
EXCISE DEPARTMENT
Chapter 2: Regulation of Supply Chain Management of liquor products in the State

The Constitution of India, vide Entry No.51 of List II of Article 246, vests the power to levy duty on alcoholic liquor for human consumption and narcotics, with the States. The scope of Excise Administration in the States, covers liquor products such as Indian Made Foreign Liquor¹ (IMFL), Foreign Made Foreign Liquor² (FMFL), Beer³, Country Liquor⁴ (CL), *etc.* The objectives of the Excise Department are to control the manufacture, storage, transportation, distribution and sale of liquor product through Government channels, prohibiting the sale of spurious liquor, prevention of illicit distillation and clandestine trade in non-duty paid liquor through Excise Intelligence and Enforcement measures.

The administration of State Excise is governed by the Odisha Excise Act, 2008 and the Odisha Excise Rules, 2017 that regulate the sale, production and supply of liquor products. The Excise Department is headed by a Secretary, who is assisted by an Excise Commissioner (EC). The EC is assisted by three Deputy Commissioners of Excise (Northern, Central and Southern Division), Superintendents of Excise (SEs), Deputy Superintendents of Excise (DSEs), Inspectors of Excise (IEs), Sub-Inspectors of Excise (SIs) and Excise Constables. Besides, Government of Odisha (GoO) established the Odisha State Beverages Corporation Limited (OSBCL) as a company under the Companies Act, 1956 in November 2000.

The Excise Department, Government of Odisha is responsible for formulation of Rules and policies and exercises supervision and administrative control over the Excise Commissioner and OSBCL.

The Excise Commissioner is responsible for enforcement of Rules, to ensure the prevention of manufacture and trade of illicit liquor and to protect the financial interest of the State Government through collection of excise revenue. The enforcement of Rules and other executive instructions is carried out through the field formations under the Excise Commissioner-consisting of District Excise Offices and Officers posted in charge of:

¹ Liquor produced, manufactured or compounded in India as may be declared by the State Government to be Indian Made Foreign Liquor

² Every liquor imported into India, other than IMFL and country liquor and such other intoxicants as may be declared by State Government to be foreign liquor

³ Any liquor prepared from malt or grain as may be specified by the State Government

⁴ All liquor produced or manufactured in India other than foreign liquor and IMFL and such other intoxicants as may be declared by the State Government to be country liquor

- Liquor manufacturing units and Distilleries;
- OSBCL Depots; and
- Supervision of liquor retail outlets in each District.

OSBCL has been granted the exclusive rights for wholesale trade of liquor products in Odisha. This means that all liquor manufacturers have to mandatorily supply liquor products intended for sale in Odisha to the Depots of OSBCL, and that all liquor retailers have to mandatorily purchase liquor products intended for sale in Odisha from the Depots of OSBCL. OSBCL therefore functions as a channelising entity for the legal supply chain for liquor products in Odisha. Any liquor product that is manufactured/ traded outside this legal supply chain is not permitted to be sold. This supply chain is the mechanism by which the sale of illicit (unfit for human consumption) and non-duty paid liquor is prevented.

Therefore, Supply Chain Management is the responsibility of OSBCL. Regulation of Supply Chain Management is the responsibility of the Excise Commissioner. Overall supervision and administrative control over both OSBCL and Excise Commissioner is exercised by the Excise Department.

Audit, covering the period 2017-21, was conducted during July to December 2021 with a view to ascertain whether:

- Excise Officers posted at liquor manufacturing units are functioning in compliance with the Excise Rules.
- Internal controls have been adopted to monitor the supply chain of liquor products and safeguard them from manufacturing to retail point in compliance with the Excise Rules.
- Enforcement Wing of the Excise Department is functioning in compliance with the Excise Rules.

Audit examined related records of the Excise Department, Excise Commissioner, six (20 *per cent*) of the 31 District Excise Offices⁵ (DEO) and 11 Excise Inspectors posted at manufacturing units⁶ located under the jurisdiction of these six DEOs as well as records of OSBCL.

2.1 Revenue and Operations

State excise is a major source of revenue for the State and contributed between 11.54 *per cent* and 13.91 *per cent* of 'Own Tax revenue' of the State during 2017-21. The targets for excise revenue collections are worked out annually by the State Excise Department based on the amount collected in the previous year. The details of excise revenue collected in comparison to the targets set for the years 2017-21, are shown in the table below:

⁵ Berhampur, Bolangir, Cuttack, Dhenkanal, Ganjam (Chhatrapur) and Khurda, selected on sampling basis

⁶ M/s Aska Co-operative Sugar Industries Ltd., Aska, M/s Denzong Breweries, Khurda, M/s Fortune Spirits Ltd., Gopalpur, M/s Kwaliti Bottlers (P) Ltd., Janla, Khurda, M/s Maikal Breweries Ltd., Bolangir, M/s Oriental Bottling Pvt., Ltd., Khurda, M/s Shakti Maltware & Lemonade Pvt. Ltd., Dhenkanal, M/s Som Distilleries & Breweries Pvt. Ltd., Cuttack, M/s Trinath Smart Pack Pvt. Ltd., Khurda, M/s United Breweries, Khurda and M/s United Spirits Ltd., Gopalpur

Table 2.1: Target vis-à-vis actual collection of excise revenue during 2017-21

Year	Target	Collection	Growth rate of revenue collected over the previous year (in per cent)
	Rupees in crore		
2016-17	3,300.00	2,786.25	-
2017-18	3,600.00	3,221.03	15.60
2018-19	3,800.00	3,925.41	21.87
2019-20	4,600.00	4,495.52	14.52
2020-21	5,250.00	4,053.51	(-9.83)

(Source: Information furnished by the Excise Commissioner)

Excise Duty (ED), Value Added Tax (VAT), Tax Collected at Source (TCS), Excise Adhesive Label Fee, license fee from manufacturer and retailer, etc., of IMFL, Beer and CL constitute the major sources of excise revenue. Year-wise volume sales of these liquor products during 2017-21 are shown in the table below:

Table 2.2: Quantity of liquor products sold to retailers during 2017-21

Year	IMFL (in lakh LPL ⁷)	Beer (in lakh BL ⁸)	Country Liquor (in lakh LPL)
2017-18	460.74	708.79	105.77
2018-19	528.92	867.53	95.56
2019-20	532.35	935.79	78.62
2020-21	406.21	471.11	48.89

(Source: Data furnished by OSBCL)

2.2 Regulatory framework

2.2.1 Procurement and transportation of Extra Neutral Alcohol

Basic raw materials for manufacture of alcoholic liquor and finished products are regulated under the Odisha Excise Rules (OER), 2017. Extra Neutral Alcohol (ENA) is the basic raw material for manufacture of IMFL and CL. As per the provisions of OER, a manufacturer of IMFL/ CL is to apply for permission from the concerned DEO, termed as pass, to get ENA transported (within the State) or imported (from outside the State) from the manufacturers of ENA. The pass issued by the DEO bears the quantity of ENA to be transported/ imported and the validity period of the pass. Upon arrival of the ENA at the premises of the manufacturing unit, the same is measured by the Excise Officer-in-Charge (OIC) of the manufacturing unit to assess actual quantity of ENA received and quantity of transit loss. Transit loss of 0.5 per cent up to five days and thereafter at the rate of 0.1 per cent per day is allowed on transportation of ENA. Apart from the above, production wastage at the rate of 2 per cent is also allowed.

