

CHAPTER-V
STATE EXCISE

Executive Summary: Chapter - V

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| Increase in tax collection | Revenue collection of the State Excise Department increased from ₹ 1591.09 crore in the year 2006-07 to ₹ 2861.45 crore in the year 2010-11. The increase of revenue collection for the year 2010-11 was 24 <i>per cent</i> over the previous year's collections. |
| Very low recovery by the Department on observations pointed out by us in earlier years reports | During the period 2005-06 to 2009-10, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax etc. with revenue implication of ₹ 128.00 crore in 17 paragraphs. Of these, the Department/Government accepted audit observations in seven paragraphs involving ₹ 32.82 crore and recovered only ₹ 2.31 crore (seven <i>per cent</i>) in seven paragraphs till December 2011. |
| Result of audit conducted by us in 2010-11 | <p>During test-check of the records of 28 units, we noticed non/short recovery /loss of excise duty and licence fee and other irregularities involving ₹ 67.35 crore in 470 cases.</p> <p>The Department accepted non/short realisation and other deficiencies of ₹ 13.64 lakh in 21 cases. The Department recovered ₹ 84.74 lakh in 80 cases of which eight cases involving ₹ 2.06 lakh had been pointed out in audit during the year 2010-11 and the rest in earlier years.</p> |
| Performance Audit on 'Levy and Collection of Excise Revenue' | We conducted a Performance Audit on ' Levy and Collection of Excise Revenue ' which had revenue implication of ₹ 292.74 crore of which ₹ 7.91 crore are recoverable and balance ₹ 284.83 crore are notional losses due to lacunae in Act/Rules. The Department accepted non/short realisation and other deficiencies of ₹ 2.05 crore and recovered ₹ 1.85 crore. |
| What we have highlighted in this Chapter | We noticed that the Department had heavy arrears of revenue pending for more than 10 years. Though it was repeatedly pointed out in various Audit Reports, the Department did not fix norms for minimum yield of spirit from grain. We pointed out system deficiencies like Lacunae in Rules, Blocking of Revenue on account of Permit fees, and non-issue of notifications. We also noticed many cases of non/short levy of excise duty and brand label fee in contravention of Rules. Further, the Department had allowed undue benefit by granting bar licences to Hotels under heritage category and unallowable wastage in production of heritage liquor to a distillery. The Department also had poor control on submission of the Excise Verification certificates. |

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| Our recommendations | The Government may consider: <ul style="list-style-type: none">➤ Fixing norms for minimum yield of spirit from grain;➤ Correlating allowable wastage with distance;➤ Charging fees on transfer of power of attorney to another person by the licensee;➤ Issuing guidelines regarding time limit for submission of the Excise Verification certificates and rate of penalty to be levied. Further next despatch of spirit/ liquor may be allowed only after receipt of earlier despatch;➤ Advertising harmful effects of liquor/ Lanced Poppy Heads / Bhang to the public at large to implement temperance policy effectively; and➤ Strengthening internal control mechanism for better financial management. |
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CHAPTER-V: STATE EXCISE

5.1 Tax administration

State Excise revenue comprises receipts derived from any payment, duty, fee, tax, fine or confiscation imposed or ordered under the provisions of the Rajasthan Excise Act, 1950 and Rules made thereunder. It also includes revenue from manufacture, possession and sale of liquor, bhang and lanced poppy heads.

5.2 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the period from 2006-07 to 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for same period are as follows:

(₹ in crore)

| Sl. no. | Year | Gross collection | Expenditure on collection of revenue | Percentage of expenditure on collection | All India average percentage |
|---------|---------|------------------|--------------------------------------|---|------------------------------|
| 1. | 2006-07 | 1,591.09 | 42.52 | 2.67 | 3.30 |
| 2. | 2007-08 | 1,805.12 | 48.51 | 2.69 | 3.27 |
| 3. | 2008-09 | 2,169.90 | 64.46 | 2.97 | 3.66 |
| 4. | 2009-10 | 2,300.48 | 85.74 | 3.73 | 3.64 |
| 5. | 2010-11 | 2861.45 | 87.45 | 3.06 | NA |

The percentage of cost of collection of State excise revenue to gross collection had always been on lower side upto 2008-09 but was on higher side in 2009-10 in comparison to all India average percentage.

5.3 Impact of Audit Reports

We, through our Audit Reports of the past five years had pointed out cases of non/short levy, non/short realisation, under assessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.*, with revenue implication of ₹ 128.00 crore in 17 paragraphs. Of these, the Department/Government had accepted audit observations in seven paragraphs involving ₹ 32.82 crore and had since recovered (December 2011) ₹ 2.31 crore in seven paragraphs as shown in the following table:

(₹ in crore)

| Year of Audit Report | Paragraphs included | | Paragraphs accepted | | Amount recovered | |
|----------------------|---------------------|---------------|---------------------|--------------|----------------------|-------------|
| | Number | Amount | Number | Amount | Number of paragraphs | Amount |
| 2005-06 | 2 | 31.62 | 1 | 31.35 | 1 | 0.85 |
| 2006-07 | 5 | 19.88 | - | - | - | - |
| 2007-08 | 4 | 29.18 | 4 | 0.96 | 4 | 0.95 |
| 2008-09 | 4 | 45.44 | 2 | 0.42 | 2 | 0.42 |
| 2009-10 | 2 | 1.88 | - | 0.09 | - | 0.09 |
| Total | 17 | 128.00 | 7 | 32.82 | 7 | 2.31 |

5.4 Results of Audit

On test-check of the records of 28 units of the State excise Department conducted during the year 2010-11, we noticed non/short recovery/loss of excise duty and licence fee and other irregularities involving ₹ 67.35 crore in 470 cases. A Performance Audit on '**Levy and Collection of Excise Revenue**' was also conducted which has revenue implication of ₹ 7.91 crore. Details are as under:

| Sl. No. | Category | Number of cases | Amount (₹ in crore) |
|--------------|--|-----------------|---------------------|
| 1. | Levy and Collection of Excise Revenue (A Performance Audit) | 1 | 7.91 |
| 2. | Non/short realisation of excise duty and licence fee | 374 | 62.54 |
| 3. | Loss of excise duty on account of excess wastage of liquor | 85 | 4.66 |
| 4. | Other irregularities | 11 | 0.15 |
| Total | | 471 | 75.26 |

During the year 2010-11, the Department accepted non/short realisation and other deficiencies of ₹ 13.64 lakh in 21 cases. The Department recovered ₹ 84.74 lakh in 80 cases of which eight cases involving ₹ 2.06 lakh had been pointed out in audit during the year 2010-11 and the rest in earlier years.

After issue of factual statement, the Department intimated (July 2011) recovery of ₹ 1.85 crore pertaining to a single observation pointed out during 2010-11.

We conducted a Performance Audit on '**Levy and Collection of Excise Revenue**' with financial impact of ₹ 7.91 crore which is mentioned in the succeeding paragraphs.

