CHAPTER III

STATE EXCISE

3.1 Tax administration

Levy and collection of state excise and other related receipts are regulated by the Bombay Prohibition Act, 1949 (BP Act), Bombay Prohibition (Privilege Fees) Rules, 1954 and Maharashtra Potable Liquor (Periodicity and Fees for Grant, Renewal or Continuance of Licence) Rules, 1996. These Acts and Rules are implemented by the Commissioner of State Excise (CSE) under the overall control of the Principal Secretary to the Government in Home Department, assisted by Joint Commissioners and Deputy Commissioners. At the district level he is assisted by the Superintendents of State Excise (SSE) working under the Regional Deputy Commissioners. The state excise receipts mainly comprise of excise duty leviable on spirits, fees on licenses and privilege fees.

3.2 Internal audit

The Joint Director (Accounts) in the office of the Commissioner of State Excise, Maharashtra State, Mumbai, is in charge of the internal audit wing of the State.

Information regarding position of cases planned to be taken up for audit and actually audited is given in **Table 3.2**

Table 3.2

Year	No. of units			Audit observations during the year		
	Planned	Audited	Un-audited	Raised	Settled	Pending 31.03.2014
2009-10	821	473	348	1,286	509	777
2010-11	875	442	433	1,131	403	728
2011-12	1,052	515	537	1,598	1,294	304
2012-13	1,094	538	556	1,001	658	343
2013-14	1,116	400	716	945	153	792
Total				**5,961**	**3,017**	**2,944**

The above table indicates that the number of unaudited units have been increasing from year to year. Besides, 49.39 *per cent* of the audit observations have remained unsettled during the last five years.

3.3 Results of audit

In 2013-14, test check of records of 114 units relating to excise duty, license fee receipts, etc. showed non/short realisation of excise duty/license fee/ interest/penalty and other irregularities involving ₹ 22.54 crore in 360 cases as shown in **Table 3.3.**

Table 3.3

			(₹ in crore)
Sr. No.	**Category**	**No. of cases**	**Amount**
1	Audit of "Subsidy granted to grain based distilleries"	1	0.45
2	Non/short levy/recovery of Excise duty/ Application fees/License fee/Privilege fee	150	20.46
3	Miscellaneous/Non recovery of compounding fees/non-recovery due to reduction in manufacturing cost	27	0.22
4	Non and Short recovery of Supervision Charges/ Interest/ Bonus	118	1.17
5	Non-recovery of toddy installment	64	0.24
	Total	**360**	**22.54**

During the course of the year, the Department accepted and recovered underassessment and other deficiencies of ₹ 1.60 crore in 141 cases; of these 56 cases involving ₹ 93.27 lakh were pointed out during 2013-14 and the rest during earlier years.

A few audit observations on grant of subsidy to grain based distilleries are mentioned in the succeeding paragraphs.

3.4 Audit of "Subsidy granted to grain based distilleries"

3.4.1 Introduction

The Government of Maharashtra (GoM), on the basis of a Cabinet decision, issued a Resolution on 8 June 2007 promulgating a scheme called "Food Grain based distillery and integrated unit financial Aid-2007". The salient features of the scheme were as under:

- All the new grain based distilleries or integrated units (distilleries and potable liquor units) which were set-up and became operational by 31 December 2009 were eligible for getting financial assistance.
- This financial assistance was to be given only for the spirit manufactured from the grains produced in the state.
- To compensate for the capital investment made by the grain based spirit manufacturing units, reimbursement was to be given at the rate of ₹ 10 per litre of the spirit sold to units manufacturing either liquor, drugs or cosmetics to the extent of excise duty paid on such manufacture.
- The maximum limit of reimbursement of capital investment made by the unit would be
    - 150 *per cent* or ₹ 37.50 crore, whichever was less, for "D"[1] category backward area in the Vidarbha and Marathwada region
    - 200 *per cent* or ₹ 50 crore, whichever was less, for "D+"[1] category backward area in the Vidarbha and Marathwada region
    - 100 *per cent* or ₹ 25 crore, whichever was less, for the "D" and "D+" areas of other regions
- The above concession would in no case exceed the date on which the entire capital investment made by the unit was recovered by way of subsidy admissible to it, or 31 December 2013, whichever is earlier.
- The unit would start production within two years from the date on which letter of intent is sanctioned and considering the progress of the scheme, the State Government may extend the due date to the eligible units from time to time as per the requirement subject to the condition that there would not be any change in the final due date up to which concession is given.
- The aforesaid financial assistance of ₹ 10 per litre would be granted only if grain based spirit was used in the state of Maharashtra in manufacturing potable liquor and cosmetics (M & T P) and also proper records are maintained which are certified by the Excise Department.
- This scheme would increase production of grains like *jowar*.

