

**CHAPTER-III**  
**STATE EXCISE**

## 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 divisions<sup>1</sup>, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19 Excise Districts<sup>2</sup> each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise (ACE/SE).

### 3.2 Result of audit

Our test check during 2013-14 of records of 18 out of 23 units (having revenue collection of ₹ 698.37 crore) relating to State Excise revealed non/short levy of excise duty and licence fees etc. involving ₹ 173.46 crore in 1,370 cases details as mentioned in the **Table – 3.2**.

Table - 3.2

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1	“Levy and collection of excise receipts in Jharkhand” – A performance audit	1	164.79
2	Lifting of liquors without/at reduced rate of licence fees	523	6.41
3	Other cases	846	2.26
<b>Total</b>		<b>1,370</b>	<b>173.46</b>

During the course of the year, the Department accepted non/short realisation of license fee, duty, loss of revenue and other deficiencies of ₹ 139.96 crore in 135 cases pointed out by us during 2013-14.

A performance audit of “**Levy and collection of excise receipts in Jharkhand**” having financial implication of ₹ 164.79 crore is discussed in the following paragraphs.

<sup>1</sup> North Chotanagpur Division, Hazaribag, South Chotanagpur-cum-Kolhan-cum-Palamu Division, at Ranchi and Santhal Pargana Division, Dumka.

<sup>2</sup> 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.

### **3.3 Levy and collection of excise receipts in Jharkhand**

#### **Highlights**

- In five excise districts, Government was deprived from revenue on account of non-settlement of 82 excise shops of ₹ 24.88 crore during 2011-12 to 2012-13.  
**(Paragraph 3.3.8)**
- In three excise districts, interest of ₹ 57.79 lakh on account of delay in deposit of licence fee within stipulated period, though leviable, was not levied by the Department in case of 59 licensees of 140 retail excise shops during 2012-13.  
**(Paragraph 3.3.9)**
- The Government was deprived of licence fee of ₹ 137.08 crore during 2009-10 to 2012-13 in 11 excise districts on account of undue exemption from payment of licence fee as provided in new excise policy.  
**(Paragraph 3.3.10)**
- In five excise district, licensees of 263 retail excise shops did not lift minimum guaranteed quota which resulted in non-realisation of excise duty of ₹ 2.00 crore.  
**(Paragraph 3.3.11)**
- Delay in institution of certificate proceedings for recovery of arrears, resulted in non-realisation of interest of ₹ 20.12 lakh.  
**(Paragraphs 3.3.17)**

### 3.3.1 Introduction

The seventh schedule to the Constitution of India empowers the State Government to levy excise duty on alcoholic liquors for human consumption, on opium, Indian hemp and other narcotic drugs manufactured or produced in the state and to ensure achievement of maximum revenue through legal sale of intoxicants. State Excise revenue is one of the major sources of tax revenue which constituted 6.69 *per cent* of the total revenue raised by the State Government during 2013-14. It is levied and collected as duty and fee on manufacture, storage, sale, import and export of liquor or intoxicating drugs. Liquor includes Country Spirit (CS), Spiced Country Spirit (SpCS), India Made Foreign Liquor (IMFL), beer etc. The levy and collection of excise revenue is governed by the Bihar Excise Act, 1915 (BE Act) and Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand.

Under the provisions of the BE Act and Rules and Policies made thereunder the Excise and Prohibition Department, Government of Jharkhand adopted (February 2009) a new excise policy which is different from previous excise policy in respect of settlement of retail shops. Earlier settlement was based on auction while in new excise policy shops are to be settled through lottery system on receipt of applications against a particular retail shop. All retail shops were to be divided into groups (maximum three numbers of retail shops included in one group) with a view to generating more excise revenue, checking of illicit liquor, controlling of monopoly of a single unit/person and providing standard liquor to the consumers. Further, the new excise policy, *inter alia*, includes a provision for exemption of licence fee on lifting of 15 *per cent* over the quota of fixed minimum guaranteed quota (MGQ) and thereafter licence fee was chargeable at half the rate of licence fee up to June 2012.

### 3.3.2 Organisational setup

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 is the head of the department. He is primarily responsible for the administration and execution of excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise (EDC), an Assistant Commissioner of Excise (ACE) and an Inspector of Excise at the headquarters. He is further assisted by the EDC in excise divisions.

The State is divided into three excise divisions<sup>3</sup> under the control of EDC, who are administrative co-ordinator between department and districts. The divisions are further divided into 19 excise districts<sup>4</sup> each under the charge of

<sup>3</sup> North Chotanagpur, Hazaribag, Santhal Pargana, Dumka and South Chotanagpur-cum-Kolhan-cum-Palamu Division, at Ranchi.

<sup>4</sup> Bokaro, Dhanbad, Deoghar, Dumka, East Singhbhum (Jamshedpur), Garhwa, Giridih, Godda, Gumla-cum-Simdega, Hazaribag-cum-Chatra-cum-Ramgarh, Jamtara, Koderma, Lohardaga, Pakur, Palamu-cum-Latehar, Ranchi-cum-Khunti, Sahibganj, Saraikela-Kharsawna and West Singhbhum (Chaibasa).

an Assistant Commissioner of Excise (ACE)/Superintendent of Excise (SE), who are the actual executors in excise matters at district level.

Jharkhand has one distillery, seven IMFL bottling plants, 13 CS sacheting plants under five zones<sup>5</sup>, four SpCS sacheting plants under Hazaribag and Ranchi zones which are controlled and supervised by the concerned ACEs/SEs/Excise Inspectors.

