

CHAPTER-III

STATE EXCISE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	<p>In this Chapter we present a few illustrative cases of non-observance of the provisions of the Act/Rules regarding non/delayed settlement of Excise shops.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the corrective actions taken by the Department has not been able to fully eliminate the problem.</p>
Trend of receipts	<p>In 2012-13, the collection of state excise receipts increased by 26.44 <i>per cent</i> over the previous year which was attributed by the Department to increase in the percentage of settlement of excise retail shops and increase in the rates of different kinds of fees.</p>
Internal audit	<p>The Department has no internal audit wing of its own. The auditors of the Finance Department had also not conducted any internal audit during the year 2012-13.</p>
Impact of audit conducted by us in 2012-13	<p>In 2012-13 we test checked the records of 18 units relating to excise duty and other state excise receipts and found non/short realisation of duty, fees, penalty etc. involving ₹ 68.22 crore in 1,173 cases.</p>
Our conclusion	<p>The Excise and Prohibition Department needs to improve its internal control system including setting up of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p>

CHAPTER – III: STATE EXCISE

3.1 Tax administration

The levy and collection of Excise Duty is governed by the Bihar Excise Act, 1915 and the Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise (EC) is the head of the Department. He is primarily responsible for the administration and execution of the excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise and an Assistant Commissioner of Excise at the Headquarters.

The State of Jharkhand is divided into three excise divisions¹, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19 Excise Districts² each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise (ACE/SE).

3.2 Trend of receipts

According to the provisions of the Bihar Financial Rules, Vol. I (adopted by the Government of Jharkhand) the responsibility for preparation of budget estimates of revenue receipts is vested in the Finance Department. However, the material for the budget estimates is obtained from the concerned Administrative Department which is responsible for the correctness of the material. In case of fluctuating revenue the estimates should be based on a comparison of the last three years' receipts.

Actual receipts from State Excise against the revised estimates during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table:

(₹ in crore)						
Year	Revised estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual State Excise receipts vis-à-vis total tax receipts
2008-09	357.52	205.46	(-) 152.06	(-) 43	3,753.21	5.47
2009-10	550.00	322.75	(-) 227.25	(-) 41	4,500.12	7.17
2010-11	525.00	388.34	(-) 136.66	(-) 26	5,716.63	6.79
2011-12	445.00	457.08	(+) 12.08	(+) 2.71	6,953.89	6.57
2012-13	650.00	577.92	(-) 72.08	(-) 11.09	8,223.67	7.03

Source: Finance Accounts, Government of Jharkhand and the revised estimates as per the Statement of Revenue and Receipts of the Government of Jharkhand for 2013-14.

In 2012-13, the collection of state excise receipts increased by 26.44 *per cent* over the previous year which was attributed by the Department to increase in

¹ North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

² Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi, Sahebganj and Saraikela-Kharsawan.

the percentage of settlement of excise retail shops and increase in the rates of different kinds of fees.

The Department could not achieve the BEs except during 2011-12. The variation between the revised BEs and actual receipts ranged between (-) 43 and 2.71 *per cent*. In response to our query the Department stated (June 2013) that the BEs were prepared by the Finance Department, Government of Jharkhand based upon the discussion between Secretary and Commissioner of Excise and Finance Secretary. Further, it was informed that the reason for variation between BEs and actual was owing to fixation of target higher than the revenue potential of the State in addition to constraints of poor infrastructure and shortage of personnel.

We recommend that the Government may issue suitable instructions to the Department for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actual.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013, as furnished by the Department, were ₹ 31.37 crore, of which ₹ 25.29 crore were outstanding for more than five years. The year-wise position of arrears of revenue during the period 2008-09 to 2012-13 is shown in the following table:

Year	₹ in crore)	
	Opening balance of arrears	Closing balance of arrears
2008-09	29.16	29.39
2009-10	29.39	30.94
2010-11	30.94	30.94
2011-12	30.94	31.07
2012-13	31.07	31.37

Source: Figures furnished by the Excise and Prohibition Department, Government of Jharkhand.

The Department did not furnish information regarding the addition and clearance and target for collection of the arrears during the year. As per information furnished by the Department, out of the closing balance of arrears of ₹ 31.37 crore as on 31 March 2013, demand for ₹ 13.30 crore was certified for recovery as arrears of land revenue, recovery of ₹ 15.98 crore was stayed by Courts and other judicial authorities, recovery of ₹ 10.55 lakh was held up due to parties becoming insolvent and a sum of ₹ 16.08 lakh was likely to be written off. Specific action taken in respect of the remaining amount of ₹ 1.82 crore has not been intimated (December 2013).

