

CHAPTER III: STATE EXCISE

3.1.1 Tax administration

The excise revenue is mainly derived from the fixed, assessed and auction fee for the grant of license of various vends and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State. The Financial Commissioner and Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

3.1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 in respect of State Excise amounted to ₹ 107.81 crore of which ₹ 31.75 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11:

(₹ in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears	State Excise receipts	Percentage of column 4 to column 5	Percentage of realisation of arrears (Col. 3 to col. 2)
1	2	3	4	5	6	7
2006-07	39.56	0.78	42.26	1,217.10	3	2
2007-08	42.26	2.57	52.31	1,378.81	4	6
2008-09	52.31	8.36	46.61	1,418.53	3	16
2009-10	46.61	2.75	84.96	2,059.02	4	6
2010-11	84.96	1.12	107.81	2,365.81	5	1

We observed that arrears of revenue had increased from ₹ 39.56 crore at the beginning of the year 2006-07 to ₹ 107.81 crore (173 per cent) at the end of the year 2010-11. The percentage of realisation of arrears to the arrears at the beginning of the year ranged between one and 16 per cent during the years 2006-07 to 2010-11. Though the actual receipts increased by 94 per cent (from ₹ 1,217.10 crore in 2006-07 to ₹ 2,365.81 crore in 2010-11).

The Government may advise the Excise and Taxation Department to take effective steps for collecting the arrears promptly to augment Government revenue.

3.1.3 Cost of collection

The gross collection of revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2006-07 to 2010-11 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
2006-07	1,217.10	12.09	0.99	3.30
2007-08	1,378.81	12.95	0.94	3.27
2008-09	1,418.53	18.46	1.30	3.66
2009-10	2,059.02	20.48	0.99	3.64
2010-11	2,365.81	21.57	0.91	-

3.1.4 Revenue impact of the Audit

3.1.4.1 Position of Inspection Reports

The performance of the Excise and Taxation Department to deal with the irregularities relating to State Excise detected in the course of local audit conducted during the year 2009-10 and the corresponding figures for the preceding four years is tabulated below:

(₹ in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2005-06	45	14	13.56	14	13.56	1	0.16
2006-07	47	200	3.87	8	0.27	13	0.34
2007-08	41	826	41.83	231	4.68	17	0.28
2008-09	42	384	5.59	98	1.20	25	0.09
2009-10	36	377	3.95	251	3.76	42	0.22
Total	211	1,801	68.80	602	23.47	98	1.09

We observed that the recovery in respect of accepted cases during the years 2005-06 to 2009-10 was only five *per cent*.

3.1.4.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short recovery of excise duty, license fee, penalty, non-recovery of cost of supervisory staff posted at the distillery etc., with revenue implication of ₹ 31.31 crore in 11 paragraphs (including one review). The Department/Government had accepted all the audit observations involving ₹ 31.31 crore and recovered ₹ 2.86 crore till 31 March 2011. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	(₹ in crore)				(₹ in crore)	
	Number	Amount	Number	Amount	Number	Amount
2006-07	2	0.48	2	0.48	1	0.01
2007-08	2	1.23	2	1.23	1	0.03
2008-09	4	2.35	4	2.35	4	0.09
2009-10	2	5.65	2	5.65	2	0.10
2010-11	1 (Review)	21.60	1	21.60	1	2.63
Total	11	31.31	11	31.31	9	2.86

We observed that the recovery in respect of the accepted cases was 13 per cent. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/Department to initiate action to recover the Government dues promptly.

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

3.1.5 Results of Audit

Test check of the records of the offices of DETC (Excise) relating to State Excise conducted in audit during the year 2010-11 revealed non/short recovery of excise duty, license fee and penalty etc. amounting to ₹ 25.18 crore in 179 cases which fall under the following categories:

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
Excise and Taxation Department (State Excise)			
1.	Receipts from State Excise duty (Performance Audit)	1	21.60
2.	Miscellaneous irregularities	178	3.58
	Total	179	25.18

During the year 2010-11, the Department accepted underassessment and other deficiencies of ₹ 24.17 crore involved in 102 cases, of which 101 cases involving ₹ 24.01 crore had been pointed out during 2010-11 and the remaining in earlier years. The Department recovered ₹ 2.79 crore in two cases during the year 2010-11, of which one case involving ₹ 2.63 crore related to the year 2010-11 and balance to earlier years.

A Performance Audit on “**Receipts from State Excise duty**” with financial impact of ₹ 21.60 crore is mentioned in the following paragraphs.

3.2 Receipts from State Excise Duty

3.2.1 Highlights

- The Department did not take action to recover the differential amount of license fee from 43 defaulting allottees of retail liquor outlets, after re-auction of vends at the risk and cost clause of the contract conditions, depriving the Government of revenue of ₹ 6.31 crore.

(Paragraph 3.2.10)

- The Department did not take action under the Rules to recover license fee from the defaulting 119 licensees of retail liquor outlets resulting in short recovery of license fee and interest of ₹ 4.65 crore.

(Paragraph 3.2.11.1)

- Non-levy of interest on delayed payment of monthly instalment of license fee by 576 licensees for the period April 2006 and December 2009, resulted in loss of ₹ 2.77 crore to Government exchequer.

(Paragraph 3.2.11.2)

- The Department did not initiate any action to recover penalty of ₹ 5.67 crore imposed on illicit country liquor and Indian Made Foreign Liquor by auctioning the confiscated vehicles. This inaction defeated the objectives of the penal provisions.

(Paragraph 3.2.12.1)

- The Department did not impose and recover minimum penalty of ₹ 88.53 lakh on confiscated country liquor defeating the objectives of the penal provisions.

(Paragraph 3.2.12.2)

- Penalty of ₹ 69.21 lakh was not recovered on short lifting of 2.20 lakh proof litres of liquor quota by the licensees.

