



CHAPTER - III
STATE EXCISE



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3.1 Administration

The State Excise Department is responsible for collection of revenue under Assam Excise Act and enforcement of Excise laws on prohibition of illicitly distilled liquor, *Ganja*, *Bhang* and Opium. In addition, the Department is given the responsibility of enforcing the provisions of Narcotic Drugs and Psychotropic Substances Act and the Medicinal & Toilet Preparation Act. The Commissioner of Excise (CE), Assam is the head of the Department. He is primarily responsible for administration and execution of Excise policies and programmes of the State Government. He is assisted by an Additional Commissioner of Excise, a Joint Commissioner of Excise and two Deputy Commissioners of Excise, one at headquarters and another for Bodoland Territorial Area.

Source of excise revenue comes from *advalorem* levy, establishment charges, various kinds of licence fee on foreign liquor/beer, country spirit, rectified spirit etc. Further, import pass fee, export pass fee, transport pass fee and underbond pass fee, brand & label registration/renewal fee also generate revenue to Government exchequer.

During 2015-16, *advalorem* levy structure reviewed, licence fee of various excise licences revised, a new fee, *i.e.* Application Fee introduced, import/ transport Permit fee restructured and laws was amended for time bound deposit of licence fee.

3.2 Working of internal audit wing

Internal audit, a vital component of internal control mechanism, functions as ‘eyes and ears’ of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

The Department stated that the Finance Department has not put in place any separate internal audit system for Excise Department. However, inspections of different establishments under Excise Department are conducted by officers of the Department at different levels. Thus, had there been an effective internal audit system in the Department, the deficiencies could have been rectified through internal evaluation and the system would be functioning better.

Recommendation 1: As the Finance Department has not arranged for internal audit of the State Excise units till now, the Department may in coordination with Finance Department, arrange to conduct internal audit of its records/unit Offices.

3.3 Results of audit

In 2015-16, test check of the records of 19 units relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/renewal fee and other irregularities involving ₹ 19.82 crore in 129 cases, as mentioned in **Table 3.1**.

Table 3.1
Results of Audit

Sl. No.	Category	(₹ in crore)	
		Number of cases	Amount
1.	Non-realisation of revenue against damaged stock allowed for destruction	05	5.32
2.	Non/Short payment of Licence Fee	20	4.31
3.	Loss due to non-levy of Excise Duty	07	0.46
4.	Non/Short realisation of Establishment Charges	04	0.40
5.	Other irregularities	93	9.33
Total		129	19.82

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 19.05 crore in 20 cases which were pointed out in earlier years and during the year 2015-16. An amount of ₹ 31.89 lakh was recovered in 16 cases during the year 2015-16.

A few illustrative cases involving ₹ 3.13 crore are discussed in the following paragraphs.

Audit observations

3.4 Revenue of ₹ 1.02 crore was not realised against damaged stock allowed for destruction

As per Rule 43 of the Assam Bonded Warehouse (ABW) Rules, 1965, if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they might be rejected or destroyed or otherwise dealt with under the orders of the CE. Further, Rule 32 of the ABW Rules mentions that the State Government shall not be held responsible for the destruction, loss or damage of any spirits stored in warehouse by fire or by gauging or by any other cause, whatsoever.

[Superintendent of Excise (SE), Karbi Anglong, Diphu; May 2015]

3.4.1 During scrutiny of records of M/s Radiant Manufacturers Pvt. Ltd., Bokajan in the above SE Office, it was observed that the CE, Assam allowed (March 2015) destruction of 8,316 cases of India Made Foreign Liquor (IMFL) and 12,581 cases Beer involving excise duty of ₹ 72.79 lakh which were found to be unfit for human consumption due to prolonged storage. Accordingly the stock of IMFL/Beer was destroyed under supervision of the SE, Diphu and excluded from the stock in March 2015. This resulted in revenue of ₹ 72.79 lakh not being realised.

