

CHAPTER - III

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present a Performance Audit on “Collection of Excise receipts on liquor” involving revenue implication of ₹ 49.19 crore and an illustrative case involving an amount of ₹ 11.81 lakh selected from observations noticed during our test check of records relating to assessment and collection of state excise revenue in the office of the District Excise Officers (DEOs)/Assistant Excise Commissioners (AECs), where we found non/short production of alcohol from molasses, irregular export/transport of foreign/country liquor, spirit, non-levy of penalty on inadmissible wastages of liquor during export/transport and manufacture and short levy of duty on foreign liquor/beer issued to Defence services etc. in which the provisions of the Acts/Rules were not observed.

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 Department has not taken corrective action.

Tax collection

In 2011-12 the collection of taxes from State excise increased by 19.79 *per cent* over the previous year which was attributed by the Department to the increase in execution amount through auction of liquor shops.

Very low recovery by the Department of observations pointed out by us in earlier years

During the period from 2006-07 to 2010-11 we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 669.44 crore in 53,614 cases. Of these, the Department/Government has accepted audit observations in 39,635 cases involving ₹ 421.34 crore and had since recovered ₹ 3.56 crore in 4,527 cases. The recovery position as compared to acceptance of objections was very low ranging from 0.25 *per cent* to 4.00 *per cent*.

Results of audit conducted by us in 2011-12

In 2011-12 we test checked the records of 26 units relating to State excise receipts and found under assessment, loss of revenue, non-levy of penalty etc. involving ₹ 115.18 crore in 3,661 cases.

The Department accepted under assessment and other deficiencies of ₹ 49.16 crore in 1,791 cases, which were pointed out by us during the year 2011-12. An amount of ₹ 62 lakh was recovered in 1,190 cases during the year 2011-12.

Our conclusion

The Department needs to initiate immediate action to recover duty, penalty and annual fees not recovered/short recovered, more so in those cases where it has accepted our contention.

CHAPTER - III STATE EXCISE

3.1 Tax administration

State Excise revenue comprises receipts from any payment, duty, fee, penalty or confiscation imposed or ordered under the provisions of the Madhya Pradesh Excise Act, 1915 and Rules made thereunder. It also includes revenue from manufacture, possession and issue of liquor for sale, *bhang* and poppy straw.

3.2 Cost of collection

The gross collection in respect of state excise, expenditure incurred on collection as furnished by the Excise Department and the percentage of expenditure to gross collection during the last five years along with the relevant all India average percentage of expenditure on collection to gross collection for the previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2007-08	1,853.83	396.04	21.36	3.30
2008-09	2,301.95	505.46	21.96	3.27
2009-10	2,951.94	818.34	27.72	3.66
2010-11	3,603.42	963.86	26.75	3.64
2011-12	4,316.49	1,032.14	23.91	3.05

(Source: Finance Accounts of the Government of MP and Information furnished by the Department)

The percentage of expenditure on collection of state excise is abnormally higher than the all India average percentage. We observed that in the Finance Accounts there is no separate minor head showing 'collection charges' as is available in case of other taxes like taxes on sales/trade, taxes on vehicles *etc.*, and the cost of liquor paid to the manufacturers had also been booked under the head "2039-State Excise" along with other expenditure.

After we pointed this out, the Excise Commissioner stated (May 2012) that the cost on collection after deduction of cost of liquor paid to the manufacturers remained between 1.61 and 1.90 *per cent* during the last five years which was less than the all India average percentage.

The Government may consider opening a separate sub-head 'collection charges' as is done for other taxes for effectively monitoring the functioning and the performance of the Department. Although this was pointed out in the Audit Report for the year ended 31 March 2011, no corrective measures were taken in this regard.

3.3 Impact of audit

During the period from 2006-07 to 2010-11, we have pointed out through Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue with revenue implication of ₹ 669.44 crore in 53,614 cases. Of these, the Department/Government had accepted audit observations in 39,635 cases involving ₹ 421.34 crore and had since recovered ₹ 3.56 crore (30 November 2012). The details are shown in the following table:

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2006-07	30	4,183	109.24	2,793	30.50	132	1.22	4.00
2007-08	40	12,185	88.06	9,520	24.73	504	0.39	1.58
2008-09	50	12,489	115.01	10,677	99.14	1,956	0.63	0.64
2009-10	36	10,606	201.88	7,566	167.51	1,271	0.42	0.25
2010-11	20	14,151	155.25	9,079	99.46	664	0.90	0.90
Total		53,614	669.44	39,635	421.34	4,527	3.56	

The amount recovered out of the accepted cases has been extremely low over the last five years.

The Government may consider devising a mechanism to ensure recovery at least in the accepted cases.

3.4 Results of audit

Test check of the records of 26 units relating to State Excise receipts during the year 2011-12 revealed underassessment, loss of revenue, non levy of penalty, etc. amounting to ₹ 115.18 crore in 3,661 cases which can be categorised as under:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	“Collection of excise receipts on liquor” (A Performance Audit)	1	49.19
2.	Loss of revenue in re-auction/auction of excise shops	7	0.94
3.	Non realisation of licence fee of excise shops	17	0.88
4.	Non recovery of penalty due to breach of licence conditions	1,326	0.21
5.	Other observations	2,310	63.96
Total		3,661	115.18

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 49.16 crore in 1,791 cases, which were pointed out in audit during the year 2011-12. An amount of ₹ 62 lakh was realised in 1,190 cases during the year 2011-12.

A Performance Audit on “Collection of Excise receipts on liquor” involving an amount of ₹ 49.19 crore and a case on non-levy of penalty with money value of ₹ 11.81 lakh are mentioned in the following paragraphs.

3.5 Performance Audit on "Collection of Excise receipts on liquor"

Highlights

- Penalty of ₹ 6.86 lakh was not imposed on short production of alcohol from molasses.

(Paragraph 3.5.9.3)

- Spirit/Foreign liquor involving excise duty of ₹ 875.38 crore remained unsecured as irregular export/transport was allowed by the Department without obtaining Bank Guarantee/Bond with solvent securities. Excise duty of ₹ 20.25 crore on unacknowledged liquor was also not recovered.

(Paragraph 3.5.14)

- Minimum penalty of ₹ 9.90 crore was not imposed and recovered from the licensees on wastage in excess of the admissible limit during export/transport of liquor.

(Paragraph 3.5.16)

- The labels of bottled country liquor were not got registered by the licensees, on which registration fee of ₹ 32.40 lakh was not realised. Manufacture of liquor without registration of labels was also irregular.

(Paragraph 3.5.20)

- Liquor was issued to 143 licensees despite the fact that the licensees of liquor shops had not deposited the fortnightly licence fee/last installment of annual license fee of ₹ 1.20 crore within the prescribed time.

(Paragraph 3.5.21)

- Excise Duty of ₹ 2.08 crore was short levied on issue of foreign liquor from Military canteen wholesale licensee to Military canteen retail licensees.

(Paragraph 3.5.22)

3.5.1 Introduction

"Liquor" means intoxicating liquor and includes spirits, wine, *tari*, beer, all liquids consisting of or containing alcohol and any substance which the State Government may by notification, declare to be liquor. There are eight Distilleries and seven Breweries in the State. Alcohol is produced in the distilleries from molasses and other bases like *Mahua* and grain etc. through fermentation and distillation. Country and foreign liquor is manufactured from alcohol through the process of blending, reduction, compounding and flavouring or colouring or both. Beer is manufactured from malt, grain, sugar, hops etc. in the breweries. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner under the provisions of the Madhya Pradesh Excise Act, 1915 (Excise Act) through annual licences granted by

him. Licences are renewable annually on the payment of the prescribed fee under the provisions of the Excise Act and the Rules made thereunder. Levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor in the State is governed under the Excise Act and Rules made thereunder. These are the main sources of revenue of the Excise Department.

We conducted a Performance Audit on the "Collection of Excise Receipts on Liquor" by the Excise Department which indicated a number of system and compliance deficiencies. These are mentioned in the succeeding paragraphs.