(Paragraph 3.2.13.1 to 3.2.13.3)

- Lack of action to recover the security and additional security from 97 licensees resulted in short deposit of ₹ 1.18 crore.

(Paragraph 3.2.16)

3.2.2 Introduction

Excise duty on alcoholic liquor for human consumption and on medicinal and toilet preparations containing alcohol or opium, Indian hemp and narcotics in Haryana is levied and collected under the Punjab Excise Act, 1914 and Rules¹ made thereunder, as applicable to the State of Haryana. Excise revenue comprises of receipts derived from bid money and fixed license fee for the

¹ Punjab Excise Fiscal Orders, 1932; Punjab Liquor Permit and Pass Rules, 1932; Punjab Distillery Rules, 1932; Punjab Brewery Rules, 1956; Punjab Excise Bonded Warehouse Rules, 1957; East Punjab Molasses (Control) Act, 1948 and Rules made thereunder, and HLL Rules.

grant of retail and wholesale vends, fine for confiscation imposed/ordered, excise/export/import duty etc. It also includes revenue from manufacture, possession and sale of country liquor (CL), Indian made foreign liquor (IMFL) etc.

The Haryana Liquor License Rules, 1970 (HLL Rules) empower the Government to frame a periodical excise policy. Excise policy prescribes the procedure and fixation of reserve price and license fee for the grant of retail and wholesale vends, selling CL and IMFL. During 2009-10, there were 2,259 retail liquor outlets for sale of CL and 1,223 retail liquor outlets for sale of IMFL, besides the bars and beer shops. L-1B and L-1B1 wholesale licenses were issued to distilleries and breweries for wholesale supply to L-1 licensees. L-13 licenses are issued to distilleries for supply of CL to L-14A retail outlets. For sale of CL and IMFL, retail vends were auctioned upto 2005-06. Vends were allotted by draw of lots during the years 2006-07 to 2008-09 and by tender system from 2009-10. License in form D-2 for production of liquor is issued to a distillery on annual license fee of ₹ one crore and a license in form B-2 is granted to a brewery which produces beer for annual license fee of ₹ one crore, which work under the supervision of the staff of the Excise Department. License in form L-11 and L-15 for bottling of IMFL and CL respectively are issued to bottling plants on fixed license fee of ₹ 20 lakh. A license in form L1AB for wholesale of IMFL is prescribed for non-distiller brands on fixed license fee of ₹ 20 lakh and a license in form L-10C for promotion of PUB/Micro brewery projects is granted on fixed annual license fee of ₹ 2.5 lakh during the year 2009-10.

Quota for country liquor and Indian made foreign liquor outlets

A basic quota for each retail sale liquor outlet of CL as well as IMFL is prescribed before inviting applications/tenders for its allotment. The licensee will lift basic quota allotted to his vend as per quarterly schedule failing which penal provision may be invoked.

During the year 2009-10, quota of CL of 750 lakh proof litres (PLs) and quota of 425 lakh PLs for IMFL was fixed. To meet any unforeseen demand, in cases of both CL and IMFL, a provision of additional quota upto 50 *per cent* of basic quota has been made on payment of additional excise duty at the rate of ₹ 5 per PL and ₹ 15 per PL in case of CL and IMFL respectively.

In order to promote safety and to guard against spurious and adulterated liquor, the manufacturers of CL are required to affix such hologram as approved by Excise and Taxation Department in the manner prescribed.

3.2.3 Organisational set up

At the Government level, Financial Commissioner and Principal Secretary, Excise and Taxation Department (FCET) is responsible for the administration of State excise laws and excise policy in the State. At the Department level, the overall control and supervision of the State excise organisation is vested with the Excise and Taxation Commissioner (ETC). The ETC is assisted by Additional Excise and Taxation Commissioners (AETCs), Joint Excise and Taxation Commissioners (JETCs) and Collector (Excise) at the headquarter.

He is also assisted by 21 Deputy Excise and Taxation Commissioners (DETCs), Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), Excise Inspectors and other allied staff at district level for the administration and implementation of State excise policy and excise laws in the Department.

3.2.4 Audit objectives

We conducted the review with a view to ascertain whether:

- budget estimates (BEs) were prepared in accordance with the prescribed procedure and were realistic;
- excise duty, fees and penalties were levied, assessed and realised as per provisions of the Excise Act, Rules and executive instructions issued by the Department governing grant/allotment of vends and fixation of reserve price of vends;
- State excise policies for the period under review had been framed as per provisions under the Rules and extent of compliance to the provisions of the State excise policies to prohibit leakage of revenue;
- adequate norms exist to govern the production of alcohol from different raw material and were being adhered to;
- wastage during manufacture, transit and storage of alcohol and liquor were monitored in accordance with the excise rules; and
- an effective internal control and monitoring mechanism was in existence in the Department.

3.2.5 Audit criteria

The audit findings were benchmarked against the following audit criteria:

- Punjab Excise Act, 1914
- Haryana Liquor Licenses Rules, 1970
- Punjab Excise Fiscal Orders, 1932
- Punjab Distillery Rules, 1932
- Punjab Brewery Rules, 1956
- Haryana Imposition and Recovery and Penalty Rules, 2003
- State Excise Policy and
- Departmental Notifications and circulars issued regarding levy and collection of State Excise Duty.

3.2.5.1 Scope and methodology of audit

The records relating to the levy, assessment and collection of duty, fees and penalties in the office of ETC and 13 (out of 21) offices of DETCs (Excise) in the State for the years 2005-06 to 2009-10 were test checked between April and October 2010. We selected eight² district offices on random sample selection basis by applying formula of probability proportional to size method (without replacement) and Faridabad and Gurgaon districts on the basis of risk

² Ambala, Bhiwani, Jhajjar, Karnal, Mewat, Rohtak, Sonapat and Yamunanagar.

analysis. Kaithal, Rewari and Sirsa districts were included in the scope of the review on the suggestion made by the Department during entry conference in August 2010. We have also included points of similar nature noticed during audit for the period 2005-06 to 2009-10.