[SE, Jorhat; May 2015]

3.4.2 During scrutiny of records of M/s Borgohain Enterprise Pvt. Ltd. under the above SE Office, it was observed that the CE, Assam allowed (February 2015) destruction of 30,567.61 LPL of IMFL and 34,172.25 BL of Beer involving excise duty of ₹ 28.81 lakh which were found to be unfit for human consumption due to prolonged storage. Accordingly the stock of IMFL/Beer was destroyed and excluded from the stock in March 2015. This resulted in revenue of ₹ 28.81 lakh not being realised.

On this being pointed out, the SE, Jorhat (August 2016) stated that the licensee (M/s Borgohain Enterprise Pvt. Ltd.) had filed a prayer petition for exemption of Excise Duty on the destroyed quantity. Report on further developments has been awaited (January 2017).

However, in the cases of the above two licensees it was noticed that though the Rule 32 of ABW Rules specifically states that the State Government shall not be responsible for any damage/destruction of IMFL/Beer, neither did the licensees pay the excise duty involved nor was any demand raised by the excise authorities for recovery of the same.

The cases were reported to the Department/Government between May and June 2015 and followed up in April 2016; their replies have not been received (January 2017).

3.5 Revenue of ₹ 70.70 lakh involved in stock of IMFL damaged in fire was not recovered despite specific orders of the CE

[SE; Dibrugarh; February 2014 and August 2015]

As per Rule 28 of the ABW Rules, 1965, a licensee of a bonded warehouse, who has imported or transported spirit under a bond for payment of duty, shall pay to the Government, excise duty at the prescribed rates on the quantity of spirits received in the warehouse and also for absence of the quantity of the spirit detected at the time when the spirit is measured, gauged and proved for removal. Rule 37 of the Rules *ibid* states that the licensee shall pay the duty as aforesaid in lieu of the duty payable unless he is able to account for the absence in respect of spirits in bottles and also subject to the allowances provided in respect of spirits. Further, Rule 32 of the ABW Rules absolves the State Government of any responsibility for the destruction, loss or damage of any spirits stored in warehouse by fire or by gauging or by any other cause, whatsoever.

During audit of M/s Zarang India Pvt Ltd, a bonded warehouse under the above SE, in February 2014 it was observed that the licensee had a closing stock of 90,547.08 LPL IMFL and 11,879.25 BL Beer as on 31 January 2014. In view of the stock being depicted in the books of accounts, SE was requested by audit to carry out a physical verification of the stock to ensure that it tallied with the book balance. During the subsequent audit of the above SE Office in August 2015 it was observed that the Deputy Superintendent of Excise of the district had carried out a physical verification of the stock on 20 March 2014 and submitted a report certifying the stock to be tallying with the book balance. Thereafter on 26 April 2014 the licensee reported that a fire broke out in the warehouse damaging most of the stock. Further scrutiny of the records revealed that the CE directed (July 2014) the SE to work out and recover the excise duty pertaining to the stock destroyed in fire within seven days. The SE accordingly worked out the excise duty as ₹ 70.70 lakh and directed (20 August 2014) the licensee to deposit the same within seven days. However, till the date of audit (August 2015) neither the licensee had deposited the revenue demanded nor was any action taken by the SE/CE to recover the same. This resulted in revenue of ₹ 70.70 lakh remaining unrealised.

The case was reported to the Department/Government in September 2015 and followed up in April 2016; their replies have not been received (January 2017).

