

Chapter-5

Other Tax Receipts

CHAPTER-5: OTHER TAX RECEIPTS

5.1 Tax administration

State excise:

The assessment, levy and collection of excise revenue in the State is governed by the Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor, foreign liquor, beer and composite liquor Shop) Rules, 2007. The GoB issued notifications for prohibition on sale and consumption of country liquor and foreign liquor from 1 April 2016 and 5 April 2016 respectively. The GoB further amended the BE Act, 1915 in October 2016 to enforce, implement and promote complete prohibition of liquor and intoxicants in the State.

The Principal Secretary, Department of Prohibition, Excise and Registration (Excise) is head at the Government level and the Commissioner of Excise (CE) is head at the apex level of the Department. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four¹ divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by ACE or Superintendent of Excise (SE).

Stamps and Registration fees:

The levy and collection of Stamps and Registration fees in the State is governed by the provisions of the Indian Stamp Act, 1899, the Registration Act, 1908, the Bihar Stamp Rules, 1991 and the Bihar Stamp (Prevention of Undervaluation of Instruments) Rules, 1995.

The Registration, Excise and Prohibition (Registration) Department is headed by the Inspector General, Registration (IGR). The Department functions under the administrative control of the Secretary of the Registration Department. The IGR is assisted by an Additional Secretary, two Deputy Inspectors General (DIGs) and four Assistant Inspectors General (AIGs) at the Headquarters level. Further, there are nine Assistant Inspectors General at the divisional level. Thirty eight District Registrars (DRs), 38 District Sub-Registrars (DSRs), 83 Sub-Registrars (SRs) and 26 Joint Sub-Registrars (JSRs) at the districts/primary units are responsible for levy and collection of stamp duty and registration fees.

¹ Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

5.2 Results of audit

During the year 2016-17, the Accountant General test checked the records of 38² out of 39 units of the Excise Department and 39³ out of 140 units of the Registration Department. Revenue collected by the Excise Department and Registration Department during the year 2015-16 was ₹ 3,141.75 crore and ₹ 3,408.57 crore respectively of which, the audited units collected ₹ 3,074.05 crore and ₹ 1,131.46 crore respectively. Audit observed short realisation, loss of revenue and other irregularities involving ₹ 74.84 crore in 370 cases out of 3,169 test checked cases⁴ (Number of total cases: 4,31,621) in both the departments which fall under the following categories as detailed in **Table - 5.1**.

Table - 5.1

| (₹ in crore) | | | |
|--|---|-----------------|--------------|
| Sl. No. | Categories | Number of cases | Amount |
| A: State Excise | | | |
| 1. | Non/delayed settlement of excise shops | 62 | 7.08 |
| 2. | Non-realisation of licence fees | 96 | 23.01 |
| 3. | Other cases | 58 | 1.65 |
| Total | | 216 | 31.74 |
| B: Stamps and Registration fees | | | |
| 1. | Blockage of Government revenue due to non-disposal of referred cases | 31 | 7.05 |
| 2. | Blockage of Government revenue due to non-disposal of impounded cases | 33 | 6.37 |
| 3. | Loss of revenue due to undervaluation of property | 11 | 17.31 |
| 4. | Others | 79 | 12.37 |
| Total | | 154 | 43.10 |
| Grand total | | 370 | 74.84 |

A. The Excise Department accepted underassessment and other deficiencies *etc.* involving ₹ 8.44 crore in 61 cases, out of which, 44 cases involving ₹ 2.75 crore were pointed out during 2016-17 and the rest during earlier years. Further, the Department recovered ₹ 5.02 crore in 34 cases, out of which ₹ 2.19 crore was pointed out during 2016-17 and remaining in earlier years. Replies in remaining cases of 2016-17 and those of earlier years are awaited (June 2018).

B. During 2016-17, the Registration, Excise and Prohibition (Registration) Department accepted underassessment and other deficiencies *etc.* involving

² **Commissioner of Excise, Patna: Deputy Commissioner of Excise:** Bhagalpur, Patna and Purnea; **Assistant Commissioner of Excise:** Bhojpur, Gaya, Patna and Rohtas; **Superintendent of Excise:** Araria, Arwal, Aurangabad, Begusarai, Bhagalpur, Buxar, Darbhanga, East Champaran, Gopalganj, Jehanabad, Kaimur, Katihar, Khagaria, Kishanganj, Madhepura, Madhubani, Muzaffarpur, Nalanda, Nawada, Purnea, Saharsa, Samastipur, Saran, Sheohar, Sitamarhi, Siwan, Supaul, United Spirit Limited Hathidah (Patna), Vaishali and West Champaran.

