

CHAPTER III
STATE EXCISE
DUTIES

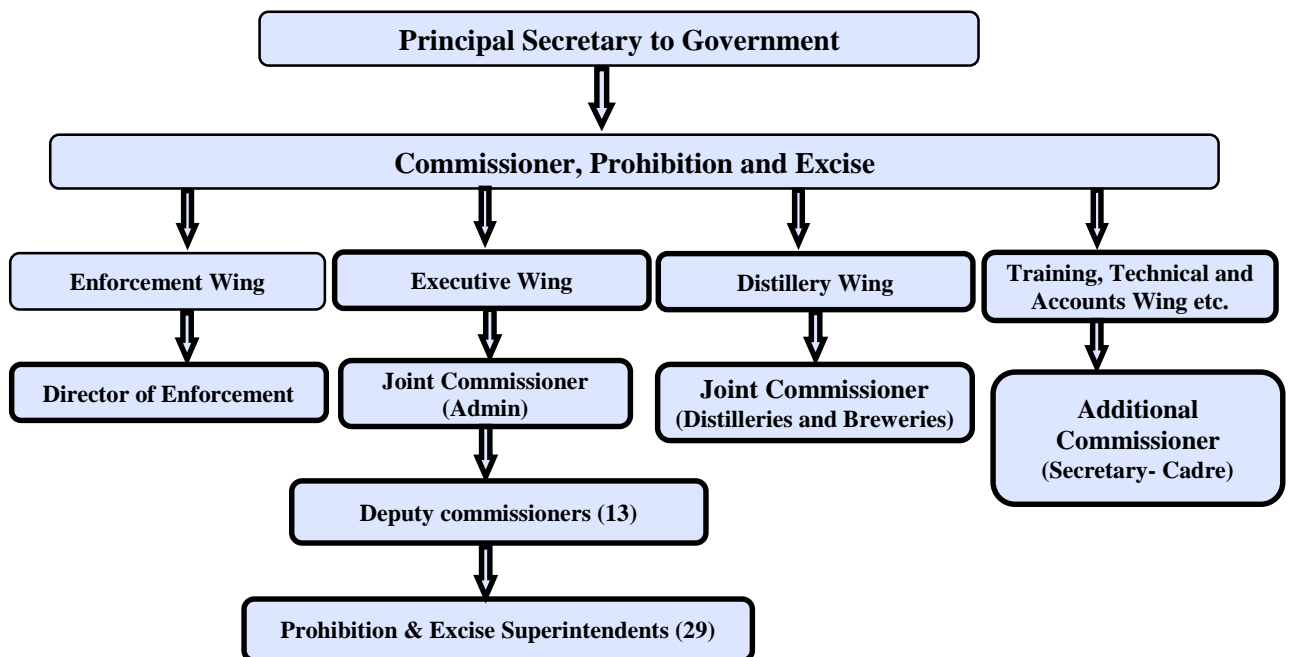
CHAPTER III STATE EXCISE DUTIES

3.1 Tax Administration

Functioning of the Prohibition and Excise (P&E) Department is governed by the Andhra Pradesh Excise Act, 1968 (AP Excise Act), the Narcotic Drugs and Psychotropic Substances Act, 1985, the AP Prohibition Act, 1995, etc. The Principal Secretary to Government, Revenue Department is the controlling authority at Government level. The Commissioner, Prohibition and Excise is the head of the Department in all matters connected with administration of these Acts. Commissioner is assisted by Director of Enforcement for implementation of these Acts. The 13 Revenue Districts of the State are sub divided into 29 Excise Districts.

The organisational hierarchy of the department is as under

Organogram



3.2 Internal Audit

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and departmental instructions and this is a vital component of the internal control frame work. Government of A.P. issued orders⁸⁷ (2003) for constitution of committees on Internal Audit at State level, District level and creation of cell in the Finance Department to oversee the activities of internal audit. Despite lapse of 15 years, Internal audit wing has not been established.

Present status though called for (May 2018) has not been received.

3.3 Results of Audit

There are 103⁸⁸ auditable units in the Department. Of these, test check of records of 14 offices was conducted during the year 2017-18. The revenue realised by the State for the year 2016-17 was ₹ 4,645 crore and that of audited units was ₹ 1,814.69 crore. Test check revealed underassessments and other deficiencies involving monetary impact of ₹ 6.71crore in 41 cases. The nature of Audit observations are broadly categorised in **Table 3.1**.