Thus, from the above it would be seen that only 42.40 *per cent* of the total amount of arrears was recoverable as arrears of land revenue by invoking the provisions of the Bihar and Orissa Public Demands Recovery (PDR) Act, 1914.

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by continuous monitoring the arrears recoverable as arrears of land revenue as well as the court cases in the interest of realisation of revenue due.

3.4 Cost of collection

The gross collection under State Excise, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13, along with the all-India average percentage of cost of collection for the preceding years are mentioned in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
2008-09	205.46	10.38	5.05	3.27
2009-10	322.75	13.75	4.26	3.66
2010-11	388.34	13.27	3.42	3.64
2011-12	457.08	15.95	3.49	3.05
2012-13	577.92	14.92	2.58	2.98

Source: Finance Accounts of the Government of Jharkhand

From above it could be seen that the percentage of expenditure on collection decreased from 5.05 in 2008-09 to 2.58 in 2012-13 against all India average of 2.98 for 2011-12. We appreciate the efforts of the Department in keeping down the cost of collection and recommend that the Department should ensure this trend in the subsequent years also.

3.5 Internal Audit Wing

The Department informed us that it has no Internal Audit Wing of its own. The auditors of the Finance Department had also not conducted any internal audit during the year 2012-13.

The Government may consider setting up an Internal Audit Wing so as to ensure implementation of the Act/Rules for prompt and correct realisation of revenue.

3.6 Impact of Audit

3.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we had pointed out cases of non/short levy of excise duty and licence fee with financial implication of ₹ 350.85 crore in 25 paragraphs. Of which the Department/Government accepted our observation of ₹ 42.58 crore and reported recovery upto 2012-13 of ₹ 1.89 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of paragraph	Amount objected	Accepted recoverable amount	Amount recovered upto 2012-13 out of Col. 4
1	2	3	4	5
2007-08	1	26.92	26.92	NIL
2008-09	7	75.56	1.15	1.15
2009-10	5	0.49	0.49	0.37
2010-11	6	165.95	13.30	0.28
2011-12	6	81.93	0.72	0.09
Total	25	350.85	42.58	1.89

Source: Information furnished by the Excise and Prohibition Department.

It may be seen from the above table that recovery of only ₹ 1.89 crore (4.44 per cent) against the accepted amount of ₹ 42.58 crore has been effected by the Department against the Audit Reports for the Period 2007-08 to 2011-12.

3.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12 we test checked 72 units relating to State Excise and pointed out in our Inspection Reports cases of non/delayed settlement of excise shops, non/short realisation of fee, duty etc., with revenue implication of ₹ 462.38 crore in 2,918 cases. Of these, the Department/Government accepted audit observations in 1,149 cases involving ₹ 188.71 crore and recovered ₹ 57 lakh upto 2012-13. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered upto 2012-13 out of Col. 6
		No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7
2007-08	11	121	12.05	94	2.06	0
2008-09	14	87	92.93	63	38.32	0.23
2009-10	9	242	29.78	241	27.98	0.02
2010-11	19	1,560	218.32	164	39.00	0.02
2011-12	19	908	109.30	587	81.35	0.30
Total	72	2,918	462.38	1,149	188.71	0.57

It may be seen from the above table that recovery of only ₹ 57 lakh (0.30 per cent) against the accepted amount of ₹ 188.71 crore has been effected by the Department against the Inspection Reports for the period 2007-08 to 2011-12.

As the recovery made by the Department in accepted cases is very low, we recommend that the Department may take suitable measures to ensure expeditious recovery of revenue in respect of these cases.

3.6.3 Status of compliance to Inspection Reports (2012-13)

Our test check of the records of 18 units, having revenue collection of ₹ 442.25 crore, out of 23 units relating to State Excise during the year 2012-13 revealed non/delayed settlement of excise shops, non-realisation of licence fee etc. involving ₹ 68.22 crore in 1,173 detailed as under:

Sl. No.	Categories	Amount (₹ in crore)	
		No. of cases	Amount
1	Non/delayed settlement of excise shops	138	46.02
2	Non-realisation of license fee	21	0.44
3	Other cases	1,014	21.76
Total		1,173	68.22

During the course of the year, the Department accepted non/short realisation of license fee, duty and other deficiencies of ₹ 41.90 lakh in 190 cases pointed out by us during 2012-13.

The Department adjusted the entire amount of ₹ 38.23 lakh from the security deposit in 119 cases including ₹ 21.21 lakh involved in two draft paragraphs on account of audit observations pointed out by us during 2012-13.

In this chapter we present a few illustrative cases regarding non/delayed settlement of excise shops. These are discussed in the following paragraphs.