3.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Excise and Taxation Department in providing necessary information and records for facilitating audit by us. An entry conference was held in August 2010 with the Financial Commissioner-cum-Principal Secretary to Haryana Government (Excise and Taxation Department) and other Departmental officers wherein the audit objectives, methodology and selection of districts were explained. The suggestions of the Department were kept in view at the time of selection of districts and conducting audit. We forwarded the draft review report to the Department and Government in June 2011. An exit conference was held on 3 August 2011 with the Financial Commissioner-cum-Principal Secretary to Haryana Government (Excise and Taxation Department), ETC and other officers. During the exit conference, the findings of the review and recommendations were discussed. The verbal and written replies furnished by the Department during exit conference and at other times have been appropriately incorporated in the respective paragraphs.

3.2.7 Trend of revenue receipts

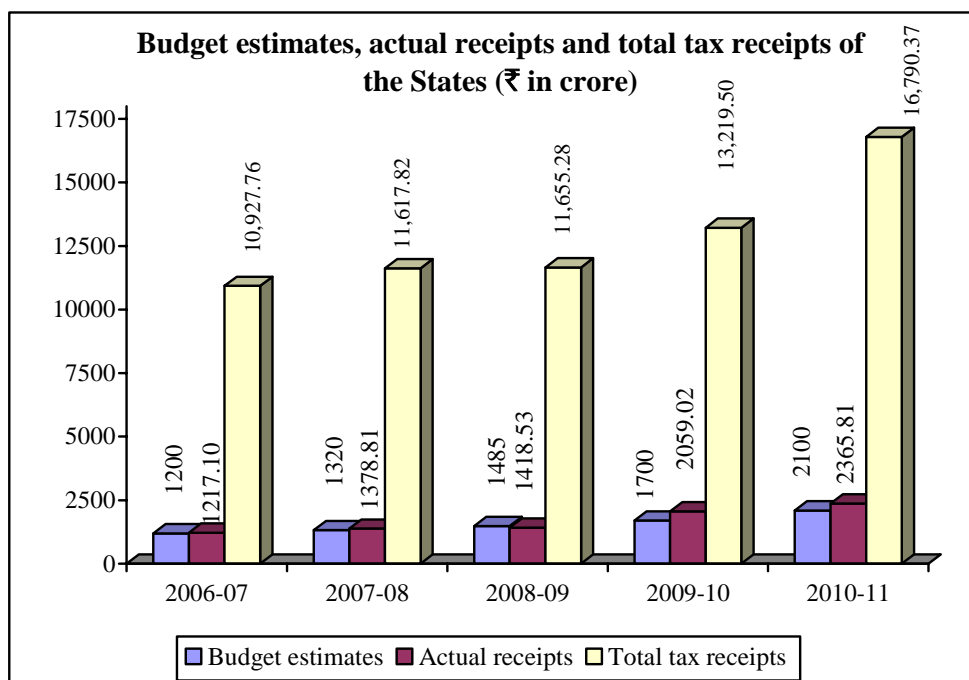
As per Para 3.2 of the Punjab Budget Manual, as applicable to the State of Haryana, BEs of the revenue receipts for the ensuing year should be based on the original BE of the year just closed, actual of the two years preceding the year that just closed, actual of previous year for last six months and actual of current year for first six months to make the estimates more realistic.

Actual receipts from State excise duty during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts (Col. 3 to 6)
1	2	3	4	5	6	7
2006-07	1,200.00	1,217.10	(+) 17.10	(+) 01	10,927.76	11
2007-08	1,320.00	1,378.81	(+) 58.81	(+) 04	11,617.82	12
2008-09	1,485.00	1,418.53	(-) 66.47	(-) 04	11,655.28	12
2009-10	1,700.00	2,059.02	(+) 359.02	(+) 21	13,219.50	16
2010-11	2,100.00	2,365.81	(+) 265.81	(+) 13	16,790.37	14

Source: State Budget and Finance Accounts.



The reasons for increase in revenue receipts in 2006-07 (11 per cent) to 2010-11 (14 per cent) were mainly due to increase in quota and license fee of CL and IMFL outlets. However, the Department stated in July and August 2011 that no norms had been laid down for the preparation of estimates of revenue and that the Department prepares the BEs and sends the proposals after collecting it from various branches to Finance Department. However, the Government fixed the annual revenue targets and the Department achieved more than the targets fixed.

Consumption of liquor

The position of consumption of liquor in the State during the period 2005-06 to 2009-10 has been tabulated below:-

Year	Excise receipts (₹ In crore)	Consumption of liquor (in lakh PLs)	Estimated population (in lakh)	Per capita consumption of liquor (in PLs)	Percentage increase in per capita consumption of liquor
2005-06	1,106.86	619.66	231.40	2.68	
2006-07	1,217.10	936.75	235.69	3.97	(+) 48.13
2007-08	1,378.81	1,146.23	239.97	4.77	(+) 20.15
2008-09	1,418.53	1,133.79	244.25	4.64	(-) 2.72
2009-10	2,059.02	1,467.22	248.49	5.90	(+) 27.15

The consumption of liquor increased from 619.66 lakh PLs to 1,467.22 lakh PLs (137 per cent) and the excise receipts increased from ₹ 1,106.86 crore to ₹ 2059.02 crore (86 per cent) during the period 2005-06 to 2009-10.

Audit reviewed the functions of the Excise and Taxation Department regarding the levy and collection of excise duty on liquor. The Review revealed system and compliance deficiencies which have been discussed in the subsequent paragraphs.