3.6 Three bonded warehouses, one bottling unit, two retail ‘OFF’ and three ‘ON’ bar licencees did not pay the annual licence fees resulting in licence fees of ₹ 34.17 lakh not being realised

[SsE, Dibrugarh; Diphu and Sonitpur; May 2015, August 2015 and April - May 2015]

Rule 243 and 244 of the Assam Excise (AE) Rules, 1945 provide that the licencees of whole sale bonded warehouses and retail licencees are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the

Bond limit	Licence Fees
Upto ₹ 25 lakh	₹ 1 lakh
From ₹ 25 lakh to ₹ 50 lakh	₹ 1.50 lakh
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh
₹ 1 crore and above	₹ 5 lakh and ₹ 10 lakh (from June 2015)

commencement of the financial year. From 30 September 2010, the licence fees for retail ‘OFF’ and ‘ON’/Bar licencees¹ are ₹ 1 lakh and ₹ 50,000 per annum respectively. The bonded warehouses are required to pay licence fees depending upon the bond limits as shown in the inset. Besides, the bonded warehouses are also required to pay wholesale licence fees at ₹ 2 lakh per annum and the bottling units are liable to pay licence fees for compounding and blending, reduction and bottling, additional bottling fees, bonded warehouse and wholesale licence fees at prescribed rates².

During scrutiny of the records in the above SE Offices, it was observed that though the licence fees are to be paid in advance before the commencement of the year, three bonded warehouse, one bottling unit, two ‘OFF’ retail licencees and three bar licencees did not pay the licence fees for the years falling between 2014-15 and 2015-16. Though the amounts were not paid by the licencees as prescribed, no demand notice was issued by the concerned SE to recover the outstanding amounts from the licencees. This resulted in revenue of ₹ 34.17 lakh not being realised. Details are shown in the following table:

¹ ‘OFF’ licencees – where IMFL/Beer can be sold and cannot be consumed in the premises of the licencee and ‘ON’ licencees – where IMFL/Beer can be consumed in the premises of the licencee.

² Compounding and bottling - ₹ 1.50 lakh, reduction and bottling - ₹ 1.50 lakh (upto 30 lakh LPL), additional bottling fees - ₹ 8 per case (beyond production of 30 lakh LPL) and bonded warehouses licence fees and wholesale licence fees as per the scale.

Table No. 3.2

Name of the licensee	Name of SE	Type of licence	Year	Category	Licence fees remaining unpaid (₹ in lakh)
M/s N. K Bonded Warehouse	SE, Diphu	Bonded warehouse	2015-16	Bond renewal licence fees & Wholesale licence fees	1.50 2.00
M/s Sara Distillery		Bottling & Bonded warehouse		Bond renewal licence fees Wholesale licence fees Compounding & blending fee Reduction and importing fee Importing Bonded warehouse	2.50 2.00 1.50 1.50 2.50
Shri Ajit Teron		'OFF'		Retail licence fee	1.00
Shri Jeevraj Singh		-do-		-do-	1.00
Shri Ratan Dey		'ON'		Bar licence fees	0.50
M/s Zarrang India Pvt Ltd Bonded Warehouse		SE, Dibrugarh		Bonded Warehouse and wholesale	2015-16
M/s Sonitpur Bonded Warehouse	SE, Sonitpur	Bonded warehouse	2014-15	Renewal licence fees & Wholesale licence fees	1.50 1.50
			2015-16	Renewal Licence fees & Wholesale licence fees	1.50 1.50
Shri Deepak Tamang		'ON'	2015-16	Bar licence fees	0.50
N. Bar		-do-	2015-16	-do-	0.50
Total					34.17

On being pointed out, the SE, Diphu reported that the licensee Shri Ajit Teron had deposited the unpaid licence fee of ₹ one lakh for the year 2015-16. However, replies in respect of remaining licences had not been received (January 2017).

The cases were reported to the Department/Government between June and September 2015 and followed up in April 2016; their replies have not been received (January 2017).

³ Licence fees for the period April - May 2015 at old rates - ₹ 83,333 and for the rest of the period from June 2015 to March 2016 - ₹ 8,33,333 (pro-rata of ₹ 10 lakh payable as annual licence fees as revised).

3.7 Short realisation of excise duty of ₹ 31.90 lakh on IMFL/Wine/Beer issued to the retailers by two bonded warehouses

[SsE; Sonitpur Tezpur and Tinsukia; May and July - August 2015]

Rule 25 of the ABW Rules, 1965 provides that spirits may be removed from a bonded warehouse on pre-payment of duty. The excise laws also provide for maintenance of a stock register to be kept under the Officer-in-charge deputed by the State Government and for submission of monthly reports to the CE through the concerned district excise authorities.