Table 3.1: Results of Audit

(₹ in crore)			
Sl.No.	Category	No. of cases	Amount
1.	Short levy of club licence fee	3	0.37
2	Non-levy/short levy of Annual/permit room licence fee	6	3.16
3	Short levy/Non-levy of toddy rentals	12	0.40
4	Non-levy of Additional Licence Fee(ALF)	4	2.25
5	Other irregularities	16	0.53
Total		41	6.71

During the year 2017-18, the Department accepted underassessment and other deficiencies of ₹ one crore in nine cases. Of these, ₹ 97.86 lakh involving eight cases were pointed out during the year 2017-18 and the rest in earlier years. An amount of ₹ 2.38 lakh was realised in one case during the year 2017-18. A few cases, involving ₹ 3.40 crore, are discussed in the succeeding paragraphs.

⁸⁷ G.O.Ms.No.478 & 479, Finance (Internal Audit) Department dated 10 November 2003.

⁸⁸ Commissioner (1), Dy. Commissioners (13), Assistant Commissioners (18), Prohibition and Excise Superintendents (29), Director of distillery and Breweries (1), Distilleries (40) & Director of Enforcement (1).

3.4 Short levy of Licence Fee

Merger of villages into nearby Municipal Corporation/ Municipality necessitated levying of higher licence fee. Failure to do so resulted in short levy of licence fee of ₹ 2.01 crore.

(i) As per Section 28 of the AP Excise Act, 1968 read with Rule 16 of the AP Excise (Grant of licence of selling by shop and conditions of licence) Rules 2012 and Government orders⁸⁹ dated 22 June 2015, the annual licence fee for retail shops shall be levied on the basis of population (census 2011) and at the rates notified by the Government from time to time.

Government in order dated 22 June 2015 notified the rates of licence fee for the years 2015-17. The licence fee payable for the population up to 5,000 was ₹ 30 lakh, and above 5,000 and up to 10,000 was ₹ 34 lakh and up to 25,000 ₹ 37 lakh, above 25,000 and up to 50,000 ₹ 40 lakh, above 50,000 and up to 3 lakh ₹ 45 lakh, above 3 lakh and up to 5 lakh ₹ 50 lakh and above 5 lakh ₹ 65 lakh per annum.

As per Government order (October 2012⁹⁰) Unduru village was merged with Samalkot Municipality. Similarly three villages viz. Rajanagaram, Gadala and Burugupudi were merged with Rajamahendravaram Municipal Corporation (March 2014⁹¹). The population of Samalkot Municipality and Rajamahendravaram Municipal Corporation as per census 2011 were 56,864 and 3,41,831 respectively. Due to merger of these villages, the licence fee applicable for Samalkot Municipality was to be applied for Unduru village (₹ 45 lakh per annum) and rates applicable to Rajamahendravaram Municipal Corporation was to be applied to Burugupudi, Gadala and Rajanagaram villages (₹ 50 lakh per annum).

During scrutiny (between February and March 2018) of shop licence files of two⁹² P&ESs offices, it was observed that the annual licence fee⁹³ for seven liquor shops was fixed at lower rates⁹⁴ without considering the merger of these villages into Samalkot Municipality and Rajamahendravaram Municipal Corporation. Annual licence fee of ₹ 4.72 crore was collected⁹⁵ from these shops during the period 2015-17 instead of ₹ 6.73 crore resulting in short levy of licence fee to the tune of ₹ 2.01 crore.

Government orders issued by Municipal Administration and Urban Development Department effecting merger of villages into Municipality and

⁸⁹ G.O.Ms.No.217, Revenue (Excise-II) Department, dated 22 June 2015.

⁹⁰ G.O.Ms.No.394, Municipal Administration and Urban Development (Elec.I) Department, dated 17 October 2012.

⁹¹ G.O.Ms.No.44, Panchayat Raj and Rural Development (PTS.IV) Department, dated 04 March 2014.

⁹² Kakinada and Rajamahendravaram.

⁹³ For the licence period 01 July 2015 to 30 June 2017.

⁹⁴ Applied rates per annum at ₹ 30 lakh (Unduru and Gadala) against ₹ 45 lakh and ₹ 50 lakh respectively, ₹ 34 lakh (Burugupudi) against ₹ 50 lakh and ₹ 37 lakh (four shops at Rajanagaram) against ₹ 50 lakh.

⁹⁵ For one shop licence was issued in November 2015, hence proportionate licence fee levied.

