

## CHAPTER-VI : STATE EXCISE

### 6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven zones which are headed by the Additional Excise Commissioners (AEC). District Excise Officers (DEO) and Excise Inspectors working under the control of the AECs of the respective zones are deputed to oversee and regulate levy/collection of excise duties and other levies.

### 6.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit as furnished by the Department was as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	-	-
2015-16	-	41	41	37	4	10

It would be seen from the above that 10 *per cent* of units selected for internal audit had remained unaudited during 2015-16.

Year-wise break up of outstanding paragraphs of internal audit reports as furnished by the Department was as under:

Year	upto 2010-11	2011-12	2012-13	2013-14	2014-15	Total
Paras	94	46	63	139	203	545

It was also noticed that 545 paragraphs were outstanding at the end of 2014-15, of which 94 paragraphs were outstanding for more than five years. The huge pendency of paragraphs, therefore, defeated the very purpose of internal audit. The position of outstanding paragraphs for 2015-16 was not furnished to audit despite being requested (July 2016).

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

### 6.3 Results of audit

Test-check of the records of 25 units of the State Excise Department conducted during the year 2015-16 disclosed non/short recovery of Excise Duty and Licence Fee, non-recovery of interest on security deposit, loss of Excise Duty on account of excess wastages of liquor and other irregularities involving ₹ 20.69 crore in 3,713 cases. These fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1	Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act.'	1	7.38
2	Non/short realisation of Excise Duty and Licence Fee	3,036	11.71
3	Loss of Excise Duty on account of excess wastages of Liquor	78	0.10
4	Non-recovery of interest on security deposits	449	0.17
5	Other irregularities		
	(i) Revenue	72	1.26
	(ii) Expenditure	77	0.07
<b>Total</b>		<b>3,713</b>	<b>20.69</b>

The Department accepted deficiencies in 1,336 cases involving ₹ 3.06 crore, of which 525 cases involving ₹ 1.14 crore had been pointed out in audit during 2015-16 and the remaining in earlier years. The Department recovered ₹ 1.86 crore in 847 cases, of which 36 cases involving ₹ 0.06 crore had been pointed out in audit during the year 2015-16 and the remaining in earlier years.

A Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act' involving ₹ 7.38 crore and few illustrative cases involving ₹ 87 lakh are discussed in the succeeding paragraphs.

## 6.4 Performance Audit on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act'

### 6.4.1 Introduction

The Rajasthan Excise Act, 1950 (Act) and Rules framed there under govern levy and collection of the excise duty leviable on liquor and beer produced in distilleries and breweries. A distillery is a licensed unit where spirits are obtained by distillation of molasses, grains and malt. It includes units where such spirits are redistilled, blended, compounded and processed to produce different kinds of Indian liquor, which are then bottled for sale. Brewery means a building where beer is brewed and includes every place therein where beer is stored.

The State Excise Department (Department) is responsible for the levy and collection of duties and fees on production, manufacture, possession, storage, transport, purchase and sale of liquor. There are 11 distilleries, eight breweries and 16 bottling plants producing liquor and beer in the state. There are located under the jurisdiction of five District Excise Officers<sup>1</sup> (DEOs) of the State.

The excise duty (ED) is leviable as per London Proof<sup>2</sup> Litre (LPL). The quantity of the spirit is depicted in Over Proof<sup>3</sup> (OP) while the quantity of liquor is measured in Under Proof<sup>4</sup> (UP).

### 6.4.2 Organisational set up

The Department is headed by Excise Commissioner (EC) under the administrative control of secretary, Finance (Revenue), Government of Rajasthan. He is assigned by seven Additional Excise Commissioner at zonal Headquarters (Ajmer, Bharatpur, Bikaner, Jaipur, Jodhpur, Kota and Udaipur) and 36 District Excise Officers (DEOs) in 33 Districts and two DEOs (prosecution) at Jaipur and Jodhpur. Besides, Assistant Excise Officers (AEOs) are posted in the distilleries/breweries to ensure the compliance of rules and regulations made by the Government from time to time.

### 6.4.3 Audit objectives

The Performance Audit (PA) was carried out with a view:

- to ascertain whether the provisions/system contained in Act and Rules were adequate to safeguard interest of the Department;
- to ascertain the level of compliance of the provisions existing in Act, Rules, Excise Policies and notifications/circulars issued thereunder; and
- to ascertain the adequacy and effectiveness of the internal control mechanism in preventing leakage of revenue.

<sup>1</sup> DEOs: Alwar, Banswar, Behror, Sikar and Udaipur.

<sup>2</sup> The proof spirit contains 49.24 % by weight of alcohol and 50.76 per cent of water of 57.06 per cent of alcohol by measure of volume.

<sup>3</sup> Over proof spirit is that which is stronger than proof spirit and is described according to number of measure of proof spirit that 100 volumes would yield when suitably diluted with water. Thus, spirit of 66° or 66 O.P. contains 166 volumes of proof spirit.

<sup>4</sup> When the strength of spirit is weaker than proof spirit, it is called under proof. Thus spirit of 25° or 25 UP contains 75 volumes of proof spirit and 25 volume of water.

#### 6.4.4 Audit scope and methodology

The PA on 'Functioning of Distilleries, Breweries and Bottling Plants engaged in production of Beer/Liquor under the State Excise Act' covering the period from 2010-11 to 2014-15 was conducted between April 2016 and June 2016. Of the 11 distilleries functioning in the State, two distilleries are run by Rajasthan State Ganganagar Sugar Mills Limited (Government Company). These have been excluded<sup>5</sup> from the scope of this PA.

Audit test checked the records of the Excise Commissioner, nine distilleries, seven<sup>6</sup> out of eight breweries and eight out of 16 bottling plants licenced for Indian Made Foreign Liquor (IMFL) located under the jurisdiction of five DEOs of the State.

#### 6.4.5 Audit Criteria

The audit findings were bench marked against the criteria from the following Acts/Rules, etc.

- The Rajasthan Excise Act 1950,
- The Rajasthan Excise Rules 1956,
- The Rajasthan Brewery Rules 1972,
- The Rajasthan Distilleries Rules 1977,
- Rules regarding stock taking & wastage of liquor (at distilleries and warehouses) Rules 1959, and
- Conditions & Restrictions on establishment or licence of Bonded Warehouse.

