



## CHAPTER – V: State Excise

### 5.1 Results of audit

Test check of records of 10 units relating to the State Excise Department during 2012-13 revealed non-levy of excise duty, non/short realisation of establishment charges, loss due to warehouse going dry and other irregularities involving ₹ 19.09 crore in 23 cases. A Performance Audit on “Receipts under State Excise” was also conducted during the year. The results of the Performance Audit involved revenue implication of ₹ 1,115.43 crore. These are mentioned in the following table 1.

**Table 1**  
**Results of audit**

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	<b>‘Receipts under State Excise’ – A Performance Audit</b>	<b>01</b>	<b>1,115.43</b>
2.	Non-payment of licence fee	04	0.73
3.	Non/short realisation of establishment charges	05	0.58
4.	Loss due to warehouse going dry	01	0.07
5.	Other irregularities	13	17.71
<b>Total</b>		<b>24</b>	<b>1,134.52</b>

The Department accepted nine cases having revenue implication of ₹ 87.83 lakh pertaining to 2012-13 and recovered ₹ 32.53 lakh during 2012-13.

The Performance Audit on ‘Receipts under State Excise’ with financial implication of ₹ 1,115.43 crore is mentioned in the succeeding paragraphs.

## RECEIPTS UNDER STATE EXCISE

### Highlights

Cross verification of records revealed that 9.45 lakh bulk litre extra neutral alcohol was dispatched by the distilleries located outside the State to the bottling units of Assam against permits which were not issued by the Commissioner of Excise, Assam. The aforesaid volume of extra neutral alcohol was capable of producing India made foreign liquor involving revenue of ₹ 21.80 crore which was lost by the Government.

*(Paragraph 5.8.1.2)*

The Government of Assam is yet to prescribe the norm for production of India made foreign liquor from extra neutral alcohol which is 3.93 bulk litre extra neutral alcohol for each case of India made foreign liquor. Taking that as base, there was short production of 5.87 lakh cases involving revenue of ₹ 80.79 crore.

*(Paragraph 5.8.2)*

There were variations in the spirit content of IMFL brands against the prescribed standards. Audit scrutiny revealed that the percentage ranged between 70.7 and 73.3 degree proof against the standard of 75 degree proof.

*(Paragraph 5.8.3)*

In the absence of a system of re-verification of ex-bond price from the MRP printed on the labels, Department could not detect misclassification of brands resulting in loss of revenue of ₹ 238.34 crore.

*(Paragraph 5.8.4.1)*

Test check of 45 bonded warehouses indicated that they were availing bond limit of ₹ 138.80 crore against security deposit of only ₹ 5,000 in each case. Audit also detected flouting of hypothecation of stock made by them to the Government.

*(Paragraph 5.10.1)*

Audit noted that the information on closing stock furnished by some bonded warehouses to the Commissioner of Excise, Assam were not reliable as there were wide variations on closing stock as furnished to the other statutory authorities and banks for the same period.

*(Paragraph 5.10.2.3)*

Cross verification of records of Commissioner of Excise, Assam with the concerned States revealed that 141.77 lakh bulk litre out of 393.31 lakh bulk litre India made foreign liquor/Beer stated to have been exported by the licensees of Assam were not received by the concerned States leading to loss of revenue of ₹ 75.99 crore on account of Excise Duty only.

*(Paragraph 5.11.1.1)*

Unlike India made foreign liquor, there is no system of chemical examination of Country Spirit consignments though both are for human consumption.

*(Paragraph 5.12)*

Absence of a system of recording the details of vehicles carrying extra neutral alcohol/India made foreign liquor/Beer entering Assam through the entry points at Boxirhat and Srirampur denied the Department the option of cross verification of figures reported by the licensees through their returns.

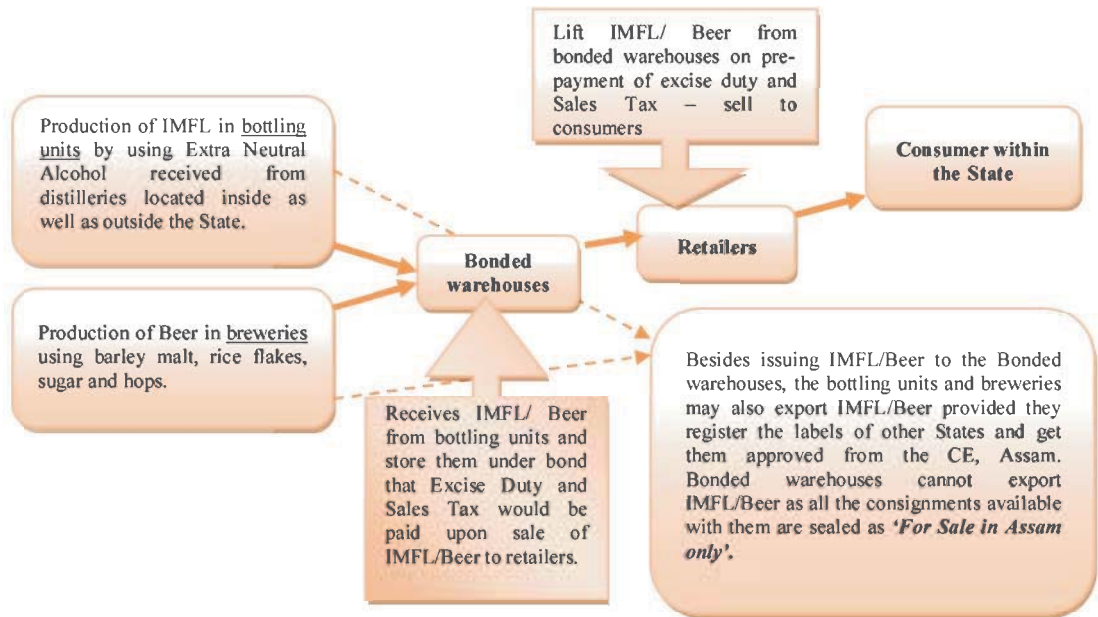
*(Paragraph 5.13.2)*

The penal action contained in the Assam Excise Act and Rules enacted in 1910 and 1945 respectively has not been reviewed for many years. The penal rate prescribed is abysmally low when compared to the Excise Duty at the present rate. There is also no provision for payment of interest for delayed payments. Therefore, there is a need to review the existing penal provisions.

*(Paragraph 5.14.1)*

## **5.2 Introduction**

‘Liquor’ means intoxicating liquid which includes wine, India Made Foreign Liquor (IMFL), Country Spirit (CS), Beer and all liquids consisting of or containing alcohol or any substance which the State Government may by notification declare to be liquor. Country and foreign liquor are manufactured from alcohol produced in the distilleries through the process of blending/reduction, compounding and flavouring or colouring or both. Beer is manufactured from malt, grain, sugar and hops in breweries. The process of manufacturing, distribution and sale of liquor in the State of Assam is depicted in the following block diagram:



*Block diagram - 1*

Licences for bottling of IMFL/manufacture of Beer, operation of bonded warehouses, retailers are issued by the Government of Assam (GoA) to be renewed yearly by the Commissioner of Excise (CE), Assam on payment of prescribed licence fees. Operation of country spirit warehouses are finalised through tender system and licences are issued for a period of three years.

The State Excise Department (SE Department), GoA is responsible for administration and collection of excise revenue under the relevant Acts and Rules and enforcement of the Excise laws on prohibition of illicitly distilled liquor, *ganja*, *bhang* and opium. The functioning of the SE Department is governed according to the provisions of the Assam Excise Act (AE Act), 1910 and the Assam Excise Rules (AER), 1945 as amended and various administrative orders issued from time to time. The Assam Bonded Warehouse Rules (ABW Rules), 1965 regulate the establishment and working of bonded warehouses. In Assam, excisable items such as country spirit, Extra Neutral Alcohol (ENA)/Rectified Spirit (RS)<sup>1</sup> and other spirits are imported from outside the State. IMFL is bottled and Beer is manufactured and bottled in the State and also imported from outside the State.

Excise revenue is generated through imposition of duties and fees on transportation, manufacture/bottling, storage, sale, import and export of

<sup>1</sup> Rectified spirit (RS) contains strength of upto 67 degree or less over proof and may contain some impurities. Hence, RS is mainly used in manufacturing country spirit or local brands. RS, when further refined by removing the impurities and raising the strength to 68 degree over proof is called extra neutral alcohol.

liquor. State Excise revenue is one of the most important sources of tax revenue of the State.

Ethically, Audit would not like to encourage increase in consumption of intoxicants as it may have detrimental impact on the health of the citizens as well as the society, at large.

To examine whether the revenue accrued from consumption of IMFL/Beer/country spirit etc within the State of Assam is properly assessed, levied and realized by the SE Department, GOA, a Performance Audit (PA) of the 'Receipts under State Excise' was conducted covering the period 2007-08 to 2011-12. The PA revealed a number of deficiencies and also a few cases of good practices in the SE Department, GoA. These are discussed in the following paragraphs under 'Audit findings'.

### **5.3 Organisational set up**

The Additional Chief Secretary to the GoA, SE Department is in overall charge of the Department at the Government level. At the Department level, the SE Department is headed by the Commissioner of Excise (CE), Assam who is assisted by an Additional Commissioner, one Joint Commissioner, one Deputy Commissioner and one chemical examiner at the headquarters. At the district/sub-divisional levels (field formation) there are Superintendents/Deputy Superintendents of Excise who are assisted by Inspectors of Excise and other officials in discharging their day to day functions.

### **5.4 Scope and criteria of audit**

The PA was conducted during March to June 2013 through test check of records pertaining to the period 2007-08 to 2011-12. Deficiencies noticed during the course of audit which were found to be continuing during 2012-13 had also been incorporated in this Report to present an updated position. Audit commenced with examination of the records in the office of the CE, Assam and eight<sup>2</sup> out of 26 districts were covered. The selection of districts was done considering the revenue generated by them during the period covered by the PA. Apart from the selected districts, Superintendent of Excise (SE), Lakhimpur was covered to examine the impact of inflow of IMFL/Beer pertaining to the State of Arunachal Pradesh. Also, audit findings

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<sup>2</sup> Cachar, Dibrugarh, Jorhat, Kamrup, Karbi Anglong, Sivsagar, Sonitpur and Tinsukia.

in regular audit conducted during the course of the year have been suitably incorporated in this Report.

The audit team also visited the office of the CE, Arunachal Pradesh to gather information/data on pattern of sale of IMFL/Beer by the licensees, especially those located adjacent to Assam. Besides, the export passes issued by the SE Department during the period covered by the PA was examined and cross verified with the concerned States.

The PA was conducted against the following criteria:

- Statutory requirements under the provisions of AE Act 1910, AE Rules 1945 and ABW Rules 1965;
- Assam Financial Rules; and
- Policies and procedures laid down by the CE, Assam.

### **5.5 Audit Objectives**

The PA was conducted with a view to ascertaining the:

- adequacy of the AE Act and Rules made thereunder;
- proper levy and collection of fees, duties etc;
- administration of export passes and its impact on revenue; and
- adequacy and effectiveness of the internal control mechanism to contain leakage of revenue.

### **5.6 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the co-operation of the SE Department for providing necessary information and records for audit. An Entry Conference was held on 28 February 2013 wherein scope, objective and methodology of audit were explained to the GoA and SE Department. The CE and the Dy. CE, Assam attended the meeting on behalf of the SE Department while the Under Secretary, Finance Department represented the Finance Department, GoA. The PA Report was sent to the SE Department and the GoA in August 2013. The audit findings and the recommendations were discussed in an Exit Conference on 3 October 2013. The CE, Assam represented the SE Department while the Joint Secretary, SE Department and the Under Secretary, Finance (E&F Department) attended the meeting on behalf of the GoA. The para-wise replies received in September 2013 have been incorporated against each para. While summing up the reply, the Department stated that the points and recommendations of the performance audit Report are noted and the Department would put every efforts to plug the

leakages and shortcomings as pointed out by Audit. During the exit conference, the CE stated that some of the recommendations had already been implemented while the others would be implemented at the earliest.