During scrutiny of the records of M/s Mid Assam Bonded Warehouse and M/s Mohit Enterprise Bonded Warehouse under the above SsE, it was observed that the officers-in-charge allowed lifting of 1,03,880.81 BL IMFL, 11,382 BL Beer and 54 BL Wine during the month of March 2015 in respect of M/s Mid-Assam Bonded Warehouse and 15,114.76 BL IMFL pertaining to Luxury Brand in respect of the other licensee. As per the applicable rate of excise duty prescribed by the State Government in September 2010, revenue of ₹ 70.10 lakh and ₹ 10.48 lakh respectively was realisable from the licensees on the aforesaid volume of IMFL/Beer/Wine. However, scrutiny of the revenue statement of the bonded warehouses revealed that during the same month revenue aggregating ₹ 46.52 lakh and ₹ 2.16 lakh respectively was realised by the bonded warehouses. This resulted in short realisation of revenue of ₹ 31.90 lakh. Though the monthly statement was sent to the CE through the district SE the short realisation was not addressed.

The case was reported to the Department/Government between June and September 2015 and followed up in April 2016; their replies have not been received (January 2017).

3.8 Stock of IMFL/Beer/Wine was irregularly deducted from the stock register resulting in evasion of revenue of ₹ 29.56 lakh

[SE, Nagaon; November 2015]

As per Rule 43 of the ABW Rules, 1965, if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they might be rejected or destroyed or otherwise dealt with under the orders of the CE. Rule 32 of the ABW Rules mentions that the State Government shall not be held responsible for the destruction, loss or damage of any spirits stored in warehouse by fire or by gauging or by any other cause, whatsoever. Further, the officer-in-charge posted in the bonded warehouses are required to monitor the stock through stock registers and the same is intimated to the higher authorities through periodic reports/returns.

During scrutiny of records of M/s Dynasty Bonded Warehouse under the above SE, it was observed that on the request of the licensee, the CE directed (July 2015) for

destruction of 73,363.68 BL IMFL/Beer on the ground that the same were not fit for human consumption. Accordingly, the spirits were destroyed and reduced from the stock register in September 2015. Scrutiny of the records relating to the destruction revealed that out of the total volume allowed for destruction, IMFL totalled 50,706.81 LPL⁴ pertaining to General, Luxury, Premium and Classic Premium brands and as claimed by the licensee the stock was lying idle for various periods falling between June 2002 and December 2012. Verification of the stock register maintained by the officer-in-charge revealed that as of March 2014, the licensee had only 19,841.59 LPL⁵ of IMFL pertaining to brands destroyed. Analysis of the stock position of the brands as of March 2014 with those claimed to have been destroyed in September 2015 revealed that 30,980.44 LPL and 1,017.45 LPL of IMFL pertaining to Luxury and Premium brands respectively were shown to have been destroyed in excess of the stock available in March 2014. Thus, it is evident that the balance of 30,980.44 LPL and 1,017.45 LPL of IMFL was irregularly reduced from the stock as evident from the physical verification of the excise authorities which found the book and actual balance to be tallying after the reduction. This resulted in evasion of excise duty of ₹ 29.56 lakh⁶.

The case was reported to the Department/Government in December 2015 and followed up in April 2016; their replies have not been received (January 2017).

3.9 Irregular allowance of godown wastage leading to revenue of ₹ 23.38 lakh not being realised

As per Rule 37 of the ABW Rules, 1965 and subsequent executive instructions, the SE or the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of the quarter and the licensee shall pay duty at prescribed rates on all spirits in excess of an allowance of one *per cent* on account of wastage allowance.