3.5.2 Organisational Set up

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Excise Commissioner (EC) is the Head of the Department and is assisted by one Additional Excise Commissioner (Addl. EC), three Deputy Excise Commissioners (DEC) at the headquarter at Gwalior, seven DEC divisional flying squad in divisions, 15 Assistant Excise Commissioners (AEC) and 54 District Excise Officers (DEO) in districts. In the district, the Collector heads the Excise Administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is also responsible for realisation of excise revenue.

The working of distilleries, bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the Asst. District Excise Officers (ADEOs) and Sub Inspectors posted in the distilleries/breweries and bottling plants.

3.5.3 Audit objectives

The Performance Audit was conducted with a view to ascertain whether:

- fees/duties leviable on manufacture, possession and sale of spirit/liquor were realised in accordance with the provisions of various Acts/Rules;
- proper control over the raw material i.e. grain, molasses etc. used for production of alcohol was being exercised; and
- verification reports of export/transport of liquor were received from the importing State/State of MP and submitted to the Department by the exporter/transporter within the prescribed time limit.

3.5.4 Audit criteria

The audit criteria for conducting the Performance Audit were drawn from the following sources:-

- Madhya Pradesh Excise Act, 1915 (Excise Act);
- Madhya Pradesh Foreign Liquor Rules, 1996 (MPFL Rules);
- Madhya Pradesh Distillery Rules, 1995 (MPD Rules);
- Madhya Pradesh Country Spirit Rules, 1995 (MPCS Rules);
- Madhya Pradesh Breweries and Wine Rules (MPB&W Rules);

- Medicinal and Toilet Preparation (Excise Duties) Act, 1955 (M&TP ED Act); and
- Orders, circulars and notifications issued by EC/Government.

3.5.5 Scope of Audit

A Performance Audit on "**Collection of Excise Receipts on Liquor**" covering the period from 2002-03 to 2006-07 was incorporated in para 3.2 of the Audit Report (Revenue Receipts) for the year ended 31 March 2007, which was discussed by the Public Accounts Committee in February 2010. Their recommendations are awaited (March 2013). For the present Performance Audit, we test checked the records for the years 2007-08 to 2011-12 in 17¹ out of 50 district excise offices in the State and the EC's office between December 2011 and May 2012. For the test check, we selected 17 districts including all seven distilleries, three out of seven breweries and 12 out of 20 bottling units of foreign liquor by random sampling method. We also included cases of non/short levy of duty, penalty etc. which were noticed during the course of regular audit conducted for the period 2008-09 to 2011-12.

3.5.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department and its subordinate offices for providing necessary information and records for Audit. An entry conference for the performance audit was held in April 2012 with the Principal Secretary (Commercial Tax Department), EC and other executives of the Department where we informed them about the scope, objectives and methodology of Audit. The draft performance report was forwarded to the Government and the Department in August 2012. The exit conference was held in September 2012 in which the Principal Secretary represented the Government and the EC represented the Department. Responses of the Government/Department have been incorporated wherever received.

3.5.7 Trend of receipts

Actual receipts from State Excise during the years 2007-08 to 2011-12 along with the total tax receipts during the same period are exhibited in the following table and line graph:

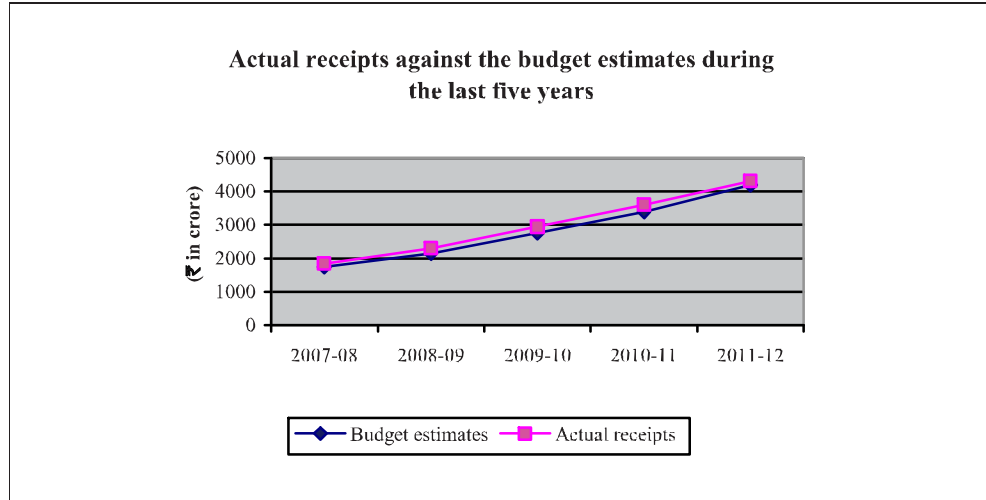
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2007-08	1,750.00	1,853.83	(+) 103.83	(+) 5.93	12,017.64	15.43
2008-09	2,150.00	2,301.95	(+) 151.95	(+) 7.07	13,613.50	16.91
2009-10	2,760.00	2,951.94	(+) 191.94	(+) 6.95	17,272.77	17.09

¹ Ashok Nagar, Chhindwara, Dewas, Dhar, Gwalior, Indore, Jabalpur, Khargone, Mandsaur, Neemuch, Raisen, Rajgarh, Ratlam, Rewa, Sehore, Ujjain and Vidisha.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010-11	3,400.00	3,603.42	(+) 203.42	(+) 5.98	21,419.33	16.82
2011-12	4,050.00	4,316.49	(+) 266.49	(+) 6.58	26,973.44	16.00

(Source: Budget estimates and Finance Accounts of the Government of Madhya Pradesh.)



As seen from the above table, the revenue collection increased from ₹ 1,853.83 crore in 2007-08 to ₹ 4,316.49 crore in 2011-12. The collection from State excise increased by 19.79 per cent in 2011-12 over previous year. The Department attributed the increase in execution amount through auction of liquor shops. The percentage of variation between BEs and actuals ranged between 5.93 per cent and 7.07 per cent during 2007-08 and 2011-12 which indicated that the BEs were framed in a scientific manner. The percentage of contribution of State Excise receipts to the total tax revenue of the State ranged between 15.43 per cent and 17.09 per cent during 2007-08 and 2011-12.

3.5.8 Position of arrears of Excise revenue

The position of uncollected revenue as on 31 March 2012, as reported by the Department, amounted to ₹ 66.58 crore in 491 cases pertaining to the period from 1967-68 to 2011-12, of which ₹ 56.35 crore was outstanding for more than five years. The details are shown in the following table:

(₹ in crore)			
Sl. No.	Particulars	No. of cases	Amount
1.	Cases forwarded to the Government for write off	91	15.70
2.	Cases pending for decision in various courts	23	5.26
3.	Cases pending in the District Excise Offices	377	45.62
Total		491	66.58

(Source: Information furnished by the Department)

The above table indicates that amount outstanding as arrears of revenue for more than five years constituted 84.64 per cent of the total outstanding amount.

We recommend that the Government may make efforts to ensure the recovery of the outstanding amount at the earliest.

Audit findings

System deficiencies

3.5.9 Non/short production of alcohol from molasses

The MPD Rules require the distillers to maintain minimum fermentable and distillation efficiencies at 84 and 97 *per cent* of fermentable sugar present in molasses and alcohol present in wash respectively. Every quintal of fermentable sugar present in molasses should yield 91.8 proof litre (PL) of alcohol. For this purpose, composite samples of molasses are required to be drawn by the Distillery Officer and sent for examination to the departmental laboratory. On the basis of the report furnished by the departmental laboratory, the Distillery Officer shall calculate the minimum quantity of alcohol which would have been produced by the distiller on the basis of prescribed norms. In case the distiller fails to maintain prescribed efficiencies and recovery of alcohol, the EC may impose penalty at the rate not exceeding ₹ 30 per PL up to 2 October 2008, ₹ 150 per PL from 3 October 2008 to 13 December 2011 and thereafter equal to duty leviable on country liquor at that time.