## 5.7 Financial analysis

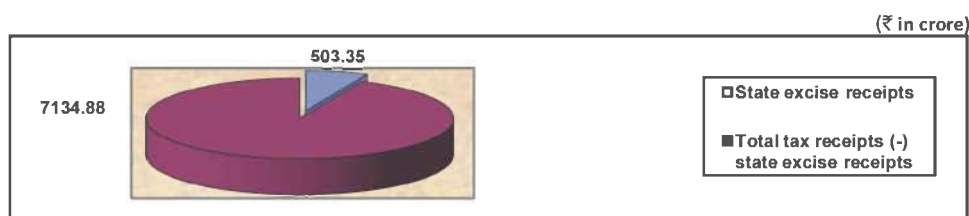
### 5.7.1 Trend of revenue

Position of budget estimates, actual receipts under State Excise along with total tax receipts of the State during 2007-08 to 2011-12 is exhibited in following Table 1 and pie chart.

**Table 1**  
Analysis of excise receipts

(₹ in crore)

Year	Budget estimate	Actual receipts under state excise	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts under state excise <i>vis-à-vis</i> total tax receipts {(3) to (6)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	204.92	188.71	(-) 16.21	(-) 8	3,359.50	6
2008-09	223.30	198.68	(-) 24.62	(-) 11	4,150.21	5
2009-10	235.90	239.19	3.29	1	4,986.72	5
2010-11	259.46	323.12	63.66	25	5,929.84	5
2011-12	400.00	503.35	103.35	26	7,638.23	7



**Share of excise receipts to total tax receipts during 2011-12**

The share of Excise receipts in the total tax receipts of the State ranged between five and seven *per cent* during the last five years. The growth of revenue during 2011-12 over previous year was at 55.78 *per cent* against 35.09 *per cent* in the year 2010-11.

The reasons for abrupt increase of actual receipts during 2009-10 to 2011-12 was attributable to enhanced re-structuring of Excise levies and stoppage of export passes to the bonded warehouse licensees of Assam by the SE Department.

### 5.7.2 Cost of collection

The actual receipts under State Excise, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2010-11

to 2012-13 along with the relevant all India average percentage of expenditure on collection relating to the preceding years are mentioned in Table 2.

**Table 2**  
**Cost of collection**

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2010-11	323.12	26.79	8.29	3.64
2011-12	503.35	30.51	6.06	3.05
2012-13	568.11	34.29	6.03	2.98

Source: Finance Accounts and departmental figures.

Percentage of expenditure on gross collection during the three years had been registering a decreasing trend which is encouraging. However, the percentage remained far above the corresponding all India average percentage during all the three years which the Department needs to look into.

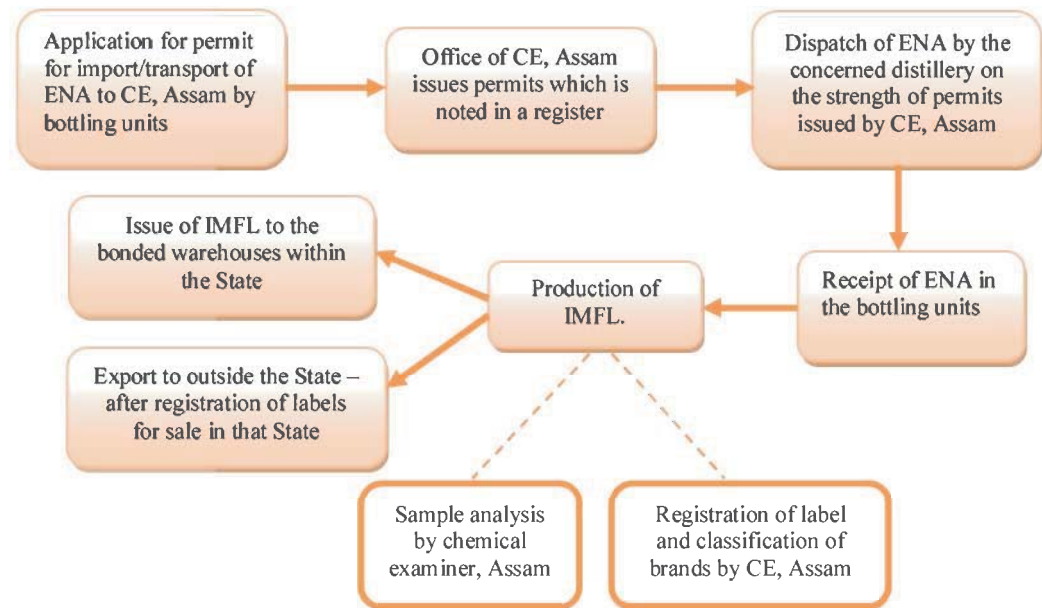
### **Audit findings**

As depicted in block diagram 1 under paragraph 5.2, the bottling units/breweries and the bonded warehouses play the most vital role in production and distribution of IMFL/Beer to the consumers, both within the State (through the retailers of the State) and outside the State (through export permits). Besides, there are country spirit warehouses in the State for supply of country spirit to the consumers through designated retailers. The audit findings are accordingly categorised under – ‘bottling units’, ‘breweries’, ‘bonded warehouses’, ‘export of IMFL/Beer and other inter-State issues’, ‘Country Spirit’, ‘internal control mechanism’ and ‘other points of interest’.

### **5.8 Bottling units**

The following block diagram displays the work flow as regards the intake of ENA in the bottling plants and production/distribution of IMFL within/outside the State:





Block diagram 2

### 5.8.1 Import of ENA

**5.8.1.1** As per new system installed<sup>3</sup> by the SE Department, the bottling units are required to submit monthly returns to the CE, Assam through the Superintendents of Excise of the concerned districts mentioning therein the receipt of ENA and resultant production of IMFL during the period reported upon. It was, however, observed that the format **does not have the provision** for noting the total volume of ENA permitted to be imported during the month. This could have enabled the Department to monitor the actual import of ENA *vis-à-vis* the permits granted to pre-empt any scope of evasion of revenue.

Audit analysis of the volume of ENA permitted by the CE, Assam in respect of 13 bottling units revealed that 5.33 crore BL ENA were permitted to be imported during 2010-11 and 2011-12. However, these bottling units had indicated receipt of 4.39 crore BL ENA in their monthly reports submitted to

Cases of major variation				
Name of licensee	Year	ENA intake reported	ENA as per CE Office	Variation
(in lakh BL)				
Karnak Dist.	2011-12	62.75	78.82	16.07
NE Dist. (P) Ltd.	2010-11 2011-12	93.81	105.42	11.61
Saran Ind.	2010-11	18.41	27.41	9.00
Mangalam Dist. & Bottling	2011-12	22.50	33.41	10.91
Spey Bottlers	2010-11 2011-12	55.86	68.21	12.35
<b>Total</b>				<b>59.94</b>

<sup>3</sup> In view of audit observation regarding short production of IMFL featured in the Audit Report on Revenue Receipts for 2010-11, Government of Assam.

the CE, Assam. Thus, there was a variation of 94.06 lakh BL ENA. Of these 13 cases, major variations (59.94 lakh BL) were noticed in case of five bottling units (shown in the inset). The balance ENA of 94.06 lakh BL had the potential of producing 23.88 lakh cases of IMFL involving revenue of ₹ 525.11 crore<sup>4</sup>.

The Department stated (September 2013) that the variation may be due to some permits remaining un-executed because of non-availability of stock in the distilleries of other States and execution of some permits may cross over to the next year.

**Response of Audit:** As per the system, unexecuted permits are either to be re-validated or to be cancelled. In both the cases, the fact is to be clearly noted in the permit register. This has been duly considered by Audit while totaling the volume of ENA permitted. As regards execution of permits crossing over to the next year, it could be stated that the situation would have been the same during the initial period of the current year when permits issued during preceding year had been executed.

**Recommendation No 1:**

(i) *The CE, Assam may arrange to reconcile the figures of ENA intake as reported to the GoA by them and as indicated by the bottling units.*

(ii) *The SE Department may consider suitably revising the format for monthly reports of bottling units to provide space for depicting the volume of ENA permitted during the month and corresponding remarks column for incorporating the reasons for variation.*

**5.8.1.2** In order to cross verify the figures of ENA permitted by CE, Assam *vis-à-vis* those dispatched by the distilleries of other States, a limited cross verification was carried out by Audit. Information received from Government of Maharashtra regarding issue of ENA from various distilleries indicated that seven distilleries of that State issued 42.45 lakh BL ENA to eight bottling units of Assam during the year 2011-12. The information received was cross verified with the records of the CE, Assam. The analysis revealed that against three permits for import of 85,000 BL ENA issued by CE, Assam, the distilleries issued 3.60 lakh BL ENA. Further, in case of five other permits, the distilleries reported dispatch of 6.70 lakh BL ENA against permits which were not issued by the CE, Assam. The volume of 9.45 lakh

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<sup>4</sup> Calculated taking into account the average duty and VAT in respect of fast moving brands *i.e.* general, regular, luxury and premium.

BL ENA<sup>5</sup> not covered by valid permits (22.26 per cent of 42.45 lakh BL ENA) had the potential of producing 2.41 lakh cases IMFL involving revenue of ₹ 21.80 crore.

The Department stated (September 2013) that all issues from distilleries have to be responded back by relevant excise verification certificates (EVC) issued by the officer-in-charge concerned of the consignee licensee and countersigned by the respective SE.

**Response of Audit:** The reply corroborates audit findings as the distilleries of other States would not allow dispatch of consignments without receipt of the certificate issued by the officers-in-charge of the receiving units in respect of consignments sent earlier. This also confirms that the materials were received in various bottling units of Assam. Therefore, it calls for investigation into such cases to plug the loopholes and point towards a need to strengthen the internal control mechanism for more effective monitoring of consignments at the entry check posts at Boxirhat/Srirampur and regular cross verification with the other States which dispatch ENA to Assam.

**Recommendation No 2:**

*The CE, Assam may arrange to carry out periodic cross verification of ENA intake reported by the bottling units with the dispatch figures of distilleries located in other States.*

**5.8.1.3** The CE, Assam issued instructions in October 2004 and reiterated in December 2011 that the Non-Execution Certificates (NEC) for non-lifting and short supply certificates for short supply of the liquor consignments issued by the officers-in-charge of the concerned bottling units/breweries/bonded warehouses of Assam should be countersigned by the Superintendents of Excise of the consignor district. Otherwise, the NEC or the short supply certificates were to be considered as invalid.

The above mechanism was aimed at preventing fake certification having adverse impact on revenues of the State, yet similar system was not being followed in cases of certificates issued by distilleries of other States. Audit detected NECs/short supply certificates issued by the inspectors of the distilleries of other States which were neither countersigned by the higher authorities nor sent for further verification by the SE Department. This bears significance as there is neither a system of recording the inward consignments of ENA/RS at Srirampur and Boxirhat nor has the Department installed a

<sup>5</sup> 3,60,000 – 85,000 = 2,75,000 BL + 6,70,000 BL = 9,45,000 BL.

mechanism for cross verification of the NECs/short supply certificates with the issuing authorities, even on a random basis.

Thus, the Department was yet to install a verifiable mechanism for assuring itself about the genuineness of the NECs/short supply certificates, though such a system had been put in place for the NECs/short supply certificates being issued by the licensees within the State.

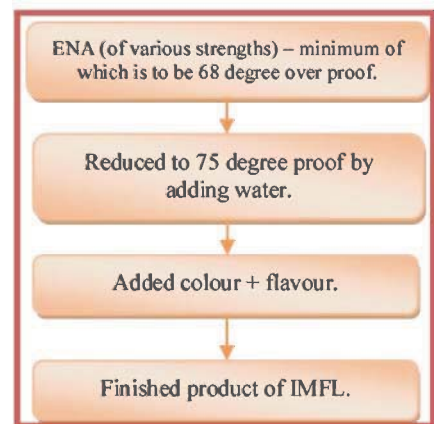
**Recommendation No. 3:**

*In view of absence of countersignature of NECs issued from other States, the CE, Assam may install a system of carrying out regular cross verification of the NECs/short supply certificates received from other States.*

During the Exit Conference, the CE while accepting the recommendation assured of instituting a system of regular cross verification of NECs/short supply certificates with the concerned States.