5.5 Performance Audit on 'Levy and Collection of Excise Revenue'

Highlights

- The Excise Department did not have any strategy plan/Action plan for the recovery of old arrears of revenue amounting to ₹ 218.37 crore.
(Paragraph 5.5.8)
- The Rules do not prescribe time limit for submission of Excise Verification Certificate and the penalty to be levied for its non-submission.
(Paragraph 5.5.9.1)
- Non-fixation of norms for minimum yield of spirit from grain led to potential loss of excise duty of ₹ 284.17 crore due to short yield of spirit.
(Paragraph 5.5.9.4)
- The Departmental Officials charged license fee for hotels bars under "heritage hotels category" rate without certification of their status as heritage hotels from the Government of India and the State Committee. Issuing of *ad hoc* licences, in haste, cost the exchequer ₹ 1.69 crore, which needs to be recovered from the licensees.
(Paragraph 5.5.11.1)
- The Department failed to take action against illegal transfer/misuse of shop licenses in the guise of power of attorneys.
(Paragraph 5.5.11.2)
- Due to non-renewal of Bonded Warehouse license, the Department have also foregone revenue of ₹ 55.00 lakh during the period 2005-06 to 2009-10.
(Paragraph 5.5.12)
- Non-submission of Excise Verification Certificate by the licensees within the prescribed time limit, was not mentioned by the Department and neither was penal action taken under the Rules.
(Paragraph 5.5.17.1)
- 5,181 bank drafts for ₹ 22.89 crore received on account of security deposits, application fee and contract money were deposited late in the Government Accounts with delay ranging from two to 140 days, in contravention of Rule 5 & 7 of General Financial and Accounts Rules.
(Paragraph 5.5.20)
- In absence of any records of internal inspections at the Excise Commissioner's office there was no monitoring and strengthening of internal control mechanisms of the Department.
(Paragraph 5.5.22)

5.5.1 Introduction

State Excise duty is levied by the States under Entry 51 of the List II - State List of VII Schedule of the Constitution. In the State of Rajasthan, excise revenue comprises receipts derived from any payment, duty, fee, tax, fine or confiscation imposed or ordered under the provision of the Rajasthan Excise Act, 1950 (RE Act), Rules and Manuals made thereunder. It also includes revenue from manufacture, possession and sale of Liquor, *Bhang* and Lanced Poppy Heads (LPH).

The RE Act empowers the State Government to frame a periodical excise policy which prescribes the procedure for fixation of the amount for exclusive privilege (reserve price) for the shop/group of shops of Indian made foreign liquor (IMFL)/Beer, country liquor, LPH and *Bhang*. The Excise Commissioner (EC) is responsible for formulation and implementation of the excise policy.

The licences for vend of whole sale trade of IMFL/Beer are granted through Rajasthan State Beverage Corporation Limited (RSBCL) and retail of excisable articles through the Exclusive Privilege System (EPS) by inviting tenders or auction or negotiation or any other prescribed procedure. In the case of LPH, licences are issued under the Rajasthan Narcotic Drugs and Psychotropic Substances (RNDPS) Rules, 1985.

During 2005-06, eight distilleries, four breweries and 25 bottling plants were in existence. The number of distilleries and breweries increased to 11 and 6 respectively during 2009-10. However there was decrease in the number of bottling plants to 14. The number of bottling plants decreased mainly due to change in the Excise Policy during 2005-06 whereby Government banned the use of Rectified Spirit (RS) on the plea that the quality of IMFL produced by Extra Neutral Alcohol (ENA) is superior. Due to ban on RS the cost of production increased due to which some bottling plants either closed or discontinued production of IMFL.

A Performance Audit on '**Levy and Collection of Excise revenue**' was undertaken to ascertain adequacy and effectiveness of the prevailing systems and procedure for the period from 2005-06 to 2009-10.

5.5.2 Organisational set up

At the Government level, the overall control of the State Excise Department (Department) is vested with the Principal Secretary, Finance Department. The Excise Commissioner is the head of the State Excise Department. He is assisted by eight Additional Excise Commissioners – six at zonal headquarters *i.e.* Ajmer, Bikaner, Jaipur, Jodhpur, Kota and Udaipur, one enforcement and one holding charge of administration at Udaipur. There are 34 District Excise Offices (DEOs) for 33 districts and two DEOs (prosecution) at Jaipur and Jodhpur. The enforcement wing of the Department is headed by one Additional Excise Commissioner and Finance wing is headed by Financial Advisor.

5.5.3 Audit objectives

We conducted the Performance Audit to get a reasonable assurance that:

- excise duty was levied and collected according to the Act/Rules, manuals and annual State excise policy;
- there was no lacunae in the Act/Rules/Policy or absence of any provisions that impacted the Government revenue;
- adequate system and procedure existed in the Department for timely and correct assessment and collection of excise levies; and
- effective internal control mechanism exists in the Department.

5.5.4 Audit Criteria

The performance of the Excise Department was assessed against the provisions of:

- Rajasthan Excise Act, 1950 and notification issued thereunder ;
- Rajasthan Excise Rules, 1956;
- Rajasthan State Excise Manual, 1988;
- Excise and Temperance policies of Rajasthan 2005-06 to 2009-10;
- Rajasthan Distillery Rules, 1977;
- Rajasthan Breweries Rules, 1972;
- Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licenses) Rules, 1982;
- Rajasthan Excise (Grant of Hotel Bar/ Club Bar Licenses) Rules, 1973;
- Rajasthan Stock Taking and Wastage of Liquor Rules, 1959;
- Rajasthan Narcotic Drugs and Psychotropic Substances Rules, 1985; and
- General Financial and Accounts Rules and Rajasthan Treasury Rules.

5.5.5 Scope of audit

A Performance Audit on '**Levy and Collection of Excise Revenue**' covering period upto 2004-05 was incorporated at para 6.2 of the Report for the year ended March 2005, which has been discussed in Public Accounts Committee in November 2011, however, their recommendations are awaited (December 2011). We test checked (July 2010 to March 2011) the records for the years 2005-06 to 2009-10 of 14¹ out of 34 DEOs along with DEO, Prosecution, Jaipur and Excise Commissioner, Rajasthan, Udaipur. These units were selected by adopting probability proportion to size with replacement (PPSWR) random sampling method.

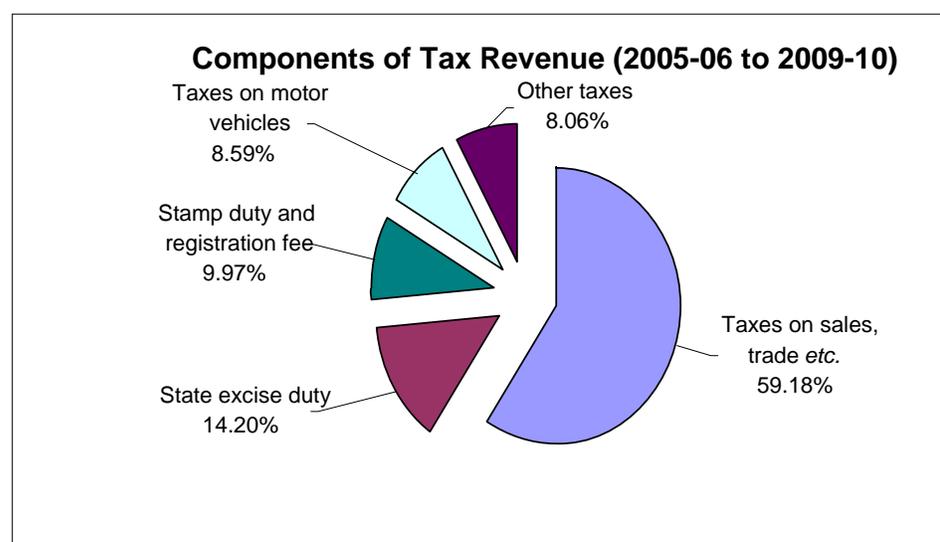
¹ Alwar, Baran, Bundi, Chittorgarh, Hanumangarh, Jhalawar, Jaipur (City), Jaipur (Rural), Kota, Nagaur, Pratapgarh, Sikar, Sriganganagar and Udaipur.

