

## CHAPTER-VII: OTHER TAX RECEIPTS

### A. STATE EXCISE

#### 7.1 Tax administration

Excise department is under the control of Principal Secretary (Taxes) at the Government level and the Excise Commissioner is the head of the department. The Abkari Act governs the law relating to import, export, transport, manufacture, sale and possession of intoxicating liquor and drugs in the State. The receipt is mainly derived from the duty on foreign liquor and spirits.

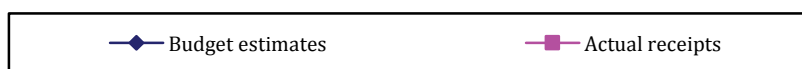
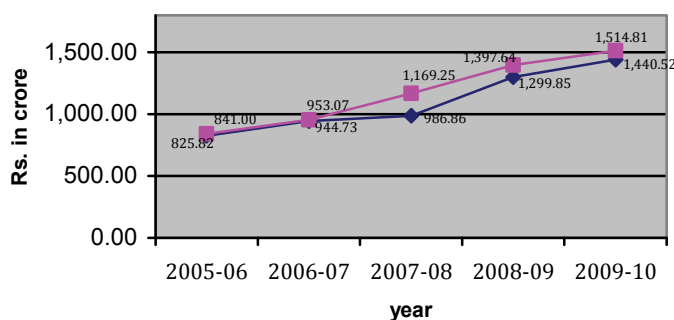
#### 7.2 Trend of receipts

Actual receipts from excise during the last five years (2005-06 to 2009-10) along with the budget estimates during the same period is exhibited in the following table and graph.

(Rupees in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax/non-tax receipts
2005-06	825.82	841.00	(+) 15.18	(+) 1.84	9,778.62	8.61
2006-07	944.73	953.07	(+) 8.34	(+) 0.88	11,941.82	7.98
2007-08	986.86	1,169.25	(+) 182.39	(+) 18.48	13,668.95	8.55
2008-09	1,299.85	1,397.64	(+) 97.79	(+) 7.52	15,990.18	8.74
2009-10	1,440.52	1,514.81	(+) 74.29	(+) 5.16	17,625.02	8.59

**Budget estimates and Actual receipts**



Thus, the percentage of variation which was 1.84 in 2005-06 went up to the level of 18 but subsequently came down and stood at five in 2009-10. We observed

that State excise receipts were around eight *per cent* of the total tax receipts of the State during the years 2005-06 to 2009-10.

Though the budget estimates were enhanced marginally from 2005-06 to 2009-10, the actual receipts were more throughout the period and in 2007-08 the variation was as high as 18 *per cent*. This indicates that the budget estimates were not prepared based on proper analysis of actual receipts and future potential.

### **7.3 Cost of collection**

The gross collection of revenue receipts under the head State excise, expenditure incurred on collection and the percentage of expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure to gross collection	All India average percentage
2005-06	841.00	48.78	5.80	3.40
2006-07	953.07	58.07	6.09	3.30
2007-08	1,169.25	69.40	5.94	3.27
2008-09	1,397.64	72.84	5.21	3.66
2009-10	1,514.81	83.31	5.50	Not available

We noticed that the expenditure on collection in respect of State excise was higher than the all India average.

**We recommend the Government to examine the reasons for such high costs of collection and take appropriate measures to bring down the cost.**

### **7.4 Impact of audit**

#### **7.4.1 Revenue impact**

During the last four years, we pointed out non-levy of import fee, non/short remittance of gallonage fee, delay in crediting rentals of toddy shops etc., with revenue implication of ₹ 209.28 crore in 190 paragraphs. Of these, the department/Government accepted audit observations involving ₹ 69.62 crore and had since recovered ₹ 83.58 lakh. The details are shown in the following table:

**(Rupees in lakh)**

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	28	178.00	35	40.62	28	9.85
2006-07	31	12,657.00	23	35.81	23	9.35
2007-08	55	2,756.00	52	3,756.00	26	62.08
2008-09 Vol. I	76	5,337.00	40	3,130.00	10	2.30
<b>Total</b>	<b>190</b>	<b>20,928.00</b>	<b>150</b>	<b>6,962.43</b>	<b>87</b>	<b>83.58</b>

We noticed that the Government failed to recover even the amount it has accepted.

**We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.**

#### **7.4.2 Amendments in the Acts/Rules/notification/order issued by the Government at the instance of audit**

On the basis of the paragraph featured in the Audit Report (RR) for the year 2009, the Government amended the Foreign Liquor Rules to permit loss in import, transit or storage of foreign liquor not exceeding 0.05 *per cent* in the case of foreign liquor and 0.25 *per cent* in the case of beer and to impose gallonage fee for liquor found short in excess of the permissible wastage.