**5.8.2 Production of IMFL from ENA**

As per the standard procedure followed by the bottling units across the country including those in Assam, ENA of various strength (minimum of which should be of 68 degree over proof<sup>6</sup>) is reduced to 75 degree proof and blended with colour and flavour to derive the finished product, *i.e.* IMFL. Each case of IMFL contains the average of 8.8 BL<sup>7</sup> IMFL or 6.6 London Proof Liquor (LPL)<sup>8</sup>. This when divided by 1.68 (minimum strength of ENA) indicates that 3.93 BL ENA produces 1 case of IMFL<sup>9</sup>.



<sup>6</sup> Strength of alcohol is measured in ‘degree proof’. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Alcohol containing strength more than 100 degree proof is termed as ‘over proof’ while that having strength below 100 degree proof is termed as ‘under proof’.

<sup>7</sup> Cases consisting 750/375 ml bottles contain 9 BL and cases containing 180 ml bottles contain 8.64 BL; thus, average is calculated as 8.8 BL.

<sup>8</sup> Conversion formula :  $8.8 \text{ BL} \times 0.75 \text{ (75 degree proof)} = 6.6 \text{ LPL}$ .

<sup>9</sup> Information obtained by Audit from their counterparts in Meghalaya revealed that the bottling units in Meghalaya follow the same norms for production of IMFL from ENA *i.e.* – 3.9 BL ENA = 1 case of IMFL. To ensure the veracity of the norm of 3.9 BL ENA per case of IMFL, samples of IMFL produced in Meghalaya based bottling units were procured by Audit and got chemically tested which confirmed that the bottles contained IMFL at 74.9 degree proof.

It was observed that though the SE Department has devised (from April 2011 onwards) a monthly report showing production of IMFL from use of ENA to be furnished by all bottling units to the CE, Assam, they are yet to prescribe the norm for such production.

Audit scrutiny of the monthly reports of 11 bottling units revealed that the average consumption of ENA per case of IMFL as furnished by the units through the monthly reports ranged between 3.6 and 4.9 BL. The variations indicate the possibility that (i) the units which are disclosing lower consumption of ENA per case are not disclosing the ENA intake correctly or (ii) the units disclosing higher consumption of ENA per case are suppressing the production figures. In the absence of a standard norm for benchmarking production of IMFL from ENA, the implications of such large variations in production of IMFL from ENA as reported by the bottling units could not be detected by the SE Department.

Analysis of records in respect of the bottling units of Assam revealed that the bottling units disclosed production of 2.04 crore cases of IMFL from 8.26 crore BL of ENA<sup>10</sup>. However, considering the aforesaid norm of 3.93 BL required for production of one case having liquor at 75 degree proof, the above volume of ENA should have produced 2.10 crore cases of IMFL. Thus, there was a short production of 5.87 lakh cases. Non-prescription of standard norms for IMFL production from ENA and absence of provision in the monthly reports led to non-detection of short production of IMFL reported by bottling units. This led to non-realisation of revenue of ₹ 80.79 crore.

The Department stated (September 2013) that consumption of ENA may vary according to the content as cases of IMFL containing 750/375 ml bottles contain 6.75 LPL ENA while those containing 180 ml bottles contains 6.48 LPL ENA. Further, ENA is not supplied at fixed strength. Thus, a formula using average parameters to calculate outcome of ENA used, will not be correct.

**Response of Audit:** The contention of the Department that average parameters taken for calculation for usage of ENA will not be correct is not sustainable as records available with Audit<sup>11</sup> showed that more than 70 per cent production related to cases of 180 ml bottles contain 6.48 LPL (requiring 3.85 BL ENA per case) whereas cases of 750/375 ml bottles contain 6.75 LPL (requiring 4.01 BL ENA per case). Hence, the parameter taken for calculation *i.e.* 6.6 LPL per case requiring 3.93 BL ENA is still on the higher side and the

<sup>10</sup> Arrived at after considering admissible allowances against transit and blending loss of one per cent each.

<sup>11</sup> This was discussed in the exit conference and agreed to by the Department.

requirement of ENA per case would be further lesser if the actual ratio of production is taken into account. The Department may fix specific norm for production of 750/375 ml and 180 ml bottles. Secondly, Audit has considered the lowest strength of ENA, *i.e.* 68 degree over proof. And considering the above, usage of 3.93 BL of ENA at minimum of 1.68 degree over proof will have to produce IMFL of 6.6 LPL<sup>12</sup> = 1 case, which is fixed and cannot vary in any circumstance. The more the strength of ENA the production would rather increase.

During the exit conference, the CE agreed that a benchmark should be fixed to monitor the production of IMFL from ENA intake and assured Audit of fixing the same at the earliest. It was also assured that the format of the returns would be suitably amended to provide for the same and in cases of deviation the bottling units are at liberty to explain the reasons for consideration by the Officers of the Department.

***Recommendation No. 4:***

*The SE Department may consider the prescription of norms for production of IMFL from ENA to prevent loss of revenue. They may also make suitable amendments in the formats for reporting production by bottling units to provide for such norm so that any variation in production can readily be visible from the returns.*

### **5.8.3 Chemical examination of IMFL**

As per the standard procedure, IMFL consignments after production should be examined by the Chemical Examiner of the GoA. The Chemical Examiner tests the sample bottles and certifies *inter-alia* (i) that they are 'fit for human consumption', (ii) that the strength of spirit is at prescribed level- *i.e.* 75 degree proof.

In order to examine the strength of spirit content in IMFL bottles bottled in various bottling units of Assam, chemical analysis of a sample of bottles produced by the major units located in Assam was got conducted at the instance of Audit. The findings are given in the following table:

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<sup>12</sup> 3.93 multiplied by 1.68 = 6.6 LPL.

Brand name	Name of manufacturer	Batch No. & date	Standard proof/v/v <sup>13</sup> & printed in the label	Proof/v/v found during physical verification
(1)	(2)	(3)	(4)	(5)
Mc. Dowell's No. 1 celebration XXX Rum	Mangalam Distillers & Bottling	06 dt. 8-6-2013, L 3	75/42.8 v/v	72.2/41.2 v/v
-do-	Nilachal Distilleries	104 dt 3-1-2013	75/42.8 v/v	72.7/41.4 v/v
Gold Riband	North East Distilleries (P) Ltd	10 dt 9 April 2013 L/1	75/42.8 v/v	72.9/41.6 v/v
Mc Dowell's No. 1	Spey Bottlers (P) Ltd	52 dt 3 May 2013 L/2	75/42.8 v/v	73.3/41.8 v/v
Officer's Choice	Karnak Distillery (P) Ltd	Apr 024-2013	75/42.8 v/v	73.2/41.7 v/v
8 PM Whisky	Seven Sister Trade and Distilleries Pvt Ltd	24-11/2012	75/42.8 v/v	70.7/40.34 v/v
Bagpiper Whisky	Nilachal Distilleries Pvt Ltd	06 L/2 dt. 20-6-2012	75/42.8 v/v	73.2/41.7 v/v
Old Monk XXX Rum	Radiant Manufacturers	03 April 2013	75/42.8 v/v	71.2/40.6 v/v
Royal Champion	Gayatri Distilleries & Bottling	05 March 2012	75/42.8 v/v	72.9/41.6 v/v
Royal Amigog	Do	06 March 2012	75/42.8 v/v	72.2/41.2 v/v

The figures at column 5 reflect the actual spirit content against the prescribed percentage of 42.8 v/v. Lower v/v percentage means short utilisation of ENA against the prescribed percentage to attain 75 degree proof and there is every risk that the balance ENA could have been used for production of IMFL which is not accounted for and escaped levy of duty and taxes.

The Department stated (September 2013) that the CE shall collect samples through the concerned SE of the district and undertake chemical examination of the same independently.

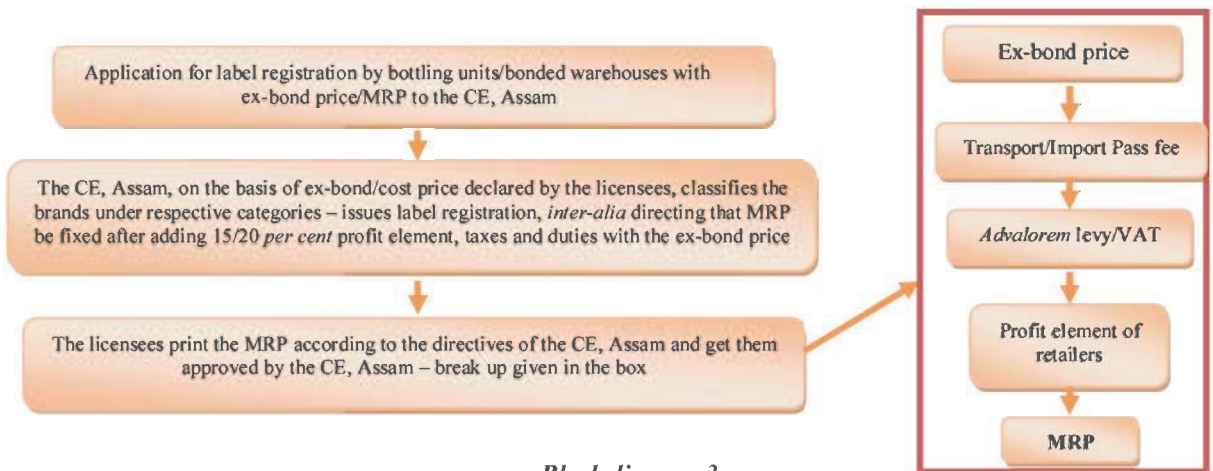
#### **Recommendation No. 5:**

*The SE Department may consider implementing a system of surprise checks to be conducted on a random basis to examine the strength of IMFL. They may also make the bottling units and the Chemical Examiner of GoA accountable for any variation found during surprise checks.*

### **5.8.4 Label registration**

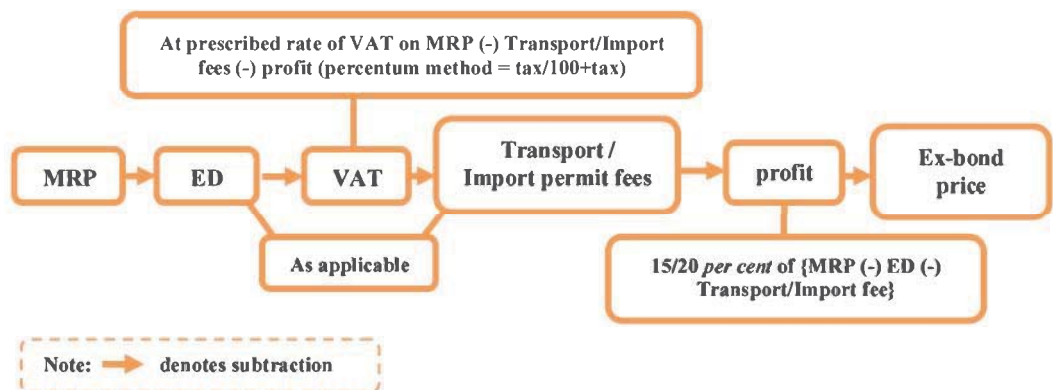
**5.8.4.1** As per the provisions of the AE Act and Rules, Excise Duty is leviable on the 'cost price' of IMFL. 'Cost price' in this case means the 'ex-bond price' i.e. the price at which the IMFL consignments are issued by the bonded warehouses to the retailers. At the beginning of the year, the bottling units producing IMFL or the bonded warehouses importing IMFL from outside the State are required to apply for label registration to the CE, Assam furnishing full details of the brand, its ex-bond price, Maximum Retail Price (MRP) etc. The process involved in the registration of labels is shown through the following block diagram.