[1] Classification of regions in Maharashtra by the Industries Department for the implementation of Package Scheme of Incentives. "D" region denotes the lesser developed areas and "D+" denotes the least developed areas of the state of Maharashtra.

3.4.2 Background of the scheme

Ministry of Petroleum and Natural gas, the Government of India (GoI) in a notification issued in September 2002 directed the Government of Maharashtra (GoM) that five *per cent* ethanol-blended petrol shall be sold in the State from 1 January 2003. The Ministry of Science and Technology, Government of India assigned (April 2003) M/s. MITCON Consultancy Services Ltd., Pune, the work of assessing whether cereal grains such as maize and *jowar* could be used as raw material to produce alcohol in Maharashtra and whether the cost effective and sustainable technology for the same was available in India. The MITCON report *inter alia* recommended enactment of a law to make it imperative to use only grain based alcohol for potable liquor and molasses based alcohol for fuel blending and for industrial use. It further recommended to notify the concerned Act and Rules so that cereal grains for sale at Agricultural Produce Marketing Committees (APMCs) could be purchased directly by the manufactures of grain based spirit.

The Government, in its Resolution of June 2007, decided to grant subsidy to grain based distilleries on the basis of the study report of MITCON, according to which the manufacture of grain based spirit would be costlier than molasses based spirit by ₹ 6 to ₹ 7 per bulk litre. It further justified the grant of subsidy by stating that the incentive in the form of subsidy would encourage investment in the industry and the grain unfit for human consumption would be utilised in the production of grain based spirit as the farmers were unable to get proper price for such grain.

3.4.3 Views of the other departments on the scheme

The contents of the scheme proposed by the Home Department were circulated to the Finance, Planning and Industries departments for their views. It was seen that the Finance Department and Planning Department were not in favour of the scheme and the Industries Department did not give any comment. The comments of the Finance and Planning departments are as under.

Views of the Finance Department:

- The contention that the subsidy would increase the production of *jowar* was not realistic.
- The State had specific policies relating to production and sale of alcohol and grant of incentives in this area which did not find place in the State's planning process. Further, as the state's budget was balanced, it did not leave any scope for grant of subsidy to distilleries.
- The Government was not responsible for bridging the gap of demand and supply in the alcohol industry and in case there is such a gap, then the private entrepreneurs would step forward to start such industries on their own with an eye on the profits involved.
- The Study Report submitted by MITCON to the Government had not been prepared as per standards and therefore, the correctness of the assumptions made could not be ascertained.

Views of the Planning Department:

- There was decrease in cultivable area, production and productivity of *jowar* during the period 1996-97 to 2003-04;
- Moreover, Maharashtra was also not self-sufficient in production of food grains necessitating large scale purchases from Food Corporation of India as well as other states.
- In view of the above, it was not possible to give concurrence to the proposed scheme.

Views of the Minister of Finance and Planning :-The Minister of Finance and Planning Department had made the following observations on the scheme as per the notings in the relevant files.

- Till date the Government has avoided grant of subsidy on production of alcohol. Further, spirit manufactured from grain based distillery is used only for liquor production; it would result in increased consumption of liquor and also attract public criticism.
- The basis on which subsidy of ₹ 10 per litre was proposed was not clear. However, as the difference in cost of production of spirit from molasses based distillery to that from grain based distillery was ₹ 5 to ₹ 6 only, the amount of subsidy was to be restricted to ₹ 6 only.
- Since molasses based alcohol would be diverted for ethanol, setting up of grain based distilleries would get impetus and hence grant of such type of subsidy was not correct.

Thus, though Finance and Planning departments were not in favour of the subsidy scheme, the Home Department went ahead with the scheme, it reiterated its stand that the subsidy would encourage investment in the industry and the grains unfit for human consumption would be utilised in the manufacture of alcohol, which would ultimately benefit the farmers and put up the proposal to the Cabinet which was approved by the cabinet.

