

# Business Standard

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## Duty-free shops outside food safety ambit: FSSAI

Ignoring the internal warnings about the potential threat of bio-terrorism and general safety of consumers, the Food Safety and Standards Authority of India (FSSAI) has decided to stop regulating imported food and beverages sold at duty-free shops.

Business Standard reviewed internal documents of FSSAI, dated between January and April 2016, showing the authority's chairperson overruling his subordinate officials' opinion that the Food Safety and Standards Act (FSSA) Act, 2006 requires the authority to regulate imported food, regardless of whether it is sold at duty-free stores or in other parts of the country. The internal advice made a persistent case for continued regulatory oversight of duty-free shops to ensure imported food products are generally safe for consumption and particularly to address potential bio-terrorism.

The internal decision comes at a time when FSSAI faces a case in the Delhi High Court, filed by Hyderabad Duty Free Retail Limited, a 100 per cent subsidiary of GMR. The firm, which runs the duty-free operations at Hyderabad International Airport, has contended that FSSAI has no power to regulate the food and beverage products being sold at different international airports. So far, FSSAI had argued in court that it did.

FSSAI did not respond to detailed queries sent by Business Standard. But the chief executive officer of FSSAI, Pawan Kumar Agarwal said, "The issue that you mentioned has been resolved in favour of what people wanted."

The market for duty-free goods sold in India was estimated at \$215 million annually in 2012 by the CAPA Centre for Aviation. According to industry experts,

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more than 70 per cent of this is food & beverages that comes under the purview of FSSAI regulations. The total business of retail, food and beverages at duty-free shops in India was estimated to have a potential of \$3.5 billion by 2021.

Now, FSSAI chairperson Ashish Bahuguna has ordered that the authority lay off regulating this industry entirely. “I am not sure whether pursuance of this matter would be judicious deployment of our resources, given that this affects only a minuscule number of people (who are, in any case, carrying similar food articles purchased from abroad in their personal luggage),” he wrote in January. FSSAI’s legal experts and officials objected to the chairperson’s recommendations.

Its legal advisor wrote, “To fulfil our legal obligation under the Act, we cannot afford to bypass any group of food business operators under the legal boundary of India. If such food is brought into the country even if it is at duty-free shops, it could pose risk to the life of millions (even minuscule quantities if they have trace levels of the above bacterial and viral agents) if we have not even brought it in our ambit and followed the basic procedures of inspection and sampling. It is appreciated that our resources are limited at present, but the same will need to be provided to ensure all areas concerning food are addressed as per enacted legislation.”

The advice came appended with an 11-page note on the threat of bio-terrorism from even small quantities of virus and bacterial agents could be used through food to cause grievous injuries to many.

The note said the FSSA Act is concerned with any food within the geographical territory of India and if any untoward event occurs at the duty-free shops, it is also covered by the laws of the country. “In the developed world, every imported food consignment is subject to careful scrutiny, especially addressing the capability of food as a tool for bio-terrorism,” said the advisor.

Section 1(2) of the FSSA Act says, “It extends to the whole of India.” In the US, the Food and Drug Administration (FDA) — FSSAI’s equivalent — is the regulatory agency entrusted to “take steps to protect the public from a threatened or actual terrorist attack on the US food supply and other food-related emergencies”.

The FSSAI chairperson responded to the warning from his subordinate about bio-terrorism and said, “A very interesting and informative treatise, which has little or no relevance to the case at hand. We have to address basics of food safety, not of

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bio-terrorism or disease control which are within the mandate of other agencies. We must recognise that the aim of our Act is to ensure the availability of safe and wholesome food and cannot be the instrument to prevent acts of bio-terrorism, which, in any case, will operate outside the confines of the legal system of the country. The measures adopted by us have to be no more restrictive of trade than is required to achieve an appropriate level of health protection.”

He added that passengers arriving in the country were allowed to carry food for personal consumption and these goods were not for commercial purpose and “hence, cannot pose risk to public health under normal circumstances”.

## **Something To Chew On**

**\$215 million:** The market for duty-free goods sold annually in India in 2012 by the CAPA Centre for Aviation. More than 70% of this is food & beverages that came under the purview of FSSAI regulations till date.

**\$3.5 billion:** Estimated total business of retail, food and beverages at duty-free shops in India by 2021