<sup>13</sup> v/v or volume /volume is the percentage of spirit in water.



*Block diagram 3*

Audit scrutiny of the label registration process in the office of the CE, Assam revealed that the Department is yet to devise a system of ensuring that the ex-bond price as approved at the time of application by licensees is the same as the one based on which the MRP is calculated and printed on the labels furnished by the licensees. Audit conducted a detailed verification in case of nine major selling brands<sup>14</sup>. The formula adopted by Audit for arriving at the ex-bond price through backward calculation from the MRP is as follows:



*Block diagram 4*

It was observed that these nine brands were registered under different categories as ‘Regular’ and ‘Luxury’ on the basis of the ex-bond price declared by the licensees at the time of application for label registration. However, detailed audit analysis on the above lines revealed that the ex-bond prices after deducting the prescribed elements from the declared MRP were higher than those disclosed by the licensees and hence the brands were to be classified under next higher categories attracting higher rates of Excise Duty and VAT. Thus, the absence of a system of re-verification of MRP labels after approval of ex-bond price resulted in mis-classification of the brands and

<sup>14</sup> AC Black, Director’s Special, DSP Black, Gold Riband, Imperial Blue, Mc Dowell’s No. 1 Reserve, Mc Dowell’s Platinam, Officer’s Choice and Officer’s Choice Blue.



consequent loss of revenue of ₹ 238.34 crore on account of Excise Duty and VAT in respect of sales of the above selected brands only for the years during which mis-classification took place.

The Department stated (September 2013) that the CE shall further examine the matter.

**Response of Audit:** The matter was discussed at length during the exit conference and Audit personnel explained to the Officers of the Department the methodology which was adopted by Audit while calculating the ex-bond price from the MRP.

**Recommendation No. 6:**

*The SE Department may initiate process for re-classifying the brands in view of their ex-bond and the MRP. Also, they may devise a mechanism for re-verifying the classification in view of the MRP printed on the labels to satisfy itself about the correctness of classification of the brands at the time of label registration.*

**5.8.4.2** On the basis of an audit observation incorporated in the Audit Report on Revenue Sector for 2011-12, Government of Assam, the CE, Assam had issued directive in April 2012 to the bottling plants/manufacturing units/breweries to submit the break up (as shown in the inset) analysis of the purchase values rendered at different points during the process of transfer of their products to the retailers.

Analysis of the cost indicator revealed that the item on 'Import/Transport pass fee' has been included as an element which is to be added with the ex-bond price. This was irregular as the import/transport pass fee is payable by the bonded warehouses (distributors) as the first element to the CE, Assam for issuing the import/transport pass that enable them to receive the consignments in their storage. Hence, for all purposes these are elements to be borne by the bonded warehouses and should be included in the 'ex-bond price'. The impact of such mis-classification of import/transport pass fee after ex-bond price is discussed below.

IMFL brands are classified into various categories as per their ex-bond price, i.e. the cost price to the retailers. The break-up of cost indicator of a few

**Format for cost indicator**

- **Landed to distributor (bonded warehouse);**
- **Distributor margin;**
- **Ex-bond price;**
- **Advalorem levy per case;**
- **Import pass fee/transport pass fee;**
- **Sales tax/VAT per case;**
- **Landed to retail;**
- **Retail margin (maximum 20 per cent);**
- **MRP per case;**
- **MRP per bottle.**

major selling brands – ‘Gold Riband’ and ‘Directors Special Prestige Whisky’ revealed that the ex-bond price of both the brands was ₹ 749 while the



transport pass fee was shown as to be charged after the ex-bond price. Accordingly the brands were classified as ‘Regular brands’. However, if the transport pass fees are included in the ex-bond price, the ex-bond price would move up to ₹ 799 per case rendering the brands to be classified as ‘Luxury brand’ attracting higher rate of Excise Duty and VAT.

The Department stated (September 2013) that there is technical difficulty in considering transport or import permit fee as a part of the ex-bond price. As the rate of import and transport pass fees are different, these two amounts are not included in the ex-bond price, otherwise on inclusion of the same, the similar IMFL item will have to be classified in different slabs for the same market.

**Response of Audit:** The Department while replying in respect of another para agreed with Audit that VAT is to be levied on ex-bond price plus excise duty plus TP/IP. Thus it is evident that the element of TP/IP is paid before transfer of goods from bonded warehouse to retailers. As regards the technical difficulty put forward by the Department, they may initiate steps to revisit the rates of such fees appropriately so that TP/IP can be made a part of the ex-bond price.

**Recommendation No. 7:**

*The SE Department may revisit the rates of both the fees to revise them appropriately so that the elements on ‘import/transport pass fee’ could be made a part of ex-bond price.*

## 5.9 Breweries

There are two breweries functioning in the State of Assam. Audit scrutiny of the control mechanism exercised by the CE, Assam on the functioning of these units indicated that similar to the bottling units, the breweries are also required to submit monthly reports on production and dispatch of consignments. It was, however, noticed that the breweries are not required to furnish the raw materials used for production of Beer. In absence of such vital information, the CE, Assam has no input to cross verify the production so reported by the units.

Audit has gathered the formula of production of Beer from the raw materials from one of the breweries. It was observed that for producing Beer the main raw materials used, are – barley malt, rice flakes, sugar and hops. The percentage usage of each items and the output are as follows:



An analysis with the above parameters revealed that, during the years 2010-11 to 2012-13, these breweries consumed 72.78 lakh Kgs barley malt and 34.52 lakh Kgs rice flakes which were capable of producing 67.34 lakh BL Beer. However, the units disclosed production of 64.48 lakh BL Beer which was 2.86 lakh BL short of the ideal production as per the norm which involved revenue of ₹ 6.05 crore as Excise Duty and VAT. Due to non-prescription of norm for input-output and absence of a system of calling for information on usage of raw materials for production in the monthly report of the breweries, the CE, Assam could not detect the variation and was compelled to accept the production as disclosed by the units.

The Department stated (September 2013) that the CE shall take steps to modify the format of the returns as suggested by Audit.

### **Recommendation No. 8:**

*The SE Department may suitably modify the format of returns to accommodate the details of raw material consumption and the ideal production based on norms available with the breweries so as to enable detection of short production of Beer.*

## **5.10 Bonded warehouses**

### **5.10.1 Issue of licence**

As per the ABW Rules, 1965, before actual operation of the bonded warehouse, the licensee is required to (i) furnish security of ₹ 5,000 or more according to the volume of business, (ii) execute a hypothecation deed pledging the warehouse with the stock of foreign liquor, vats, all apparatus and utensils for due discharge of all payments which may become due to the State Government by way of duty, fees, rents, fines, penalties or otherwise and (iii) sign a bond with the condition that the licensee shall not at any time import/transport or store any quantity of foreign liquor above the sum at which hypothecation is pledged. The amount given in the bond is termed as 'bond limit' and the hypothecation deed of an equal amount is to be executed.

Audit scrutiny of the system of issuing licences for operating bonded warehouse revealed the following deficiencies:

#### **5.10.1.1 Security**

The ABW Rules {Rule 4(3)} prescribed for obtaining security of ₹ 5,000 or more according to the volume of business. Audit scrutiny revealed that despite availability of provision for fixing the rate of security according to the volume of business, it was observed that in practice security deposit was obtained at the minimum rate of ₹ 5,000 in all cases. Analysis revealed that 38 out of 45 bonded warehouses have bond limit of ₹ 1 crore and above. Thus, at present the bonded warehouses are enjoying bond limits running into crores of rupees by paying security of a paltry sum of ₹ 5,000 which would not suffice to recover the dues in the event of any default. It was further noticed that though the annual licence fees for bonded warehouses had been revised from ₹ 1,000 (in 1965) to ₹ 1.50 lakh - ₹ 5 lakh depending upon the bond limit<sup>15</sup>, yet the security deposits had remained static since then.

#### **5.10.1.2 Hypothecation deed**

Audit scrutiny of the system of obtaining hypothecation deed revealed that it did not have a clause prohibiting further hypothecation of stock to other agencies, like banks etc. In case of 18 out of 45 bonded warehouses (in respect of which records were readily available) it was observed that the licensees have hypothecated the stock to the banks to obtain loans for their business though their stock were already hypothecated to the GoA. Of these,

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<sup>15</sup> bond limit upto ₹ 50 lakh = ₹ 1.50 lakh; ₹ 50 lakh to ₹ 1 crore = ₹ 2.50 lakh and more than ₹ 1 crore = ₹ 5 lakh.

three bonded warehouses mentioned the name of the bank as the sole claimant in the insurance policies obtained as discussed in the succeeding para. Further verification of records revealed that in 10 out of 45 cases test checked, the bond limits were enhanced from the earlier limits, but fresh hypothecation deeds were yet to be executed.

Thus, the sanctity of the hypothecation deed signed by the licensees and the CE, Assam (on behalf of GoA) has been reduced to simple legal documentation having no force.

### 5.10.1.3 Insurance

It was observed that though there is a system of hypothecating stock equal to the amount of bond limit, however, under the present system, the scope of recovery in case of default of a bonded warehouse is remote since the bonded warehouses are assigning first charge to the bankers and the security deposit collected is abysmally low.

It was further noticed that the banks insist on valid insurance policies covering the amounts of loans/stock hypothecated to them by the bonded warehouses and the fact is mentioned in the insurance policies. In some cases, it was observed that the insurance policies mention the banks as the sole claimants. Legally, in such cases it would transpire that the State Government does not have any legal right over the bonded stock for recovering the accrued revenue, in case of a default.

Thus, the audit findings on security, hypothecation and insurance as mentioned above reveal that the GOA has neither any security nor any assurance regarding the recovery of revenue aggregating ₹ 138.80 crore<sup>16</sup> being the bond limit enjoyed by 45 test checked bonded warehouses though the revenue in respect of IMFL/Beer stored therein is due to the Government.

The Department stated (September 2013) that the revision of security will be taken up. During the exit conference, the CE assured of taking steps so that the same is implemented from renewal of licences for the next financial year 2014-15. As regards the prohibition to further hypothecate stock to other agencies and ensuring insurance policies, the Department stated that the matter would be taken up with the Government for implementation.

#### *Recommendation No. 9:*

- *The SE Department may consider ensuring valid insurance policy covering the Excise Duty and VAT involved in the stock allowed as bond limit*

<sup>16</sup> Only excise duty component, without taking into consideration the VAT involved.

and make it a pre-requisite for next renewal of the licences of bonded warehouses as an additional security measure.

- They may also ensure that the insurance policies mention GoA as the first claimant in case of any claim.
- Fix the security deposit according to the volume of business as per the provisions of the AE Act and Rules.

### 5.10.2 Functioning of bonded warehouses



Control exercised on bonded warehouses

As prescribed under the ABW Rules, licensees of bonded warehouses are permitted to transport/import or store IMFL/Beer involving Excise Duty upto the amount of bond limit so fixed by the CE, Assam. GoA has prescribed separate licence fees<sup>17</sup> for bonded warehouses having different bond limits. For monitoring the functioning of the bonded warehouses

the Department has a system of placing Excise Officers at each warehouse, keeping the stock under joint lock and key, periodical physical verification by various officers and calling for monthly information. Audit scrutiny of the functioning of bonded warehouses *vis-à-vis* control exercised by the SE Department revealed the following deficiencies.

#### 5.10.2.1 Monitoring of Bond limit

Scrutiny of the stock registers and monthly reports on stock furnished by the licensees to the CE, Assam revealed that these documents do not reflect the actual excise duty involved *vis-à-vis* the stock balance. Examination of records of four

Name of BW	Year	Bond limit	Duty involved in goods
			(₹ in crore)
Abhijit Intl	2011-12	2.00	2.62
KDC	2011-12	1.50	5.75
	2012-13	5.00	5.69
Eastern Entp	2011-12	4.00	4.88
Sun Intl.	2011-12	4.00	8.10
	2012-13	4.00	11.35

bonded warehouses having bond limit of ₹ 1 crore and above indicated that the Excise Duty involvement of stock of IMFL exceeded the bond limit

<sup>17</sup> bond limit upto ₹ 50 lakh = ₹ 1.50 lakh; ₹ 50 lakh to ₹ 1 crore = ₹ 2.50 lakh and more than ₹ 1 crore = ₹ 5 lakh.

ranging between ₹ 2.62 crore and ₹ 11.35 crore. As there is a single rate of licence fees for licensees holding stock more than ₹ 1 crore, there is no further fees to be paid by these licensees.

