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BANNED, RESTRICTED, OR JUST IGNORED? THE NICOTINE POUCH CONFUSION IN INDIA

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ABSTRACT

With the introduction of new nicotine products in the world, there is an increase in concerns regarding regulation. The blog examines the statutory confusion for fast-growing nicotine pouches in India. It studies the Cigarettes and Other Tobacco Products Act, 2003, the Prohibition of Electronic Cigarettes Act, 2019, and the Drugs and Cosmetics Act, 1940, each falling short of covering the product. Furthermore, the import of nicotine pouches is not governed by the Foreign Trade Act, 1992, and the Customs Act, 1962, increasing the health concerns. It discusses the spread through gig workers, online delivery platforms, and advertisements through social media, creating youth exposure concerns. It concludes by suggesting a clear statutory framework, nicotine literacy, systemic data collection, health warnings, and age requirements.

INTRODUCTION

A recent study shows that India's modern oral nicotine products market size is expected to reach a revenue of USD 44.5 million by 2033, i.e., an annual growth of almost 31% from 2026.¹ This shows that the tobacco landscape is evolving toward nicotine products,² such as nicotine pouches, e-cigarettes, and heat-not-burn products, which are a rising concern. These

¹ India Modern Oral Nicotine Products Market Size & Outlook, 2033, Grand View Research (July 24, 2026), <https://www.grandviewresearch.com/horizon/outlook/modern-oral-nicotine-products-market/india> (reporting that India's modern oral nicotine products market generated US\$4.7 million in revenue in 2025, is projected to reach US\$44.5 million by 2033, and is expected to grow at a CAGR of 31.6% from 2026 to 2033, with nicotine pouches the largest revenue-generating product type in 2025).

² Ravita Yadav & Sonu Goel, *Urgent Need to Regulate Herbal and Nicotine-Based Tobacco Products in India*, 38 Indian J. Cmty. Health (2026), <https://doi.org/10.47203/ijch.2026.v38i02.054>.

are non-combustible products that deliver nicotine without tobacco toxins.³ As nicotine is an addictive component, these products, especially nicotine pouches, lead to greater uptake of nicotine into the bloodstream.⁴ A recent report by the WHO on nicotine pouches states that 160 countries have no regulation for the product, which exposes youth to health risks.⁵ Only 16 countries explicitly ban them (excluding India). Hence, the regulatory gap extends to India, where, despite rapid youth and market exposure to nicotine pouches, no legislative act regulates them.

THE REGULATORY VACUUM

As there is an increase in the use of nicotine pouches, it is important to study the statutory regulation of the same. The first is the Cigarettes and Other Tobacco Products Act, 2003,⁶ governing the marketing, sale, and advertisement of cigarettes and other tobacco products. Section 3(p), read with the schedule of the Act⁷ list the tobacco products. However, the definition is inclusive and does not extend to every product containing nicotine.

The Prohibition of Electronic Cigarettes Act, 2019⁸ prohibits the manufacture, sale, production, import, export, etc. of e-cigarettes. Defined under Section 3(d), an e-cigarette is a device that heats a substance to create an aerosol for inhalation.⁹ A separate Act was enacted, as other Acts did not include such substances. However, this does not include nicotine pouches, as they have no heating substance or electronic device.¹⁰

Another Act is the Drugs and Cosmetics Act, 1940,¹¹ which does not put nicotine under the scheduled drugs. But Schedule K of the Act¹² mentions nicotine gums and lozenges containing up to 2 mg of nicotine to be sold from unlicensed premises under a valid license

³ Giusy Rita Maria La Rosa et al., *Nicotine Pouches, Oral Cancer and Tobacco Harm Reduction: Current Evidence and Research Priorities*, 7 *Frontiers in Oral Health*, art. 1761734 (2026), <https://doi.org/10.3389/froh.2026.1761734>.

⁴ Sudhanshu Patwardhan & Karl Fagerström, *The New Nicotine Pouch Category: A Tobacco Harm Reduction Tool?*, 24 *Nicotine & Tobacco Research* 623 (2022), <https://doi.org/10.1093/ntr/ntab198>.

See also Sudhanshu Patwardhan, *Nicotine Pouches: A Research and Regulatory Policy Agenda to Maximise Public Health Benefits and Minimise Harms* (Qeios, Apr. 19, 2021), <https://doi.org/10.32388/14tiaf.4>.

⁵ World Health Organization, *WHO Warns Nicotine Pouch Brands Targeting Youth as Sales Surge*, May 15, 2026, <https://www.who.int/news/item/15-05-2026-who-warns-nicotine-pouch-brands-targeting-youth-as-sales-surge>.

⁶ The Cigarettes and Other Tobacco Products Act, 2003, No. 34, Acts of Parliament, 2003 (India).

⁷ Cigarettes and Other Tobacco Products Act, 2003, § 3(p), sched. (India).