#### **7.5 Working of internal audit wing**

Additional Excise Commissioner (Administration) monitors the functioning of the Internal Audit Wing (IAW) in the State Excise Department. The IAW has strength of one Joint Excise Commissioner, one Assistant Excise Commissioner, four Circle Inspectors and six Preventive Officers. The department has not prepared a separate internal audit manual. Norms for selection of audit have not been fixed by the department so far. Out of the total number of 307 units in the department, 45 units were audited during 2009-10. 105 paragraphs involving ₹ 71.56 crore relating to 63 IRs remained outstanding at the end of March 2010.

**We recommend that the IAW may be strengthened so that they are able to achieve their planned audit target. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW.**

#### **7.6 Results of audit**

During 2009-10 we test checked the records of 129 units relating to state excise department. We detected non/short remittance of gallonage fee and other irregularities involving ₹ 21.47 crore in 54 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-levy of import fee	7	20.34
2.	Non/short realisation of cost of establishment	18	0.51
3.	Non/short remittance of gallonage fee	7	0.33
4.	Delay in crediting rentals of toddy shop & consequent loss by way of interest	1	0.11
5.	Sale of liquor without renewal of brand registration	2	0.06
6.	Wastage in transit involving gallonage fee	4	0.05
7.	Other lapses	15	0.07
<b>Total</b>		<b>54</b>	<b>21.47</b>

The department accepted underassessment and other deficiencies of ₹ 39 lakh in 39 cases, of which two cases involving ₹ five lakh were pointed out in audit

during the year 2009-10 and the rest in earlier years. An amount of ₹ 39 lakh was realised in 39 cases during the year 2009-10. A few illustrative cases involving ₹ 68.79 lakh are mentioned in the following paragraphs.

## 7.7 Audit observations

*Scrutiny of the records of various State Excise Offices and Commercial Tax Offices revealed several cases of non-compliance of the provisions of the Kerala Rectified Spirit Rules, 1972, Kerala Abkari Act, Kerala Tax on Luxuries Act, 1976, etc. and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the Excise Officers/CTOs are pointed out in audit each year but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system.*

## 7.8 Short realisation of gallonage fee

### 7.8.1 (Excise Office, KSBC Warehouse, Kollam; January 2010)

Under the Kerala Rectified Spirit Rules, gallonage fee shall be collected on rectified spirit issued from a distillery at the rate in force at the time of such issue. Further, the Rules do not permit wastage to be allowed on spirits after they have been once bottled. As per Section 17 and 18 of the Abkari Act, the full duty includes excise duty and gallonage fee. Gallonage fee payable was at the rate of ₹ 6.75 per bulk litre.

We noticed that the 1,34,62,623 bulk litres of Indian Made Foreign Liquor were transported from the warehouse for which gallonage fee leviable was ₹ 9.09 crore. But the gallonage fee remitted by KSBC was only ₹ 8.83 crore. The Excise Officer did not raise demand for realisation of balance fees. This resulted

in short collection of gallonage fee of ₹ 26 lakh.

After we pointed out the matter, the department stated (January 2010) that the case has been brought to the notice of higher authorities. We have not received information of further development (December 2010).

We reported the matter to the Government in March 2010. We have not received their reply (December 2010).

### 7.8.2 (Excise Offices attached to Six FL9 Warehouses<sup>46</sup>)

We scrutinised the records of the Excise Offices attached to six FL 9<sup>47</sup> Warehouses between February 2009 and January 2010. We noticed that gallonage fee was not levied on 75,324.50 bulk litres of IMFL and beer. The gallonage fee leviable at the rate of ₹ 6.75 per bulk litre works out to ₹ 5.08 lakh.

<sup>46</sup> Office of Circle Inspectors of Excise : Attingal, Kollam, Nedumangad, Pathanamthitta, Thodupuzha and Thrissur.

<sup>47</sup> FL-9 : licence for possession and supply of foreign liquor in wholesale issued to Kerala State Beverages Corporation by Excise Commissioner.

We pointed out the cases between February 2009 and January 2010. The Department stated (between March 2009 and January 2010) that detailed replies would be furnished. We have not received their reply (December 2010).

We reported the cases to the Government in December 2009. We have not received their reply (December 2010).