However, in 11 cases where the bond limits were at various levels below ₹ 1 crore, the licensees were required to pay additional bond licence fees of ₹ 49.50 lakh as the duty involved in the stock attracted bond licence of next higher category. Further, ₹ 17.50 lakh and ₹ 10 lakh was also realisable from two breweries as additional licence fees and a bottling unit as licence fees respectively. Thus a total of ₹ 77 lakh is realisable from the 14 licensees as licence fees.

The Department stated (September 2013) that necessary steps to recover the dues and other issues would be taken on receipt of reply from the concerned district officials.

**Recommendation No. 10:**

*The SE Department may initiate steps to recover the balance licence fees from the concerned licensees and issue necessary orders to the officers to keep strict vigil regarding the bond limit. They may also consider prescribing penal measures for excess stocking over and above the bond limits by the bonded warehouses.*

**5.10.2.2 Receipt and issue of IMFL**

The stock statement furnished by the bonded warehouses, *inter-alia* contains the opening and closing stock, receipt/issue and transit/godown wastage claimed during the period. Audit scrutiny of reports/returns submitted by the licensees revealed that in five cases, the closing stock ought to have been 65.21 lakh BL considering the opening stock, receipts and sales against which the licensees disclosed 60.23 lakh BL as closing stock. The shortage of stock of 4.98 lakh BL or about 56,637 cases of IMFL involved Excise Duty and VAT of about ₹ 14.86 crore<sup>18</sup>.

**Recommendation No. 11:**

*The SE Department may prescribe a system of submission of annual reports by the bonded warehouses similar to that prevalent in Sales Tax Department and arrange to get these reports verified at the CE's office to ensure their correctness.*

<sup>18</sup> Considering Excise Duty and VAT involved in fast moving brands.

The Department stated (September 2013) that necessary action for obtaining annual statements from the licensees would be initiated. The verification of Reports is already underway and a team of eight officials is formed to scrutinise the statements. Report on further development is yet to be received.

### 5.10.2.3 Verification of closing stock

Audit noted that there is no system of submission of annual reports along with audited accounts (AA) certified by a qualified chartered accountant. This could have enabled cross verification of the figures reported by the bonded warehouses through their reports.

Cases where major variations were noticed				
Name of BW	Year	Value of stock as in report to CE	Value of stock in BS/AA etc	Difference
(₹ in crore)				
John Smeal	2011-12	21.89	10.80	11.09
Sun Intl	2011-12	12.23	4.87	7.36
Barak Warehouse	2011-12	19.09	14.77	4.32
Universal Entp	2011-12	4.51	2.64	1.87
Radiant Mfg	2011-12	12.32	11.32	1.00
Mohit Entp	2011-12	2.05	1.48	0.58

Audit correlated the information furnished by the licensees to the CE, Assam on stock with the reports furnished to other agencies like Income Tax/Taxation Departments & Banks. It was observed that in 10 out of 15 cases test checked<sup>19</sup> for the year 2011-12 the total value of stock as per returns to CE, Assam was ₹ 81.99 crore against which ₹ 51.62 crore was shown to the other agencies. Thus, the value of stock disclosed to the CE, Assam was in excess by ₹ 30.37 crore.

Out of the above 10 cases, Audit could gather the stock statement submitted to the bank by one licensee. It revealed that the licensee had reported closing stock of IMFL as on 31-3-2013, to the bank as 48,615 cases. But the report submitted to CE, Assam indicated the stock as 1,98,132 cases resulting in difference of 1,49,517 cases. The balance cases involved Excise Duty and VAT of ₹ 16.68 crore<sup>20</sup>.

**The above observations reveal that the stock of IMFL/Beer being disclosed by some of the bonded warehouses in their stock registers as well as reported to the CE, Assam are not reliable despite these being under joint lock and key.**

<sup>19</sup> Remaining licensees, mainly those under Kamrup District (except M/s Hill View, M/s Abhijeet International and M/s Megha Assam) did not provide us with the BS/AA, despite specific requests.

<sup>20</sup> Excise duty of ₹ 7.83 crore (at average rate of general, regular, luxury and premium) and VAT of ₹ 8.85 crore {1,49,517 X ₹ 1,449.25 (average value/case) + ₹ 7.83 crore (excise duty) X 30 %}.



The Department stated (September 2013) that all the stocks received are entered in the stock register of a bonded warehouse which are issued only on payment of duty or underbond, under cover of a stock transfer permit issued by CE, Assam. Secondly, as regards the dealer where Audit has pointed out variation of 1,49,517 cases, they stated that the Department has more expertise and capabilities to verify physical stock than any other institution mentioned by Audit.

**Response of Audit:** The reply states the ideal system under which the bonded warehouses work. However, Audit has analysed the stock reported to the CE by the bonded warehouses with other equally important records like the BS/AA drawn up by qualified chartered accountants. Regarding the second part of the reply, while accepting the expertise and capabilities of the Department to verify physical stock, it is pertinent to mention that the licensee while submitting the stock position to the bank reported closing stock as 48,615 cases. This indicates there is a need to examine the stock more closely by the officers of the SE Department. Besides, the information available in the case records showed that the licensee can store a **maximum of one lakh cases of IMFL/Beer**. Thus, question of stocking 1,98,132 cases of IMFL/Beer does not arise and consequently the Departmental reply to this case is not acceptable.

**Recommendation No. 12:**

*The SE Department may, in addition to prescribing submission of annual reports as recommended in the preceding para, prescribe a system of submission of a copy of the BS/AA/report to banks alongwith the annual reports.*

**5.10.2.4 Destruction of stock**

As per the ABW Rules, if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they might be rejected or destroyed or otherwise dealt with under the orders of the CE. Instruction 229 under the AE Act authorises the CE to sanction the remission of irrecoverable excise revenue. However, Rule 32 of the ABW Rules specifically mentions that the State Government shall not be held responsible for the destruction, loss or damage of any spirits stored in warehouse by fire or by gauging or by any other cause, whatsoever.

Audit scrutiny of the system of allowing destruction of IMFL/Beer stored in the bonded warehouses revealed that these were mainly cases of IMFL/Beer getting sedimented/rejected due to prolonged storage. It was observed that in case of 10 bonded warehouses, 75,950.78 cases IMFL and 17,609.46 cases

Beer were allowed to be destroyed which involved minimum Excise Duty of ₹ 4.05 crore. Of these, in two cases specific orders were issued to recover the requisite revenue of ₹ 1.01 crore<sup>21</sup> while in all other cases revenue involved was remitted exercising powers conferred under instruction 229 despite specific mention against the same in Rule 32. Scrutiny further revealed that in all the cases reasons attributable were due to the licensees not following FIFO method<sup>22</sup> leading to a portion of the stock becoming sedimented/ rejected. Yet, in none of the cases the reasons for stock getting sedimented/rejected was called for from the licensees.

As regards remission of revenue exercising powers conferred under instruction 229, Audit is of the opinion that such powers may not be exercised for waiving revenue in the cases where the fault lies with the bonded warehouses and further waiver is prohibited under Rule 32. Instead such provision can be exercised on case to case basis only after it has been proved beyond doubt that the revenue involved is irrecoverable.

***Recommendation No. 13:***

*The SE Department may install a system of obtaining the reasons attributable to IMFL/Beer getting sedimented/rejected and only after it is proved to be beyond the control of the licensee, waiver of revenue may be considered as per provisions available in the extant Rules.*

*They may also issue necessary instructions to the bonded warehouses to introduce system of bin cards for monitoring the movement of stock.*

The Department stated (September 2013) that the matter would be examined and a device formulated accordingly as suggested by Audit.

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<sup>21</sup> Which is yet to be paid by the licensees.

<sup>22</sup> M/s Pernod Ricard has installed a system of putting bin card in each stack of IMFL/Beer etc and follows the system of FIFO (First In First Out) method. This prevents prolonged storage of IMFL. The bin cards include columns like 'date', 'TP no', 'mfg date', 'batch no', 'received qty', 'balance qty', 'initials'.

## 5.11 Export of IMFL/Beer and other Inter-State issues

### 5.11.1 Export of IMFL/Beer

**5.11.1.1** As per Rule 38 of the AE Rules, IMFL manufactured in any distillery or bonded warehouse in Assam may be exported to any other State under cover of an export pass.

As per Rule 40 of AE Rules, export passes shall be prepared in triplicate; the original copy shall be retained by the excise officer-in-charge of distillery or bonded warehouse and shall be forwarded to the CE, Assam alongwith the quarterly statement of exports prescribed for the purpose. The duplicate copy shall accompany the export while the third is to be sent to the Collector or any other authority of the place of export. The third copy is to be returned by the concerned officer with a certificate signed by the Collector or other officer of importing district certifying the due arrival or otherwise of the consignments at the destination.

Audit scrutiny of the procedures for export of IMFL/ Beer and controls thereon prevalent in the SE Department revealed that they had not installed a suitable mechanism for verification of either the import permits or the certificates of receipt issued by the importing State. In absence of the same, the SE Department was constrained to accept the certificates of receipts as produced by the licensees of Assam exporting IMFL/Beer to other States.

The term bonded warehouses as mentioned in Rule 38 means the bonded warehouses attached with the distilleries and not licensees holding bonded warehouse licence only as the latter hold IMFL/ Beer consignments imported from outside the State or transported from bottling units within the State under bond on which duty would be payable on sales of such items. Further, each consignment so received contains the seal – “*For sale in Assam only*”. Thus, export passes cannot be granted to the licensees holding only bonded warehouse licence.

Audit scrutinised<sup>23</sup> the export of 434.76 lakh BL of IMFL/Beer in respect of 14 licensees<sup>24</sup> during the period 2007-08 to 2011-12 as made available by the Office of the CE, Assam. The exercise revealed that out of 393.31 lakh BL IMFL/Beer shown to have been exported to seven States<sup>25</sup>, the importing States did not receive the consignments/issue import permits covering 141.77 lakh BL IMFL/Beer. Though Government of Nagaland has endorsed exports of

State	Total export	Export authenticated by receiving State	Receipt denied by concerned States	Excise duty involvement (average of ED of fast moving brands)
	(in BL)			(₹ in crore)
AP	2,02,48,344.6	44,14,743.6	1,31,49,292.33	75.99
Jharkhand	1,99,350	1,21,050	78,300	
Manipur	14,400	14,400	--	
Mizoram	88,975	55,125	33,850	
Nagaland	1,84,30,083	1,76,50,395	7,79,688	
Sikkim	1,83,409.8	1,54,775.8	28,634	
WB	1,66,090.12	59,065.12	1,07,025	

176.50 lakh BL IMFL/Beer, Audit is apprehensive of the endorsement as IMFL/Beer available with the bonded warehouses of Assam are clearly marked as 'For sale in Assam only'. The volume of 141.77 lakh BL IMFL/Beer which was not acknowledged involved Excise Duty of ₹ 75.99 crore besides applicable VAT<sup>26</sup>. Thus, in the absence of a system of verification of the import permits/certificates of receipts issued by the other States, this could not be detected. Since the unacknowledged IMFL/Beer had been sold clandestinely within the State of Assam it can be concluded that there was loss of revenue of ₹ 75.99 crore.

The Department stated (September 2013) that a mechanism for verifying the genuineness of import permits issued by other States was in existence. It is now made mandatory to verify the genuineness of each of the import permits issued by other States. Further, the export permits issued to bonded warehouses for export of IMFL/Beer to other States, specifically mentioned therein, that the exported liquor is "Not for sale in Assam". Relevant copy of order was enclosed by the Department with the reply.

