

CHAPTER-VI: STATE EXCISE

6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven Zones which are headed by the Additional Excise Commissioners (AECs) (Ajmer, Jaipur, Jodhpur, Kota, Bikaner, Udaipur, and Bharatpur Zones). District Excise Officers and 164 Excise Inspectors under the control of the Additional Excise Commissioners (AECs) of the respective Zones are deputed to oversee and regulate levy/collection of excise duties and other levies.

6.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit was as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remaining unaudited
2009-10	88	40	128	58	70	55
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13

It was also noticed that 733 paragraphs were outstanding at the end of 2013-14 of which 249 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	Total
Paras	249	25	87	130	242	0	733

Thus, the huge pendency of paragraphs defeated the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit conducted by the Comptroller and Auditor General of India

In 2013-14, test check of the records of 19 units relating to excise duty, licence fee receipts, etc. showed non-realisation/short realisation of excise duty/licence fee/interest/penalty and other irregularities involving ₹ 22.52 crore in 3,240 cases, which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Audit of bar licences issued by the State Excise Department	1	0.56
2.	Non-realisation/short realisation of excise duty and licence fee	203	11.63
3.	Non-recovery of special vend fee	47	3.82
4.	Non-recovery of renewal application fee	1,334	3.45
5.	Loss of excise duty on account of excess wastages of liquor	174	0.86
6.	Non-recovery of interest on security deposits	1,359	0.62
7.	Other irregularities	122	1.58
Total		3,240	22.52

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 7.02 crore in 2,772 cases which were pointed out in earlier years. An amount of ₹ 2.57 crore was recovered in 1,788 cases during the year 2013-14.

The Department recovered the entire amount of ₹ 18.54 lakh in two cases after issue of draft paragraphs to the Department and the Government. These have not been included in this Report.

Audit of bar licences issued by the State Excise Department and few illustrative cases involving ₹ 5.94 crore are discussed in the paragraphs from 6.4 to 6.10.

6.4 Audit of bar licences issued by the State Excise Department

6.4.1 Introduction

The State Excise Department (Department) of Rajasthan issues licences to the hotels, restaurants and club bars that serve alcoholic drinks *i.e.* beer, wine, liquor and cocktails for consumption ‘on the premises’ to the visitors. The licensee cannot sell liquor for any other purpose or to any other person or in sealed bottles.

A duly registered club, hotel or restaurant may be granted bar licences by Excise Commissioner (EC) under rule 48 of the Rajasthan Excise (RE) Rules, 1956 subject to the fulfilment of terms and conditions prescribed under the provisions of RE Rules 1956, the Grant of Hotel Bar/Club Bar Licences Rules, 1973, the Rajasthan Excise (Grant of Restaurant Bar Licences) Rules, 2004 and Excise Policy from time to time.

6.4.2 Scope and objective of Audit

The total number of hotel, heritage hotel, restaurant and club bar licences as on 31 December 2013 was 853 under the jurisdiction of 34 District Excise Officers (DEOs) of the State. Out of these, we selected five DEOs¹ and 136 licences for test check. The test check was conducted with a view to ascertain the efficiency and effectiveness of the Department in monitoring bar licences. The audit findings are discussed in subsequent paragraphs.

Audit findings

6.4.3 Non-maintenance of prescribed register

Under rule 3(4) of Grant of Hotel Bar/Club Bar Licences Rules 1973, a register called “Form B Register” is required to be maintained at each DEO for watching the disposal of applications received for grant of bar licences. It contain 13 columns *i.e.* name of applicant, address, amount of initial fee deposited, challan number and date of entry, initial of DEO, etc.

During audit of five selected DEOs, it was noticed that Form B register was not maintained in any of the offices. The IT system available with the department does not provide for recording the details mentioned in the register. As such, the total number of applications received and disposed of in respect of bar licences could not be ascertained.

For ensuring transparency, control over receipt and disposal of applications for bar licences it is essential that the Department may consider having a provision of “Register B” in its IT system and till such a provision is made, hard/ manual copies of the registers may be maintained by the department.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied (October 2014) that directions had been issued to all DEOs for maintaining the register.