5.5.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the State Excise Department in providing necessary information for audit. An entry conference was held on 16 September 2010 with Secretary, Finance (Excise) Department and Excise Commissioner to explain the audit objectives and methodology. The audit findings were reported to Government in July 2011. An exit conference was held on 18 October 2011 with the Secretary, Finance (Excise) Department to discuss major audit findings.

5.5.7 Trend of revenue

State Excise is one of the major components of the State tax receipts and it forms around 14-15 per cent of the total tax receipts. The share of various components of tax revenue of the State during the year 2005-06 to 2009-10 is shown in the pie chart below:



The budget estimates and actual receipts of the State Excise Department during the years 2005-06 to 2009-10 were as follows:

(₹ in crore)

| Year | Budget estimate | Actual receipts | Variation excess (+)/shortfall(-) | Percentage of variation in actual receipts over last year | Total tax receipts of the State | Percentage of actual receipts vis-à-vis total tax receipts |
|--------------|-----------------|-----------------|-----------------------------------|---|---------------------------------|--|
| 2005-06 | 1,508.00 | 1,521.80 | (+) 13.80 | - | 9880.23 | 15.40 |
| 2006-07 | 1,600.00 | 1,591.09 | (-) 8.91 | (+) 4.55 | 11,608.24 | 13.71 |
| 2007-08 | 1,720.00 | 1,805.12 | (+) 85.12 | (+) 13.45 | 13,274.73 | 13.60 |
| 2008-09 | 1,910.00 | 2,169.90 | (+) 259.90 | (+) 20.21 | 14,943.75 | 14.52 |
| 2009-10 | 2,200.00 | 2,300.48 | (+) 100.48 | (+) 6.02 | 16,414.27 | 14.02 |
| Total | 8938.00 | 9388.39 | (+) 450.39 | - | 66,121.22 | 14.20 |

Percentage of variation in actual receipts over last year had an increasing trend during 2006-07 to 2009-10. There were significant increases in year 2007-08 and 2008-09 due to changes in the Excise policy during these two years such as levy of 5 per cent surcharge on duty of IMFL, revision of excise duty on country liquor from ₹ 2 to ₹ 70 per BL, introduction of new slab 43 and 50 per cent *ad volerum* duty on IMFL.

5.5.8 Arrears of revenue

There were 253 cases, involving ₹ 218.37 crore, pending for recovery as on 31 March 2010. The age-wise break up is as under:

| Period | Outstanding balance as on 31.3.2005 | | Outstanding balance as on 31.3.2010 | | Recovery during Performance Audit period (₹ in crore) | Percentage of recovery |
|--------------------------------------|-------------------------------------|---------------------|-------------------------------------|---------------------|---|------------------------|
| | No. of cases | Amount (₹ in crore) | No. of cases | Amount (₹ in crore) | | |
| More than 20 years | 168 | 12.75 | 76 | 8.75 | 4.00 | 31.37 |
| More than 10 years and upto 20 years | 70 | 43.96 | 53 | 34.67 | 9.29 | 21.13 |
| More than 5 years and upto 10 years | 56 | 156.63 | 55 | 153.48 | 3.17 | 2.02 |
| Upto 5 years | - | - | 69 | 21.47 | - | - |
| Total | 294 | 213.34 | 253 | 218.37 | 16.46 | 7.72 |

We observed that out of ₹ 218.37 crore, ₹ 196.90 crore are outstanding for more than five years. The outstanding balance pertains to very old period starting from the year 1962-63 and ₹ 43.42 crore are pending for more than 10 years.

The Department stated (September 2011) that as on 31 March 2011 out of total dues, ₹ 80.18 crore in 35 cases are pending in the courts. In 84 cases recovery amounting to ₹ 46.93 crore could not be affected as debtors were not having any assets. In 73 cases process of recovery amounting to ₹ 90.30 crore had been started through Land Revenue Act but due to joint title of the family on assets and non-obtaining the bid in rural areas, recovery was not affected. Further out of these 73 cases, 10 cases having dues of ₹ 47.50 crore pertained to debtors residing in other states for which the Department was not receiving adequate co-operation.

The Government during the exit conference (18 October 2011) further stated that out of total cases, 35 cases in which involvement of revenue was ₹ 138.16 crore (63 per cent) pertained to settlement period of 1999-2001. During that period the Government had to cancel the licences as dues were not deposited by the licensees.

The Department however did not intimate (October 2011) the number and outcome of Revenue Recovery Certificate proceeding started by them. Thus there was no effective strategy for recovery of the old arrears of revenue.

Audit findings

5.5.9 System Deficiencies

The RE Act empowers the State Government to frame a periodical excise policy which prescribes the procedure for fixation of the amount for exclusive privilege (reserve price) for the shop/group of shops of Indian made foreign liquor (IMFL)/Beer, country liquor, LPH and *Bhang*. The EC is responsible for formulation and implementation of the excise policy.

The licences for vend of whole sale trade of IMFL/Beer are granted through RSBCCL and retail of excisable articles through the EPS by inviting tenders or auction or negotiation or any other prescribed procedure. In the case of LPH, licences are issued under the RNDPS Rules, 1985.

5.5.9.1 Lacunae in Rules

Rule 37(2) of the RE Rules 1956 provides that if the Excise Verification Certificate is not submitted within the prescribed time limit or any of the conditions of the bond have been infringed, the District/Assistant Excise Officer of exporting district shall recover from the executants the penalty due under the bond.

During test check of the records of DEOs Alwar, Jaipur (Rural) and Sikar, we observed that the prescribed format of bond to be submitted along with the Excise Verification Certificate (EVC) did not have any mention of time limit for submission of the EVC, the amount or rate of penalty to be recovered on failure to submit the EVC and on any other violation in conditions of the bond. As a result

the Department was not able to enforce any time limit for submission of the EVC and amount or rate of penalty to be levied under rule 37(2) of the *ibid* Rules.

When we pointed out this, the Government agreed (August 2011) with the opinion of audit and assured that rules would be modified shortly.

The Government may fix time limit for submission of the EVC and rate for penalty to be levied.

5.5.9.2 Blocking of Revenue on account of Permit fees

During test check of the records of the EC office, we observed that M/s United Spirits Limited, Udaipur and Alwar units (petitioner) had filed petition against Government of Rajasthan, EC and DEOs Alwar and Udaipur (respondents) in Rajasthan High Court, Jaipur regarding fee on the transportation of the industrial spirit, except the spirit fit for human consumption, within the State from one location to another.

The Department received notice in EC office on 26.11.2009. On 27.11.2009 itself the Department appointed DEO (Prosecution), Jaipur to plead the case on their behalf. Audit observed that appointment order was served to DEO (Prosecution) Jaipur on 7.12.2009 even though the date of hearing was 04.12.2009. As a result the Hon'ble Rajasthan High Court, Jaipur passed ex-parte interim order (4.12.2009) in favour of petitioner directing respondents not to charge fee on the transportation of the industrial spirit, except the spirit fit for human consumption, within the State from one location to another, till next date of hearing. As a result of the continued stay the Government was deprived of permit fee of ₹ 65.60 lakh (calculated upto 3/2010).

When we pointed out this, the Department replied (August 2011) that they were not able to ascertain the date of hearing as the cause list did not mention the name of the Departmental lawyer.

We do not accept the reply as knowing the revenue implications the Department should have made efforts to represent the Department in the court.

