like the Karachi-based Altaf Khanani Money Laundering Organisation (MLO) grew in power after its partnership with Dawood Ibrahim was forged in 1992. Together they facilitated illicit money movements between India, Pakistan, the United Arab Emirates (UAE), the United States, the United Kingdom, Canada, Australia and other countries, laundering billions of dollars in criminal proceeds annually.

Khanani used multiple bank accounts transactions and wire transfers from a number of general trading and shell companies. Khanani’s commission to launder funds was 3% of the total value of funds laundered. After his 2015 arrest by the US Drug Enforcement Administration (DEA), Altaf Khanani revealed his links with Dawood Ibrahim and their role in the 1993 and 2008 Bombay bombings.

Together Khanani and Dawood Ibrahim created the Bombay-Karachi-Dubai axis which was built by illicit drug tobacco, drug, and human trafficking businesses across South Asia, Commonwealth of Independent States, and West Africa, which created and supported terror outfits like Boko Haram and Islamic State of Iraq and Syria (ISIS).

As head of the Khanani MLO and Al Zarooni Exchange, Khanani has been involved in the movement of funds for the Taliban, and Altaf Khanani is known to have had relationships with Lashkar-e-Tayyiba, al-Qaeda and Jaish-e-Mohammed. According to a December 2015 report published in The Guardian, ISIS was founded partly by money from cigarette smuggling. They gained strength when they merged with radical elements involved in oil smuggling[19].

In 2016, the US Treasury’s Office of Foreign Assets Control (OFAC) designated four individuals and nine entities associated with the Khanani MLO. Khanani & Kalia International (KKI) was one of the biggest foreign exchange companies in Pakistan until November 2008, when it was closed down by the Government of Pakistan as part of the Pakistan Forex Scam Case. On October 26, 2016 Altaf Khanani pleaded guilty to federal money laundering charges and is serving part of his 68-month prison sentence for conspiracy to commit money laundering.

The network has also worked in creating a counterfeit currency network within South Asia and globally. The high-quality counterfeit Indian currency notes impacted the fragile South Asian economies. More recently the printing takes place in Pakistan and then smuggled into India through transit points at Dhaka, Bangladesh, Sri Lanka, UAE and Bangkok. The other route to smuggle and pump the counterfeit Indian rupees is by smuggling through the India-Pakistan border and India-Nepal borders. Couterfeiters use cigarette paper and rollyour own (RYO) paper form making fake currency notes. Though there have been no tobacco or cigarette manufacturers, or cigarette paper importers in India who have been implicated in fake currency printing as yet, intermediaries like Ibrahim-KKI have been investigated and implicated.

Prescription for Change

Illicit trade in tobacco is a low-risk and high-reward criminal activity in which manufacturers, traders, middlemen, traffickers and vendors make a fortune with little risk of detection or harsh punishments.

There is ample evidence that the tobacco industry, in all its varied forms ranging from large multinational to small traders; whether they make expensive cigarettes or peddle arecanut; in big cities or remote border areas; each entity has been a bad corporate citizen.

In the 1960s and 1970s the Government of India promoted trade to increase domestic consumption and exports so that it could garner tax and other revenues but gradually has failed in its purpose, and instead created an epidemic of avoidable death.

The Government of India needs to stop getting shortchanged by the tobacco industry's over-production, under-invoicing and non-payment of taxes and shake off its reluctance to tax and recover taxes from this industry. At the most fundamental level, the Government of India must stop being manipulated by the tobacco industry.

Global evidence suggests that the illicit tobacco markets are a symptom of low prices on tobacco and poor tax administration, even though the tobacco industry tries to make it look otherwise.

To begin with, the Government of India must commit to a dedicated policy to crack down on illicit tobacco trade, backed with a robust enforcement system. Currently, multiple agencies currently monitor various aspects of India's economy, and 'grey' economies avoid getting regulated by the overburdened, understaffed and undertrained regulatory agencies. As the tobacco industry evolves new strategies to sell to its consumers, both by legal and illegal means, tax governance too must evolve.

The current Good and Services Tax regime initiated in India since July 2017 has made feeble attempts to address tobacco consumption and taxation. Information given in the Indian parliament in 2020 exposes the tobacco industry's malfeasance and Government's failure to find and mend gaps in the new and broken GST system. The new automated reporting platforms under GST which should reduce human discretion in tax administration appeared compromised and can easily circumvent enforcement. The Government of India needs to enforce significant financial penalties and penal provisions for illicit trade in tobacco products by major tobacco companies, including criminal prosecutions as a means of deterrent.

From studying numerous government sources for evidence on the tobacco industry's illicit trade in India, we have the following five recommendations for policymakers:

Recommendations 1: *Build on existing examples of successes*. Like every sin, tobacco also needs to be treated at par with others of its kind, like alcohol. The impact of addressing this will bring collateral benefits for governance, and strengthen overall tax administration, compliance, and enforcement for other excisable products like alcohol, petroleum and natural gas. Like alcohol, tobacco products should also have labels which mandate sale within a jurisdiction (example: "For sale in Maharashtra only") or through a specific agency (example: "For sale to military personnel only"). The Government of India also has to address issues that are currently small but will become large and unmanageable given a lax policy framework. Special economic zone manufacturing and duty-free sales are problematic and India's policy is currently among the weakest in the world.