Thus, monitoring of the quantity of ENA procured/ utilised by the manufacturers against permits issued by the OIC attached to the manufacturing units is important not only for ensuring legal use of ENAs also for checking against evasion of ED.

⁷ London Proof Litre or “LP” or simply “Proof” means the strength of liquor as ascertained by means of the Sykes’s hydrometer or any other instrument prescribed for the purpose by the Commissioner.

⁸ Bulk Litre

2.2.2 Production, storage and despatch of IMFL/ beer/ country liquor

After the finished products are bottled, the bottles are affixed with the Excise Adhesive Label (EAL) and stored at the bonded warehouse of the concerned manufacturing unit. The entire procedure is carried out under the supervision of OIC posted to the unit. OSBCL places purchase orders (PO) for supply of liquor with the manufacturers as per its requirement. On the basis of the PO, the supplier deposits ED, import fee and other applicable fees with OSBCL. In turn, OSBCL remits the amounts to the Government account while applying for permits for lifting liquor stock from the warehouses of the manufacturers. DEO, Khurda is the centralised DEO Office which issues transit passes for movement of liquor products within the State of Odisha. It is responsible for issue of permits for lifting of liquor stock to OSBCL. On the basis of permits, OSBCL issues despatch notes to the manufacturers and stock received at depots of OSBCL are recorded in Goods Received Note (GRN). OSBCL issues liquor stocks to the licenced retailers on realisation of VAT, TCS, profit margin of the Corporation, *etc.*, along with issue price of liquor (inclusive of ED). After conclusion of the retail sale transaction, OSBCL refunds ED, import fee and other fees along with the cost of the liquor to the manufacturers.

The role of OIC is critical in monitoring quantity of liquor manufactured, supplied and ultimately sold to retailers, besides quantity of liquor stock that remain unsold and requires disposal for non-consumptive purposes.

Audit findings including lapses noticed in discharging of functions by OICs as assigned to them in supply chain management are discussed in the following paragraphs.

2.3 Control lapses

2.3.1 Non-accountal of procured ENA and loss of revenue

Extra Neutral Alcohol (ENA, also called Spirit) is the primary raw material for manufacturing IMFL. The process of transport, storage and utilisation of ENA has to be monitored effectively to reduce the scope for excess manufacture of IMFL without declaration to the Excise authorities and for this purpose, relevant provisions have been included in the Odisha Excise Rules.

As per Rule 91 of the Odisha Excise Rules, 2017, an allowance at a rate not exceeding in any case the appropriate maximum specified as below shall be made for loss in transit by leakage or evaporation of ENA which is transported or exported by land in metal vessels only under bond. The period of transit shall include the date of arrival in the receiving warehouse but not the day of dispatch:

- For a journey of not greater duration than 5 days: 0.5 *per cent*; and
- For a journey of duration exceeding 5 but not exceeding 20 days: 0.1 *per cent* per day of journey.

If the report of the officer, by whom a consignment of spirit transported or exported has been gauged and proved on arrival at its destination, shows that wastage to a greater extent than the appropriate allowance specified above has occurred, the warehouse keeper on receipt of an intimation to the effect from

the said officer shall pay forthwith duty at the highest rate for the time being in force on Country Spirit, as per Rule 91 (2), *ibid*.

Audit noticed that no reference of the pass issued by the DEOs for such procurement had been recorded in the ENA Stock Registers maintained by the OIC of the liquor manufacturers in respect of 4,52,990.72 LPL of ENA procured by two manufacturing units⁹ during 2017-21. The OIC of the manufacturing units also did not cross verify the actual consignments received with the corresponding passes issued, if any. Thus, Excise Duty on the ENA consignments received and utilised for the manufacture of liquor could not be levied. As a result, Government revenue of ₹ 6.60 crore towards ED, calculated at the highest rate of ED applicable for the brands manufactured by the unit, on 4,52,990.72 LPL ENA could not be realised. It also indicated lapse on the part of the concerned OIC in monitoring actual receipt of ENA by the manufacturing units against passes issued, if any.

For import/ transport of spirit, the SEs had only issued passes but not taken any follow up action. They had neither effectively monitored the movement of consignments nor ensured periodic reconciliation to detect unutilised passes and in case of significant/ unusual number of unutilised passes, they did not ensure periodic physical inspections to detect the potential under reporting of ENA stored at manufacturing units.

Thus, Audit was unable to derive assurance that the OIC and DEOs concerned were effectively monitoring the transport, storage and receipt of the primary raw material for manufacture of IMFL.

The Department stated (April 2022) that ED on excess quantity of ENA should be charged at the highest rate for the time being in force on country spirit not on the IMFL, as considered in audit. It was added that two permits issued to M/s Shakti Maltare and Lemonade, Dhenkanal had not been executed by the unit and demand notice had been issued (March 2022) to M/s Aska Co-operative Sugar Industries Limited for deposit of ED on the excess quantity of ENA.

The reply on calculation of ED on excess quantity is not tenable because country spirit is plain spirit made from materials like crude or unrevised sugar, molasses, *etc.* which is the primary raw material used for preparation of IMFL. As the spirit was meant for preparation of IMFL, the rate of duty ED should be calculated on the basis of the highest rate of the brand manufactured by the respective units, as per Rule 91 (2). The statement in case of M/s Shakti Maltare and Lemonade, Dhenkanal that two permits had not been executed was not tenable, since the permits in question had neither been cancelled by the SE, Dhenkanal nor the amount deposited had been adjusted subsequently.