5.5.9.3 Non-issue of notification under section 71(2) of the Rajasthan Excise Act regarding treatment of Rajasthan State Ganganagar Sugar Mill as one unit

Rule 69(3) of the Rajasthan Excise Rules, 1956 stipulates that every manufacturer of country liquor, IMFL and Beer shall have to get labels (irrespective of size, viz. quart, pint or nip) of brands intended to be sold or manufactured in Rajasthan, approved and recorded with the Excise Commissioner and a fee of ₹ 25,000 shall be payable per brand per year or part thereof.

During test check of the records of 10 DEOs², we found that 10 manufacturing units of country liquor of Rajasthan State Ganganagar Sugar Mill (RSGSM) manufactured and sold 93 brands of country liquor without registration of brand labels during the years 2005-06 to 2009-10. This infringement of the rule resulted in non-realisation of

brand label fees amounting to ₹ 23.25 lakh.

When we pointed out this, the Government stated (August 2011) that as per Government letter dated 26.02.2005 the RSGSM had been treated as one unit.

We do not accept the reply because as per rule 69(3) of RE Rules, the brand label fee is recoverable in respect of each brand manufactured or sold by every manufacturer of country liquor and all manufacturing units of RSGSM had separate licence for manufacture of country liquor. We also noticed that the letter dated 26.02.2005 is issued at the level of Deputy Secretary whereas any exemption in duty, tax or fee is allowable only after issuing notification under section 71(2) of RE Act.

During exit conference (18.10.2011) the Government agreed to notify the letter dated 26.02.2005 in which RSGSM had been treated as one unit.

² Alwar, Baran, Bundi, Chittorgarh, Hanumangarh, Jaipur (Prosecution), Kota, Sikar, Sriganganagar and Udaipur.

5.5.9.4 Non-fixation of norms for yield of spirit from grain

The Rajasthan Distillery Rules, 1977 prescribe management of distilleries, issue of spirit and instructions for maintaining forms and registers. The Rules, however, do not prescribe any norms for production of spirit from grain.

After 2005-06, use of molasses was gradually discontinued and use of grain started in spirit production. According to the paragraph 39 – ‘spirit yield’s of the Technical Excise Manual, 7.7 gallon of alcohol is obtained from 220 pounds (one quintal) of rice, which converts into 61.2 London proof litre per quintal of rice. This was neither followed by the Department nor any norms were provided in the Rules.

During test check of the records, we noticed that five distilleries³ producing spirit from grain i.e. rice or other, obtained 63.4 London proof litre (LPL)⁴ to 92.53 LPL spirit per quintal, while two distilleries⁵ yielded 38.21 LPL to 57.18 LPL spirit per quintal. If we take the yield of 61.2 LPL spirit per quintal as provided in the Technical Excise Manual⁶, the two distilleries made short production of 1,67,16,075.17 LPL spirit during the years 2006-07 to 2009-10 involving excise duty of ₹ 284.17 crore as mentioned below:

| Sl. No. | Name of distillery | Year | Grain (Rice) used (in quintals) | Actual quantity obtained (in LPL) | Quantity as per minimum yield 61.2 LPL per quintal | Short production (in LPL) | Excise duty involved @ ₹ 170/- per LPL (in ₹) |
|--------------|--------------------------------|---------|---------------------------------|-----------------------------------|--|---------------------------|---|
| 1 | Vintage Distillers Ltd., Alwar | 2006-07 | 108387.00 | 4141960.66 | 6633284.40 | 2491323.74 | 423525036 |
| | | 2007-08 | 131676.00 | 5135388.15 | 8058571.20 | 2923183.05 | 496941119 |
| | | 2008-09 | 221691.00 | 8477273.24 | 13567489.20 | 5090215.96 | 865336713 |
| | | 2009-10 | 274332.00 | 10973291.60 | 16789118.40 | 5815826.80 | 988690556 |
| 2 | United Spirits Ltd., Udaipur | 2006-07 | 98284.00 | 5619455.18 | 6014980.80 | 395525.62 | 67239355 |
| Total | | | 834370.00 | 34347368.83 | 51063444.00 | 16716075.17 | 2841732779 |

Source: Information provided by the Department.

Due to non-fixation of norms of minimum yield of spirit, potential loss of revenue of ₹ 284.17 crore as excise duty cannot be ruled out. The issue regarding non-fixation of norms by the Department for spirit, beer and LPH had been brought to the notice of the Government by earlier Audit Reports (Revenue Receipts) of the year 1995-96, 2000-01 and 2005-06 respectively.

When we pointed out this, the Government stated (November 2011) that a committee has been constituted for framing norms.

³ Agri Bio-tech Ajitgarh, Globus Spirits Behror, HSB Agro Industries Reengus, Pernord Record Behror and United Spirits Limited, Alwar.

⁴ "London proof litre" means a litre containing liquor of strength of London proof.

⁵ Vintage Distillers, Alwar and United Spirits Limited, Udaipur.

⁶ Prepared under the orders of the Government of India by Lt. Col. C.H. Bedford and commonly referred to in the Excise Department.

The Government may consider necessary amendments in the Act/Rules to fix norms for minimum yield of spirit from raw material.

Compliance Deficiencies

5.5.10 Wastage of spirit

5.5.10.1 Loss of revenue due to excess wastage of spirit

Sub rule 1(b) of rule 5-A of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 provides a maximum of 2.5 *per cent* (in pot stills) free allowance for wastage in the process of re-distillation of spirit for the purpose of manufacturing fruit spiced spirit or Silent Spirit required for manufacture of Indian Made Foreign Liquors and other quality liquors.

During test check of the records of M/s HSB Agro Industries Limited (a distillery under the jurisdiction of DEO Sikar), we found that the unit showed an excess wastage of 1,594.11 LPL spirit for the period 2007-08 to 2009-10, over and above the maximum wastage permissible in the Rules, during the re-distillation process for production of heritage liquor which involved excise duty of ₹ 5.58 lakh at the rate of ₹ 350 per LPL.

When we pointed out this, the Government stated (August 2011) that an additional two *per cent* wastage had been allowed in production of Kesar Kasturi. Earlier Kesar Kasturi was the only heritage brand however now other heritage liquor brands have also come into the market having the same process of production as in the case of Kesar Kasturi. As all heritage liquor have to undergo the same process of production, the distillery has taken the wastage accordingly.

We do not accept the reply as the rules allowed additional wastage specifically in the case of Kesar Kasturi only.

5.5.10.2 Non-recording actual transit loss of spirit

Rule 5 of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 provides for an allowance for the actual loss in transit due to leakage or evaporation of spirit transported in metal vessels under bond at the rate of 0.2 *per cent* to 0.4 *per cent* as per duration of journey. The loss will be determined by deducting from the quantity of spirit dispatched from the distillery, the quantity received at the place of destination, both quantities being stated in terms of London Proof. The allowance will be calculated on the quantity contained in each vessel comprised in a consignment after actually gauging and proving. Rule 5(5) provides for levy of excise duty on wastage exceeding permissible limit.

During test check of the records maintained at various distilleries, bottling plants and reduction centres of RSGSM in seven DEOs⁷, we found that 1,545.11 lakh LPL RS was shown as received at destination against dispatch

⁷ Alwar, Baran, Hanumangarh, Jaipur (Rural), Sikar, Sriganganagar and Udaipur.

of 1,547.97 lakh LPL RS and 2.86 lakh LPL RS was recorded as wastage taking maximum permissible wastage allowance without considering the actual loss, preparing *panchnama* or *fird* report and recording reasons of the actual loss. During the test check it was found that transit wastage in case of short distances of one to two kms as well as long distances of 500 kms were same and up to maximum permissible limit.

During the exit conference (October 2011), the Department agreed to the observation and to deliberate upon breakage with regard to the distance.

