

CHAPTER – 2
STATE EXCISE

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STATE EXCISE

2.1 Introduction

State Excise revenue comprises receipts from manufacture, possession and issue of liquor for sale, *bharg* and poppy straw under the provisions of the Madhya Pradesh Excise Act, 1915 (MP Excise Act) and Rules made thereunder. Under the MP Excise Act, "liquor" means intoxicating liquor including spirits, wine, *tari*¹, beer, all liquids consisting of or containing alcohol and any substance, which the State Government may by notification, declare to be liquor.

2.2 Tax administration

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

2.3 Results of audit

During the year 2016-17, 41 audit units² out of 61 audit units of State Excise Department were covered for audit. Revenue generated by the Department during the year 2016-17 aggregated to ₹ 7,532.59 crore of which, the audited units collected ₹ 6,058.33 crore. A Performance Audit on "Levy and collection of Excise Duty" covering the period 2012-13 to 2016-17 was also conducted between November 2016 and July 2017. Audit noticed loss of excise duty and other observations amounting to ₹ 2,139.75 crore in 8,982 cases, as mentioned in **Table 2.1**.

Table 2.1 - Results of Audit

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1.	Performance Audit on "Levy and collection of Excise Duty"	1	2,004.93
2.	Execution of contracts against rules	22	60.54
3.	Penalty not imposed for violation of licence agreement	381	27.44
4.	Penalty not imposed on failure to maintain minimum stock of country liquor/rectified spirit at warehouses and bottling units	2,187	15.87
5.	Licence fees not levied on liquor shop	31	3.83
6.	Penalty not imposed for not maintaining minimum stock in glass bottles	148	2.15
7.	Irregular supply of country/foreign liquor	84	1.65
8.	Penalty not levied on excess wastage of spirit/liquor	1,260	0.27
9.	Penalty not imposed on licensees who did not send EVCs	8	0.15
10.	Other observations (short levy of bottling fees, short/non-submission of bank guarantee, non-recovery of outstanding excise revenue, etc.)	4,860	22.92
Total		8,982	2,139.75

¹ *Tari* means fermented or unfermented juice drawn from any kind of palm tree.

² Offices of one Excise Commissioner, four DEC, 10 AECs and 26 DEOs.

These observations were communicated to the Government and the Department. Out of these, the Department accepted 3,581 cases involving ₹ 108.60 crore. The Department recovered ₹ 16,500 in one case of AEC, Indore while in other cases final action is awaited. During 2016-17, the Department also effected recovery of ₹ 35 lakh in 304 cases in respect of audit objections pertaining to previous Audit Reports and Inspection Reports.

2.4 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 189.69 crore in 67 paragraphs against which recovery of ₹ 7.66 crore only was effected by the Department. Out of these 67 paragraphs, 25 paragraphs were selected by the Public Accounts Committee (PAC) for discussion. These paras are yet to be discussed (May 2018) by the PAC.

Audit noticed that Department did not comply with earlier recommendations of PAC. In its 72nd Report, 2015-16 on the Audit Report 2006-07, the PAC directed the Department to issue necessary instructions to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of licence/label. However, irregularities of similar nature were observed during the present Performance Audit.

Recommendation:

The Department should ensure compliance to the recommendations of the PAC and issue necessary instructions/take adequate action to ensure that similar irregularities do not persist.

2.5 Performance Audit on “Levy and collection of Excise Duty”

2.5.1 Introduction

The MP Excise Act defines “Excise Revenue as revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by Court of Law) or confiscation imposed or ordered or agreed to under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.” State excise includes levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor, *bhang* and poppy straw in the State.

The organisational setup of the State Excise Department has been detailed in Para 2.2. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner (EC) under the provisions of the Madhya Pradesh Excise Act, 1915. Licences for distilleries, Indian made foreign liquor (IMFL) bottling units, country liquor bottling units, breweries, etc., are granted/renewed every year, on payment of prescribed fees, by EC with the approval of the State Government. Licences for retail sale of country and foreign liquor³ and *bhang* are granted through a process of renewal/ tendering by EC with prior approval of the State Government.

³ There are two types of foreign liquor: Indian Made Foreign Liquor and liquor imported from other countries (Bottled in Origin).

Alcohol is produced in distilleries mainly from grains and molasses through fermentation and distillation. Country and IMFL are manufactured from rectified spirit⁴ (RS) and extra neutral alcohol⁵ (ENA) respectively through process of blending/ reduction, compounding and flavoring or colouring or both. In Madhya Pradesh, only distillers of RS can manufacture and bottle country liquor. Beer is manufactured from malt, grain, sugar, hops etc., by breweries. *Bhang* is produced from leaves of wildy grown cannabis which is not found in Madhya Pradesh.

2.5.2 Trend of revenue receipts

State Excise is one of the important sources of tax receipts and constitutes 17.04 *per cent* of the total tax receipts of Madhya Pradesh. The trend of receipts from State Excise for the last five years is exhibited in **Table 2.2**.

Table 2.2
Trend of receipts

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation of Actual Receipts from Budget estimates (in per cent)
2012-13	4,800.00	5,078.06	(+) 5.79
2013-14	5,750.00	5,907.39	(+) 2.74
2014-15	6,730.00	6,695.54	(-) 0.51
2015-16	7,800.00	7,922.84	(+) 1.57
2016-17	7,700.00	7,532.59	(-) 2.17
Total	32,780.00	33,136.42	

(Source: Finance Accounts of the Government of Madhya Pradesh for the year 2016-17)

The revenue receipts in respect of March 2015 were deposited into Government Account in April 2015 due to which there was a shortfall in achieving the revenue target in the year 2014-15. During 2015-16, the licences were given to retailers only through tender process for the first time and excessively high rates were obtained which proved to be unsustainable at later stage. During 2016-17 lower rates were quoted by licencees as compared to the previous year and as such revenue target fixed for 2016-17 was revised from initial budget estimate of ₹ 9,000 crore by the Government. Further, during 2016-17 no licences were given to retailers of poppy straw, resulting in decrease in revenue receipts in 2016-17 over the previous year.

2.5.3 Audit Objectives

The Performance Audit was conducted to assess whether:

- The system of assessment and collection of State Excise was efficient and effective; and
- The provisions of Acts and Rules have been complied with and duty/ fee/ penalty levied/ imposed and collected.

⁴ Rectified Spirit means plain un-denatured spirit of strength of 66 degrees or more over proof and includes Extra Neutral Alcohol and Absolute Alcohol.

⁵ Extra Neutral Alcohol means silent spirit of an optimum quality which complies with the standard for neutral spirit prescribed by the Bureau of Indian Standards for the purpose.

2.5.4 Audit criteria

The audit criteria was derived from the following:

- Madhya Pradesh Excise Act, 1915 (Act);
- Madhya Pradesh Distillery Rules, 1995 (MP Distillery Rules);
- Madhya Pradesh Foreign Liquor Rules, 1996 (MPFL Rules);
- Madhya Pradesh Country Spirit Rules, 1995 (MPCS Rules);
- Madhya Pradesh Breweries and Wine Rules, 1970, (MPB&W Rules);
- Madhya Pradesh Alcohol Yield Rules, 1991; and
- Orders, circulars and notifications issued by Excise Commissioner/ Government.

2.5.5 Audit Scope and methodology

In Madhya Pradesh, there are 49 production units (eight distilleries, 20 IMFL bottling units, 12 country liquor bottling units, eight breweries and one winery) working in 20 districts⁶. The Performance Audit was conducted between November 2016 and July 2017, covering all 49 production units and District Excise Offices having production units along with scrutiny of records of office of Excise Commissioner (EC) for the period 2012–13 to 2016–17.

The Department may like to internally examine records of warehouses in remaining districts with a view to check whether irregularities pointed out in this Performance Audit are prevailing there also and to take remedial actions.

The scope and methodology of the Performance Audit was discussed with the Principal Secretary of the Department in an entry conference held on 10 March 2017 and the audit findings were discussed with the Principal Secretary of the Department in an exit conference held on 29 November 2017. Replies of the Government/Department received in the exit conference and on subsequent dates have been incorporated in the relevant paragraphs.

Audit also collected information regarding starch content in various types of grains used by distillers for production of alcohol from Central Institute of Agricultural Engineering (CIAE), Bhopal and fermentation efficiency and distillation efficiency for the technologies used by distillers of State from National Sugar Institute, Kanpur.

