

CHAPTER-III
STATE EXCISE

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3.1 Tax administration

The Additional Chief 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 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 2014-15, test check of the records of 10 units out of 12 units relating to state excise duty, showed non/short realisation of excise duty/license fee/interest/penalty and other irregularities involving ₹24.23 crore in 76 cases as given below:

Table 3.1

			₹ in crore
Sr. No.	Categories	Number of cases	Amount
1.	Non/short realisation of excise duty	10	2.70
2.	Non/short recovery of license fee/interest/penalty etc.	42	8.11
3.	Other irregularities	24	13.42
Total		76	24.23

During the course of the year, the Department accepted underassessment and other deficiencies of ₹14.00 crore in 78 cases, which were pointed out in earlier years out of which an amount of ₹3.22 crore was realised in 62 cases of which ₹2.28 crore in 48 cases pertain to earlier years and ₹0.94 crore in 14 cases for the year 2014-15.

A few illustrative cases involving ₹9.01 crore are discussed in the following paragraphs.

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

Additional fee payable for short lifting of 16,17,994 pls of liquor during 2013-14 by 725 vends were not demanded by the concerned AETCs, resulting in short recovery of additional fee amounting to ₹3.24 crore, out of which ₹50.28 lakh has been recovered after being pointed out by audit.

The Minimum Guaranteed Quota (MGQ) of Country Liquor (CL), Foreign Spirit Indian Made Foreign Spirit (IMFS) and Imported Foreign Spirit (IFS) both bottling in India and bottling in original is fixed in proof litres (pls) by the

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)

Government for the State. It is further allotted for each vend at the District level by the respective Assistant Excise and Taxation Commissioner of the district.

Para 4.3 of the Excise Announcement 2013-14 provides that licensee shall be required to lift cent *per cent* monthly Minimum Guaranteed Quota (MGQ) as fixed for each vend failing which he shall still be liable to pay license fee fixed on the basis of the MGQ. In addition, the licensee shall also be liable to pay additional fee at the rate of ₹20 per proof litre (PL) on un-lifted quota, which falls short of the MGQ. The AETC/ETO shall review the position of lifting of MGQ every month if the licensee is failed to lift the monthly MGQ, he shall proceed to recover the additional license fee.

Audit test checked the M-2 registers² between June 2014 and February 2015 of seven AETCs³ and noticed that licensees of 725 vends of 224 units had lifted 86,09,857 proof litre (pls) of liquor against the monthly MGQ of 102,27,851 pls which was short by 16,17,994 pls during 2013-14 for which an additional fee of ₹3.24 crore though payable was not demanded by the concerned AETCs. The mistake escaped the notice of the Excise and Taxation Commissioner also, to whom the 'Annual Lifting and Consumption Statements' were furnished with returns.

On this being pointed out, the ETC, Shimla intimated (August 2015) that out of ₹3.24 crore, an amount of ₹50.28 lakh⁴ had been recovered by the five AETCs from the licensees of 79 vends and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and March 2015; their replies have not been received (December 2015).

3.4 Short recovery of license fee

The Department could recover license fee of ₹12.83 crore only against the recoverable license fee of ₹17.25 crore during the year 2013-14, from the licensees of 28 vends, resulting in short recovery of license fee amounting to ₹4.42 crore, besides, interest of ₹46.81 lakh was also leviable.

The State excise authorities grant licenses for sale of various kind of liquor in State for which the licensee is required to pay annual license fee based on monthly Minimum Guaranteed Quota of liquor fixed at the prescribed rates. Para 4.4 (a) (b) and (c) of the Excise Announcement 2013-14 provides that the annual license fee of a particular vend shall be predetermined based on the Minimum Guaranteed Quota of liquor fixed for vend for whole of the year on the prescribed rates of license fee. The license fee shall be divided into 12 monthly instalments and the licensee shall deposit it into Government treasury by the last day of each month and last instalment for the month of March shall be

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

³ Baddi: 39 vends: ₹16.93 lakh, Bilaspur: 58 vends: ₹32.60 lakh, Mandi: 375 vends: ₹83.74 lakh, Shimla: 118 vends: ₹74.32 lakh, Nahan: 24 vends: ₹31.26 lakh, Solan: 42 vends: ₹15.62 lakh and Una: 69 vends: ₹69.13 lakh

⁴ Baddi: seven vends: ₹4.06 lakh, Bilaspur: 35 vends: ₹25.92 lakh, Mandi: five vends: ₹0.36 lakh, Shimla: 21 vends: ₹13.85 lakh and Solan: 11 vends: ₹6.09 lakh

paid in full by 15th of March before obtaining the excise pass for issue of liquor. Para 4.5 (a), further, provides that if the licensee fails to deposit the license fee, interest is leviable at the prescribed rates and as per Para 4.5 (c) the AETC in-charge of the district, or any other officer authorised would ordinarily seal vend on 1st day of the following month or 16th March as the case may be.