### **3.3.3 Audit Objective**

The performance audit was conducted to assess the efficiency and effectiveness of levy and collection of excise receipts relating to following aspects:

- the process of fixation of MGQ for districts/shops;
- system of settlement of shops ;
- the deposit and refund of various excise receipts; and
- the mechanism of lifting of liquor.

### **3.3.4 Audit criteria**

The performance audit was conducted with reference to the provisions made under the following Acts/Rules and Executive instructions:

- Bihar Excise Act, 1915 (as adopted by the Government of Jharkhand);
- Jharkhand Financial Rules and Treasury Code;
- Bihar and Orissa Public Demand Recovery Act, 1914;
- New Excise policy issued in February 2009 for settlement of excise retail shops; and
- Resolution/Gazette notifications/Circulars issued by the Department from time to time.

### **3.3.5 Scope and methodology of audit**

The performance audit of “**Levy and collection of excise receipts in Jharkhand**” covering the period 2008-09 to 2012 -13 was conducted between May 2013 and March 2014. Settlement registers/files, licence fee register/files, security deposit register, CS/SpCS sacheting files, records of IMFL bottling plant, revenue files, pass-permit etc. were test checked in eleven<sup>6</sup> out of 19 Excise Districts, Santhal Paragana and South Chotanagpur-cum-Kolhan-cum-Palamu out of three Excise Divisions and office of the Commissioner of Excise. The units were selected on the basis of random sampling method without replacement and revenue potentiality.

### **3.3.6 Acknowledgement**

We acknowledge the co-operation of the Excise and Prohibition Department in providing necessary information and records to audit. We held entry conference with the Secretary-cum-Commissioner of Excise Department on

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<sup>5</sup> Dhanbad, Dumka, Hazaribag, Jamshedpur and Ranchi.

<sup>6</sup> Bokaro, Dhanbad, Deoghar, Dumka, East Singhbhum (Jamshedpur), Hazaribag-cum-Chatra-cum-Ramgarh, Pakur, Ranchi-cum-Khunti, Sahibganj, Saraikela-Kharsawan and West Singhbhum (Chaibasa).

5 February 2014 to discuss the audit objectives, scope and methodology of the performance audit. The exit conference was held on 7 August 2014 with the Secretary-cum-Commissioner, Department of Excise and Prohibition, Government of Jharkhand in which the findings, conclusion and recommendations of the review were discussed. Views of the Government/Department have been suitably incorporated in the report.

### 3.3.7 Trend of excise revenue

According to provisions of the Bihar Financial Rules (BFR), Vol. I (as adopted by the Government of Jharkhand), the responsibility for preparation of estimates of revenues vests with the Finance Department. The Secretary-cum-Commissioner of Excise and Prohibition Department is responsible for the compilation of correct estimates and sending it to the Finance Department on the dates fixed by the latter.

The revised budget estimates and actual receipts from State Excise during the period from 2008-09 to 2013-14 are given in **Table - 3.3.7**.

**Table - 3.3.7**

Year	Revised Budget Estimates	Actual Receipts	Variation excess (+)/shortfall (-)	Percentage of Variation	₹ in crore)	
					Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2008-09	357.52	205.46	(-) 152.06	(-) 43.00	3,753.21	5.47
2009-10	550.00	322.75	(-) 227.25	(-) 41.31	4,500.12	7.17
2010-11	525.00	388.34	(-) 136.66	(-) 26.03	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
2013-14	700.00	627.93	(-) 72.07	(-)10.30	13,132.50	4.78

Source: Finance Accounts and revised estimates as per statement of Revenue and Receipts of Government of Jharkhand.

From the above it could be seen that the Department could not achieve the budget estimates except during 2011-12. The variation between budget estimates and actual receipts ranged between (-) 43 and 2.71 *per cent*. The budget estimates in 2012-13 was as high as 28 *per cent* when compared to the average of the last three years' receipts, which indicates that the budget estimates were not prepared on realistic basis. Further, the Department despite being requested did not produce the budget estimates prepared by it and sent to the Finance Department.

The matter was reported to the Government/Department in June 2014, the Department accepted the matter and stated (August 2014) that for every financial year, target was fixed by the Finance Department without taking any feedback from the Department.

**The Government may issue suitable instructions to the Finance Department for preparing realistic and scientific BEs based on feedbacks received from the Excise and Prohibition Department.**

#### 3.3.7.1 Position of arrears of excise revenue

The arrears of revenue as on 31 March 2014, as furnished by the Department, were ₹ 29.37 crore, of which ₹ 8.38 crore were outstanding for more than five

years. The year-wise position of arrears of revenue during the period 2009-10 to 2013-14 is shown in the **Table – 3.3.7.1**.

**Table – 3.3.7.1**

Year	₹ in crore)	
	Opening balance of arrears	Closing balance of arrears
2009-10	29.39	30.94
2010-11	30.94	30.94
2011-12	30.94	31.07
2012-13	31.07	31.37
2013-14	31.37	29.37

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

As per information furnished by the Department, out of the closing balance of arrears of ₹ 29.37 crore as on 31 March 2014, demand for ₹ 20.96 crore was certified for recovery as arrears of land revenue, recovery of ₹ 1.00 crore was stayed by the 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 ₹ 7.14 crore has not been intimated (November 2014).

Thus, from the above it would be seen that only 71.35 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 Demand Recovery (PDR) Act, 1914.