3.4.4 Lack of justification for grant of subsidy

As per Rules 3 to 14 of Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, any person desiring to set-up a distillery for the manufacture of spirit shall make an application along with Letter of Intent (LOI)[2], to the Government through the CSE along with necessary documents. The CSE shall conduct necessary verification of the details furnished in the application form and forward the same to the Government with its recommendations. The Government may grant the permission and instruct the applicant to proceed with construction of distillery within a fixed period of two years. The Government grants the applicant a license in Form I on payment of prescribed fee. The license is granted only for one year and is renewed every year in advance before 31 March.

[2] It is a document outlining an agreement between the licencee and the Government.

We noticed that 32 licenses were issued under the scheme, however no records registers or files indicating the basis for grant of licenses relating to the receipt and processing of applications/LOIs were produced to audit. As such the methodology adopted in selection of the cases to ensure whether transparency was maintained could not be ascertained by audit.

Out of these 32 licenses, we found that in seven cases the distilleries had applied for licenses for production of grain based spirit prior to the date of notification of the scheme. These distilleries had submitted their LOIs and detailed plan for setting up of distilleries much before the notification of the scheme indicating therein in the accounts statements that they were self-sustainable. None of these units had indicated that they need any sort of help from the Government for setting up the industry. The profitability statements available in the records of the three units indicated that each would run in profit ranging from ₹ 2.47 crore to ₹ 4.18 crore (after payment of tax). The details of subsidy given to these seven distilleries is indicated in **Table 3.4.4**.

Table 3.4.4

						(₹ in crore)
Sr. No.	**Name of distillery**	**Amount of subsidy received**	**Date of LOI**	**Date of acceptance of LOI**	**Date of issue of licence**	**Annual profit range after tax**
1	M/s. Alco Plus Producers Pvt. Ltd., Latur	40.60	07.01.2004	26.03.2004	05.04.2008	3.62
2	M/s Grainotch Industries Pvt. Ltd., Aurangabad	32.64	18.11.2006	17.02.2007	13.05.2009	NA[3]
3	M/s. Viraj Alcohol, Sangli	25.00	15.03.2005	26.07.2005	09.08.2007	4.18
4	M/s. Anand Distillery, Amravati	14.47	06.10.1993	--	21.05.2008	NA
5	M/s. Yashraj Ethanol Processing Pvt. Ltd., Satara	6.54	08.04.2004	25.08.2005	10.08.2009	2.47
6	M/s. Venkateshwara Bio Refinery, Sangli	0.86	15.06.2006	21.11.2006	30.12.2009	NA
7	M/s. Shivshakti Sahakari Glucose Karkhana, Sangli	0.06	18.07.2005	06.01.2006	31.08.2009	NA
Total		**120.17**				

Thus, the above facts indicate that there was no justification for granting subsidy to these seven distilleries. These distilleries had received subsidy of ₹ 120.17 crore which was 90.48 *per cent* of the total subsidy of ₹ 132.82 crore given to 11 distilleries (**Appendix-I**) during the period 2009-10 to 31 December 2013.

[3] Not available

3.4.5 Irregular grant of subsidy

As per the scheme, the subsidy was admissible to grain based distilleries in respect of only those quantity of grain based spirits which are exclusively used in the production of liquor and medicinal and toiletry preparations on which state excise duty of Maharashtra was levied. In case of (export or Outside Maharashtra State sale) on which state excise duty is not leviable, subsidy is not admissible.

During scrutiny of subsidy claim files at the office of the CSE we noticed that one distillery at Sangli had sold 4,00,000 bulk litres (BL) and 55,000 BL of Spirit to M/s. ABC at Ahmednagar and M/s. XYZ at Pune respectively during the period April 2008 to November 2009. M/s. ABC had exported the final product in respect of purchase of 2,80,000 BL of spirit and utilisation certificate in respect of balance spirit of 1,20,000 BL was not available in the files produced to audit. Further, as per utilisation certificate furnished by M/s. XYZ, 20,000 BL of spirit was used for industrial purpose on which no excise duty was levied and utilisation certificate was not available in respect of remaining 35,000 BL of spirit.

Hence, as per the provisions of the scheme, the above quantity of 4,55,000 BL of spirit did not qualify for grant of subsidy. It was, however, seen that the distillery was granted subsidy for the above sales also resulting in incorrect grant of subsidy of ₹ 45.50 lakh (4,55,000 x ₹ 10) to the distillery at Sangli.

3.4.6 No increase in production of *jowar*

As per the scheme one of the inherent objectives was to increase production and productivity of *jowar* in the State. However, as per information obtained from the Director of Agriculture, Maharashtra, there was no overall increase in the area, production and productivity of *jowar* in the state after the scheme was launched as shown in **Table 3.4.6**.

