

CHAPTER-III
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STATE EXCISE

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3.1 Tax administration

The Principal Secretary (Excise and Taxation) is the administrative head at Government level. The Department is headed by the Excise and Taxation Commissioner (ETC). The Department has been divided in three Zones¹ which are headed by the Additional ETC (South Zone), Deputy ETCs of North Zone and Central Zone. Besides, 22 Excise and Taxation Inspectors under the control of the Assistant Excise and Taxation Commissioners (AETCs) of the respective districts, are deputed to oversee and regulate levy/ collection of excise duties and allied levies.

3.2 Results of audit

In 2013-14, test check of the records of seven units relating to excise duty, license fee receipts etc., showed non/ short realisation of excise duty/ license fee/ interest/ penalty and other irregularities involving ₹12.13 crore in 55 cases, which fall under the **Table 3.1** below:

Table 3.1

Sr. No.	Categories	Number of cases	₹ in crore
			Amount
1.	Non/ short realisation of excise duty	06	0.87
2.	Non/ short recovery of license fee/ interest/ penalty	36	9.61
3.	Other irregularities	13	1.65
Total		55	12.13

During the course of the year, the Department accepted underassessment and other deficiencies of ₹1.44 crore in 37 cases which were pointed out in earlier years out of which an amount of ₹61.01 lakh was recovered in 30 cases during the year 2013-14.

A few illustrative cases involving ₹4.28 crore are discussed in the following paragraphs.

3.3 Non-levy of additional fee on short lifting of Minimum Guaranteed Quota

Para 4.3 of the Excise Announcement 2012-13 provides that every licensee shall be required to lift minimum guaranteed quota (MGQ) as fixed for each vend. Failing this he shall still be liable to pay license fee based on MGQ. Besides, additional fee of ₹20 per proof liter (PL) shall be paid by the licensee on the unlifted quantity of liquor falling short of 80 *per cent* of MGQ. The AETC/ ETO shall review the position of MGQ every month and in case the licensee is unable to lift 80 *per cent* of MGQ by 15th of March, he shall proceed to recover the additional license fee.

¹ South Zone (Shimla, Solan, Sirmour, Kinnaur and Spiti area), North Zone (Chamba, Kangra and Una) and Central Zone (Bilaspur, Hamirpur, Kullu, Lahaul area and Mandi)

Test check of the M-2 registers² between May 2013 and March 2014 of seven AETCs showed that licensees of 237 vends³ out of 931 vends had lifted 25,53,458.34 proof liter (pls) of liquor against the MGQ of 38,07,188.43 pls which was less than 80 *per cent* (30,45,750.74 pls) of MGQ fixed by the department during 2012-13. This resulted in short lifting of 4,92,292.40 pls for which additional fee of ₹98.46 lakh though payable was not demanded by the concerned AETCs. The mistake escaped the notice of the ETC also to whom the 'Annual Lifting and Consumption Statements' were furnished with the returns.

On this being pointed out (May 2013 and March 2014), the ETC Shimla intimated in July 2014 that out of ₹98.46 lakh an amount of ₹23.58 lakh had been recovered by the five AETCs⁴ from licensees of 91 vends and efforts were being made to recover the balance amount.

The matter was reported to the Government between May 2013 and March 2014; their replies have not been received so far (December 2014).

3.4 Non-recovery of fixed fee due to not opening of L-13 vend

Para 6.10 of the Excise Announcement for the year 2012-13 provides that Country Liquor suppliers were required to open L-13 vend (wholesale vends) in each of the districts allotted to them on payment of prescribed license fees. Rules further provide that the annual license fee of L-13 have been fixed at ₹2,00,000 for the year 2012-13.

Scrutiny of the records of L-13 vends between November 2013 and February 2014 of three AETCs⁵, showed that six licensees engaged in manufacturing of Country Liquor (CL) had not opened L-13 vends in six districts allotted to them. Therefore, fixed fee of ₹22.00 lakh was recoverable from the licensees for not opening of eleven vends during the year 2012-13. This was neither demanded by the department nor deposited by the suppliers, which resulted in non-recovery of fixed fee of ₹22.00 lakh.

On this being pointed out (between November 2013 and February 2014), the ETC Shimla intimated in July 2014 that out of ₹22.00 lakh an amount of ₹6.00 lakh had been recovered by the AETCs Baddi and Sirmour from two licensees and efforts were being made to recover the balance amount. Further report on recovery and reply had not been received.

