

## CHAPTER-III : STATE EXCISE

### 3.1 Tax administration

In Assam all excisable items such as beer, country spirit, extra neutral alcohol (ENA) and other spirits are imported from outside the State. India made foreign liquor (IMFL) is manufactured and bottled in the State and also imported from outside the State. The import of such goods is regulated according to the provision of the Assam Excise (AE) Act, 1910 and the Assam Excise Rules (AER), 1945, and various administrative orders issued from time to time. The Assam Bonded Warehouse Rules, 1965, (ABW Rules) regulate the establishment and working of bonded warehouses. The administration of the Excise Duties/Receipts has been vested with the Excise Department. The Commissioner of Excise is the head of the Department and he has been authorised to collect the excise duties/receipts for the State.

### 3.2 Analysis of budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the amount expected to be actually realised within the year, arrears for previous years and advance collections for the coming year. In estimating fixed revenue, the calculations should be based upon the actual demand including arrears due for past years and the probability of its realisation during the year. According to the provision of the Assam Financial Rules, the Finance Department is required to prepare the estimates of revenue on obtaining necessary information/data from the respective Department/Government.

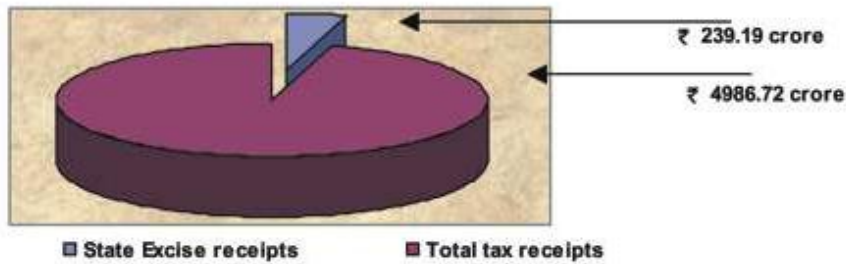
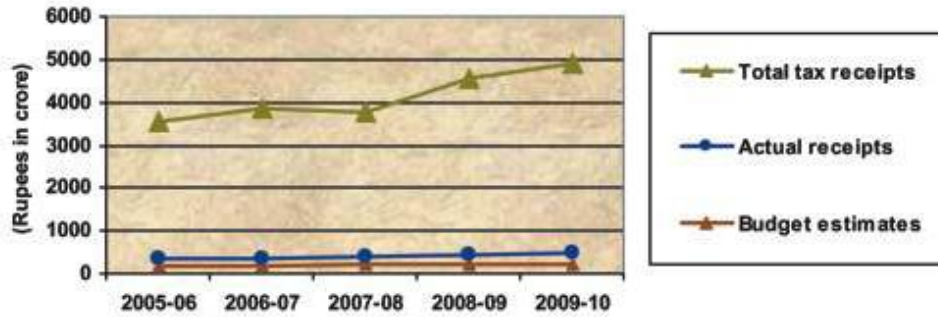
The Government of Assam, Excise Department stated (July 2010) that the budget estimates of revenue were prepared by enhancing 10 *per cent* on the previous year's collection. But the table below does not justify the statement of the Government. This indicated that neither the provisions of the Budget Manual nor any scientific basis was adopted while preparing the estimates of revenue.

### 3.3 Trend of receipts

Actual receipts from State Excise during the last five years 2005-06 to 2009-10 along with total tax receipts during the same period is exhibited in the following table, graphs and pie chart.

(₹ in crore)

Year	Budget estimate	Actual receipts of Excise	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2005-06	172.15	160.40	(-) 11.75	(-) 7	3,232.21	5
2006-07	184.61	174.88	(-) 9.73	(-) 5	3,483.32	5
2007-08	204.92	188.71	(-) 16.21	(-) 8	3,359.50	6
2008-09	223.30	198.68	(-) 24.62	(-) 11	4,150.21	5
2009-10	235.90	239.19	3.29	1	4,986.72	5



### 3.4 Cost of collection

The gross collection of excise duty, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2008-09 along with the relevant all India average percentage of expenditure on collection to gross collection is mentioned below.

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection
2005-06	160.40	7.76	5	2.67
2006-07	174.88	9.70	6	3.30
2007-08	188.71	10.37	6	3.27
2008-09	198.68	11.62	6	3.66

Thus, the percentage to gross collection in all the four years (2005-06 to 2008-09) was significantly higher than the All India average percentage of expenditure on collection.

**We recommend that the Government take appropriate steps to reduce the cost of collection.**

### 3.5 Impact of audit

During the period 2004-05 to 2008-09, we through our inspection reports (IRs) had pointed out non/short realisation of establishment charge/excise duty, non-payment of licence fee and other irregularities with revenue implication of ₹ 16.01 crore in 241 cases. Of these, the DDOs/Department had

accepted audit observations in 14 cases involving ₹ 36 lakh and had since recovered ₹ five lakh. The details are shown in the following table.

