

Chapter VI
State Excise

CHAPTER-VI STATE EXCISE

6.1 Tax administration

The Principal Secretary to the Government (Taxes) is the administrative head of the Excise Department at Government level. The Department is headed by the Excise Commissioner. The Department has been divided into three¹ zones which are headed by the Joint Excise Commissioners, South, Central and North zone. The divisions at the district level are working under the Deputy Commissioners. Besides, Excise Inspectors under the control of the Deputy Commissioner of the respective districts are deputed to oversee collection of excise duties, license fee etc.

6.2 Internal audit

The Internal Audit Wing (IAW) in the State Excise Department is headed by the Joint Commissioner of Excise and is assisted by one Assistant Excise Commissioner, three superintendents, three excise inspectors and six preventive officers.

The wing had to conduct inspections in the 313 sub offices annually based on the questionnaire for inspection contained in the Excise Manual in accordance with the guidelines issued by the Finance (IAC) Department as well as Departmental instructions issued from time to time.

Out of the total 313 units to be audited, the wing planned and audited 101 units during 2014-15 as against 46 units audited during 2013-14. There were 119 IRs with 334 observations involving ₹ 109.33 crore outstanding at the end of the year. There was a clearance of only 22.5 *per cent* of outstanding audit observations. Even after 35 years of inception of the Wing in 1980, the Department has not prepared a separate internal audit manual, which is indicative of lack of initiative for ensuring good governance.

6.3 Results of audit

In 2014-15, test check of the records of 40 offices² under Excise Department relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/interest/ penalty and other irregularities involving ₹ 14.98 crore in 47 cases which fall under the following categories as given in **Table – 6.1**.

¹ South zone (Alappuzha, Kollam, Kottayam, Pathanamthitta and Thiruvananthapuram), Central zone (Ernakulam, Idukki, Palakkad and Thrissur) and North zone (Kannur, Kasargod, Kozhikode, Malappuram and Wayanad).

² Out of 128 Offices.

Table – 6.1

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Non-levy of excise duty on transit/bottling wastage	6	0.32
2.	Non levy of excise duty/licence fee	10	0.24
3.	Short remittance of gallonage fee	5	0.07
4.	Non imposition of fine	7	4.09
5.	Others	19	10.26
	Total	47	14.98

During the course of the year, the Department accepted underassessment and other deficiencies involving ₹ 58.26 lakh in 12 cases which were pointed out during previous years. The Department realised an amount of ₹ 57.93 lakh in the above 12 cases during the year 2014-15.

When the reason for short realisation of amount pointed out by Audit was called for in August 2015 and subsequently in October 2015, the Department stated (November 2015) that this would be furnished on receipt of the reports from sub offices. This had not been received (January 2016).

A few illustrative audit observations involving ₹ 4.44 crore are mentioned in the following paragraphs.

6.4 Non-imposition of fine in cases of shortage in consignment of liquor

Fine was not imposed on the directions of Excise Commissioner which was against the statutes

- **7 Offices³ of the Excise Inspectors**

As per Rule 11 of Foreign Liquor (FL) Rules, 1953, the Excise Inspector at the destination shall verify the consignment on arrival and see that the quantity is duly credited in the accounts where the transport is by a licensee. Rule 34 of the FL Rules, 1953 stipulates that infraction of any of the Rules or conditions of a licence issued under these rules either by a licensee or by a person in his employment shall entail on the licensee or agent or both a fine⁴ or cancellation of the licence or both.

A scrutiny of transport permits and goods receipt register in seven offices of the Excise Inspectors attached with FL-9 Warehouses of Kerala State Beverages

³ Alappuzha, Aluva, Pappinissery, Thavakkara, Ayurkunnam, S.H. Mount, Tripunithura.

⁴ ₹ 10,000 upto 11.9.2012 and thereafter at ₹ 15,000.