3.5.9.1 No time limit for furnishing of laboratory reports has, however, been fixed under the MPD Rules. We observed from the records relating to chemical test, stock register of molasses (D-5)² and alcohol production register (D-9)³ of one distillery⁴ in December 2011, that the distiller used 1,31,482 quintals of molasses in July, October, November 2010 and February 2011. The chemical test reports of molasses used from the departmental laboratory were not found on record even after lapse of periods of nine to 16 months from the date of sending of the samples

to the laboratory. Hence, the quantity of alcohol that could have been produced could not be worked out in audit.

After we pointed this out, the DEO Distillery stated (December 2011) that production of alcohol would be checked on receipt of chemical test reports. Further report has not been received (March 2013).

The Department may consider prescribing a time limit for furnishing of laboratory reports and ensure production of alcohol according to the test reports of laboratory or initiation of penalty proceedings.

² D-5 register is maintained by the distillery to keep the record of molasses received, used and the balance.

³ D-9 register is maintained by the distillery to keep the record of production of alcohol from molasses used.

⁴ M/s Som Distillery Private Limited, Sehatganj, Raisen.

3.5.9.2 We observed (April and May 2012) from the molasses stock and issue registers (D-5) of two distilleries⁵ in two districts⁶ that 57,540.65 quintals of molasses was lying undisposed in the distilleries since August/September 2011. These molasses were capable of yielding 22.15 lakh⁷ PL of alcohol in accordance with the percentage of fermentable sugar shown in the analysis report of molasses sample sent to the departmental laboratory on or just prior to the date from which the molasses were lying undisposed. Further it was noticed that in the case of one distillery, the EC allowed (October 2011) sale of 3,500 MT of molasses within a period of 60 days from the date of issue of the order of which only 550 MT of molasses could be sold. No reasons were found on record for non disposal of the balance quantity of 2,950 MT of molasses even after the lapse of four months beyond the stipulated time of 60 days. In case of the second distillery, no action was taken by the Department to dispose of 2,438.03 MT of molasses even after lapse of seven months. Thus, reduction in sugar content in the molasses due to passage of time could not be ruled out in audit.

After this was pointed out in audit, the EC stated that alcohol was being produced by the distillers mainly from rice, *Jawar* and *Bajra* at present. The RS/ENA was also imported from other States as per requirement. Therefore, there was no loss of revenue to the Government due to non production of alcohol from undisposed molasses. We do not agree as there was possibility of reduction in sugar content in the molasses with the passage of time, which has a direct impact on revenue.

3.5.9.3 We observed from the D-9 register and reports of the Departmental laboratory of two distilleries⁸ in two districts⁹ between May 2009 and April 2012 that the production of alcohol should have been 5,38,297.6 PL from 12,302.6 quintals of molasses used between April 2008 and February 2012. The actual production, however was 5,30,464.4 PL. However the DEOs (Distilleries) did not refer these cases to the EC for levy of penalty. This resulted in non-realisation of maximum penalty of ₹ 6.86 lakh¹⁰.

After we pointed this out, the DEO M/s Agarwal Distillery, Khargone stated (April 2012) that action would be taken after examination. Further report has not been received (March 2013). DEO, M/s Vindhyaachal Distillery, Rajgarh did not give any specific reply.

⁵ M/s Gwalior Alcobrew Pvt. Ltd., Gwalior and M/s Associated Alcohol and Breweries Ltd., Khargone.

⁶ Gwalior and Khargone

⁷ $24,380.30 \text{ qtl} \times 38.20 \text{ PL} = 9,31,327.46 \text{ PL}$

$33,160.35 \text{ qtl} \times 38.71 \text{ PL} = 12,83,637.14 \text{ PL}$

$57,540.65 \text{ qtl} = 22,14,964.60 \text{ (22.15 lakh) PL}$

⁸ M/s Agarwal Distillery Khargone and M/s Vindhyaachal Distillery, Rajgarh

⁹ Khargone and Rajgarh

¹⁰ $3,431.7 \text{ PL} \times ₹ 80 = ₹ 2,74,536$

$2,070.3 \text{ PL} \times ₹ 30 = ₹ 62,109$

$2,331.2 \text{ PL} \times ₹ 150 = ₹ 3,49,680$

$7,833.2 \text{ PL} = ₹ 6,86,325 \text{ (₹ 6.86 lakh)}$

3.5.10 Short accounting of molasses

The Excise Act and Rules made thereunder do not provide any allowance on wastage/shortage of molasses in transit, storage or otherwise. The MPD Rules provide that every quintal of fermentable sugar present in molasses should yield minimum 91.8 PL of alcohol.

We observed from the D-5 and D-9 registers in one distillery¹¹ in December 2011 that 2,203 quintals of molasses were shown as transferred from D-5 to D-9 register on 1 February 2011. However, in the D-9 register only 2,202 quintals

were shown as transferred. As a result, production of 40.5 PL¹² alcohol that would have been produced from one quintal of molasses was not accounted for. Besides, against the stock of molasses, which was 1,21,219.05 quintals on 31 March 2011, only 1,20,464.65 quintals were carried forward in the stock register on 1 April 2011. Thus 754.4 quintals of molasses was not accounted for, from which 30,553.2 PL of alcohol could be produced. Thus, the Government was deprived of minimum duty of ₹ 48.95 lakh¹³ on 30,593.7 PL (40.5 PL + 30,553.2 PL) of alcohol.

After we pointed this out, the DEO Distillery stated (December 2011) that the shortage was due to clerical mistake. We do not agree as the effect of short accounting was not found to have been rectified during subsequent verification in audit in December 2011.

3.5.11 Short levy of *Ahata/Shop bar* licence fee

MPFL Rules provide for levy of annual licence fee on FL-1B licence* (*Ahata/shop bar licence*) adjacent to an FL-1 licence** equivalent to two *per cent* of the annual value of the FL-1 shop which shall be the sum of basic licence fee and annual licence fee. Further, the condition of sale of liquor through shops provides for adjustment of licence fee of up to 20 *per cent* from country liquor to foreign liquor shop or *vice versa*.

* The licence, which may be granted to an FL-1 or FL-1A licensee only, shall permit consumption of foreign liquor within any premises or *AHATA* which shall be adjacent to the premises of FL-1 or FL-1A licensee

** Licence for retail sale of foreign liquor in sealed bottles

The conditions for sale of liquor shops do not provide for recovery of the difference of annual licence fee for *Ahata* licence adjacent to an FL-1 shop in case of adjustment of licence fee from country liquor to foreign liquor shop. We observed from *Ahata* licences issue register in four AECs/ DEOs¹⁴

¹¹ M/s Som Distillery Private Limited, Sehatganj, Raisen

¹² 44.12 *per cent* fermentable sugar was present in one quintal molasses
Yield of alcohol = $44.12 \times 91.8 / 100 = 40.5$ PL

¹³ $30,593.7 \text{ PL} \times ₹ 160 = ₹ 48,94,992$ (₹ 48.95 lakh)

¹⁴ AEC Indore, Jabalpur and Rewa and DEO Mandsoor

between December 2011 and February 2012 that licence fee of ₹ 5.72 crore of 22 country liquor shops was adjusted to foreign liquor shops during 2009-10 to 2011-12. As a result of the adjustment, the annual value of FL-1 shops was required to be revised from ₹ 40 crore to ₹ 45.72 crore and the licence fee of *Ahata* licences was to be determined at the rate of two *per cent* of such revised annual value of shops. However, in the absence of enabling provisions, the licence fee at enhanced annual value which worked out to ₹ 91.45 lakh against the licence fee of ₹ 80.08 lakh levied could not be levied.

After we pointed this out, the AECs/DEOs stated between December 2011 and February 2012 that the *Ahata* licences were issued after depositing the amount of two *per cent* of prescribed annual value of shops as required in the rules. The adjustment was effected after the issue of licences.