Test check of the M-2 registers of five AETCs⁵ between June 2014 and February 2015 showed that against the recoverable license fee of ₹17.25 crore for the year 2013-14, from the licensees of 28 vends of 20 units, the department could recover only a sum of ₹12.83 crore. The concerned AETCs neither take any action to recover the balance amount of license fee nor they sealed vend, resulted in short recovery of license fee amounting to ₹4.42 crore. Besides, interest of ₹46.81 lakh was also accrued on unpaid amount of license fee.

On this being pointed out (June 2014 and February 2015), the ETC, intimated in September 2015 that out of ₹4.42 crore, an amount of ₹31.52 lakh had been recovered from owners of five vends by three AETCs, whereas AETC Shimla had declared ₹156.63 lakh as ALR and directed to recover the balance amount of ₹15.07 lakh immediately.

The matter was reported to the Government between July 2014 and March 2015; their replies have not been received (December 2015).

3.5 Non- recovery of bottling license/franchise fee and interest.

Bottling license fee of ₹27.58 lakh was neither demanded by AETCs nor deposited by three licensees and in another case interest of ₹2.14 lakh was leviable on belated payment of bottling license fee and franchise but had not been levied/recovered by the department. This resulted in non-recovery of bottling license fee and interest to the tune of ₹29.72 lakh.

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 CL/IMFL bottled by them. These fees shall be paid by the licensee quarterly within seven days of the expiry of each quarter. Para 5.1 (29) (iii) and (iv) of the Excise Announcements 2013-14 provides that licensee of distilleries and bottling plants in Himachal Pradesh shall also pay franchise fee on the bottling of brands of IMFS of the distilleries and bottling plants situated outside the State of Himachal Pradesh. Rule 9.5 (8) of PDR, further, provides that if the licensee fails to pay the fee or part thereof by the due date, interest at the rate of 12 *per cent* per annum up to one month and if the default in payment exceeds one month, interest at the rate of 18 *per cent* for the entire delay shall be payable.

Audit test checked (between June 2014 and November 2014) the D-2 and D-15A register of two distilleries and breweries under the jurisdiction of two AETCs⁶ who were engaged in manufacturing of CL, and noticed that the bottling license fee for the period 2013-14, aggregating to ₹27.58 lakh was neither

⁵ Dharmshala (Kangra) 2 vends: ₹19.06 lakh, Mandi: 2 vends: ₹77.35 lakh, Nahan (Sirmour): 11 vends: ₹169.86 lakh, Shimla: 8 vends: ₹171.70 lakh and Solan: 5 vends: ₹3.83 lakh

⁶ Baddi: M/s Kala Amb Distillery and Brewery: ₹6.92 lakh and Sirmour at Nahan: M/s Tiloksons Distillery and Brewery: ₹20.66 lakh

demand by AETCs nor deposited by the licensees. Similarly, in AETC, Nurpur (Kangra), a licensee⁷ had paid bottling license fee and franchise fee of ₹63.49 lakh belatedly with a delay ranged between nine to 122 days for the years 2012-13 to 2013-14 on which interest of ₹2.14 lakh was leviable but had not been levied/recovered by the department. Thus, inaction on the part of department resulted in non-recovery of bottling license fee and interest to the tune of ₹29.72 lakh (₹27.58 lakh + ₹2.14 lakh).

On this being pointed out (between June 2014 and November 2014), the ETC, intimated (June 2015) that out of ₹29.72 lakh an amount of ₹26.22 lakh had been recovered from the three licensees and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and December 2014; their replies have not been received (December 2015).

3.6 Non/short recovery of fixed/license fees for not opening of vends L-13/L-1B/L-1BB

Fixed fee for the year 2013-14 was recoverable from a licensee for not opening of four vends was neither demanded by the department nor deposited by the suppliers, which resulted in non-recovery of fixed fee of ₹8.00 lakh. Against fixed fee and license fee of ₹10.70 lakh, ₹6.15 lakh had only been recovered from these licensees for excess import of foreign liquor, resulted in short-recovery of fixed fee of ₹4.55 lakh.

Para 6.10 of the Excise Announcement for the year 2013-14 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 fee. Rules, further, provide that the annual license fee of L-13 had been fixed at ₹2,00,000 for the year 2013-14. Para 5.1 (3) & (4) provides that fixed license fee and renewal fee for L-1B and L-1BB licensees (wholesale vends) of Foreign Liquor, Country Liquor and Beer per license for the year 2013-14 shall be paid as per the prescribed rate.

3.6.1 Audit test checked the records of two distilleries and bottling plant⁸ in June 2014 of AETC, Nahan and noticed that two licensees engaged in manufacturing of Country Liquor (CL) had not opened L-13 vends in four districts out of 10 districts allotted to them for the year 2013-14. Therefore, fixed fee of ₹8.00 lakh was recoverable from the licensee for not opening of four vends. This was neither demanded by the department nor deposited by the suppliers, which resulted in non-recovery of fixed fee of ₹8.00 lakh.