2.5.6 Acknowledgement

The cooperation of State Excise Department, National Sugar Institute, Kanpur and Central Institute of Agricultural Engineering, Bhopal for providing necessary information and records to Audit is acknowledged.

Audit Findings

System deficiencies in assessment and collection of State Excise

The collection of State Excise from distilleries, bottling plants and breweries is monitored by the officers-in-charge (District Excise Officer/Assistant District Excise Officer) posted in the respective distilleries, breweries and bottling

⁶ Balaghat, Bhind, Bhopal, Chhatarpur, Chhindwara, Dhar, Gwalior, Indore, Jabalpur, Khargone, Morena, Raisen, Rajgarh, Ratlam, Rewa, Sagar, Satna, Shajapur, Shivpuri and Ujjain.

plants. These officers are responsible for monitoring the records of production, bottling, despatch, etc., maintained by licensee and assess various fees like bottling fees, transport fees, export fees, import fees, etc. Excise duty is assessed at the time of issue of liquor, *bhang* and poppy straw for sale from the warehouses.

The Performance Audit revealed various system deficiencies in assessment and collection of State Excise, such as, non-prescribing of norms of production of alcohol from grains (barley, rice and maize), prescription of lower norms for two grains (millet and sorghum), lack of norms for production of beer, lower efficiency norms for production of alcohol from molasses, creation of unwarranted liability on Government due to change in condition of the agreement for supply of country liquor, absence of mechanism to identify and dispose stock of liquor for non-renewed licensees etc., which are discussed below:

2.5.7 Internal Audit

An Internal Audit Cell (IAC) headed by a Joint Director (Finance) assisted by six Assistant Internal Audit Officers (AIAO) conduct the internal audit of the Department. The posts of AIAO are filled in by deputation of officers from the MP Treasuries and Accounts Department. Though two posts of AIAO are vacant since December 2013, the Department did not take any action to fill up these vacancies.

The IAC prepares roster for audit of subordinate offices every year, the details of unit planned, audited and number of observations raised, settled and outstanding for the period between 2012-13 and 2016-17 are given in **Table 2.3**.

Table 2.3
Units planned and audited by IAC

Year	No. of units as per roster	No. of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Outstanding paras at the end of year
2012-13	50	06	44	88.00	111	10	270
2013-14	35	05	30	85.71	41	0	311
2014-15	25	14	11	44.00	96	0	407
2015-16	37	15	22	59.46	93	0	500
2016-17	24	11	13	54.17	114	0	614

Audit observed that in 17 districts⁷ no internal audit had been conducted for more than five years and for two to three years in 12 districts⁸. It was further noticed in this Performance Audit that IAC failed to address various issues like non-installation of VSAT units, non-maintenance of minimum glass stock of 25 per cent of country liquor at warehouses, export/ transport of liquor in excess of bank guarantee/ bond, non-disposal of liquor stock lying idle due to non-renewal of licence/ labels etc.

⁷ Agar, Betul, Bhopal, Burahanpur, Chhindwara, Dindori, Harda, Indore, Khandwa, Mandla, Narsinghpur, Neemuch, Satna, Singrauli, Shahdol, Sheopur and Umaria.

⁸ Anuppur, Balaghat, Chhatarpur, Damoh, Dewas, Jhabua, Katni, Panna, Raisen, Ratlam, Sagar and Sidhi.

Recommendation:

The Department should ensure that all posts in the Internal Audit Cell are filled up, and that the cell functions to its full capacity.

2.5.8 Norms for production of alcohol and beer from grains and molasses

The Audit Report for the year ending 31 March 2004, had recommended that the Department may prescribe norms for production of alcohol from all the grains. However, the Government has prescribed (2006) norms for production of alcohol from only two grains i.e., millets and sorghum, and no norms were prescribed for production of alcohol from the remaining three grains i.e., rice, maize and barley, and for production of beer from grains.

The process of production of alcohol from grains involves conversion of starch present in grains into glucose (one gram of starch produces 1.11 gram of glucose) and glucose into ethanol. One molecule of glucose produces two molecules of ethanol and two molecules of carbon-di-oxide. This chemical reaction is known as the Gay-Lussac equation.

According to the Gay-Lussac equation, yield of alcohol is derived on the basis of molar mass of glucose, and 100 kg of glucose produces 51.14 kg of alcohol and 48.86 kg of carbon-di-oxide. Further, yield of alcohol depends on fermentation efficiency (FE) and distillation efficiency (DE) of the technology used in distilleries.

2.5.8.1 Lower norms of production of alcohol from millet and sorghum

Lower norms for production of alcohol from millet and sorghum has deprived the Government of minimum excise duty of ₹ 805.76 crore.

Millets and Sorghum constitute 35.58 *per cent* of the total grains used by distillers in the State. According to norms prescribed by the Government, minimum yield of alcohol should be 283 BL⁹ per metric ton (MT), but this norm was prescribed without any reference to starch content, fermentation efficiency (FE) and distillation efficiency (DE). On calculation on the basis of FE (84 *per cent*) and DE (97 *per cent*) prescribed by Department, it was found that starch content was taken as 48.45 *per cent* while prescribing the aforesaid norm.

Audit collected information regarding fermentation and distillation technologies used by the distillers from the officers-in-charge of the distilleries and found that all the distillers are using batch fermentation/feed batch fermentation process and atmospheric distillation/ multi pressure distillation technology. Audit collected information from the Central Institute of Agricultural Engineering (CIAE), Bhopal on percentage of starch content in various types of grains and from the National Sugar Institute (NSI), Kanpur on FE and DE of different technologies used for fermentation and distillation, FE and DE for various technologies are shown in **Table 2.4**.

⁹ Bulk Litre (a litre with reference to the bulk or quantity of the contents equivalent to 0.219 gallons).

Table 2.4
Efficiency range for fermentation and distillation technology employed by distillers

(Figures in per cent)

Particular	Fermentation Efficiency		Distillation Efficiency	
	Batch fermentation	Feed batch fermentation	Atmospheric distillation	Multi pressure distillation
Molasses	88 – 90	90 – 92	97 – 98	98.5 – 99
Grain	90 – 92	90 – 95	97 – 98	98.5 – 99

(Source: Provided by National Sugar Institute, Kanpur)

On this basis, Audit calculated the minimum yield of alcohol per MT of grains used by six distillers and the results are shown in **Table 2.5**.

Table 2.5
Expected yield of Alcohol

Grain	Yield as per Government norms (BL/MT)	Starch content (per cent)	Yield of alcohol per MT/(in BL)* as calculated by Audit
Millet	283	64 to 79	407 ¹⁰ to 502
Sorghum	283	70 to 75	445 to 477

(* Source: Starch content provided by Central Institute of Agricultural Engineering, Bhopal)

Audit test checked records of six distilleries and noticed that these distilleries reported production of 22.61 crore proof litre¹¹ (PL) between 2012-13 and 2016-17, as against the expected yield of minimum 31.26 crore PL worked out on the basis of data in Table 2.5. The expected yield calculated by Audit is also corroborated by norms prescribed by Government of Rajasthan¹². Thus, distillers under reported production of total 8.64 crore PL of ENA/ RS. As cost sheet and audited accounts were not available to figure out quantity of IMFL and country liquor manufactured, therefore, excise duty has been calculated for country liquor on which duty is lowest. The under reported production of total 8.64 crore PL of ENA/ RS involves excise duty of ₹ 805.76 crore considering minimum duty¹³ applicable for country liquor for the respective years.

The understatement of yield of alcohol by distillers in the State was further confirmed by the fact that 53.54 lakh litre¹⁴ of liquor were seized between January 2014 and December 2016 in Madhya Pradesh as per Annual Reports titled “Crime in India” of National Crime Records Bureau. This also indicates

¹⁰ 1,000 kg x 64 per cent = 640 kg of starch, glucose yield = 640 kg x 1.11 = 710.40 kg ethanol yield as per Gay-Lussac equation from glucose = 710.40 kg x 0.51 = 362.30 kg, alcohol produced after fermentation = 362.30 x 90 per cent = 326.07 kg, alcohol produced after distillation = 326.07 x 98.5 per cent = 321.18 kg, quantity of alcohol (in BL) = 321.18/0.789 = 407 BL.

¹¹ Strength of alcohol is measured in terms of ‘Degree Proof’ Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 Degree F is assigned 100 degree proof. Volume of given sample of alcohol when converted into volume of alcohol having strength 100 degree is called Proof Litre.

¹² Minimum production of 400 BL/MT of alcohol from all grains, considering starch content in grains in range of 62 per cent to 64 per cent.