Audit findings

System deficiencies

3.2.8 Non-fixing of norms for yield of alcohol from grains

The Punjab Distillery Rules, 1932 provide for minimum yield of 91.8 proof litre (PL) of alcohol per quintal of fermentable sugar present in the molasses. The rules, however, do not prescribe any such norm or benchmarks for alcohol production from the grain. Paragraph 39 of the Technical Excise Manual stipulates that 7.7 gallons of alcohol is to be obtained from 220 pounds (one quintal) of rice which converts to 61.20 PLs per quintal of rice.

During test check of records of the officer-in-charge (Excise) M/s Frost Falcon Distilleries Ltd, Jahri, Sonapat in February 2011 and scrutiny of data/information supplied by the officer-in-charge (Excise) M/s Ashoka Distillers and Chemicals Ltd. Hathin, Palwal in November 2010 revealed that in addition to use molasses, the distilleries were also producing alcohol from grain during the period 2005-06 to 2009-10. The norms given in the Technical Excise Manual were neither followed by the Department nor was any other norms inserted in the Punjab Distillery Rules, 1932 after due analysis. In the absence of any norms minimum yield of alcohol from grain could not be ascertained.

After we pointed out these cases in November 2010 and February 2011, the Excise and Taxation Department (State Excise) stated in August 2011 that no norms had been fixed for recovery of alcohol per quintal of grains under Punjab Distillery Rules 1932. Department further stated that the norms for minimum yield of alcohol from grain could not be fixed because of variations in quality of grain and the recovery depends upon the presence of starch in grain which converted into sugar to obtain spirit.

The Audit suggests that the Government may consider to fix norms for minimum yield of alcohol from grain as per quality to avoid revenue leakage.

3.2.9 Non-use of new glass bottles

Under clause 4.16 of State Excise Policy for the year 2009-10, to ensure use of glass bottles for CL as an institutional measure, the distilleries are required to provide at least 30 *per cent* of the fixed quota allocated individually on account of proportional distribution of the 75 *per cent* quota of CL into new glass bottles that is 30 *per cent* of 75 *per cent* is equal to 22.5 *per cent* of the total quota is to be supplied in new glass bottles and it shall be equally spread over all the distilleries who shall be allotted quota equally and all of them shall comply with the provisions.

During test check of the records of four³ offices of officer-incharge of the distilleries for the year 2009-10 in February 2011, we noticed that the distilleries had not supplied prescribed quota of 22.5 *per cent* in new glass bottles. Instead they were using pet bottles. Thus, the distilleries were not complying with the provisions of the State Excise Policy in the absence of any penal provisions for enforcing the compliance of the provisions by the distilleries.

After we pointed out these cases in February 2011, DETC Sonapat and Yamunanagar stated in April 2011 that licensees were not interested to lift the CL in glass bottles. Moreover, there was no demand of glass bottles in the market as these were costlier than pet bottles. The Excise and Taxation Department (State Excise) stated in August 2011 that the DETC (Excise) of the concerned districts had been directed to ensure compliance of provisions of Excise Policy by distilleries in letter and spirit in future. The fact, however, remains that the distilleries had not followed the provisions of State excise policy and the Department had not enforced the provisions. We had not received reply from the remaining two DETCs (October 2011).

We recommend that the Government may, therefore, frame Rules for use of cent *per cent* glass bottles as pet bottles are not eco-friendly.

³ M/s N.V. Distilleries, Ambala, M/s Picadily Agro Industries Limited (Distillery Unit) village Bhadson, Karnal, M/s Frost Falcon Distilleries, Jahri Sonapat, M/s Haryana Distilleries, Yamunanagar.

Compliance deficiencies

3.2.10 Non-realisation of differential license fee on re-auction

Under the HLL Rules, read with the State excise policy for the years 2006-07 to 2009-10 every successful allottee of retail licensed liquor outlet, shall be required to deposit a security amount equal to 20 per cent of the annual license fee of the licensed outlet, out of which 5 per cent of the license fee has to be deposited on the day of draw of lot, 5 per cent within 7 days of the allotment/draw of lot on or before 31 March of the respective year, whichever is earlier and remaining 10 per cent by the 7th April of the respective year. The balance 80 per cent shall be payable in eight (upto 2007-08)/nine (from 2008-09 onwards) equated monthly instalments starting from April to November/December of the respective year. In case, the allottee fails to make payment of security deposit equal to 20 per cent of annual license fee and defaults in payment of eight/nine equated instalments of license fee along with interest, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. In such events, the DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

During test check of the records of seven⁴ offices of DETC (Excise) between August 2007 and December 2010, we noticed that 43 retail outlets were auctioned between March 2006 to November 2009 for ₹ 15.13 crore for the years 2006-07 to 2009-10. Out of 43 successful bidders, 28 bidders did not deposit the security amount in full and the remaining 15 licensees failed to pay monthly instalments of license fee in full by due date. Of the total license fee of ₹ 15.13 crore, the allottees deposited security and monthly license fee amounting to ₹ 2.11 crore. Thus, the allottees did not deposit the balance amount of ₹ 13.02 crore. The Department cancelled their retail liquor outlets between March 2006 and December 2009 and forfeited the entire amount of security. These retail outlets were re-auctioned/re-allotted between March 2006 to February 2010 for the remaining period for ₹ 6.71 crore at the risk and cost of original licensees. The demand notices had not been issued by the Department.

The Department, however, did not initiate any action to recover the differential amount of license fee of ₹ 6.31 crore (₹ 13.02 crore - ₹ 6.71 crore) from the original allottees. This resulted in non-realisation of Government revenue of ₹ 6.31 crore.

After we pointed out these cases between August 2007 and December 2010, DETC (Excise), Ambala stated in December 2010 that recovery proceedings against the defaulters for ₹ 13.22 lakh had been initiated. The DETC (Excise), Hisar and Narnaul stated that an amount of ₹ 2 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 2.59 crore. We have

⁴ Ambala, Bhiwani, Hisar, Kaithal, Karnal, Narnaul and Rohtak.

not received reply from the remaining four⁵ DETCs about the balance amount of ₹ 3.57 crore and further progress report on recovery (October 2011).