<sup>23</sup> Through cross verification of the export passes with the records of the importing States *i.e.* Arunachal Pradesh, Goa, Jharkhand, Manipur, Mizoram, Nagaland, Sikkim, Tripura and West Bengal.

<sup>24</sup> Centenary Distilleries, Flamingo Distilleries, Gayatri Distilleries, Himalayan Distilleries, Indo Assam Distillery and Bottling Pvt Ltd., Karnak Distilleries, Megha Assam Bonded Warehouse, North East Distilleries, PB Bonded Warehouse, Radiant Manufacturing (bottling unit), Rhino Agencies, Seven Sisters Trade and Distilleries Pvt Ltd., Spey Bottlers and Zarrang India Pvt Ltd Bonded Warehouse.

<sup>25</sup> Arunachal Pradesh (partly, as all the registers could not be produced to Audit), Jharkhand, Manipur, Mizoram, Nagaland, Sikkim and West Bengal.

<sup>26</sup> Of at least ₹ 39.62 crore, a case on which is pending in Gauhati High Court, hence not commented upon in this Report.

**Response of audit:** While the proposed action of the Department to make it mandatory to verify genuineness of each and every import permits issued by the other States is appreciated, it may be stated that issuance of the export permits to bonded warehouses was not permissible under extant AE Act and Rules made thereunder. Further, a perusal of the recital of the order enclosed by the Department revealed that it read “All the **manufacturing units** of IMFL of this State are hereby informed that while exporting their product/brand of liquor to any State of the country they must clearly indicate the words on the bottle of IMFL “NOT FOR SALE IN ASSAM” to be exported from the respective bottling units and any violation of this, no export permit would be allowed to them from now onwards”. Thus it is evident from the above that the order was for **bottling units** and not for the bonded warehouses as contended by the Department.

**Recommendation No 14:**

*The SE Department may install a system of verifying the genuineness of the import permits/certificates of receipt issued by the other States at periodic intervals to safeguard the revenue interest of the Government.*

**5.11.1.2** Further audit scrutiny revealed that though substantial volume of IMFL/Beer is exported to Nagaland for consumption by paramilitary forces, there is no system of obtaining/gathering the actual requirement at the beginning of the year. Such a system could have enabled the SE Department to limit it to bare minimum because GoA loses revenue in the shape of Excise Duty and VAT in case of exports where a nominal fee of ₹ 50 per case only is realised.

Audit noticed requests from other States to the CE, Assam for certifying the genuineness of import permits presented to the latter by licensees of those States. Only after receipt of the genuineness from Assam, the consignments of ENA were allowed to be issued from those States.

Audit correlated the export of 56.91 lakh BL IMFL (involving Excise Duty of ₹ 13.16 crore<sup>27</sup>) made from Assam to paramilitary forces in Nagaland between 2010-11 and 2011-12 with the total excise revenue of Nagaland for those years. It revealed that against ₹ 13.16 crore, the overall excise collections of Nagaland stood at ₹ 6.37 crore during the above years. Even considering the entire revenue collections of Nagaland during these years as the Excise Duty component coupled with the fact that the consignments were meant for

<sup>27</sup> Considering the rate of Excise Duty of ₹ 144 per case levied by Government of Nagaland.

paramilitary forces indicated that 4.72 lakh<sup>28</sup> cases IMFL were not actually exported but could have been sold within the State of Assam leading to loss of revenue of ₹ 33.85 crore on account of Excise Duty and VAT.

The Department stated (September 2013) that all exports were allowed only on the strength of import permits issued by responsible excise authorities of the state in question.

**Response of Audit:** The reply of the Department narrates the system. If the entire stock of 56.91 lakh BL IMFL was exported to Nagaland, the excise revenue of that State should have been much more than ₹ 13 crore which was not the case. Further, possibility of evasion of Excise Duty in Nagaland is remote as IMFL is sold through secured channels in Nagaland only to Government bodies like the military and para-military forces.

**Recommendation No. 15:**

*The SE Department may install a system of obtaining/gathering the actual requirement of IMFL/Beer for paramilitary forces stationed at Nagaland from appropriate authorities before commencement of each year. Further, they may also call for genuineness certificates of each of the import permits before issue of export passes in the interest of revenue of the State.*

**5.11.2 Other Inter-State issues**

Equal competition and fairness in the taxation system can only be achieved by ensuring level playing ground for all the States which were the fundamentals for switching over to VAT system from the erstwhile Sales Tax regime. Under VAT system uniform floor rate of tax was given maximum emphasis by the Union Government.

Similar initiative to ensure uniformity and rationalise the variation in Excise Duty, price structure of liquor and excise policies among the States, the Government of India constituted a Joint Working Group (JWG) of the Union Ministries concerned and State Excise Commissioners. Till December 2007, the JWG had met several times and a consensus emerged, which inter-alia included ensuring uniformity in policy/taxation/MRP.

Audit, however, observed that despite the above developments, there were considerable variation between the Excise Duty, VAT leviable on IMFL/Beer

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<sup>28</sup> ₹ 6,79,24,557/₹ 144 per case (excise duty of IMFL applicable in Nagaland) = 4,71,698 cases.

and their MRP in Assam and those applicable in adjoining States<sup>29</sup> like Arunachal Pradesh and Meghalaya as mentioned in the following table:

State	Excise Duty of IMFL – Ranging between	VAT (in per cent)	Retail price per bottle of some major selling brands						Remarks
			Officer's Choice Blue	Officer's Choice	Imperial Blue	Platinum No. 1	Gold Riband	Mc Dowell No. 1 Reserve	
Assam	₹ 452 and ₹ 2,000	30	240	180	240	300	200	240	
Arunachal Pradesh	₹ 90 and ₹ 210	20	--	146	187	223	156	215	Rate of tax on IMFL has been kept at the minimum rate of 20 per cent.
Meghalaya	₹ 551 and ₹ 1,282	20	220	160	220	220	160	220	

It was observed that taking the advantage of the variation of duties, taxes and retail prices, numerous retail liquor shops had been allowed to be set up just on the border of Assam by the Government of Arunachal



Retail liquor shops at Banderdewa and sketch showing IMFL shops set up at the border facing NH 52

Pradesh and Meghalaya, despite prohibition on setting up retail shops within three km of the border. The Audit team had conducted physical verification of the border areas of Arunachal Pradesh (Banderdewa on NH 52) and Meghalaya (Khanapara on NH 37) and captured the details of



Joint physical verification by Audit team and the excise officials

the licensees operating within few meters of the inter-State border. At present, altogether 27 and 23 retail shops are operating at Banderdewa (Arunachal Pradesh) and Khanapara (Meghalaya) area respectively. The physical verification in the bordering areas of Banderdewa was conducted along with the excise officials of Lakhimpur district in Assam (district adjoining Banderdewa area). During interaction, the District excise officials confirmed that large volume of IMFL/Beer are being routed from these retail shops of Arunachal Pradesh to various pockets of Assam and with the limited staff it was not possible to ensure regular patrolling in that area.

<sup>29</sup> Other adjoining States Manipur, Mizoram and Nagaland are dry States.





revenue structure to bring it at par with that leviable in Assam, or (ii) to shift the retail shops opened on inter-State border to interior site.

**Response of Audit:** Though a consensus on the first point has emerged in the JWG way back in 2007, the second option of shifting the retail shops from the inter-State border is a better one as the Excise Acts of relevant States prohibit opening up of retail shops within three km of the inter-State borders. Till such time, the SE Department may immediately initiate steps to erect check posts on both sides of Banderdewa so that illegal entry of liquor can be contained.

**Recommendation No. 16:**

*The SE Department may take up the matter with their counterparts in Arunachal Pradesh and Meghalaya for either ensuring uniformity in excise duty/VAT and MRP of IMFL/Beer in view of the decisions in the JWG or shifting the retail shops from inter-State borders. Till such time, they may immediately initiate suitable action to erect the two check posts near Banderdewa (Arunachal Pradesh) at strategic locations to effectively curb the influx of IMFL/Beer into Assam from that State.*

## 5.12 Country Spirit

As per the system, Country Spirit warehouses and retail vends are settled for a period of three years through tendering process. The contractors are issued with import permits for importing RS for manufacturing Country Spirit in their warehouses. The contractor is required to pay annual licence fees and entitled to reimbursement of cost price per LPL of Country Spirit so sold by retailers (on payment of Excise Duty, VAT and vend fee) from the Government at rates so fixed during the tendering process. As per authorised prescription, Country Spirit bottles should contain spirit of 40 degree proof or 60 degree under proof. Audit scrutiny of the Country Spirit warehouses revealed the following observations.



Country Spirit bottles

**5.12.1** It was observed that there is no system of conducting chemical examination of the Country Spirit after manufacture and before their dispatch from the warehouses, which is invariably being done in case of IMFL consignments. Issue of Country Spirit for human consumption without conducting chemical examination can be dangerous and lead to health hazards for the consumers as neither the strength

of spirit in the bottle is checked nor the contents of the bottles is examined regarding their conformity to acceptable standards fit for human consumption.

In view of the absence of the system of chemical examination of Country Spirit bottles, sample bottles were randomly picked up and the strength gauged in the presence of the excise officer-in-charge and the representatives of the warehouse contractor during the field audit. Verification by Audit revealed that the sample bottles<sup>32</sup> contained spirit ranging between 71.2 and 73.9 under proof or 28.8 and 26.1 degree proof per bottle. This would mean that against the requirement of 22.82 v/v per bottle, the bottles contained 14.89 and 16.43 v/v<sup>33</sup> spirit. Thus, there is every likelihood that the balance spirit unutilised in each bottle could be used for manufacturing more Country Spirit as evidenced by the audit findings mentioned in the succeeding para.

**5.12.2** Verification of the material usage in the excise warehouses at Guwahati, Jorhat and Sivasagar revealed wide variations between the sales of Country Spirit as disclosed by the contractors and the quantity in view of the material usage as shown in the following table.

Name of warehouse (WH)	Year	Production disclosed (in LPL)	Average production per month	Bottles to be used	Variation (in bottles)
Jorhat country spirit WH	2011-12	11,77,859.2	1,03,896	3,42,856.8 (per month)	18,85,718.4
	2012-13	13,15,646.8			18,85,718.4
<b>Audit Observation :</b> Scrutiny revealed that the contractor had procured 5,00,000 caps per month during both the years. Thus at an average, 1,57,143.2 bottles per month had been produced in excess which has not been accounted for and escaped levy of Excise Duty and VAT, yet these were sold in the market on recovery of the price of bottles i.e. ₹ 20/bottle (minimum rate). Thus, there is strong possibility that the licensees (warehouse contractor and retailers) drew undue benefit of ₹ 7.54 crore on sale of balance 37.71 lakh bottles during the above two years.					
Sivasagar country spirit WH	2011-12	14,19,480	--	47,31,600 (during the year)	4,01,400
<b>Audit Observation :</b> Scrutiny revealed that the contractor had procured 51,33,000 caps during the year. Thus, atleast 4,01,400 bottles had been produced in excess which has not been accounted for and escaped levy of Excise Duty and VAT, yet these were sold in the market on recovery of the price of bottles i.e. ₹ 20/bottle (minimum rate). Thus there is strong possibility that the licensees (warehouse contractor and retailers) drew undue benefit of ₹ 80.28 lakh on sale of balance 4.01 lakh bottles during the above two years.					
Guwahati country spirit WH	2010-11	5,07,570	--	25,37,850 pouches (@ 0.2 LPL/pouch)	23,70,150
	2011-12	4,18,100	--	20,90,500 pouches (@ 0.2 LPL/pouch)	24,09,500

<sup>32</sup> Collected from the excise warehouse of Jorhat and Sivasagar.

<sup>33</sup> Degree proof when multiplied by .5706 works out the v/v of spirit content.