3.7 Non-observance of the provisions of Act/Rules

The Bihar Excise Act, 1915 (as adopted by the Government of Jharkhand), Rules made and notifications issued thereunder provide for cent per cent settlement of retail excise shops.

Non/delayed settlement of retail excise shops due to non-observance of the provisions of the Act/Rules is mentioned in paragraph No. 3.8.

3.8 Non/delayed settlement of retail excise shops

Under the provisions of Section 30 of the Bihar Excise Act, 1915 and Para 88 of the Appendices of the Excise Laws of Bihar (as adopted by the Government of Jharkhand) and policies made thereunder, the Department of Excise and Prohibition, Government of Jharkhand by the resolution and notification no. 367 and 647, dated 20th February 2009 and 27th March 2009 respectively, adopted a new Excise Policy along with guidelines to settle all retail shops through lottery system with a view to generate more excise revenue, check sale of illicit liquor, control monopoly of a single unit/person and provide standard liquor to the consumers. For these purposes licence fee was to be fixed on the Minimum Guaranteed Quota (MGQ) of each category of liquor to be lifted by the licensee. Further, all retail shops were to be divided into groups (maximum three numbers of retail shops included in one group). In case of non-settlement of retail shops, licensing authorities have the discretion to recommend settlement at reduced licence fee to the Excise Commissioner (EC) for issue of licence to any individual/Committee/ Company so that the EC can approve the settlement of retail shops in the interest of excise revenue.

3.8.1 We noticed from the Settlement Register and related records³ (between May 2012 and February 2013) in eight excise districts⁴ that a list of excise retail shops specifying their MGQ and licence fee, advance licence fee and security money was prepared at district level and sale notifications containing all these facts were published in February 2010 and February 2011 for settlement of 46 and 894 (total

940 shops) for the years 2010-11 and 2011-12 respectively. However, 128 retail shops⁵ remained unsettled during these years (2010-11: 2 and 2011-12: 126) despite publication of sale notifications from time to time. No efforts were however made for settlement of these excise shops at reduced licence fee at the district level by the concerned ACsE/SsE, who were responsible for the cent *per cent* settlement of excise retail shops.

³ Sale Notification, Licence Fee Register and Lottery Register.

⁴ Bokaro, Dhanbad, Godda, Gumla-cum-Simdega, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur, Jamtara and Ranchi.

⁵ Number of shops unsettled/offered: **2010-11:** Godda (2/46), **2011-12:** Bokaro (11/103), Dhanbad (21/217), Gumla-cum-Simdega (3/38), Hazaribag-cum-Ramgarh-cum-Chatra (Ramgarh-26/80), Jamshedpur (45/224), Jamtara (1/41), Ranchi (19/191).

After we pointed out the matter in June 2013, the Government/Department stated (July 2013) that proposal for settlement of shops at the reduced licence fee was not received in any of the excise districts. Thus, fact remains that the Department did not make any effort to invite tender for settlement of excise shops at reduced licence fee in the interest of revenue.

Similar issue was pointed out in Paragraph No. 3.8.1 of Audit Report (Revenue Sector) for the year ending 31 March 2012 wherein the Government/Department attributed non-settlement to non-availability of willing tenderers. Thus, none of the cases were referred to the Excise Commissioner for settlement at the reduced license fees and the issue of non-settlement still persists.

3.8.2 We noticed (between August 2012 and February 2013) from the Settlement Register and related records⁶ in five excise districts⁷ that out of 734 retail excise shops, 10 shops of 2011-12, required to be settled by 31 March 2011, were settled between 16 May 2011 and 8 October 2011 after delays ranging between one month 15 days (from 1 April to 15 May 2011) and 6 months 7 days (from 1 April to 7 October 2011). As such, MGQ of 94,055.04 London Proof Litre (LPL)/Bulk Litre (BL) of liquor could not be lifted by the licensees. Delayed settlement of these shops indicated that either MGQ was improperly distributed or the grouping of shops was not properly done.

After we reported the matter in June 2013, the Government/Department stated (July 2013) that settlement of a few shops on full licence fee out of unsettled shops could be possible due to tireless efforts of district offices. The reply is not convincing in view of the fact that settlement procedure for the next period of settlement could have been regulated in such a manner to enable settlement of all shops before expiry of the existing period of licence.

Similar issue was pointed out in Paragraph No. 3.8.2 of Audit Report (Revenue Sector) for the year ending 31 March 2012. The Government/Department has not taken any suitable steps to prevent loss of revenue due to delayed settlement of shops and the issue still persists.

⁶ Sale Notification, Licence Fee Register and Lottery Register.

⁷ Dhanbad, Godda, Hazaribag-cum-Ramgarh-cum-Chatra, Jamshedpur and Ranchi.