The Excise and Taxation Department admitted the facts in August 2011 and assured to furnish the latest position of recovery.

3.2.11 Non/short recovery of license fee and interest

Under the HLL Rules, read with the State excise policy for the years 2006-07, 2008-09 and 2009-10 provide for payment of monthly instalments of license fee by the 15th/20th of each month by the licensee/allottee holding license for retail outlets for vending CL and IMFL. Failure to do so renders him liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

3.2.11.1 During test check of the records of 11 offices⁶ of DETC (Excise) for the years 2006-07, 2008-09 and 2009-10 between May 2007 and December 2010, we noticed that retail liquor outlets for sale of CL/IMFL were allotted to 119 licensees for ₹ 55.48 crore. The licensees failed to pay monthly instalments of license fee for the period between August 2006 and December 2010 in full by the prescribed dates. Of the total license fee of ₹ 55.48 crore, the licensees had paid only ₹ 51.81 crore. Thus, the allottees did not deposit the balance amount of ₹ 3.67 crore. The DETCs (Excise), however, did not initiate any action to seal the vends for non-deposit of monthly instalment in full by the end of the month and levy interest for belated payment of license fee. This resulted in non-recovery of license fee of ₹ 4.65 crore including interest⁷ of ₹ 97.68 lakh.

After we pointed out these cases between May 2007 and December 2010, seven⁸ DETCs (Excise) stated between December 2010 and August 2011 that an amount of ₹ 52.04 lakh (including interest of ₹ 2.78 lakh) had been recovered and efforts would be made to recover the balance amount of ₹ 2.56 crore. DETCs Rewari and Narnaul stated in February and August 2011 that notices had been issued to the defaulters to recover the balance amount of ₹ 1.15 crore. We have not received reply and action taken to levy interest from the DETCs, Bhiwani and Karnal about the balance amount of ₹ 42.12 lakh (October 2011).

⁵ Bhiwani, Kaithal, Karnal and Rohtak.

⁶ Ambala, Bhiwani, Faridabad, Gurgaon, Jind, Kaithal, Karnal, Narnaul, Rewari, Sonapat and Yamunanagar.

⁷ Interest calculated upto December 2010.

⁸ Ambala, Faridabad, Gurgaon, Jind, Kaithal, Sonapat and Yamunanagar.

3.2.11.2 During test check of the records of 16 offices⁹ of DETC (Excise) for the years 2006-07 to 2009-10 between August 2007 and December 2010, we noticed that 576 licensees failed to pay monthly instalments of license fee amounting to ₹ 136.44 crore for the period between April 2006 and December 2009 by the prescribed dates. The delay ranged between 15 to 206 days. The DETCs (Excise), however, did not initiate any action to seal the vends for non-deposit of monthly instalments by the end of the month and to levy interest for belated payment of the license fee. This resulted in non-levy of interest of ₹ 2.77 crore.

After we pointed out these cases between August 2007 and December 2010, the Excise and Taxation Department (State Excise) admitted the facts in August 2011. Thirteen¹⁰ DETCs (Excise) stated between October 2010 and August 2011 that out of ₹ 2.31 crore, an amount of ₹ 98.38 lakh had been recovered and recovery proceedings were in progress for the balance amount of ₹ 1.33 crore. We have not received further report on recovery and reply in the remaining DETCs, Bhiwani, Karnal and Rohtak for the balance amount of ₹ 45.69 lakh (October 2011).

3.2.12 Non-levy/recovery of penalty for illegal possession and trade of liquor

Under Section 61 of the Punjab Excise Act, 1914, as applicable to the State of Haryana, penalty not less than ₹ 50 and not more than ₹ 500 per bottle of 750 ml is leviable on the offender for possession of illicit liquor. Further, Haryana Imposition and Recovery of Penalty Rules, 2003, provide that if penalty is not paid within the stipulated period, the Collector or DETC (Excise) shall pass orders for confiscation of means of transport seized along with liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount, after deducting the expenditure incurred on it, shall be adjusted towards payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

3.2.12.1 During test check of the records of 12 offices¹¹ of DETC (Excise) for the years 2005-06 to 2009-10 between September 2006 and October 2010, we noticed that the Department had detained 3,12,885 bottles of illicit CL in 283 cases and confiscated 108 vehicles in 108 cases during road checking between April 2005 and March 2010. The Department, after giving reasonable opportunity, decided these cases and imposed penalty of ₹ 6.03 crore between May 2005 and March 2010 and recovered ₹ 36.13 lakh. Neither the defaulters paid the penalty nor the Department initiated any action to recover the amount either by auctioning the confiscated vehicles or by recovery through revenue recovery certificates as arrears of land revenue even after the lapse of 10 to 68 months. Non-

⁹ Ambala, Bhiwani, Faridabad, Gurgaon, Hisar, Jhajjar, Kaithal, Karnal, Kurukshetra, Narnaul, Panchkula, Panipat, Rohtak, Rewari, Sonapat and Yamunanagar.

¹⁰ Ambala, Faridabad, Gurgaon, Hisar, Jhajjar, Kaithal, Kurukshetra, Narnaul, Panchkula, Panipat, Rewari, Sonapat and Yamunanagar.

¹¹ Ambala, Bhiwani, Faridabad, Fatehabad, Hisar, Jind, Kaithal, Karnal, Narnaul, Panchkula, Rohtak and Sirsa.

observance of Rules 12 and 13 of the Haryana Imposition and Recovery Rules, resulted in non-recovery of penalty of ₹ 5.67 crore.