³ **District Sub Registrar:** Aurangabad, Bhagalpur, Buxar, East Champaran, Gaya, Jehanabad, Jamui, Kaimur, Katihar, Khagaria, Kishanganj, Madhepura, Muzaffarpur, Nalanda, Nawada, Patna, Purnea, Rohtas, Sitamarhi, Siwan, Supaul, Vaishali and West Champaran; **Sub Registrar:** Danapur, Barh, Nalanda, Dalsinghsarai, Tekari, Bihpur, Kahalgaon, Areraj, Khagaria, Jokihat, Bhutahi, Benipatti, Jhanjharpur, Madhaura, Babubarahi and Nirmali.

⁴ Stamps and registration fees: 2,537 executed deeds; State excise: 632 groups/licenses.

₹ 9.61 crore in 92 cases, out of which 54 cases involving ₹ 4.34 crore were pointed out during 2016-17 and the rest during earlier years. Further, the Department recovered ₹ 51.90 lakh in 16 cases, out of which ₹ 13.77 lakh was pointed out during 2016-17 and remaining in earlier years. Replies in remaining cases of 2016-17 and those of earlier years are awaited (June 2018).

Irregularities involving three Paragraphs worth ₹ 2.99 crore have been illustrated in this chapter. Most of these irregularities have been repeatedly highlighted in the Audit Reports during the last five years as detailed in **Table - 5.2**.

Table - 5.2

(₹ in crore)

| Nature of observation | 2011-12 | | 2012-13 | | 2013-14 | | 2014-15 | | 2015-16 | | Total | |
|---|-------------------------------------|--------|---------|--------|---------|--------|---------|--------|---------|--------|-------|--------|
| | Cases | Amount | Cases | Amount | Cases | Amount | Cases | Amount | Cases | Amount | Cases | Amount |
| A: | State excise | | | | | | | | | | | |
| Short realisation of licence fee of excise shops after cancellation | 0 | 0 | 12 | 0.57 | 31 | 1.83 | 144 | 9.47 | 95 | 6.95 | 282 | 18.82 |
| B: | Stamps and Registration fees | | | | | | | | | | | |
| Non-realisation of Government revenue from finalised referred cases | 22 | 0.47 | 0 | 0 | 73 | 0.51 | 688 | 0.74 | 229 | 1.23 | 1012 | 2.95 |
| Short realisation of stamp duty and registration fee | 0 | 0 | 77 | 4.44 | 1 | 0.13 | 10 | 0.11 | 16 | 18.58 | 104 | 23.26 |

The recurrence of irregularities is indicative of the fact that the State Government and the Prohibition, Excise and Registration Department did not take corrective measures to address the persistent irregularities pointed out year after year by Audit.

A: State Excise

5.3 Short realisation of licence fee

Non/delayed cancellation of 38 groups of excise shops by eight Superintendents of Excise for non-payment of monthly licence fee, resulted in short realisation of ₹ 1.93 crore.

As per Bihar Excise Rules, 2007 read with clause 14 (b) of condition of sale notification of excise shops, one twelfth part of annual licence fee of each shop was to be deposited by the licensees in the treasury of the district by the first day of the month, which in any event must be deposited by the 20th of the concerned month, failing which the licence of the shop shall be cancelled and all deposited security money shall be forfeited.

Audit scrutinised the records⁵ in eight District Excise offices⁶ and observed that licensees of 38 out of total 632 groups of excise shops had not paid monthly licence fee pertaining to the period between December 2014 and February 2016. The

⁵ Settlement files, Demands, Collections and Balances Register and Security Deposit Register

⁶ Aurangabad, Begusarai, East Champaran (Motihari), Gopalganj, Nalanda (Biharsharif), Saran (Chhapra), Sitamarhi and Siwan.

concerned SEs had to cancel these excise shops due to failure to deposit the licence fees by 20th day of the month. Of this, the seven SEs had cancelled licences of 32 groups of excise shops but with a delay of nine days to more than nine months during the period between January 2015 and March 2016. Further, in the case of six groups of excise shops of Begusarai district where licensees had stopped paying monthly licence fee, the SE Begusarai did not cancel licences even till the end of the financial year. Thus, due to delay/non-cancellation of excise shops by SEs concerned a sum of ₹ 1.93 crore remained unrealised.