Recommendations 2: *Start by collecting data on products and inputs:* The Indian government lacks robust data on tobacco cultivation, production, manufacture, trade, distribution and consumption. The tobacco industry seizes the opportunity created, and presents manipulated data to influence policymakers and misinform the public with biased data. For example, the tobacco industry has regularly used inflated estimates of the impact of tobacco taxes on illicit trade to challenge any government measures to raise tobacco tax. Governments need to have robust monitoring systems which can collect and analyse data around tobacco trade, both legal and illegal. Such control measures need to be implemented across the supply chain, from the point of production of its inputs, manufacture of processed goods until the sale to the end consumer.

Recommendations 3: *Institutionalise stricter regulatory framework:* India will need to address the presence of multiple taxation regimes and agencies in order to tackle illicit tobacco trade. It is expected that the introduction of the Goods and Services Tax (GST) would resolve this complexity by bringing in licensed production and strictly controlled business operators at all stages of trade, whether import, production, distribution and retail. However, the actual operation of GST has had little emphasis put on governance, and a greater emphasis put on collection of tax revenues. India's current tax administration for tobacco will thus need a clear legal framework and dedicated administration which can look into the links between manufacture, trade and consumption of tobacco, as well as its revenues. Governments must reinforce measures to strengthen tax collection, remove exemptions and in particular monitor intra-state and inter-state purchases, sales of products, imports and exports along with a strict monitoring for movement of money from tobacco trade into the grey economy. The GST and other tax administration manual must have a clear standard operating procedure for a chain of commend and inter-agency coordination. Tobacco excise and tax rates also need to be indexed and dynamic to inflation and not flat as it is under the current GST regime. In addition, all inputs that go into making tobacco products must be regulated, and taxed at the higher 'sin tax' rate.

Recommendations 4: *Build mechanisms to clamp down on both internal and external illicit trade:* Legal and illicit tobacco trade is both multinational and local, and thus needs to have internal and external processes in place. The sooner the Indian government can set in motion an efficient tracking and tracing system, the more it is likely to gain in terms of revenue and public health benefits.

One way India can address this is via recommendations and guidelines provided by the WHO's Framework Convention for Tobacco Control's (FCTC) Illicit Trade Protocol, which India has ratified and is obliged to comply with. The Government of India has championed the cause at the discussions and negotiations of the Protocol in New Delhi (Conference of Parties (COP-7, 2016) and Geneva (COP-8, 2018).

FCTC calls for greater internal, regional and global harmonisation to arrest the global illicit tobacco trade and other illicit trades linked to it. Fully operationalizing this treaty can bring in effective solutions to address India's difficulties on both tax collection and illegal trade.

A robust tracking and tracing systems are useful to monitor the movement of tobacco products from manufacturing to their distribution and will be a comprehensive response to illicit trade. The system will record points of origin, passage and sale of all tobacco packages (such as packs, cartons, master cases and pallets) through the supply chain, until all taxes and duties are paid.

The increased adoption of secure excise tax stamps and other security-markings globally is a case in point and has facilitated the process of enforcement[20] and tax collection (implemented in Ecuador, Kenya, Georgia, and the Philippines with considerable success) . Stamps and other such markings possess multiple layers of security. They should be tamper-proof and be destroyed when the pack is opened and prevent resale or reuse.

Several other policy measures are needed to restrict illicit trade like banning the open sale of loose tobacco products and single cigarette sticks; banning kiddy-packs (cigarettes of less than 20 stick packs); and standardising packaging for all tobacco products especially for smokeless tobacco products and bidi.

Recommendations 5: *Build local ownership and control to stop illicit trade:* Government of India should adopt compulsory registration and licensing for the manufacture, trade, export and retail sale of tobacco products, and take control of the supply chain, similar to the system that already exists for alcohol in India. Therefore, at state and jurisdictional level, vendor-licensing will be key for regulating trade of tobacco products. It will improve compliance to various legal provisions but it is also an opportunity for local bodies to generate revenues from license fees. As a first step the Government of India should, in compliance with several of its other legislation and policies, encourage state level licensing for the full tobacco supply chain.

List of tables and figures (Annexures)

Annexure I. Table 1. Classification of Tobacco Tax violations reported by CAG from 17 states of India (2009-2018)

Nature of Violations	Number of violations (%)	Type of violations	Number of violations by type (%)
Non-levy or short levy of tax	**71 (68.26)**	Non-levy or short levy of entry tax	22 (21.15)
		Non-levy or short levy of surcharge	10 (9.60)
		Application of incorrect rate of tax	10 (9.60)
		Concealment of inter-State purchase	6 (5.76)
		Acceptance of invalid or incomplete forms or documents	4 (3.84)
		Non-levy or short levy of excise duty	3 (2.88)
		Suppression of sale/purchase turnover	3 (2.88)
		Non-levy or short levy of custom duty	2 (1.92)
		Incomplete documents led to non or short levy of entry tax	2 (1.92)
		Invalid documents suppressing sales turnover	1 (0.97)
		Wrong declaration of goods led to exemption from CVD duty	1 (0.97)
		Wrong declaration of goods	1 (0.97)
		Wrong declaration of production address	1 (0.97)
		Evasion of Tax by unregistered dealer	1 (0.97)
		Non-levy or short levy of TT/VAT	1 (0.97)
		Pending case, due not cleared	1 (0.97)
		Suppression of turnover led to non or short levy of VAT	1 (0.97)
		Suppression of import /purchase and non or short levy of entry tax	1 (0.97)
Irregular allowance or claim of Tax concession	**26 (25)**	Irregular allowance or claim of ITC	19 (18.26)
		Submission of invalid forms/document to claim tax concession	6 (5.76)
		Grant of incorrect exemption of taxable items	1 (0.97)
Non-recovery of revenue as assessment not complete (non-payment/delay in filling ITR, pending R&C cases, other cases on dealer)	**7 (6.74)**	-	7 (6.73)