[SE; Karbi Anglong, Diphu, May 2015]

3.9.1 During test check of records in the above Office, it was observed that a licensee M/s ANR Bonded Warehouse claimed godown wastage of 14,978.64 BL IMFL during the quarters ending January 2014 to March 2015. However, it was observed that during the same period there was no transaction (purchase/sales) and thus, the godown wastage involving revenue of ₹ 9.47 lakh claimed by the licensee was inadmissible and escaped the notice of the excise authorities. The

⁴ General brand 570.24 LPL; Luxury brand 47,699.55 LPL; Premium brand 2,243.70 LPL and Classic Premium 193.32 LPL.

⁵ General brand 1,345.77 LPL; Luxury brand 16,719.11 LPL; Premium brand 1,226.25 LPL and Classic Premium 550.46 LPL.

⁶ 30,980.44 LPL or 4,694 cases (@ 6.6 LPL per case) X ₹ 598.9 per case (excise duty pertaining to Luxury brand) = ₹ 28.11 lakh and 1,017.45 LPL or 154.16 cases (@ 6.6 LPL per case) X ₹ 942.5 per case (excise duty pertaining to Premium brand) = ₹ 1.45 lakh

irregular/inadmissible godown wastage resulted in revenue of ₹ 9.47 lakh not being realised.

[SE; Sonitpur Tezpur, April - May 2015]

3.9.2 During test check of records in the above Office, it was observed that during the quarter endings March 2014 and June 2014, M/s Mid Assam Bonded Warehouse claimed godown wastage of 22,705.66 BL against the admissible wastage of 2,270.56 BL calculated at one *per cent* of the closing stock of 2,27,056.55 BL. The excess and inadmissible wastage of 20,435.1 BL or 2,322 cases⁷ of IMFL pertaining to Luxury brand⁸ claimed by the licensee escaped notice of the Departmental officer. The excess deduction of godown wastage led to non-realisation of revenue of ₹ 13.91 lakh calculated at the prevalent rate of excise duty *i.e.* ₹ 598.90 per case applicable to Luxury brand.

The cases were reported to the Department/Government in June 2015 and followed up in April 2016; their replies have not been received (January 2017).

3.10 Five consignments of IMFL were not accounted for by two bonded warehouses on which demand was not raised by the SsE resulting in revenue of ₹ 14.21 lakh remaining unrealised

[SsE; Karbi Anglong, Diphu and Tinsukia; May and August 2015]

Rule 21 of the ABW Rules, 1965 provides that the spirits intended for warehouse shall be conveyed thereto under bond, and at the sole risk of the licensee of the warehouse. The bond shall be discharged when the foreign liquors have been deposited in the warehouse and have been duly gauged and proved by the officer-in-charge and after the duty on the excess deficiency, if any, has been realised. The excise laws also provide for maintenance of a stock register to be kept under the Officer-in-charge deputed by the State Government and for submission of monthly reports to the CE through the concerned district excise authorities.

During scrutiny of the records of M/s Friend Distillery and Bottling Industries Bonded Warehouse, Khatkhathi and M/s Eastern Wines under the above SE Offices, it was observed that five permits⁹ issued by the CE for lifting 1,100 cases of IMFL/11,444.40 BL IMFL from three bottling units M/s Saaran Industries, M/s Seven Sisters and M/s Aroma India Pvt Ltd were not accounted for in the stock register of the bonded warehouses. Though monthly reports were sent to the CE through the concerned SE Offices, the matter remained unnoticed. Consequently,

⁷ Calculated at 8.8 BL per case (750 ml/375 ml cases contain 9 BL while 180 ml cases contain 8.6 BL – hence calculated at median of the two as production of 180 ml is more than the other two).

⁸ IMFL is categorised into various brands like General, Regular, Luxury, Premium and Classic as per their cost price and excise duty is leviable at various rates as per the classification.

