

## CHAPTER IV: STATE EXCISE

### 4.1 Tax administration

The Principal Secretary, Excise, Registration, Taxation and Stamps (ERTS) Department is the head of the Excise Department at the Government level. At the Department level, the Commissioner of Excise (CE) monitors the functioning of the Department. The implementing authority at the district level is the Superintendent of Excise (SE), who is responsible for the collection of all excise duties and fees as also for the proper functioning of the bonded warehouses and distilleries. The Assam Excise Act and Rules, the Assam Distillery Rules and the Assam Bonded Warehouse Rules (adopted by Meghalaya) regulate all excise related activities including revenue collection in the State. The Excise Department is one of the highest revenue earning departments in the State, after Taxation and Mining & Geology departments.

### 4.2 Trend of receipts

Actual receipts from excise during the years 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table and graph.

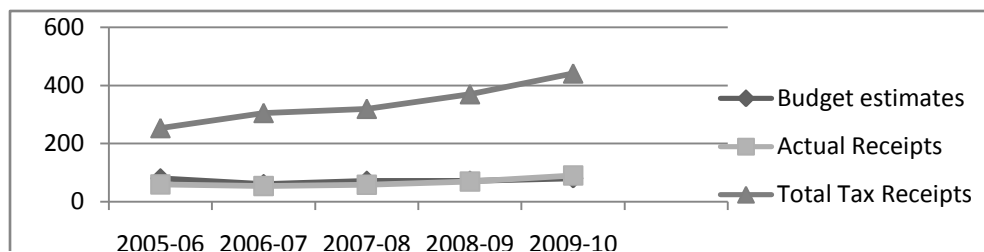
**Table 4.1**

(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 receipts
2005-06	80.00	59.16	(-) 20.84	26	252.67	23
2006-07	60.00	53.95	(-) 6.04	10	304.74	18
2007-08	71.58	58.62	(-) 12.96	18	319.10	18
2008-09	71.57	69.79	(-) 1.78	2	369.44	19
2009-10	80.15	90.29	(+) 10.14	13	444.29	20

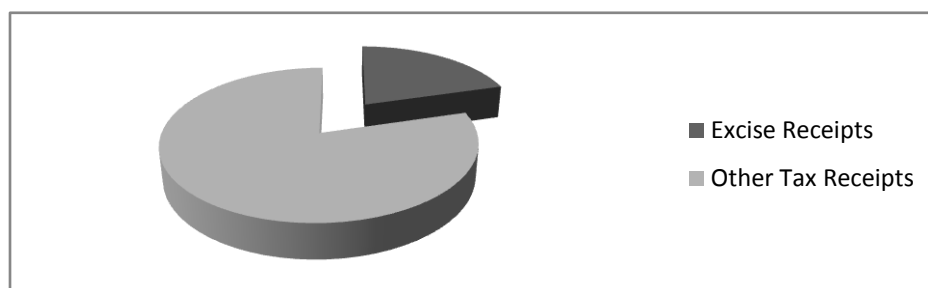
Thus, the percentage variation which was (-) 26 *per cent* in 2005-06 had shown correction and went up to the level of (+) 13 *per cent* in 2009-10. This indicates that the budget estimates were not framed considering the past trends and the future potential.

Excise receipts formed 23 *per cent* of the total tax receipts of the State during 2005-06 but in subsequent years it marginally declined to the range of 18-20 *per cent*.

A line graph of budget estimates, vis-à-vis the actual receipts and total tax receipts of the State may be seen below:



Also a pie chart showing the position of actual excise receipts vis-à-vis the total tax receipts during the year 2009-10 may be seen below:



### 4.3 Cost of collection

The cost of collection (expenditure incurred on collection) of the Excise Department during the year and the preceding two years may be seen below:

**Table 4.2**

Year	Actual revenue (in crore)	Cost of collection (in crore) <sup>1</sup>	Percentage of expenditure on collection	All India average percentage of preceding years
2007-08	58.62	4.42	7.54	3.30
2008-09	69.79	6.21	8.90	3.27
2009-10	90.29	7.23	8.19	3.66

### 4.4 Impact of audit reports

#### 4.4.1 Revenue impact

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation etc., with revenue implication of ₹ 82.16 crore in 20 paragraphs. Of these, the Department/Government had accepted audit observations in seven paragraphs involving ₹ 72.85 crore and had since recovered ₹ 22 lakh. The details are shown in the following table:

<sup>1</sup> Departmental figure

**Table 4.3**

(Rupees in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2005-06	4	4.27	2	0.10	-	--
2006-07	4	3.98	2	3.68	-	--
2007-08	3	0.43	1	0.16	-	--
2008-09	1	68.66	1	68.59	1	0.16
2009-10	8	4.82	1	0.32	1	0.06
<b>Total</b>	<b>20</b>	<b>82.16</b>	<b>7</b>	<b>72.85</b>	<b>2</b>	<b>0.22</b>

Thus, against the accepted cases involving ₹ 72.85 crore, the Department/ Government has recovered an amount of ₹ 22 lakh which is 0.30 per cent.

**We recommend that the Department needs to revamp its revenue recovery mechanism to ensure that they could recover at least the amount involved in the accepted cases.**

**4.4.2 Amendments in the Acts/Rules/notifications by the Government at the instance of audit**

Based on our audit observations, the State Government made the following amendments to the Meghalaya Excise Rules 1973:

- Establishment charges were done away with retrospectively.
- Security deposit was increased manifold.

**4.5 Results of audit**

Test check of the assessment cases and other records of 08 units relating to the Excise Department during the year 2009-10 revealed non-realisation of duties, fees etc., amounting to ₹ 34.87 crore in 31 cases, which can be categorised as under:

**Table 4.4**

(Rupees in crore)

Sl. No.	Category	Number of Cases	Amount
1.	Non-realisation of fees/duties etc.	15	27.86
2.	Non-renewal of licences	8	1.11
3.	Other irregularities	8	5.9
<b>Total</b>		<b>31</b>	<b>34.87</b>

A few illustrative audit observations involving ₹ 4.88 crore are mentioned in the succeeding paragraphs.

#### 4.6 Audit observations

*Scrutiny of the records in the offices of the Excise Department revealed several cases of non-observance of the provisions of the Act/Rules, resulting in non/short levy of fees and duties, etc., as mentioned in the succeeding paragraphs of this chapter. These cases are only illustrative, based on test check carried out by us, reflecting the flaws in the working of the Department. Although we point out similar cases every year, but the irregularities persist. As such, we feel the Department needs to improve its internal control system, in order to guard against the recurrence of such lapses in future.*

#### 4.7 Misclassification of IMFL

Under provision of the Assam Excise Act (as adapted in Meghalaya), excise duty

Import fee is required to be paid by the licensee of a bonded warehouse at the rate of ₹ 54 per case for import from distilleries within the State and ₹ 108 per case for import from distilleries outside the State and thus, should form an element of cost price. The cost price of general brand (GB), deluxe brand (DB) and premium brand (PB) of IMFL ranges from ₹ 336 to ₹ 635, ₹ 636 to ₹ 1135 and ₹ 1136 to ₹ 3000 per case respectively.

at different rates<sup>2</sup> is payable, based on the cost price of different brands of IMFL. The term 'cost price' has, however, not been defined in the Meghalaya Excise Act. According to the taxation laws of the State, 'cost price' means the price in terms of money value or valuable consideration paid or payable by a dealer for any purchase of taxable goods including any sum charged for anything done by the seller with or in respect of the goods at the time of or before delivery thereof.

Mention was made in the Audit Reports for the Government of Meghalaya for the years 2007-08<sup>3</sup> and 2008-09<sup>4</sup> regarding absence of a precise definition of cost price and the resultant loss of revenue. However the Government has not yet taken any steps to define cost price in the Acts and Rules to prevent the loss of revenue.

We noticed during test check of the records of nine bonded warehouses under Superintendent of Excise, Tura, Jowai and Khliehriat between November 2009 and January 2010, that the bonded warehouses sold 2,04,276 cases of GB and 61,425 cases of DB for the period from April 2008 to March 2009 and paid excise duty on the basis of 'cost price' which, however, did not include the element of

<sup>2</sup> General brand : ₹ 399 per case  
Deluxe brand: ₹ 447 per case  
Premium brand: ₹ 801 per case

<sup>3</sup> Paragraph 6.3

<sup>4</sup> Paragraph 4.2.8

import fee. Inclusion of import fee in the cost price would result in the said GB liquor being classified as DB and DB liquor as PB with consequent higher rate of excise duty. Thus, absence of definition of 'cost price' led to loss of revenue of ₹ 3.15 crore<sup>5</sup>.