5.5.11 Grant of licences

5.5.11.1 Irregular sanction of hotel bar licences in heritage category

As per the Rajasthan Excise (Grant of Hotel Bar/Club Bar Licences) Rules, 1973, hotels are broadly categorised in three categories – luxury, heritage and other for the purpose of recovery of licence fee. Heritage hotels are the hotels which are recognised by the Government of India as heritage hotels. As per notification dated 1.4.2006 issued by the State Government, heritage hotels are to be further categorised in ‘A’, ‘B’ and ‘C’ categories by a committee constituted by the State Government. Licence fee of hotel bar licence for each category of heritage hotels is different.

During test check of the records of the EC office, we found that during the years 2005-06 to 2008-09, 23 hotels were issued *ad hoc* licences by the EC (renewed in following years) under heritage category. We saw that these hotels were not recognised as heritage hotels by the Government of India. However, the Department recovered the licence fee at the

lowest rate applicable for the ‘C’ category of heritage hotels. The difference of the licence fee worked out to ₹ 1.69 crore comparing the rates prescribed for other hotels i.e. the lowest in the category of hotels and the rates as charged by the Department. The charging of licence fee at the heritage hotels rate without certification of heritage hotels was therefore incorrect.

When we pointed out this, the Government stated (August 2011) that there was no need to take heritage certificate from the Government of India as the State Government had framed guidelines for categorising the hotels as heritage hotels.

We do not accept the reply as heritage certificate from the Government of India is mandatory requirement for categorisation as per the Rules. The State Government only categorises Heritage Hotels through a committee constituted for this purpose. However during the cited period, the State Government had not even constituted a committee for categorising Heritage Hotels. The Excise Department therefore acted in haste in issuing the *ad hoc* licences, which has cost the exchequer ₹ 1.69 crore, which needs to be recovered from the licensees.

We recommend that the licences in heritage category may not be sanctioned without certificate of heritage issued by the Government of India and categorisation given by the Committee.

5.5.11.2 Misuse of licenses in the guise of Power of Attorney

There is no provision in Rajasthan Excise Rules, 1956 to run the shops of liquor/LPH by making power of attorney in favour of other person. However, Rule 72(b) envisages that licence of selling of liquor/LPH may be transferred by making 50 per cent payment of licence fee to the Government. Accordingly, a shop of liquor/LPH run by the person for whom power of attorney executed by original licensee will be treated as illegal transfer/misuse of licence. We noticed that Rule 14 of Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of Licence) Rules, 2005 provide that no person shall be entitled to obtain lease of more than one shop.

During test check of the records of the DEOs Bundi, Chittorgarh and Jaipur (City), we noticed that in respect of 28 shops, the licensees misused their licences by allowing others to run the shops unauthorisedly by making power of attorney. However, the Department did not charge any fees on this transfer of licence.

When we pointed out this, the Government stated (November 2011) that as per the present Law the licensee can execute power of attorney. The licensees had

given power of attorney for managing their business only, the ownership or legal liabilities and rights remained with the licensee.

We do not accept the reply as the licensees transferred their legal and administrative rights to other persons for the whole year of licence in guise of power of attorney which tantamounted to transfer of licence.

We recommend that fees may be charged for future grant of power of attorney to person other than the licensee.

5.5.12 Non-recovery of licence fee

Section 17 (d) of the RE Act provides that the EC, may establish or licence a warehouse wherein any excisable article may be deposited and kept without payment of duty and Rule 68 (6-C)(c) and 13 of the Rajasthan Excise Rules, 1956 envisage that annual licence fee of ₹ 5.00 lakh for a bottling plant and ₹ 6.00 lakh for wholesale vend by manufacturers of liquor to wholesale vendors at divisional headquarters and ₹ 5.00 lakh for places other than divisional headquarters is payable. Excise Policy 2004-05 and onwards provided for grant of licence to manufacture country liquor to only those private parties who had a licence to work as distillery or bottling plant to bottle IMFL. Besides this according to Rule 68 (12) licence fee ₹ 1.00 lakh was leviable for manufacturing country liquor.

During test check of the records of DEO Sriganganagar and Udaipur, we found that licences for bottling of IMFL was granted to M/s H.H. Bottling Plant, Sriganganagar on 14.01.2005 and to M/s Mahamaya Liquor Industries Private Limited, Udaipur on 30.01.1997. Similarly, licences to establish bonded warehouses were granted to these licensees on 13.01.2005 and

28.01.1991 respectively. The licencees were permitted to fill country liquor after depositing ₹ 1.00 lakh as additional licence fee. We observed that M/s Mahamaya Liquor Industries Private Limited had not renewed the licences for bottling plant and bonded warehouse since 2005-06 and M/s H.H. Bottling Plant renewed the licence for its bottling plant for the year 2005-06 only.

When we pointed out this, the Government stated (August 2011) that point No. 11 of Excise Policy 2006-07 provided that bottling plants which were manufacturing only country liquor were liable to pay ₹ 1.00 lakh as licence fee. They are not manufacturing IMFL so licence fee of bottling IMFL is not chargeable.

The reply of the Government is not correct as:

- (i) Bottling plants were provided additional facility to manufacture country liquor after depositing extra licence fee of ₹ 1.00 lakh.
- (ii) The reason behind non-renewal of licences was attributed to non-bottling of IMFL. However, these bottling plants continued the production of country liquor after depositing licence fee ₹ 1.00 lakh per year. The facility of producing the country liquor only to these bottling plants was irregular as this facility was only permissible to bottling plants which were producing IMFL.
- (iii) Due to non renewal of bonded warehouses licences, the Department has also foregone revenue of ₹ 55.00 lakh during the period 2005-06 to 2009-10.

5.5.13 Non collection of data on LPH cultivation

As per condition no.1 of licences and point no. 8.5 of guidelines of application form of retail and wholesale vend of LPH, no rebate is allowable in licence fee.

During the year 2008-09 the Department showed production of 8,821.18 quintal of LPH on the area of 1,348.95 hectare which gives the rate of 6.54 quintal per hectare. The actual area available for cultivation was 1,829.71 hectare and the Department did not collect the LPH from 480.76 hectare which amounts to 3,144.17 quintal LPH at the rate of 6.54 quintal per hectare. To cover the shortage in LPH collection the State Government allowed (October 2008) import of 3093.38 quintal LPH from other states and also granted rebate in licence fee of ₹ 20.00 per kg to the wholesale licensees and ₹ 180.00 per kg to retail licensees amounting to ₹ 2.34 crore during 2008-09.

When we pointed out this, the Government replied (November 2011) that there was short collection of LPH in 2008-09 as the land allotment for cultivation of opium was reduced in 2008-09 by the Central Government. We do not accept the reply as the Department failed to collect the LPH from the whole allotted land and the rebate on import of LPH was irregular as per conditions of the licence.

5.5.14 Loss of revenue due to irregular accounting of spirit

Rule 113 of the Rajasthan Distilleries Rules, 1977 envisages that prescribed registers and forms of account are not to be changed without orders of the EC. All fractions of litre and degree or strength are to be shown to the nearest first point of decimal to maintain uniformity in the system of proof conversion.

During test check of the records of DEO Alwar, we found that two units i.e. Beem Global Spirit (E) Private Limited and Pernord

Record (E) Private Limited, Behror showed in their accounts the strength of spirit upto four decimal points instead of one point, which resulted in short depiction⁸ of 2425.295 LPL concentrate spirit in the accounts depriving of excise revenue ₹ 12.13 lakh.

When we pointed out this, the Government stated (August 2011) that the provision of Rule 113 was only for having uniformity in the accounts and not for recovery of the excise duty.