3.6.2 Audit, further, test checked the records relating to L-1B & L-1BB vend between November 2014 and January 2015 of AETCs, BBN Baddi and Bilaspur and noticed that fixed fee and license fee of ₹10.70 lakh was recoverable from these licensees⁹ for excess import of foreign liquor during the years 2013-14, out

⁷ M/s V. R. V. Foods Ltd., Sansarpur Terrance

⁸ M/s Tiloksons distillery and brewery: ₹2.00 lakh and Hill Vies distillery and bottling plant: ₹6.00 lakh

⁹ M/s Superior Ind. Ltd.: ₹0.10 lakh, M/s Pernold Recard India: ₹0.87 lakh (Baddi) and M/s Guru Narayan Suri & Co. ₹3.58 lakh (Bilaspur)

of which only ₹6.15 lakh had been recovered. This resulted in short-recovery of fixed fee of ₹4.55 lakh.

On this being pointed out (between June 2014 and January 2015), the ETC intimated (August 2015) that out of ₹12.55 lakh (₹8.00 lakh+₹4.55 lakh), an amount of ₹9.88 lakh had been recovered and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and February 2015; their replies have not been received (December 2015).

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

Interest amounting to ₹59.29 lakh on belated payment of license fee of ₹64.53 crore was not demanded by the department from the licensees of 130 vends, resulting in short levy of interest to that extent.

Para 4.4 (d) of the Excise Announcement 2013-14 provides that if licensee is unable to lift the Minimum Guaranteed Quota within a month he shall still be required to pay the full instalment of license fee for that month by the last day of the month and fee for the month of March shall be paid in full by 15th of March. Further, as per Para 4.5 (a) if the licensee fails to pay the amount of license fee on due dates, interest at the rate of 10 per cent upto one month and 18 per cent per annum thereafter shall be leviable.

Test check of the M-2 registers of seven AETCs¹⁰ between June 2014 and February 2015 showed that licensees of 130 vends of 123 units had deposited license fees of ₹64.53 crore belatedly (between April 2013 and June 2014) with a delay ranged between two and 276 days for the year 2013-14. They were, therefore, liable to pay interest of ₹59.29 lakh on belated payments but the concerned AETCs had not demanded the same. This omission resulted in non-levy of interest of ₹59.29 lakh.

On this being pointed out (between July 2014 and February 2015), the ETC intimated (September 2015) that out of ₹59.29 lakh, an amount of ₹15.54 lakh¹¹ had been recovered from 67 units and efforts were being made to recover the balance amount.

The matter was reported to the Government between July 2014 and February 2015; their replies have not been received (December 2015).

¹⁰ Bilaspur: 14 vends: ₹6.71 lakh, Hamipur: 16 vends: ₹2.33 lakh, Mandi: 23 vends: ₹8.40 lakh, Nahan: 18 vends: ₹8.09 lakh, Shimla: 23 vends: ₹21.95 lakh, Solan: 24 vends: ₹10.75 lakh and Nurpur at Kangra: 12 vends: ₹1.06 lakh

¹¹ Bilaspur: 12 units: ₹6.17 lakh, Hamipur: 16 units: ₹2.33 lakh, Mandi: nine units: ₹0.73 lakh, Nahan: seven units: ₹1.82 lakh, Shimla: three units: ₹1.56 lakh, Solan: 14 units: ₹2.11 lakh and Nurpur at Kangra: six units: ₹0.82 lakh

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

Dues on account of salaries of ₹33.63 lakh of excise establishment staff posted in a brewery, a distillery and two bottling plants were not recovered from the licensees for the year 2013-14.

A Government Excise Establishment (Staff) is posted in distilleries, breweries, and bottling plants for ensuring the due observance of Rules and for watch and ward for which the licensee have to pay the salaries to that staff. 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 October 2014 and January 2015 of a brewery, a distillery and two bottling plants with that of three AETCs¹² and noticed that the salaries amounting to ₹34.38 lakh of the excise establishment posted to the distillery/brewery/bottling plants required to be paid by the licensees for the year 2013-14, out of which they paid only ₹0.75 lakh, inspite of the fact that the AETCs, being the Drawing and Disbursing Officers, were aware of these postings. The AETCs 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 itself of recoverable dues of ₹33.63 lakh.

On this being pointed out (between October 2014 and January 2015), the ETC, Shimla intimated in July 2015 that out of ₹33.63 lakh an amount of ₹11.48 lakh had been recovered in respect of AETCs, Hamirpur and Una.

The matter was reported to the Government between November 2014 and February 2015; their replies have not been received (December 2015).

¹² Hamirpur: Him Queen distillers & bottling plant: ₹6.48 lakh, Mandi: Goverdhan bottling plant: ₹7.16 lakh and Basant Rai bottling plant: ₹7.01 lakh and Una: RBL: ₹12.98 lakh