**We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914.**

### **Audit Findings**

The levy and collection of excise duty and other excise receipts is governed by the BE Act and the Rules made/notifications issued thereunder. The excise revenue is collected through challans and deposited into the treasuries at the district level by the District Excise Officers (ACEs/SEs), who are primarily responsible for collection of excise revenue under administrative control of the Commissioner of Excise.

### **Levy of excise duty and licence fees**

#### **3.3.8 Non-settlement of retail excise shops**

Under the provisions of the BE Act, 1915, Rules and policies made thereunder, the Excise and Prohibition Department, Government of Jharkhand by the Resolution No. 367 dated 20 February 2009 followed by a Gazette Notification No. 150 dated 27 March 2009, adopted a new excise policy along with guidelines to settle all retail shops through lottery system in place of bid for auction/tender. In case of non-settlement of retail shops, licensing authorities have the discretionary powers for recommendation for settlement of shops at reduced reserve fee to the Excise commissioner (EC). The EC may approve the settlement proposal at reduced licence fee in the interest of excise

revenue. Further, as per instructions issued vide letter no. 144 dated 17 January 2011 all the ACEs/SEs were made responsible for *cent per cent* settlement of retail excise shops by rationalising the MGQ of the shops.

We noticed from the settlement register, sale notification, licence fee register and lottery register (between May 2013 and February 2014) in 11 test checked excise districts that 1,063 shops remained unsettled during last four years (2009-10 to 2012-13) whose detailed position is as in **Table – 3.3.8**.

**Table – 3.3.8**

Year	No. of sanctioned shops	No. of settled shops	No. of unsettled shops
2009-10 <sup>7</sup>	1,690	1,204	486
2010-11	1,603	1,272	331
2011-12	1,271	1,139	172
2012-13	1,219	1,145	74
<b>Total</b>	<b>5,783</b>	<b>4,760</b>	<b>1,063</b>

From the above it could be seen that in the 11 test checked excise districts the number of sanctioned shops decreased from 1,690 in 2009-10 to 1,219 in 2012-13 i.e. decreased by 27.87 *per cent*. It could further be seen that the number of settled shops decreased from 1,204 in 2009-10 to 1,145 in 2012-13 i.e. 17.69 *per cent* excise shops remained unsettled during the aforesaid period. The reasons for decreasing trend in number of sanctioned shops as well as number of settled shops though called for (August 2014) has not been intimated by the Department.

These issues were pointed out by us in earlier Audit Reports. However, this irregularity still persists in the Department.

In five<sup>8</sup> out of 11 test checked excise districts 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 notification containing all these facts were published between February 2011 and February 2012 for settlement of 37 and 591 retail shops for the period 2011-12 and 2012-13 respectively. Settlement process was conducted on fixed dates. However, 82 retail shops<sup>9</sup> remained unsettled (2011-12: 8 shops and 2012-13: 74 shops) despite publication of sale notifications from time to time. Further, the district excise authorities did not follow the instructions and guidelines regarding settlement of non-settled shops at reduced rate of licence fee and also did not rationalise fixation of MGQ of the shops keeping in view the potentiality of the shops. Thus, the Government was deprived of excise revenue in shape of excise duty and licence fee amounting to ₹ 24.88 crore as detailed in **Table – 3.3.8**.

<sup>7</sup> Shops during the period 2008-09 were settled in single group in the State.

<sup>8</sup> Bokaro, Dhanbad, Jamshedpur, Hazaribag (Ramgarh) and Sahibganj.

<sup>9</sup> Number of shops unsettled/offered: 2011-12: Sahibganj (8/47), 2012-13: Bokaro (8/106), Dhanbad (6/205), Jamshedpur (37/201), Hazaribag-cum-Chatra-cum-Ramgarh {Ramgarh (23/79)}.



Table – 3.3.8

Sl. No.	Name of district	MGQ (in LPL)				Licence Fee	Duty	Total (LF+Duty)
		CS	Sp Cs	IMFL	Beer			
1	Bokaro	3,83,850.00	52,860.00	24,928.00	31,600.00	266.72	38.70	305.42
2	Dhanbad	1,13,470.31	16,467.62	70,592.17	91,376.72	202.21	43.34	245.55
3	Jamshedpur	8,10,957.00	1,06,182.00	3,35,440.00	4,98,828.00	1,120.41	229.11	1,349.52
4	Ramgarh	2,80,696.00	30,738.00	1,16,718.00	1,93,862.00	389.05	80.88	469.93
5	Sahibganj	36,420.00	16,060.00	37,620.00	33,509.00	97.10	20.88	117.98
	<b>Total</b>	<b>16,25,393.31</b>	<b>2,22,307.62</b>	<b>5,85,298.17</b>	<b>8,49,175.72</b>	<b>2,075.49</b>	<b>412.91</b>	<b>2,488.40</b>

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that loss due to non-settlement of excise shops was hypothetical as those shops could not be settled. The reply was not convincing as major excise revenue depend upon settlement of retail shops. In the absence of settlement of shops, Government was deprived of revenue. Further, Department did not make any efforts to fix MGQ as per norms or on the basis of potentiality of the shops for *cent per cent* settlement of retail shops.

**The Government may consider evolving a mechanism to operate the unsettled retail liquor shops to minimize the risk of supply of illicit liquor and to maintain the yield of revenue by rationalizing distribution of MGQ for *cent per cent* settlement of retail shops.**

### 3.3.9 Non-levy of interest on belated deposit of licence fee

Under the provisions of the BE Act and rules made thereunder read with condition no. XIII (*kha*) of letter no.1/Neeti-40-4/2010-286 dated 22 February 2010 and condition No. 13 (*kha*) of sale notification issued under Resolution No. 367, licensees of retail shops were bound to deposit monthly licence fee by 20<sup>th</sup> of each month, failing which interest at the rate of five *per cent* per day is chargeable on the amount due on account of license fee.