The Department may, therefore, consider prescribing a condition in the policy to be issued for sale of liquor shops each year to recover the difference of annual licence fee of *Ahata* licence adjacent to an FL-1 shop in case of adjustment of licence fee from country liquor to foreign liquor shop.

3.5.12 Non-fixation of norms for yield of wort¹⁵

MPB&W Rules, do not lay down any norm for yield of wort. Para 243 of the Technical Excise Manual (TEM)*, however provides that 36 gallons of wort is obtainable from 84 pounds of malt or 56 pounds of sugar.

* A reference book brought out in accordance with the orders of the Government of India for the use of Excise Officers in India.

We observed from records related to beer production of a brewery¹⁶ in Raisen district and information furnished by two breweries¹⁷ situated in Indore district, that 1,77,316.51 quintal malt and rice flake and 24,816.45 quintal sugar

were used during the period between September 2010 and November 2011 which yielded 827.62 lakh bulk litre (BL) wort as against possible yield of 922.49 lakh BL in accordance with the provisions of the TEM. Short production of 90.13 lakh BL of beer after considering wastage allowance of 4.74 lakh BL resulted in loss of excise duty of ₹ 12.75 crore¹⁸.

After we pointed this out, the EC stated that the percentage of alcohol present in strong and light beer is different and in this condition the quantity of beer produced from malt/sugar cannot be equal. Therefore, it was not possible to prescribe the norms for yield of beer. Besides, the TEM was not approved by the Government. Therefore, the Department was not legally bound to follow

¹⁵ "Wort" is defined as the liquor obtained by the exhaustion of malt or grain by solution of saccharine matter in the process of brewing. It is a sugary solution, prepared from a fermentative base and water in which fermentation has not started

¹⁶ M/s Som Distillery and Breweries Ltd., Raisen

¹⁷ M/s Mount Everest Breweries Ltd., Indore, M/s M.P. Beer Products, Indore

¹⁸ 83,20,089 BL × ₹ 13.46 = ₹ 11,19,88,398

6,92,359 BL × ₹ 22.45 = ₹ 1,55,43,460

90,12,448 BL ₹ 12,75,31,858 (₹ 12.75 crore)

the TEM. The fact remains that control by the Department over the production of beer is necessary in order to prevent the leakage of revenue due to the State. **The Government may therefore consider prescribing norms for yield of wort from malt, rice, flake, sugar etc. in MP Beer and Wine Rules.**

3.5.13 Working of Internal Audit Cell

An Internal Audit Cell (IAC) was established in the EC office in the year 1978. It is headed by a Joint Director from the MP Finance Service and six officers from the Treasury and Accounts Department, MP have been posted on deputation basis. The work of Internal Audit is conducted by this Cell. The sanctioned and working strength of the Cell is shown in the table given below:-

Year	Sanctioned strength	Working strength
2007-08	6	6
2008-09	6	6
2009-10	6	6
2010-11	6	5
2011-12	6	5

According to the roster describing the Annual Audit Plan, audit of 48 to 50 units was to be conducted each year during the period from 2007-08 to 2011-12. The details of units planned, audited and number of observations raised, settled and outstanding are given as under:

Year	No. of units as per roster	Number of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Out standing paras
2007-08	48	27	21	43.75	44	-	44
2008-09	48	38	10	20.83	50	-	50
2009-10	48	26	22	45.83	14	-	14
2010-11	50	41	09	18.00	60	07	53
2011-12	50	16	34	68.00	64	12	52

Thus, the targets fixed were not achieved by the IAC of the Department in any of the five years between 2007-08 and 2011-12. In addition, the details about the money value involved in the objections raised by the internal audit and amount recovered etc. were not available with the IAC.

After we pointed this out, the EC stated (January 2013) that due to shortage of staff and preoccupation with other work, audit could not be conducted as prescribed in the roster. We do not agree as there was no vacancy for three years (2007-08 to 2009-10) and in the remaining two years only one out of six posts was vacant. Besides, internal audit was the primary work of IAC and constituted a vital component of the internal control mechanism which should not have been ignored due to preoccupation of staff with other work.

Compliance deficiencies

3.5.14 Irregular export /transport of foreign liquor/spirit and non realisation of excise duty on unacknowledged liquor/spirit

3.5.14.1 Export/transport of RS¹⁹/ ENA²⁰

According to MPD Rules, the removal of spirit from a distillery to another distillery or liquor warehouse or bottling unit or any other industrial unit within or outside the State of MP shall be without payment of duty subject to execution of a bond in form D-2 by the seller licensee with adequate solvent sureties for the payment as prescribed by the EC. The licensee shall obtain an excise verification certificate (EVC) from the officer in-charge (OIC) of the destination unit and furnish it to the authority who issued the export/transport permit within 40 days of the expiry of validity period of permit. If the licensee fails to do so, the amount prescribed by the EC shall be recoverable from the security bond executed. The EC has prescribed the amount recoverable as under:

- (i) In case of export/transport of RS for manufacture of country liquor, it shall be equal to maximum duty payable on country liquor in MP.
- (ii) In case of export/ transport of ENA for manufacture of foreign liquor or for any other purpose, it shall be equal to the maximum duty payable for foreign liquor in MP at that time.

We observed from the Export/Transport Register in seven distilleries²¹ of five districts²² between December 2011 and May 2012 that the licensees exported/transported 2,74,88,292.9 PL of RS and 1,41,92,595 PL of ENA on 1,444 permits between April 2011 and March 2012 involving excise duty of ₹ 703.51 crore²³ without payment of duty or executing bond in form D-2 with adequate solvent sureties. Thus the mechanism prescribed to safe guard the revenue interest of state was compromised and left at the will of the licensees. It was

further seen that no such records or periodical returns for keeping a watch over

¹⁹ Rectified Spirit.

²⁰ Extra Neutral Alcohol.

²¹ M/s Great Galleon Ltd. Dhar, M/s Oasis Distillery Ltd. Dhar, M/s Gwalior Alcobrew Pvt. Ltd. Gwalior, M/s Associated Alcohol & Breweries Ltd. Khargone, M/s Agrwal Distillery Ltd. Khargone, M/s Vindhyaachal Distillery, Rajgarh and M/s Som Distillery Pvt. Ltd. Raisen.

²² Dhar, Gwalior, Khargone, Rajgarh and Raisen.

²³ 2,74,88,292.9 PL × ₹ 80 = ₹ 2,19,90,63,432

1,41,92,595 PL × ₹ 340.74 = ₹ 4,83,59,84,820

₹ 7,03,50,48,252 (₹ 703.50 crore)

execution of bond with reference to export or transport of RS/ENA and receipt of verification reports thereof have been prescribed.

After we pointed out the cases, the DEO, M/s Great Galleon Limited, Dhar, stated (April 2012) that action would be taken on receipt of directions from higher authorities. DEOs of other distilleries, except that of Gwalior district stated between December 2011 and April 2012 that the Audit would be intimated after execution of bond on form D-2. DEO M/s Gwalior Alcobrew Private Limited, Gwalior stated (May 2012) that bonds had been executed in form D-2. We do not agree as the Act provide for execution of a bond in form D-2 and as such there was no need of obtaining direction from higher authorities. Besides, the bonds with adequate solvent sureties were not executed before the export/transport of spirit was allowed.

3.5.14.2 We observed from the export/transport register and EVCs in three distilleries²⁴ in three districts²⁵ between July 2011 and April 2012 that the licensees exported/transported 82275.5 PL of RS/ENA on seven permits during the period between September 2010 and July 2011 involving excise duty of ₹ 3.45 crore without payment of duty or executing a bond in Form D-2 with adequate solvent sureties. Though the EVCs of receipt of quantity of RS/ENA so exported/transported were not received from the destination units within the prescribed time limit, the DEOs (Distilleries) did not take any action for recovery of the duty even after lapse of 157 to 383 days beyond the permissible period of 40 days. Further, the distillery officers did not check the bond in form D-2 before issuing the permit for export/transport of RS/ENA. They did also not maintain the register to check whether the EVCs were received within the prescribed time limit. This resulted in non-realisation of revenue of ₹ 3.45 crore²⁶.