¹ Alwar, Bhilwara, Jaipur City, Sirohi and Udaipur.

6.4.4 Discrepancies noticed in issue of bar licences

In compliance of Excise and Temperance Policy for the year 2010-11, the instructions issued (9 April 2010) by the EC stipulated that the application for bar licence should be disposed of within 30 days.

As per proviso under Rule 3(1) of the Grant of Hotel Bar/Club Bar Licences Rules 1973, the Government may set up a committee to make recommendations on an application for grant of Hotel/Club bar licence to any establishment. EC may grant or renew licence on recommendations of such committee. The State Government reconstituted (13 March 2006) Zonal committees² to make recommendations on the applications for grant of Hotel/Club bar licences.

6.4.4.1 Delay in issue of licences

A test check of files of bar licences issued during 2011-13 in selected units disclosed that 42 licences in 2011-12 and 36 licences in 2012-13 were issued after the prescribed time limit of 30 days owing to discrepancies/ incompleteness noticed at the level of Additional Commissioner, Zone or EC. Consequently, the finalisation of licences was delayed and excise duty and permit fee could not be realised.

To ensure timely submission and disposal of the application(s), a checklist was prescribed by EC. The checklist contains certain information which was required to be furnished by the applicants. If an applicant did not furnish any or all the required information, his application was liable to be rejected at the initial stage itself by the concerned DEO. However the DEOs did not get the applications completed before forwarding it for approval defeating the very purpose of the check list.

6.4.4.2 Loss of revenue due to non-issue of licence

It was also noticed that the Department failed to sanction the licences within the same year in case of 3 applications³ for 2010-11 and 6 applications⁴ for 2011-12 submitted at DEOs Alwar, Bhilwara and Jaipur City for obtaining bar licences. Due to delay in getting the required sanction, the applicants requested the Department to grant the sanction for the next year. The Department accepted the request and allowed to carry forward the initial fees and process fees to next year and accordingly licences were issued for the next year. These hotels, thus, could not run their business during the preceding year. Had the Department taken prompt action and issued the licences timely, revenue of ₹ 56.00 lakh could have been realised.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied (October 2014) that the process of sanction takes time and that in case of carry forward of application for next year, the process fee is charged again. It was also intimated that licence fee was payable/adjustable on sanction of licence.

² The Zone level committee constituted by the Government comprises: (1) Additional Commissioner Zone: President, (2) Nominee of District Collector not below the rank of SDO: Member, (3) District Tourism Officer or Deputy Assistant Director of Tourism Department: Member Secretary, and (4) Concerned DEO : Member.

³ Hotel Mighty Days and Chaudhary Hotel at Alwar and Boutique Hotel at Jaipur.

⁴ Hotel Jagdamba Palace & Restaurant and Janta at Bhilwara; Mango, Chhavi Holidays, Heritage Village and Tree of Life at Jaipur.

The fact however remains that there was delay in issue of bar licence despite departmental instructions. This also indicates that the Department was not following its own instructions regarding completion of licence process within a period of 30 days.

6.4.5 Delay due to incomplete and incorrect examination of the facts

During test check of licences issued during 2011-13 by EC, it was observed that DEOs did not examine and evaluate applications with reference to criteria specified for grant of bar licences and forwarded all the applications to the committee for its recommendation. Thus, the Department shifted its primary responsibility on the committee. Further, the committees, in absence of any prescribed checklist, were not uniform in their functioning.

Scrutiny of 78 case files disclosed that in eight cases, committees recommended for granting bar licences without examining the basic conditions required for bar licence as mentioned in the table below:

Sl. No.	Points not examined by the committee	Name of applicants
1	Initial fees was not deposited with application	Mukesh Hotel and Restaurant, Sriganganagar; Amantra Comfort Hotel, Udaipur and M/s Jeevan Tara Club & Resort, Udaipur.
2	Prescribed norms for construction of hotel were not followed by applicant	Hotel Roop Palace, Jaipur.
3	Proof of ownership and conversion of land for commercial use of property were not enclosed with applications	Hotel Maharani Palace, Sri Dungargarh, Bikaner; Kukas Inn Hotel, Jaipur and Hotel Topaj, Tonk
4	Norms regarding width of road, parking and separate toilets were not followed by applicant	Hotel Doda's Palace, Jaipur

The committee in the above cases made recommendations in favour of applicants without ensuring that the conditions required for issue of licence for hotel bar were fulfilled. However mistakes were pointed out at EC level resulting in delay in issue of the licences.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied (October 2014) that a new checklist had been issued to all DEOs and they had been directed to ensure compliance of each point.

