

CHAPTER-III
STATE EXCISE

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3.1 Tax administration

The Principal Secretary (Excise) is the Administrative Head at the Government level. The Department is headed by the Excise and Taxation Commissioner (ETC). The Department has three Zones¹, which are headed by the Additional ETC (South Zone) and Deputy ETCs of North Zone and Central Zone. Besides, 255 Excise and Taxation Inspectors under the control of the Assistant Excise and Taxation Commissioners (AETCs) of the respective Districts are deputed to oversee in field and regulate levy/collection of excise duties and allied levies.

3.2 Results of audit

In 2017-18, test check of records of nine units, out of 13 units having receipt of ₹1,015.63 crore relating to State Excise revealed non-realisation and short realisation of Excise Duty, License Fee, Interest, Penalty and other irregularities involving ₹67.37 crore in 61 cases as detailed below:

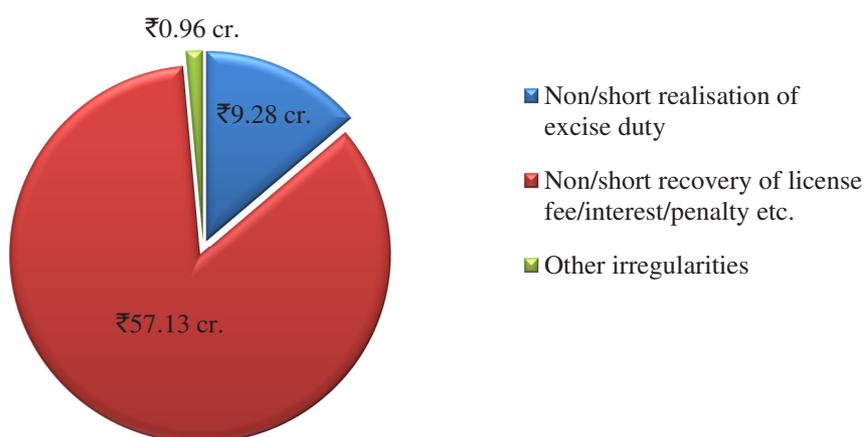
Table: 3.1 Results of audit

Sr. No.	Categories	Number of cases	₹ in crore
			Amount
1.	Non/short realisation of excise duty	03	9.28
2.	Non/short recovery of license fee/interest/penalty etc.	35	57.13
3.	Other irregularities	23	0.96
Total		61	67.37

The category wise audit findings are depicted in the graph as below:

Graph 3.1

Results of audit



During the year 2017-18, the Department accepted under-assessment and other deficiencies worth ₹9.21 lakh in five cases pertaining to audit findings of earlier years and recovered the same.

¹ South Zone (Shimla, Solan, Sirmour, Kinnaur and Baddi), North Zone (Chamba, Kangra, Nurpur and Una) and Central Zone (Bilaspur, Hamirpur, Kullu and Mandi)

Significant cases involving an amount of ₹55.86 crore are discussed in the following paragraphs.

3.3 Short recovery of license fee

AETCs did not take any action either to recover the short deposited license fee of ₹38.90 crore from 49 licensees or to seal vends.

The Excise Announcement (EA) 2016-17 provides that annual license fee of a particular vend shall be predetermined based on the Minimum Guaranteed Quota (MGQ) of liquor fixed for each vend for the whole of the year. The fee so fixed is required to be levied in 12 monthly instalments and paid by the last day of each month and last instalment for the month of March has to be paid in full by 15th of March. It further, provides that if the licensee fails to pay the amount of licence fee and interest on due dates, AETC in-charge of the District or any other officer authorised by him would ordinarily seal vend on 1st day of the following month or 16th March as the case may be.

During 2017-18, Audit test checked the records relating to M-2 registers² of nine AETCs involving 1,134 vends and observed that in five AETCs³, having 720 vends, Department recovered short licence fee from 49 vends (shops). The Department recovered licence fee of ₹185.30 crore against the recoverable licence fee of ₹224.20 crore for the year 2016-17. AETCs took no action either to recover the balance license fee or to seal vends as per EA, even though the licensees of these vends were in default of payment of monthly instalment between April 2016 and March 2017. This resulted in short recovery of license fee amounting to ₹38.90 crore.

The Department intimated (January 2019) that two AETCs⁴ had recovered an amount of ₹2.34 crore and three AETCs⁵ had declared arrears of ₹26.18 crore under ALR; besides, notices were being issued to defaulters to recover the balance amount. The reply of the Government was still awaited (August 2019).

² A register showing the quantity of Foreign Spirit including IMFL and CL issued for sale, amount of additional license fee payable and received during the month.