After we pointed out these cases between September 2006 and October 2010¹² DETCs (Excise) stated between December 2010 and September 2011 that penalty of ₹ 62.10 lakh had been recovered in 39 cases out of 256 cases between September 2010 and September 2011 and recovery certificates had been issued to recover the balance amount of ₹ 4.88 crore. We have not received further report on recovery and reply from DETCs Bhiwani, and Rohtak in 27 cases for the balance amount of ₹ 16.60 lakh (October 2011).

3.2.12.2 During test check of the records of 14 offices¹³ of DETC (Excise) between September 2006 and November 2010, we noticed that in 191 cases, 1,72,102 bottles of illicit CL were detained between May 2005 and March 2010. The Department had confiscated vehicles in 62 cases. The Department had neither imposed minimum penalty nor initiated any action to recover the amount. This resulted in non-levy of minimum penalty of ₹ 88.53 lakh.

After we pointed out these cases between September 2006 and November 2010, the Excise and Taxation Department (State Excise) admitted the facts in August 2011. Eight DETCs (Excise)¹⁴, stated between September 2010 and August 2011 that penalty of ₹ 133.89 lakh had been imposed in 60 cases between June 2008 and October 2010 (i.e. after audit). Further, the Department had recovered ₹ 46.49 lakh and stated that efforts would be made to recover the balance amount of ₹ 87.40 lakh. We had not received reply from the remaining six¹⁵ DETCs and further progress of recovery of penalty for the balance amount of ₹ 36.18 lakh (October 2011).

¹² Ambala, Faridabad, Fatehabad, Hisar, Jind, Karnal, Kaithal, Narnaul, Panchkula and Sirsa.

¹³ Ambala, Bhiwani, Fatehabad, Gurgaon, Jind, Kaithal, Karnal, Kurukshetra, Narnaul, Panchkula, Rohtak, Rewari, Sonapat and Yamunanagar.

¹⁴ Ambala, Fatehabad, Kurukshetra, Narnaul, Panchkula, Rewari, Sonapat and Yamunanagar.

¹⁵ Bhiwani, Gurgaon, Jind, Kaithal, Karnal and Rohtak.

3.2.13 Non/short levy/realisation of penalty for short lifting of quarterly quota of liquor

To plug leakage of liquor and safeguard revenue, lifting of basic quota is stipulated. Under the provisions of the HLL Rules read with State excise policy for the years 2006-07 to 2009-10, a licensee is liable to lift the entire basic quota of CL and IMFL allotted to his vend as per prescribed quarterly schedule failing which penal provisions are invoked. Non-compliance of the provisions regarding lifting of quarterly quota attracts penalty at the rate of ₹ 20 and ₹ 65 per PL for CL and IMFL respectively for the deficient quantity.

3.2.13.1 During test check of the records of four¹⁶ offices of DETC (Excise) for the years 2006-07 to 2009-10 between January 2008 and August 2010, we noticed that licenses for the sale of liquor were allotted to 48 retail licensed outlets and they were required to lift the combined quota of CL and IMFL for 14.62 lakh PLs (CL: 10.77 lakh PLs; IMFL: 3.85 lakh PLs) during the years 2006-07 to 2009-10. However, the licensees lifted 13.31 lakh PLs (CL: 9.87 lakh PLs; IMFL: 3.44 lakh PLs) out of prescribed combined liquor quota.

Thus, the licensees had short lifted the basic quota of liquor by 1.31 lakh PLs (CL: 0.90 lakh PLs; IMFL: 0.41 lakh PLs). DETCs (Excise) had not initiated any action to levy and recover penalty for short lifting of quota. This resulted in non-levy of penalty amounting to ₹ 44.30 lakh.

After we pointed out these cases between January 2008 and August 2010, DETC (Excise), Sonapat and Yamunanagar stated between November 2010 and August 2011 that an amount of ₹ 86,000 had been recovered in August 2011 and efforts would be made to recover the balance amount of penalty of ₹ 5.30 lakh. We had not received reply from the remaining DETCs (Excise), Bhiwani and Karnal for the balance amount of ₹ 38.14 lakh and further report on recovery of penalty (October 2011).

3.2.13.2 During test check of the records of offices of DETC (Excise), Bhiwani and Rohtak in July and October 2010, we noticed that 20 retail licensed outlets were required to lift the quarterly quota of CL and IMFL for 1.77 lakh PLs during the year 2009-10. However, the licensees lifted 1.37 lakh PLs out of prescribed liquor quota of 1.77 lakh PLs. Thus, the licensees had short lifted the basic quota of liquor by 0.40 lakh PLs. DETCs (Excise) had not levied penalty for short lifting of quarterly quota. This resulted in non-levy of penalty amounting to ₹ 14.85 lakh.

After we pointed out these cases to DETCs (Excise) Bhiwani and Rohtak in July and October 2010, no reply was received by us (October 2011).

3.2.13.3 During test check of the records of office of DETC (Excise) Jhajjar in July 2010, we noticed that 12 retail licensed outlets were required to lift the quarterly quota of CL and IMFL for 1.55 lakh PLs upto 30 June 2009 during

¹⁶ Bhiwani, Karnal, Sonapat and Yamunanagar.

the year 2009-10. However, the licensees lifted 1.06 lakh PLs out of prescribed liquor quota of 1.55 lakh PLs. Thus, the licensees had short lifted the basic quota of liquor by 0.49 lakh PLs. DETCs (Excise) had levied penalty of ₹ 10.06 lakh but the same had neither been recovered nor deposited by the licensees. This resulted in non-recovery of penalty amounting to ₹ 10.06 lakh.

After we pointed out the case in July 2010, the Excise and Taxation Department (State Excise) admitted the facts in August 2011. DETC (Excise), Jhajjar stated in August 2011 that an amount of ₹ 9.05 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 1.01 lakh (October 2011).