¹³ For the year 2012-13 @ ₹ 85 per PL, for the years 2013-14 and 2014-15 @ ₹ 92 per PL, and for the years 2015-16 and 2016-17 @ ₹ 100 per PL.

¹⁴ 24.39 lakh litre of Country Liquor, 9.18 lakh litre of factory made illegal liquor and 19.97 lakh litre of other liquor.

leakage of State Government's revenue despite the present system of posting Excise Department officers at the production unit/warehouse of distilleries.

During the exit conference (November 2017), the Excise Department stated that since it does not procure liquor, the norms of production were irrelevant for it. In detailed reply (January 2018), the Department further stated that production declared by distillers is in accordance with the norms prescribed by it.

The reply of the Department is not acceptable, as the collection of excise duty should depend on the quantity of alcohol produced and sold. Also, the argument that the Department does not prescribe norms for production of alcohol since it does not procure liquor is not tenable, as the Department has prescribed norms for production of alcohol from millet and sorghum. Further, even though the production declared by distillers was in accordance with the Government prescribed norms, the fact remains that these production norms were very low in view of data made available by CIAE, Bhopal and NSI, Kanpur.

Recommendation:

The Department may consider revising the norms of production of alcohol from millet and sorghum by taking into consideration starch content in these grains and technology employed by distillers for fermentation and distillation.

2.5.8.2 No norms for production of alcohol from rice, barley and maize

The Government has not prescribed norms for production of alcohol from rice, barley and maize. As a result, the Government was deprived of minimum excise duty of ₹ 280.89 crore.

The Government has not prescribed norms regarding production of alcohol from three grains i.e., maize, rice and barley till date. Out of eight distillers in the State, seven distillers are using these grains in addition to the grains for which standards have been laid down for production of alcohol. These grains constitute 64.42 per cent of the total grains used by distillers in the State.

Audit calculated the minimum yield of alcohol from the quantity of grains used by seven distillers considering the minimum content of starch prescribed by CIAE, Bhopal and fermentation efficiency (batch fermentation/ feed batch fermentation) and distillation efficiency (atmospheric distillation/ multi pressure distillation) as prescribed by NSI, Kanpur, which are detailed in **Table 2.6.**

Table 2.6
Expected yield of Alcohol

Sl. No.	Grain	Yield as per Government norms (BL/MT)	Starch content (per cent)	Yield of Alcohol per MT (in BL)* as per audit calculation
1.	Barley	No norms	65 to 70	413 to 445
2.	Maize	No norms	65 to 75	413 to 477
3.	Rice	No norms	65 to 70	413 to 445

(*Source: Starch content provided by Central Institute of Agricultural Engineering, Bhopal, FE (minimum 90 per cent for batch fermentation and feed batch fermentation) and DE (minimum 97 per cent for Atmospheric Distillation and 98.5 per cent for Multi Pressure Distillation) provided by National Sugar Institute, Kanpur (NSI).)

Audit noticed that these seven distilleries were showing yields in the range of 293 BL and 496 BL of alcohol per MT from these grains. However, in the absence of any production norms for alcohol from these three grains, no penal provisions were imposed on distillers who were showing lesser yield. This adversely affected the revenue potential of the State either in the form of duty or penalty.

Audit test checked records of seven distilleries and noticed in five distilleries that during 2012-13 to 2016-17 these distilleries reported production of 11.83 crore PL, compared to the minimum production of 14.87 crore PL worked out on the basis of expected yield of alcohol detailed in **Table 2.6**. Thus, total 3.04 crore PL of ENA/ RS were under reported by distillers from these three grains. As cost sheet and audited accounts were not available to figure out quantity of IMFL and country liquor manufactured, excise duty has been calculated for country liquor on which duty is lowest. The under reported production of 3.04 crore PL of ENA/ RS involves excise duty of ₹ 280.89 crore considering minimum duty applicable for country liquor for the respective years. This further indicates that the present system of posting excise department officers at the production unit/warehouse of distilleries could not prevent evasion of excise duty.

During the exit conference (November 2017), the Excise Department stated that since it does not procure liquor hence the norms of production were irrelevant for it. However, in the detailed reply (January 2018) the Department stated that it has prescribed norms for grains.

The reply of the Department is not acceptable; the argument that the Department does not prescribe norms for production of alcohol since it does not procure liquor is not tenable, as the Department has prescribed norms for production of alcohol from millet and sorghum. The amount of excise duty depends on the quantity of alcohol produced and sold. However, the Department has not prescribed norms for all the grains.

Recommendation:

The Department may consider prescribing norms of production of alcohol from barley, maize and rice by taking into consideration starch content in these grains and technology employed by distillers for fermentation and distillation.

2.5.8.3 Lower efficiency norms for production of alcohol from molasses

Failure of the Department to revise fermentation efficiency and distillation efficiency in terms of the new technologies employed by distillers for production of alcohol from molasses deprived the Government of minimum excise duty of ₹ 82.54 crore.

The MP Distillery Rules 1995 prescribe minimum fermentation efficiency and distillation efficiency as 84 *per cent* and 97 *per cent* respectively for production of alcohol from molasses or any other bases. However, the Rules do not account for the newer and improved technologies using batch fermentation/ feed batch fermentation process and atmospheric distillation /multi pressure distillation technology now used by distillers in the State. NSI, Kanpur informed Audit that FE of minimum 88 *per cent* for batch fermentation and 90 *per cent* for feed batch fermentation and DE

of 97 per cent for atmospheric distillation and 98.5 per cent for multi pressure distillation is achieved by using the newer technologies for production of alcohol from molasses.

Audit test checked records of four distilleries who were using molasses for production of alcohol and noticed that during 2012-13 to 2016-17 these distilleries reported production of 15.29 crore PL, compared to the minimum production of 16.17 crore PL worked out on the basis of expected yield of alcohol. Thus, total 0.88 crore PL of ENA/ RS were under reported by distillers. As cost sheet and audited accounts were not available to figure out the quantity of IMFL and country liquor manufactured, excise duty has been calculated for country liquor on which duty is lowest. The under reported production of 0.88 crore PL of ENA/ RS involves excise duty of ₹ 82.54 crore considering minimum duty applicable for country liquor for the respective years as shown in **Table 2.7**.

Table 2.7
Expected yield of alcohol with newer technology

(₹ in crore)

Distiller	Molasses used (in quintals)	Production		Alcohol yield as per FE and DE provided by NSI (crore PL)	Difference (crore PL) (5)-(4)	Loss of duty
		As per norms of the State (crore PL)	Reported by distillers (crore PL)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Som Distillery	31,43,030.00	12.36	12.69	13.44	0.75	70.36
Agarwal Breweries	5,35,640.00	2.13	2.13	2.23	0.10	9.70
Jagpin Breweries	43,580.00	0.16	0.16	0.17	0.01	0.65
Gwalior Distilleries	72,178.45	0.30	0.30	0.32	0.02	1.83
Total	37,94,428.45	14.96	15.29	16.17	0.88	82.54

During the exit conference (November 2017), the Excise Department agreed to accept the recommendation and revise the norms. However, in detailed reply (January 2018) Department stated that as distilleries in the State are owned by private parties, revenue of Government is not affected by the yield of alcohol from molasses.

The reply is not acceptable as failure of the Department to update its norms in tune with the improved production technologies adopted by distillers has encouraged under reporting of production resulting in loss of ₹ 82.54 crore of revenue.

Recommendation:

The Department may revise production norms in tune with the improved technology employed by distillers for production of alcohol from molasses.

2.5.8.4 Lack of norms for production of beer from grains

Failure of Department to prescribe norms of production of beer has deprived the State Government of minimum excise duty of ₹ 22.93 crore.

The Department has prescribed four types of beers for manufacturing in Madhya Pradesh and trade in India i.e., Light (having alcohol content between 0.5 and 4 *per cent*), Standard (having alcohol content between 4 and 5 *per cent*), Extra Strong (having alcohol content between 5 and 6 *per cent*) and Super Strong (having alcohol content between 6 and 8 *per cent*).

The process of preparation of beer is similar to that of alcohol. Alcohol production requires fermentation and distillation while production of beer requires only fermentation. Estimates of starch content provided by CIAE, Bhopal and fermentation efficiency of minimum 90 *per cent* provided by NSI, Kanpur for the batch fermentation technology used by brewers, revealed that for preparation of one hecto litre (100 litres) of light beer having strength of 4 *per cent*, 7.86 kg of pure starch is required. On this basis, raw materials required for preparation of one hecto litre of each type of beer is shown in **Table 2.8**.