**Audit observation :** Scrutiny of the balance sheets of the contractor for the years 2010-11 and 2011-12 revealed that packing materials worth ₹ 11.19 lakh @ ₹ 114/kg and ₹ 10.89 lakh @ ₹ 121/kg was utilised. This indicates that the contractor purchased 9,816 Kgs and 9,000 kgs packing materials from which 49.08 lakh and 45 lakh pouches respectively could be yielded during 2010-11 and 2011- 12. Thus, the contractor concealed production of 23,70,150 and 24,09,500 pouches which were sold in the market on recovery of the price. Since physical verification of the pouches revealed that these contained prescribed percentage of spirit, it can be concluded that there was short realisation of excise duty of ₹ 191.19 lakh  $\{47,49,461 \times 0.2 \text{ LPL} = 9,49,892.2 \text{ LPL} \times ₹ 20/\text{LPL} (\text{excise duty})\} = ₹ 191.19$  lakh. Besides, the licensees (contractor and retailers) were benefitted of ₹ 6.17 crore<sup>34</sup> being the price of the pouches produced in excess.

Thus, had the SE Department instituted the system of levying of Excise Duty and VAT on per bottle/crate system similar to IMFL/Beer instead of per LPL system, the excess quantity of country spirit produced and sold through short usage of spirit in the bottles could have been brought under the duty/taxation network. In absence of such a system, Government would continue to loose revenue while the licensees would be getting undue benefits.

The Department stated (September 2013) that a system of chemical examination of the RS is in place but there is no system for chemical examination of the finished product which may cause delay in supply of bottled country spirit. Secondly, as all the Country Spirit warehouses in the State do not have the bottling facilities, levying Excise Duty per bottle/crate system may be difficult. It was further stated that if *advalorem* levy on Country Spirit is formulated, duty could be charged as suggested by Audit. The Department, however, agreed to implement the recommendations of Audit.

**Response of Audit:** The chemical examination of finished products would ensure (i) quality and conformity of liquor to the accepted standards for human consumption and (ii) arrest cases of liquor issued on lesser strength leading to undue benefit to the contractors at the cost of common public. The issue of levying Excise Duty on crate/bottles could be effectively tackled if bottling facility is introduced in all the country spirit warehouses in the State which would also prevent adulteration and pilferage.

**Recommendation No. 17:**

*The SE Department may in order to streamline the working of the Country Spirit warehouses in the State, install/change system of:*

- *Levying Excise Duty and VAT on per bottle/crate system like IMFL/Beer instead of per LPL system;*

<sup>34</sup> @ ₹ 13/pouch.

- *conducting chemical examination of country spirit consignments before their dispatch from the warehouses; and*
- *tallying the production so disclosed by the contractors with the intake of caps, packing materials etc to detect variation, if any.*

### **5.13 Internal Controls**

Internal control is intended to provide reasonable assurance of proper enforcement of laws, departmental rules and orders. Rule 117 of Assam Financial Rules provide that the controlling officers are to see and ensure that the dues of the Government are correctly and promptly assessed, collected and deposited in the Government accounts.

During the course of the audit, it was observed that various controls had been prescribed by the AE Act/Rules made thereunder and through executive



orders of the SE Department, like (i) Reports/ returns to be furnished by the licensees; (ii) erection of check posts at strategic locations; (iii) periodic stock taking/inspection of stock and records of licensees by concerned Officers and (iv) Supervision and monitoring

by higher authorities.

Audit findings on the various elements of internal control mechanism and other issues are as discussed below.

#### **5.13.1 Reports/returns**

Deficiencies found in monthly/quarterly reports/returns of bottling units have been discussed in para 5.8. Coming to the reports prescribed for bonded warehouses, it was observed that the Office of the CE, Assam is yet to install a system of verification of the reports received from the bonded warehouses as evident from the following paragraphs:

#### 5.13.1.1 Difference between closing and opening stock

Scrutiny of the monthly reports furnished by the bonded warehouse licensees revealed that in three cases the licensees had disclosed closing stock of 12.79 lakh BL of IMFL/Beer in the monthly reports for various months falling between December 2011 and March 2013. However, in their reports for the subsequent months the opening stock was shown as 12.19 lakh BL of IMFL/Beer. The variation of 60,321.24 BL between the closing and opening stock involved revenue of ₹ 57.19 lakh.

Further, in case of one bonded warehouse, it was noticed that there was variation of 1,17,274.31 LPL between the closing stock shown in the report for the period ending March 2013 and that should have been worked out from the figures depicted in the returns. The balance stock of 1,17,274.31 LPL involved revenue of ₹ 1.38 crore.

#### 5.13.1.2 Variation between sales vis-à-vis revenue remittance

As per the system, Excise Duty and VAT is realisable prior to sale of IMFL/Beer from the bonded warehouses to the retailers. The bonded warehouses while furnishing the monthly reports are required to mention the volume of sales vis-à-vis the revenue remitted to the Government accounts by the retailers on such items.

From the monthly reports for the period 2011-12 and 2012-13, it was noticed that in case of 10 bonded warehouses Excise Duty of ₹ 45.29 crore was payable on the volume of IMFL/Beer shown to have been sold during the period of reports; against which the licensees remitted ₹ 39.27 crore. This resulted in short payment of ₹ 6.02 crore.

#### 5.13.1.3 Excess claim of godown wastage

As per Rule 37 of ABW Rules and subsequent executive instructions, the superintendent of excise or the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of the quarter and the licensee shall pay duty at prescribed rates on all spirits in excess of an allowance of one *per cent* on account of wastage allowance.

In case of five bonded warehouses, it was noticed from the monthly reports that for various months falling between 2010-11 and 2012-13 the licensees claimed godown wastage of 1,04,785.64 BL against entitlement of 29,002.27 BL on which excise duty of ₹ 47.76 lakh was leviable. However, the excess claim of godown wastage of 75,783.37 BL was not detected at any level leading to non-realisation of ₹ 61.39 lakh (including VAT of ₹ 13.63 lakh).

The Department while highlighting that an e-governance proposal was underway which would effectively counter such issues and ensuring that a verification system will be evolved in the CE's Office as suggested by Audit, stated (September 2013) that cases pointed out by Audit are being examined and further replies in these regards would follow. Report on further development is yet to be received.

***Recommendation No. 18:***

*The SE Department may devise a mechanism so that the reports received at the CE's Office through the concerned district excise offices are verified at each stage to ensure that there is neither any error nor any short payment/levy of revenue.*

**5.13.1.4 Matching of reports of bonded warehouses and bottling units**

As per the system prescribed by the SE Department, the bottling units are required to furnish sale statements while the bonded warehouses are to furnish arrival reports. These reports are to be furnished monthly. An analysis of the formats of returns indicated that the sale reports of the bottling units are prepared based on transport pass and thereby making it difficult to ascertain the position of sale to each bonded warehouse. Similarly, the arrival reports submitted by the bonded warehouses are also prepared date-wise. Even though the Department has installed the MIS mechanism, yet it serves little or no purpose as the sale statement and arrival reports per month contain huge data and analysing these data would consume additional manpower and substantial time. These reports can help in more effective monitoring of the issue and receipt of IMFL/Beer if these reports are accompanied by a topsheet showing the licensee-wise total figures of sales/receipt during the period. These two sets of reports can then easily be matched at the CE's office to ensure that there is no mismatch between the figures of IMFL/Beer issued by the bottling units with those shown to have been received by the bonded warehouses.

***Recommendation No. 19:***

*The SE Department may issue instruction to the bottling units and bonded warehouses to include a top sheet along with the sale statements and arrival reports mentioning the licensee wise position of total issue and receipt, from now onwards.*

The Department stated (September 2013) that the CE shall instruct all the licensees to include a top sheet with the sale statement and arrival reports as suggested by Audit.

### 5.13.2 Check posts

The SE Department, GoA has erected check posts at various strategic locations like the entry points of Assam from the mainland *i.e.* Boxirhat, Srirampur and at Khanapara to monitor and control movement of excisable goods from outside and within the State of Assam.

Detrimental impact on revenue of State Government of Assam due to absence of check posts near Banderdewa (Arunachal Pradesh) has been pointed out in para 5.11.2. Further verification revealed that the check posts at the entry point of Assam from West Bengal at Boxirhat and Srirampur do not maintain any database of consignments carrying ENA/RS/IMFL/Beer entering Assam. Neither has the Department installed a system for co-ordination with the Taxation Department for obtaining the database of the check posts maintained by the latter. Consequently, the departmental officers were not in a position to cross verify the reports of the licensees. Besides, absence of such a system denied the scope for assuring that vehicles carrying consignments going to other States have crossed them and did not unload the goods within the State; thus causing loss of revenue to the Government.

Audit scrutiny of the records made available by the Taxation Department revealed that during 2007-08 to 2011-12, 378 consignments of IMFL and 2.45 lakh BL ENA which entered the State through Boxirhat and Srirampur, was not found to have exited the State. As per the Value Added Taxation Act, such cases are deemed to have been sold within the State and tax recovered accordingly. However, similar provision is not made in the AE Act and Rules. It was observed that the IMFL consignments contained 2,24,764 cases<sup>35</sup> while 2.45 lakh BL ENA was capable of producing about 62,364 cases of IMFL which involved total Excise Duty of ₹ 13.43 crore which could not be detected by the SE Department in the absence of database at the check posts.

#### **Recommendation No. 20:**

*The SE Department may install a system of recording the details of vehicles passing through the entry check posts at Boxirhat and Srirampur and*

<sup>35</sup> In case of 302 consignments which contained the volume of IMFL in cases; others contained volume in weight which has not been considered for calculating Excise Duty involvement.

*reporting of the same to the concerned SE/CE for enabling these offices to cross verify the reports.*

*Till such time, a mechanism for sharing of information/data between the SE and Taxation Departments may be put in place to minimise the leakage of revenue.*

The Department stated (September 2013) that necessary steps will be taken to ensure maintenance of a database of entry vehicles at Srirampur and Boxirhat check posts. Also, the matter would be taken up with the Taxation authorities to allow cross verification of entry and exit data.

### **5.13.3 Dissemination of revised rates**

The rates of duties, fees and other levies are revised by the Government from time to time. These are published in the Official Gazette and it is also mentioned therein that the revised rates would come into effect from the date of its publication in the Official Gazette.

Audit scrutiny revealed that the latest revision came to effect from 29 September 2010 which was published in the Official Gazette on the same day. However, there was short realisation of revenue of ₹ 56.37 lakh due to non-implementation of the revised rates, as given in the following table:

Name of SE	No of licensees	Observation, in brief	Amount involved (₹ in lakh)
Kamrup	2	Additional bottling fee of ₹ 8 per case was levied on production beyond 30 lakh LPL by the bottling units. In two cases though the bottling units produced more than 30 lakh LPL, neither did they pay the additional bottling fees, nor was any demand raised by the Department.	25.46
	11	Rate of transport pass fee was revised from ₹ 30 to ₹ 50 per pass. Revised rate was not realised.	10.62
	2	Import permit fee of ₹ 60 per case of beer was levied with effect from 20-9-2010, which was not realised.	10.53
	81	<i>Advalorem</i> levy on IMFL was realised at pre-revised rates	7.40
	2	Underbond permit fee of ₹ 25 per case of IMFL/Beer was levied with effect from 29-10-2010; which was not realised in cases of permits issued till 8 October 2010.	2.36
<b>Total</b>			<b>56.37</b>

#### **Recommendation No. 21:**

*The SE Department may consider allowing a reasonable time gap between the dates of publication of revised rates in the Official Gazette and its*



*enforcement or make arrangements to disseminate the rates immediately after the e-governance is in place. They may also issue instruction for recovery of differential revenue in the above cases.*

The Department stated (September 2013) that reasonable time gap would be allowed between the dates of publication of revised rates in Official gazette and its enforcement.

#### **5.13.4 Co-ordination with other Departments**

Since sale of excisable goods are exigible to both – Excise Duty under AE Act as well as VAT under the Assam VAT Act, close co-ordination between the SE Department and the Taxation Department is essential which would help both the Departments to ensure proper control and monitoring on the transactions involving excisable goods and prevent leakage of revenue.

