

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of the records of the State Excise offices, conducted during the year 2008-09 revealed non/short recovery of excise revenue amounting to Rs. 60.28 crore in 172 cases, which fall under the following categories:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	Non/short realisation of excise duty and licence fee	68	55.70
2.	Loss of excise duty on account of excess wastage of liquor	44	0.48
3.	Other irregularities	60	4.10
Total		172	60.28

During the year 2008-09, the department accepted short realisation and other deficiencies in 96 cases involving Rs. 3.58 crore of which 40 cases involving Rs. 1.91 crore had been pointed out in audit during 2008-09 and the rest in earlier years. The department recovered Rs. 1.36 crore in 50 cases of which 10 cases involving Rs. 34.43 lakh had been pointed out in audit during the year 2008-09 and the rest in earlier years.

After issue of a draft paragraph, the department intimated (July 2009) recovery of Rs. 8 lakh pertaining to a single observation pointed out during 2008-09.

Few illustrative audit observations involving Rs. 45.36 crore are discussed in the following paragraphs.

5.2 Audit observations

Test check of the records in State Excise Department revealed non/short recovery of excise revenue as mentioned in the succeeding paragraphs in this chapter. Such omissions were pointed out in earlier years but not only did the irregularities persist, these remain undetected till an audit is conducted. These cases are illustrative and are based on a test check carried out in audit. There is need for the Government to improve the internal control system including strengthening of internal audit in order to avoid re-occurrence of such cases.

5.3 Non-observance of the provision of excise policy

The Rajasthan Excise Act and Rules provides for:

- (a) *levy of excise duty at prescribed rates;*
- (b) *levy of licence fee at prescribed rates; and*
- (c) *levy of excise duty on excess wastage of spirit/non-potable beer*

The District Excise Officers did not observe some of the rules in cases mentioned in the paragraph 5.3.1 to 5.3.4. This resulted in non/short levy of excise duty/licence fee of Rs. 45.36 crore.

5.3.1 Short levy of excise duty

Non-prescribing of excise duty to be levied on Indian made foreign liquor (IMFL) on the selling price per carton of pints and nips declared by the manufacturers, resulted in loss of revenue of Rs. 43.34 crore.

As per the Excise Policy 2005-06, the rate of excise duty on Indian made foreign liquor (IMFL) was to be charged on the selling price per carton declared by the manufacturers. The Government notified the rates of excise duty with effect from 1 April 2005 on the selling price of quart¹ bottles as declared by the manufacturers. These rates were retained by the Government for the year 2007-08 also. The Government did not notify the excise duty leviable on the selling price of pints and nips².

Test check of the records of 32 District Excise Offices³ viz. verification of details of duty paid on liquor *vis-a-vis* invoices issued by the manufacturers between May 2008 and February 2009 revealed that 16,47,832 cartons of pints and nips were sold at higher rates than the declared price of quart bottles. Due to failure on part of the Government to declare rates of excise duty on pints and nips in the notification, the department charged excise duty on pints and nips on the basis of declared price of quart bottles, which resulted in loss of revenue of

¹ A unit of liquor equal to a quarter of a gallon or two pints.

² Pouches/bottles in which liquor is sold. Pint: 375 ml, nips: 180 ml.

³ Ajmer, Alwar, Baran, Banswara, Barmer, Bharatpur, Bhilwara, Bikaner, Bundi, Chittorgarh, Churu, Dausa, Dholpur, Dungarpur, Hanumangarh, Jaipur, Jaisalmer, Jalore, Jhalawar, Jhunjhunu, Jodhpur, Karauli, Kota, Nagaur, Pali, Rajsamand, Sawaimadhupur, Sikar, Sirohi, Sriganganagar, Tonk and Udaipur.

Rs. 43.34 crore. Summarised position is mentioned below:

Range of declared price of IMFL cartons of pints and nips	No. of cartons of pints (P) and nips(N)	Total LPL ⁴ involved	Excise duty leviable per LPL (Rs)	Excise duty charged per LPL (Rs)	Difference of excise duty per LPL (Rs.)	Short levy of excise duty (Rs. in crore)
Above Rs. 400 but upto Rs. 600	P- 4,08,205 N- 11,34,414	1,01,06,386.47	210	170	40	40.42
Above Rs. 600 but upto Rs. 900	P- 22,482 N- 70,615	6,09,338.70	250	210	40	2.44
Above Rs. 900 but upto Rs. 1500	P- NIL N- 4,880	31,622.40	280	250	30	0.09
Above Rs. 1500 but upto Rs. 3000	P- 534 N- 5,625	40,054.50	350	280	70	0.28
Above Rs. 3000	P- 454 N- 623	7,101.54	500	350	150	0.11
Total	16,47,832 (P- 4,31,675 N- 12,16,157)	1,07,94,503.61	-	-	-	43.34

After the case was pointed out, the department stated (July 2009) that the excise duty was levied according to notification issued by the Government. However, the fact remains that the excise policy provided for charging of excise duty on the declared selling price of liquor per carton.

