

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10702 of 2012**

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M/S Omkar Agency

.... .... Petitioner

Versus

The Union of India & Ors

.... .... Respondents

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**Appearance :**

For the Petitioner : Mr. Prabhat Ranjan, Advocate

For the State : Mr. Avnish Nandan Sinha GP11

For the Union of India : Mr. S.N. Pathak, Advocate

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**CORAM: HONOURABLE MR. JUSTICE JAYANANDAN SINGH**  
**ORAL ORDER**

2      20-07-2012              Learned counsel for the petitioner is permitted to add  
  
Chairman, Food Safety Authority of India, Ministry of Health and  
  
Family Welfare as party respondent no.6 in this writ application  
  
in course of the day.

Learned counsel for the petitioner has challenged vires of  
two notifications dated 30<sup>th</sup> of May, 2012, as contained in  
Annexure-1, submitting that Gutkha and Pan Mashala are not  
articles of food. Hence, the same are not covered under the  
provisions of the Food Safety and Standards Act, 2006. He also  
submitted that for tobacco products, a specific Act, namely,  
Cigarettes and Other Tobacco Products (Prohibition of  
Advertisement and Regulation of Trade and Commerce,  
Production, Supply and Distribution) Act 2003, is in operation.  
Hence general Act, namely, Food Safety and Standards Act, 2006  
shall not be applicable in matters covered by the earlier Special

Act.

Issue notice to newly added respondent no.6 by registered cover with A/D. Requisite etc. for the same shall be filed within one week, failing which this application, as against it, shall stand rejected without further reference to a Bench.

Put up after service of notice.

Meanwhile, other respondents may also file counter affidavit.

Learned counsel for the petitioner submits that due to ban imposed by the impugned notification, as contained in Annexure-1, large quantity of Gutkha and Pan Mashala have been stacked up in its godown of petitioner. He submits that now, in view of the ban, neither petitioner-firm can sell it nor it can transport it elsewhere outside the State. Hence, during the pendency of this application, petitioner should not be harassed for stocking the materials.

Since petitioner claims that it had stocked the materials before imposition of ban, it is advisable for the respondents to either allow the petitioner to transport the materials somewhere outside the State where ban is not operating or to get stock verification done and to seal the godown till further orders of the Court or any competent authority. Alternatively, if the

respondents so consider it appropriate, after stock verification, they may obtain an undertaking from the petitioner that it shall not sell the articles in open market during the pendency of this application.

Learned counsel for the petitioner will be at liberty to mention this case for its early hearing after service of notice.

**(Jayanandan Singh, J)**

B.T/-