(₹ in crore)

Year of Inspection Report	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	14	49	1.32	0	0	Nil	Nil
2005-06	13	42	3.72	4	0.05	4	0.05
2006-07	20	56	8.40	4	0.12	Nil	Nil
2007-08	21	51	1.15	4	0.14	Nil	Nil
2008-09	19	43	1.42	2	0.05	Nil	Nil
<b>Total</b>	<b>87</b>	<b>241</b>	<b>16.01</b>	<b>14</b>	<b>0.36</b>	<b>4</b>	<b>0.05</b>

The recovery made (except 2005-06) against the paragraphs accepted could not be ascertained mainly because of non-receipt of replies from the Department/Government.

### 3.6 Working of internal audit wing

The Finance Department, Government of Assam had neither put in place an Internal Audit Wing for the Excise Department nor did the Excise Department engage some other body like the Director of Local Audit for internal audit of the records/accounts of the Department. This indicated a serious deficiency in the internal control mechanism of the Government.

### 3.7 Results of audit

Our test check of the records of 11 units of State Excise Department, conducted during the year 2009-10 revealed non/short realisation of establishment charges, non-payment of licence fee, loss due to warehouse going dry, non/short realisation of excise duty etc., amounting to ₹ 5.32 crore in 76 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of establishment charge	8	0.22
2.	Non-payment of licence fee	11	0.71
3.	Loss due to warehouse going dry	8	1.01
4.	Loss due to non-levy of excise duty	10	0.62
5.	Other irregularities	39	2.76
<b>Total</b>		<b>76</b>	<b>5.32</b>

During the course of the year, the Department accepted non/short realisation of establishment charges/excise duty and other deficiencies of ₹ 1.48 crore in 18 cases, of which five cases involving ₹ 11 lakh were pointed out by us during the year 2009-10 and the rest in earlier years. An amount of ₹ 1.27 crore was realised in 16 cases during the year 2009-10.

A few illustrative audit observations involving ₹ 76.73 lakh are mentioned in the following paragraphs.

### 3.8 Audit observations

*Our scrutiny of records of the State Excise Department revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year, but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system including establishing an internal audit wing.*

### 3.9 Non-levy of excise duty for short lifting of rectified spirit

[Superintendent of Excise (SE), Jorhat and Tinsukia; February and March 2009]

The Assam Excise Rules (AER), 1945, provide that the licensee is required to prove to the authority granting a pass that the quantity specified in the pass has actually been delivered to the officer-in-charge of the rectified spirit warehouse. In case of non-lifting of the full quantity, the licensee has to obtain non-execution certificate (NEC) duly countersigned by the SE of the district (CE's order of October 2004) and furnish it to the Commissioner of Excise (CE) within 15 days from the date of expiry of the validity of the permit. Otherwise, a sum equal to the amount of duty payable will be realised from him.

We observed that two licensees, M/s Jorhat Rectified Spirit Warehouse and M/s Rangpur Trading Company Ltd., were permitted (June 2008 and November 2008) to lift two lakh bulk litre (BL<sup>1</sup>) and one lakh BL of rectified spirit by September 2008 and March 2009 respectively. We found that the licensees together lifted only 1.80 lakh BL rectified spirit and did not furnish NECs for non-lifting the balance 1.20 lakh BL of spirit within the specified period of 15 days. The

Department did not raise demand for recovering the excise duty of ₹ 39.70 lakh<sup>2</sup> from the licensees.

After we pointed out the mistake, the SE, Tinsukia furnished a copy of the NEC in respect of M/s Rangpur Trading Company Ltd. for non-supply of 60,000 BL of rectified spirit. The NEC was not acceptable as it was not countersigned by the concerned SE. We are yet to receive further replies of the SE, Tinsukia while the SE, Jorhat has not given any specific reply (November 2010).

We reported the matter to the Department/Government in May 2009; we are yet to receive their comments/replies (November 2010).

<sup>1</sup> 1 BL = 1.654 LPL (Rate of duty = ₹ 20 per LPL).

<sup>2</sup> 1.20 lakh BL x 1.654 LPL x ₹ 20 per LPL = ₹ 39.70 lakh.

### 3.10 Non-realisation of licence fee

[SE, Diphu and Kamrup; April and July 2009]

The AER provides that the licensee of wholesale bonded warehouse and foreign liquor 'Off' and 'On' licence holder are required to pay annual fee in advance for renewal of their licences.

In case of failure, their shops are to be closed with the approval of the CE (instruction No. 141 under Chapter-IV of NE Region Excise Manual) till the fees are paid. Their licences are also to be cancelled in case they do not pay the fees promptly after closure of their shops.

Four<sup>3</sup> licensees of wholesale bonded warehouse and seven<sup>4</sup> foreign liquor 'Off' and 'On' licences<sup>5</sup> holders did not pay licence renewal fee for the years between 2005-06 and 2009-10. The CE did not take any action to close their shops or to cancel their licences. In contravention of the provisions of the AER, the CE allowed these licensees to function by issuing

permits regularly without realisation of the licence fee of ₹ 16.10 lakh due from them.