The matter was reported to the Government between December 2013 and March 2014; their replies have not been received (December 2014).

² A register showing the quantity of Foreign Spirit including IMFL and CL issued for sale and additional license fee payable or recovered during the month.

³ BBN at Baddi: Five vends, Kullu: One vend, Mandi: 33 vends, Shimla: 128 vends, Sirmour at Nahan: One vend, Solan: 20 vends and Una: 49 vends.

⁴ BBN at Baddi: Three vends: ₹4.79 lakh, Kullu: One vend: ₹0.92 lakh, Shimla: 65 vends: ₹17.18 lakh, Sirmour at Nahan: One vend: ₹0.53 lakh, and Solan: 2 vends: ₹0.16 lakh.

⁵ BBN at Baddi: Two licensees, Mandi: One licensee and Sirmour at Nahan: Three licensees.

3.5 Non-invoking of provisions of bond

Rules 21 to 23 of Himachal Pradesh Bonded Ware House (HPBWH) Rules, 1987 provide that liquor may be removed from a warehouse under bond or on payment of duty within the state or outside the state. In case of issue of liquor under bond, the licensee shall execute a bond in form L-37 to deliver the spirit at a particular place or destination and shall furnish proof of his having done so in form L-38, before the bond can be discharged. Notification of November 1965 issued by the department provides that if the proof is not produced within the specified period, unless the omission is satisfactorily explained, the Collector shall call upon the manager to deposit the amount specified in the bond executed by him in respect of the consignments.

Scrutiny of L-38 registers⁶ of three AETCs⁷ between November 2013 and March 2014 showed that two sanctions authorizing export in-bond of 2,025 Pls of IMFL, 18 sanctions of 77,256 bulk litres (Bl) of beer and two sanctions of 40,000 Bls of Extra Neutral Alcohol (ENA) were granted in favour of one distillery and two breweries⁸ on execution of a bond in form L-37. The licensees were required to furnish certificates in form L-38 of arrival of IMFL/ Beer/ ENA at specified destinations within specified time limits, which had expired during June 2012 and May 2013. The certificates in form L-38 were awaited and the provisions of the bonds were not invoked till March 2014, despite the fact that limitation period for procuring certificate of arrival had already expired. This resulted in non-recovery of excise duty amounting to ₹17.22 lakh.

The matter was reported to the Department and the Government between December 2013 and March 2014; the Department intimated (November 2014) that all the AETCs had been directed to recover the excise duty (December 2014).

3.6 Short recovery of license fee

Para 4.4 (a) of the Excise Announcement 2012-13 provides that the annual license fee of a particular vend shall be predetermined based on the Minimum Guaranteed Quota (MGQ) of liquor fixed for each vend for whole of the year. The license fee so fixed is required to be levied in twelve monthly instalments and paid by the last day of each month and last instalment for the month of March has to be paid in full by 15th of March. Para 4.5 (c) further provides that if the licensee fails to pay the amount of license fee plus interest on due dates, the Assistant Excise and Taxation Commissioner in-charge of the district, or any other officer authorised would ordinarily seal the vend on 1st day of the following month or 16th March as the case may be.

Test check of the M-2 registers of two AETCs between November 2013 and March 2014 showed that against the recoverable amount of ₹9.35 crore, on account of license fee, from licensees of 24 vends⁹ out of 128 vends for the year

⁶ L-38 is a register of proof of arrival of IMFL/ Beer at the specified destination within specified time limit.

⁷ BBN-Baddi, Sirmour at Nahan and Una.

⁸ M/s United Spirit Limited, Baddi, Carlborg Brewery, Tokion, Nahan and Ranger Breweries Ltd., Mehatpur.

⁹ Sirmour at Nahan: Four vends and Una: 20 vends.

2012-13 a sum of ₹7.60 crore had only been recovered. The concerned AETCs did not take any action to recover the balance amount of license fee. This resulted in short recovery of license fee amounting to ₹1.75 crore.

On this being pointed out (between November 2013 and March 2014), the ETC, Shimla intimated (July 2014) that out of ₹1.75 crore an amount of ₹1.59 crore had been recovered in respect of AETCs, Sirmour at Nahan and Una.

The matter was reported to the Government between December 2013 and March 2014; their replies have not been received (December 2014).