Municipal Corporation were not endorsed to Revenue Department. Lack of coordination between two departments led to short levy of licence fees.

(ii) As per Rule 4 (i) of AP Excise (Grant of Licence of selling by in-house and conditions of licence) Rules 2005, Andhra Pradesh Tourism Development Corporation Limited (APTDC) may be granted licence in Form TD-1 to sell Indian Made Foreign Liquor and Foreign Liquor in glasses or pegs for consumption within the licensed premises of guest house run by it. The annual licence fee for the licences issued in Form TD-1 was ₹ six lakh per annum in places where the population of revenue village and its hamlets / Municipality/ Municipal Corporation is above three lakh.

Government (July 2013⁹⁶) had merged Vakalapudi village with Kakinada Municipal Corporation. As per census 2011, the population of Kakinada was 3,12,538. Hence, the licence fee of ₹ six lakh per annum applicable for Kakinada was to be levied in respect of Vakalapudi.

It was observed (February 2018) that TD-1 licence was granted (September 2015) to Divisional Manager, APTDC, Kakinada in their beach resort unit near Vakalapudi village. P&ES, Kakinada levied licence fee of ₹ three lakh per annum during the year 2015-16 instead of ₹ six lakh per annum without considering its merger with Kakinada Municipal Corporation. This had resulted in short levy of licence fee to the tune of ₹ three lakh.

P&ES, Kakinada accepted and replied (February 2018) that notices would be issued for payment of differential licence fee.

3.4.1 Non-levy of permit room⁹⁷ Licence Fee

Permit room licence was issued to three retail liquor shops without considering the upgradation of villages into Municipal Corporation/ Municipality resulting in non- levy of permit room licence fee amounting to ₹ 12.00 lakh.

As per Rule 25 of AP Excise (Grant of licence of selling by shop and conditions of licence) Rules 2012, the holder of licence for retail liquor shop in places with population of 5,000 and above, shall be licensed to have a permit room⁹⁸. As per Rule 26, the licence fee for a permit room shall be ₹ four lakh for the licence period 2015-17 or part thereof and is payable in lumpsum at the time of issue of licence.

Government through orders (February 2012⁹⁹, October 2012 and March 2014) had merged three villages viz. Maredubaka with Mandapeta Municipality,

⁹⁶ G.O.Ms.No.367, Municipal Administration and Urban Development (Elec.II) Department, dated 29 July 2013.

⁹⁷ Consumption area adjacent to the liquor shop.

⁹⁸ The permit room should be located adjacent to shop premises and it must have a minimum plinth area of 15 sq.mtrs (and a maximum of 50 sq.mtrs) for consumption of liquor with additional facilities of sanitation.

⁹⁹ G.O.Ms.No.58, Municipal Administration and Urban Development (Elec.I) Department, dated 04 February 2012.

Unduru with Samalkot Municipality and Gadala with Rajamahendravaram Municipal Corporation. The population of Mandapet, Samalkot and Rajamahendravaram exceeded 5,000 (census 2011). Since population of these villages exceeded 5,000 due to merger of these villages with nearby Municipalities and Municipal Corporation, it is mandatory to have permit room for these areas.

Scrutiny (between February and March 2018) of shop licence files of two¹⁰⁰ P&ESs offices, disclosed that in three shops located in these three villages, department did not levy permit room licence fee for the year 2015-17. Department did not levy permit licence fee inspite of the fact that population of these villages exceeded 5,000 due to upgradation of these villages into Municipality/ Municipal Corporation. This resulted in non-levy of permit room licence fee amounting to ₹ 12 lakh¹⁰¹.

P&ES, Kakinada replied (February 2018) that notices would be issued to the licencees for payment of differential licence fee and credit particulars intimated to Audit. P&ES, Rajamahendravaram replied (March 2018) that merger of the villages had not taken place due to directions of Hon'ble High Court of Andhra Pradesh on the issue and short levy of licence fee did not arise. However, Government had amended (March 2014) the earlier orders (March 2013) by merging these villages with Rajamahendravaram Municipal Corporation after fulfilling the conditions specified by Hon'ble High Court of Andhra Pradesh (October 2013).

The matter was referred to Department (August 2018) and to the Government (September 2018); their reply has not been received (February 2020).

3.5 Non-levy of Additional Licence Fee

Additional Licence Fee of ₹ 94.11 lakh was not levied on 13 bar licence holders though plinth area of bar premises exceeded 300 square meters.