After we pointed this out, the SE, Diphu stated (July 2009) that demand would be raised for recovery of the renewal fees. The reply was, however, silent regarding the reasons for inaction till this was pointed out in audit. We are yet to receive replies in the remaining cases (November 2010).

We reported the matter to the Department/Government in September-October 2009; we are yet to receive their replies (November 2010).

<sup>3</sup> (i) M/s Himalaya Distilleries Pvt. Ltd., Guwahati, (ii) M/s N.K. Bonded Warehouse, Diphu, (iii) M/s Seven Sisters Bonded Warehouse, Guwahati and (iv) M/s SKOL Breweries Ltd. Bonded Warehouse, Guwahati.

<sup>4</sup> (i) M/s ENRG Bar-cum-Restaurant, Gorchuk, (ii) M/s Greenwood, Sri Siddharta Sarkar, (iii) M/s Jiban Baruah, Guwahati, (iv) M/s N M Wineshop, Ambari, (v) M/s N P Wineshop, Ratul Choudhury, Lalmati, (vi) M/s Red Rench "A" Plus Bar, Getika Baruah Changkati, Amirigog and (vii) M/s Sudhir Krishna Mahanta, Guwahati.

<sup>5</sup> Off & On licence: "Off"-Licence for retail sale of foreign liquor to the public for consumption 'off' the premises and "On"- Licence for sale of foreign liquor to the public for consumption 'on' the premises except in hotels, restaurants, theatres, cinemas or other permanent places of amusement.

### 3.11 Non-realisation of establishment charges/availability fees

[SE, Silchar and Jorhat; February and March 2009]

The Assam Bonded Warehouse Rules, 1965 and the Assam Distillery Rules, 1945, provide that the CE shall appoint such excise officer and establishment as he thinks fit to the charge of bonded warehouses/distilleries and for this, the licensee shall pay availability<sup>6</sup> fee (in lieu of establishment charges in respect of the excise officials attached to the warehouse/distillery) at the end of each calendar month on the total quantity of IMFL/Beer sold during the month.

Two<sup>7</sup> distilleries and two<sup>8</sup> bonded warehouses did not pay the availability fees of ₹ 9.09 lakh due for the period between January 2008 and January 2009 for the excise officials engaged in their warehouses/distilleries. The concerned SEs also

did not issue demand notices to the defaulters for payment of availability fees.

We reported the matter to the Department/Government in May 2009; we are yet to receive their comments/replies (November 2010).

### 3.12 Non-realisation of label renewal fee

[SE, Kamrup; April and June 2009]

As per notification dated 17 August 2005 of Excise Department, Government of Assam, the manufacturing units of IMFL products are to pay label renewal fee in advance on annual basis.

Three<sup>9</sup> Guwahati based manufacturing units/bottling plants did not pay label renewal fee of ₹ 6.25 lakh for the year 2009-10. The SE, Guwahati neither raised any demand for realisation of the amount nor took any action against unauthorised removal of liquor

without clearance of brand renewal fees. Another distillery (M/s North East Distillery Pvt. Ltd., Khanapara, Guwahati) had applied (March 2009) for renewal of brand label. But we did not find the realisation of the fee of ₹ 2.70 lakh from the distillery. The Excise Officials posted in the distillery also failed to report the matter to the concerned SE.

We brought this to the notice of the Department/Government in September 2009; we are yet to receive their comments/replies (November 2010).

<sup>6</sup> Availability fee is a fee in lieu of establishment charge to be paid by the bonder at the end of each calendar month with effect from 18 March 2005 on the total quantity of IMFL/beer sold during a month.

<sup>7</sup> (i) M/s Associated Beverage Co., Jorhat and (ii) M/s Surma Distillery Pvt. Ltd, Silchar.

<sup>8</sup> (i) M/s Barak Warehouse Pvt. Ltd., Silchar and (ii) M/s S.B. Bonded Warehouses, Silchar.

<sup>9</sup> (i) M/s Diageo India Pvt. Ltd., (ii) M/s Himalaya Distillery Pvt. Ltd. and (iii) M/s Indo Assam Distillery Pvt. Ltd.

### 3.13 Loss of revenue due to warehouse going dry

[SE, Kamrup; June 2009]

The AER provide that a contractor shall maintain such minimum stock of spirit in the warehouse as may be fixed from time to time so that the warehouse does not go dry. Otherwise, he is required to compensate the loss of revenue sustained by the Government owing to his failure to maintain adequate/ minimum stock of spirit.

The contractor/licensee M/s Guwahati Excise Warehouse did not maintain adequate/ minimum stock of spirit and the stock declined to zero during the period from 24 August to 4 October 2007 (42 days). As a result, the Government sustained loss of revenue of ₹ 2.89 lakh (calculated on the preceding three month's daily

average collection of excise duties), which the contractor did not compensate.

We reported the case to the Department/Government in September 2009; we are yet to receive their comments/replies (November 2010).