3.2.14 Establishment charges not realised

Under Rule 13 and 16 of the Punjab Distillery Rules, 1932, as applicable to the State of Haryana, the licensee shall agree to the posting of a Government excise establishment to his distillery for the purpose of ensuring the due observance of the rules and for watch and ward. The licensee shall, if required by the Excise Commissioner, make into the Government Treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the distillery, but he shall not make any direct payment of any member of such establishment. Further, under clause 3.9 of the State Excise Policy for the year 2009-10, it has been decided to recover the salary cost of supervisory excise staff required by Law/Rules/Policy to be posted in any licensees premises/facility on quarterly reimbursement basis.

During test check of the records of five¹⁷ offices of DETC (Excise) between May 2010 and February 2011, we noticed that the Excise and Taxation Department posted 24 excise supervisory staff in six¹⁸ distilleries (including one brewery and one bottling plant). The establishment charges aggregating to ₹ 59.68 lakh payable for the year 2009-10 towards the Government staff posted for ensuring due observance of the Rules, were neither demanded by the Department nor paid by the management of these distilleries/brewery. Non-observance of the rules resulted in non-realisation of the establishment charges amounting to ₹ 59.68 lakh.

After we pointed out these cases between May 2010 and February 2011, the Excise and Taxation Department (State Excise) admitted the facts in August 2011. Four¹⁹ DETCs, stated between September 2010 and August 2011 that an amount of ₹ 20.14 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 33.48 lakh. We had not

¹⁷ Ambala, Gurgaon, Karnal, Sonapat and Yamunanagar.

¹⁸ M/s N.V. Distilleries, Ambala, M/s Picadily Agro Industries Limited (Distillery Unit) village Bhadson, Karnal, M/s Frost Falcon Distilleries, Jahri Sonapat, M/s Haryana Distilleries Limited, Yamunanagar, M/s SKOL Breweries, Murthal Sonapat and M/s Allied Blenders and Distilleries (P) Ltd., Gurgaon (Bottling Plant).

¹⁹ Ambala, Gurgaon, Sonapat and Yamunanagar.

received reply from the DETC (Excise), Karnal for the balance amount of ₹ 6.06 lakh (October 2011).

3.2.15 Non-recovery of penalty imposed on failed samples of liquor

Under Rule 37 (26) of the HLL Rules, a licensee shall not adulterate or deteriorate any liquor to be sold by him, or sell the same knowing it to have been adulterated or deteriorated, or store or permit to be stored in his licensed premises any liquor in an adulterated or deteriorated State. Further, Section 68 of the Punjab Excise Act, 1914, as applicable to the State of Haryana provides, that whosoever is guilty of any act or intentional omission in contravention of any of the provisions of the Act or of any rule, notification or order made, issued or given, thereunder and not otherwise provided in the Act, shall be punishable for each such act or omission with a fine which may extend to ₹ 5,000.

During test check of the records of offices of three DETCs²⁰ (Excise) for the years 2006-07 and 2009-10 between May 2007 and October 2010, we noticed that the excise staff collected samples of liquor from 61 retail licensed outlets (CL: 48; IMFL: 13) during the years 2006-07 and 2009-10 and were sent to Departmental laboratory for analysis of quality of liquor. These samples were found adulterated and not fit for human consumption. The Department imposed penalty amounting to ₹ 2.28 lakh on these 61 cases of failed samples of liquor which was neither demanded by the Department nor it was deposited by the licensee. This resulted in non-recovery of penalty of ₹ 2.28 lakh.

After we pointed out these cases between May 2007 and October 2010, the Excise and Taxation Department (State Excise) admitted the facts in August 2011. DETCs (Excise) Hisar, Jind and Kaithal stated in August 2011 that an amount of ₹ 1.28 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 1.00 lakh. However, the provision mentioned in the Act was deficient as it contains only the provision of levy of penalty in case of adulterated liquor was detected, whereas the sale of adulterated liquor unfit for human consumption was a serious matter as it amounts to criminal act.

The Audit suggest that the Government may consider to introduce provision in the Act/Rules for taking action under criminal procedure code to ensure severe punishment so that tendency of adulterating the liquor could be curbed.

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Hisar, Jind and Kaithal.

3.2.16 Non/short deposit of security and additional security

Under the HLL Rules read with the State Excise Policy for the year 2009-10, every successful allottee of retail licensed liquor outlet, shall be required to deposit security equal to 20 *per cent* of the annual license fee of the licensed outlet, out of which five *per cent* of the license fee has to be deposited on the day of draw of lots, five *per cent* within seven days of the allotment/draw of lot on or before 31 March of the respective year, whichever is earlier and remaining 10 *per cent* by 7th April of the respective year. Further, payment of additional security of ₹ one lakh and ₹ two lakh is to be made by retail licensed liquor outlet having license fee upto ₹ 75 lakh and exceeding ₹ 75 lakh respectively. The amount of additional security shall be refunded after the close of the year on 31 March 2010 when there would be nothing due against the licensee.

3.2.16.1 During test check of the records of five²¹ offices of DETC (Excise), we noticed between May and August 2010 that 54 retail outlets were auctioned in March 2009 for ₹ 38.14 crore for the year 2009-10. They did not deposit the security amount in full by the stipulated date (07 April 2009). Of the total security of ₹ 7.63 crore, the allottees deposited security amounting to ₹ 3.16 crore after the delay ranged between two to 318 days. The DETCs (Excise), however, did not initiate any action to seal the vend for non-deposit of security in full by the due date under the aforesaid provisions of the Rules and Excise Policy. The Department, however, had neither taken any step to curb such type of practice nor made any penal provision in the Act/Rules to guard against such eventualities.

3.2.16.2 During test check of the records of five²² offices of DETC (Excise), we noticed between May and August 2010 that 97 (73 cases upto ₹ 75 lakh and 24 cases above ₹ 75 lakh) retail licensed liquor outlets were auctioned in March 2009 for ₹ 49.94 crore (license fee upto ₹ 75 lakh: ₹ 26.49 crore; license fee exceeding ₹ 75 lakh: ₹ 23.45 crore) for the year 2009-10. These licensees were required to make payment of security/additional security of ₹ 1.85 crore, out of which the licensees had deposited security/additional security of ₹ 66.72 lakh. The DETC (Excise), however, did not initiate any action to recover the additional security from the licensees. This resulted in short deposit of security/additional security amounting to ₹ 1.18 crore.