#### 6.4.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the State Excise Department in providing necessary information and records for audit. The audit methodology, scope and objectives of PA were discussed with the Secretary, Finance (Revenue), Government of Rajasthan in an Entry Conference held on 18 April 2016. An Exit Conference was held on 10 October 2016 with Secretary Finance (Revenue), Government of Rajasthan, Excise Commissioner and other officers wherein the findings of the Performance Audit were discussed. The replies received during the Exit Conference and at other points of time have been appropriately considered in the relevant paragraphs.

#### Audit findings

#### 6.4.7 Working of distilleries/bottling plants

The production of Rectified Spirit (RS)/Extra Natural Alcohol (ENA) Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) in the State was made in all the selected nine distilleries during period of audit. Grains and malt wash were distilled to obtain the spirit, which was redistilled, blended, compounded

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<sup>5</sup> As audit of the company was done by commercial Audit Wing of this office.

<sup>6</sup> One brewery was not in operation for production during the period 2010-11 to 2014-15.

and processed to produce different kinds of IMFL and other intoxicants. RS/ENA is also imported from other states and utilised by the distilleries/bottling plants for production of CL/IMFL.

The system and compliance deficiencies noticed during the audit are mentioned in the succeeding paragraphs:

#### 6.4.7.1 Short levy/realisation of additional fee

As per Rule 5 of the Rajasthan Distilleries Rules, 1977, an application for the renewal of licence for the following excise year must be made by the licensees to the EC on or before 28 February each year accompanied by treasury receipt showing payment of the prescribed licence fee. However, where the application for renewal is not made within the prescribed period, it shall be accompanied by a treasury receipt of an additional fee equivalent to 25 per cent of such fee.

Further, Rule 72-A of the Rajasthan Excise Rules, 1956 provides that where an application for renewal of licence is not made within the prescribed period, it shall be accompanied by additional fee at the following rates:

- (i) ₹ 5000 or 5 per cent of the licence fee whichever is less, if the delay in depositing the fee is upto one month.
- (ii) ₹ 10,000 or 10 per cent of the licence fee whichever is less, if the delay in depositing the fee is more than a period of one month.

Scrutiny of records of nine distilleries disclosed that in two distilleries, the licensees had applied for renewal of their licences beyond the prescribed date. The licensees were liable to pay additional licence fee in terms of Rule 5 of the Rajasthan Distilleries Rules but the Department worked out the additional licence fee as per Rule 72-A of the Rajasthan Excise Rules. This resulted in short realisation of additional fee of ₹ 18.60 lakh as mentioned below:

(₹ in lakh)

Sl. No.	Name of distilleries	Year	Licence fee (Distillery + Bonded warehouse)	Date of deposit	Additional fee leviable	Additional fee recovered	Short recovery of additional fee
1	HSB Agro Industries Limited, Sikar	2012-13	25	14. 3.2012	6.25	0.10	6.15
		2014-15	25	31. 3.2014	6.25	0.10	6.15
2	Hindustan Spirits Limited, Behror	2011-12	26	1. 3.2011	6.50	0.20	6.30
<b>Total</b>					<b>19.00</b>	<b>0.40</b>	<b>18.60</b>

After this being pointed out by audit (August 2016), the Government accepted (October 2016) the audit observation and directed the Department to recover the entire amount of ₹ 18.60 lakh, however, a report on recovery had not been received (October 2016).

### 6.4.7.2 Non-levy of licence fee for wholesale vend of country liquor from bonded warehouse established at the place of manufacture

As per Rule 68(12)(a) of the Rajasthan Excise Rules 1956, inserted *vide* notification of April 2011, licence fee at the rate of ₹ 5 lakh per year is to be levied for wholesale vend of CL from bonded warehouse established at the place of manufacture. This rule was made in addition to Rule 68(13) that authorised levy of annual licence fee at prescribed rates for wholesale vend by manufacturers of liquor to wholesale vendors. Licences for wholesale vend of IMFL/Beer and CL were required to be issued separately to the units under Rule 68(13) and 68(12)(a) respectively. As per the conditions of the licences, no other liquor could be stored in the warehouse except for which the licence was granted.

On scrutiny of licence files of distilleries and bottling plants, it was found that six distilleries and seven bottling plants were manufacturing and vending CL and IMFL in wholesale from the place of manufacture. The Department levied licence fee under Rule 68 (13) for the wholesale vend of IMFL. However, the licence fee for whole sale vend of CL under Rule 68 (12)(a) was not levied as per details given below:

(₹ in lakh)

Sl. No.	Name of distillery/bottling plant	Period	Licence fee recoverable at the rate of ₹ 5 lakh per year
<b>A</b>	<b>Distilleries</b>		
1	Hindustan Spirit Limited, Paniyala	2011-15	20.00
2	Vintage Distillers Limited, Alwar	2011-15	20.00
3	Agribiotech Industries Private Limited, Ajeetgarh	2011-15	20.00
4	HSB Agro Industries Private Limited, Reengus	2011-13	10.00 <sup>7</sup>
5	Narang Distillery Limited, Banswara	2011-15	20.00
6	Globus Spirit Limited, Behror	2014-15	5.00 <sup>8</sup>
<b>B</b>	<b>Bottling Plants</b>		
7	Golden Bottling Limited, Bhiwadi	2011-15	20.00
8	Ojas Industries Private, Limited, Neemrana	2011-14	15.00 <sup>9</sup>
9	Alwar Malt and Agro Foods Co. Private Limited, Alwar	2011-12	5.00 <sup>9</sup>
10	M/s Shree Mahamaya Liquor Industries, Udaipur	2011-15	20.00
11	M/s Rajwada Breweries and Bottling Private Limited, Ajmer	2011-15	20.00 <sup>10</sup>
12	M/s Ajanta Chemicals Private Limited, Alwar	2011-15	20.00 <sup>10</sup>
13	M/s Vijeta Beverages Private Limited, Jaipur	2011-15	20.00 <sup>10</sup>
<b>Total</b>			<b>215.00</b>

<sup>7</sup> The distillery did not produce CL during the period during 2013-14 and 2014-15.

<sup>8</sup> Similar observation for the year 2011-12 to 2013-14 was included in the Audit Report for the year ended March 2015. As such, those periods have been excluded from this report.