### **7.8.3** (Excise office in two distilleries<sup>48</sup>; between December 2009 and February 2010)

We noticed that the excise offices attached to two distilleries allowed transit wastage and storage wastage on 43,975.37 bulk litres of IMFL and beer resulting in non-levy of excise duty of ₹ 2.97 lakh.

After we pointed out the matter to the department in December 2009 and February 2010, the department stated (February 2010) that the defect would be rectified. We have not received information of further development (December 2010).

We reported the matter to the Government in April 2010. We have not received their reply (December 2010).

## **7.9 Delay in crediting excise duty and consequent loss by way of interest**

### **7.9.1** (Excise Division Office, Kottayam; November 2009)

The Kerala Excise Manual insists that the officer-in-charge shall be responsible for the correct collection of duty and penalty, if any, at the prescribed rate. The Kerala Financial Code Volume I envisages that the departmental figures should be reconciled with the treasury figures and the signature of the Treasury Officer obtained.

We noticed that in 10 excise range offices, the total rental amount of ₹ 4.29 crore was not paid by way of bank draft but deposited in treasury public (TP) account of the licensee which was credited in Government account in October 2009 only. The excise officer who controls the TP account operation failed to get the amount credited to the Government account immediately. The delay in crediting the rental amount from TP

account had resulted in loss to Government by way of interest payment of ₹ 10.73 lakh<sup>49</sup> afforded to the licensee.

After we pointed out the matter in November 2009, the department stated (November 2009) that the case would be examined. We have not received information of further development (December 2010).

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<sup>48</sup> Offices of Circle Inspectors of Excise, FL9 Warehouses: Thiruvalla and Trippunithura.

<sup>49</sup> Interest calculated at the rate of five *per cent* applicable to Deposits in Treasuries vide GO(P) No. 51/07/Fin dated 9 February 2007.

We reported the matter to Government in February 2010. We have not received their reply (December 2010).

**7.9.2** (AEC, KSBC Ltd. Thiruvananthapuram; October 2009)

We noticed that the KSBC remitted ₹ one crore in August 2005 towards excise duty for the period 2005-06. But it was credited in the head of account '0039' only on 23 March 2007 in the treasury account after a lapse of 18 months. The delay in crediting the excise duty into the Government account resulted in loss of revenue of ₹ 7.50 lakh by way of interest.

We reported the matter to Government in March 2010. We have not received their reply (December 2010).

**We recommend that the departmental officers should reconcile the remittances with the treasury figures and the signature of the Treasury Officers obtained.**

**7.10 Sale of liquor without renewal of brand registration and consequent non-realisation of revenue**

(Excise Office, Devicolam Distillery, Ernakulam; January 2010)

The Foreign Liquor (Registration of Brand) Rules, 1995 prescribes fee for registration of brand at ₹ 50,000. In the case of brands owned by distilleries outside the State and bottling unit in the State of Kerala the fee leviable is ₹ 1,00,000. The validity of registration is one year.

We noticed that the distillery did not register the brand name of five brands (Esteem XXX Rum, New Janatha Dry Gin, Colombia Brandy, Colombia XXX Rum, Officers Choice Brandy) of IMFL produced and sold on behalf of John Distillery, Bangalore. The excise officer attached to the distillery failed to levy the fee for registration of

brands. The non-registration of brand name resulted in non-realisation of revenue of ₹ five lakh by way of registration fee.

After we pointed out the matter, the department stated (January 2010) that the case would be examined. We have not received information of further development (December 2010).

We reported the matter to the Government in March 2010. We have not received their reply (December 2010).

## **B. LUXURY TAX**

### **7.11 Short levy of luxury tax**

(CTO (LT), Thiruvananthapuram; March 2009)

As per Section 2(f) of the Kerala Taxes on Luxuries Act, luxury provided in a hotel means accommodation for residence or use and other amenities and services provided in the hotel.

An assessing officer finalised the assessments for the years 2004-05 and 2005-06 of an assessee engaged in hotel business in March 2009. We noticed that the AA did not take into account the income relating to foreign exchange gain amounting to ₹ 44.68 lakh during the year 2004-05 and other service income and accommodation charges valued at ₹ 34.72 lakh for the years 2004-05 and 2005-06 in the taxable turnover. This resulted in short levy of tax of ₹ 11.51 lakh.

After we pointed out the matter to the department in April 2009, the department stated in March 2010 that the assessment for 2004-05 and 2005-06 were revised creating an additional demand of ₹ 11.91 lakh. We have not received a report on recovery (December 2010).

We reported the case to the Government in September 2009; we have not received their reply (December 2010).