We also reported the case to the Department/Government between December and January 2010, but their replies have not been received (September 2010).

**We recommend that the Government may consider defining the "cost price" and also mention the ingredients that constitute the 'cost price'**

#### 4.8 Non-realisation of import pass fee

Mention was made in Audit Reports for the Government of Meghalaya for the year 2006-07<sup>6</sup> and 2008-09<sup>7</sup>

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1975, empowers the State Government to levy import pass fee for import of IMFL. The rate of import pass fee was ₹ 108 per case of IMFL from 16 March 2007 and ₹ 31.20 per case of beer from 25 April 2003. The State Government has not exempted the defence / para military organisations from payment of import pass fee.

regarding the non-levy of import pass fee on IMFL and beer lifted by defence and para military organisations from outside the State. However, we noticed that no follow up action was initiated by the Department and import permits continue to be issued to the defence/para military organisations without realising import pass.

We noticed from the records of the ACE, Shillong and SE, Nongpoh in June 2009 that the concerned authorities issued permits to the defence and para-military organisations stationed in Meghalaya to import 45,840 cases of IMFL and 8,216 cases of beer from outside the State between April 2008 and March 2009. Import fee of ₹ 52.14 lakh was however, not realised while issuing the permits resulting in non-realisation of revenue of ₹ 52.14 lakh.

We reported the case to the Department/Government in July 2009 but their replies have not been received (October 2010).

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<sup>5</sup> ₹ (447 - 399) X 2,02,276 G.B cases = ₹ 97,09,248  
₹ (801 - 447) X 61,425 D.B cases = ₹ 2,17,44,450  
= ₹ 3,14,53,698

<sup>6</sup> Paragraph 6.14

<sup>7</sup> Paragraph 4.2.19

#### 4.9 Non-renewal of brand names

We noticed during test check of the records of the CE, Shillong in May 2009 that

Under Section 363 (1) of the Meghalaya Excise Rules, the brand name and the label granted by the department to a licensee remains valid up to 31 March of the next year after which it may be renewed on the request of the licensee on payment of renewal fee of ₹ 22,000 for all categories of IMFL and beer.

146 brands of IMFL and beer manufactured/sold by the companies within the State had not been renewed during 2008-09. Though the manufacturing companies were required to apply for renewal of brand names before the last day of the preceding year, none of the companies applied for the same. We also found that the CE neither issued demand notices to the companies nor cancelled the

certificate of sale within the State. This resulted in non-realisation of revenue of ₹ 32.12 lakh.

After we reported the case, the CE, while admitting the facts stated in July 2009 that notices had been issued to the companies/distilleries/bottling plants to renew their brand names and labels. We have, however, not received any intimation regarding recovery of the revenue.

We also reported the case to the Government in June 2009 but their replies have not been received (October 2010).

#### 4.10 Non-realisation of outstanding dues

We noticed while test checking the records of the ACE, Shillong in May 2009,

Under Section 35 of the Assam Excise Act, (as adapted in the State of Meghalaya), all excise revenue including any loss that may accrue due to default by any person, shall be recovered from the person primarily responsible to pay the same either by sale of his movable property or as an arrear of land revenue.

that the Government of Meghalaya, ERTS Department in February 2005 instructed the CE to realise outstanding revenue of ₹ 29.25 lakh through annual instalments of ₹ 2 lakh per year starting March 2005 from the owner of a bonded warehouse at Nongpoh, as the licensee had failed to pay the dues at a time. We further noticed that the owner of the bonded warehouse paid the first and second instalment in

March 2005 and March 2007 and the balance of ₹ 25.25 lakh was left unrecovered without any recorded reasons. The CE did not initiate any action to recover the amount, either by sale of his movable property or as an arrear of land revenue, and the case record was left unattended. Thus, failure to initiate action as per the provision in the Act led to non-realisation of revenue of ₹ 25.25 lakh.

We reported the case to the Department/Government in May 2009 but their replies have not been received (October 2010).