<sup>9</sup> M/s Ojas Industries Private, Limited, Neemrana was not in functioning from 2014-15 and M/s Alwar Malt and Agro Foods Co. Private Limited Alwar produced CL only in 2011-12.

<sup>10</sup> Observation was pointed out during regular audit.

This resulted in non-levy of licence fee of ₹ 2.15 crore.

After this being pointed out, the EC accepted (October 2016) the audit contention that licence fee for wholesale vend of IMFL and CL should be levied separately under rule 68(13) and 68(12)(a) respectively. He added that a proposal for amendment in rules for charging separate vend fee for IMFL and CL was under consideration with the Government and action would be taken accordingly.

#### **6.4.7.3 Delay in prescribing norms for production of spirit from grain**

The spirit<sup>11</sup>, used in preparation of liquor in the nine selected grain based distilleries is prepared from grains mostly from rice. Upto 31 May 2015, the State Government had not fixed any norms for quantity of spirit to be produced per quintal of grain.

Absence of norms was commented in the Audit Reports (Revenue Receipts) of the year 2005-06 and 2010-11. PAC had also recommended fixing the norms for this purpose. The norms for minimum recovery of alcohol were fixed as 40 BL of ENA/RS per quintal of grain in June 2015. Due to delay in fixing the norms, the Department had to forego revenue of ₹ 180.80 crore as discussed in the following paragraph.

Audit found instances in six distilleries where the production of spirit was less than 40 Bulk Litre (BL) per quintal of grain. It was as low as 28.61<sup>12</sup> BL per quintal of grain. No reasons were found on record for such low production or variations in production of spirit. No database was maintained by the Department to watch the recovery of spirit in each distillation to ensure efficiency of the distilleries. Steep fall in production of spirit was noticed in some instances during the continuous distillation<sup>13</sup>. However, one distillery namely M/s United Spirits Limited, Udaipur had produced spirit more than the minimum norms prescribed in June 2015 in each distillation during the period 2010-15. The Department had at no time analysed the reasons for the variations in production at various times.

Thus, there was a delay of 10 years in fixing the norms for production of spirit from grain. The shortfall in production of spirit during 2010-15 in case of six distilleries, when compared to norms fixed in 2015, was 93.35 lakh BL spirit. The revenue forgone was ₹ 180.80 crore in the form of excise duty.

After this being pointed out, the Department/Government accepted (October 2016) the fact that after notifying the norms of production, each distillery had shown production above the norms prescribed by the Government. However, the Department did not intimate the reason for late fixation of norms. Further, with advent of modern technology, the production of spirit/liquor is likely to increase from time to time and it would be in the interest of the revenue if the Government considers revising the norms of the production at regular intervals.

#### **6.4.7.4 Excess production of alcohol in violation of ‘Consent to Operate’**

Section 17 of the Act, empowers the EC to establish or grant licence or discontinue the manufacturing units of liquor known as distillery, brewery or

<sup>11</sup> Spirit includes both Extra Neutral Alcohol (ENA) and Rectified Spirit (RS).

<sup>12</sup> In M/s Vintage Distillers Limited, Alwar, during March 2011.

<sup>13</sup> An instance in M/s Globus Spirits Limited, Behror: production of spirit was 46.12 BL on 31.10.2011 and 35.65 BL on 1.11.2011.

pot-still and to regulate the functioning of such units on such conditions as the State Government may impose.

Each distillery and bottling plant is required to obtain 'Consent to Operate' (CTO) from the Rajasthan State Pollution Control Board (RSPCB) determining the quantity of alcohol (ENA/RS/Liquor) that can be produced during the prescribed period. The RSPCB determines the quantity of alcohol to be produced daily or annually on the basis of the local conditions or nature of discharge of environmental pollutants. Further, the Department had directed (April 2009) the DEO, Sikar to ensure that the production of the unit was not more than the quantity prescribed in the CTO which proved that the Department was monitoring conditions of the CTO.

During test check of the 'production registers' of spirit (ENA/RS), IMFL and CL for the period 2010-15 at the distilleries and bottling plants, it was noticed that the distilleries and bottling plants produced spirit, IMFL and CL more than the quantity prescribed in the CTOs. The concerned DEOs and Officers in-charge (OICs) posted in the production units neither pointed out the violation of conditions of the CTOs nor brought it to the notice of RSPCB. No explanation for excess production was called from any distillers and bottlers. Further, no reason was found on record for the daily or annual excess production made by the units. Also, no permission to regularise the excess production was taken by the units from RSPCB or the Department.

Thus, the Department failed to take any action against the following licensees who produced spirit/alcohol in excess of their prescribed daily/annual capacity in contravention of the conditions of the CTOs and the order of the Department issued in this regard:

- In 699 instances, two distilleries<sup>14</sup> had produced 120.46 lakh BL spirit in excess of their daily installed capacity permitted in the CTO. The daily excess production by these units was to the extent of 109 BL to 98,755 BL.
- In 23 instances, a distillery (M/s United Spirits Limited, Alwar) and a bottling plant (M/s Alwar Malt and Agro Foods Manufacturing Co. Limited, Alwar) produced 11.34 lakh BL of IMFL in excess of their installed capacity permitted in the CTO.
- In 249 instances during 2014-15, a distillery (M/s Vintage Distillers Limited, Alwar) produced 5,86,520 cases of CL in excess of its daily installed capacity of 10,000 cases permitted in the CTO.
- A bottling plant (M/s Shree Mahamaya Liquor Industries, Udaipur) produced 12.92 lakh BL of CL during 2014-15 in excess of its annual installed capacity of 50.00 lakh BL permitted in the CTO.

The Department had not included the CTO condition regarding production capacity in the licence as such no penalty provision could be applied for violation of CTO condition. Thus, absence of the condition resulted in loss of revenue<sup>15</sup> to the Government in the cases mentioned above.

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<sup>14</sup> M/s Agribiotech Industries Limited, Ajeetgarh, Sikar and M/s Globus Spirits Limited, Behror.