3.7 Non-levy of interest on belated payment of license fee

Para 4.4 (d) of the Excise Announcement (EA) 2012-13 provides that full monthly instalments of license fee based on minimum guaranteed quota (MGQ) of liquor fixed for each vend is required to be paid by the last day of each month and the last instalment for the month of March shall be paid in full by 15th of March. Para 4.5 (a) further provides that if the licensee fails to pay the amount of license fee on due dates, interest at the rate of 10 *per cent* per annum up to one month and 18 *per cent* per annum thereafter shall be leviable.

Test check of the M-2 registers of six AETCs between May 2013 and March 2014 showed that licensees of 147 vends¹⁰ out of 877 vends had deposited license fee of ₹38.03 crore belatedly (between April 2011 and May 2013) for the year 2011-13. The delay ranged between four and 276 days. They were, therefore, liable to pay interest of ₹67.32 lakh on belated payments. However, the concerned AETCs did not levy the same. This resulted in non-recovery of interest amounting to ₹67.32 lakh.

After audit pointed out the cases (between May 2013 and March 2014), the AETC, Kullu stated that licensees of vend were being directed to deposit the amount due while the AETC, Shimla intimated that after reviewing the cases action would be initiated as per the provisions of the Act/ Rules. The remaining AETCs had not furnished the reply.

The matter was reported to the Government between May 2013 and March 2014; their replies have not been received (December 2014).

3.8 Short recovery of bottling license fee

Rule 9.5 of the Punjab Distillery Rules 1932 (PDR) as applicable to Himachal Pradesh, stipulates that the licensee shall pay license fee at the prescribed rates on the units of 750 mls of country liquor/ Indian made foreign liquor (CL/ IMFL) bottled by them. These fees shall be paid by the licensee quarterly within seven days of the expiry of each quarter. Further, Para 5.1 (26) (iii)-(ii) and (iii) of the Excise Announcements 2012-13 provides that licensee of Distilleries and Bottling Plants in Himachal Pradesh shall also pay franchise fee on the bottling of brands of Indian made foreign spirit (IMFS) of the Distilleries and Bottling Plants situated outside the State of Himachal Pradesh.

¹⁰ AETCs Bilaspur: 17 vends, Kullu: 20 vends, Mandi: eight vends, Shimla: 10 vends, Sirmour at Nahan: 26 vends and Una: 66 vends.

Audit test checked the records between November 2013 and February 2014 of two AETCs¹¹ and noticed that against the recoverable amount of ₹20.18 lakh, on account of bottling license fee, from two licensees during 2012-13, a sum of ₹11.27 lakh only had been recovered. Steps to recover the balance bottling license fee were not taken by the department. This resulted in short recovery of bottling license fee of ₹8.91 lakh.

The matter was reported to the Department and the Government between December 2013 and March 2014; the replies have not been received (December 2014).

3.9 Non-recovery of salaries of excise establishment posted at distillery/ bonded ware houses

Rule 9.13 and 9.16 of the Punjab Distillery Rules, 1932 as also applicable in Himachal Pradesh, stipulate that the licensee shall agree to the posting of a Government Excise Establishment to his distillery for the purpose of ensuring the due observance of the Rules and for watch and ward. The licensee shall, if required by the Excise Commissioner, make into the Government treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the distillery, but he shall not make any direct payment to any member of such establishment.

Audit cross checked the records between April 2013 and March 2014 of two breweries and four distilleries with that of three AETCs¹² and noticed that the dues on account of salaries amounting to ₹38.77 lakh of the excise establishment staff posted to the distilleries/ brewery/ bonded ware houses were not recovered from the licensees for the period between 2010-11 and 2012-13 inspite of the fact that the AETCs, being the Drawing and Disbursing Officers, were aware of these postings. They did not take any action to raise the demand and collect the Government dues. Thus, non-claiming of salaries from the licensees in respect of the excise establishment, the Government deprived it self of recoverable dues of ₹38.77 lakh¹³.

On this being pointed out (between April 2013 and March 2014) in audit, the ETC Shimla intimated in July 2014 that AETCs had been directed to recover the amount immediately.

The matter was reported to the Government between June 2013 and March 2014; their replies have not been received (December 2014).

¹¹ Mandi and Sirmour at Nahan

¹² Hamirpur, Sirmour at Nahan and Una

¹³ Hamirpur (₹16.17 lakh), Sirmour (₹14.11 lakh) and Una (₹8.49 lakh)