Table 2.8
Starch required for production of one hecto litre of beer

Name	Strength (<i>per cent</i>)	Starch required (Kg)
Light	0.5 to 4	0.98 to 7.86
Standard	4 to 5	7.86 to 9.83
Extra Strong	5 to 6	9.83 to 11.8
Super Strong	6 to 8	11.8 to 15.73

Audit test checked records of eight breweries and comparison of above data with actual production by the these breweries between 2012-13 and 2016-17, suggested that against production capacity of 18.80 crore BL of beer, including manufacturing loss of 5 *per cent* as provided in MP Breweries & Wine Rules, 17.37 crore BL of beer was reported as produced resulting in under reporting of 1.43 crore BL of beer involving excise duty ₹ 22.93 crore at minimum excise duty of ₹ 16.03 per BL¹⁵.

In reply (January 2018) the Department stated that no norms for production of beer have been prescribed. Further, as breweries are owned by private parties, Government revenue is not directly related to beer produced by these breweries.

The reply is not acceptable as non-levy of excise duty on quantity of excess beer and non-prescription of norms will adversely affect the revenue potential of the State.

Recommendation:

The Department may consider prescribing norms for production of beer from grains by taking into consideration starch content in grains and fermentation technology employed by brewers.

2.5.9 Retail sale price of hemp (*bhang*) not prescribed

Failure of the Department to prescribe retail sale price of *bhang* resulted in minimum revenue loss of ₹ 1.99 crore.

The Government of Madhya Pradesh invites tenders from the authorised licensees of other State Governments who collect *bhang* from the wildly grown

¹⁵ Minimum duty prescribed for beer per box is ₹ 125 and in one box 7.80 BL beer is packed. Hence, rate of duty for beer is ₹ 16.03 per BL.

cannabis and supply to other States also. The *bhang* so procured is stored in Central Warehouse, Khandwa from where *bhang* is issued on the request of officer-in-charge of country liquor warehouses of various districts for issue to licensees of *bhang* shops. According to tender documents, *bhang* produced in the same calendar year would be supplied by the tenderer during the financial year.

Gazette notifications regarding depositing of annual licence fees for the period 2012-13 and 2016-17 prescribed that licence fees shall be divided in 12 equal instalments and the licensee shall deposit monthly licence fees of that month on the first working day or earlier in advance. Further, if the licence fees are not paid within the first seven working days of the month, the District Collector would either supply *bhang* at retail sale rate or stop its supply and if the due licence fees is not deposited before the end of month, the District Collector can revoke the licence. *Bhang* is issued to retail licensees on payment of duty¹⁶ prescribed for *bhang* along with due licence fee for the month. However, retail sale rate of *bhang* to retail customers in form of minimum sale price and maximum sale price has not been prescribed by the Department.

Further, the Government prescribes duty of *Bhang* for use in medicinal preparations¹⁷ through the same Gazette notifications, every year.

Audit test check (between October 2016 and July 2017) of Demand and Collection Register and *Bhang* issue register in five districts (three AEC offices¹⁸ and two DEO Offices¹⁹) revealed that despite the monthly license fees being submitted after 4 to 50 days from the due date by all the licensees in various months, the issue/supply of 1.04 lakh kg *bhang* was made on normal duty rate. However, in the absence of retail sale rates in the notification, Audit has calculated short realisation of minimum excise duty of ₹ 1.99 crore by considering that the rate of end use as intoxicant should be higher than the only rate prescribed for intermediaries for medicinal purposes.

The Department admitted (December 2017) that retail rates of *bhang* are not prescribed, However, in detailed reply (January 2018), the Department stated that in cases where licence fees was deposited late, penalty amount of ₹ 2.36 lakh in three districts has been recovered from the licensee.

The reply of Department is not acceptable as there is no provision of levy penalty in cases of delayed submission of licence fees and only a nominal penalty or no penalty was imposed. Further, the Government should notify the retail sale rate of *bhang* which may be levied in such cases of default.

Recommendation:

The Department may consider prescribing the retail sale rate of *Bhang* to be levied on licensees who have not deposited the advance licence fee.

¹⁶ ₹ 90/kg for 2012-13 and ₹ 100 for 2013-14 to 2016-17.

¹⁷ ₹ 250/kg for 2012-13 and ₹ 300 for 2013-14 to 2016-17.

¹⁸ Khargone, Bhopal and Ujjain.

¹⁹ Morena and Shajapur.

2.5.10 Supply of country liquor

2.5.10.1 Deficient policy for supply of country liquor encouraged/led to cartelisation resulting in undue benefit to distillers

Failure of Department to analyse the cost of country liquor and explore more economical options for supply of country liquor resulted in undue benefit of ₹ 653.08 crore to distillers.

Distilleries produce Rectified Spirit (RS) from which country liquor bottling units manufacture country liquor. Both distilleries and country liquor bottling units are governed under the MP Excise Act. The MP Distillery Rules and the MP Country Liquor Rules framed under the Act, govern distilleries and country liquor bottling units respectively.

The State Government invites tenders every financial year for the supply of country liquor in sealed bottles in all the districts of Madhya Pradesh. Government invites per case/box²⁰ rate for four categories of country liquor i.e., Plain²¹ (glass), Plain (PET), Masala²² (glass) and Masala (PET). The successful tenderer in the district is awarded the right to supply country liquor of the specific category to retail shops licensees in the district during the financial year.

Audit examined tender files pertaining to supply of country liquor in various districts of Madhya Pradesh and production details of all distillers between 2012-13 and 2016-17. The following irregularities were noticed:

Limited competition led to cartel formation

As per Government policy, licences for manufacture and bottling of country liquor are given only to distillers from the State. Bottling units which do not have distilleries in the State are not allowed to participate in the tender process for supply of country liquor. This has resulted in limited competition in the supply of country liquor as there are only eight distillers in the State.

Audit observed that the same distillers retained 37 districts out of 51 districts during the period 2012-13 to 2016-17 for supply of all four categories of country liquor in the concerned districts (**Appendix I**). In other words the same distillers were L1 for all four categories of country liquor in that district.

Audit further observed that when the concerned distillers were successful in securing the bid as L1 in any district, there was a margin of one to three rupees or no difference in any of their L1 bids in the districts where they were successful that year. However, when the same distillers offered bids in any of the districts where they were unsuccessful (L2 etc.), their bids varied from their L1 bids for the same categories by as much as ₹ four and ₹ 27 (except the year 2015-16) as shown in **Table 2.9**.

²⁰ One case/box of plain country liquor and masala country liquor contains 12 bottles of 750 ml or 24 bottles of 375 ml or 50 bottles of 180 ml. Further, one box of plain country liquor box contains 4.50 PL of alcohol; one box of masala country liquor contains 6.75 PL of alcohol.

²¹ 50 degree under proof.

²² 25 degree under proof.

Table 2.9
Comparison of range of rates per box offered by L1 and L2 bidders for
four categories of country liquor in various years

(Amount in ₹)

Year	Plain country liquor				Masala country liquor			
	Glass		PET		Glass		PET	
	L1 bidder	L2 bidder	L1 bidder	L2 bidder	L1 bidder	L2 bidder	L1 bidder	L2 bidder
2012-13	362-364	373-387	322-325	333-347	422-424	432-446	381-383	390-407
2013-14	391-394	405-419	348-351	363-376	456-458	471-482	411-416	426-438
2014-15	424-427	449-465	378-381	403-419	495-497	520-536	446-451	473-489
2015-16	423-424	425	378-379	380	494-495	496	447-448	449
2016-17	444-445	448-450	397-398	401-403	519-520	523-525	470-471	474-477

Thus, it is evident that the eight distillers in the State had formed cartels ensuring that only the identified bidders were successful in the identified districts and that the other bidders in that district offered prices far higher than the L1 bidder. Thus, the policy of Government to allow distillers of the State to participate in the bidding process had only encouraged the cartelisation among distillers.

No rate analysis led to undue benefit to distillers and realisation of less duty in comparison to neighbouring states.

Audit observed that the Uttar Pradesh (UP) Excise Department in the year 2016-17 analysed rates for every category of country liquor by taking various components like cost of liquor, bottling, labelling and capsuling expenses, packaging charges, freight profit etc. However, the Madhya Pradesh Excise Department did not analyse the cost components of these four categories of country liquor nor did it compare the rates of the aforesaid liquor with the rates prevailing in the neighbouring States to ascertain fairness of the rates quoted by distillers.