2.3.2 Loss of Excise Duty due to excess transit loss allowed

Audit examined ENA Stock accounts and Pass Issue Registers pertaining to seven IMFL manufacturing units and noticed that 435 import/ transport passes for ENA were issued by the DEOs in favour of one unit¹⁰ during 2017-21. In

⁹ Shakti Maltare and Lemonade, Dhenkanal (1,41,010.80 LPL) and Aska Co-operative Sugar Industries Limited (4,18,970.72)

¹⁰ M/s Shakti Maltare & Lemonade Dhenkanal

respect of nine passes involving 3,61,280 LPL of ENA, 3,57,279.45 LPL of ENA only was recorded as received and stored in the spirit tanks of the units. Thus, 4,000.55 LPL of ENA was recorded as wastage. The transit time involved in transportation of the spirit ranged from one to ten days and the permissible wastage worked out to 2,436.40 LPL as per OER, 2017. Thus, the manufacturing units were liable to pay excise duty on balance 1,564.15 LPL amounting to ₹ 6.15 lakh (*Appendix 2.1*). The concerned OICs had, however, not worked out the permissible transit wastage and raised demand against the excess quantity of transit wastage as of December 2021.

On being pointed out in audit, records like Production Register, Despatch Register, Outward Register, IMFL Stock account, *etc.*, for the year 2019-20 and 2020-21 of M/s Shakti Maltare & Lemonade, Dhenkanal were seized and were under the custody of the local Police authorities.

The Department stated (April 2022) that Demand Notices had been issued (April 2022) to M/s Shakti Maltare & Lemonade for deposit of dues towards excess transit wastage as pointed out by Audit.

2.3.3 Physical verification not conducted

As per Rule 91 of the Odisha Excise Rules, 2017, an allowance at a rate not exceeding in any case the appropriate maximum specified as below shall be made for loss in transit by leakage or evaporation of ENA which is transported or exported by land in metal vessels only under bond. The period of transit shall include the date of arrival in the receiving warehouse but not the day of dispatch:

- For a journey of not greater duration than 5 days: 0.5 *per cent*; and
- For a journey of duration exceeding 5 but not exceeding 20 days: 0.1 *per cent* per day of journey.

Audit observed that the transit losses as reported by the manufacturing units were accepted by the Excise OIC without assessing the actual transit loss that may have occurred leading to loss of potential excise revenue. Further, reporting of more than the actual transit losses, though within the maximum permissible limit, to evade Excise Duty cannot be ruled out as evident from the following instance.

- Physical verification of stock of ENA with M/s United Spirits Limited (USL) by the Deputy Superintendent of Excise, Berhampur on 7 January 2020 revealed the existence of 34,419.344 LPL ENA against the recorded stock of NIL in the ENA Account of the unit. The Excise Commissioner imposed (March 2020) an excise duty and penalty amounting to ₹ 1.80 lakh and ₹ 0.50 lakh respectively.

Thus, due to absence of checks and measurement of actual quantity of ENA received and transit loss, the manufacturing units were by default availing maximum permissible transit loss by understating quantities of ENA in their accounts.

The Department stated (April 2022) that M/s USL had deposited (April 2020) the dues towards ED and penalty amounting to ₹ 1.80 lakh and ₹ 0.50 lakh respectively. The Department also stated that all manufacturing units would be

directed to install mass flow meters and radar level transmitters, to enable quick physical verification of stock of ENA at their premises.

2.3.4 *Non-realisation of Excise Duty and fines towards retention of liquor products for extended periods*

Rule 98 stipulates that the licensee shall remove all bottled IMFL, wine and beer from an approved store-room within three months after it is bottled. If the bottles are not removed within three months and the Excise Commissioner is satisfied that the stocks are fit for human consumption, extension of further three months can be allowed for removal of the bottles. Rule 99(3) prescribes that the OIC shall maintain a separate register in Form XXI and keep a record of the stock received (at the bonded warehouse of the manufacturer) in the consignment showing quality of each brand along with place of import, batch number, year of manufacture and date of receipt and disposal. As per Rule 99 (7) (b), if any liquor stock stored at the manufacturing unit deteriorates in quality due to leakage, sedimentation, damage to container or becomes unfit for human consumption due to long storage, the licensee shall be liable to pay fine equal to the duty payable to the State Government on the stock so spoiled along with ten *per cent* of excess over the amount so payable.

Audit examined records and registers maintained by the OICs of the 11 test-checked manufacturing units for the period from 2017-18 to 2020-21. In the warehouses of three IMFL¹¹ and one beer manufacturing units¹², 69,708.46 LPL IMFL and 62,342.80 BL beer bottled during January 2002 to March 2020 were lying in stock as of March 2021.

As per Rule 99 (7) (b), ED and fine amounting to ₹ 6.33 crore¹³ was to be imposed on the manufacturing units, as worked out in audit. Out of this, ED and fine of ₹ 1.19 crore only had been imposed (21 November 2012) on two manufacturing units¹⁴. Both these units had challenged the penalty amount in the Orissa High Court in December 2013 and February 2014 and the matter was sub-judice as of January 2022. No demand notice had been raised in case of the other two manufacturing units as of January 2022. Thus, failure to impose ED and fine on expired IMFL and beer resulted in non-realisation of Government revenue amounting to ₹ 5.14 crore¹⁵.

The Department stated (April 2022) that:

- In case of M/s Kwality Bottling Ltd., steps were being taken for realisation of ED and destruction of liquor products which were unfit for human consumption, after conducting chemical examination.
- In case of M/s Maikal Breweries Ltd., the matter was sub-judice as pointed out by Audit and was being pursued in the Hon'ble Supreme Court of India.

¹¹ M/s Fortune Spirits Ltd., M/s Kwality Bottling Ltd. and M/s United Spirits Ltd.

¹² M/s Maikal Breweries Ltd.

¹³ M/s Fortune Spirits Ltd. (₹ 3.08 crore), M/s Kwality Bottling Ltd. (₹ 0.80 crore), M/s United Spirits Ltd. (₹ 1.71 crore) and M/s Maikal Breweries Ltd. (₹ 0.74 crore)

¹⁴ M/s Kwality Bottling Ltd. (₹ 0.47 crore) and M/s Maikal Breweries Ltd. (₹ 0.72 crore)

¹⁵ ED and fine amounting to ₹ 1.19 crore being sub-judice has been ignored

- In case of M/s Fortune Spirits Ltd., Demand Notice had been issued (April 2022) for deposit of dues as pointed out by Audit.

The Department did not furnish responses to the Audit observation on M/s United Spirits Ltd.

2.3.5 *Unauthorised despatch of liquor products from the manufacturing units*

As per Rule 39, ED is imposed on (a) spirit whether imported under bond or not and stored in a warehouse; (b) foreign liquor stored in a warehouse; (c) IMFL or country spirit manufactured in a distillery and stored in a distillery or warehouse. Also, as per Rule 40, ED is to be paid before removal of IMFL or beer from a distillery or warehouse. Rule 98 envisages that no IMFL, Wine or Beer shall be removed or sold from a warehouse or store room except under a pass granted by the Officer-in-charge.