⁸ The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, 2019, No. 42, Acts of Parliament, 2019 (India).

⁹ The Prohibition of Electronic Cigarettes (Production, Manufacture, Import, Export, Transport, Sale, Distribution, Storage and Advertisement) Act, No. 42 of 2019, § 3(d) (India).

¹⁰ Murali Neelakantan, *Are Nicotine Pouches Beyond the Law? Explained*, *The Hindu* (Sept. 8, 2026), <https://www.thehindu.com/news/national/are-nicotine-pouches-beyond-the-law-explained/article71438519.ece>.

¹¹ The Drugs and Cosmetics Act, 1940, No. 23, Acts of Parliament, 1940 (India).

¹² Drugs and Cosmetics Rules, 1945, r. 123, sched. K, item 33 (India).

under this Act.¹³ Even though the Act recognises products for "Nicotine Replacement Therapy," as drugs, a loophole persists; the Act is silent on the status of nicotine pouches.¹⁴ The other aspect is the import of nicotine pouches, which is not explicitly governed under the Foreign Trade Act, 1992, and the Customs Act, 1962. However, the World Customs Organization proposes the subcategory of oral application of nicotine products without combustion under 2404.91.¹⁵ These are not outright prohibited but need permission from the Director General of Foreign Trade and allied ministries for import.¹⁶ Even though import permission is required, this has not curbed access to nicotine pouches through gig delivery platforms. On this line, in September 2026, the National Tobacco Control Programme (NTCP) recommended rejecting the applications for manufacturing and import licenses for nicotine pouches,¹⁷ due to increasing health concerns.

ENFORCEMENT GAP

Nicotine pouches are marketed and sold globally through different platforms. The ICMR-NICPR recently found that nicotine pouches are reaching consumers through gig workers, online vendors, and hookah shops, helping in physical distribution.¹⁸ Most of the brands, like VELO, advertise through their Instagram and YouTube handles.¹⁹ These platforms have high engagement with youth, leading to a surge in the use of such products. Social media influencers unintentionally promote them by using hashtags like '#Nicotinepouch' or similar celebrity sightings,²⁰ which are available without age

¹³S&A Law Offices, *Confusion Around the Status of Electronic Nicotine Delivery Systems: Drug or Poison?*, Mondaq (Oct. 23, 2019), <https://www.mondaq.com/india/food-and-drugs-law/856664/confusion-around-the-status-of-electronic-nicotine-delivery-systems-drug-or-poison>.

¹⁴ Krishna Sarma, *Spotlight on Tobacco: Reduced-Risk Tobacco Products: A Case of Policy Vacuum in India*, Food & Drug Law Institute (May 2019), <https://www.fdli.org/2019/05/spotlight-on-tobacco-reduced-risk-tobacco-products-a-case-of-policy-vacuum-in-india/>.

¹⁵ World Customs Organization, *Harmonized Commodity Description and Coding System (HS)*, 2022 ed., ch. 24, heading 24.04, https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/instruments-and-tools/hs-nomenclature-2022/2022/0424_2022e.pdf?la=en.

¹⁶ The Hindu, *supra* note 10.

¹⁷ *India: Smokeless Tobacco Market*, Tobacco Insider (Sept. 8, 2026), <https://tobaccoinsider.com/india-smokeless-tobacco-market/>.

¹⁸ Anuradha Mascarenhas, *New Study Flags Concern Over Sale of Illegal Nicotine Pouches, Warns of Addiction*, The Indian Express (June 10, 2026), <https://indianexpress.com/article/cities/pune/illegal-nicotine-pouches-addiction-study-10733654>.

¹⁹ Tianze Sun & Harry Tattan-Birch, *Sports, Gigs, and TikToks: Multi-Channel Advertising of Oral Nicotine Pouches* (Qeios, Jan. 10, 2024), <https://doi.org/10.32388/uirp1o>.

²⁰ P. . Dobbs et al., *"Cashing In" Nicotine Pouches for Prizes*, Tobacco Control (June 14, 2024), <https://doi.org/10.1136/tc-2024-058691>.

restrictions.²¹ Influencers are considered to have “perceived authenticity”²² among the viewers. Hence, even though there is non-disclosure of paid sponsorship and promotional content, viewers rely on their advertised products, leading to more engagement with nicotine pouches.²³ Other than this, these are also marketed through retail displays, billboards,²⁴ music festivals, posters, and vending machines.