We noticed from the licence fee registers and challans in three<sup>10</sup> out of 11 test checked excise districts that 59 licensees of 140 retail shops failed to deposit their monthly licence fee of ₹ 3.23 crore within the stipulated period during the year 2012-13. As per the provisions, interest amounting to ₹ 57.79 lakh at the rate of five *per cent* per day, though leviable, was not levied by the Department for delay ranging between one and 16 days. The details are in the **Table – 3.3.9.**

Table – 3.3.9

Sl. No.	Excise Districts	No. of shops	Amount of Licence Fee due	Period of delay ranging between	(₹ in lakh)
					Amount of interest @ 5 % per day
1	Dhanbad	14	12.36	1 and 16 days	1.28
2	Hazaribag	31	38.91		7.53
	Ramgarh	21	73.48		26.63
3	Jamshedpur	74	198.42	22.35	
	<b>Total</b>	<b>140</b>	<b>323.17</b>		<b>57.79</b>

Further, as pointed out in earlier Audit Reports, during the year 2009-10 to 2011-12, 104 cases of belated deposit of licence fee involving interest of

<sup>10</sup> Dhanbad, Hazaribag-cum-Chatra-cum-Ramgarh and Jamshedpur.

₹ 75.35 lakh were brought to the notice of the Department. Against these, ₹ 34.48 lakh was realised by the Department in earlier years.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that security money would be refunded to licensees after adjustment of the said amount.

### **3.3.10 Undue financial advantage to the retail licensees**

Under the provisions of new excise policy effective from 2009-10, MGQ of a district is fixed by the Commissioner of Excise and at the district level licensing authority distributes MGQ among the retail shops on potentiality of the shops. Licence fee is to be paid in advance by 20<sup>th</sup> of each month by the licensee which was determined on the basis of fixed MGQ of the retail shop. The retail vendors were bound to lift 1/12 of fixed MGQ. Further, the new excise policy effective from 2009-10 includes a provision for exemption of licence fee on lifting of liquor up to 15 *per cent* over the fixed MGQ and thereafter licence fee was chargeable at half the rate of licence fee (upto June 2012).

We noticed from consumption statement, pass permits and Register 68 (register of passes for export/transport of excisable articles) of retail shops in 11 test checked excise districts that licensees of shops lifted IMFL/Beer more than fixed MGQ during 2009-2010 to 2012-13 due to provisions of exemption of licence fee on lifting of liquor in excess of fixed MGQ. Further, retail vendors were bound to lift 1/12 of fixed MGQ in each month which was complied with but they also availed advantage of lapses in policy by lifting of liquor in excess of MGQ. Thus, making provision for exemption/reduced rate of licence fee on excess lifting of liquor over the fixed MGQ, resulted not only in undue financial advantage to the retail vendors in shape of licence fee amounting to ₹ 137.08 crore but also in non-settlement of shops according to set formula as defined in paragraph no. 3.3.8.

The matter was reported to the Government/Department in June 2014, the Department accepted our observation and stated (August 2014) that exemption of 50 *per cent* of licence fee had been withdrawn (July 2012) on lifting of liquor over 115 *per cent* of the MGQ and action for exemption of licence fee on lifting of liquor over MGQ up to 15 *per cent* would be taken at high level on the recommendation of audit.

**We recommend the Government may consider to withdraw the provision for exemption of licence fee on lifting of liquor in excess of fixed MGQ upto 15 *per cent*.**

### **3.3.11 Short lifting of liquor by retail vendors**

Under the provisions of the BE Act, Rules and policies made thereunder, each licence vendor of a retail excise shop is required to submit weekly requirement of country spirit for the next month to the contractor of the exclusive privilege for wholesale supply of country spirit by the last week of the previous month and is bound to lift MGQ of liquor of each kind fixed by the Department for the shop, failing which excise duty or fiscal penalty equivalent to loss of excise duty suffered by the Government shall be recoverable from the vendor.

We noticed from the consumption statement of liquor and related records in five<sup>11</sup> out of 11 test checked excise districts that vendors of 263 out of 692 shops were required to lift 1.01 crore LPL/BL of CS/SpCS/IMFL/Beer in 2012-13 from whole sale licensees of the districts but only 75.71 lakh LPL/BL of CS/SpCS/IMFL/Beer could be lifted during the year which resulted in short lifting of liquor of 24.86 lakh LPL/BL. We calculated the recoverable excise duty on account of aforesaid short lifting of liquor at ₹ two crore which remained non-levied as detailed in the **Table – 3.3.11**.