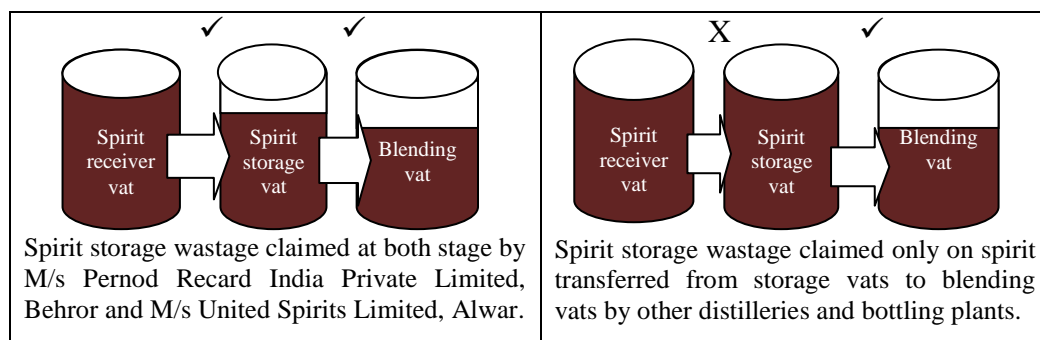
<sup>15</sup> For violation of conditions, penalty could have been levied under section 58(c) read with section 70 of the Act (from ₹ 5,000 to 10 times of licence fee).



After being pointed out, the EC and Secretary Finance (Revenue) accepted (October 2016) the audit contention and stated that licence fee for distilleries during the year 2016-17 had been decided on the basis of daily production capacity as prescribed by the RSPCB in CTO and any violation in future would be punishable under Section 58(c) of the RE Act. The Department also instructed (7 October 2016) the concerned officers-in-charge to ensure production as per quantity prescribed in CTO and to submit a monthly report in this regard to RSPCB.

#### 6.4.7.5 Lack of uniformity in the system allowing wastage

Rule 3 of the Stock Taking & Wastage of Liquor (At Distilleries and Warehouses) Rules, 1959 provides that on the last working day of every calendar month, after all issues for that day are made, the officer-in-charge shall gauge and prove the spirit in each vat (vessel) in order to verify the stock and ascertain the wastage on each class of spirit at the distillery and warehouse. The norms of storage wastage of spirit had been provided in the Rule. However, it was noticed that the stage at which wastage should be allowed was not mentioned. Out of seven distilleries, five distilleries were allowing wastage on spirit transferred from storage vats to blending vats while the other two distilleries were allowing wastage on spirit transferred from receiver vats to storage vats involving excise duty of ₹ 9.70 lakh on short accountal of 2,727 LPL spirit and again from storage vats to blending vats. This is mentioned in the following diagram:



It would be seen from the above that two different systems had been followed by the distilleries and the Department accepted both the systems.

After this being pointed out, the Government stated (October 2016) that orders for recovery of the amount had been issued. Besides, the Stock Taking and wastage of liquor Rules, 1959 are also being amended to bring more clarity in this regard.

#### 6.4.7.6 Absence of monitoring in allowing wastage of spirit

When the wastage is found in excess in any case at the time of monthly stock taking<sup>16</sup>, the officer-in-charge shall obtain written explanation from the distiller and shall submit his own explanation and forward these together with a full report of the circumstances to the DEO. The DEO will forthwith investigate the matter and report to the EC.

<sup>16</sup> As per Rule 7, statement of wastages shall be prepared by the officer-in-charge for each month in Form CL 3 which shall be sent to the DEO concerned in the first week of the following month for further submission to the EC.

Scrutiny of spirit storage vat account registers revealed that though wastage was found in excess of the prescribed norms at the time of monthly stock taking, the officer-in-charge neither obtained written explanation from the distiller nor provided his own explanation. Further, no report of the circumstances was forwarded to the DEO. A few instances in case of M/s Vintage distillers Limited, Alwar involving excise duty of ₹ 26.98 lakh<sup>17</sup> are mentioned in the following table:

Sl. No.	Vat No.	Date	Opening balance	Spirit received (in BL)	Closing balance (in BL)	Wastage taken (in BL)
1	SSV-10	31.12.2014	Nil	1,700	Nil	1,700
2	SSV-11	30.11.2014	Nil	1,000	Nil	1,000
3	SSV-5	31.3.2014	Nil	2,500	Nil	2,500
4	SSV-7	31.7.2013	Nil	3,700	Nil	3,700
Remarks: It may be seen from the above that spirit received in a vat was fully shown as storage wastage on the same day whereas opening balance and closing balance of the vats were nil.						
5	SSV-5	31.8.2013	38	2,629	38	2,629
6	SSV-5	30.11.2013	56	2,400	56	2,400
Remarks: Similarly in the above two cases the entire quantity received on the same day was shown as storage wastage on the same day and only opening balance was carried forward.						
<b>Total</b>						<b>13,929</b>

There was nothing on record to indicate that the DEO had at any time called for any explanation from the distiller and sent any report to the EC. Thus, the system was not followed.

After this was pointed out, the Government stated (October 2016) that order for recovery of the amount had been issued and action is being taken against the persons responsible for the lapse.

#### 6.4.7.7 Loss due to non-adoption of actual strength of spirit

Rule 87 of the Rajasthan Distilleries Rules stipulates that no spirit shall be removed from a distillery until it has been gauged and proved by the officer appointed for the purpose. The gauging of the spirit is done in the laboratories situated in the units. A sample of the spirit is also sent to the departmental laboratory for ascertaining the strength of the spirit in accordance with the circular issued by the EC in February 2014.

Cross verification of the samples test checked in the unit laboratories and the departmental laboratories revealed that in 288 samples, the results of the departmental laboratories indicated that the spirit was at higher strength than that mentioned in the accounts as per the unit laboratories. The Department had not taken any cognizance of these reports. This resulted in short depiction of 15,905.41 LPL spirit in the accounts of eight production units<sup>18</sup> depriving

<sup>17</sup> 13,929 BL x 166% (measuring in LPL) = 23,122.14 LPL x ED@ ₹ 116.67 per LPL = ₹ 26.98 lakh.