The reply of Government/Department is awaited (June 2018) though the matter was reported in May 2017.

Similar observations were pointed out repeatedly in Audit Reports for the period 2012-13 to 2015-16 highlighting failure of the excise authorities in realisation of licence fee of ₹ 18.82 crore from 282 cases. However, similar nature of lapses/irregularities was still persisting indicating that the Department did not take corrective measures to prevent their recurrence and leakage of revenue.

B: Stamps and Registration fees

5.4 Short realisation of stamp duty and registration fee

Three Registering Authorities failed to detect under valuation of properties which resulted in short levy of stamp duty and registration fee of ₹ 63.33 lakh.

As per the Indian Stamp Act, 1899, the consideration/market value of the property and all other facts and circumstances affecting the chargeability of duty is to be fully and truly disclosed in the instrument.

Audit of three Registering Authorities (RAs)⁷ indicated under valuation of properties in 18 lease⁸/sale deeds registered between August 2013 and September 2016 out of 516 test checked deeds (total deeds executed: 71,298). In one case of Bhagalpur, the dimension of the constructed structure and land area adjoining thereto was not disclosed correctly in the registered document. In response to the audit observation, RA, Bhagalpur conducted (October 2016) spot verification and found that the actual area of land was 101.16 decimal and dimension of structure was 17,248 square feet though an area of 13.8 decimal only and dimension of structure of 12,000 square feet only was disclosed in the document resulting in under valuation of the property. In 17 cases of two RAs (Patna and Mashrakh), there was under valuation of property, as in one case, land situated on principal road was disclosed as on main road, and in the remaining 16 cases, the land was not disclosed as situated on *pakki* road.

The actual market value of the properties in these cases as per minimum valuation register (MVR) was ₹ 23.48 crore, which attract stamp duty and registration fee of ₹ 85.05 lakh against which RAs levied ₹ 21.72 lakh only. Thus, due to

⁷ District Sub Registrar, Bhagalpur; District Sub Registrar, Patna; and Sub Registrar, Mashrakh (Saran).

⁸ Leased out for periods ranging between 29 and 40 years.

non-conducting of physical verification before registering the document, the RAs failed to detect undervaluation of properties which resulted in short realisation of stamp duty and registration fee of ₹ 63.33 lakh.

The reply of Government/Department is awaited (June 2018) though the matter was reported in May 2017.

Similar observations were pointed out repeatedly in Audit Reports for the period 2011-12 to 2015-16 highlighting short realisation of stamp duty and registration fee of ₹ 23.26 crore from 104 cases. However, similar nature of lapses/irregularities were still persisting, which indicates that the Department did not take corrective measures to prevent recurrence and leakage of revenue.

5.5 Government revenue not realised from finalised referred cases

Failure of the District Sub-Registrar, Supaul to institute revenue recovery certificate cases in 18 cases for recovery of differential stamp duty led to non-realisation of Government revenue amounting to ₹ 43.15 lakh.

As per Departmental instruction (January 2007), DSR are required to serve notice to persons who do not pay the stamp duty in finalised referred cases, and after 30 days, Revenue Recovery Certificate cases were to be instituted under the PDR Act, 1914.

Audit of the DSR, Supaul in February 2017, indicated that Assistant Inspector General (AIG), Saharsa finalised 94 cases, referred by the DSR, Supaul for determination of market value of property under Section 47(A) of the Indian Stamp Act, 1899 and returned them to the DSR for realisation of the differential stamp duty involved therein. Of these, the DSR did not realise differential stamp duty in 18 cases (finalised between November 2012 and September 2016) involving ₹ 43.15 lakh till the date of audit. The DSR issued last notices of demand between July 2015 and October 2016 but did not institute Revenue Recovery Certificate Cases even after lapse of periods ranging from three to 18 months. Due to absence of monitoring mechanism at the level of AIG, realisation of revenue in these finalised referred cases could not be ensured.

The reply of Government/Department is awaited (June 2018) though the matter was reported in May 2017.

Similar observations were pointed out repeatedly in Audit Reports for the period 2012-13 to 2015-16 highlighting non-realisation of revenue of ₹ 2.95 crore from 1,012 finalised referred cases. However, similar nature of lapses/irregularities were still persisting which indicates that the Department did not take corrective measures to prevent recurrence of leakage of revenue.

Recommendation:

The Department may prescribe monitoring mechanism at the level of AIG for realisation of revenue in finalised referred cases in prescribed timeline.