³ Baddi: nine units: ₹6.63 crore, Mandi: seven units: ₹6.09 crore, Shimla: 13 units: ₹12.56 crore, Sirmour: two units: ₹0.41 crore and Una: 18 Units: ₹13.21 crore

⁴ AETCs Baddi: ₹2.33 crore and Mandi: ₹1.01 lakh

⁵ AETCs Shimla: ₹12.56 crore, Sirmour: ₹0.41 crore and Una: ₹13.21 crore

3.4 Non-levy of additional fee and penalty on short lifting of Minimum Guaranteed Quota

The Department did not levy additional fee of ₹12.74 crore for short lifting of 40,58,893 proof litres of liquor against benchmark of 100 per cent by licensees of 561 vends. Penalty of ₹1.81 crore was also leviable for short lifting of MGQ against benchmark of 80 per cent.

EA 2016-17 stipulates that each licensee shall be required to lift MGQ both of Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) as fixed for each vend and shall be liable to pay license fee fixed on the basis of the MGQ. The licensee shall also be liable to pay additional fee of ₹10 per proof litre (pls) on CL and ₹56 per pls on IMFL on the un-lifted quota of liquor which falls short of the benchmark of 100 per cent of MGQ. Further, licensee shall also be liable to pay penalty of ₹7 per pls on CL and ₹14 per pls on IMFL on the un-lifted quota of liquor which falls short of the benchmark of 80 per cent of MGQ. AETC or Excise and Taxation Officer (ETO) in-charge of the District shall review the position of lifting of MGQ on quarterly basis and ensure recovery of the additional license fee as well as the amount of penalty on un-lifted MGQ.

During 2017-18, Audit test checked the records of nine AETCs involving 1,134 vends and observed that in seven AETCs having 897 vends, licensees of 561 vends had short lifted MGQ of liquor. Additional fees for short lifting of MGQ of ₹12.74 crore⁶ was required to be levied as shown below:

Table: 3.2 Position of MGQ fixed and lifted

Liquor quota	Country Liquor	Indian Made Foreign Liquor	Total
MGQ fixed (In pls)	79,47,178	67,25,511	1,46,72,689
MGQ lifted (In pls)	57,75,382	48,38,414	1,06,13,796
MGQ short lifted (In pls)	21,71,796	18,87,097	40,58,893
Additional fee (In ₹)	10 per proof litre	56 per proof litre	--
Additional fee payable (In ₹)	2,17,17,960	10,56,77,432	12,73,95,392

Further, out of these 561 licensees, it was observed that lifting against MGQ was also short of the 80 per cent benchmark by 18,29,846 pls (CL:10,70,548 pls and IMFL: 7,59,298) in respect of 550 licensees and penalty of ₹1.81 crore was required to be levied on these licensees. However, in violation of the EA, AETC/ETO did not review the quota lifting statement to check the lifting position of MGQ on quarterly basis in spite of the fact that Audit had pointed out the same deficiencies repeatedly for the last five years, thereby indicating either negligence or unwillingness in applying provisions of EA. Thus, failure on the part of AETC/ETO resulted in short realisation of additional fee and penalty of ₹14.55 crore (₹12.74 crore + ₹1.81 crore) and extending undue benefit to the licensees.

⁶ Baddi: 44 vends: ₹1.48 crore, Chamba: 88 vends: ₹1.10 crore, Kinnaur: 11 vends: ₹0.11 crore, Mandi: 145 vends: ₹2.86 crore, Shimla: 155 vends: ₹5.35 crore, Sirmour: 23 vends: ₹0.39 crore and Una: 95 vends: ₹1.45 crore.

The Department intimated (January 2019) that AETCs had issued directions to all AAs to issue notices to the defaulters for recovery of additional fee and penalty. The reply of the Government was still awaited (August 2019).

The Department may ensure that field offices review the position of Minimum Guarantee Quota by vends on monthly/quarterly basis as provided in the Excise Announcements.

3.5 Non-levy of interest on delayed payment

Interest amounting to ₹3.77 crore on delayed payment of license fee/bottling fee/franchisee fee was not demanded by the Department from the licensees of 156 vends resulting in non-levy of interest to that extent.

EA 2016-17 stipulates that if the licensee is unable to lift the MGQ within a month, he shall be required to pay the full instalment of license fee for that month by the last day of the month and fee for the month of March shall be paid in full by 15th of March. It further provides that Bottling Fee⁷ and the Franchisee Fee⁸ at the rates prescribed shall be payable on quarterly basis i.e. within seven days of the expiry of each quarter of the financial year. It further provides that if the licensee fails to pay the amount of fees or part thereof on due dates, interest at the rate of 14 *per cent* upto one month and 18 *per cent* per annum thereafter shall be leviable.