In the absence of rate analysis the State Government had no basis to estimate whether the L1 rates offered by the distillers and accepted by the Government were justified.

To evaluate the effect of this limited competition, Audit compared²³ rates fixed by Rajasthan Beverages Corporation Limited for Plain country liquor and rates fixed by UP Excise Department for Masala country liquor with the rates quoted by tenderers and accepted by the Government of Madhya Pradesh.

Comparison of rates accepted by the Governments of Rajasthan²⁴ and Madhya Pradesh for supply of Plain country liquor to retailers for period between 2012-13 and 2016-17 revealed that there was difference in rates of two states ranging between ₹ 37.00 and ₹ 110.54 per box resulting in undue benefit of ₹ 429.64 crore to distillers (**Appendix II**). Similarly, comparison of rates accepted by the Governments of UP and Madhya Pradesh for supply of Masala country liquor to retailers for the same period revealed that there was difference in rates of two states ranging between ₹ 32.50 and ₹ 119.49 per box resulting in undue

²³ Only Plain country liquor is traded in Rajasthan whereas only Masala country liquor is traded in Uttar Pradesh.

²⁴ In Rajasthan, one case/box of Plain country liquor contains 48 bottles of 180 ml, while, in MP one box contains 50 bottles of 180 ml. Audit has factored in this difference when comparing the prices for country liquor in both the states.

benefit of ₹ 223.44 crore to the distillers (**Appendix III**). Thus, failure of the Department to assess the cost of country liquor and limited competition among distillers resulted in formation of cartel and undue benefit of ₹ 653.08 crore to these eight distillers.

Audit further compared the rates²⁵ of 180 ml bottle of country liquor for retail customers and duty levied thereon in Madhya Pradesh with neighbouring states Rajasthan and UP and the same is shown in **Table 2.10**.

Table 2.10
Comparison of retail sale rate and duty involved in 180 ml bottle of country liquor with neighbouring states

(Amount in ₹)

Year	Category	Plain {Minimum Sale Price (MSP)}				Masala {Maximum Retail Price (MRP)}			
		MP		Rajasthan		MP		UP	
		MSP	Duty	MSP	Duty	MRP	Duty	MRP	Duty
2012-13	Glass	27.00	7.65	20.85	10.94	57.00	11.50	53.00	34.03
	PET	26.00	7.65	20.85	10.94	55.00	11.50	53.00	34.03
2013-14	Glass	29.00	8.28	20.85	10.94	61.00	12.40	60.00	39.38
	PET	28.00	8.28	20.85	10.94	60.00	12.40	60.00	39.38
2014-15	Glass	30.00	8.28	21.00	10.94	63.00	12.40	64.00	43.66
	PET	29.00	8.28	21.00	10.94	61.00	12.40	64.00	43.66
2015-16	Glass	38.00	9.00	21.00	10.94	63.60	13.50	69.00	48.58
	PET	36.00	9.00	21.00	10.94	61.20	13.50	69.00	48.58
2016-17	Glass	40.00	9.00	24.00	11.91	66.00	13.50	69.00	48.36
	PET	40.00	9.00	24.00	11.91	66.00	13.50	69.00	48.36

It is therefore evident that the amount of duty collected by the Government of Madhya Pradesh is substantially lesser than the duty collected by neighbouring States.

Import of RS from other states

It was observed that seven out of eight distillers imported 27.80 *per cent* of RS used for manufacture of country liquor between the period 2012-13 and 2016-17, and in respect of this quantity, the distillers acted only as bottlers. Thus, Department should have allowed other participants like bottlers who can establish country liquor bottling units in MP to engender more competition in supply of country liquor.

During the exit conference and in their detailed reply (November 2017 and January 2018 respectively), the Department stated that Constitution of India permits the State to formulate its own policy on country liquor and to encourage

²⁵ Rajasthan has prescribed minimum sale price (MSP), while, UP has prescribed maximum retail price (MRP). In MP, both MSP and MRP has been prescribed. Hence, MSP for plain country liquor in MP has been compared with that of Rajasthan, and MRP for masala country liquor in MP has been compared with that of UP.

local industries. From the year 2011-12²⁶, the State Government has allowed the eight distillers in the state to manufacture country liquor and participate in tender process of country liquor. Since retail licensees directly procure country liquor from the distillers, the State Government is not involved in the justification underlying the prices at which the country liquor is supplied to the retailers.

The reply of Government is not acceptable because:

- The objective of Government in this area appears to be limited to bottling of country liquor alone and not in favour of production of RS as distillers-cum-bottlers have imported 27.80 *per cent* of RS from other States. This would be achieved if the State Government insists that only country liquor bottling units (who can procure the RS from within or outside the State) located within the State can be permitted to bid for supply of country liquor in the State.
- While it is true that the price at which country liquor is supplied to retail licensees is not the direct concern of Government, the higher prices charged by distillers in MP in comparison to other States is not resulting in any benefit to the State Government. The neighbouring states Rajasthan and UP collected more excise duty per PL than MP, even while the retail prices permitted to retailers was higher in MP than Rajasthan.
- Formation of cartels is inevitable when there is limited competition. Further, Department did not estimate cost of country liquor to ascertain fairness of the rates quoted by distillers for sale to the consumers of the State.

Recommendations:

- **The Department should ensure that there is no cartelisation in the bidding for supply of country liquor and also ensure that the State Government is not at financial disadvantage when compared to neighbouring States when levying excise duty on country liquor.**
- **The Department may consider allowing bottlers having bottling units in the State or who can establish country liquor bottling units in the State to supply country liquor and thereby ensure more competitive rates.**
- **The Department should analyse the cost component of various categories of country liquor.**

2.5.10.2 Unwarranted change in policy

Unwarranted change in excise policy for supply of country liquor created liability of ₹ 48.21 crore on Government in 2016-17.

The Government totally relied upon distillers for rates of four categories of country liquors and accepted the lowest rates (L1) offered by the distiller in a

²⁶ Prior to the year 2011-12, distillers manufactured country liquor in every district. From 2011-12 onwards, distillers manufactured country liquor in their bottling units located in 10 districts.

particular district between the period 2012-13 and 2014-15. However, in the financial year 2015-16 and 2016-17, the Government prescribed 'base rates'²⁷ for country liquor.

Audit examination of the Excise Policy for the year 2015-16 revealed that the difference between base rates and L1 rates for the year 2015-16 was to be credited to the revenue Major Head 0039–State Excise. Since the Government directions declared all offers above base rate as invalid, all distillers had offered less rates than the base rate in all the districts for the year 2015-16. As a result, only ₹ 2.56 crore was credited into excise revenue head, as the difference between base rate and L1.

For the Excise Policy for the year 2016-17, the Government decided (February 2016) that if the tenderers quote rates lower than base rate, the difference between the rates offered and bases rate would be credited into revenue account; however if the tenderers quoted rates more than the base rate, then the Government would pay the distillers difference between rates offered and base rate. The rationale for this change in Policy is not available on record.

Audit observed that since the policy was amended in favour of the distillers by the Department, distillers quoted much higher rates uniformly across the State in the year 2016-17 as shown in **Table 2.11**.

Table 2.11
Difference between rates offered by distillers and base rate

(Rate per box in ₹)

Item	Masala		Plain	
	Glass	PET	Glass	PET
Rate approved for supply to retailers	519.49	470.82	444.55	397.76
Base rate	496.00	449.00	425.00	380.00
Difference (to be paid by the State Government)	23.49	21.82	19.55	17.76

It was informed by the Department (March 2018) that amount payable to distillers as difference between rates offered by distillers and base rate amounted to ₹ 48.21 crore. Thus, unwarranted change in policy from the previous year has resulted in creation of liability of ₹ 48.21 crore on Government, out of which an amount of ₹ 39.76 crore was paid by the Government to the distillers till 15 March 2018.

On this being pointed out by Audit, it was stated by the Excise Commissioner (April 2018) that payment to distillers has been made according to policy of the Government.

The reply of the Department is not acceptable as the unwarranted change in excise policy has allowed the distillers to quote higher rates and negatively impacted the revenue of the State by way of refund of difference between L1 and base rate. Further, the excise duty collected by GoMP is lesser than the neighbouring states for the same category and quantity of country liquor. It is also pointed out, that for the same category of country liquor the rates approved for sale to retail shops in Rajasthan and UP were less than the base rates (by ₹ 45.99 to ₹ 96 per box) fixed by the GoMP, resulting in consumers in MP paying higher rates than consumers in Rajasthan (**Appendix IV**).

