

CHAPTER – III

STATE EXCISE

Chapter-III

State Excise

3.1 Tax Administration

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Excise Commissioner (EC) is the Head of the Department and is assisted by one Additional EC (Addl. EC), three Deputy Excise Commissioners (DEC) at the headquarter at Gwalior, seven DEC divisional flying squad in divisions, 15 Assistant Excise Commissioners (AEC) and 54 District Excise Officers (DEO) in districts. In the district, the Collector heads the Excise Administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is also responsible for realisation of excise revenue.

The working of distilleries, bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the Asst. District Excise Officers (ADEOs) and Sub Inspectors posted in the distilleries/breweries and bottling plants.

State Excise revenue comprises receipts from duty, fee, penalty or confiscation imposed or ordered under the provisions of the Madhya Pradesh Excise Act, 1915 and Rules made thereunder. It also includes revenue from manufacture, possession and issue of liquor for sale, *bhang* and poppy straw.

3.2 Results of Audit

We test-checked records of 36 units out of 61 units relating to State Excise receipts during the year 2014-15 and observed non/short realisation of duty, loss of revenue, non-levy of penalty etc. amounting to ₹ 108.10 crore in 19,948 cases which fall under the following categories as mentioned in **Table-3.1**.

Table-3.1

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Undue benefit given to the retail licensees	325	0.68
2.	Non-realisation of duty in case of non-receipt of verification report	2,106	2.57
3.	Non-levy of penalty/duty on excess wastage of spirit/liquor	631	0.78
4.	Non/ short realisation of license fee from liquor shops	27	1.86
5.	Irregular issue of country/foreign liquor	2,058	5.93
6.	Non-levy of penalty due to breach of license conditions	1,105	24.76
7.	Other observations	13,696	71.52
Total		19,948	108.10

The Department accepted short/non-realisation, non-levy of penalty and loss of revenue etc. of ₹ 86.45 crore in 19,276 cases, which were pointed out in audit during the year 2014-15.

A few illustrative audit observations involving ₹ 11.09 crore are mentioned in the following paragraphs.

3.3 Non-recovery of excise duty on unacknowledged foreign liquor/beer during transport/export

The licensees of foreign liquor did not furnish Excise Verification Certificates to the authority who issued the transport/Export permit duly obtained from the Officer-in-Charge of the destination units against exported/ transported 7,78,21,068 proof litre foreign liquor and 5,88,918 proof litre beer involving excise duty of ₹ 8.54 crore.

We observed from the export/transport permit registers and Excise Verification Certificates (EVCs) received registers in Assistant Excise Commissioner Offices Chhatarpur, Dhar and Raisen (between July 2014 and January 2015) that the licensees exported/ transported 7,78,21,068 proof litre (PL) foreign liquor and 5,88,918 PL beer involving duty of ₹ 8.54 crore on 340 permits issued in these units.

It was noticed that in violation of the provisions of Rules 12, 13 and 14 of Madhya Pradesh Foreign Liquor (MPFL) Rules, the Department issued the export/transport permits (between April 2013 and December 2014) without recovering the prescribed duty or without obtaining sufficient bank guarantee/executing bond with adequate solvent sureties for the amount of duty involved.

It was further noticed that the EVCs from the Officer-in-Charges of the destination units were not submitted by the licensee involving duty of ₹ 8.54 crore. In these cases of non-submission of EVCs, the Department should have levied duty of ₹ 8.54 crore as per provisions of Rule 13 of the Rules *ibid*. However, this was not done which resulted in non-realisation of duty of ₹ 8.54 crore.

After we pointed out the cases, AEC stated (between July 2014 and January 2015) that EVCs would be produced at the earliest. We do not agree with the replies as sufficient Bank Guarantee/Bonds with solvent sureties were not obtained before allowing the export/transport of liquor. Further, EVCs have not been furnished till date (November 2015).

We reported the matter to the Government and the Department (July 2015); reply of the Government and Department has not been received (November 2015).

3.4 Non-imposition of penalty

3.4.1 Non-imposition of penalty in case of failure to maintain minimum stock of country liquor in warehouses

The licensees of country liquor did not maintain the minimum stock of bottled country liquor at the country liquor warehouses as required under the Rules. However, penalty amounting to ₹ 1.27 crore for breach and continued contravention of rules was not imposed against the licensees by Assistant Excise Commissioners / District Excise Officers.

We observed from the records viz. Stock Register, Monthly Register etc., of six Assistant Excise Commissioner Offices¹ and five District Excise Officers² (between January 2014 and March 2015) that the minimum stock of bottled country liquor was not maintained at the country liquor warehouses by the ten licensees (between July 2011 and February 2015).