**Table – 3.3.11**

(₹ in lakh)								
Sl. No.	District	No of shops	Types of liquor	MGQ	Lifting	Short Lifting	Rate of duty	Loss of duty
1	Bokaro	CS- 17	CS/SpCS	10,24,925	8,07,209	2,17,716	6	13.06
2	Dhanbad	CS- 22	CS/SpCS	7,92,140	7,43,752	48,388	6	2.90
		IMFL- 22	IMFL	3,35,114	2,77,798	57,316	40	22.93
			Beer	2,64,964	2,24,048	40,916	8	3.27
3	Jamshedpur	CS- 58	CS/SpCS	18,25,253	8,63,146	9,62,107	6	57.73
		IMFL- 3	IMFL	1,02,685	93,543	9,142	40	3.66
		Beer- 88	Beer	41,64,179	31,57,510	10,06,669	8	80.53
4	Ranchi-cum-Khunti	CS- 31	CS/SpCS	10,89,708	10,18,145	71,563	6	4.29
		IMFL- 9	Beer	2,80,480	2,26,826	53,654	8	4.29
5	Hazaribag- cum-Chatra-cum-Ramgarh	IMFL- 13	IMFL	1,77,606	1,58,722	18,884	40	7.55
<b>Total</b>		<b>263</b>		<b>1,00,57,054</b>	<b>75,70,699</b>	<b>24,86,355</b>		<b>200.21</b>

Further, as pointed out in earlier Audit Reports, during the year 2009-10 to 2011-12, there were 519 cases of short lifting involving 63.95 lakh LPL/BL resulting into revenue loss of ₹ 975.12 lakh. Against these, ₹ 33.60 lakh was realised by the Department in earlier years.

The matter was reported to the Government/Department in June 2014, the Department accepted the observation and stated (August 2014) that amount involved would be adjusted from the security deposit and result would be intimated.

### **3.3.12 Non-levy of additional licence fee**

Under Section 22 D of the BE Act read with tender notification for wholesale supply of country spirit, the State Government may grant to any person/persons on such conditions and for such terms and conditions and for such period as it may think fit, the exclusive privilege for supplying country liquor on wholesale basis in a zone, on payment of advance licence fee at prescribed rate i.e., at the rate of ₹ four per LPL of fixed MGQ. Further, additional licence fee shall be paid by each licensee of the zone if the total wholesale supply of the zone exceeds the annual MGQ.

We noticed (between May 2013 and March 2014) from scrutiny of excise records, consumption statement and annual stock taking account of sacheting plant of Country Spirit (CS) maintained in two zones<sup>12</sup> that two grants were

<sup>11</sup> Bokaro, Dhanbad, Hazaribag-cum-Chatra-cum-Ramgarh, Jamshedpur and Ranchi.

<sup>12</sup> Ranchi zone comprising the district of Ranchi, Gumla, Lohardaga, Simdega, Khunti, Chaibasa and Seraikela-Kharsawan and Dhanbad zone comprising only Dhanbad excise district.

awarded to two contractors for the period July 2012 to March 2014 for supply of CS in sachets to JSBCL/retail licensees by the Commissioner of Excise. Accordingly, both the contractors deposited required licence fee in advance on the basis of fixed annual MGQ of the zone. Further, we noticed that contractors supplied 43.61 lakh LPL of CS against the fixed MGQ of 39.07 lakh LPL. As per provision of the Act *ibid*, contractors were liable to pay additional licence fee of ₹ 18.16 lakh on excess supply of 4.54 lakh LPL of CS as detailed in the **Table – 3.3.12**.

**Table – 3.3.12**

(₹ in lakh)					
Sl. No.	Zone	Fixed MGQ (In LPL)	Issue (In LPL)	Excess issue during the period July 12 to March 13	Realisable additional LF @ ₹ 4 per LPL
1	Ranchi	20,53,219	23,58,400	3,05,181	12.21
2	Dhanbad	18,54,145	20,02,808	1,48,663	5.95
<b>Total</b>		<b>39,07,364</b>	<b>43,61,208</b>	<b>4,53,844</b>	<b>18.16</b>

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that a sum of ₹ 5.73 lakh was realised by the ACE, Ranchi and ACE, Dhanbad zone has been instructed to realise the amount of additional licence fee.

### 3.3.13 Incorrect allowance of operational wastage

The provisions of the BE Act and Rule 43(C) made thereunder, do not provide for any allowance of wastage on account of deficiency found in production, racking, blending and storage in case of manufacturer of IMFL who has own distillery. Further, the Board of Revenue, Bihar issued a notification dated 7 April 1994 (adopted for application in Jharkhand) which provides that if the distiller also holds separate licence for compounding, blending and bottling of IMFL under the same distiller, 1.5 *per cent* wastage of spirit is allowed to the distillery and shall be inclusive of any of the wastage caused during manufacturing of IMFL.

We noticed from Registers<sup>13</sup> 83, 84, 86, 88 and 68 that annual stock taking account for the year 2011-12 in Ranchi Excise District that a licensee, holding a licence for distillation, compounding, blending and bottling of India Made Foreign Liquor (IMFL) had claimed and was allowed operational wastage of 2.67 lakh LPL of rectified spirit (RS)/extra neutral alcohol (ENA) against permissible limit of 2.39 lakh LPL (1.5 *per cent* of 1.59 crore LPL) for manufacturing of ENA and IMFL against the provision of the Act which resulted in non-levy of excise duty of ₹ 7.11 lakh as detailed in the **Table - 3.3.13**.

**Table - 3.3.13**

(₹ in lakh)					
Kind of spirit	Quantity of spirit available for manufacture of IMFL (LPL)	wastage allowed (LPL)	Permissible wastage (1.5%)	Excess allowance of wastage (LPL)	Non-realisation of excise duty @ ₹ 25 per LPL
RS	66,61,034	1,45,914	2,38,563	28,459	7.11
ENA	92,43,148	1,21,108			
<b>Total</b>	<b>1,59,04,182</b>	<b>2,67,022</b>	<b>2,38,563</b>	<b>28,459</b>	<b>7.11</b>

<sup>13</sup> Register 83 – Register of quantity of spirits collected in the receivers; Register 84 – Register of spirit received into, reduced or blended in and issued from each vat or store cask; Register 86- Register of casks and drums of spirit received; Register 88 – Balance account of spirit in hand and summary of transaction; Register 68 – Register of passes for transport, export of excisable articles for which duty has been paid or on which no duty is levied.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that concerned ACE has been instructed to ascertain inadmissible wastage and to realise excise duty.