²¹ Ambala, Bhiwani, Gurgaon, Jhajjar and Karnal.

²² Ambala, Bhiwani, Gurgaon, Rohtak and Yamunanagar.

After we pointed out these cases between May and August 2010, the DETCs (Excise), Ambala and Yamunanagar stated in September 2011 that the additional security was required to be deposited by the licensees to compensate against any default in license fee at the end of the year and that the additional security was to be refunded to the licensees after the completion of financial year, hence there was no financial loss to the Government. The reply was contrary to the provisions of the aforesaid rules and State excise policy. Had the additional security been recovered from licensees, the outstanding amount of ₹ 0.39 crore against 41 licensees would have been adjusted from the additional security. DETC (Excise), Gurgaon stated in January 2011 that security of ₹ 6.10 lakh had been recovered from three licensees between August and October 2010 and efforts would be made to recover the balance amount additional security of ₹ 25 lakh. Further, the Excise and Taxation Department (State Excise) stated in August 2011 that the amount of additional security was to be taken first from the earnest money and thereafter the balance amount of earnest money was to be adjusted towards the security amount equal to 20 *per cent* of the bid amount payable by allottee. The reply from the remaining two DETCs, Bhiwani and Rohtak was still awaited (October 2011).

As such, we recommend that the provisions of Excise Rules/State Excise Policy may be complied with strictly by Excise offices for recovery of security and additional security.

3.2.17 Internal control mechanism

3.2.17.1 Inadequate internal controls and monitoring

To have an effective internal control, the Department prescribes 14 statements/returns to be furnished by the DETCs (Excise), distillers and breweries to ETC every month.

Scrutiny of records in the office of the ETC, Haryana revealed that the prescribed monthly returns in respect of working of DETC (Excise) offices, distilleries and breweries in the State were received in time but the information regarding year-wise and district-wise quantum of monthly progress reports (MPRs) due and received had not been prepared. The Department stated in July 2011 that MPRs received from field offices could not be monitored due to shortage of staff. From time to time, Excise and Police staff conducts raids to check illicit distillation and sale of illicit liquor. Such checking was information based. The Department stated in July and August 2011 that four Departmental officers meetings were held to review the monthly statements, license fee and quota of CL and IMFL but no minutes of meetings were made available. From the

above, it is evident that internal checks and monitoring at Department level were not adequate. However, the Department stated that internal control mechanism would be strengthened on the recommendation of audit.

3.2.17.2 Working of internal audit

Internal audit is a tool in the hands of management to assure itself that the prescribed systems are functioning well. The Department stated in September 2010 that they had one Chief Accounts officer, five Accounts Officers and 11 Section Officers (against 14 sanctioned posts) at headquarters. There were 15 Section Officers in the district level offices who conducted internal audit in respect of the levy and collection of State excise duty/fees/penalty etc. and cash books.

The internal audit wing had conducted the audit of nine²³ field offices between May 2005 and March 2009 but no internal audit had been conducted in respect of remaining 12 field offices during the year 2005-06 to 2009-10.

Neither audit notes were made available nor the Chief Accounts Officer furnished the details of objections raised and settled along with the planning of auditable units. Thus, the monitoring at the Department level and coverage of internal audit was not adequate.

The irregularities discussed in audit paragraphs 3.2.8 to 3.2.16 are indicative of ineffective control mechanism as none of these irregularities pointed out by us were detected by the internal audit parties. The Department, therefore, needs to strengthen the internal audit wing to ensure timely detection and correction of errors in levy and collection of excise duty, fees and penalty etc.

The Excise and Taxation Department (State Excise) stated in August 2011 that though there was lack of internal control mechanism at the Department level due to shortage of staff but in spite of the fact there was increase in revenue receipts.

We recommend that the internal control mechanism/ internal audit be strengthened and be made more effective.

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Bhiwani, Faridabad, Fatehabad, Jind, Kaithal, Karnal, Kurukshetra, Rewari and Rohtak.

3.2.18 Conclusion

State Excise Duty constituted between 11 and 16 *per cent* of the tax revenue of the Government during the period under review. With a view to ensure proper and accurate realisation of excise duty/fee/penalty and implementation of Act/Rules, we noticed that:

- the Department had not fixed norms for minimum yield from grains though it was being used in the distilleries/breweries;
- the Department did not follow the provisions of the Act/Rules, Excise policy and instructions issued by the Government in many areas like grant of licenses for sale of liquor, collection of security/additional security/license fee from licenses granted, levy of penalty on illicit CL or short lifting of annual quota of liquor etc. resulting in significant amount of non/short realisation of excise duty on liquor, and defeating the objectives of the penal provisions; and
- Internal control mechanism and internal audit was weak.

3.2.19 Recommendations

In order to plug loopholes and enforce control over working of Excise Department in levy and collection of excise duty/fees etc. Government may consider the following suggestions for implementation:-

- Necessary amendments may be considered in the Act/Rules to fix norms for minimum yield of alcohol from grain;
- The penal provisions of the Acts/Rules may be implemented by imposing deterrent penalty to discourage illegal trade of liquor;
- The penal provisions for late deposit/non deposit of security/additional security may be introduced;
- The provision for cent per cent use of glass bottles instead of pet bottles for supply of CL by the distilleries may be introduced as pet bottles are not eco-friendly;
- The provision for taking action under criminal procedure code to ensure severe punishment may be introduced so that tendency of adulterating the liquor could be curbed; and
- Internal control mechanism may be strengthened and made more effective.