Audit noticed that two out of the 11 test-checked manufacturing units despatched liquor products without paying Excise Duty during 2017-21 as discussed below:

- ***M/s Shakti Maltare and Lemonade Private Limited, Dhenkanal:*** It was noticed that closing stock of 8,449.38 LPL IMFL at the end of 2019-20 had not been carried forward as opening stock of 2020-21. On being pointed out in audit (13 September 2021), the quantity was shown as despatched during November 2020 against two permits¹⁶ issued by Superintendent of Excise, Khurda. However, it was seen that ED amounting to ₹ 66.72 lakh had not been deposited. Further, the copies of the said permits were not furnished to Audit by the manufacturing unit. From the database of OSBCL, Audit found that these permits had been issued to another manufacturing unit (M/s United Breweries Limited, Khurda) on 11 November 2020.

It is apparent from the above that the manufacturing unit had resorted to illegal means while despatching IMFL. The Excise OIC of the manufacturing unit is the custodian of the IMFL products stored in the warehouse awaiting despatch. Thus, despatch of IMFL without permits raises doubt on the complicity of the Excise OIC of the manufacturing unit in such unauthorised activity. On being pointed out by Audit, ED amounting to ₹ 66.72 lakh as well as penalty and fine of ₹ 22.80 lakh were recovered (27 September 2021 and March 2022) from the manufacturing unit. The fact, however, remains that lifting of IMFL stock without depositing ED and issue of permits to lift the stock indicates lack of internal control mechanism in regulating movement of IMFL as also the involvement of the Excise OIC of the manufacturing unit.

- ***M/s Trinath Smart Pac Pvt. Ltd.:*** In March 2018, the manufacturing unit despatched 1,08,372.6 LPL of IMFL against six permits¹⁷, even though the permits had been issued for transport of only 31,711.2 LPL. However, ED was paid on the permitted quantity of 31,711.20 LPL only. Thus, 76,661.40 LPL IMFL was despatched illegally without Permit and also without paying ED. Audit scrutiny revealed that although the actual quantity

¹⁶ Permit numbers 5673/20-21 and 5674/20-21

¹⁷ Permit Numbers 18832, 21403, 19620, 19621, 19733 and 21382

despatched, which was more than the permitted quantity, was recorded in the despatch register of the manufacturing unit against six permits, the Excise OIC had signed against four entries and had not put his signature in respect of two entries in the Production and Despatch Register. This indicated either negligence or deliberate complicity on the part of the Excise OIC of the manufacturing unit which resulted in loss of revenue amounting to ₹ 3.35 crore.

The Department stated (April 2022) that 1,55,096.1 LPL IMFL had been despatched from the unit against 30 permits in March 2018, and hence there was no irregularity. The response was not convincing since not specific on the reasons for excess quantity despatched against six permits pointed out in audit. In these six permits, quantities recorded in Production and Despatch Registers were higher than the quantity permitted in each case.

2.3.6 Liquor supplied by manufacturers but not received by OSBCL

Audit reviewed the Registers and records maintained at the 11 test-checked manufacturing units for the period 2017-18 to 2020-21 and noticed that goods received at OSBCL depots are recorded through Goods Received Note (GRN) on the basis of which transactions with the suppliers are settled. Audit noticed that the vehicle carrying a consignment of 5,629.50 LPL rum supplied by one manufacturer *viz.*, M/s Trinath Smart Pac Pvt. Ltd., Khurda on 20 December 2018 to OSBCL reportedly met with an accident during transit and was therefore not received by OSBCL. However, the manufacturing unit did not furnish a copy of the FIR lodged with the Police in support of the accident despite repeated reminders by OSBCL. Another consignment of 9,360 BL beer supplied by M/s United Breweries Ltd. (UBL), Nadia under despatch number 4552 dated 28 May 2018¹⁸ had not been received at OSBCL depots as of October 2021 *i.e.*, even after a lapse of 40 months.

In the absence of reasons for non-receipt of supplied liquor bottles which had already been affixed with Excise Adhesive Labels, illegal sale of these liquor stock by bypassing the approved supply chain route cannot be ruled out. This is also indicative of the lack of a systemic internal control. There was no periodic reconciliation between the quantities of bottles/ cans dispatched from the manufacturing units and the quantities of bottles/ cans received at OSBCL Depots. Such a systemic internal control was envisaged in the form of maintaining EAL Accounts from manufacturing to retail point under Rule 158 of the Odisha Excise Rules. There has thus been material and significant non-compliance with the provisions of Rule 158.

The Department, in reply, furnished (April 2022) a copy of the FIR lodged on the accident in case of M/s Trinath Smart Pac Pvt. Ltd with the Police. The Department also stated that OSBCL had requested (4 December 2018) for cancellation of permit issued in favour of M/s UBL (it was not made clear if the permit had been cancelled or not). The reply is not convincing since attempt to cancel a permit in December 2018 against which despatch had been made six months earlier *i.e.*, in May 2018 did not serve any purpose.

¹⁸ Permit No.4175 dated 19 May 2018

2.3.7 Absence of EVC/ internal controls to validate EVCs received from other States

Excise Duty on export sale is imposed by the competent authority of the importing State. As per Rule 10 of Odisha Excise Rules, 2017 read with proviso 25.3 to 25.6 of the Supply Chain Management Policy, 2020 of OSBCL, No Objection Certificate (NOC) from OSBCL is to be obtained for sale of IMFL/ beer outside the State. After obtaining NOC, the exporter has to deposit the excise duty with the Excise Authority of the importing State for obtaining permit for export of beer. The exporter has to obtain acknowledgement for receipt of stock in the importing State in the shape of Excise Verification Certificate (EVC) from the Excise Authority of the importing State. The EVC is to be submitted to the Excise OIC of the concerned exporting unit. Further, as per proviso 25.7 of the Supply Chain Management Policy, the manufacturer/ supplier shall have to submit a copy of the EVC of the previous exported consignments attested by the concerned Excise OIC to OSBCL to be eligible for getting NOC for export sale.

Audit reviewed 851 export sales transactions that took place during the period from 2017-18 to 2020-21 at four out of 11 test-checked manufacturing units¹⁹ and noticed that in 42 cases, EVCs had not been received by the Excise OIC of the exporting manufacturing units. Further, in 34 out of the 42 cases, quantity of liquor exported was also not available on record. In case of the remaining eight cases, 77,640 BL beer was found to have been exported to five States²⁰.

It was seen that United Breweries Pvt. Limited, Khurda was permitted by OSBCL to export 10,200 BL beer to Assam on 7 November 2021. The exporter had not submitted EVC. Despite non-submission of EVC for this export sale, OSBCL issued NOCs subsequently for export sales of 14,400 BL beer on 31 March 2021. Similarly, OSBCL had granted NOC to two other suppliers for export sale despite non-submission of EVC for earlier export sales by them.