²⁷ Estimated at average of L1 tendered rates of 2014-15 in all the districts of the State.

2.5.11 Loss of excise duty in respect of bottling units establishment within distillery premises

Fixation of asymmetric transport fees by Government for transportation of ENA/ RS in distillery premises in comparison to outside distillery premises, resulted in undue advantage to a section of manufacturers and loss of excise duty of ₹ 100.84 crore during 2012-17.

The Government prescribed (July 2006) transportation fees²⁸ for RS/ ENA in two slabs i.e. ₹ 2.50 per BL outside the distillery premises and ₹ 50 per permit²⁹ within distillery premises.

Audit observed from the permit issue registers for transport of RS/ENA that tankers used for transportation carry on an average 25,000 BL of RS/ENA. Comparison of above mentioned rates of transport fees revealed that manufacturers having bottling units paid only ₹ 50 to Government for this quantity whereas manufacturers having bottling units outside Distillery premises paid ₹ 62,500 for the same quantity to Government.

Audit test checked production records of eight distillers (November 2016 and March 2017) which revealed that 40.36 crore BL of RS and ENA were transferred from distilleries to the respective bottling units during the period 2012-17 within the same premises by paying transport fees of ₹ 8.07 lakh whereas for the same quantity transport fees leviable from manufacturers outside the premises was ₹ 100.92 crore. Thus, Department collected less excise duty of ₹ 100.84 crore from the manufacturers having bottling units within the premises of distilleries as compared to those manufactures having bottling units outside the distillery premises. The fixation of asymmetric transport fees by Government for transportation of ENA/ RS within distillery premises in comparison to outside distillery premises also resulted in undue advantage to a section of manufacturers.

During the exit conference (November 2017), the Government accepted the audit findings and assured to explore the possibility of revising the rates. The Government further revised rates of transport fees to ₹ one per BL³⁰ for transportation of ENA within distillery premises, while the rates in respect of RS remained unchanged.

However, the action of Department was still deficient as transport fee for IMFL manufacturers remained asymmetric even after revision of fees in March 2018 and will result in reduced cost of bottled liquor to manufactures who have established bottling units in distillery premises in comparison to manufactures who have establishments outside the distillery premises.

Further, as manufacturers of country liquor located outside the distillery premises despite paying higher transport fees are providing liquor to retail licensees at the same price as manufacturers located inside distillery premises levying less transport fees has resulted in undue financial benefit of ₹ 10.15 per box for Masala country liquor and ₹ 6.78 per box for Plain country liquor.

²⁸ Fees levied for transfer of RS/ ENA from distillery to bottling units.

²⁹ Permit is an authorisation to transport RS/ENA from distilleries to bottling units.

³⁰ Gazette Notification (Extra Ordinary) no. 209 dated 31 March 2018.

Moreover, as Government is inviting open tenders for wholesale supply of country liquor there is no rationale for charging asymmetric transport fees.

Recommendation:

The Department may consider levying equitable transport fees from all the production units for transport of RS/ ENA.

2.5.12 Absence of mechanism to identify and dispose of liquor stock lying idle due to non-renewal of licences/ labels.

Failure of Department in taking necessary action for disposal of foreign liquor resulted in blockage of duty of ₹ 3.03 crore.

Licences for manufacture of IMFL are renewed every year by the Excise Commissioner. Similarly, labels of various types of foreign liquor bottled in a bottling unit are also renewed every year.

MP Foreign Liquor Rules prescribe that on expiry or cancellation of the licence/ label, the licensee may place the entire stock under the control of the DEO/AEC and the licensee may be permitted to dispose of such balances within 30 days of such expiry or cancellation to any other licensee to whom it can be sold. If he is unable to dispose of such balances within the prescribed time, the EC may give any other direction about its disposal including destruction thereof.

Audit test check of records in DEO, Dhar revealed that even after a lapse of 14 to 23 months of expiry of licence of bottling unit and label for IMFL, in two units³¹, stock of 1.40 lakh PL of IMFL and 1.28 lakh PL of ENA involving excise duty of ₹ 3.03 crore³² was not disposed of. Further, Assistant District Excise Officer of the manufacturing units had not brought the matter of disposal of IMFL / ENA to the notice of the EC after expiry of prescribed time limit of 30 days.

It was further observed that despite PAC direction (72nd Report, 2015-16), the Government failed to evolve a system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of licence/label.

In detailed reply (January 2018) Department stated that no such rules exist in the Act. It was further informed by the DEO, Dhar (February 2018) that in compliance of EC orders (March 2017 and May 2017) aforesaid stock 0.96 lakh PL of IMFL was destroyed, 0.62 lakh PL was redistilled and remaining 1.10 lakh PL was reused.

The reply of the Department is not correct as Rule 18 (6) of MP Foreign Liquor Rules clearly prescribes the procedure for such disposal. Although the Department has disposed of the idle stock of liquor after being pointed out by audit, the Department has not prescribed a system for quick disposal of old stock which is therefore, prone to the risk of pilferage and theft.

³¹ FL 9 Licensee Silver Oak Limited (March 2015) and Great Galleon Limited (March 2016).

³² Duty on FL ₹ 125 per PL and on Spirit ₹ 100 per PL.

Recommendation:

The Department should, in compliance of 72nd Report of PAC evolve system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of license/label.

Compliance with provisions of Acts and Rules

The Performance Audit revealed various deficiencies in compliance of MP State Excise Act and Rules thereunder, such as penalty not imposed on excise verification certificates received after stipulated time period, non-installation of VSAT units by distillers at country liquor warehouses, excess transit wastage of IMFL and export/ transport of IMFL; and ENA without furnishing adequate bank guarantee etc., which are discussed below:

2.5.13 Penalty not imposed

The MP Country Spirit Rules and MP Foreign Liquor Rules prescribe that the EC or the Collector may impose a penalty not exceeding ₹ 50,000 (up to 12 January 2014) and ₹ two lakh (from 13 January 2014) for any breach or contravention of any of these rules and may further impose in the case of continued contravention for country liquor, an additional penalty not exceeding ₹ 1,000 for every day during which the breach or contravention is continued.

Despite provisions in the Rules, penalty was not imposed for violation of rules as discussed under:

2.5.13.1 Penalty not imposed on excise verification certificates received after stipulated time period

Twelve manufacturing units submitted excise verification certificates (EVC) with delays ranging between 1 and 401 days. However, the Department did not impose penalty of ₹ 462.77 crore on defaulting manufacturers.

The MP Foreign Liquor Rules and MP Country Spirit Rules prescribe that the exporter/ transporter shall obtain the verification report from the officer-in-charge of the importing unit and submit the same to the officer-in-charge of despatching units within 40 days from the expiry of period³³ of permit.

Audit test check of records in five districts (three AEC offices³⁴ and two DEO offices³⁵) revealed that EVCs were received with delays ranging between 1 and 401 days in respect of 23,272 permits out of total 49,410 permits issued between 2012-13 and 2016-17. In no case officers-in-charge of manufacturing units reported the matter to Excise Commissioner for imposition of penalty. The maximum penalty leviable in these cases worked out to ₹ 462.77 crore as shown in **Table 2.12**.

³³ Transit time taken by transporter for covering a maximum distance of 360 Km in a day at an average speed of 30 Km per hour.

³⁴ Gwalior, Khargone and Bhopal.

³⁵ Dhar and Raisen.

Table 2.12
Penalty leviable on EVC received after 40 days

(₹ in crore)

Name of unit	Type of liquor	Number of manufacturing units	Number of EVCs received after 40 days	Median delay	Maximum Penalty leviable
AEC, Gwalior	IMFL	5	17,611	60	352.22
AEC, Khargone		1	2,180	60	43.60
AEC, Dhar		2	39	48	0.78
AEC, Raisen		1	198	57	3.96
AEC, Bhopal		1	2,560	51	48.53
Total		10	22,588		449.09
AEC, Raisen	Beer	1	671	49	13.42
Total		1	671		13.42
AEC, Raisen	Country Liquor	1	13	50	0.26
Total		1	13		0.26
Grand Total		12	23,272		462.77

During the exit conference (November 2017), the Government replied that though the imposition of penalty was at the discretion of the competent authority, the provision for graduated and compulsory penalty may be added in the Rules and the word “may” be replaced by “shall” to remove the ambiguity in the Rules. However, in their detailed reply (January 2018) the Department stated that EC has discretionary powers for imposition of penalty and taking into consideration short delays in receipt of EVCs, no penalty was imposed.