Table 3.4.6

Year	Area in hundreds of hectares	Production in hundreds of tons	Productivity Kg/ hectare
2008-09	41,691	35,400.80	849.12
2009-10	41,763	35,653.94	853.72
2010-11	40,592	34,519.63	850.40
2011-12	32,290	26,269.00	813.53
2012-13	32,899	21,737.00	660.72
2013-14	28,624	22,681.00	792.00

Though subsidy was allowed to the distillers, there was nothing on record to suggest that the subsidy scheme benefited the grain producing farmers or had led to an increase in the production of grains such as *jowar*.

3.4.7 Grant of subsidy to demerit commodity

Alcoholic beverages are considered 'demerit commodity'[4] and are subject to very high rates of taxes in Maharashtra. The excise duty on Indian Made Foreign Liquor (IMFL) and country liquor is levied at the rate of 300 *per cent* and 250 *per cent* respectively of the manufacturing cost. In addition to excise duty, Value Added Tax (VAT) at the rate of 25 *per cent* of the sale price is also levied. These measures are designed to make the alcoholic beverages expensive so as to discourage its consumption.

The Finance Department was also not in favour of the scheme. It had opined that giving of incentives in this area under this scheme did not find a place in the State's planning process and would attract public criticism.

Thus, the scheme led to utilisation of the tax payers' money towards promotion of a demerit commodity.

3.4.8 Diversion of molasses based ethanol to petroleum companies

The Department had not fixed any norm/target for diversion of ethanol to petroleum companies. No diversion of ethanol to petroleum companies was made during the year 2008-09 and 2009-10 while the diversion to petroleum companies saw a steady fall from 2010-11 to 2012-13 (971.49 lakh bulk litres (BL), 533.56 lakh BL and 280.13 lakh BL respectively). Diversion made during the year 2013-14 and 2014-15 was not available with the Department. Thus, the objective of the scheme was not achieved.

3.4.9 Absence of penal action and non-monitoring of the scheme

The eligibility certificate under the Package scheme of Incentives floated by the Industries Department stipulates operative period of agreement during which if the unit closes down or continues to remain below normal production during the year, entire amount of incentives availed of together with interest thereon shall be immediately recoverable and if not paid on demand, the Government shall be entitled to recover the same dues as arrears of land revenue.

However, no provision, by way of obligation(s), or pecuniary action to ensure a minimum operative period during which the unit would remain in operation and maintain a minimum production levels after availing the subsidy, was made in the scheme. As such, the Department had no control on the distilleries to watch their functioning after grant of subsidy.

No system was found to have been put in place by way of returns or otherwise to watch the progress made in achieving the objectives at the apex level. There was nothing on record to indicate that the progress made in achieving the objectives was evaluated from time to time for ensuring its continuance during the period of operation.

[4] "Demerit commodity" means a commodity whose consumption is considered unhealthy, degrading or otherwise socially undesirable due to perceived negative effects on the consumers themselves (Source: the Wikipedia, the free encyclopedia)

The subsidy granted to a distillery (Alkoplus Producers Pvt. Ltd.) was ₹ 40.60 crore i.e., 31 *per cent* which was the highest amount of subsidy received by any distillery, Anand Distilleries received subsidy of ₹ 14.47 crore up to February 2013. Both the units stopped manufacturing spirit since March 2013 and February 2013 respectively stating shortage of water and grain respectively.

Thus, these distilleries remained in operation from May 2008 to March 2013, till the operation of the scheme. The scheme was closed in March 2013.

3.4.10 Conclusion

The Government did not formulate specific goals and time frame to achieve the objectives of the scheme and adequate efforts to monitor the scheme were not made. The Government opted to grant cash subsidy to manufacturers of rectified spirit made from grains. The scheme envisaged increase in area and production of *jowar*. However, the same decreased after implementation of the scheme. There was nothing on record to indicate that effective steps were taken to ensure that farmers were benefited by way of better price for their produce. No mechanism was put in place to ensure that prescribed amount of ethanol was diverted for fuel blending as envisaged under the scheme. Further, no system existed to monitor the activities of the distilleries after availing the subsidy.

Thus, the envisaged objectives of the scheme remained to be achieved even after grant of subsidy aggregating ₹ 132.82 crore. Besides, tax payers' money was utilised for extending subsidy to producers of alcoholic beverages (demerit commodity). There is nothing to suggest that subsidy scheme benefited the grain producing farmers.