As per Section 28 of Andhra Pradesh Excise Act, 1968 read with Rule 6 (1) (i) (a) of AP Excise (Grant of licence of selling by bar and conditions of licence) Rules 2005, licence should be granted to a bar with minimum plinth area of 200 square metres. In terms of proviso to this Rule, if the plinth area exceeds 300 square metres Additional Licence Fee (ALF) at 10 *per cent* of Annual Licence Fee should be paid for every 100 square metres or part thereof. These Rules came into force through Government Order¹⁰² dated 11 December 2015 from 1 January 2016 and was effective up to 31 July 2016.

¹⁰⁰ Kakinada and Rajamahendravaram.

¹⁰¹ ₹ 2 lakh per annum for two years in respect of three shops.

¹⁰² G.O.MS. No. 468 Revenue (Excise-II) department dated 11 December 2015.

During scrutiny (between October 2017 and March 2018) of bar licence files¹⁰³ in three offices¹⁰⁴ of P&ESs, it was seen from the approved blue prints of 13 bars that the plinth area of these bar premises exceeded 300 square metres, however, the additional licence fee of ₹ 94.11 lakh was not levied.

P&ES Kakinada replied (February 2018 with respect to five bars) that notices would be issued to bar licences for payment of ALF. P&ES, Rajamahendravaram replied (March 2018 with respect to two bars) that short levy would be collected in one case. In another case, it was contended that consumption plinth area of 220.10 square meters was to be excluded from total plinth area as that was being shared with another hotel. Since the plinth area of bar did not exceed 300 square meters after excluding common consumption plinth area, it was argued that ALF was not leviable. The ALF becomes payable as total plinth area as per approved plan exceeded 300 square metres. P&ES, Ongole replied (October 2017 with respect to six bars) that matter would be examined and detailed reply would be furnished in due course.

The matter was referred to Department (August 2018) and to the Government (September 2018); their reply has not been received (February 2020).

3.6 Short levy of Toddy Rentals

Toddy rentals applicable to rural areas were applied instead of rates applicable to urban areas resulting in short levy of toddy rentals amounting to ₹ 28.89 lakh.

Rule 5 (5) of the AP Excise (Grant of licence to sell Toddy, conditions of licence and Tapping of Excise trees) Rules, 2007 read with Government order dated 13 November 2007¹⁰⁵, prescribes the rate of rent per tree per annum to be ₹ 25 in rural areas and ₹ 50 in urban areas with effect from 01 October 2007. Any change in the status is notified by the Government, whenever Gram Panchayats are upgraded as Nagar Panchayat or merged with Municipalities/ Municipal Corporations. As per 2011 Census, certain villages were classified as Census Towns¹⁰⁶ (CT) and Out Growths¹⁰⁷ (OG) under urban category. Accordingly, toddy rentals in these areas were to be collected as per rates applicable to urban areas.

Scrutiny (between December 2017 and March 2018) of toddy rental collection registers and related files in four offices¹⁰⁸ of the P&ESs, disclosed that the rentals in 37 Toddy Cooperative Societies were levied at rates applicable in rural areas, instead of urban areas. This had resulted in short levy of toddy rentals amounting to ₹ 28.89 lakh during the period from 2014-15 to 2016-17.

¹⁰³ For the period from 1 January 2016 to 31 July 2016.

¹⁰⁴ Kakinada, Ongole and Rajamahendravaram.

¹⁰⁵ G.O.Ms.No.1433, Revenue (Ex-III), dated 13 November 2007.

¹⁰⁶ Census Town is one which is not statutorily notified and administered as a Town, but nevertheless whose population has attained urban characteristics.

¹⁰⁷ Out Growth is an urban settlement strictly contiguous to another urban area i.e., Town or a City.

¹⁰⁸ Kakinada, Eluru, Rajamahendravaram and Vizianagaram.

P&ES, Kakinada and Vizianagaram replied¹⁰⁹ that notices would be issued to the TCSs for collecting the balance toddy rentals. P&ES, Rajamahendravaram contended (March 2018) that merger of the villages had not taken place. However, Government had issued orders (March 2014) regarding merger of villages with Rajamahendravaram Municipal Corporation. P&ES, Eluru replied that the matter would be examined and a detailed reply furnished to audit in due course.

The matter was referred to Department (August 2018) and to the Government (September 2018); their reply has not been received (February 2020).

¹⁰⁹ Between December 2017 and March 2018.