After we pointed out the cases, the DEOs (Distilleries) stated between July 2011 and April 2012 that verification reports would be submitted on their receipt. We do not agree as the Department failed to recover the duty in case of non receipt of verification reports within the prescribed time limit.

²⁴ M/s Gwalior Alcobrew Pvt. Ltd. Gwalior, M/s Associated Alcohol & Breweries Ltd. Khargone and M/s Cox India Ltd. Chhatarpur.

²⁵ Chhatarpur, Gwalior and Khargone.

²⁶

20,160 PL × ₹ 681	= ₹ 1,37,28,960
60,480 PL × ₹ 340.70	= ₹ 2,06,05,536
835.5 PL × ₹ 160	= ₹ 1,33,680
800 PL × ₹ 80	= ₹ <u>64,000</u>
	₹ 3,45,32,176 (₹ 3.45 crore)

3.5.14.3 Export/transport of foreign liquor/beer/bottled country liquor

The Excise Act and the Rules made thereunder provide that no intoxicant shall be exported/transported from any distillery, brewery, warehouse or any other place of storage unless the licensee deposits the prescribed duty leviable on the full quantity of the intoxicant to be transported/exported or furnishes a bank guarantee of an equal amount or executes a bond with adequate solvent sureties for the amount mentioned in form FL- 23. Besides, the licensee shall obtain an excise verification certificate (EVC) from the Officer-In-Charge (OIC) of the destination unit and furnish to the authority, who issues the transport/export permit, within 40 days of the expiry of validity period of the permit. In case of default, the duty involved shall be recovered from the deposit made, bank guarantee furnished or the security bond executed. Further, the Government vide notification dated 29 September 2010, provided that if the EVC is submitted after the stipulated 40 days time period, the recovered duty shall be refunded to the exporter after due verification.

We observed from the Export/Transport register, in seven bottling units²⁷ and two breweries²⁸ of five districts²⁹ between November 2011 and May 2012 that the licensees exported/transported 23,71,102 cases of bottled foreign liquor (Spirit) and 30,74,165 cases of beer on 7,738 permits between October 2010 and March 2012 involving duty of ₹ 171.87 crore. It was noticed that in violation of the provision, the Department issued the export/transport permits without recovering the prescribed duty or obtaining the bank guarantee or bond

with adequate solvent sureties for the amount of duty involved. Thus, the mechanism prescribed to safeguard the revenue interest of state was compromised and left at the will of the licensees.

After we pointed out the cases, the OIC of M/s Silver Oak India Ltd., Dhar and M/s Vindhyachal Distillery, Rajgarh stated in March and May 2012 that Audit would be intimated after furnishing of bank guarantee or execution of bond. The Distillery Officers of M/s Great Galleon Ltd., Dhar, M/s Gwalior Alcobrew Pvt. Ltd., M/s Radico Khaitan Ltd. and M/s A.B.D. Ltd., Gwalior stated in April and May 2012 that bonds were being executed. We do not agree as the bonds with solvent sureties were to be executed before the export/transport of liquor was allowed.

²⁷ M/s Great Galleon Ltd., Dhar, M/s Silver Oak India Ltd, Dhar, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Radico Khaitan Ltd., Gwalior, M/s A.B.D. Ltd., Gwalior, M/s Vindhyachal Distillery, Rajgarh and M/s Som Distillery & Breweries Ltd., Raisen.

²⁸ M/s Som Distillery & Breweries Ltd., Raisen and M/s Mount Everest Breweries Ltd., Indore.

²⁹ Dhar, Gwalior, Indore, Rajgarh and Raisen.

3.5.14.4 We observed from the Export/transport permit registers and EVCs received registers in 12 bottling units³⁰ of foreign liquor, three breweries³¹ and two central godowns³² for outside manufacture (FL-10A) and one country liquor bottling unit (CS-1A)³³ of eight districts³⁴ between May 2011 and May 2012 that the licensees exported/transported 13,46,966.95 PL foreign liquor (spirit), 8,84,919.72 BL beer and 11,250 PL of bottled country liquor on 522 permits between March 2010 and March 2012, which involved duty of ₹ 16.80 crore. Though the verification reports of receipt of quantity of liquor so exported/transported were not received from the destination units within the prescribed time limit, the Department did not initiate any action for adjustment of duty against the bank guarantee or bond even after a lapse of two to 450 days after the permissible period. This resulted in non-realisation of revenue of ₹ 16.80 crore as detailed in **Annexure 'II'**.

After we pointed out the cases, AECs/DEOs stated in 517 cases between May 2011 and April 2012 that verification reports would be submitted on their receipt. In respect of five cases of Bhopal and Chhatarpur districts, it was stated that verification reports had been received. We do not agree as the duty was recoverable in all these cases as verification reports were not received within the prescribed period, for which the Department did not take any action.

3.5.15 Non-levy of penalty for non-maintenance of minimum stock

According to MPD Rules, a distiller is required to maintain the prescribed minimum stock of spirit at the distillery. In the event of failure, the EC may impose a penalty not exceeding one rupee per BL on the quantity found short of the minimum prescribed stock irrespective of the fact whether any loss has actually been caused to the Government or not. The distillery officer is required to intimate the cases of shortage of spirit against the prescribed quantity to EC in each quarter for levy of penalty and effective monitoring of such cases.

We observed from Spirit stock and issue registers of two distilleries³⁵ in two districts³⁶ in April 2012 that the distillers did not maintain the prescribed minimum stock of spirit on 83 occasions between July 2009 and January 2012. The DEOs, however,

³⁰ M/s United Spirit Ltd. (FL-9& 9A) Bhopal, M/s Jublee Breweres Ltd. Bhopal, M/s Oasis Distillery Ltd. Dhar, M/s Great Galleon Ltd., Dhar, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Vinayak Distillery Pvt. Ltd. Gwalior, M/s Parnard Recard India Pvt. Ltd.(FL-9, 9A) Gwalior, M/s Som Distillery & Breweries Ltd. Raisen, M/s Som Distillery Pvt. Ltd. Raisen, M/s Redson Distillery, Jabalpur, M/s Diageo India Pvt. Ltd. Khargone and M/s Associated Alcohol & Breweries Ltd. Khargone.

³¹ M/s Mount Everest Breweries Ltd, Indore, M/s Som Distillery & Breweries Ltd. Raisen and M/s Jagpin Breweries Ltd. Chhatarpur.

³² M/s Parnard Recard India Pvt. Ltd. Gwalior and M/s United Spirit Ltd. Bhopal.

³³ M/s Som Distillery Pvt. Ltd. Raisen.

³⁴ Bhopal, Chhatarpur, Dhar, Gwalior, Indore, Jabalpur. Khargone and Raisen.

³⁵ M/s Agarwal Distillery Khargone and M/s Oasis Distillery Ltd., Dhar.

³⁶ Dhar and Khargone.

failed to take up the matter with the EC for levy of penalty of ₹ 9.09 lakh on spirit found short of the minimum prescribed stock of 27.93 lakh BL. This resulted in non-imposition of maximum penalty of ₹ 9.09 lakh.

After we pointed this out, the DEO, Khargone, stated (April 2012) that a show cause notice had been issued to the distiller. DEO, Dhar, stated (April 2012) that the cases of non-maintenance of minimum stock would be sent to the EC for necessary action. Further replies have not been received (March 2013).

3.5.16 Non-levy of penalty on inadmissible wastages

The excise Act and Rules made there under provide that the maximum wastage allowance for all exports of bottled foreign liquor/beer, shall be 0.25 per cent irrespective of the distance. For all transports, it shall be 0.1 per cent if the selling and purchasing licensees belong to the same district and 0.25 per cent if they belong to different districts. In case of export of bottled country liquor it shall be 0.25 per cent and for transport it shall be 0.5 per cent irrespective of the distance. Further according to the amendment made by the State Government dated 12 January 2012 it shall be 0.1 per cent in case of transport in pet bottle and 0.25 per cent in glass bottle with effect from 1 April 2011. In case of RS/ENA, the Rules allow wastage of 0.1 to 0.2 per cent on account of leakage or evaporation of spirit/ENA transported or exported in tankers from a distillery/warehouse to another distillery/warehouse according to their distance. In case of wastage beyond the permissible limit the licensee shall be liable to pay penalty at a rate prescribed by the Government from time to time.