This was in violation of provisions of Rule 4 (4) of Madhya Pradesh Country Spirit Rules 1995 which provides that the licensee shall maintain at each manufacturing and storage warehouse a minimum stock of bottled liquor/rectified spirit that equals average of five days' supply of previous month. Although the Excise Storage Officers communicated non-maintenance of minimum stock to AECs / DEOs through monthly returns, the AECs / DEOs did not impose penalty.

Penalty amounting to ₹ 1.27 crore for breach and continued contravention of rules was not imposed on the licensees as per Rule 12(1) of Madhya Pradesh Country Spirit Rules, 1995. This resulted in non-levy of penalty of ₹ 1.27 crore.

After the cases were pointed out, the AECs/DEOs stated (between January 2014 and March 2015) that the issue was intimated to senior officers and audit would be informed after taking sufficient action as per rules. The replies are not acceptable as no action was initiated to forward the cases to the Excise Commissioner proposing penalty for not maintaining the prescribed stock of country liquor as per rules.

The matter was reported to the EC and the Government (May 2015), their replies have not been received (November 2015).

3.4.2 Non-levy of penalty on excess wastage of foreign liquor/beer during export /transport

During export/transport of foreign liquor and beer, total wastages of foreign liquor and beer was 67,577.11 proof litre and 51,413.57 bulk litre respectively which was 41,470.55 PL in excess of admissible limit in the case of the foreign liquor and 30,624.46 BL in excess of the admissible limit in the case of beer, on which leviable penalty of ₹ 81.11 lakh was not imposed and recovered by the Department.

We observed (between August 2014 and January 2015) from Excise Verification Certificates (EVC) of six licensees of foreign liquor bottling unit and breweries in offices of Assistant Excise Commissioner, Bhopal, Gwalior, Indore and Morena that 1,05,31,197 PL foreign liquor and 83,15,527 BL beer was exported/transported (between April 2013 and October 2014), on which admissible wastage as per Rules 16 and 19 of Madhya Pradesh Foreign Liquor Rules, 1996 at the rate of 0.25 *per cent* of the quantity transported was 26,106.56 PL and 20,789.11 BL respectively.

Total wastage of foreign liquor (spirit) was found to be 67,577.11 proof litre (PL) which was 41,470.55 PL in excess of the admissible limit and for beer, it was found to be 51,413.57 bulk litre (BL) which was 30,624.46 BL in excess

¹ Chhatarpur, Morena, Raisen, Ratlam, Rewa and Ujjain

² Balaghat, Burhanpur, Chhindwara, Dewas and Mandsaur

of the admissible limit in 3,016 cases of transportation losses of foreign liquor and beer.

As per penalty provisions, in the cases of wastage beyond permissible limit, the licensee was liable to pay penalty at the rate not exceeding the duty on foreign liquor at that time. As such penalty of ₹ 81.11 lakh was leviable on six licensees. Though the cases of excess wastage of liquor were intimated by Store in-charge of the distillery to DEOs through quarterly returns, penalty was not imposed and recovered by the Department. This resulted in non-realisation of penalty of ₹ 81.11 lakh.

After we pointed out the cases (between August 2014 and January 2015), AEC Bhopal, Gwalior and Morena stated (between August 2014 to January 2015) that penalty would be imposed and recovery would be made while AEC Indore stated (December 2014) that matter was pending in the Office of Assistant Commissioner Flying Squad, Indore and after receipt of instructions, recovery would be made.

We reported the matter to the Government and the Department (May 2015); their replies have not been received (November 2015).

3.4.3 Non-levy of penalty on excess wastage of country liquor

The Department did not recover penalty of ₹ 33.65 lakh in 726 cases of excess wastage of 14,910.67 PL of country liquor beyond permissible limit on transportation of 34,10,716.70 PL of country liquor.

We observed from the records maintained by warehouse of Assistant Excise Commissioner Office (AEC) Dhar and three District Excise Officers (Datia, Hoshangabad and Sehore) (between June and July 2014) that for 726 permits issued, a quantity of 34,10,716.70 PL of country liquor was transported from country liquor manufacturing warehouses between April 2011 and April 2013 against which quantity received was 33,90,906.31 PL.

There was wastage of 19,810.19 PL, of which 14,910.67 PL of country liquor was in excess of the admissible limit of wastage as per Rule 10 of Madhya Pradesh Country Spirit Rules, 1995 which provided maximum allowance of 0.1 *per cent* wastage in pet bottles and 0.25 *per cent* in glass bottles during transport of bottled country liquor.