Thus, OSBCL by granting of NOC without submission of EVCs in respect of previous export sales had violated the provisions/ stipulations made in the Supply Chain Management Policy, 2020. Since the bottles had been affixed with EALs and as there was no evidence of EVC for actual export, the possibility of the said liquor stock being sold within the State instead of being exported to another State cannot be ruled out.

The Department stated (April 2022) that the Export Passes had been issued by the District Excise Offices on the basis of NOC issued by OSBCL and that certain EVCs had not been received due to Covid-19 related restrictions. OSBCL stated (March 2022) through a document authenticated by a Consultant hired by the Company that all NOCs had been issued after verifying that EVCs had been received. The assertion of OSBCL is not convincing since in one instant, the OIC of the concerned export unit²¹ stated

¹⁹ M/s Denzong Breweries Ltd., M/s United Breweries Ltd., M/s Trinath Smart Pack Ltd. and M/s Maikal Breweries Ltd.

²⁰ Assam, Arunachal Pradesh, Puducherry, Maharashtra, Jharkhand

²¹ M/s Denzong Breweries Limited, Khurda

(7 April 2022) to Audit of not receiving EVCs against the beer exported to Puducherry.

2.3.8 *Non-monitoring of actual production of liquor*

ENA is the primary raw material used for production of IMFL and Country Liquor. As discussed in *Paragraphs 2.3.2* and *2.3.3*, there were lapses in assessing actual quantity of transit loss of ENA and detection of quantity of ENA in excess of book stock. Besides, Audit also noticed use of unaccounted ENA in production of IMFL and Country Liquor as was evident from instances of despatch of IMFL by manufacturers without Permit and non-receipt of IMFL purportedly despatched by manufacturers (*Paragraph 2.3.6*). Thus, monitoring mechanism in place to monitor utilisation of ENA and actual quantity of production of IMFL was not efficient. Control lapses on this account as noticed during audit are discussed below:

As per Rule 71 (1) (a) and 107 (1) of Odisha Excise Rules, 2017, each beer manufacturing unit should maintain a register for showing the quantity of beer manufactured, cleared, kept in store and duty levied in the brewery in Form XVI(a) and Brewing Book in form XXII respectively. In respect of IMFL, no such format was, however, prescribed in the Odisha Excise Rules. As per Rule 46 of Odisha Excise Rules, 2017 the Excise Officer shall inspect such Registers at the end of each day's work and shall produce them for inspection by his official superiors to derive assurance on the veracity of quantum of production of liquor products from the manufacturing units.

Audit reviewed the Registers and records maintained at the 11 test-checked manufacturing units (Beer: 4 and IMFL: 7) during 2017-18 to 2020-21 and found the following:

- In all the 11 manufacturing units, the concerned Excise OIC certified the production figures as reported by the manufacturing units without verifying the same. One of the major reasons for non-verification of actual production was absence of a full time Excise OIC attached to the manufacturing units. Observations on shortfall in manpower at the level of the OIC to keep a watch on production are discussed in *Paragraph 2.6.1*.
- Due to shortage of manpower and full time officers not being posted to manufacturing units, the certification of production was carried out on the basis of figures reported by Management in all the 11 units. Entries related to production details were to be made manually in the Production Register and certified by the Excise OIC on the basis of personal observation of the number of cartons/ bottles presented each day for inspection, during his/ her presence at the manufacturing unit, after attending to additional charges.

In the absence of full time Excise OIC, system generated production figures were not insisted upon for ascertaining actual quantity of production. Only one manufacturing unit²² out of 11 had made the system generated production figure available to the concerned Excise OIC.

²² M/s United Breweries Ltd., Khurda

In view of the above, Audit was unable to derive assurance that the quantum of production reported and certified in the Production Registers by the manufacturing units were accurate and not under-stated which would result in evasion of ED.

The Department stated (April 2022) that CCTV cameras had been installed in some areas such as godown and the main entrance of the manufacturing units, but that they were now being instructed (April 2022) to install CCTV cameras to cover the production and bottling lines, blending vat section, ENA unloading point, *etc.* Further, full time Officers-in-charge had been posted (August 2021) to each manufacturing unit, and that the accuracy of entries made in the Production Register was not in doubt due to the monitoring of volume of ENA received and monitoring of the processes of reduction, blending, wastage and production at each unit.

The response from the Department was not tenable, since:

- No reasons were furnished as to why the key internal control of cross verification of production figures reported to Excise with system generated production figures could not be adopted.
- There were severe lapses noticed in the effectiveness of monitoring of the volume of ENA and the production process at the unit.
- All units had not installed CCTV cameras and were being instructed to carry out the installation at key areas to cover the production line, even in April 2022.
- The order for posting full time Officers in charge to each manufacturing unit itself specified that additional charges may be assigned to such Officers, based on the vacancy position in the District.

2.3.9 Deficiencies in storage and documentation controls at OSBCL Depots

OSBCL maintains nine Depots²³ in the State for receipt, storage and sale of liquor products. Audit reviewed operations at three Depots (Khurda, Berhampur and Balasore) and noticed the following deficiencies:

Table 2.3: Deficiencies in depot operations

Nature of deficiencies	Gist of deficiencies
Non-fixation of norms for breakage, sedimentation, <i>etc.</i>	No norms for breakage, sedimentation (spoilage) and pilferage of stocks during storage and transportation have been adopted by the Company. Shortage of 16,394 cases and breakage of 1.27 lakh cases in transit was recorded during 2017-2021, with revenue implication of ₹ 12.11 crore towards VAT and TCS. During export sales, 829.97 LPL IMFL and 17,196.96 BL Beer were reported as wasted during transit between 2017-18 and 2020-21 on which ED leviable was ₹ 19.34 lakh as worked out by Audit. Since there were no norms in place for wastage, the same were allowed.
Improper maintenance of Stock Receipt	The Stock Receipt Register was being maintained without recording the permit number against which stocks have been

²³ Angul, Balasore, Berhampur, Bolangir, Chandikhol, Cuttack, Khurda, Rayagada and Sambalpur