### **Collection of excise duty and licence fees**

#### **3.3.14 Misclassification of excise revenue**

Under the provisions of the Jharkhand Financial Rules and instructions issued thereunder, security money realised from licensees of excise retail shops is accounted for under the head 8443-Civil Deposits and refunded to licensees after adjustment of outstanding dues against them. Further, the non-refundable revenue (application money) is required to be credited under the concerned revenue head 0039-State Excise.

We noticed (between May 2013 and March 2014) from Security Deposit Register and Application Fee Register in four excise districts<sup>14</sup> that during the period from 2010-11 to 2012-13 a sum of ₹ 92.24 lakh (adjusted amount from security deposit: ₹ 75.08 lakh and application money: ₹ 17.16 lakh) was lying under the head 8443-Civil Deposit instead of revenue head 0039 though it was being treated as excise revenue without crediting the amount under concerned revenue head. Thus, non-credit of adjusted amount and application fee into the concerned revenue head 0039-State Excise depicted the inflated picture of excise revenue.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that report has been called for from all concerned district excise authorities and then decision would be taken.

#### **3.3.15 Non-disposal of remaining stock of liquor**

Under the provisions of the BE Act, a licensee of excise articles, on expiry of licence period, has to sell balance stock to any other licenced vendor of the same articles with the sanction of the Collector. Further, any excisable articles found unfit for human consumption may be destroyed under orders of the Collector.

We noticed from the annual stock taking accounts of IMFL/Beer, in three excise districts<sup>15</sup> that two wholesale licensees of IMFL ceased to operate their business after functioning of Jharkhand State Beverage Corporation Limited (JSBCL). Further, we noticed that the balance stock of liquor (IMFL: 17,859.42 LPL and Beer: 5,132 BL) were not transferred to JSBCL. Similarly, we noticed in Hazaribag excise district that 31,047.94 LPL of unfit SpCS was yet to be destroyed as per provisions of the Act. The details are in the **Table - 3.3.15**.

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<sup>14</sup> Deoghar, Jamshedpur, Ramgarh and Ranchi.

<sup>15</sup> Deoghar, Dhanbad and Hazaribag-cum-Chatra- cum-Ramgarh.

Table - 3.3.15

District	Name of licence	IMFL (in LPL)	Beer (In BL)	Sp.CS (In LPL)	Stock lying from
Deoghar	Licence- I	2,219.40	5,132.00	-	31.12.12
	Licence- II	4,008.69	-	-	31.12.12
<b>Total</b>		<b>6,228.09</b>	<b>5,132.00</b>		
Dhanbad	Licence- I	6,534.81	11,337.00	-	31.12.12
	Licence- II	5,096.52		-	31.12.12
<b>Total</b>		<b>11,631.33</b>	<b>11,337.00</b>		
Hazaribag		-	-	31,047.94	2011-12
<b>Grand Total</b>		<b>17,859.42</b>	<b>16,469.00</b>	<b>31,047.94</b>	

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that matter would be examined and facts would be intimated.

### 3.3.16 Delay in institution of certificate cases

Under the BE Act, 1915 read with Bihar and Orissa Public Demands Recovery Act, arrears can be recovered as arrears of land revenue. The BE Act does not provide for levy of interest for late payment of outstanding amount. As per the Public Demand Recovery Act, interest on public demand to which certificate relates shall be charged at the rate of 12 *per cent* per annum from the date of signing of the certificate up to the date of realisation. Any delay in institution of certificate proceeding would result in loss of revenue in the shape of interest.

We noticed from records pertaining to arrears maintained in Register IX (register of requisitions for certificate cases) in Bokaro excise district, out of 11 test checked excise districts, that a sum of ₹ 24.65 lakh was outstanding against nine defaulter licensees for the period between 2000-02. However, certificate cases were instituted after a delay of five and seven years respectively instead of being reckoned from allowing a grace period of one year after the period in which payment was due as mentioned in the **Table - 3.3.16**.

Table – 3.3.16

No. of defaulters	Amount outstanding from the year	Certificate cases instituted during the year	Delay in institution	Outstanding Amount	(₹ in lakh)
					Interest
5	2001-02	2007-08	5 years	2.45	1.47
4	2000-01	2008-09	7 years	22.20	18.65
<b>Total</b>				<b>24.65</b>	<b>20.12</b>

Delayed institution of certificate cases against the defaulters resulted in non-relisation of interest amounting to ₹ 20.12 lakh.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that action was being taken on receipt of the report from concerned district in order to institute the certificate cases in time.

### 3.3.17 Non-pursuance of certificate cases

Under the provisions of Bihar Excise Act, 1915 read with Bihar and Orissa Public Demands Recovery Act, arrears of excise revenue can be recovered as arrears of land revenue. As per instructions of Board of Revenue, the Requiring Officer and Certificate Officer are jointly responsible for the

finalisation of certificate cases. There is no time limit provided for finalisation of a certificate case.

We noticed from Register IX in five<sup>16</sup> out of 11 test checked excise districts that 106 cases of certified arrears involving ₹ 9.54 crore were pending for finalisation for a period ranging between two and nine years as detailed in the **Table – 3.3.17**.