<sup>18</sup> M/s Agribiotech Industries Limited Ajeetgarh, Beam Global Spirits & Wine (India) Private Limited, Behror, Globus Spirits Limited Behror, Pernod Recard India Private Limited Behror, Radico Khaitan Limited Reengus, Mahamaya Liquor Industries, Udaipur and Solkit Distillery and Breweries Private Limited Udaipur and United Spirits Limited, Udaipur.

the Government of excise revenue of ₹ 23.44 lakh. A few instances are given below:

Sl No.	Name of Units	Date of samples taken	Strength as per private laboratory (in O.P)	Strength as per Government laboratory (in O.P)	Quantity from which the sample taken (in BL)	Short depiction of spirit in LPL	Excise duty involved (in ₹)
1	M/s Globus Spirits Limited, Behror	30.12.2014	68.0	68.2	59,467.00	118.93	20,218
		11. 3.2015	66.0	66.3	2,73,984.00	821.95	95,897
2	M/s Radico Khaitan Limited, Sikar	8.1.2013	68.0	68.5	19,962.00	99.81	16,968
		18.10.2014	68.0	68.5	19,965.00	99.83	16,971
3	M/s United Spirits Limited, Udaipur	2.1.2015	68.0	68.3	24,955.00	74.86	12,726
		3.2.2015	68.0	68.3	24,958.00	74.87	12,728

After this being pointed out, the Government stated (October 2016) that the reports drawn from the departmental laboratories were more authentic and acceptable. It was further stated that direction had been issued to recover the amount from concerned units.

#### 6.4.7.8 Chemical examination of IMFL and CL

Rule 106 read with Rule 91 of the Rajasthan Distilleries Rules stipulates that in proving spirit at fixed strengths of 25<sup>0</sup> (whisky, brandy and rum), 35<sup>0</sup> (gin and vodka) and 40<sup>0</sup> / 50<sup>0</sup> (CL) UP, it will be sufficient for the officer in-charge to satisfy himself that the strength is within 0.5<sup>0</sup> over the reputed strength. The issue of spirit below the fixed strength is not permitted. This was also clarified by the Department wide circular issued in January 2015.

It was found that the samples of liquor were being sent to the Government laboratories or Government approved laboratories for ascertaining the strength of liquor. Scrutiny of chemical analysis reports of IMFL and CL received from the distilleries and bottling plants revealed that in following samples, the strength of liquor was less than the prescribed limit. This resulted in short realisation of excise duty amounting to ₹ 29.16 lakh as mentioned in the following paragraphs:

- **IMFL**

In two distilleries<sup>19</sup>, 437 samples of IMFL for the period from April 2014 to January 2015 were got examined in the Departmental Excise Laboratory, Udaipur and in Jagdamba Laboratory, Jaipur authorised by the Department for ascertaining the strength of the liquor, it was found that alcoholic content in liquor was more than the prescribed limit. It was shown less than 25 UP in request of IMFL and less than 35 UP in respect of wine. This resulted in short depiction of 15,877 LPL alcohol on which excise duty was not levied. This deprived the Government from revenue of ₹ 26.99 lakh. A few instances

<sup>19</sup> M/s Pernod Recard India private Limited, Behror and M/s United Spirits Limited, Udaipur.

are given below:

Sl. No.	Brand name	Batch No.	Month of batch	Strength taken in account (In UP)	Strength shown in lab. report (In UP)	Quantity (In BL)	Short depiction of alcohol (In LPL)
M/s. United Spirits Limited, Udaipur							
1	MCD No. 1 Deluxe Whiskey	1	April 2014	25.0	24.6	29,060.00	116.24
2	Blue Ribond London Dry Zin	17	June 2014	25.0	24.6	29,050.00	116.20
M/s Pernod Ricard India Pvt. Ltd., Behror							
3	100 Pipers Blended Scotch Whisky	16	August 2014	25.0	24.8	19,453.00	38.91
4	Royal Stag Deluxe Whisky	78	August 2014	25.0	24.8	29,946.00	59.89
5	Fuel Orange Vodka	6	November 2014	34.4	34.2	10,961.00	21.92
<b>Total</b>							<b>353.16</b>

• **Country liquor**

In a bottling plant (M/s Mahamaya Bottling Plant, Udaipur), 79 samples of CL for the period from August 2014 to January 2015 were got examined in the departmental Excise Laboratory, Udaipur and it was found that the alcoholic content in liquor was more than the prescribed limit. It was shown less than 40 and 50 UP in respect of CL. This resulted in excess utilisation of 1,864 LPL alcohol on which excise duty was not levied. This deprived the Government from revenue of ₹ 2.17 lakh. A few instances are given below:

Sl. No.	Brand name	Batch No.	Date of batch	Strength taken in account (In UP)	Strength shown in lab. report (In UP)	Quantity (In BL)	Short depiction of alcohol (In LPL)
1	Ghoomer (Plain C.L.)	222	13. 8.2014	50.0	49.7	6,912.00	20.74
2	Ghoomer (Plain C.L.)	37	29.10.2014	40.0	39.7	11,102.40	33.31
3	Rana (Plain C.L.)	7	17.12.2014	40.0	39.8	8,640.00	17.28
4	Rana (Plain C.L.)	8	18.12.2014	50.0	49.9	9,504.00	9.50
<b>Total</b>							<b>80.83</b>

In addition to loss of excise duty, the despatch of below strength liquor was in violation of Rules. No action was found taken against the distillers/bottlers by the AEOs posted at the units.

After this being pointed out, the Government stated (October 2016) that directions to recover the amount from concerned units had been issued.

#### **6.4.7.9 Non levy of excise duty on Spirit and IMFL short delivered at the destination during export**

Section 18 of the Act provides that no excisable article shall be removed from any distillery until the duty payable therefore under this Act has been paid or a bond in form R.D.15 or R.D.16 has been executed for the payment thereof. Condition number (2) of the bond provides that if the whole quantity of spirit transported/exported on any occasion is not delivered at the destination, the distiller is liable to pay for any loss of duty to the Government by reason of such non-delivery or short delivery. The duty shall be paid on demand at the rate applicable. Further, there is no provision in the Rules regarding allowance of wastage of spirit/IMFL/beer in transit during export and payment of duty in importing states.

During the scrutiny of the Excise Verification Certificates of Malt Spirit, High Bouquet Spirit (HBS), Concentrate Alcoholic Beverage (CAB), ENA, *etc.* exported by two distilleries (M/s United Spirits Limited Alwar and M/s Pernod Ricard India Private Limited Behror) during the period 2010-15, it was noticed that during the course of export of the above liquor outside the State under bond, 9,392.60 LPL of spirit involving excise duty of ₹ 15.97 lakh were short delivered at the destination. Similarly, during the course of export of IMFL outside the State under bond during 2014-15 by two units<sup>20</sup>, 4,063 LPL spirit involving excise duty of ₹ 6.91 lakh were short delivered at the destination.