Nature of deficiencies	Gist of deficiencies
Register	received. The Register maintained by the Depot Assistant was not being verified at regular intervals either by the Branch Manager or the Assistant Manager of the Depot.
Non-checking of authenticity of EALs affixed on bottles	Absence of any sample-based verification of authenticity of Excise Adhesive Labels affixed on liquor products, with Batch Number, EAL Serial Numbers was noticed. The cases received at the Depots did not mention the EAL numbers of the liquor product contained in them.
Non-monitoring of Permits and EALs issued	OSBCL did not have any system in place to cross verify number of Permits and EALs issued during a particular year with corresponding stock entry to ensure that all EAL affixed liquor products despatched from the suppliers' premises actually reached the Depots.
Inaction against employees accused of theft of liquor stock	<p>Theft cases involving liquor stock worth ₹ 1.71 crore were reported in four godowns²⁴ (Rayagada, Sambalpur, Balasore and Berhampur) during 2017-21. FIRs were filed only in case of Balasore and Berhampur depots. In respect of Balasore Depot, insurance claim amounting to ₹ 7.22 lakh was realised against value of theft of ₹ 7.91 lakh. In case of Berhampur, employees of OSBCL were accused of theft and the matter was sub-judice as of January 2022.</p> <p>No FIRs were filed in Rayagada and Sambalpur Depots. It was seen that an amount of ₹ 2.70 lakh against theft value of ₹ 12.32 lakh and ₹ 12.37 lakh against theft value of ₹ 12.66 lakh respectively were recovered. The accused included employees of OSBCL. Despite involvement of employees of OSBCL, no departmental disciplinary proceedings were initiated against them as of January 2022.</p>
Non-imposition of penalty for delayed receipt of beer stock	<p>As per proviso 14.1 of Supply Chain Management Policy of OSBCL, penalty at a rate of 50 <i>per cent</i> of offer prices shall be levied in case beer sourced from within the State is received beyond 60 days of the date of manufacture and 75 days in case it is sourced from outside the State.</p> <p>During 2017-21, penalty on account of delay in delivery of beer worked out to ₹ 5.79 crore. As against this, only ₹ 4.08 crore was imposed and realised due to incorrect calculation of penalty. Thus, there was short recovery of penalty amounting to ₹ 1.71 crore.</p>
Non-reconciliation of inter-depot transfer quantities	<p>As per proviso 17 of the Supply Chain Management Policy, 2020, inter-depot transfer of liquor stock can be effected taking into account requirement of stock at different locations either by OSBCL or on the basis of request of the concerned manufacturer/ supplier. The policy further envisages that the Excise OIC of the source depot shall issue despatch permit and the Excise OIC at the receiving depot shall issue EVC on receipt of the stock.</p> <p>During 2017-20, 51 inter-depot permits were issued for transfer of 10,939.52 LPL IMFL and 1,28,550 BL beer. However, no confirmation of receipt of stock at the destination depots had been received in the form of EVCs even after lapse of 22 to 57</p>

²⁴ Rayagada (₹ 12.32 lakh), Sambalpur (₹ 12.66 lakh), Balasore (₹ 7.91 lakh) and Berhampur (₹ 138.56 lakh)

Nature of deficiencies	Gist of deficiencies
	months from the date of issue of permits as of 31 December 2021 (<i>Appendix 2.2</i>). Thus, it could not be ascertained in audit whether the said liquor stock had been sold through the approved supply-chain route.

(Source: Audit analysis of records of test-checked units)

The Department endorsed (April 2022) the response from OSBCL Management, which stated (March 2022) that:

- The Excise Department had been requested (June 2015) to fix norms for breakage during transit and storage.
- It was not practically feasible to maintain the Stock Register manually due to the high volume of liquor products being received and dispatched from the OSBCL Depots.
- OSBCL did not maintain any separate records of verification of authenticity of EALs on products received at its Depots, since it was the responsibility of the Excise OICs posted at the manufacturing units and the OSBCL Depots.
- Steps would be taken to realise penalty amounts from suppliers who had delayed the dispatch of products.
- Documentation was being gathered to review the status of Inter-Depot permits pointed out by Audit.

The response from the Department was not tenable, since it only highlighted the importance of adoption of scan-based (of EAL/ bar-coding on cases of liquor products) track and trace system to:

- Enter the details of the stock received and dispatched from OSBCL Depots into the software application with EAL Accounts module, in view of the high volume of liquor products
- Conduct of verification of authenticity of EALs affixed on liquor products on sample basis, with details of such verification being stored for assurance that the stock of liquor products moving through the OSBCL Depots was duty-paid only.

2.4 Regulation of Excise Adhesive Labels

In order to regulate movement of liquor stock from manufactures/ suppliers to retailers, Rule 158 provided for affixing Excise Adhesive Labels (EALs²⁵) on IMFL, beer and country liquor bottles. The rule also provides that the EALs shall be kept in safe custody of an Excise Officer to be appointed by the State Government for distribution to the Distillery officers or Officers-in-charge of Distilleries, Bottling Plant or Breweries operating inside the State of Odisha. In case of liquor products imported from outside the State, the EALs shall be kept with an Excise Officer posted in the Registered Office of OSBCL who shall distribute the EALs to the suppliers from outside the State. The Excise OIC in charge of the manufacturing units shall maintain detailed account of the EALs received, issued, used and damaged and certify that EALs have been

²⁵ EAL is a paper based hologram with high-end security features such as unique serial number, 2D bar code and State logo

affixed on the bottles, or such other container and arrange to write the EAL serial numbers outside the sealed cartons or receptacles. The rule further envisages that the EALs account shall be maintained in such a manner that it shall allow tracking of individual EALs from the manufacturing point to the retail point.

The objective of using hologram based EAL with security features is to identify fake/ duplicate EALs affixed on liquor bottles at retail points. Scanning of EAL through specifically designed mobile applications should provide details with regard to payment of excise duty and other taxes, source of supply, permit/ despatch number and date, depot details, retailer details, date of sale, etc. Thus, the officials of the Excise Department, through EALs, should be able to gather detailed information of movement of the liquor product from the manufacturing unit till the actual sale to the consumer. Such a track and trace functionality has been implemented by other State Excise Departments, including those of Government of Punjab, Government of Uttar Pradesh and Government of Tamil Nadu.

Audit noticed that the Superintendent of Excise (SE), Khurda has been designated as the Excise Officer responsible for safe custody and issue of EALs. It was also noticed that the Excise Department procured EALs from M/s India Security Press, Nashik on the basis of an agreement executed on 27 January 2018.

The following deficiencies were noticed in the functionalities of the EALs procured.

2.4.1 Deficiencies in implementing track and trace functionality for movement of liquor products through the legal supply chain regulated by Excise Department

An agreement was executed between the Excise Commissioner, Odisha and M/s India Security Press (ISP), Nasik on 27 January 2018 for supply of paper based hologram Excise Adhesive Labels (EALs) till the end of financial year 2019-20.

Audit reviewed the proposal to procure EALs from M/s ISP, Nasik and noticed that there were provisions for internal controls and high level security features for the EALs, such as unique serial number, bar code and storage of EAL numbers affixed on each liquor bottle in a database to be maintained by the Excise Department.