#### **4.11 Non-realisation of licence fee**

**4.11.1** We noticed during test check of the records of the CE in May 2009 that

A bottling plant is required to pay in advance, an annual fee at the rates prescribed from time to time, for renewal of licence. The validity period of licence is from April of a year to March of the next year. As per instruction No 141 of the Excise Act, if the licensee fails to pay licence fee before the start of the next financial year, his establishment is to be closed with the approval of CE till the fee is paid and on failure to pay fee promptly, the licence is required to be cancelled.

two bottling plants had not renewed their licences for the period 2008-09 and 2009-10. The CE neither issued demand notice to the licence owners to pay the fees nor cancelled the licences. Also, these plants were allowed to manufacture and sell IMFL/beer during the period which was irregular. Thus, laxity on the part of the CE resulted in unauthorised operation of these plants, besides non-realisation of licence fee of ₹ 14.10 lakh.

**4.11.2** We found during test check of the records of the ACE, Shillong, and SE, Nongpoh

between June and November 2009 that 22 IMFL retail shops did not renew their licences for different periods between April 1998 and March 2009. An amount of ₹ 35.60 lakh in the form of annual licence fee was recoverable from the licensees. The State Government cancelled the licensees belatedly between April 2008 and April 2009 without realising the outstanding licence fee. No action was taken to recover the dues as arrears of land revenue.

After we pointed out the cases, the ACE Shillong stated in February 2010 that licences were cancelled forthwith to avoid further loss of revenue as suggested by audit. We have not received reply from SE, Nongpoh.

We reported the case to the Government in June 2009 but their replies have not been received (October 2010).

#### 4.12 Non-payment of excise duty

We noticed during scrutiny of records of ACE, Shillong in June 2009 that three bonded warehouses placed order for import of 925 cases of IMFL in November 2008 from a Maharashtra based company under bond for the payment of excise duty in Meghalaya. The truck despatched by the company to carry IMFL met with an accident on the way and 825 cases involving excise duty of ₹ 7.59 lakh were damaged. The CE, instead of asking the three importing bonded warehouses to make payment of excise duty on IMFL lost in transit, requested the exporting company in February 2009 to pay the said amount. Since the exporting company was not liable to pay excise duty on damaged liquor in transit, the demand made by the CE was irregular, thereby resulting in non-payment of excise duty of ₹ 7.59 lakh.

Under the Assam Excise Act (as adapted in Meghalaya) and Rules made thereunder, IMFL may be imported only with the permission of the CE and under a bond for the payment of excise duty in Meghalaya. The importers shall also be liable to pay duty on any quantity representing the excess loss in transit.

When we reported the matter (June 2009), the Department stated in June 2010 that an amount of ₹ 5.91 lakh has been deposited by two bonded warehouses. We have however, not received any intimation regarding realisation of the balance amount (October 2010).

We reported the case to the Government in June 2009 but their replies have not been received (October 2010).

#### 4.13 Irregular adjustment of licence fee

We noticed during test check of the records of a bottling plant in the office of the CE in May 2009 that the bottling plant paid licence fee of ₹ 2.95 lakh for the year 2004-05. As the bottling plant could not start commercial production during the aforesaid period, the State Government issued orders to adjust the licence fee deposited by the licensee against license fee payable for the year 2005-06. Since there is no provision in the Excise Act for adjustment of refund against any amount payable by the bottling plants, the orders for adjustment were irregular and resulted in loss of revenue of ₹ 2.95 lakh.

As per Section 24 of the Assam Excise Act, 1910 (as adapted by Meghalaya), every licence granted under the provision of the Act shall remain in force for the period for which it was granted. In addition, Section 29 (3) stipulates that the holder of licence shall not be entitled to refund of any fee paid in respect thereof.

We reported the case to the Department/Government in June 2009, but their replies have not been received (October 2010).



#### **4.14 Irregular grant of exemption**

We noticed during test check of the records of the ACE, East Khasi Hills, Shillong in May 2009 that a commercial firm imported 2,667 cases of absolute alcohol between October 2007 and February 2009 for use in manufacture of drugs and medicine. For import of the said spirit, two import permits were issued without realisation of import pass fee. Since import pass fee is exempted for the purpose of import of denatured spirit only, the grant of exemption was irregular; and resulted in loss of revenue of ₹ 2.88 lakh.

Under Rule 27 of the Meghalaya Excise Rules, import of foreign liquor shall be covered by a pass and the State Government is empowered to grant exemptions from payment of pass fee for the import of denatured spirit only. Under Rule 370, a pass fee of ₹ 12 per BL is leviable on liquor imported into Meghalaya.

We reported the case to the Government in June 2009 but their replies have not been received (October 2010).