Annexure I. Table 2. Number and quantum of violations (in Rs.) by type of tobacco products reported by CAG (2009-2018)

State (year of CAG report)	Type of Tobacco product	Number of violations	Value of seized products (Rs.)	Quantum violation (Rs, range)
Arunachal Pradesh (2014)	**Paan masala**	**1**	**32,79,000**	**32.79 Lakhs**
Assam (2013-14, 2017)	**Tobacco**	**3**	**1,00,57,762**	**13.41 Lakhs to 65.99 Lakhs**
Bihar (2011-2015, 2017)	**Total**	**44**	**94,63,87,382**	**18,049 to 38.36 Crore**
	Bidi	2	34,83,919	5,18,886 to 29,65,033
	Cigarette	6	4,02,13,517	18,049 to 309,55,188
	Gutkha	1	31,46,355	31,46,355
	Tobacco	28	48,26,87,966	73,195 to 6,60,48,304
	Zarda	7	41,68,55,625	1,37,754 to 38,36,80,072
Chhattisgarh (2009, 2011)	**Total**	**2**	**60,06,704**	**29,16,704 to 30.90 Lakhs**
	Bidi	1	30,90,000	30,90,000
	Tendu	1	29,16,704	29,16,704
New Delhi (2009)	**Tobacco**	**1**	**4,11,000**	**4.11 Lakhs**
Haryana (2017)	**Total**	**2**	**42,63,00,000**	**17.52 Crore to 25.11 Crore**
	Cigarette	1	17,52,00,000	17.52 Crore
	Tobacco	1	25,11,00,000	25.11 Crore
Jharkhand (2011, 2015)	**Total**	**2**	**1,03,58,000**	**15 Lakhs to 88.58 Lakhs**
	Cigarette	1	88,58,000	88,58,000
	Paan masala	1	15,00,000	15,00,000
Maharashtra (2013, 2017-18)	**Total**	**5**	**219,03,34,000**	**27.00 Lakhs to 215.08 Crore**
	Bidi	1	27,00,000	27,00,000
	Gutkha and Paan masala	1	1,14,53,000	1.14 Crore
	Paan masala	2	217,34,07,000	2.26 Crore to 215.08 Crore
	Supari	1	27,74,000	27,74,000
Manipur (2010)	**Bidi**	**1**	**29,038,875**	**2.90 Crore**
Meghalaya (2013, 2017)	**Tobacco**	**3**	**10,55,58,000**	**49.58 Lakhs to 9.33 Crore**
Madhya Pradesh (2009-11, 2013-14, 2016)	**Total**	**8**	**57,58,172**	**10,500 to 19.64 Lakhs**
	Bidi	3	35,61,500	10,500 to 19,64,000
	Kattha	1	11,11,000	11,11,000
	Paan masala	1	2,34,672	2,34,672
	Tendu leaves	2	2,36,000	1,00,000 to 1,36,000
	Tendu and Bidi	1	6,15,000	6,15,000
Pondicherry (2014)	**Bidi and Tobacco**	**1**	**9,750**	**9,750**
Uttar Pradesh (2013-15, 2017)	**Total**	**10**	**16,82,55,000**	**48,000 to 12.28 Crore**
	Cigarette	2	3,39,000	77,000 to 2,62,000
	Gutkha	4	2,29,41,000	4,40,000 to 1.88 Crore
	Paan masala	1	12,28,00,000	12.28 Crore
	Tobacco	2	2,21,27,000	2,20,000 to 2.19 Crore
	Bidi & Tobacco	1	48,000	48,000
Uttarakhand (2010, 2013)	**Total**	**7**	**21,36,662**	**4,274 to 9.13 Lakhs**
	Bidi	1	4,21,167	4,21,167
	Cigarette	5	16,50,358	4,274 to 9,13,500
	Gutkha	1	65,137	65,137
Total			**390,38,90,307**	**4,274 to 215.08 Crore**
Median				**15,43,500**

Annexure I. Table 3: Quantum of violations (Rs.) by tobacco product reported by CAG reports (2009-2018)