We do not accept the reply as excise duty is calculated on the basis of spirit shown in the accounts and as per the rule 113 it is mandatory to show the spirit up to one decimal point. Further accounting method cannot be changed without explicit orders of EC.

5.5.15 Non/short levy of permit fee

5.5.15.1 Non-realisation of permit fee

As per rule 69 (B) of the RE Rules, 1956, permit fee of ₹ 2.50 per BL is payable on RS for manufacture of country liquor and ENA, high bouquet spirit and like spirit/alcohols transported within the State.

During test check of the records of DEOs Jaipur (Rural), Sriganganagar and Udaipur, we found that four bottling plants⁹ had imported RS/ENA for manufacturing

of country liquor from distilleries¹⁰ situated in the State, but no permit fee was charged during 2006-07 to 2009-10 on 238 permits involving 45,88,000 bulk litre (BL) of RS/ENA. This resulted in non-realisation of permit fee of ₹ 1.15 crore.

When we pointed out this, the Government stated (August 2011) that the Department in pursuance of point 11 of Excise Policy 2006-07 had issued directions vide its letter dated 12.04.2006 whereby it was decided that 'the local distillers would be allowed to have franchise arrangement with the local bottlers. This arrangement had been allowed to save transportation charges and transfer fee, payable on sale of RS to a bottler since in a franchise

⁸ For example, a distillery received 24,133 BL of spirit having strength of 5.1524 over proof. Due to non-accounting of quantity of spirit as per rule 113 of Rajasthan Distilleries Rules 1977, the quantity of spirit was shown as 25,376.43 LPL (24,133x105.1524/100) instead of 25,387.92 LPL(24,133x105.2/100) resulting short depiction of 11.49 LPL.

⁹ National Industries Limited, Jetpura, Rajasthan Liquors, Kaladera (Jaipur Rural), H.H. Bottling Plant (Sriganganagar) and Mahamaya Liquor Industries Private Limited (Udaipur).

¹⁰ Globus Spirits Limited, Vintage Distillers Limited (Alwar) and Agribiotech Industries Limited (Sikar).

situation, there would be no sale, as bottler is bottling on behalf of the distiller, the brand of the distiller'. The Government further replied that by its two notifications dated 13.08.2007, permit fees was exempted from 17.9.2005 to 13.8.2007. Subsequently the Government vide its notification dated 5.05.2008 had increased the bottling fees, after which the permit fees were not leviable.

We do not accept the reply as:

- (i) The point 11 of Excise Policy 2006-07 did not pertain to permit fee but to supply of country liquor by RSGSM.
- (ii) The two cited notifications pertained to distilleries having bottling plants in their own premises and were not applicable on other bottlers.
- (iii) The notification dated 5.05.2008 was not about exemption of permit fees but about increase in bottling fees. Till date, no notification has been issued by the Department to discontinue the permit fee for transportation of spirit under franchise arrangement.

Thus, the bottlers have been unduly benefited by the Department.

5.5.15.2 Short levy of permit fee on RS imported for use other than manufacture of liquor

As per proviso 2 (b) under rule 69 (B) of the Rajasthan Excise Rules, 1956, permit fee ₹ 15 per BL is payable on RS imported for the purpose other than manufacture of liquor *etc.*

During test check of the records of DEOs (Prosecution) Jaipur, Kota, Sriganganagar and Udaipur, we found that four manufacturing units of the RSGSM imported RS for manufacturing of country liquor after paying permit fee at the rate of ₹ 3.00 per BL and sold it to other parties for use for purpose other than manufacture of liquor for which permit fee was chargeable at the rate of ₹ 15.00 per BL. These units were liable to pay permit fee of ₹ 25.97 lakh, against which the Department recovered ₹ 5.66 lakh, resulting in short levy of ₹ 20.31 lakh.

The Department has not instituted mechanism to watch the end use of imported RS because of which the Department was not in a position to levy the duty at the rate of ₹ 15.00 per BL on such sales of RS by these units. These units also at their own did not deposit the same.

When we pointed out this, the Government stated (August 2011) that recovery would be made.

5.5.16 Ineffective collection of fee

As per rule 70 of the RE Rules, the applicable permit fee and vend fee was to be paid in advance in the Government accounts.

During test check of the records of DEO Jaipur (City), we noticed that the RSBCL was authorised (12.05.2006) to issue bill cum transit pass in the prescribed proforma to retailers of IMFL/Beer. The Government vide letter dated 24.04.2006, permitted the RSBCL to collect permit fee and vend fee from the retailers at

the time of issue of bill cum transit pass and to deposit the same once in a week in the Government accounts.

Audit observed that the letter was issued in contravention of provisions of rule 70 of the RE Rules. Further the RSBCL collected the permit fee and vend fee from the retailers and deposited the same in the Government account with a delay ranged between seven and 33 days.

When we pointed out this, the Government stated (August 2011) that RSBCL is a Government owned company hence interest recovery would not be justified.

We recommend that the Department should collect the excise revenue directly in Government account by separate challans during sale of liquor from the RSBCL.

5.5.17 Rules and policies

5.5.17.1 Non-receipt of Excise Verification Certificate of liquor transported under bond

The RE Rules, 1956, the Rajasthan Breweries Rules, 1972, the Rajasthan Distillery Rules, 1977 and Conditions and Restrictions on Establishments or Licence of Bonded Warehouse notified in 1986 provide execution of a bond by the licensee in respect of liquor, Beer or RS transported under bond without pre-payment of duty. The licensee shall furnish EVC as a proof to deliver the liquor at a particular place or destination within the prescribed time limit before the bond can be discharged. If the EVC is not received within the time period mentioned in the bond or the pass, excise duty on the quantity not/short delivered at the rate when in force is recoverable.

- During test check of the records of DEOs Alwar, Jaipur (Rural) and Sikar, we found that eight manufacturing units¹¹ transported under bond 21,61,224 BL Beer and 10,39,800 LPL ENA out of the State, and 85,59,561 LPL RS/ ENA, and 1,57,85,964 LPL country liquor within the State during the period

2006-07 to 2009-10 involving excise duty(ED) of ₹ 26.02 crore in out of the

¹¹ M/s Agribiotech Industries Ltd., Carlsberg India Ltd., Dewan Modern Brewery, Globus Spirits Ltd., H.S.B. Agro Industries Ltd., Jaipur Distillery, Rochees Brewery Ltd. and United Brewery.

State and ₹ 329.69 crore within the State as detailed below:

| Name of Distilleries/ Breweries | Rectified Spirit | | | | Country Liquor | | Beer | |
|------------------------------------|------------------|---|------------------|---|------------------|---|------------------|--|
| | Within the State | | Out of the State | | Within the State | | Out of the State | |
| | No. of permit | Quantity in LPL (ED in ₹) | No. of permit | Quantity in LPL (ED in ₹) | No. of permit | Quantity in LPL (ED in ₹) | No. of permit | Quantity in BL (ED in ₹) |
| Jaipur Distillery | 113 | 26,16,160 (44,47,47,200) | 4 | 1,49,400 (2,53,98,000) | 389 | 12,60,360 (14,70,46,201) | - | - |
| Globus Spirits | 15 | 5,58,049 (9,48,68,303) | - | - | 2172 | 83,11,284 (96,96,77,504) | - | - |
| Agribiotech Industries | 112 | 36,27,520 (61,66,78,400) | 19 | 5,10,720 (8,68,22,400) | - | - | - | - |
| H.S.B. Agro Industries | 60 | 17,57,832 (29,88,31,440) | 12 | 3,79,680 (6,45,45,600) | 1918 | 62,14,320 (72,50,24,714) | - | - |
| Modern Brewery | - | - | - | - | - | - | 160 | 14,46,405 (5,41,33,828) |
| United Brewery | - | - | - | - | - | - | 43 | 3,24,372 (1,45,43,044) |
| Carlsberg India | - | - | - | - | - | - | 47 | 3,10,226 (1,14,64,703) |
| Rochees Brewery | - | - | - | - | - | - | 14 | 80,221 (33,14,447) |
| Total | 300 | 85,59,561 (1,45,51,25,343) | 35 | 10,39,800 (17,67,66,000) | 4479 | 1,57,85,964 (1,84,17,48,419) | 264 | 21,61,224 (8,34,56,022) |

Source: Information provided by the Department.