Similar observations were also included as paragraph nos. 6.2.16, 5.3 and 6.2 in the Reports of the Comptroller and Auditor General of India (Revenue Receipts), Government of Rajasthan for the year 2005-06, 2006-07 and 2007-08 respectively.

The matter was reported to the Government between January 2009 and March 2009; their reply has not been received (October 2009).

5.3.2 Short levy of licence fee

Non-levy of licence fee at prescribed rate resulted in short recovery of Rs. 1.65 crore.

As per the terms and conditions of licence for retail sale of country liquor issued under the Rajasthan Excise Act, 1950 (RE Act), the annual licence fee payable for composite shops⁵ located within 5 kilometres of municipal limit or its urban agglomeration limit was more than the composite shops located beyond such limit.

Test check of the records of seven District Excise Offices⁶ between June 2008 and January 2009 revealed that 62 composite shops were located either in urban area or within 5 kilometres of the municipal limit as verified from the Urban Development Department and Land Revenue Department. The licensees of these shops were liable to pay licence fee of Rs. 1.82 crore but the department levied

⁴ London Proof Litre.

⁵ Country liquor shops having licence for retail sale of IMFL and beer also.

⁶ Ajmer, Jaipur (City), Jaipur (Rural), Jhunjhunu, Kota, Sirohi and Udaipur.

licence fee of Rs. 17.05 lakh at the rate applicable for shops located beyond 5 kilometres of municipal limit. This resulted in short levy of Rs. 1.65 crore.

After the case was pointed out, the department stated (July 2009) that determination of urban agglomeration limit was done under Urban Land (Ceiling and Regulation) Act, 1976, which was repealed on 11 January 1999. The fact remains that the cases pointed out by Audit are located in urban area and within 5 kilometres of municipal limit which have no relevance to "Urban agglomeration".

The matter was reported to the Government in March 2009; their reply has not been received (October 2009).

5.3.3 Non-levy of excise duty on non-potable beer

Conditions and Restrictions on establishment of Bonded Warehouse provide that Government shall not be responsible for loss of liquor in bond during the currency of licence period. In case of loss, an enquiry shall be held by the Excise Commissioner. If it is found that the loss could have been prevented by reasonable precautions on the part of licensee, he may be required to pay duty and the decision of the Commissioner shall be final and binding on the licensee.

Test check of the records of District Excise Office, Alwar revealed (November 2008) that 8,577 cases of beer stored between April 2005 and March 2007 in the bonded warehouse of Mount Shivalik Industries Limited became non-potable as certified by the Chemical Examiner and Chief Public Analyst, Rajasthan, Jaipur between January 2006 and December 2007. Neither the duty was paid by the brewery nor was it demanded by the department. This resulted in non-levy of excise duty Rs. 23.98 lakh.

After this was pointed out, the department stated (August 2009) that an amount of Rs. 22.48 lakh had been recovered and efforts were being made to recover the balance amount.

The matter was reported to the Government (January 2009); their reply has not been received (October 2009).

5.3.4 Non-recovery of excise duty on excess wastage

Rule 5A of the Stock Taking and Wastage of Liquor Rules, 1959 provides free allowance for wastage of spirit in the process of re-distillation in pot still upto a maximum of 2.5 *per cent* for the purpose of manufacturing of IMFL. In the case of manufacture of Kesar Kasturi brand, an additional 2 *per cent* free allowance for wastage was permissible in the process of re-distillation. When the wastage exceeds the permissible limit, the District Excise Officer must obtain a written explanation from the distiller and forward the same with his recommendation to the Excise Commissioner for orders. The duty on such excess wastage was liable to be recovered at the highest rate leviable on such spirit.

Test check of records of District Excise Office (Prosecution), Jaipur, revealed that Rajasthan State Ganganagar Sugar Mills Limited re-distilled 72,996.837 london proof litre (LPL) spirit for manufacturing of IMFL and Kesar Kasturi brand and was allowed wastage of 4,735.256 LPL spirit which was in excess by 2,559.148 LPL against the permissible limit of 2,176.108 LPL. However, the District Excise

Officer neither obtained written explanation for excess wastage nor demanded excise duty on excess wastage resulting in non recovery of excise duty amounting to Rs. 12.80 lakh at the rate of Rs. 500 per LPL on excess allowance of wastage.

After this was pointed out (March 2009), the department stated (May 2009) that the matter has been referred to the Government to amend the rules.

The matter was reported to the Government (March 2009); their reply has not been received (October 2009).