Type of tobacco products	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total (Rs)
Bidi	-	2,90,38,875	65,73,919	-	4,31,667	35,51,000	-	-	-	27,00,000	**4,22,95,461**
Cigarette	-	-	4,02,13,517	-	19,12,358	-	89,35,000	-	17,52,00,000	-	**22,62,60,875**
Gutkha	-	65,137	31,46,355	-	1,14,53,000	-	2,29,41,000	-	-	-	**3,76,05,492**
Zarda	-	-	22,57,977	38,73,11,683	2,64,64,414	-	8,21,551	-	-	-	**41,68,55,625**
Tendu leaves	30,52,704	1,00,000	-	-	-	-	-	-	-	-	**31,52,704**
Paan Masala	-	-	15,00,000	-	2,26,07,000	32,79,000	-	2,34,672	227,36,00,000	-	**230,12,20,672**
Supari	-	-	-	-	-	-	-	-	27,74,000	-	**27,74,000**
Kattha	-	-	-	-	11,11,000	-	-	-	-	-	**11,11,000**
Tobacco	4,11,000	-	25,22,73,587	-	65,19,000	2,57,19,948	22,27,64,909	-	36,42,63,034	-	**87,19,51,478**
Tendu & Bidi	-	-	6,15,000	-	-	-	-	-	-	-	**6,15,000**
Bidi & Tobacco	-	-	-	-	-	-	48,000	-	-	-	**48,000**
Total (Rs)	34,63,704	2,92,04,012	30,65,80,355	38,73,11,683	7,04,98,439	3,25,49,948	25,55,10,460	2,34,672	281,58,37,034	27,00,000	**390,38,90,307**

Annexure-II, Table I: Annual quantity and value of tobacco products seized by DRI (2018-2020)

Type of tobacco product	Year-wise quantity in sticks (Amount in Rs.)			Total quantity and amount of seized product	Value of seized products as %
	2018	2019	2020		
Cigarettes (n=53)	2,79,65,710 sticks (Rs.29,42,08,000)	7,02,92,590 sticks (Rs.76,39,89,000)	1,35,95,000 sticks (Rs.20,19,00,000)	11,18,53,300 Sticks (Rs.126,00,97,000*)	97.57
Areca Nut/Betel Nut (n=4)	21 MT (Rs. 60,00,000)	43.05 MT (Rs. 2,15,67,000)	113 MT (Value not estimated)	177.05 MT (Rs.2,75,67,000#)	2.13
Paan Masala (n=1)	Quantity not mentioned (Rs.38,00,000)	-	-	N.A (Rs.38,00,000)	0.30
Total amount of seizure	Rs. 30,40,08,000	Rs. 78,55,56,000	Rs.20,19,00,000	Rs. 129,14,64,000	-

Annexure-II, Table II: Quantity and value of cigarettes seized by DRI (2018-2020), by state

States	Quantity in sticks (estimated value in Rs.)			Quantity and value of cigarette seized	Quantity Seized as %	Value of seized amount as %
	2018	2019	2020			
Maharashtra	7,00,000 (Rs. 1,07,00,000)	1,03,33,120 (Rs. 17,85,00,000)	71,62,000 (Rs.11,88,00,000)	1,81,95,120 (Rs.30,80,00,000)	19.77	25.58
Tamil Nadu	30,24,000 (Rs.4,23,00,000)	80,91,200 (Rs. 11,66,00,000)	-	1,11,15,200 (Rs.15,89,00,000)	12.08	13.20
Delhi	37,90,010 (Rs.5,00,00,000)	63,38,200 (Rs.8,46,00,000)	-	1,01,28,210 (Rs.13,46,00,000)	11.00	11.18
Manipur	-	89,01,400 (Rs.2,57,00,000)	-	89,01,400 (Rs. 2,57,00,000)	9.67	2.13
Assam	33,60,000 (Rs.3,98,00,000)	35,40,000 (Rs.5,29,00,000)	11,42,000 (Rs.1,72,00,000)	80,42,000 (Rs.10,99,00,000)	8.75	9.12
West Bengal	30,80,000 (Rs.3,36,00,000)	47,83,470 (Rs.5,60,00,000)	-	78,63,470 (Rs. 8,96,00,000)	8.55	7.44
Uttar Pradesh	25,57,000 (Rs.3,83,08,000)	32,70,000 (Rs.4,90,00,000)	-	58,27,000 (Rs. 8,73,08,000)	6.34	7.25
UP & Delhi	-	54,94,000 (Rs.8,24,00,000)	-	54,94,000 (Rs. 8,24,00,000)	5.97	6.85
Andhra Pradesh	-	-	30,00,000 (Rs. 3,00,00,000)	30,00,000 (Rs.3,00,00,000)	3.26	2.50
Meghalaya	-	21,00,000 (Rs.2,56,00,000)	-	21,00,000 (Rs. 2,56,00,000)	2.28	2.12
Bihar	799700 (Rs.1,20,00,000)	10,05,600 (Rs.1,70,29,000)	-	18,05,300 (Rs. 2,90,29,000)	1.96	2.42
Assam and West Bengal	-	16,27,600 (Rs.1,62,00,000)	-	16,27,600 (Rs.1,62,00,000)	1.76	1.35
Haryana	-	-	7,47,000 (Rs. 1,12,00,000)	7,47,000 (Rs. 1,12,00,000)	0.81	0.94
Gujarat	-	-	3,18,000 (Rs.63,00,000)	3,18,000 (Rs. 63,00,000)	0.35	0.52
Rajasthan	40,000 (Rs. 4,00,000)	-	-	40,000 (Rs. 4,00,000)	0.05	0.03
Not mentioned	52,36,000 (Rs.6,50,00,000)	3,44,000 (Rs. 53,60,000)	12,26,000 (Rs.1,84,00,000)	68,06,000 (Rs. 8,87,60,000)	7.40	7.37
Total quantity and amount of seizure	2,25,86,710 (Rs.29,21,08,000)	5,58,28,590 (Rs.70,98,89,000)	1,35,95,000 (Rs.20,19,00,000)	9,20,10,300 (Rs. 20,38,97,000)	-	-