These internal controls would in turn, provide functionalities of track and trace of liquor products and for spot verification of genuineness of the affixed EAL by Excise Department personnel as well as members of the public through SMS, smart phone application and a web portal, thereby complying with the requirements of Rule 158 of the Odisha Excise Rules. Such a track and trace functionality has been implemented by other State Excise Departments, including those of Government of Punjab, Government of Uttar Pradesh and Government of Tamil Nadu.

However, the functionality for track and trace of liquor products, through an accounting mechanism for recording EALs affixed and monitoring movement from manufacturing to retail point had not been implemented by the Excise

Department, Government of Odisha or OSBCL, as of March 2021, resulting in non-compliance with Rule 158 of the Odisha Excise Rules 2017.

Non-compliance with Rule 158 constitutes a very material risk to Government revenue, since track and trace of liquor products through the legal supply chain is not enabled. The Excise Department has no distinct information system or database of its own and relies on the OSBCL information system and database. The following risks had been identified by OSBCL, which were intended to be mitigated using the mechanism of EAL accounting, to enable track and trace liquor products-

- a. Fake/ duplicate EALs being affixed on liquor products at retail points
- b. EALs reported as damaged, but actually utilised
- c. Non-affixing of EALs on liquor products

EAL accounting from manufacturing to retail point would enable-

1. End consumer (member of the public) to scan and obtain, through a mobile application, confirmation that the liquor bottle at retail point is duty paid and has been sourced through the legal supply chain of the Excise Department.
2. Excise Department personnel to scan and obtain, through a mobile application, the exact routing of the liquor product through the supply chain-
 - a. Permit Number, Date of Permit;
 - b. Name of manufacturing point, Despatch Number, Date of Dispatch;
 - c. Name of OSBCL Depot, GRN/ DRN Number, date of receipt at Depot;
 - d. Date of inter-Depot transfer, GRN/ DRN Number at destination;
 - e. Name of retailer, Invoice Number, date of sale to retailer;

In addition, Excise personnel would also be able to scan and obtain the status of payment of Government dues payable on the liquor products (ED, VAT and TCS) which are selected for random tests at retail point or in transit within the State, as part of effective enforcement functions. The number of EALs which have to be subject to random tests on daily/ monthly/ annual basis as part of enforcement could also be decided by the Excise Department/ Commissioner as targets and actual achievements against them could be monitored, to further improve the monitoring and enforcement mechanism of the Department.

Audit reviewed the functionalities and internal controls adopted by the Excise Department and OSBCL to fulfil the requirements of Rule 158 of the Odisha Excise Rules and noticed that-

- EALs do not contain adequate functionality for end liquor consumers to scan the EAL/ QR Code therein and derive assurance/ satisfy themselves that the contents of the liquor bottle are fit for human consumption, the

liquor product is duty paid and has been sourced through the legal supply chain of the Excise Department.

- EALs do not contain adequate functionality for Excise Department personnel to scan the EAL/ QR Code therein and derive assurance on the exact routing of the liquor product through the supply chain- Permit Number; name of manufacturing point, Dispatch Number, date of Dispatch; name of OSBCL Depot, Goods Received Note Number, date of receipt at Depot; date of inter-Depot transfer, GRN Number at destination; name of retailer, Invoice Number, date of sale to retailer- as well as derive assurance that dues payable such as ED, Margin, VAT, TCS, *etc.*, have been correctly paid on the liquor product being inspected by them. Such a track and trace functionality would enable immediate detection of liquor products which have been supplied outside the legal supply chain regulated by the Excise Department, since only those products which had moved through all the touch points in the legal supply chain- manufacturing unit to OSBCL Depot to retailer would have a full history that could be transparently viewed by the Enforcement Wing of the Excise Commission.
- Neither adequate functionality in the design of the EAL to enable quick track and trace of liquor products as per above two use cases nor suitable mobile applications for users had been developed by the Excise Department, in consultation with all stakeholders, including the manufacturer of the EALs, OSBCL and the Enforcement Wing personnel in the Excise Commission, who would find the track and trace functionality (to view the full origin and source of each liquor product inspected at retail point) very useful in their regular work. Such mobile applications have been developed and are in use by the Excise Department, Government of Andhra Pradesh.
- To enable track and trace through the supply chain, the Depots of OSBCL would have to scan the EALs affixed on individual liquor products or scan the bar code affixed on the outer case cover of the case containing the liquor products, on receiving the products. However, there was neither provision for bar-coding the contents of each case either on dispatch from manufacturing units or scanning the bar-code of the case or individual EALs on receipt at the Depots of the Odisha State Beverages Corporation Limited.
- In the software application used by OSBCL to monitor the movement of liquor products through the supply chain, the EAL Accounting Module was to be implemented by NIC by June 2014. However, this Module has not yet been implemented (December 2021) even after 7 years from scheduled completion date. Non-implementation of EAL Accounting constitutes a very material risk to Government revenue, since track and trace of liquor products through the legal supply chain is not enabled. The Excise Department has no distinct information system of its own and would be reliant on the OSBCL information system, when implemented, to derive assurance on adequacy of accounting for Excise Adhesive Labels.

Audit is of the view that such non-compliance with Rule 158 is a significant violation of the Odisha Excise Rules, which not only has the potential for material losses to Government, but also the potential for material adverse impact on public health.

Out of the EALs issued to suppliers, if unutilised EALs (*i.e.*, not used for supply through the legal supply chain) are diverted for use within the State and affixed on liquor products on which no Excise Duty has been paid, there would be no means for the enforcement formations of the Excise Department to distinguish such EAL affixed products at the retail point. As a result, there is avoidable scope for not only Government revenue to be adversely impacted, but also for spurious/ illicit liquor to be affixed with such diverted EALs and sold to unsuspecting citizens.

It is precisely due to the above reasons that the internal control for EAL account maintenance from manufacturing to retail point in the form of the clauses in Rule 158 of the Odisha Excise Rules have been adopted, since the EALs have been rightfully recognised as vital products having inherent economic value. Instances of unaccounted EAL are discussed in the following paragraphs.

The Department stated (April 2022) that three teams had been deputed to other States during 2021-22 to study the track and trace system implemented in those States, so that the same could be implemented in Odisha State. Steps would also be taken to digitalise all manufacturing units to monitor production and issue of liquor bottle, use of EAL.

The response from the Department was not tenable, since the machinery and equipment used in the production process is already being monitored through a Supervisory Control and Data Acquisition (SCADA) system and/ or Enterprise Resource Planning (ERP) software in each manufacturing unit. Each unit requires SCADA and/ or ERP, to ensure:

- Industrial safety during manufacture (emergency stoppages, monitoring of automated processes to control temperature, pressure, speed of production, *etc.*)
- Quality control over the beverages (to ensure fitness for human consumption of the end product).
- Planning and monitoring by Management over core business functions such as procurement (of raw materials such as grains, barley, *etc.* and inputs such as bottles, caps, EALs), production (target outputs and timings of shifts), materials management (inventory, warehousing), cost management (to track profit margins) and accounting (preparation of trial balance, financial statements, identification of tax liabilities).