Under Rule 12 (6) of Rules *ibid*, the penalty was leviable at a rate exceeding three times but not exceeding four times the duty payable per PL on country spirit at that time, as may be imposed by the Excise Commissioner or any other officer authorised by him for losses beyond permissible limit. Thus, a minimum penalty of ₹ 33.65 lakh was leviable. Cases of excess wastage of liquor were intimated to AEC/DEOs through quarterly returns. However, penalty was not imposed and recovered by the AEC/DEOs.

After we pointed this out, the DEO, Datia, Hoshangabad, Sehore (June and July 2014) and AEC, Dhar, stated (July 2014) that the cases would be sent to the competent authority for imposition of penalty.

We reported the matter to the Government and the Department (May 2015); their replies have not been received. (November 2015).

3.4.4 Non-levy of penalty on excess wastage of Extra Neutral Alcohol

Through 124 permits, 41,84,740 PL ENA was exported from Madhya Pradesh to other States against which 41,61,959 PL ENA was received by the importing State resulting in excess loss of 14,411.50 PL beyond the permissible limit of 8,369.48 PL. The Department did not recover penalty of ₹ 13.26 lakh from the licensee against these losses.

We observed (July 2014) from EVCs of District Excise Officer, Khargone pertaining to M/s Associate Alcohol and Breweries Ltd that through 124 permits, 41,84,740 PL ENA was exported from Madhya Pradesh to other States (between April 2013 and April 2014) against which 41,61,959 PL ENA was received by the importing State resulting in excess loss of 14,411.50 PL beyond the permissible limit of 8,369.48 PL.

The Rules 6(4) and 8(4) of Madhya Pradesh Distillery Rules 1995 provided for allowance of 0.1 to 0.2 *per cent* on account of leakage or evaporation of spirit/ Extra Neutral Alcohol (ENA) transported or exported in tankers from a distillery/warehouse to another distillery/ warehouse according to their distance.

In the case of excess wastage beyond permissible limit or shortage, the licensee was liable to pay penalty at the rate not exceeding the duty payable per proof litre on country spirit at that time. Thus, on the excess wastage beyond the permissible limits, penalty of ₹ 13.26 lakh was leviable which was neither levied nor recovered by the Department.

This resulted in non-realisation of ₹ 13.26 lakh from the licensee at the rate of ₹ 92 per PL (rate of duty on country spirit per PL prevalent in 2013-14). Though the cases of excess wastage of liquor were intimated to DEOs by quarterly returns, penalty was not imposed and recovered by the Department.

After we pointed this out, the Department replied (September 2015) that in nine cases, penalty amounting to ₹ 52,376 was recovered, while in 123 cases, distillers deposited 25 *per cent* of the amount and obtained stay from the Court of Excise Commissioner against the penalty imposed, however Department did not provide any document to audit in support of its reply.

We reported the matter to the Government and the Department (May 2015); reply of the Government has not been received (November 2015).

3.5 Internal Audit

An Internal Audit Cell (IAC) was established in the EC office in the year 1978 and is headed by a Joint Director, who is assisted by officers of MP Treasuries and Accounts Department for conducting internal audit of the Department.

The Department prepares roster for audit of subordinate offices every year, however, Department informed that due to engagement of Head of the Department and other staff in work related to branch offices and paucity of time internal audit could not be conducted as per roster system in 2014-15. The Department conducted audit of 16 units in 2014-15 and total 96 paragraphs of general nature were included in these audit reports and officials were directed to carry out work in accordance with the Departmental manual.

The details of units planned, audited and number of observations raised, settled and outstanding during the last five years are given in the following **Table-3.2**.

Table - 3.2

Year	No. of units as per roster	Number of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Outstanding paras at the end of year
2010-11	50	41	09	18.00	60	07	117
2011-12	50	16	34	68.00	64	12	169
2012-13	50	16	34	68.00	111	10	270
2013-14	35	08	27	77.14	41	00	311
2014-15	-	16	-	-	96	00	407

From the above table, it is evident that the Department could not achieve the targets of internal audit of units planned as per roster from 2010-11 to 2013-14 as shortfall ranged from 18 *per cent* in 2010-11 to 77.14 *per cent* in 2013-14. The Department did not conduct internal audit in 2014-15 according to roster system and only 16 units out of 69 units were audited. The Department needs to strengthen the system of internal audit to remove the persistent irregularities pointed out by audit, some of which have already been discussed in this Chapter.