The reply of Department is not acceptable, as, in no case did the officer-in-charge of unit forward cases for imposition of penalty and thus these cases were not considered by the competent authority to decide whether penalty should be imposed or not. Further, non-imposition of penalty would encourage delay in submission of EVCs. The Government vide notification no. 351 dated 13 July 2017 has increased the time limit for submission of EVC in cases of export outside the State from 40 days to 90 days for north-eastern states and 60 days for other states after the matter was pointed out by Audit.

Recommendation:

The Department may consider amending rules for imposition of penalty and provide for graduated and compulsory penalty.

2.5.13.2 Penalty not imposed for not establishing VSAT connectivity in 105 country liquor warehouses

One hundred five country liquor warehouses did not ensure VSAT³⁶ for connectivity.

³⁶ Very Small Aperture Terminals (VSATs) are used to transmit broadband data for provision of satellite internet access to remote locations, the objective of VSAT unit was to generate permit online to retail licensees who are lifting liquor from warehouses, further receipt of consignment of country liquor from bottling units could be given in real time of its receipt from warehouses.

As per tender notices for supply of country spirit in sealed bottles, the successful tenderer will have to make arrangements for VSAT connectivity in all the country liquor warehouses at their own cost failing which penalty of ₹ two lakh would be levied. Further, in the case of continued contravention, the Excise Commissioner may impose an additional penalty not exceeding ₹ 1,000 for every day during which the breach or contravention is continued.

Audit test checked records of EC and 20 selected districts and observed that V-SAT connectivity was not installed in 105 country liquor warehouses located in 51 districts by eight successful tenderers for the year 2015-16 and 2016-17. The officers-in-charge of these warehouses did not report this matter to higher authorities. The Department neither ensured installation of V-SAT connectivity nor levied penalty up to ₹ 11.87 crore under Rule 12 of the MP Country Spirit Rules.

During the exit conference (November 2017), the Department concurred with the audit observation and stated that on the basis of audit observation, in all the cases penalty would be imposed. The Department further informed (January 2018) that demand notices for the financial year 2015-16 of ₹10.60 lakh was issued and in the cases pertaining to financial year 2016-17 penalty is being imposed.

2.5.13.3 Penalty on excess wastage of IMFL / beer during export/ transport not levied

Penalty of ₹ 1.44 crore was not levied on excess wastage of IMFL / beer during export/ transport.

The MP Foreign Liquor Rules prescribe that the maximum wastages for all export/ transport of bottled IMFL / beer shall be 0.25 *per cent*. Further, for wastage in excess of the prescribed limit, the licensee shall be liable to pay penalty at a rate not exceeding the duty payable on IMFL at that time, as may be imposed by the Excise Commissioner or any officer authorised by him.

The Departmental circular (July 2013) clearly prescribed monthly return to monitor quantity of excess transit wastage of country liquor, IMFL, RS/ ENA and beers during transport/ export. Officer-in-charge of production units had to submit the return to Deputy Commissioner of the Zone and endorse a copy to the Excise Commissioner.

Audit test check of permit register in three IMFL bottling units and three breweries revealed that 60.75 lakh PL of IMFL was transported/ exported (between September 2015 and December 2016) through 1,144 permits on which excess wastage of 52,671.46 PL beyond permissible limit was recorded and 91.66 lakh BL beer was transported/ exported (between December 2015 and March 2017) through 982 permits on which excess wastage of 23,497.14 BL beyond permissible limit was recorded. Officers-in-charge of the manufacturing units had reported these cases to the DC of their Zones. However, penalty of ₹ 1.44 crore for excess wastage was not imposed by DCs.

During the exit conference (November 2017), the Government replied that the penalty was being imposed by DC regularly. Further, in detailed reply (January 2018), Department stated that letters have been issued to DC for status of imposition of penalty.

Reply of the Department is not acceptable as the imposition and recovery of penalty was not done in these cases.

2.5.13.4 Non imposition of penalty for non-maintenance of minimum 25 per cent stock in glass bottles at warehouses

Sixty nine country liquor warehouses did not maintain minimum prescribed stock of country liquor in glass bottles and Department failed to impose penalty of ₹ 5.46 crore on these warehouses.

As per conditions of agreements for supply of country liquor, distillers should maintain stock of 25 per cent of average daily supply of liquor in glass bottles at every warehouse with an objective to sustain supply of country liquor in case of ban on use of PET bottles, failing which a penalty of ₹ two lakh would be levied. Further, in the case of continued contravention, the Excise Commission may impose an additional penalty not exceeding ₹ 1,000 for every day during which the breach or contravention is continued.

Audit test checked of records of EC Office and 69 warehouses in 33 districts³⁷ and observed that in contravention of the aforesaid conditions, minimum stock of 25 per cent of average daily supply of liquor was not maintained in glass bottles at various warehouses for periods ranging from 1 to 366 days (Median -275 days) in a financial year. Audit further observed that the Department had not put in place any monitoring mechanism to ascertain compliance to these conditions. The Department also failed to impose penalty of ₹ 5.46 crore for not complying with the conditions of agreements and its continuous contravention under Rule 12 of MP Country Spirit Rules, 1995.

During the exit conference (November 2017) the Department accepted the audit observation and stated that the process of penalty imposition was in progress. In detailed reply (January 2018), Department reported imposition of penalty of ₹ 1.73 crore.

The action of the Department to start the process of imposing penalty is appreciated. However, unless the Department puts in place a monitoring mechanism for compliance to the conditions of the agreement the objective behind this clause cannot be meet. Further, imposition of penalty for the financial year 2016-17 for ₹ 3.73 crore is still awaited.

2.5.13.5 Minimum stock of country liquor not maintained at warehouses and bottling units

Though licensees of country liquor did not maintain minimum stock of bottled country liquor at country liquor warehouses and bottling units, penalty amounting to ₹ 2.58 crore for breach and continued contravention of rules was not imposed.

Audit test checked records viz., Stock Register, Monthly Register etc., of eight Assistant Excise Commissioner Offices³⁸ and 16 District Excise Officers³⁹ and

³⁷ 20 sampled districts; four AECs (Barwani, Hoshangabad, Jhabua and Sehore) and nine DEOs (Betul, Burhanpur, Damoh, Datia, Guna, Mandsaur, Neemuch, Seoni and Sidhi)

³⁸ Chhatarpur, Gwalior, Hoshangabad, Indore, Jhabua, Khargone, Rewa and Satna.

³⁹ Anuppur, Ashoknagar, Balaghat, Betul, Bhind, Damoh, Dewas, Dhar, Guna, Mandsaur, Neemuch, Seoni, Sheopur, Shivpuri, Sidhi and Vidisha.

observed (between May 2016 and February 2017) that the minimum stock of bottled country liquor was not maintained by licensees at 41 warehouses between April 2014 and December 2016. In 20 such warehouses there was shortage of stock for more than 100 days in a year.

Similar, Audit test check (between May 2016 and July 2017) of records in four Assistant Excise Commissioner Offices⁴⁰ and four District Excise Officers⁴¹ revealed that minimum stock of spirit and bottled liquor at country liquor bottling units that equals average of five days' supply of previous month was not maintained between April 2014 and December 2016 by all the five licensees. Penalty amounting to ₹ 2.58 crore for breach and continued contravention of rules was not imposed on the licensees as per MP Country Spirit Rules.

The Department did not take appropriate timely action by issuing necessary instructions and fixing time limit for referring cases of non-maintenance of country liquor to the EC.

During the exit conference (November 2017), the Department informed that demand notices have since been issued in most of the cases pointed out during 2016-17. However, status regarding recovery has not been provided (May 2018).

2.5.14 Export/ transport of IMFL and ENA without furnishing adequate Bank Guarantee/ Bond.

Transport/ export of IMFL /ENA involving duty of ₹ 52.72 crore was permitted against bank guarantee of ₹ 2.05 crore.

The MP Foreign Liquor Rules and the MP Distillery Rules prescribe that licensee shall deposit, the prescribed duty leviable on the full quantity to be exported/ transported, or furnish a bank guarantee or execute a bond with adequate solvent sureties for the amount. The bank guarantee etc. in respect of individual consignments will be effective till such time the excise duty is paid or the excise verification certificate is received.