Audit scrutiny revealed that the co-ordination between both the Departments is weak as evidenced from the following:

- The Taxation Department initiated cross verification of export of IMFL/Beer and has re-assessed some of the dealers for wrongly claiming the concessional rate/exemption of sales tax. While the SE Department has not taken any action, even to obtain the information from the Taxation Department for examining its impact on the excise revenues.
- The licensees are required to submit audited accounts while submitting returns to the Taxation Department which enables the assessing officers to cross verify the figures depicted in the returns with those shown in the audited accounts certified by qualified Chartered Accountants. However, **no such system exists** in the SE Department. A system of obtaining the audited accounts alongwith an annual return would have helped the SE Department to detect the variation in stock position as pointed out in para 5.10.2.3.
- The Taxation Department has check posts at strategic locations which are computerised and the database is available at the Commissioner of Tax, Assam's office. In absence of database of vehicles crossing the check posts, the SE Department could have initiated action to obtain the database from the Taxation Department and cross verify the same with the reports of the licensees. On being requested by Audit, the Finance Department has issued orders (June 2013) to both the Departments to share the information of the check posts of Taxation Department.

**Recommendation 22:**

*The SE Department may, in consultation with the Finance Department, install a system of closer co-ordination with the Taxation Department on the following counts:*

- *The important developments regarding the excisable goods may be shared between the Departments;*
- *A system of data/information sharing between both the Departments may be installed;*
- *The database of the check posts of Taxation Department may be obtained at periodic intervals and verified with the records of the licensees to safeguard leakage of revenue.*

**5.14 Other points of interest**

**5.14.1 Preventive measures – leviability of interest and penalty**

Audit scrutiny revealed that though the taxation Acts and Rules governing sales, trade etc in Assam have been updated and provisions for penalty and interest incorporated in the Assam Value Added Taxation Act, the AE Act and Rules still continues with the rates fixed during the enactment of the Act, *i.e.* the maximum penalty being ₹ 1,000 with no provision for levying interest for delayed payment. Thus, there is no deterrent for the licensees indulging in fraudulent practices as the penal measures are meagre and, infact, serves no purpose.

**Initiatives in other States**

The Government of Jharkhand has increased the level of penalty to ₹ 1 lakh in each case while the rate of interest has been fixed as five *per cent* per day of delay in payment.

**Recommendation No. 23:**

*The SE Department may consider amending the AE Act and Rules to incorporate provisions for levy of penalty and interest at par with those leviable under the Assam VAT Act.*

The Department stated (September 2013) that steps would be taken to include disincentive for the defaulters and process amending the relevant provisions of the AE Act and Rules as suggested by Audit.

### 5.14.2 Payment of licence fees and establishment charges

As per the provisions of the AE Act and Rules made thereunder, licence fees for bottling plants and bonded warehouses are to be paid in advance before the commencement of the year for which it relates. These licensees are also required to bear the expenditure of the excise staff and officers posted at their premises which is to be paid within seven days after expiry of the month to which it relates.

Non/delayed payment of licence fees and establishment charges had been a regular deficiency in the SE Department as had been detected by Audit and commented upon repeatedly in successive Audit Reports. Audit scrutiny of records during the course of this PA, however, revealed that the check list devised by the CE, Assam and further action of the CE in stopping issuance of permits without all entries in the check list has helped the Department in ensuring that licence fees and establishment charges are paid by all the licensees within the stipulated timeline.

#### Initiatives by CE, Assam

The CE, Assam has devised a check list containing details of payment of licence fees and establishment charges. The check list is to accompany each application for permits for ENA/IMFL/Beer.

#### *Recommendation 24:*

*The SE Department may ensure continuation of the good practices instituted by the CE, Assam which would ensure timely realisation of the revenues due to the Government.*

### 5.14.3 Other miscellaneous observations

Other important and interesting observations noticed during the course of PA are given in following table:

Name of the Districts	Licensee	Observations, in brief	Amount involved (₹ in lakh)
Karbi Anglong	M/s Sara Distillery	The licensee imported IMFL/Beer involving Excise Duty and VAT of ₹ 3.29 crore from 2009 to March 2011. <b>No permit was issued to the retailers</b> for lifting of IMFL/Beer from this licensee. However, during the course of the PA it was noticed that the whereabouts of the licensee is not known and the case records	328.66

		had been left unattended.	
Tezpur	M/s Sun International	Scrutiny of the stock register maintained by the licensee revealed that in 17 instances the details of permit number, date, quantity of IMFL/Beer imported were duly noted in the receipt side of the register. However, these imports were not added with the earlier balance leading to these remaining out of the stock. Further, in four cases the licensee had deducted excess volume than that has been issued which resulted in further reduction of the stock. Thus, total 1,14,113.62 BL of IMFL remained out of stock which involved Excise Duty and VAT of ₹ 90.55 lakh.	90.55
<b>Total</b>			<b>419.21</b>

The Department stated (September 2013) that the details would be called for from the concerned district excise offices and further reply would follow. Report on further development is yet to be received.

### **5.15 Conclusion**

There are complex issues pertaining to taxation of alcoholic beverages as it involves important economic, social and cultural dimensions. The issue is both ethical as well as socio-economic. The Assam State Legislature has enacted the State Excise Act and made Rules thereunder to administer and levy duties and taxes on Liquor. The PA intended to ensure that the liquor sold in any form within the State of Assam passes through the designated channel after suffering proper duties and taxes till it reaches the consumers and that there is no evasion of duties and taxes by fraudulent practices. During the course of the PA, Audit has come across a number of deficiencies and suggested few recommendations to improve the revenue collection mechanism.

- Non-prescription of production norms of IMFL from ENA coupled with the absence of a system to note the same in the monthly reports compelled the Department to accept the production figures as submitted by the bottling units and non-detection of large variation in intake of ENA ranging between 3.6 and 4.9 BL per case of IMFL. In cases of short production of IMFL there was loss of revenue of ₹ 80.79 crore. Due to the absence of a system of cross verification of ENA dispatched by distilleries of other States with the records of bottling units located in the state, the SE Department could not detect unauthorised receipt of ENA resulting in loss of revenue of ₹ 21.80 crore. The process of chemical examination needs to be streamlined as physical verification of brands by Audit revealed that spirit content in IMFL bottles were substantially less than the

prescribed percentage. Re-verification of the cost price/ex-bond price by deducting the prescribed elements from the MRP would have enabled the Department to detect mis-classification of brands which resulted in loss of revenue of ₹ 238.34 crore.

- Though the AE Act and Rules enabled obtaining security deposit according to the volume of business, the SE Department is still collecting security deposit at ₹ 5,000 in each case as per the ABW Rules of 1965, while 45 bonded warehouses test checked are allowed bond limit of ₹ 138.80 crore (Excise Duty involvement of IMFL/Beer stored in godown). Despite presence of officers-in-charge at the bonded warehouses, storage of IMFL/Beer far in excess of the bond limit (without security and hypothecation) escaped notice of the Department. The stock reported by some of the bonded warehouses were not reliable as evidenced by substantial difference between the reports submitted to the CE and BS/AA/Reports furnished to the banks. The Department allowed remission of substantial amount of revenue of IMFL/Beer which got sedimented/rejected without ascertaining the reasons for the same from the licensees though most of the cases were due to prolonged storage which could have been avoided through proper monitoring.
- Failure of the Department to cross verify the genuineness of the import permits/certificates of receipts as produced by the exporting licensees resulted in non-detection of fraudulent claims of export leading to loss of revenue of ₹ 109.84 crore<sup>36</sup>. Lower rates of Excise Duties, VAT and retail prices prevalent in Arunachal Pradesh and Meghalaya coupled with setting up of retail shops at the bordering areas by the neighbouring States resulted in huge loss of revenue.
- Absence of a system of conducting chemical examination of the Country Spirit before these are dispatched from the warehouses to the retailers resulted in short utilisation of spirit and consequent undue benefit accrued to the licensees (warehouse contractor and retailers) remaining undetected.
- Proper verification of the reports submitted by the licensees at the SE/CE Offices could have enabled detection of variation between (i) closing and opening stock; (ii) sales vis-à-vis revenue remittance; (iii) excess claim of godown wastage etc. The reports on sales by the bottling units and the arrival reports by the bonded warehouses can be more effectively matched if these reports are accompanied by top sheets containing licensee wise total position during the period of report. There was no system of recording the movement of vehicles carrying excisable goods at the Excise check posts at Boxirhat and Srirampur and reporting the same to the CE/SE concerned. Consequently, the departmental officers were not in a position to cross verify the reports of the licensees and there

<sup>36</sup> ₹ 75.99 crore on export to other States and ₹ 33.85 crore on export to Nagaland.

was no assurance that vehicles carrying consignments going to the other States did not unload the goods within the State.

- The co-ordination between the SE Department and the Taxation Department needs to be improved as proper levy and collection of Excise Duty and VAT rests on both these Departments. The AE Act and Rules made thereunder contain penal provisions which needed to be reviewed and brought at par with other taxation Acts in force in the State. A time gap between the date of publishing the revised rates in the official gazette and date of its enforcement would have prevented short realisation of revenue due to non-receipt of the information, on time.

### 5.16 Summary of recommendations

The GOA/SE Department may consider implementing the recommendations noted under respective paragraphs with special emphasis on the following:

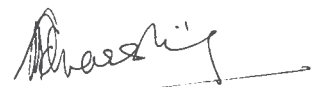
(Ref. to paragraph)	Recommendations	Projected Additional revenue <sup>37</sup> (₹ in crore)
(Para 5.8.1.2)	Carrying out periodic cross verification of ENA intake reported by the bottling units with the dispatch figures of the distilleries located in other States.	
<b>GOA/SE Department's response:</b> <i>Recommendation accepted and system of periodic cross verification would be implemented.</i>		
(Para 5.8.2)	Prescribing the norms for production of IMFL from ENA and suitably amending the formats of monthly reports of bottling units to provide for such norm.	43.93
<b>GOA/SE Department's response:</b> <i>Recommendation accepted - norm would be prescribed and necessary amendments would be made in the monthly reports.</i>		
(Para 5.8.4.1)	Re-verifying the classification of labels of IMFL brands in view of the MRP printed on the labels during the process of label registration.	105.07
<b>GOA/SE Department's response:</b> <i>Recommendation accepted and necessary action would be taken during label registration for next year.</i>		
<b>Response of Audit:</b> The Department may kindly revisit the label registration for the current year in order to contain the amount of loss of revenue due to mis-classification.		
(Para 5.11.1)	Installing a system of verifying the genuineness of the import permits/certificates of receipt issued by the other states at periodic intervals to safeguard the revenue interest of the Government.	
<b>GOA/SE Department's response:</b> <i>Audit point and recommendation accepted. The CE informed that at present cent per cent cross verification of the import permits are being carried out before issuing the export permits.</i>		

<sup>37</sup> Revenue that can be additionally generated on yearly basis if the GoA/SE Department implements the concerned recommendations.

(Para 5.11.2)	Ensuring uniformity in Excise Duty/VAT and MRP of IMFL/Beer in neighbouring States as applicable in Assam and pursuing those States to shift the retail shops from inter-State borders. Till such time, they may immediately initiate suitable action to erect the two check posts at strategic locations near Banderdewa (AP).	
<b>GOA/SE Department's response:</b> <i>The matter has been referred to the Government by the CE, Assam for taking up with the Government of Arunachal Pradesh for relocating the shops at appropriate places within the State jurisdiction.</i>		
(Para 5.14.1)	Initiating steps to amend the AE Act and Rules to incorporate the provisions for levy of penalty and interest to bring them at par with those leviable under the other taxation Acts in the State.	
<b>GOA/SE Department's response:</b> <i>Recommendation accepted. The CE stated that the Commissionerate would examine amending the relevant Rules to include disincentives as suggested by Audit and move Government for implementation accordingly.</i>		
<b>Projected additional revenue that can be generated per annum, if the concerned recommendations are implemented.</b>		<b>149.00</b>

Place: Guwahati

Date:



(C H Kharshiing)

Accountant General (Audit), Assam

Countersigned

Place: New Delhi

Date:



(Shashi Kant Sharma)

Comptroller and Auditor General of India