6.4.6 Discrepancies in stock registers

Scrutiny of 111 stock registers out of 333 (maintained during 2012-13) produced to audit by the DEOs of selected units disclosed that the bar licencees were not maintaining their stock registers properly and accurately. In absence of proper guidelines regarding maintenance of stock registers and lack of verification/checking by excise authorities, a number of irregularities were found in practice which indicated that the Department did not focus on controlling the operations of bar licencees keeping in view public health,

hygiene and other social aspects. A few instances are mentioned in the *Appendix*.

The matter was pointed out to the Department (July 2014) and reported to the Government in October 2014. The Government replied that explanation was called for from the concerned hotels and instructions to all Additional Commissioners, Zones and DEOs had been issued in this regard.

The Department should ensure that the stock registers are verified/checked on regular basis to ensure genuineness of the entries made therein.

6.4.7 Conclusion and Recommendations

For ensuring transparency, control over receipt and disposal of applications for bar licences it is essential that the Department may consider for having a provision of “Register B” in its IT system and till such a provision is made hard/ manual copies of the registers may be maintained by the department.

There was a delay in issue of bar licence despite departmental instructions regarding completion of licence process within 30 days. These instructions need to be followed strictly for revenue maximisation.

The Department shifted its primary responsibility of examination of the applications to the Zonal committees resulting in delay in issue of licences. The Zonal committees were not uniform in their functioning or in a position to examine all aspects required for granting bar licences. The examination of the cases may be done scrupulously by the Department.

Departmental inspection may be done so discrepancies in the accounts of the dealers can be eradicated timely.

6.5 Non-recovery of special vend fee

As per sub rule 6 of rule 69 of the Rajasthan Excise (RE) Rules, 1956, the special vend fee (SVF) is leviable for sale of foreign liquor to retail on, retail off and composite retail off licencees of Indian Made Foreign liquor (IMFL) and Beer at the rate of ₹ 10 and ₹ 5 per bulk litre (BL) respectively.

During test check of permits issued by District Excise Officers (DEO) Jaipur City and Bikaner, it was noticed (between September 2013 and January 2014) that wholesale depots of Canteen Store Department (CSD) at Jaipur and Bikaner had sold 34.83 lakh BL IMFL and 4.23 lakh BL Beer to its retail off licencees (unit run canteens) in the State during the period from 1 April 2012 to 4 November 2012. However, SVF of ₹ 3.48 crore on IMFL and ₹ 21.17 lakh on Beer were neither deposited by the CSD nor demanded by the Department. This resulted in non recovery of SVF amounting to ₹ 3.69 crore.

The Government stated (September 2014) that recovery was being made regularly after 5 November 2012 and for the recovery relating to previous period, instructions had been issued to DEOs, Jaipur City and Bikaner. It was also stated that in case the recovery cannot be effected, proposal for remission of revenue would be moved. Further progress on the matter is awaited (December 2014).

6.6 Non-levy of excise duty on transit wastage of beer exported to other States

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Rajasthan Excise Act, 1950 has been paid or until a bond under Section 18 of the Act in form R.B.11 or R.B.12 has been executed by the brewer for export of beer outside the State. Condition no. (2) of the bond provides that if the quantity of beer mentioned in the bond has not been delivered at the destination, the brewer is liable for any loss of duty, which the Government may suffer by reason of such non-delivery or short delivery, by paying on demand the duty at the rate in force. There is no provision in the rules regarding transit wastage of beer exported outside the State.