We observed from EVCs in four foreign liquor warehouses³⁷, five foreign liquor bottling units³⁸, two breweries³⁹, three distilleries⁴⁰ and seven country liquor warehouses⁴¹ of 12 districts⁴² between August 2011 and May 2012 that the wastages of 80,118.14 PL foreign liquor (spirit), 67,892.58 BL beer, 24,221.66 PL country liquor and 40,599.49 PL RS/ENA was found to be in excess of the admissible limit during export/ transport during the period between May 2009 and March 2012 in 5,669 cases on which minimum penalty of ₹ 10.02 crore was leviable as detailed in the following table:

³⁷ Gwalior, Jabalpur, Rewa and Ujjain

³⁸ M/s United Spirit Ltd., Govindpura, Bhopal, M/s United Spirit Ltd., Sarver, Bhopal, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Parnard Recard India Ltd., Gwalior and M/s Oasis Distillery, Dhar

³⁹ M/s Mount Everest Breweries Ltd., Indore and M/s Som Distillery and Brewereies Ltd., Raisen

⁴⁰ M/s Som distillery Pvt. Ltd., Raisen, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior and M/s Oasis Distillery, Dhar

⁴¹ Balaghat, Badwah, Dabra, Gwalior, Schore, Sheopur and Vijaypur

⁴² Balaghat, Bhopal, Dhar, Gwalior, Indore, Jabalpur, Khargone, Raisen, Rewa, Schore, Sheopur and Ujjain

(₹ in crore)

Nature of liquor	Quantity Exported/ transported (PL/BL)	Quantity received at other end (PL/BL)	Difference (PL/BL)	Permissible wastage (PL/BL)	Excess wastage (PL/BL)	Penalty
Foreign liquor (Spirit)	1,31,04,323.74	1,29,91,647.37	1,12,676.36	32,558.22	80,118.14	7.63
Beer	1,20,04,309.2	1,19,06,405.91	97,903.29	30,010.70	67,892.58	0.57
Country liquor	63,86,491.75	63,53,110.28	33,381.47	9,159.80	24,221.66	0.63
RS/ ENA	42,75,082.10	42,31,732.31	43,349.39	2,749.90	40,599.49	1.19
Total						10.02

It was, however, seen that an amount of ₹ 11.94 lakh only was recovered in Jabalpur and Rewa districts. The Department did not take any action to impose the balance amount of penalty of ₹ 9.90 crore. This resulted in non realisation of revenue of ₹ 9.90 crore.

3.5.17 Non levy of penalty on inadmissible wastages in manufacture of foreign and country liquor

The Excise Act and rules made thereunder, provide an allowance on wastage in blending operations during manufacture of foreign liquor/country liquor at the rate of one *per cent* of the quantity of RS/ENA added to the blending vat. In case of wastages beyond the permissible limit, the licensee shall be liable to pay penalty at a rate exceeding three times but not exceeding four times the duty payable on country liquor at that time up to 13 December 2011 and thereafter not exceeding the amount of duty payable at that time.

We observed from the liquor manufacturing registers in three country liquor warehouses⁴³ and one foreign liquor bottling unit⁴⁴ between June 2011 and March 2012 that 18,76,575.63 PL of RS/ENA was added to the blending vats for manufacturing of liquor during the period between March 2009 and October 2011 in 518 cases. Of this,

21,142.14 PL was shown as blending wastage. Thus, against the permissible limit of 18,765.7 PL excess wastage of 2,376.44 PL was allowed, on which minimum penalty of ₹ 10.63 lakh was leviable. It was, however, seen that no penalty was imposed and recovered by the Department. This resulted in non-realisation of penalty of ₹ 10.63 lakh as detailed in **Annexure 'III'**.

After we pointed out the cases the DEO Rajgarh stated in March 2012 that the wastages are in the limit of 2.5 *per cent*. We do not agree as the wastages at the rate of one *per cent* is allowed separately in blending operation and penalty shall be leviable in case of wastages beyond this limit. Replies in the remaining cases have not been received (March 2013).

⁴³ Damoh, Narsingarh and Pilukhedi.

⁴⁴ Som Distillery Pvt. Ltd., Raisen

3.5.18 Non-realisation of excise duty due to non-disposal of liquor

The Excise Act and Rules made thereunder provide that on expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of spirit/liquor under the control of the DEO. He can, however, be permitted to dispose of such stock to any other licensee within 30 days of such expiry, non-renewal and cancellation of licence or labels, failing which the EC may ask any other eligible licensee of the State to purchase such stock or may issue orders for the disposal of the stock through destruction etc.

We observed from the Stock and Issue register in country liquor warehouse Ujjain and foreign liquor warehouse Sagar between November 2011 and January 2012 that no action was taken by the Department to dispose of the stock of 13,104.10 PL of foreign liquor and 7,246.40 PL of RS

lying undisposed in the warehouses due to non-renewal of 13 labels of foreign liquor w.e.f. from April 2009 and discontinuation of bottling of country liquor w.e.f. 1 April 2011 even after lapse of periods ranging from 11 to 25 months. The disposal could not be done in most of the cases as orders were not released by the EC. This resulted in non-realisation of revenue of ₹ 21.62 lakh as detailed in the table below:

(₹ in lakh)

Name of manufacturer	Since when pending	Quantity of liquor (PL)	Duty
M/s Alcobrew Distillery India Pvt. Ltd. (FL-9A)	01.04.2009	1,391.24	1.94
M/s Gold Waters Breweries Pvt. Ltd. (FL-9)	01.04.2009	4,516.23	3.90
M/s Mansons & Summers Pvt. Ltd. (FL-9A)	01.04.2009	2,504.59	3.42
M/s S.G. Distilleries Ltd. (FL-9)	01.04.2009	2,164.68	2.18
M/s Diageo Radico Distiller Pvt. Ltd. (FL-9A)	01.04.2009	2,527.36	4.38
Country liquor warehouse, Ujjain	01.04.2011	7,246.40 (RS)	5.80
Total			21.62

3.5.19 Non installation of flow-meter in distillery

Under the MPD Rules the distillery licensee shall provide for use in measuring spirit in the distillery and at the time of issue, such measures, gauging machine, weighing machine and other appliances as the EC may direct him to provide. EC in his circular dated 29.12.2006 prescribed to install a flow-meter duly sealed by the officer authorised by the Controller, Weights and Measure.

We observed from records of plant and machinery and instruments in M/s Vindhyaachal Distillery, Pilukhedi of district Rajgarh in March 2012 that the licensee did not install flow-meter in the distillery. The DEO (Distillery) did not take any action against the

licensee for non-installation of flow-meter. We further noticed that the measurement was being done through gauging rod which only gives an

approximate value and as such we found difference in measurement value at two ends i.e. one at the distillation end (D-1) and the other at the foreign liquor bottling unit (FL-9) located within the same premises of the licensee on 40 occasions.

After we pointed out the cases, the DEO Rajgarh stated that the gauging of each storage vat in distillery had been done and the measurement of spirit at the time of issue was being conducted by gauging rod which was correct. The flow-meter would be installed on requirement. The reply is not in consonance with the rules and orders of EC and also the measurement through gauging rod had given different measurement values. Further report has not been received (March 2013).

3.5.20 Non realisation of revenue due to non-registration of labels of country liquor

MPCS Rules provide that only such bottles of country liquor with labels showing legends/details as specified, duly registered by the EC may be sold in, transported within, imported into or exported from MP. The labels registered for each bottling unit shall be renewed every year. No label shall be used by any manufacturer unless it has been duly registered or renewed. The registration fee of ₹ 10,000 at the time of first registration and registration renewal fee of ₹ 1,000 for every financial year or part thereof, for each label of country liquor separately, packing material-wise, according to usage and containers capacity-wise, has been prescribed by the State Government from 1 April, 2011 under notification of January 2011.