Annexure-II, Table III: State-wise quantity and value of seized areca or betel nut, and paan masala by DRI (2018 - 2020)

States with seized Areca/betel nut and Paan masala	Year-wise quantity in sticks (Amount in Rs.)		
	2018	2019	2020
Andhra Pradesh	-	-	113 MT (Value not estimated)
Mizoram	-	39.15 MT (Rs.1,08,00,000)	-
Delhi	21 MT (Rs. 60,00,000)	-	-
West Bengal	-	3.9 MT (Rs.1,07,67,000)	-
Gujarat	Quantity not mentioned (Rs.38,00,000)*	-	-
Total quantity and amount of seizure	177.05 MT (Rs. 2.75,67,000)#		
*** Paan masala; # only for areca/betel nut**			

Annexure-II, Table IV: Location of seizure of tobacco products across India by DRI (2018-2020)

Location of seizure of tobacco products	Frequency (%)
Railway station / Train	10 (15.62)
Airport	5 (7.82)
Container Freight Station / Inland Container Depot	5 (7.82)
Port	5 (7.82)
Market / Commercial Area / Shops	3 (4.68)
National Highway / Bypass / On Bridge (Vidyasagar Setu)	3 (4.68)
Warehouse / Godown	2 (3.12)
Not mentioned	31 (48.44)

Annexure III: Methodology

For this report, a systematic review of 184 CAG reports published between January 2009 to May 2020, 104 reports mention various illicit trade activities such as tax violations by various tobacco companies, while four reported violation of seized tobacco products. Using keywords a search for relevant information was carried out, these included: tobacco, chewing tobacco, pan masala, panmasala, paan masala, paanmasala, supari, zarda, vizapatta, betel nut, betelnut, areca nut, arecanut, gutkha, gutkha, gudakhu, gurakhu, gudaku, khaini, tamak, tambakoo, tendu, dokta, cigarette, cigar, bidi, beedi, biri, ITC, pataka, rajnigandha, shikhar, vimal, gul, tuibur, sada, hidakphu and kapoori.

Out of all states and union territories of India, CAG reports of 22 states including union territories (such as Bihar, Uttar Pradesh, Jharkhand, Chhattisgarh, Haryana, Madhya Pradesh, New Delhi, Uttarakhand, Pondicherry, Tamil Nadu, West Bengal, Maharashtra, Arunachal Pradesh, Assam, Manipur, Nagaland, Meghalaya, Orissa, Karnataka, Rajasthan, Andaman & Nicobar and Himachal Pradesh) were reviewed as information of any tobacco products were reported. Out of these 22 states (including union territories), CAG reports of 17 states were considered for further analysis based on the inclusion criteria, i.e. reports with any kind of tax violation by tobacco companies.

All the CAG reports were analysed, keeping in mind the nature of violations (in general and state-wise) (n=104) and quantum of violations (state-wise) (n=90). The nature of violations was further divided into three major categories Non-levy or short levy of tax; Irregular allowance or claim of Tax concession; Non-recovery of revenue as assessment not complete (non/delay in filling ITR, pending R&C cases, other cases on dealer) and there are twenty-one sub-categories under these major categories.

In the CAG report, 4 reports related to seized tobacco products were also found where nature and quantum of violation were not mentioned, so, those reports were excluded for the quantum analysis. Similarly, 14 reports were also found where either quantum was reported for mixed commodities, i.e. for tobacco products along with other products (n=7) or quantum was not reported (n=7); so, these reports were also not included for quantum analysis. Frequency and percentage distributions were calculated for each category under univariate analysis.

Similar strategy of review was used to analyse DRI, CBIC and Parliament reports. DRI reports published from January 2018 to May 2020 were considered for the present study. Data such as the state where the seizure took place, quantity, the value of seized products, location within the state, year of seizure were collected, and a database was prepared. Total 63 cases of seized tobacco products (57 cases of cigarette-related violations, 4 cases of areca/betel nut, 2 cases of paan masala) were reported by DRI from the period 2018-2020. There were 21 cases of seized tobacco products reported in the year 2018; 35 cases in 2019; and 7 cases in 2020. Total 15 States, namely, Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Haryana, Maharashtra, Manipur, Meghalaya, Mizoram, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal were found to have seized tobacco products. Of 63 cases of seized tobacco products; 45 cases of seized cigarette, three cases of areca/betel nut, and one case of paan masala was considered for further analysis as both quantity and amount of seizure was available. The remaining 14 cases of seized tobacco either had missing quantity or amount of seized tobacco product or had not specified value for tobacco products separately, hence was not included in the analysis.

Reports from CBIC website with inference to the tobacco industry were reviewed from 2009 to 2020. The researchers came across a letter issued by Mr M. Ajit Kumar, Chairman, CBIC on 13th July' 2020 stated that Customs department has found that COVID-19 special trains are being used by organized crime syndicates to transport smuggled foreign brand cigarettes across the country. To strengthen the evidence, news reports, government websites, data etc. were searched, collated and analysed for this report.

