Res extra commercium

It is Latin phrase meaning ‘outside commerce’. The doctrine dates back to the Roman period. If applied, the doctrine gives authorities more leeway to impose restrictions. e.g The Supreme Court’s application of the doctrine to alcohol in the 1970s paved the way for at least two Indian states to ban it completely and allowed courts to take a stricter stance while regulating liquor.

The Indian government is now pushing the Supreme Court to use this doctrine to the tobacco industry’s legal right to trade. With an aim to curb tobacco consumption, the government has recently raised tobacco taxes, started smoking cessation campaigns and introduced laws requiring covering most of the package in health warnings.

But a court in Karnataka recently quashed the labelling rules holding them as “unreasonable” and as violative of the right to trade. So the government is pushing the courts to use the doctrine to deter tobacco companies from challenging tough new regulations.