The duty on short delivered quantity of spirit and IMFL was neither paid by the distillers nor demanded by the Department. This resulted in non-levy of excise duty amounting to ₹ 22.88 lakh.

After this being pointed out, the EC accepted (10 October 2016) the audit contention that there was no clear and direct provision in the rules for transit wastage in case of export out of the State. It was further stated that recovery pertaining to excess transit wastage as per Rule 5(1) of the Stock Taking & Wastage of Liquor (At Distilleries and Warehouses) Rules 1959 in case of spirit and Rule 7(1) of the Conditions & Restrictions on Establishment of Bonded Warehouse in case of IMFL was being made by the concerned DEOs. The Secretary Finance (Revenue) stated that there was a need to amend the rules in this regard and directed the EC to submit a draft accordingly.

#### **6.4.7.10 Non-disposal of liquor**

Rule 7 of the Rajasthan Distilleries Rules provides that on expiry of licence of a distiller or if his licence is cancelled or suspended, he shall be bound to pay the duty on and to remove all spirit remaining within the distillery in accordance with the rules in force.

Scrutiny of the information furnished by the AEO of a bottling unit (M/s Ojas Industries Private Limited, Behror) revealed that the unit stopped its production with effect from April 2014. At that time the closing stock of

<sup>20</sup> M/s Pernod Recard India Private Limited and M/s Beam Global Spirits & Wine (India) Private Limited Behror.

the unit was as under:

Sl. No.	Liquor/ spirit	Year	Quantity (In LPL)	Rate of excise duty per LPL (In ₹)	Amount of excise duty involved (₹ in crore)
1	IMFL	2005-06	37,455.57	170.00	0.64
2	IMFL	2010-11	9,845.25	170.00	0.17
3	CL	2013-14	311.04	116.67	0.01
4	RS	2013-14	104,352.85	116.67	1.21
5	Blend of IMFL	2005-06 and 2013-14	40,094.50	170.00	0.68
6	Blend of CL	2005-06 and 2013-14	8,524.77	116.67	0.10
7	CL	Stock at depots of Rajasthan State Ganganagar Sugar Mills and unit Bonded warehouse	14,536.80	116.67	0.17
<b>Total</b>			<b>2,15,120.78</b>		<b>2.98</b>

No action was taken by the Department for destruction or sale for re-distillation of the stock on realisation of excise duty. The delay in issue of approval by the Department resulted in blockade of revenue of ₹ 2.98 crore due to the State exchequer. Further, any mis-happening due to use of such liquor in closed unit cannot be ruled out. It was also observed that no time limit for disposal of liquor was fixed.

After this being pointed out, the Government stated (October 2016) that disposal of stock of 62,179 BL of RS and 16,527 BL of IMFL blend had been made by transferring these to M/s Vintage Distillers Limited, Alwar and disposal of remaining stock was under process. However, the reply was silent on the time limit within which the stock would be disposed off.

#### 6.4.8 Working of breweries

Seven breweries were in operation for production of beer in the State during the period 2010-11 to 2014-15. The main raw materials used for production of beer are – barley malt, rice flakes, sugar and hops.

The records of all functioning breweries were examined. The findings are discussed in the succeeding paragraphs:

##### 6.4.8.1 Non-fixation of norms for yield of beer

The Rajasthan Brewery Rules, 1972 do not lay down any norms for yield of beer. However, paragraph 243 of Excise Technical Manual (ETM) provides that 36 gallon of wort (brew) is obtainable from 84 pounds of malt or 56 pounds of sugar. Further, norms for beer production in Karnataka and Andhra Pradesh States were prescribed as 6500 BL beer per metric ton.

The issue of non-prescription of norms for yield of beer from grain had been brought to the notice of the Government by Audit Report (Revenue Receipts) of the year 2005-06. The EC constituted (July 2011) a committee which recommended (June 2014) the norms of 40 BL ENA/RS, 570 BL mild beer and 420 BL strong beer per quintal of grain used for each production. The Department prescribed (June 2015) the norms for minimum recovery of spirit

but no norms for beer production were fixed (July 2016) by the Department in spite of the recommendation made by the committee.

An analysis of the recovery of grain based brew for a period of five years (2010-11 to 2014-15) in respect of seven breweries was made and it was found that the average monthly recovery of strong brew ranged between 606<sup>21</sup> and 370<sup>22</sup> BL and recovery of mild brew ranged between 741<sup>23</sup> and 224<sup>24</sup> BL per quintal of grain used. Though there was a wide gap between the monthly recovery of brew reported by the breweries, no system was put in place to analyse the recovery of brew according to the specific condition prevailing in the breweries. It was observed that based on the recommendation of the committee, there was shortfall in production of 43.60 lakh BL beer in four breweries<sup>25</sup>.

After this being pointed out, the Government accepted (October 2016) the audit observation regarding prescribing of norms in respect of beer production and also stated that preparation of a draft for notification in this regard was under consideration.

#### **6.4.8.2 Wastage in production of beer**

Rule 49-A (inserted in 1996) of the Rajasthan Brewery Rules, 1972 provided allowance for wastage on production of beer at the rate of seven *per cent*.

Audit noticed that though wastage on production of beer occurred at various stages such as in manufacturing, bottling, storage, transit, export, expired stock, the Department had not fixed the norms of wastage admissible at each stage. It was found that though the wastage was less than seven *per cent*, it ranged between 3.82<sup>26</sup> and 6.97 *per cent* during 2010 to 2015 and there was no uniformity in claiming the wastage by the breweries. The department had not examined allowance of the wastage at various stages to ascertain the reasons for variations despite lapse of 20 years since implementation of Rule 49-A. Since the allowance of wastage had direct impact on revenue collection, it needs to be fixed scientifically for each stage.

After this being pointed out, the Government stated (October 2016) that breweries module in the computerised system had been implemented by the Department from 1 August 2016 and amendment in Rules regarding Stock Taking and Wastage of Liquor Rules, 1959 was under consideration of the Department.

#### **6.4.8.3 Non levy of excise duty on short delivered beer exported to other states**

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Act has been paid or until a bond under Section 18 of the Act in form R.B.11 or R.B.12 has been executed by the brewer for export of beer outside the State. Condition number (2) of the bond provides that if the quantity of beer

<sup>21</sup> M/s Carlsberg India Private Limited, Alwar during November 2013.