**Table – 3.3.17**

				(₹ in lakh)
Sl. No.	District	No. of cases	No. of years for which cases are pending	Amount involved
1	Bokaro	9	4/5	24.65
2	Dhanbad	1	2	7.29
3	Hazaribag	13	2	249.12
	Ramgarh	17	2	428.36
	Chatra	1	2	5.28
4	Jamshedpur	29	3	226.65
5	Ranchi	36	9	12.22
<b>Total</b>		<b>106</b>		<b>953.57</b>

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that instructions had been issued to all districts and divisional authorities for proper pursuance of certificate cases.

### **3.3.18 Internal Control Mechanism**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. They help in prevention of fraud and other irregularities. Internal controls also help in the creation of reliable financial and management information system for prompt and efficient services and adequate safeguard against non/short collection or evasion of revenue.

We scrutinised the internal control mechanism in the Excise and Prohibition Department regarding levy and collection of excise receipts and noticed the followings:

#### **3.3.18.1 Internal Audit**

The Finance Department ordered in May 1960 that internal audit would be conducted by audit wing of the Finance Department. The internal audit parties are required to conduct *cent per cent* audit of all demands, collection of revenue and verification of amount deposited into the treasury.

We noticed from records of 11 test checked excise districts and two EDC, that no internal audit was conducted in these offices by the Finance Department during 2008-09 to 2012-13. In absence of regular internal audit, the Department remained unaware of the areas of concern and could not take remedial action thereupon.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that request letter was proposed to be sent to the Finance Department for conducting internal audit of the offices.

<sup>16</sup> Bokaro, Dhanbad, East Singhbhum (Jamshedpur), Hazaribag-cum-Chatra-cum-Ramgarh and Ranchi.

### 3.3.18.2 Excise Intelligence Bureau

The Excise Laws provide for constitution of an Excise Intelligence Bureau (EIB). It is the central detective organisation which works in co-operation with the similar bureaus in other States and with the excise offices in the districts. The officers of the Bureau are under the direct control of the EDC (Hqrs). The Bureau is required to make general and special enquiries in different districts of the State and check inter-state and inter-district movement of liquors. The wing is also required to collect, collate and disseminate information regarding smuggling of liquor.

We noticed from scrutiny of records relating to constitution of EIB that though the Department constituted the EIB in the State in April 2008 but it remained non-functional even after a lapse of five years.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that at present the Superintendent of Excise has been posted and raids and inspections are being conducted by this wing in the districts.

### 3.3.18.3 Inspection of excise offices/units

Inspection is an important part of internal control mechanism for ensuring proper and effective functioning of department for timely detection of loop-holes, to prevent offences against the excise law and leakage of excise revenue. As the excise department is the second major contributor of tax revenue to state exchequer, periodical inspection at higher levels assumes greater significance. However, no specific duty to inspect excise offices is prescribed for the Commissioner of Excise. As per instructions issued in Chapter II of Appendix 14 by the Board of Revenue under BE Act, the EDC is required to inspect all excise offices/warehouses once in a year at the division level. The ACE/SE is required to inspect district office twice and distilleries/warehouses quarterly in a year. The Inspector/Sub-Inspector of excise is required to inspect all excise retail shops under his jurisdiction once in each month during the year.

We noticed in 11 test checked excise districts and two EDC that only 378 inspections were conducted against the target of 1,23,576 by the various inspecting authorities during 2008-09 to 2012-13, as shown in the **Table – 3.3.18.3**.

**Table – 3.3.18.3**

Year	EDC		ACE/SE		Inspector		Sub-Inspector	
	Target	Inspection conducted	Target	Inspection conducted	Target	Inspection conducted	Target	Inspection conducted
2008-09	44	0	102	0	3,960	0	5,736	19
2009-10	44	0	330	0	11,676	0	15,456	52
2010-11	46	0	342	0	12,600	0	17,496	76
2011-12	47	0	350	0	12,096	0	15,408	155
2012-13	45	0	342	07	12,000	02	15,456	67
<b>Total</b>	<b>226</b>	<b>0</b>	<b>1,466</b>	<b>07</b>	<b>52,332</b>	<b>02</b>	<b>69,552</b>	<b>369</b>

It would be seen from the above that the Department had not achieved the target of inspection in any of the last five years. This indicated lack of internal control and effective monitoring by the Department.



The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that instruction was being issued to all districts and divisions to comply the provisions and to submit report to excise headquarter accordingly.

### 3.3.18.4 Human Resource Management

Under the provisions of the BE Act, 1915, the duties of excise officials are to prevent and detect offences against the excise law, to inspect excise units and to ensure proper assessment and collection of excise revenue. All these works may be done properly with the availability of required manpower.

We noticed from the records of sanctioned strength and men-in-position in 11 test checked excise districts and two offices of EDC that there was an acute shortage of man power in all cadres (between 36 and 75 *per cent*) against the sanctioned strength as depicted from the **Table – 3.3.18.4**.

**Table – 3.3.18.4**

Sl. No.	Post	Sanctioned strength	Men- in- position	Shortage	Percentage of shortage
1	Inspector	27	14	13	48
2	Sub-Inspector	93	39	54	58
3	ASI	80	20	60	75
4	Constable	466	144	322	69
5	Clerk	59	38	21	36
6	Driver	19	6	13	68
<b>Total</b>		<b>744</b>	<b>261</b>	<b>483</b>	

From the above it could be seen that these offices were functioning with average of only 35 *per cent* of the sanctioned strength and this might have adversely affected the administration of the Act.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that recruitment rules has been framed for the Department and intimation about vacancy position has been sent to the competent authority.