एम. अजित कुमार
अध्यक्ष
M. Ajit Kumar
Chairman

सत्यमेव जयते

भारत सरकार
वित्त मंत्रालय
राजस्व विभाग
केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड
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D.O.No.23/CH(IC)/2020 **Date: 13th July 2020**

Dear colleague

I had in my last letter, promised to pick up the trail of unfinished activities of an action-packed week. I now redeem that commitment.

A well-orchestrated modus operandi by unscrupulous elements to smuggle gold through diplomatic cargo was foiled by Customs officers at the Trivandrum Air Cargo Complex. This significant case, the first of its kind in Kerala, resulted in the recovery of 30 Kgs of gold valued at Rs. 14.82 crores. Investigation in the case is ongoing. My appreciation to Chief Commissioner Shri Shyam Raj Prasad, and especially Commissioner Shri Sumit Kumar along with their dedicated team of officers for this excellent detection and the untiring and sustained work of investigation right through the week and beyond.

The Covid period has tested the alertness of our anti-evasion teams and our officers have not been found wanting. Delhi Customs (Preventive) officers have affected two seizures of Cigarettes based on specific intelligence. On 10.07.2020, 10 lakh Cigarettes were seized at New Delhi Railway station. The cigarettes were recovered from a COVID-19 special train coming from Varanasi to Delhi. Another case resulted in a seizure of 9 lakh Cigarettes. In total, 19 lakh cigarette sticks valued at around Rs 1.56 crores were seized. My congratulations to Shri Gurdeep Singh, Pr. Commissioner, Shri Hemant Kumar, Deputy Commissioner and their team of officers for the good work done.

Based on specific intelligence, DGGI Hqrs has detected GST evasion by a large number of grain-based distilleries on 'wet distilled grains with solubles' (WDGS) / 'dried distilled grains with solubles' (DDGS). These are distillery waste and dregs arising as a by-product in the process of manufacturing ethanol. The distilleries had classified the goods in the Central Excise regime under CH2303. They were however now allegedly misdeclaring it as animal / cattle feed under CH2309, which attracts nil rate of tax under GST. Many of the suppliers have admitted the liability and recovery of over Rs. 20 crores has been made till date. Had it not been for the diligence of DGGI this would not have come to notice in this sector the major activities of which normally come under state excise control.

A very interesting offshoot of verification of clearances of DDGS at a Bhopal-based distillery was the discovery by Bhopal DGGI Zone of large-scale evasion of GST on clandestine removal of alcohol-based hand sanitisers. The distillery has clandestinely cleared a huge quantity of hand sanitiser in bottles as well as in bulk form, involving GST evasion of over Rs 30 crores. The directors of the company have been arrested. They have voluntarily paid Rs 8 crores so far. Other zones may also verify clearances of the above products within their jurisdiction without any impediment to compliant clearances of what has now become a very essential commodity.

Congratulations to Pr. DG DGGI Shri O. P. Dadhich, Shri Sandeep Prakash, Pr. ADG, Hqrs, Shri S.Satyanarayanan, JD, DGGI, Chennai, Shri. Abhishek Jain, AD, DGGI Bhopal and their team of officers for their success in booking these cases.

DRI too has reported that in a series of cases they have seized 5400 kg of Ganja through Patna Regional Unit, Agartala Regional Unit and Varanasi Sub Regional Unit. I am also given to understand that Shri Rakesh Ranjan, SIO Patna Regional Unit had contributed immensely to these cases setting aside his personal hardships. I commend him for his sense of duty.

Turning from duty evasion to officer staff welfare, I was glad to note that, to overcome the difficulties faced by officers and staff and their families of procuring groceries during the stringent Covid related lock-down, Pune Zone had taken up a proposal with Kendriya Bhandar to establish a branch of their store in the office and residential complex. This first of its kind venture in Pune will go a long way to enable officers and staff in procuring reasonably priced groceries easily and at a safe, proximate location. I have also been told that the flooring / furnishing and electrical fittings were installed with unprecedented speed and efficiency by CPWD's Civil & Electrical wings. Congratulations to the Chief Commissioner Ms Krishna Mishra and her team of officers of the zone along with personnel of the Kendriya Bhandar and CPWD departments. While certain zones already have similar facilities, other zones could also think of providing such facilities to their staff.

Testing of samples is a very critical aspect of proper classification and assessment of goods. Timely and accurate analysis of imported goods has been a challenge for many years. To resolve these issues, over the past three years, CRCL and other Revenue Laboratories have been upgraded at an estimated cost of Rs. 90 crores. Several new state of art equipment have been procured. Use of this equipment with new analytical techniques has enabled the laboratories to test a wider variety of commodities in lesser time and with greater accuracy. CRCL has prepared a brochure to show case and increase awareness about its new capabilities with the help of real cases. This would make departmental officers aware of the new capabilities of our labs and how these could be utilized to enhance trade facilitation and better enforcement. I compliment Director, CRCL Shri Sandeep Prakash for taking the initiative to modernise our labs and also bring out this brochure. I also commend the efforts of Dr. T.A. Sreenivasa Rao, Joint Director, and Shri Pradeep Maroo, CE-II in preparing this informative brochure.