Though the licensees did not submit the EVCs even after a lapse of one to five years, the Department failed to take action under the Rules.

When we pointed out this, the Government stated (October 2011) that due to postal delay EVCs were received late. The Government further replied that the EVCs for the audit period involving excise duty of ₹ 78.62 crore have since been received and remaining EVCs would be received in due time.

We do not accept the reply as postal delay of more than one week cannot be justified. The Department was not serious about monitoring the submission of EVCs and hence the Licensees had also delayed submissions of the EVCs.

- We made effort to cross verify the receipt of liquor at destination points with dispatches made by two units¹² in respect of cases where EVCs were not submitted. Our cross verification revealed that one permit (2009-10) involving 33,600 LPL spirit was fictitious and against six permits (2008-09) 2,01,600 LPL spirit was not delivered at destination. Duty of ₹ 4.00 crore (2,35,200 LPL) was involved in these permits. Necessary action to recover duty of ₹ 4.00 crore with penalty should be taken under Rule 37(2) of RE Rules.

The Government stated (August 2011) that M/s Agribiotech Industries Limited and M/s H.S.B. Agro Industries Limited, Sikar exported RS/ENA during 2006-07 to 2010-11 in which 79 permits involving 19,82,400 LPL RS/ENA were fictitious and 2,35,200 LPL RS/ENA transported through seven

¹² M/s H.S.B. Agro Industries Limited Reengus and M/s Agribiotech Industries Limited, Ajeetgarh.

valid permits have not reached its destination. The Department had lodged FIRs in November 2010, December 2010 and January 2011 and imposed penalty of ₹ 37.70 crore against the distilleries, out of which ₹ 6.50 crore were recovered.

If we keep aside the seven permits verified by us upto 2009-10, it can be observed that duty amounting to ₹ 37.70 crore on RS/ENA was not recovered. The Department also did not indicate the recovery of excise duty in the reply.

The Government may prescribe that the next despatch of spirit/liquor will be allowed only after receipt of the EVCs of the earlier despatch. The Government should also fix responsibility on units for collection of the EVCs on time.

5.5.17.2 Non-execution of temperance policy of liquor

As per excise policies for the years 2005-06 to 2009-10, the State Government was to implement temperance policy of liquor under which consumption of liquor was to be decreased through publishing bad effects of liquor in public.

During test check of the records of the EC office, we found that during the last five years consumption of liquor increased by 52 per cent from 1465.34 lakh BL (2005-06) to 2227.22 lakh BL (2009-10). It indicated that the temperance

policy of the liquor was not implemented effectively by the Department. The information regarding details of action taken by the Department for implementation of temperance policy of liquor, the year-wise budget provision and expenditure made there against towards temperance policy of liquor were not provided to us.

When we pointed out this, the Government stated (August 2011) that consumption of liquor increased due to increase in population and per capita income and control on illicit liquor due to effective raids. In exit conference the Government stated that besides this, provision of closure of liquor shops at 8 p.m. has been enforced, warning that liquor is injurious to health has been labeled on every bottle and the location of shops of liquor are kept quite away from educational institutes, religious places and colonies of weaker section.

We do not agree with the reply as the Government neither made budget provision nor advertised harmful effects of liquor consumption to implement temperance policy effectively.

We recommend that Government should advertise harmful effects of liquor consumption to implement temperance policy effectively.

Other points of interest

5.5.18 Inadequacy in supply of excise locks

Under condition no. 12 and 13 of the Conditions and Restrictions on Establishment or Licence of Bonded Warehouse issued by the Government vide notification dated 22.1.1986, the charging and discharging pipe of liquor, store vats and all vessels used for the storage of liquor all main doors of such vats or vessels and the doors of spirit store and the warehouse shall be so fitted as to enable them to be closed with the Excise locks of a pattern approved by the EC. The doors of all buildings or rooms which are used for the storage of spirit shall be provided with double locks, the keys of which are not inter changeable and of which one lock shall be an excise lock in the charge of the officer-in-charge and the other of a bonded warehouse lock in the charge of proprietor.

During test check of the records of ten DEOs¹³, we found that the required number of excise locks were not provided by the Department during the years from 2005-06 to 2009-10 as shown below:

(In numbers)

| Year | Excise locks required | Locks provided by the Department | Shortage |
|--------------|-----------------------|----------------------------------|-------------|
| 2005-06 | 258 | 14 | 244 |
| 2006-07 | 270 | 20 | 250 |
| 2007-08 | 274 | 13 | 261 |
| 2008-09 | 276 | 13 | 263 |
| 2009-10 | 268 | 15 | 253 |
| Total | 1346 | 75 | 1271 |

As against requirement of 1,346 locks only 75 locks (5.6 per cent) were provided. Due to non-providing of excise locks, misuse and leakage of spirit cannot be ruled out.

When we pointed out this, the Government stated (August 2011) that excise locks were provided by the headquarters as per the requirement of units. In absence of excise locks, locks of reputed companies were used and the keys remained with excise Department. Further, 25 excise locks are available in the stock which would be issued when demand would be raised by units. The Government further stated that in view of safety, new high tech system was being adopted.

We do not accept the reply as only 5.6 per cent of demand had been fulfilled by the Department during 2005-06 to 2009-10. This resulted in lack of control of Department over dispatches of liquor from warehouses and non compliance of rule 38 to 50 of the Rajasthan Distillery Rules, 1977.

¹³ Alwar, Baran, Chittorgarh, Hanumangarh, Jaipur (Rural), Jaipur (Prosecution), Jhalawar, Sikar, Sriganganagar and Udaipur.

5.5.19 Non-realisation of establishment charges

Under rule 21 of the Rajasthan Distilleries Rules, 1977 the EC will appoint officers of the Excise Department to the charge of distilleries. The pay of such officers will be met by the Government provided that when the annual establishment charges exceed the sum of total of 10 *per cent* of the duty leviable on the issues made from the distillery to districts in the State, plus 60 *per cent* of the export duty levied on all exports of liquor during the year, this excess shall be realised from the distillers.

During test check of the records of three DEOs¹⁴, we noticed that in respect of officers of excise Department appointed in three distilleries¹⁵, the demand on account of excess cost of establishment charges amounting to ₹ 50.05 lakh for the years 2005-06 to 2009-10¹⁶ was not raised resulting in non-realisation of excess cost of establishment

charges of ₹ 50.05 lakh. The DEO, Sikar did not provide information regarding two distilleries situated under his jurisdiction.

When we pointed out this, the Government stated (August 2011) that in case of Jaipur Distillery recovery was being made and in case of Globus Spirits, DEO, Alwar had been directed to recheck the revenue received and establishment expenses and action will be taken accordingly. The Department also stated that audit had framed objection against RSGSM Distillery, Sriganganagar which was not correct because establishment charges should be considered by taking revenue realised for whole Rajasthan.