We observed from the Label Registration register in the EC office in May 2012 that the licenses (CS-1B) for bottling of country liquor in 27 warehouses⁴⁵ were issued and the bottled country liquor was transported from five warehouses in April 2011, 18 warehouses in April and May 2011 and four warehouses during the whole year of 2011-12 by using 324 labels (12 labels in each warehouse). It was, however, seen

that these labels were not got registered by the licensees for the above bottling units and as such, registration fee of ₹ 32.40 lakh⁴⁶ was not realised. Besides, the bottling and transportation of liquor, using the unregistered labels, was irregular.

After we pointed this out, the EC stated (May 2012) that the CS-1B licences were issued for bottling of country liquor in country liquor warehouses during the period from 1 April 2011 to 31 May 2011 as proper arrangement for bottling of country liquor was not available in some distilleries. It was stated that it would not have been proper to levy the registration fee separately for

⁴⁵ Barwah, Badwani, Balaghat, Betul, Burhanpur, Chindwara, Damoh, Dhar, Indore, Jabalpur, Jhabua, Katni, Khandwa, Khargone, Mahu, Mandla, Mandsaur, Narsingharh, Narsinghpur, Rewa, Sagar, Satna, Seoni, Shahdol, Shajapur, Shivpuri and Sidhi

⁴⁶ $324 \times ₹ 10,000 = ₹ 32,40,000$ (₹ 32.40 lakh)

bottling in each warehouse during April and May 2011 under CS-1B licence. We do not agree as according to the rules, the registration of labels for each bottling unit is required separately. However, the EC's reply was silent in regard to licences issued for bottling in four warehouses⁴⁷ for the whole year.

3.5.21 Non-realisation of duty on irregular issue of liquor

The conditions of sale of liquor through shops for the years 2009-10, 2010-11 and 2011-12 issued by the EC provide that the annual licence fee of liquor shops shall be paid by the licensees in 24 fortnightly installments on due dates as prescribed therein. It is further provided in the notifications that the last installment must be deposited by 25 March of the year and liquor would be issued up to 27 March, failing which liquor will not be issued on the amount deposited. Further departmental instructions (December 2008) provide that issue of liquor against the installment of annual licence fee deposited after the due date is illegal and duty along with interest shall be recovered in such cases. The rate of interest was, however, not mentioned in these instructions.

We observed from the records {Demand and Collection registers of licence fee (G-2)}, challans and liquor issue registers} of two DEOs⁴⁸ between June 2011 and September 2011 that 11 licensees of liquor shops had deposited the prescribed fortnightly licence fee of ₹ 15.68 lakh after the due dates. We further observed that 44 licensees of liquor shops of three districts⁴⁹ had deposited an amount of ₹ 37.17 lakh after 25 March 2010 and 2011. As such, issue of liquor in these cases was

not admissible but it was issued. Besides, 87 licensees deposited an amount of ₹ 63.42 lakh before 25 March 2010 and 2011 but the liquor was issued after 27 March of the year. In one case of Shivpuri district one licensee deposited ₹ 3.30 lakh on 28 March 2011 and liquor was issued on 6 May 2011 (i.e. in the subsequent year). This resulted in irregular issue of liquor involving duty aggregating to ₹ 1.20 crore.

After we pointed out the cases, the DEO, Damoh stated (June 2011) that the issue was allowed in the interest of revenue and there was no loss of revenue to the Government. DEO, Datia stated (September 2011) that the issue was done by the Warehouse Officer with the permission of DEO. DEO, Ratlam stated (January 2012) that the issue of liquor was allowed to meet the requirement of the licensee for the remaining part of the year and there was no loss to Government. AEC, Gwalior and DEO, Rajgarh stated (between October 2011 and March 2012) that the complete licence fee was not deposited by the licensees up to 25 March 2010 and the issue of liquor was not completed up to 26 March 2010 and, therefore, it was issued in subsequent dates. DEO, Shivpuri stated (May 2012) in regard to issue of liquor in the

⁴⁷ Balaghat, Chhindwara, Khandwa and Shivpuri.

⁴⁸ Damoh and Datia.

⁴⁹ Rajgarh, Ratlam and Shivpuri.

subsequent year that the issue was allowed with the permission of the EC. We do not agree as the issue of liquor was not permissible after 27 March of the year and also on the amount, which was deposited after due dates.

3.5.22 Short levy of duty on foreign liquor/beer issued to Defence services

According to the conditions of sale of liquor through shops for the year 2010-11 issued by EC under notification dated 28 January 2010, foreign liquor shall be issued to the Defence services on payment of duty at the rate of 30 *per cent* for rum and 50 *per cent* for other foreign liquor leviable for civilians.

We observed from the stock and issue register of FL-6⁵⁰ licensee of Jabalpur district in December 2011 that 1,54,412 cases of 54 labels of foreign liquor (Spirit and Beer) were issued to FL-7⁵¹ licensees during the period from April 2010 to November

2010 on payment of duty of ₹ 8.62 crore while the actual duty leviable was ₹ 10.70 crore. This resulted in short levy of duty of ₹ 2.08 crore as shown in **Annexure 'IV'**.

After we pointed this out, the AEC Jabalpur stated (February 2012) that notices had been issued to the licensees for recovery. Further report has not been received (March 2013).

3.5.23 Short recovery of annual licence fee

The notifications for sale of liquor in liquor shops for the years 2009-10 and 2010-11, issued by the EC, provide that adjustment up to a maximum 20 *per cent* of licence fee from country liquor to foreign liquor shop or *vice versa* in a group of shops may be allowed by AEC/DEO of the district by examining the demand and requirement of the concerned licensee after approval of the DEC of the division. The information of such adjustment should also be sent to the Excise Commissioner by AEC/DEO at the same time. Further, each shop within the group has its individual and independent identity.

We observed from G-2 registers and related records in four District Excise Offices⁵² between May 2011 and March 2012 that the licence fee of 20 liquor shops for the years 2009-10 and 2010-11 was ₹ 17.45 crore and adjustment of up to 20 *per cent* of licence fee of ₹ 3.20 crore from 14 foreign liquor to 14 country liquor and six country liquor

to six foreign liquor shops within the group was allowed by the concerned AEC/DEO with the approval of DEC of the division. As such the licence fee of 20 shops for the year 2009-10 and 2010-11 worked out to ₹ 20.65 crore.

⁵⁰ Military Canteen Wholesale Licence

⁵¹ Military Canteen Retail Licence

⁵² Damoh, Indore, Rajgarh and Shivpuri

It was, however, seen that licence fee of ₹ 19.28 crore was deposited leaving the balance of ₹ 1.37 crore unrecovered. This resulted in short realisation of licence fee of ₹ 1.37 crore.

After we pointed out the cases, all the DEOs stated between May 2011 and March 2012 that the licensees did not avail the full adjustment allowed and as such they deposited the amount of fortnightly licence fee in the shops from which the adjustment was not availed. Therefore, the licence fee of the group of shops was deposited completely and there was no loss to the Government. As there was no restriction on cancellation of adjustment in the rules, the non-availment was not irregular. We do not agree as the adjustment was allowed with the approval of DEC after examining the demand and requirement of the licensees.

3.5.24 Irregular issue of liquor

The conditions of sale of liquor shops for the year 2008-09, 2009-10 and 2010-11 issued by the EC under notifications dated 15 January 2008, 16 January 2009 and 28 January 2010 provided that if the licensee of a retail liquor shop deposits the amount of annual licence fee by deducting the amount of security deposit and any other amount due, prior to the end of the financial year and he desires the adjustment of security deposit against the remaining licence fee, the AEC/DEO may allow such adjustment. The issue of liquor on the amount equal to the security deposit may be allowed as per provision, but the issue of liquor on the amount in excess of the prescribed fortnightly licence fee in any fortnight will not be allowed.