Turning the focus to the economy, as mentioned in my last letter, with economic activity picking up, our focus should be back on revenue collection and trade facilitation. Our efforts in ensuring timely collection of legitimate taxes would facilitate the targeted delivery of the fiscal support package.

I have received a very timely and useful suggestion from Shri Manish Sinha, Commissioner, to create a zonal repository of Covid-recovered officers who are willing to donate plasma to save lives. Details of their telephone numbers and blood groups can be compiled at the zonal level for emergency use. Their plasma would be life saving for those infected. A noble initiative. I leave you with that thought while I wish you all a safe and healthy week ahead.

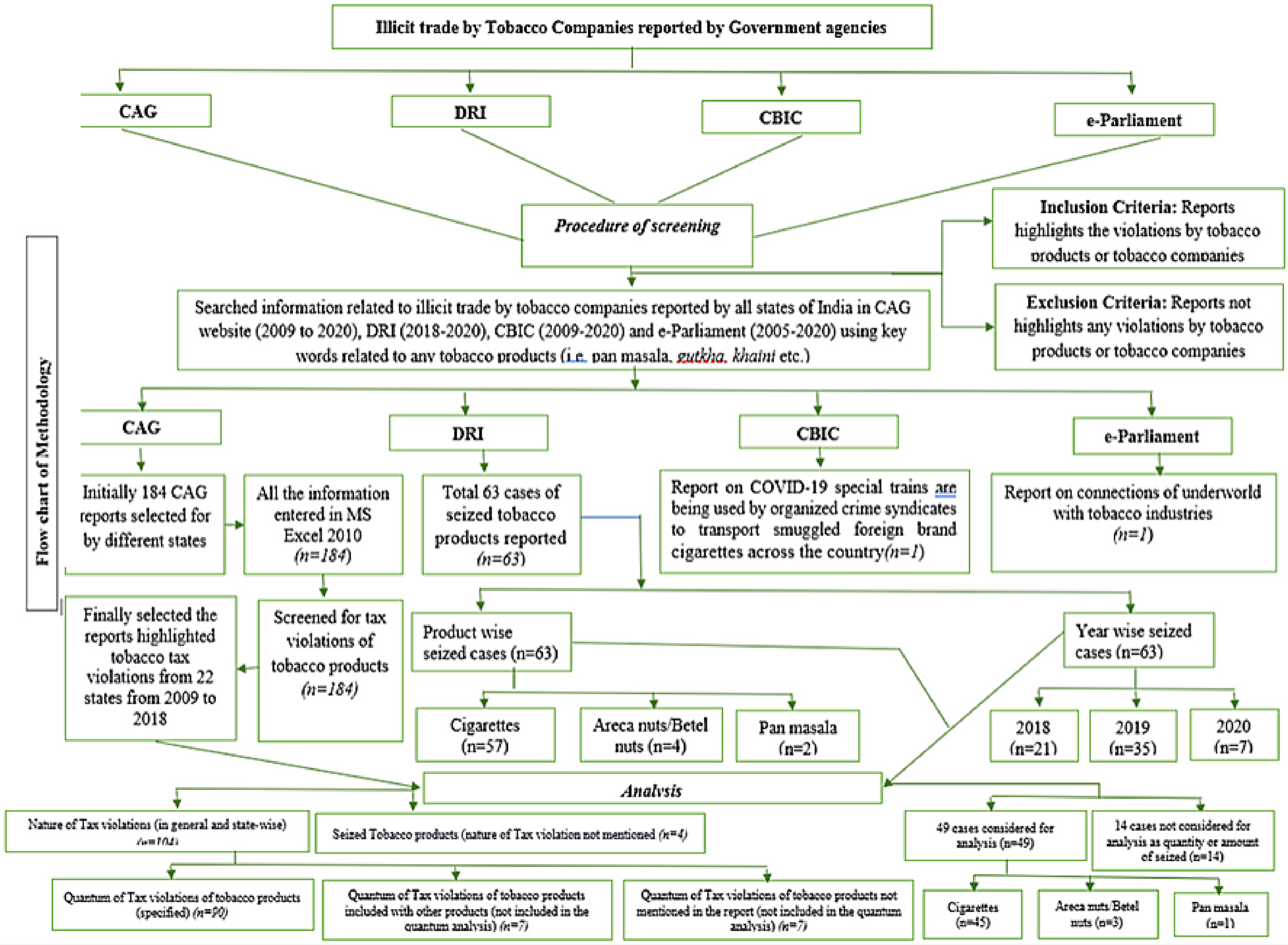
With best wishes

Yours sincerely

(M. Ajit Kumar)

To,
All Officers and Staff of Central Board of Indirect Taxes and Customs

Flowchart of Methodology



Annexure IV: Companies which have evaded tax of over 100 crores as per Rajya Sabha Question