Corporation, revealed that during the period 2012-14, the Excise Inspectors released 3,034 consignments of IMFL in which shortage was found to be less than one case⁵ of liquor without realising the fine prescribed. This was based on the directions⁶ issued by the Excise Commissioner, which was contrary to Rule 34 of FL Rules. This resulted in non realisation of fine of ₹ 4.35 crore.

The DC (Excise), Alappuzha stated (July 2015) that demand notice had since been issued. The Government stated (October 2015) that there was no direction to collect the fine for the consignment having shortage of less than one case and the Excise Commissioner had no intention to collect fine on shortage of liquor if found less than one case. The Government reply was not acceptable since the permit holder violated the permit conditions prescribed under Section 11 of the Abkari Act and was liable to pay penalty under Rule 34 of Foreign Liquor Rules. Further report had not been received (January 2016).

6.5 Short levy of duty due to allowance of excess wastage

Duty as stipulated in the statutes was not levied for excess wastage of liquor.

- **Office of Excise Inspector, Devicolam Distilleries Ltd. Kakkanad**

Rule 10(5) of the Kerala Foreign Liquor (Compounding, Blending & Bottling) (KFL(CB&B)) Rules, 1975 stipulates that while bottling of spirits are carried out in the bottling warehouses, an allowance of not more than half *per cent* shall be allowed for loss in bottling and the wastage shall be calculated on the quantity. Any deficiency in excess of half *per cent* shall be charged with duty at the rate⁷ of ₹ 20 per proof litre⁸ (PL) applicable to Indian made foreign spirits.

Scrutiny (November 2014) of the registers of bottling operations in the office of Excise Inspector attached with Devicolam Distilleries Limited, Kakkanad revealed that during the period 2012-2014, wastage of 25,826.26 PL liquor in excess of permissible limits was allowed to the distillery by the Excise Inspector while bottling the liquor. This resulted in short levy of duty of ₹ 5.17 lakh.

Government stated (October 2015) that counter signed challan for remitting the duty short levied had been issued to the distillery. Further report had not been received (January 2016).

⁵ Box containing eight bottles of liquor.

⁶ Circular No. XC1-5090/10 dated 29.8.2010.

⁷ GO(P)No.97/2010/TD dated 3 April 2010.

⁸ Spirit having same alcohol content as one litre of proof spirit, i.e., a mixture of alcohol and water with alcohol 57.06 *per cent* by volume at 60° F.

6.6 Short realisation of fine and penalty

Fine and penalty realised were less than those stipulated as per the Statutes.

- **Excise Commissionerate, Thiruvananthapuram**

As per Section 67(2) read with 67(3) of Abkari Act, the Commissioner may impose a fine⁹ of ₹ 3 lakh each on any person or persons holding a license or permit for violation by way of reconstitution, alteration or modification without the permission of the Commissioner of any deed on strength of which the license is granted and the Commissioner may regularise such irregular reconstitution on payment of fine and on application from the licensee. Under Rule 19(iii) of Foreign Liquor Rules, 1953 reconstitution of partnership/Directors of a company may be allowed on payment¹⁰ of ₹ one lakh.

M/s Hotel Dona Castle, Kollam is a company having bar license. The Board of Directors of the company was reconstituted twice in March 2013 without the permission of the Commissioner. The Commissioner regularised¹¹ these two reconstitutions treating them as a single one and levied ₹ four lakh by way of fine and penalty. The Abkari Act envisages fine and penalty for each reconstitution and hence the action taken by the Commissioner was not correct. This resulted in short realisation of fine and penalty of ₹ four lakh.

The Government stated (October 2015) that revision petition to Government had been rejected and the Excise Commissioner had been directed to realise the short remittance of fee and fine from the licensee.

⁹ Ordinance No. 32 of 2013 issued in Notification no. 5211/LegA2/2013/Law dated 26.4.2013.

¹⁰ GO(P) No. 161/2012/TD dated 12.9.2012.

¹¹ Proceedings No. XC.7-20249/2013/R.Dis dated 9.9.2013 of Commissioner of Excise, Thiruvananthapuram.