During scrutiny of the Excise Verification Certificates of beer exported by five breweries⁵ during the period 2012-13 under District Excise Officers (DEOs), Alwar and Behror, it was noticed (September 2013, December 2013 and January 2014) that during the course of export of beer outside the State under bond, 1,54,825.87 bulk litres (19,851 cartons) of beer, involving excise duty of ₹ 66.66 lakh, were either short delivered or not delivered at the destination. The short delivery was depicted as transit wastage.

Neither the duty was paid by the brewers nor was it demanded by the Department. The concerned Assistant Excise Officers deputed by the Department at the breweries did not raise demand despite recording of transit wastage in the EVCs. This resulted in non-levy of Excise Duty of ₹ 66.66 lakh.

⁵ M/s Carlsberg India Pvt. Ltd. Alwar, M/s United Breweries Ltd. Bhiwadi, M/s Rochees Breweries Ltd. Neemrana, M/s Mount Shivalik India Pvt. Ltd. Behror and M/s Deewan Modern Breweries Ltd. Behror.

After it was pointed out (between October 2013 and April 2014), the Government stated (July 2014) that ₹ 5.13 lakh had been recovered (March 2014) in respect of one unit. The report on remaining cases is awaited (December 2014).

6.7 Non-levy of excise duty on non-potable beer

Conditions and Restrictions on establishment of Bonded Warehouse provide that State Government shall not be responsible for loss of liquor in bond during the currency of licence period. In case of any loss, if it is found that the loss could have been prevented by reasonable precautions on the part of licensee, he may be required to pay duty for the loss of liquor thus caused and the decision of the Excise Commissioner shall be final and binding on the licensee.

As per point no. 9.6 of Liquor Sourcing Policy 2008-09 of M/s Rajasthan State Beverages Corporation Limited, any stock of beer lying unsold for a period over six months from the date/month of bottling, becomes unfit for human consumption and it shall be drained out.

During scrutiny of the records of two breweries⁶ for the period 2012-13 under District Excise Officer (DEO), Behror, it was found (December 2013) that 7,609 cartons of beer became non-potable in the bonded warehouses as they remained unsold for a period over six months from the date of their manufacture. However, the department neither recovered the duty nor referred the case to the Commissioner, State Excise for further necessary action. This resulted in non-levy of excise duty of ₹ 29.41 lakh.

After this was pointed out (between December 2013 and April 2014), the Government stated (July 2014) that part amount ₹ 28.55 lakh had been recovered from both units. The progress of recovery in respect of remaining amount is awaited (December 2014).

6.8 Non-levy of excise duty on excess wastage of rectified spirit transported under bond

Rule 5 of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959 provides for an allowance for the actual loss in transit due to leakage or evaporation of spirit transported under bond at the rate of 0.2 *per cent* to 0.4 *per cent* as per duration of journey. The loss is to be determined by deducting from the quantity of spirit despatched from the distillery, the quantity received at the place of destination, both quantities being stated in terms of London Proof Litre (LPL).

Rule 5(5) provides for levy of excise duty on wastage exceeding permissible limit. However, before charging such duty the Excise Commissioner shall afford to the consigner of spirit a reasonable opportunity of being heard and in case it is found that the wastage was due to an accident involving no negligence on his part, or due to any other reasonable cause beyond his control, no duty shall be charged.

⁶ Arian Breweries and Distilleries Ltd and M/s United Breweries Ltd. Bhiwadi.

During test check of the records of M/s Ojas Industries private Limited, Neemrana for the year 2012-13 under the jurisdiction of District Excise Officer (DEO), Behror, it was found (January 2014) that 21,432.74 LPL Rectified Spirit (RS) was shown as received at the unit against despatch of 33,260.00 LPL RS showing wastage of 11,694.22 LPL RS in transit over and above the maximum permissible wastage of 133.04 LPL. Excise duty of ₹ 19.88 lakh was leviable at the rate of ₹ 170 per LPL prevailing at the time of consignment on such excess wastage. However, neither the duty was demanded by DEO nor the case was referred to the Excise Commissioner for appropriate action.

After this was pointed out (between January 2014 and April 2014) the Government accepted the facts (September 2014) and stated that under provision of Rule 5 of the Rajasthan Stock Taking and Wastage of Liquor Rules, 1959, the Excise Commissioner would decide the case after hearing the concerned consigner. Further progress, however, is awaited (December 2014).