We do not accept the reply as RSGSM sells country liquor produced in its reduction centres from its bonded warehouses established in whole Rajasthan whereas RSGSM distillery produces RS and IMFL. Establishment charges of a particular unit cannot be adjusted against the percentage duty amount on IMFL made by another unit. Thus, recovery should be made from RSGSM Distillery and Globus Spirits Distillery.

5.5.20 Retention of Government receipts out of account

As per Rule 5 & 7 of the General Financial and Accounts Rules (GF & AR) and Rule 9 of Rajasthan State Treasury Rules, all Government money received by or tendered to Government servants on account of revenue of the State Government shall be promptly paid in full into treasury or bank in the Consolidated Fund and/or the Public Account of the State. Further, all money transactions should be entered in the cash book as soon as they occur and get attested by the head of the office in token of checking its correctness.

During test-check of the records of DEOs Baran, Jaipur (City), Jhalawar and Nagaur for the year 2005-06 to 2009-10, we

¹⁴ Alwar, Jaipur (Rural) and Sriganganagar.

¹⁵ Globus Spirits Limited, Behror (Alwar), Jaipur distillery, Kotputli (Jaipur) and RSGSM Distillery, Sriganganagar.

¹⁶ Figures for the year 2005-06 to 2007-08 regarding Jaipur Distillery, Kotputli were not provided to us.

found that 5,181 bank drafts of ₹ 22.89 crore were received on account of security deposits, application fee, contract money etc. These drafts were deposited in the Government account with delay ranging from two to 140 days.

When we pointed out this, the Government stated (August 2011) that staff was busy in settlement, so drafts could not be deposited in time. In future, drafts would be deposited in time.

We recommend that the Government should make suitable system of crediting excise revenue in Government account to avoid recurrence of such cases.

5.5.21 Non-submission of cases before the court of law in time

Section 67(2) of the RE Act envisages that registered offence cases shall be produced in court before expiry of one year. After expiry of stipulated period sanction of the Government was needed for production of cases before court.

We noticed that in DEO Jaipur (Rural) 18 cases out of 169 cases for the period 2007-08 and 2008-09 pertaining to Enforcement Excise Station, Jaipur (Rural) were not produced before the court in time. On being pointed out, the Department stated (August 2010) that proper sanction in four cases had been received and the remaining 14 cases had been referred to the Government for sanction.

We observed that due to delay in processing the cases within one year, they were required to be sent to the Government which will further delay the action to be taken in the registered offence cases. Delay in non-production of cases before the court of law in time may otherwise help the accused to escape/flee from the court proceedings and may destroy the necessary evidence required to prove his guilt.

When we pointed out this, the Government stated (August 2011) that in this case action was being taken against officers who were responsible.

We recommend that proper monitoring system should be established to avoid such delay.

5.5.22 Internal control

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, Rules and Departmental instructions. The internal control structure helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of tax and duties. Further, adequacy of components of the internal control has vital remedial role to plug the loopholes of leakage of revenue.

5.5.22.1 Ineffective monitoring

The State Excise Department contributes nearly 15 per cent to total tax revenue of the State. To keep supervision and exercise control over the sub-ordinate offices, wide range of inspections from the level of the Additional Excise Commissioner to the level of Petroling Officer had been prescribed in the Rajasthan State Excise Manual, 1988. The norms for inspection such as monthly, quarterly, yearly etc. have also been fixed. A register of inspection was required to be maintained in the EC's office showing details of inspections conducted by each officer. A separate file was also required to open for each inspection conducted for watching compliance of the points raised in the inspection reports.

During test check of the records in the office of EC and five out of 16 DEOs, we noticed that neither the register of inspection was maintained in the EC's office nor records of inspections was maintained by the respective officers. Therefore, efficacy of the monitoring of inspection at EC level could not be ascertained by us.

5.5.22.2 Working of internal audit

The Department has an internal audit (IA) wing headed by a Financial Advisor with the three internal audit parties, each comprising of one or two Assistant Accounts Officer and one Junior Accountant. Every item of income and expenditure of the Department is a subject of audit. The internal audit parties submit inspection reports to the EC.

The position of internal audit reports (IAR) and paragraphs issued and disposed off during the years 2005-06 to 2009-10 were as follows:

(₹ in lakh)

| Year | Opening balance IAR (paras) amount | Addition IAR (paras) amount | Total IAR (paras) amount | Clearance IAR (paras) amount | Closing balance IAR (paras) amount | Percentage of clearance | |
|---------|------------------------------------|-----------------------------|--------------------------|------------------------------|------------------------------------|-------------------------|-------|
| | | | | | | IAR | Paras |
| 2005-06 | 194 (1094) 306.52 | 17 (198) 87.44 | 211 (1292) 393.96 | 6 (300) 16.71 | 205 (992) 391.62 | 2.84 | 23.22 |
| 2006-07 | 205 (992) 391.62 | 3 (29) 187.25 | 208 (1021) 578.87 | 11 (180) 48.71 | 197 (841) 530.16 | 5.29 | 1.76 |
| 2007-08 | 197 (841) 530.16 | 7 (144) 0.89 | 204 (985) 531.09 | 10 (82) 4.67 | 194 (903) 526.38 | 4.90 | 8.25 |
| 2008-09 | 194 (903) 526.38 | 8 (160) 8.80 | 202 (1063) 535.18 | 38 (397) 0.38 | 166 (666) 534.80 | 18.81 | 37.35 |
| 2009-10 | 166 (666) 534.80 | 20 (322) 16.01 | 186 (988) 550.81 | 43 (238) 7.51 | 143 (750) 543.30 | 23.12 | 24.09 |

The above table reveals that the number of audit conducted during 2005-06 to 2009-10 ranged between 3 and 20, as against 40 units required to be conducted annually while clearance of the IAR ranged between 2.84 (2005-06) and 23.12 (2009-10) *per cent* and clearance of paras between 1.76 (2006-07) and 37.35 (2008-09) *per cent*.

On being pointed out, the Government stated (August 2011) that due to shortage of man power, audit of all units could not be conducted and after filling up the vacancies in 2010-11 only 39 units were pending for audit as on 31 August 2011. We suggest that the experienced knowledgeable staff should be posted to improve the outcome of internal audit so that it may be conducted effectively.

We recommend that internal control mechanism may be strengthened to ensure better financial management.

5.5.23 Conclusion

We noticed that the Department had heavy pendency of arrears of revenue pending for more than ten years. Though it was repeatedly pointed out in various Audit Reports, the Department did not fix norms for minimum yield of spirit from grain. We also noticed many cases of non/short levy of licence fee, brand fee, excise duty and brand label fee in contravention of Rules. Further, the Department had granted undue benefit by allowing bar licenses to Hotels under heritage category and unallowable wastage in production of heritage liquor to a distillery. The Department had not monitored timely submission of Excise Verification Certificates. There was improvement in internal audits carried out by the internal audit wing.

5.5.24 Summary of recommendations

The Government may consider the recommendations noted under the respective paragraph with the special attention on the following for effective levy and collection of State Excise.

The Government may consider:

- **fixing norms for minimum yield of spirit from grain;**
- **correlating allowable wastage with distance;**
- **charging fee on transfer of power of attorney to another person by the licensee;**
- **issuing guidelines regarding time limit for submission of Excise Verification Certificates and rate of penalty to be levied. Further next despatch of spirit/ liquor may be allowed only after receipt of earlier despatch;**
- **advertising harmful effects of liquor/ LPH/ Bhang to the public at large to implement temperance policy effectively; and**
- **strengthening internal control mechanism for better financial management.**