Tobacco Companies evaded tax	Brand name (based on brands mentioned on company websites and other sources)
Godfrey Phillips, Maharashtra	Marlboro, Four square, Red &White, Cavanders, Stellar, North pole and Tipper; Chewing pan masala- Pan Vilas, Raag
ITC, West Bengal (Not mentioned when booked by DRI)	Insignia, India Kings, Classic, Gold Flake, American Club, Navy Cut, Players, Scissors, Capstan, Berkeley, Bristol, Flake, Silk Cut, Duke & Royal, Wave
Prabhat Zarda Factory Pvt. Ltd., Bihar	Ratna No.300, Prabhat No. 500, Prabhat No. 310
Ashok & Co. Pan Bahar Ltd, Delhi	Pan Bahar - The heritage panmasala, Pan Bahar Crystal, Pan Bahar, Bahar, Begum, Dilruba, Natkhat, Wah, Bahubali, Bahar Select
Som Pan Products Pvt. Ltd. , Delhi	Dilbagh
Raj Products & Others, Delhi	Rangeela pan masala and Gutka
S N Agrifoods Pvt. Ltd. & others, Delhi	Panraj, Saffron blended Panraj
Vishnu Pouch packaging Pvt. Ltd. (unit-I), Gujarat	Vimal
Shree Flavour LLP, Haryana	Gopal, ShaktiMan, Starlites, Billo, Joie, Dilkush
New Kamath Tobacco Pvt. Ltd, Maharashtra	Kamath (Brand)- Haathi Chaap Pandharpuri Tobacco, Kamath Pandharpuri Tobacco (two names of the same brand)
Fastrack Packers Pvt. Ltd, Maharashtra	Gai Chhap Jarda
Shri Farooq Mussa Jamadar and others, Maharashtra	Miraj-Raj Kolhapuri, Yatri
Kay Pan Sugandh, Odisha	Safal
Meena Zarda Udyog Pvt. Ltd., Odisha	Meenaiee. Meenaiimawa (brand)
Gopalji Ketaki Khara Masala, Odisha	K909 Gutkha
Miraj Products Private Ltd. (Unit No. 1), Rajasthan	Miraj
Dharampal Satyapal Ltd, Tripura	Rajnigandha, Tulsi, Baba (brands)- Tansen Supreme, Mastaba, Baba Supari, Baba Black supari, Baba 120, Baba 160, Baba 600
Harsingar Gutkha Pvt. Ltd, Uttar Pradesh	Harsingar
AMP Pan Products Pvt. Ltd., Uttar Pradesh	Dabangg 2
Kay Flavours Private Ltd, Uttar Pradesh	Kamla Pasand
Kay Pan Fragrances Pvt. Ltd., Uttar Pradesh	KP Black label premium, Rajshree
Shree Meenakshi Food Products Pvt. Ltd, Dadra & Nagar Haveli and Daman & Diu	Goa 1000 gutkha
Yogesh Associates, Dadra & Nagar Haveli and Daman & Diu	Goa 1000 gutkha

Roles and responsibilities of India’s financial regulators and agencies

Comptroller and Auditor General of India (CAG) (https://cag.gov.in/cag-india)

CAG is the supreme authority responsible for internal and external audits of the expenses of the National and State governments. Comptroller and Auditor General is directly appointed by the President of India.

CAG reports are highly accountable and transparent in nature, abiding by the principle of the Indian Constitution. It is a body that is only accountable to the Constitution and works independently making relevant information available and analysing that information. Some of the actions taken by CAG involved reporting of major scams such as the 2G spectrum auction scam, the Coal Scam, and commonwealth games scam. The CAG reports are valuable to look for the loss of government’s revenue as well as it highlights various modus operandi in each scam. It focuses on the lack of adherence to already established procedures, areas of accountability to be shown to Parliament and adherence to established government objectives and the report of the CAG goes to the Parliament and to the Public Accounts Committee (PAC) for further consideration.

Directorate of Revenue Intelligence (DRI) (http://dri.nic.in/main/charter)

DRI is the apex agency of the Indian Customs, working in the field of anti-smuggling in India, under the Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance, Government of India.

DRI enforces the provisions of the Customs Act 1962 and more than fifty other partnered Acts including the Arms Act, Narcotic Drugs and Psychotropic Substances Act (NDPS), Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (COFEPOSA), Wildlife Act, Antiquities Act and so forth.

The DRI is a counter-smuggling agency that deals with tax evasion, smuggling, money laundering, and reveals various modus operandi for illegal or tax evasion activities, strengthening the economy of the country. Smuggling of Tobacco products, firearms, gold, narcotics, Fake Indian Currency Notes, antiques, wildlife and environmental products etc. are done by the agency. DRI earned huge fame for seizure of gold, narcotic drugs and smuggled foreign currency, which are the major area of concern for the DRI.

Central Board of Indirect Taxes and Customs (CBIC) (www.cbic.gov.in)

CBIC is a part of the Department of Revenue under the Ministry of Finance, Government of India. It deals with the tasks of formulation of policy concerning levy and collection of Customs, Central Excise duties, Central Goods & Services Tax (CGST) and Integrated Goods and Services Tax (IGST), prevention of smuggling and administration of matters relating to Customs, Central Excise, CGST, IGST and Narcotics to the extent under CBIC's purview.

e-Parliament (including Parliament Digital Library- PDL) (https://eparlib.nic.in/)

It provides information about various parliamentary documents of debates, discussions from 1858 to 2020, with more than four lakh documents comprising of nearly 40 lakh pages, such as reports of the Parliamentary Committees, publications and budget speeches.

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