6.9 Non-levy of excise duty on excess wastage of beer in production

Rule 49-A of the Rajasthan Brewery Rules, 1972 provides allowance for wastage on production of beer at the rate of seven *per cent* of the total quantity brewed or actual wastage, whichever is less. Further, Rule 26 lays down special duty on the officer-in-charge posted at brewery to see that the entries are made by the brewer in the brewing book in form RB 4, promptly and correctly. Furthermore, as per Rule 7 of the Rajasthan Stock Taking and Wastage of Liquor (Distilleries and Warehouses) Rules 1959, officer-in-charge is liable to prepare the statement of each kind of wastage on monthly basis and has to send it to the District Excise Officer (DEO) in the first week of the next month. As per Rule 8 of the Conditions and Restrictions on Establishment of Bonded Warehouse Rule, 1956, licensee will be liable to pay duty on excess wastage.

During scrutiny of the Brewer's book in form RB 4 containing details of production of beer and monthly statement of wastage maintained at the brewery M/s Carlsberg India Pvt. Limited, Alwar for the period 2012-13 under DEO Alwar, it was noticed that during July 2012 the brewer had taken production of 40.06 lakh BL strong beer in monthly statement instead of 41.01 lakh BL (as per brewing book RB 4). On the basis of above production, excess wastage of 0.81 lakh BL beer occurred during July 2012 beyond the permissible limit of seven *per cent* as detailed below:

Sl. No.	Particulars	Quantity shown in RB 4 (in BL)	Quantity shown in monthly statement (in BL)
1.	Opening balance	13,66,174.00	13,66,174.00
2.	Production in the month 7/2012	41,00,996.00	40,05,624.00
3.	Total (1+2)	54,67,170.00	53,71,798.00
4.	Closing balance at the end of month	16,80,899.60	16,80,899.60
5.	Beer issued for production (3-4)	37,86,270.40	36,90,898.40
6.	Net production	34,40,199.96	34,40,199.96
7.	Wastage of beer in production (5-6)	3,46,070.44	2,50,698.44
8.	Allowable wastage (7 <i>per cent</i> of sl.5)	2,65,038.93	2,58,362.89
9.	Excess wastage (7-8)	81,031.51	-

However, the DEO or officer-in-charge neither analysed the reasons for excess wastage nor demanded excise duty on excess wastage from the brewer which resulted in non-levy of state excise duty of ₹ 36.92 lakh on excess wastage.

After this was pointed out (between October 2013 and April 2014), the Government while accepting the facts stated (July 2014) that action had been initiated for recovery.

6.10 Short realisation of composite fee from Country Liquor shops

As per provisions of the Rajasthan Excise and Temperance Policy for the years 2010-11, 2011-12 and 2012-13, composite licence fee for composite shops located within five kilometres radius from the municipal area was to be levied at the same rate of licence fee which was leviable for Indian Made Foreign Liquor(IMFL)/Beer shops located in that municipal area.

During test check of records of District Excise Officer (DEO), Baran for the year 2010-11, it was noticed (October 2013) that in respect of four composite shops⁷, located within five kilometres of municipal limit, the Department recovered licence fee at the rate applicable for shops located in rural area instead of rate applicable for IMFL/Beer shops located in urban area. This resulted in short realisation of composite fee amounting to ₹ 15.95 lakh as per the details given below:

Sl. No.	Name of shops	Nearest municipal area	Composite fees payable	Composite fees recovered	Short recovery of composite fees
1	Boomaliakalan	Anta(Baran)	3,90,000	36,236	3,53,764
2	Palayatha	Anta(Baran)	3,90,000	61,587	3,28,413
3	Fatehpur	Baran	4,80,000	37,571	4,42,429
4	Mandola	Baran	4,80,000	10,000	4,70,000
Total					15,94,606

After this was pointed out (April 2014), the Government stated (September 2014) that ₹ 9.91 lakh had been recovered. The progress of recovery in respect of remaining amount is awaited (December 2014).

⁷ Composite shop is a shop holding licence for sale of country liquor and Indian Made Foreign Liquor.