<sup>22</sup> M/s Mahou India Private Limited (Arian Breweries), Bhiwadi during October 2012.

<sup>23</sup> M/s United Breweries Limited, Bhiwadi, during December 2013.

<sup>24</sup> M/s Carlsberg India Private Limited, Alwar during April 2014.

<sup>25</sup> M/s Carlsberg India Private Limited, Alwar, M/s Devans Modern Breweries Limited, M/s Mount Shivalik Industries Limited Behror and M/s Mahou India Private Limited Bhiwadi.

<sup>26</sup> M/s Carlsberg India Private Limited, Alwar (2014-15) and M/s Mount Shivalik Industries Limited Behror (2010-14).

mentioned in the bond has not been delivered at the destination, the brewer is liable to pay for any loss of duty, which the Government may suffer by reason of such non-delivery or short delivery and will have to pay on demand the duty at the rate applicable. Further, there is no provision in the Rules regarding allowance for wastage of beer in transit during export and payment of duty in importing states.

During the scrutiny of the Excise Verification Certificates of beer exported by six breweries during the period 2014-15, it was noticed that during the course of export of beer outside the State under bond, 55,273.90 bulk litres (7,086.40 cartons) of beer were short delivered at the destination. The duty on this quantity of beer exported was neither paid by the brewers nor demanded by the Department. This resulted in non-levy of excise duty amounting to ₹ 27.85 lakh.

After this being pointed out, the Government stated (October 2016) that action was being initiated as per rule for recovery of amount on short delivered beer exported out of state.

#### **6.4.8.4 Compliance to the audit observations made in earlier audit reports**

Mention was made in the inspection reports as well as Audit Reports (Revenue Receipts) of the years 2012-13 to 2014-15 about the recovery of excise duty of ₹ 2.19 crore on the wastage of beer exported out of the State by five breweries. The Department recovered the entire amount in respect of three breweries while in respect of two breweries<sup>27</sup>, the Department exempted (August/September 2014) ₹ 66.31 lakh payable by two breweries, the order of exemption issued was without the consent of the Government as required as under section 71(2) of the Act. The Department, therefore, granted undue benefits to some breweries by exempting excise duty on wastage of beer exported out of the state.

After this being pointed out, the Government accepted (10 October 2016) the audit contention that there were no provisions in the rules regarding wastage of beer in transit during export and payment of duty in importing States and stated that recovery from one unit had been made and a notice for recovery to other unit was issued.

#### **6.4.8.5 Non-disposal of spoilt beer**

Liquor Sourcing Policy of RSBCL provides that any stock of beer lying unsold for a period over six months from the date/month of bottling becomes unfit for human consumption and it shall be drained out.

Scrutiny of records of breweries revealed that the breweries did not despatch

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<sup>27</sup> M/s United Breweries Limited Bhiwadi (₹ 10.86 lakh) and M/s Mount Shivalik Industries Limited, Berhor (₹ 55.45 lakh).



the stock of beer within six months as per the details given below:

Sl. No.	Name of breweries	No. of cases of spoilt beer	Year of production
1	Carlsberg India Private Limited, Alwar	1,171	2012-13
		1,075	2013-14
		394	2014-15
2	Devans Modern Breweries Limited Behror	1,955	2012-13
3	SAB Miller India Limited, Neemrana	1,952	2010-14
4	United Breweries Limited, Bhiwadi	2,227	2010-15
		53,970	2014-15
<b>Total</b>		<b>62,744</b>	

It may be seen from the above that 62,744 cases of expired beer which were produced during 2010-15 in four breweries were not disposed (June 2016). No action was taken by the Department for the destruction of the expired stock even after realisation of excise duty at the rate applicable at the time of expiry. Further, possibility of any mishap due to use of such beer could not be ruled out.

After this being pointed out, the Government stated (October 2016) that action for disposal of spoilt beer was under process.

#### 6.4.9 Internal control mechanism

##### 6.4.9.1 Manpower Management

For efficient functioning of the State Excise Department, a proper manpower planning to meet its objectives and optimum deployment of manpower is of prime importance. To ensure efficient and effective control of the activities of the distilleries, breweries and bottling plants, Rule 21 of the Rajasthan Distilleries Rules and Rule 22 of the Rajasthan Brewery Rules provide that independent AEOs/inspectors should be posted in these establishments for exercising control over movement of excisable goods from such units.

The position of excise authorities posted in distilleries, breweries and bottling plants as on 31 March 2015 is detailed below:

Sl. No.	District	No. of production units				No. of AEOs posted
		Distilleries	Breweries	Bottling plants	Total	
1	Alwar	2	1	1	4	2
2	Banswara	1	-	-	1	-
3	Behror	3	6	4	13	4
4	Sikar	2	-	1	3	1
5	Udaipur	1	-	2	3	1
<b>Total</b>		<b>9</b>	<b>7</b>	<b>8</b>	<b>24</b>	<b>8</b>

It would be seen that eight AEOs were deployed for supervision of 24 production units. In addition to their own duties, the AEOs were assigned additional charge of other units. The Department did not furnish any reason

for not adhering to the provision of the Distillery and Brewery Rules which stipulates that independent AEOs/inspectors should be posted in production units for exercising control over movement of excisable goods from such units.

After this being pointed out, the Government stated (October 2016) that action for posting of AEOs at production units was under process.

#### **6.4.9.2 Inspection of distilleries/breweries and bottling plants**

Rule 54 of the Rajasthan Brewery Rules provides that the DEO in-charge will inspect the brewery at least once in every two months. As per Excise Manual, yearly inspection in respect of 50 *per cent* distilleries and all bonded warehouses is required. However, only DEO, Behror intimated that he had conducted the inspection for the period from 2010-11 to 2014-15 and DEO, Banswara conducted only two inspections during the same period. The other three DEOs did not furnish any information regarding inspection conducted.

The EC and Additional Commissioners were also required to conduct inspections bi-annually and annually respectively as per the Excise Manual. There was nothing on record to show that inspections were conducted by them. The efficacy of the system of inspection, therefore, could not be ascertained in audit.