**We recommend that the Government may consider ensuring periodical audit by the internal audit wing of Finance Department and making the EIB functional for timely prevention of evasion of excise revenue as well as deployment of man power as per sanctioned strength for effective administration of the Act.**

### 3.3.18.5 Non-maintenance of important registers

Chapter II and XIV under appendices of the BE Act provide for maintenance of various forms, registers and returns to ensure effective control over the timely realisation and deposit of excise revenue.

We noticed in 5<sup>17</sup> out of 11 test checked excise districts that the following important registers were either not being maintained or maintained improperly.

<sup>17</sup> Bokaro, Dhanbad, Dumka, Hazaribag-cum-Chatra-cum-Ramgarh and Ranchi.

**Challan Register (Form-106)**

Under the provisions of the BE Act, 1915 and Rules made there under, each excise office has to maintain a challan register as per provisions in Excise Form-106 to record all excise receipts deposited into the treasury. All entries made in challan register should carefully be verified and initialed by the ACE/SE as well as countersigned by the concerned Treasury Officer.

We noticed in six excise districts<sup>18</sup> that challan register was either not being maintained or maintained without following provisions. Due to absence of challan register or improper maintenance of challan register, remittances of excise revenue into the treasury could not be verified properly.

**Register - 89**

This register shows the month wise issue of liquor to retail shops against the allotted quota to be maintained by the contractor.

We noticed in Dumka and Hazaribag excise districts out of 11 test checked districts that both the two contractors operating sacheting plant of CS/SpCS did not maintain Register 89.

**Registers - 88 and 88A**

The Register 88 shows balance account of spirit in hand and summary of transaction while Register 88A shows all the details for each year to be maintained by the licensees.

We noticed from scrutiny of excise records that in Dumka and Hazaribag districts out of 11 test checked districts two licensees of 19C (IMFL distributor) and a contractor of SpCS sacheting plant did not maintain Registers 88 and 88A.

After we pointed out the cases (July 2014), the Department stated that instructions were being issued to all the concerned districts for compliance.

**3.3.18.6 Non-disposal of excise offence cases, seized articles and conviction**

The BE Act empowers the excise officers to inspect, search, seize the excise materials, arrest and detain any person for excise offence. The district excise authority is required to maintain the registers, viz; register of cases, person convicted and final report of cases. Further, it provides that when, Magistrate in any case tried by him, decides that things are liable for confiscation, he may either order for confiscation or give the owner of such things an option to pay in lieu of confiscation, such fine as he thinks fit. The excise materials seized in course of search and filed in the court are to be retained till the finalization of the case and later on be disposed of as directed by the order of court.

We noticed from scrutiny of statements and register of offence cases in nine excise districts<sup>19</sup> that 4,635 number of cases were disposed of out of 7,111

<sup>18</sup> Bokaro, Chaibasa, Dhanbad, Hazaribag-cum-Chatra-cum-Ramgarh, Jamshedpur and Ranchi.

<sup>19</sup> Deoghar, Dumka, East Singhbhum (Jamshedpur), Hazaribag-cum-Chatra-cum-Ramgarh, Pakur, Ranchi-cum-Khunti, Sahibganj, Seraikela-Kharsawan and West Singhbhum (Chaibasa).

cases of offence detected during the year 2011-13 as detailed in the **Table – 3.3.18.6**.

**Table – 3.3.18.6**

Year	No of cases detected	No of cases disposed by the ACEs/SEs	No of cases under court/arrested	No of offenders unknown/unfound	Percentage of undisposed cases
2011-12	3,301	2,035	83	1,183	38.36
2012-13	3,810	2,600	137	1,073	31.76
<b>Total</b>	<b>7,111</b>	<b>4,635</b>	<b>220</b>	<b>2,256</b>	

From the above it could be seen that un-disposed excise offence cases ranged between 31.76 and 38.36 *per cent*. The Department also did not have any information on quantity and value of the disposable materials out of total quantity of excise materials seized.

The matter was reported to the Government/Department in June 2014, the Department stated (August 2014) that instruction was being issued to all concerned districts to take suitable action on seized articles and intimate to the Department.

### **3.3.19 Conclusion**

Excise receipts are one of the major sources of tax revenue of the State. The performance audit revealed a number of deficiencies in levy and collection of excise receipts and non compliance of rules and regulations leading to leakage of revenue. Non-settlement of retail shops, non/short lifting of liquor as per fixed MGQ and extension of undue advantage to the licensees of retail shops by exemption of the licence fee on excess lifting over the fixed MGQ adversely affected the revenue of the State. Further, the internal control framework of the Department was deficient in terms of absence of regular internal audit, non-functioning of Excise Intelligence Bureau and inadequate inspections by the departmental authorities. The shortage of required man power affected the administration of the acts and rules in the Department.

### **3.3.20 Summary of recommendations**

The Government may consider:

- issuing directions to the Department for speedy settlement of the arrear cases by constant monitoring and recovering the arrears as arrears of land revenue by invoking provisions of the Bihar and Orissa Public Demands Recovery Act, 1914;
- evolving mechanism to operate the unsettled shops to minimise the risk of supply of illicit liquor and to maintain yield of revenue with rationalised distribution of MGQ;
- amending provisions in the new excise policy with regard to exemption of licence fee on lifting of liquor in excess of fixed MGQ; and
- reviving Internal Audit and Excise Intelligence Bureau to ensure timely detection and correction of errors in levy and collection of revenue.