⁹ Two permits bearing No. 101 and 102 dated 16 October 2014 pertaining to M/s Friend Distillery and Bottling Industries Bonded Warehouse and three permits bearing No. 402, 439 and 465 dated 10 October 2014, 8 January 2015 and 22 October 2014 respectively pertaining to the other licensee.

demand for recovery of revenue involved in the unaccounted volume of IMFL was not raised resulting in revenue of ₹ 14.21 lakh remaining unrealised.

On being pointed out, the SE Diphu stated (December 2016) that steps had been taken for realisation of demand of ₹ 6.59 lakh in respect of M/s Friend Distillery and Bottling Industries Bonded Warehouse, Khatkhati. Report on recovery had not been received (January 2017). Reply in case of other dealer had not been received (January 2017).

The case was reported to the Department/Government between June and September 2015 and followed up in April 2016; their replies have not been received (January 2017).

3.11 Non-monitoring of stock of IMFL held by a bonded warehouse and enhancement of bond limit without realising the balance licence fees resulted in short realisation of licence fees of ₹ 7.50 lakh

[SE, Sonitpur Tezpur, April-May 2015]

Rule 243 of the AE Rules, 1945 provide that the licensee of whole sale bonded warehouses are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30 September 2010, the bonded

Bond limit	Licence Fees
Upto ₹ 25 lakh	₹ 1 lakh
From ₹ 25 lakh to ₹ 50 lakh	₹ 1.50 lakh
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh
₹ 1 crore and above	₹ 5 lakh

warehouses are required to pay licence fees at various rates depending upon the bond limits as shown in the inset. The stock of IMFL/Beer is to be maintained in a separate register to be kept at the disposal of the officers-in-charge of the bonded warehouses.

During scrutiny of records of M/s Mid Assam Bonded Warehouse under the above SE Office it was observed that the bond limit of the licensee was fixed as ₹ 1 crore. The annual licence fees of ₹ 2.50 lakh per annum was accordingly paid by the licensee for the years 2013-14 and 2014-15. However, scrutiny of the stock register and monthly reports submitted to the CE by the licensee revealed that the stock of IMFL/Beer held by the licensee on various dates during the above years had crossed the bond limit fixed by the CE which made the licensee liable to payment of licence fees at rates higher than that paid by it. The differential licence fees were neither paid by the licensee of the bonded warehouse nor did the concerned Officer-in-charge/SE detect the excise duty involvement in IMFL/Beer in stock crossing the bond limit fixed by the CE. Consequently, there was a short realisation of licence fees of ₹ 5 lakh. Details are shown in the following table.

Table No. 3.3

Name of the licencee/ bond limit fixed by CE	Year/ Licence fees paid (₹ in lakh)	Instances of duty involved in stock crossing over the bond limit		Licence fees payable (₹ in lakh)	Licence fees short realised (col 5 – col 2) (₹ in lakh)
		Month	Excise duty involved in the stock held (₹ in lakh)		
(1)	(2)	(3)	(4)	(5)	(6)
M/s Mid Assam Bonded Warehouse/ ₹ 1 crore	2013-14/ 2.50	January 2014	188.13	5.00	2.50
		February 2014	177.58		
		March 2014	177.74		
	2014-15/ 2.50	January 2015	215.99	5.00	2.50
		February 2015	237.25		
		March 2015	154.44		
Total					5.00

Similarly, during scrutiny of records of another licencee M/s Luit Valley Bonded Warehouse under the above SE, it was observed that the bond limit was enhanced by the CE (September 2014) from ₹ 80 lakh to ₹ 2.50 crore and the SE, Sonitpur Tezpur was instructed to recover the balance licence fees of ₹ 2.50 lakh¹⁰ from the licencee. However, neither did the licencee pay the balance fees nor was any demand raised by the SE, Sonitpur Tezpur for recovery of the balance amount.

Thus, there was short realisation of revenue of ₹ 7.50 lakh from two bonded warehouses.

The case was reported to the Government in June 2015 and followed up in April 2016; reply has not been received (January 2017).

¹⁰ As the licencee had already paid ₹ 2.50 lakh for 2014-15.