After this being pointed out, the Government stated (October 2016) that new directions for inspection of production units by Additional Commissioner and DEOs were issued on 17 August 2016 and accordingly inspections would be ensured. However, information regarding the inspections conducted by three DEOs was not provided.

#### **6.4.9.3 Non supply of excise locks**

Condition number 13 of the Conditions and Restrictions on Establishment or Licence of Bonded Warehouse provides that the doors of all buildings or rooms which are used for the storage of spirit shall be provided with double locks, the keys of which are not inter changeable and of which one lock shall be an excise lock in the charge of the officer-in-charge and the other a bonded warehouse lock in the charge of proprietor.

Information furnished by the production units revealed that except five units<sup>28</sup>, locks were not issued to remaining 19 units despite being requisitioned by the units. Further, the Headquarter office, Udaipur confirmed that 21 excise locks were available in stock as on 31 March 2015.

After this being pointed out, the Government stated (October 2016) that excise locks would be provided to units as per their requirements and demands.

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<sup>28</sup> Two units (M/s Agribiotech Industries Limited and M/s H.S.B. Agro Industries Limited) at Sikar, two units (M/s Shree Mahamaya Liquor Industries and M/s Solkit Distillery and Breweries Private Limited) at Udaipur and one unit (M/s Narang Distillery) at Banswara.

#### 6.4.10 Conclusions and recommendations

We noticed that:

- Distilleries and bottling plants were manufacturing and vending CL and IMFL in wholesale from the place of manufacture. The Department levied licence fee under Rule 68(13) for the wholesale vend of IMFL. However, the licence fee for whole sale vend of CL under Rule 68 (12)(a) was not levied.

*The Government may consider removing the ambiguity in the Rule 68(13) by mentioning exceptions of liquor that are covered under Rule 68(12)(a). It may consider levying licence fee for wholesale vend of CL under Rule 68(12)(a) in the interest of revenue.*

- Distilleries had failed to achieve norms of minimum production efficiency. In many instances, the production was very low as compared to the norms prescribed by the Department. No database was maintained by the Department to watch the recovery of spirit in each distillation to ensure efficiency of the distilleries.

*The Department needs to maintain a database indicating the quantity of alcohol produced from grains and the norms fixed by the Department may be reviewed from time to time as with modernisation of the plants the yields may improve.*

- The distilleries and bottling plants produced spirit, IMFL and CL more than the quantity prescribed in the CTOs. No permission to regularise the excess daily production was taken by the units from RSPCB or the Department. The Department failed to monitor the production of alcohol over and above the daily/annual prescribed capacity.

*The Department needs to take measures to ensure that the production does not exceed the prescribed limit in the CTOs. It may ensure imposition of fines in case of any violation in this regard.*

- Though the norms of storage wastage of spirit had been provided in the Rule, the stage at which wastage should be allowed was not mentioned.

*The Department needs to prescribe the stage at which wastage is admissible to ensure that the storage wastages are calculated uniformly by all distilleries/bottling plants and no loss to the Government accrues as a result of it.*

- The results of the departmental laboratories regarding strength of spirit indicated that the spirit was at higher strength than that mentioned in the accounts as per the unit laboratories. The Department had not taken any cognizance of these reports. This resulted in short depiction of spirit in the accounts depriving the Government of excise revenue. Further, despatch of below strength liquor was in violation of Rules.

*The Department needs to take cognizance of the reports of spirit examined in the departmental laboratories as per circular issued by the Department in this regard. Surprise inspections should be conducted on a random basis to examine the strength of liquor.*

- The Department had not examined allowance of the wastage in breweries at various stages to ascertain the reasons for in variations taken by the breweries.

*The Department may consider re-fixing the wastage norms scientifically for each stage after proper technical evaluation of the technology/condition prevailing in the breweries.*

### **6.5 Non-levy of vend fee**

As per sub rule (1) of Rule 69 of Rajasthan Excise Rules, 1956, vend fee at the rate of ₹ 2.00 per bulk litre (BL) is leviable on sale of Beer to retail licensees.

During test check of permits issued and other relevant records pertaining to M/s Canteen Stores Department (CSD) under the jurisdiction of DEO, Jaipur City, it was noticed (February, 2016) that 15 lakh BL Beer was sold to its retail off licensees (unit run canteens) in the State by CSD during the year 2011-12 to 2014-15. However, vend fee leviable on Beer at the rate of ₹ 2.00 per BL was neither deposited by the retailers of CSD nor demanded by the Department. This resulted in non-levy of vend fee amounting to ₹ 30 lakh.

After it was pointed out (between March 2016 and April 2016), the Department stated (August 2016) that the direction for recovery from CSD was being initiated.

### **6.6 Short realisation of composite fees**

According to the Rajasthan Excise and Temperance Policy 2014-15, country liquor shops of rural area were classified in three categories. The country liquor shops of villages located within five kilometers radius from the municipal area were decided as composite shops of peripheral area. The villages of such peripheral area were further categorized as 'A' and 'B'. Composite fee for shops of category 'A' was fixed as equal to 3.5 per cent of annualised billing amount of Rajasthan State Brewery Corporation Limited (RSBCL) during 2013-14 or annual license fee prescribed for IMFL shops situated in concerned municipal area, whichever was higher. The composite fee for shops of category 'B' was fixed as equal to 3.5 per cent of annualised billing amount of RSBCL during 2013-14 or 50 per cent of annual licence fee prescribed for IMFL shops of concerned municipal area or ₹ 40,000, whichever was higher.

During test check of records of five<sup>29</sup> DEOs for the year 2014-15, it was noticed (between December 2015 and April 2016) that nine licensees were liable to pay composite fees of ₹ 1.06 crore for their country liquor shops classified in the category of composite shops of peripheral area but the concerned DEOs recovered composite fees of ₹ 49 lakh from these licensees as per category of composite shops of rural area. This resulted in short realisation of composite fees of ₹ 57 lakh.

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<sup>29</sup> DEO: Ajmer, Alwar, Jaipur City, Sikar and Udaipur.

After it was pointed out (between December 2015 and April 2016), the Government stated (August 2016) that fees had been realised as per norms/rules. The reply is not correct as the composite fee had not been realised as per the provisions of the policy framed by the Government. The policy specified the levy of composite fees in accordance with the categorisation of shops that is as shops of 'peripheral area' or 'rural area' as per location of such villages.