One of the classic ways of making nicotine pouches available is through duty-free shops. Recently, it was found that duty-free shops at Mumbai International Airport, run by the Adani Group of Industries, are selling nicotine pouches.²⁵ A case has been filed in which government authorities have stated that these products are public hazards.²⁶ Hence, a decision of the court in Adani’s case will become one of the landmark judgments to regulate nicotine pouches. In *M/S Flemingo Duty Free Shop Pvt Ltd & Ors. v. Shri Kaushik Bhattacharya & Anr.* (2024), the Calcutta High Court held that duty-free shops are outside India for the purpose of the Customs Act.²⁷ This means that it is not included under the conventional understanding of imports. The notable point is that nicotine pouches are outside the list of goods generally allowed to be sold in duty-free shops. The Customs Act, 1962,²⁸ is silent on the import of nicotine pouches, making it an unregulated area.

WAY FORWARD

Some studies show that nicotine pouches have lower risk capacity as compared to traditional cigarettes.²⁹ It can lead to a reduction in dependence on tobacco products and e-cigarettes.³⁰ However, these are highly addictive. An alternative to smoking tobacco can have a positive

²¹Nicholas J. Felicione et al., *Oral Nicotine Pouches: Rising Popularity and State of the Science*, 141 Pub. Health Rep. 55 (2026).

²² World Health Organization, *Exposing Marketing Tactics and Strategies Driving the Global Growth of Nicotine Pouches*, at 106–07 (2026), <https://iris.who.int/handle/10665/385691>.

²³ Id. at 112.

²⁴ Felicione et al., *supra* note 21.

²⁵ Reuters, *Adani’s Mumbai Airport Shops Sold Nicotine Pouches in Breach of Law*, Hindu Bus. Line (July 7, 2026), <https://www.thehindubusinessline.com/economy/logistics/adanis-mumbai-airport-shops-sold-nicotine-pouches-in-breach-of-law/article71192992.ece>.

²⁶ Reuters, *India Seeks to Quash Adani Airport’s Nicotine Pouch Court Challenge Citing Illegality, Health Risk*, Econ. Times (July 13, 2026), <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/india-seeks-to-quash-adani-airports-nicotine-pouch-court-challenge-citing-illegality-health-risk/articleshow/132363621.cms>.

²⁷ *M/s. Flemingo Duty Free Shop Pvt. Ltd. v. Kaushik Bhattacharya*, CRR No. 819 of 2019 (Calcutta H.C. Apr. 24, 2024), <https://indiankanoon.org/doc/195886963/>.

²⁸ The Customs Act, 1962, No. 52, Acts of Parliament, 1962 (India).

²⁹ Javad Heshmati et al., *Nicotine Pouches and Clinical Outcomes Related to Smoking Cessation: A Systematic Review of Randomized Trials*, *Addiction*, at 1–14 (2025), <https://doi.org/10.1111/add.70193>.

³⁰ La Rosa et al., *supra* note 3.

impact, but the unregulated marketing and youth exposure are the concerning parts. This is due to nicotine illiteracy,³¹ which can be regulated by informing people that nicotine pouches, if regulated, can be used for craving relief and withdrawal management.³² Due to the lack of nicotine literacy, there is an increase in youth targeting and dual use of both nicotine and tobacco.³³ Youth targeting is through marketing and flavouring, which can be reduced by limiting brand stretching and advertisements.³⁴ An example from US regulation of e-cigarettes can be used to limit the flavours to mint and methanol, which will restrict youth attraction.³⁵

Another key concern is the lack of a statutory framework, which can be addressed by classifying them under the definition of drugs under the 1940 Act³⁶ or under tobacco products in the 2003 Act.³⁷ India can even move to separate legislation for both synthetic and herbal nicotine pouches.³⁸ Sale can also be regulated by health warnings on packets, minimum age requirements for purchasers, and sale bans.³⁹ Better regulation is followed by proper surveys and programmes to address research gaps and public health concerns, filling regulatory gaps.

³¹ Hajed M. Al-Otaibi & Malik A. Althobiani, *Nicotine Pouches: A Narrative Review of the Existing Literature*, 13 *Frontiers in Public Health*, art. 1641308 (2025), <https://doi.org/10.3389/fpubh.2025.1641308>.

³² Patwardhan & Fagerström, *supra* note 4.

³³ *Id.*

³⁴ Amit Yadav et al., *Smokeless Tobacco Control in India: Policy Review and Lessons for High-Burden Countries*, 5 *BMJ Global Health* (2020), <https://doi.org/10.1136/bmjgh-2020-002367>.

³⁵ Christofer Fjellner, *Innovation and Less Harmful Alternatives to Tobacco: The Case of Nicotine Pouches Regulation*, at 14, 18 (EconStor 2020), <https://www.econstor.eu/>.

³⁶ Drugs and Cosmetics Rules, 1940, (India).

³⁷ Cigarettes and Other Tobacco Products Act, 2003, (India).

³⁸ Michelle Duren et al., *Nicotine Pouches: A Summary of Regulatory Approaches Across 67 Countries*, 33 *Tobacco Control* e32, e38 (2024), <https://doi.org/10.1136/tc-2022-057734>.

³⁹ *Id.*