The Department prescribed (August 2007) monthly returns to monitor that there is sufficient amount of security deposit against the quantity of exported/ transported liquor/ENA. The officer-in-charge of the production unit is required to submit the return to Deputy Commissioner of the Zone and endorse a copy to the Excise Commissioner.

Audit test check of export/ transport permit registers of sampled manufacturing units in three districts (two AEC offices⁴² and one DEO office⁴³) revealed that neither the officer-in-charge of any of the manufacturing units submitted the prescribed return nor did the Excise Commissioner/Deputy Commissioner monitor/ ask for the return.

Audit worked out the excise duty involved against the total permits issued in a selected month and compared it with the security deposit furnished by the manufacturing units. It was found that officer-in-charge of seven⁴⁴

⁴⁰ Chhatarpur, Gwalior, Khargone and Rewa.

⁴¹ Balaghat, Dhar, Rajgarh and Shivpuri.

⁴² Gwalior and Khargone.

⁴³ Dhar

⁴⁴ FL-9 A (PRIPL, ABD, USL, RKL, Associated and Oasis) and FL-9 GAPL.

manufacturing units allowed transport/export of IMFL/ENA involving excise duty of ₹ 52.72 crore during the selected month against bank guarantee of ₹ 2.05 crore. Excise verification certificates in respect of none of the permits issued during the selected month was received during the selected month. Thus, transport/ export of liquor involving duty of ₹ 50.67 crore was permitted by officer-in-charge of manufacturing units without the backing of required security deposit.

During the exit conference (November 2017), the Government accepted the audit observation and assured the compliance of Rules in future, However, in detailed reply (January 2018) the Department stated that failure to obtain adequate bank guarantee does not have any adverse effect on the revenue of the State.

The reply of the Department is not acceptable. Allowing export/transport of liquor without backing of adequate security deposit in violation of the Rules is a major risk in case of default by the licensee. Further, by this practice, the officers-in-charge permitted licensees to avail of undue financial advantage by not securing the required bank guarantees, etc., against consignment.

2.5.15 Computerisation of Department

The State Government (May 2007) approved the work on integrated computerisation of the State Excise Department for ₹ 14.89 crore. Though hardware procurement and installation was completed in March, 2012, the work of software development was still incomplete rendering the expenditure of ₹ 16.50 crore on hardware infructuous.

M/s CMC Limited was awarded (May 2007) the contract for Consultant cum Software Developer for ₹ 2.05 crore. The work was to be completed within 44 weeks and an amount of ₹ 83.25 lakh was paid up to 19 September 2015.

Further, a monitoring and consulting team was appointed (June 2010) to monitor the work of CMC. The consultancy team was paid ₹ 2.16 crore upto May 2017. Despite incurring more expenditure on the monitoring and consulting team than the cost for software development, the work is still incomplete even after lapse of 10 years.

2.5.15.1 Performance Security/Penalty was not forfeited/ imposed

Despite failure of the contractor to adhere to provisions of the agreement, the Department failed to enforce forfeiture of performance security and imposition of penalty amounting to ₹ 45.47 lakh.

According to the bid document, if any of the stages of work is either not completed or not completed satisfactorily as per the approved time schedule, a penalty at the rate prescribed in the agreement shall be imposed on CMC. The competent authority may terminate the agreement if the consultant fails to perform any or all of the obligations within the time period(s) specified in the agreement and the bid security/ performance security shall stand forfeited.

Audit observed that after a lapse of 499 weeks (more than nine years), work was incomplete (March 2018). However, for this delay, neither penalty amounting to ₹ 20.50 lakh (10 per cent of ₹ 2.05 crore) was levied nor was the agreement terminated by forfeiting the performance security of ₹ 25 lakh.

Moreover, the Government has to bear additional financial expenditure of ₹ 2.16 crore on consultants appointed to monitor the working of CMC limited and advisory on matters related to computerisation, despite the fact that project is still incomplete and resulted in increase in project cost.

In the exit conference (November 2017), Principal Secretary accepted the audit observation and instructed the Department to levy penalty and forfeit performance security in cases where the delay was attributable to the licensee. However, in detailed reply (February 2018) Department stated that enough efforts have been made by the Department to implement this project. Considering the complex procedures of the Department, the work of software development is currently going to be completed soon. Amount of penalty would be worked out after completion of the work and penalty would be imposed thereafter.

The reply of Department is not acceptable as the contractor has not performed the work according to the terms of the tender and despite huge investment of ₹ 19.49 crore⁴⁵, no penalty for violation of agreement conditions was imposed.

Hardware Procurement and Installation

2.5.15.2 Neither Bid Security/Performance Security was forfeited for delay in start of project nor was penalty imposed by Department for delay in completion of project.

Despite failure of the contractor to adhere to provisions of the agreement, forfeiture of bid security/ performance security and penalty amounting to ₹ 4.96 crore was not forfeited/imposed by the Department.

The bid document stipulated that failure of the successful bidder to furnish performance security within the stipulated period and/or failure to execute the work within stipulated period from award (February 2009) would lead to termination of contract and/or penalty as applicable.

Audit observed that M/s Tulip Telecom who was awarded the contract (5 February 2009) deposited the performance security after a delay of 138 days, executed the agreement after delay of 271 days and delayed deliveries of hardware by 37 weeks. Despite these delays, the Department failed to forfeit the bid security of ₹ 20 lakh, failed to levy penalty of ₹ 2.67 crore (20 per cent of ₹ 13.35 crore- value of hardware), failed to forfeit the performance security of ₹ 2.09 crore.

In the exit conference (November 2017), the Department accepted the audit observation and directed levy of penalty and forfeiting performance security in cases where the delay was attributable to the licensee. However, in their detailed reply (February 2018) Department stated that as there was a twofold difference between L1 and L2 bidder the bid of M/s Tulip Telecom was not disqualified and bid security forfeited. Further, for imposition of penalty Department stated that Tulip Telecom Limited was paid after withholding the amount for penalty.

⁴⁵ Payment to M/s Tulip Telecom (₹16.50 crore) plus payment to consultant (₹ 2.16 crore) and payment to CMC (₹ 83.25 lakh).

The reply is not acceptable as Department has not issued any orders for imposition of penalty and possibilities of release of withheld amount cannot be ruled out at the time of final payment.

2.5.15.3 Outsourcing the project without the permission of the Government.

The Department allowed the vendor to outsource the work without approval.

The bid document stipulated that the Vendor should not assign to any other vendor, in whole or in part, its obligations except with the prior written consent of the competent authorities.

Audit observed that the vendor (M/s Tulip Telecom) outsourced its work to Vayam Technologies without the approval of the Department. Though the Department was aware of this fact, it took no action, and in fact made payments in an escrow account⁴⁶ created in favour of both the vendor and sub-vendor.

In the exit conference (November 2017) the Department stated that permission of the Government was taken after the matter was pointed out by Audit. However, in detailed reply (February 2018) the Department stated that Tulip Telecom Limited did not assign any work to Vayam Technologies, who was only a supplier for Tulip Telecom Limited.

The reply is not acceptable in view of the facts on record, stated above.

2.5.16 Conclusion

The Performance Audit revealed the following:

- Non-prescribing of norms/ lower norms prescribed for production of Alcohol from grains, non-revision of fermentation and distillation efficiency norms and non-prescribing of norms for production of beer from grains deprived the State Government of minimum excise duty of ₹ 1,192.12 crore.
- The policy of Government to allow only distillers from the State to participate in the tender process for supply of country liquor without analysing cost of country liquor has resulted in cartel formation and undue benefit of ₹ 653.08 crore to distillers.
- Fixation of asymmetric transport fees by Government for transportation of ENA/RS in distilleries premises in comparison to outside distillery premises, resulted in undue advantage to a section of manufacturers and loss of excise duty of ₹ 100.84 crore.
- Officers-in-charge did not initiate action for imposition of penalty in cases of delayed submission of Excise verification certificates, non-maintenance of minimum requisite stock of country liquor, non-installation of V-SAT connectivity at Country liquor warehouses, etc.

⁴⁶ An escrow is a contractual arrangement in which a third party receives and disburses money for the primary transacting parties with the disbursement dependent on conditions agreed to by the transacting parties.

- Transport/ export of liquor involving duty of ₹ 50.67 crore was permitted by officer-in-charge of manufacturing units without deposit of required security deposit.
- The Department incurred huge expenditure on computerisation. Despite this, computerisation is still incomplete after 10 years of start of project resulting in non-achieving of intended benefits.