MPCS Rules provide that on demand by retail vendor and upon proof of payment into treasury of the issue price recoverable for it, the licensee shall supply the potable spirit of the prescribed strength as required.

3.5.24.1 We observed from the G-2⁵³ and D-17⁵⁴ registers of AEC, Raisen in December 2011 that three licensees of nine liquor shops of three groups⁵⁵ were allowed adjustment of security deposit of ₹ 27.56 lakh towards remaining licence fee of the year 2009-10 on the orders of the DEO at the end of February 2010. Though the issue of liquor was admissible to the licensees, the liquor was not allowed to be lifted by the DEO, reasons for which were not on record. The amount was adjusted against the annual licence fee

of the shops for the year 2009-10. However the liquor against this was issued in the subsequent year (2010-11), which was not covered under the Rules. After we pointed out the case, DEO Raisen stated that the issue was allowed with the orders of EC. We do not agree as issue of liquor in the subsequent year was not covered under the Rules.

⁵³ Demand and collection register of annual licence and basic licence fee

⁵⁴ Country liquor issue register

⁵⁵ A group consisting of country and foreign liquor shops

3.5.24.2 We observed from the G-2 and D-17 registers of two DEOs⁵⁶ between June 2011 and March 2012 that the licensees of three liquor shops were allowed adjustment of security deposit of ₹ 15.18 lakh at the end of February 2009, 2010 and 2011. Out of this, on an amount of ₹ 12.60 lakh, the issue of liquor was allowed to the licensees in the first and second fortnight of March 2009, 2010 and 2011 which was in excess by ₹ 8.31 lakh from the prescribed licence fee of ₹ 4.29 lakh for these fortnights. This resulted in irregular issue of liquor involving duty of ₹ 8.31 lakh.

After we pointed out the cases, DEO Ashoknagar stated (March 2012) that the excess issue of liquor was allowed to the licensee in the first and second fortnight of March 2009 as he did not avail the issue of liquor in the first and second fortnight of February 2009. The reply is not in consonance with the rules. DEO, Damoh stated (June 2011) that as the bank draft for adjustment of licence fee was received on 28.02.2011, the issue of liquor for three fortnights was allowed. We do not agree as the challan for the amount was deposited on 01.03.2011, and, therefore, the issue of liquor for the second fortnight of February 2011 was not admissible.

3.5.25 Short recovery of import fee

MPB&W Rules provide that beer may be imported from outside the State on payment of import fee prescribed by the Government from time to time. The fee was prescribed at the rate of ₹ 11 per BL up to 31 March 2011 and ₹ 15 thereafter.

We observed from import permits and challans in the office of the AEC Jabalpur in December 2011 that 1,76,946 BL of beer was imported on 37 permits by an FL-6 licensee against import permits issued by the AEC, during the period between April 2011 and November 2011. Import fee of ₹ 19.46 lakh was levied against ₹ 26.54 lakh leviable due to levy of fee at old rates. This resulted in short levy of import fee of ₹ 7.08 lakh.

After we pointed this out, the AEC Jabalpur stated (December 2011) that ₹ 79,944 had been recovered from the licensee and action would be taken for recovery of the remaining amount.

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3.5.26 Excess issue of liquor due to incorrect fixation of basic licence fee

The conditions for sale of liquor through shops for the year 2011-12 issued by the EC under notification dated 5 February 2011 provides that the basic licence fee for the liquor shops situated in the *Nagar Nigam* area of Bhopal, Gwalior, Indore and Jabalpur shall be 60 per cent; in other *Nagar Nigam* and *Nagar Palika* areas it shall be 55 per cent and in *Nagar Panchayat* and rural areas, it shall be 50 per cent of the annual value of the shop. The remaining amount of annual value of the shop shall be recovered as annual licence fee. The Excise Duty paid by the licensee for purchase of liquor shall be adjusted against annual licence fee. The issue of liquor will not be admissible on the basic licence fee.

We observed from the annual and basic licence fee fixation records of AEC office, Jabalpur in February 2012, that the license for the country liquor shop, Amkhera was renewed for the year 2011-12 at an annual value of ₹ 78.40 lakh. The basic licence fee of the shop was fixed as ₹ 39.20 lakh at the rate of 50 per cent of annual value treating it as being located in the rural area, while

it should have been fixed as ₹ 47.03 lakh at the rate of 60 per cent of annual value as the shop was situated in *Nagar Nigam* Jabalpur. This resulted in short fixation of basic licence fee of ₹ 7.84 lakh and as such the annual licence fee was fixed in excess by the same amount. According to the rules, the issue of liquor on this amount was not admissible. However, the Department allowed adjustment of excise duty paid by the licensee for purchase of liquor against this amount treating it as annual licence fee. This resulted in excess issue of country liquor involving duty of ₹ 7.84 lakh.

After we pointed this out, the AEC Jabalpur stated (February 2012) that the country liquor shop at Amkhera was categorised in the rural area by the Collector, Jabalpur and the basic licence fee was deposited accordingly. We do not agree as according to the Census for the year 2001, Amkhera is situated in ward No. 62 of Jabalpur *Nagar Nigam* area.

We reported the matter to the EC and the Government between May 2010 and July 2012; their replies have not been received (March 2013).

3.5.27 Conclusion

The Performance Audit indicated that the system instituted by the Commercial Tax Department for collection of excise receipts on liquor was deficient. Monitoring of key areas such as EVC on export/transport of liquor maintenance of minimum stock of spirit in distilleries, wastages during export, transport, storage and manufacture of liquor, etc. was weak. Internal Audit, an important component of the internal control mechanism, was also rendered ineffective due to lack of follow up on audit observations. Additionally, the Department failed to follow the provisions of the Act/rules and instructions issued by the Government in many areas like grant of licences for

manufacturing and sale of liquor, collection of licence fee, collection of fee on transport and import of liquor/spirit etc. resulting in significant amount of non/short realisation of excise receipts on liquor.

3.5.28 Summary of recommendations

The Government may consider implementing the following recommendations for effective levy and collection of State excise duty and fee.

- introducing provisions in the distillery rules for control over molasses and other bases kept in the distillery for production of alcohol;
- fixing norms for minimum yield of beer;
- making necessary provision for recovery of *Ahata* licence fee on revised annual value of shops worked out after adjustment of licence fee; and
- strengthening the internal audit mechanism.

3.6 Non levy of penalty on excess wastage in manufacture of beer

MPB&W Rules provide for allowance of wastages on account of racking*, evaporation, storage, pasteurisation and other contingencies in a brewery at the rate of five *per cent* per quarter on the closing balance of the previous quarter plus quantity produced during the quarter. In case the yearly wastage is more than five *per cent*, the licensee shall be liable to pay penalty on the wastages in excess of the admissible limit at rates exceeding three times but not exceeding four times the duty payable at that time up to 13 December 2011 and thereafter not exceeding the amount of duty payable at that time. EC had prescribed vide circular dated 15 May 2008 quarterly/yearly returns for production of beer and wastages thereon, which will be sent to EC and DEC offices by the OIC of breweries regularly.

* Transferring of beer from one vessel to another

We observed from the Beer production and Manufacturing wastage registers in one brewery⁵⁷ situated in Morena district, in December 2010 and further information collected in May 2011, that there was wastage of 11,61,386 BL of beer on account of racking, evaporation and storage etc. during the year 2010-11, which was in excess by 7,573.5 BL over the admissible limit of 11,53,812.5 BL. As such, the licensee was liable to pay minimum penalty of ₹ 11.81 lakh. It was however, noticed that no penal action was

initiated by the OIC of the brewery. This resulted in non levy/realisation of penalty of ₹ 11.81 lakh⁵⁸.

The matter was reported to the Department and the Government (August 2012); their replies have not been received (March 2013).

⁵⁷ M/s Skoll Breweries Ltd. *Sub lessee* at M/s Trapti Alcobrew Ltd. Morena

⁵⁸ 7,573.5 BL × ₹ 52 × 3 = ₹ 11,81,466 (₹ 11.81 lakh)