During 2017-18, Audit test checked the records of nine AETCs involving 1,134 vends and observed that in eight AETCs⁹ having 1,106 vends, the licensees of 156 vends had deposited between April 2016 and November 2017 License Fee/Bottling Fee/ Franchisee Fee of ₹225.02 crore after the due dates. The delay ranged between two and 434 days. Therefore, these licensees were liable to pay interest of ₹3.77 crore¹⁰ on the delayed payments. However, the AETCs concerned did not raise any demand for the same. Further, in violation of the EA, AETC/ETO did not review the same deficiencies, even after being repeatedly pointed out by Audit for the last five years, indicating either negligence or inaction in applying the provisions of EA. This resulted in non-levy of interest amounting to ₹3.77 crore.

The Department intimated (January 2019) that two AETCs¹¹ had recovered ₹4.31 lakh and AETCs Solan and Shimla had declared arrears of ₹40.38 lakh in two cases under HPLR Act. All other AETCs had issued directions to all AAs to issue notices to defaulters for recovery. The reply of the Government was still awaited (August 2019).

⁷ Bottling Fee is fee paid by the distillery on bottling of liquor. For Country Liquor it is 88 *paise* per bottle of 750 ml and ₹1.10 per bottle if bottled for others and ₹2.20 per bottle for own brand.

⁸ Franchise Fee is fee paid by the licensee who takes a distillery on lease and bottles own brands, rate is ₹8.00 per proof litre.

⁹ AETCs Baddi, Chamba, Kullu, Mandi, Shimla, Sirmour, Solan and Una

¹⁰ AETCs Baddi 13 vends: ₹1.32 crore, Chamba 22 vends: ₹0.26 crore, Kullu 14 vends: ₹0.21 crore, Mandi eight vends: ₹0.30 crore, Shimla 24 vends: ₹1.02 crore, Sirmour 45 vends: ₹0.12 crore, Solan 10 vends: ₹0.28 crore and Una 20 vends: ₹0.26 crore

¹¹ Shimla: ₹4.29 lakh and Una ₹0.02 lakh

3.6 Non-recovery of license fee on unsold stock of liquor

License fee of ₹27.16 lakh was recoverable in respect of three vends due to non-levy of license fee on unsold stock of preceding year.

EA 2015-16 stipulates that in case of renewal of license of a vend, the unsold stock of liquor in vend upto three *per cent* of MGQ of preceding year i.e. 2014-15 shall not be accounted towards the MGQ for the year 2015-16. The licensee shall have to take this unsold stock on payment of additional license fee at the rate of 50 *per cent* as prescribed for the year 2015-16.

During 2017-18, Audit test checked the records of nine AETCs involving 1,134 vends and observed that ETO Kinnaur having 24 vends, had not recovered license fee on unsold stock of 22,361.779 pls of IMFL of the preceding year 2014-15. On this unsold stock of liquor quota, additional license fee of ₹27.16 lakh at the rate of 50 *per cent* of applicable license fee for the year 2015-16 was payable by these licensees. Audit, however, observed that demand for the license fee of ₹27.16 lakh was not raised by the AETC resulting in non-recovery of license fee to that extent.

The Department stated (November 2018) that ETO had issued notices to the licensees for recovery of the amount. The reply of the Government was still awaited (August 2019).

3.7 Non-levy of Excise Duty on sale of Extra Neutral Alcohol and Rectified Spirit

AETC did not demand Excise Duty on the sale of Extra Neutral Alcohol and Rectified Spirit within the State resulting in loss of revenue of ₹18.08 lakh.

Punjab Excise Act 1914 (also applicable in the State of HP) provides that no intoxicant shall be removed from any distillery, brewery, warehouse or other place of storage established or licensed under the Act, unless the duty has been paid or a bond has been executed for the payment thereof. Further, EA 2016-17 prescribes the rate of Excise Duties on Extra Neutral Alcohol (ENA) and Rectified Spirit as ₹11.77 per bulk litre.

During 2017-18, Audit test checked the records of nine AETCs involving three distilleries and observed that AETC Baddi having one distillery, had not levied excise duty on sale of Extra Neutral Alcohol and Rectified Spirit in one licensee (distillery) who sold 1,53,644 bulk litres of ENA and Rectified Spirit during the year 2016-17 in the State. Audit noticed that neither the licensee had paid any Excise Duty on the sale of ENA and Rectified Spirit nor any demand was raised by the Department. This resulted in loss of revenue of ₹18.08 lakh (1,53,644 bulk litre X ₹11.77 per bulk litre).

The Department intimated (January 2019) that AETCs had issued directions to all AAs to issue notices to the defaulters for recovery of Excise Duty. The reply of the Government was still awaited (August 2019).

The cases pointed out are based on test check conducted by Audit. The Department may initiate action to comprehensively examine similar cases and take necessary corrective action.