Despite the availability of such system generated production records for each production shift (number of empty bottles, cans, caps, brand labels and EALs issued in each production shift are being monitored through counters installed on the production line), cross verification of such system generated production figures with the production figures reported to Excise is not being carried out.

2.4.2 Discrepancies in EAL accounts

There were 58 manufacturing units²⁶ of IMFL, beer and country liquor during 2017-21 which were issued EALs. Accounts of EAL as noted from the EAL register maintained by the SE, Khurda for the four years from 2017-18 to 2020-21 are summarised in the table below:

Table.2.4: Receipt and issue of EALs during 2017-21

Year	Opening Balance	Received	Issued to Parties	Closing Balance
	<i>(Figures are in lakh)</i>			
2017-18	974.60	5,100.00	4,896.80	1,177.80
2018-19	1177.80	5,485.20	5,383.60	1,279.40
2019-20	1279.40	5,078.00	5,947.40	410.00
2020-21	410.00	3,550.00	3,254.20	705.80
Total		19,213.20	19,482.00	

(Source: Records of SE, Khurda)

Audit noticed that the Odisha Excise Rules is silent on the periodicity of closure and attestation of entries in EAL registers maintained by SE Khurda or OIC of manufacturing units and no orders and directives in this regard have been issued by the Excise Commissioner. It was found that the EAL registers were being attested and closed annually. The register, however, did not record manufacturing unit-wise details like opening balance, utilisation, damage and closing balance of EALs. Thus, SE, Khurda, despite being designated as custodian of EALs, was not in a position to cross-verify the number of EALs utilised by each manufacturer/ manufacturing unit. Audit also noticed unaccounted EALs as well as non-preparation of EAL accounts in case of manufacturing units located in Odisha as well as suppliers from outside the State, as discussed in the following paragraphs.

The Department, accepting (April 2022) the audit observations, stated to have started maintaining EAL Register recording details such as, opening balance, utilisation, damage and closing balance of EALs for each manufacturing unit.

2.4.3 Under reporting of EAL balance in respect of manufacturers located in Odisha

Audit compared the number of bottles despatched by five manufacturing units with EALs reported to have been utilised by them and found that 27.74 lakh EALs had not been accounted for, as shown in the table below:

Table 2.5: Statement showing utilisation of EAL vis-à-vis liquor bottles despatched during 2017-21

Manufacturer	Opening balance	Issue	Damage	Closing balance	Utilisation	Bottles despatched	Un-accounted
	(1)	(2)	(3)	(4)	(5) (1+2-3-4)	(6)	(5-6)
USL, Gopalpur	71.62	3267.8	5.22	42.05	3292.15	3290.53	1.62
ASCIL, Aska	31.09	2685.2	0	44.24	2672.05	2670.75	1.3
Maikal Breweries, Bolangir	3.94	16.8	0	0.72	20.02	16.77	3.25

²⁶ Located in Odisha: 20 and outside Odisha: 38

Manufacturer	Opening balance	Issue	Damage	Closing balance	Utilisation	Bottles despatched	Un-accounted
	(1)	(2)	(3)	(4)	(5) (1+2-3-4)	(6)	(5-6)
Som Distilleries, Cuttack	0	252	0	8.66	243.34	227.04	16.3
UBL, Khurda	44.84	3210	0	63.25	3191.59	3186.32	5.27
Total	151.49	9431.8	5.22	158.92	9419.15	9391.41	27.74

(Source: Records of SE, Khurda, database of OSBCL and records of manufacturing units)

It can be seen that 27.74 lakh EALs had remained unaccounted for as of March 2021. During the period 2017-21, physical verification of EALs had been conducted only once, on 31 December 2020 while handing over of charge of Excise Inspector in charge of EALs to a new incumbent. During the physical verification, one lakh EALs were found missing. An FIR was lodged with the police on 3 February 2021 and further developments are awaited (January 2022). The Odisha Excise Rules, 2017 are deficient to the extent that they do not provide for conduct of regular physical verification of EALs.

- Opening balance of EALs with the Excise OIC of M/s ACSIL on 1 April 2018 was 32.58 lakh. Audit noticed that 749.80 lakh EALs had been issued to the Excise OICs during 2018-19. During the same period, EALs were affixed on 776.25 lakh bottles produced by M/s ACSIL. Thus, the closing balance of EAL as on 31 March 2019 was 6.13 lakh as worked out by Audit. However, the Excise OIC reported closing balance of 10.19 lakh EALs on the same date. Thus, there was excess of 4.06 lakh EALs which had not been reconciled.

Again, against the closing book balance of 26.04 lakh EALs as of 31 March 2020, 34.69 lakh EALs had been taken as opening book balance on 1 April 2020, indicating that 8.65 lakh EALs had not been reconciled with reference to the number of bottles produced and EALs affixed. Non-accountal of EALs may result in EALs being misused and consequential loss of excise revenue.

The Department stated (April 2022) that detailed analysis would be carried out for reconciliation between physical and book balance of EALs at the unit. The Department also stated that (April 2022) a separate EAL godown had been established (March 2022) with a dedicated Excise Officer in charge along with a clear Standard Operating Procedure, to more effectively monitor the issue of EALs in future.

2.4.4 Under reporting of EAL balance in respect of suppliers from outside Odisha

Out of 38 suppliers located outside the State, nine suppliers were not-operating as of December 2021. Audit examined EAL accounts of outside suppliers for the period 2017-21 and found the following:

- The EALs in respect of suppliers outside the State were under the custody of Excise OIC posted at OSBCL. The OIC issues EALs to the suppliers on the basis of the requisitions made by the OSBCL. Rule 158 (k) requires the Excise OIC to maintain EAL account showing EALs received, issued, used and damaged. However, the Excise Rules, 2017 is silent about

rendering EAL accounts by the Excise OIC or by the suppliers. In the absence of EAL Accounts, if the Excise OIC had at least declared the number of EALs utilised at the manufacturing unit to OSBCL, OSBCL could have verified the number of products actually received at its Depots. Such an internal control was missing, and would have been resolved if EAL Accounts had been maintained

- During 2017-21, EAL balances at the end of each year in respect of 17 operating suppliers had not been verified by the concerned Excise OICs of these suppliers since the post had remained vacant during 2017-21. The closing balance of EALs with the OICs as of 31 March 2021 should have been 126.38 lakh as calculated by Audit.
- The other 12 operating suppliers reported closing balances of 22.47 lakh EALs as of 31 March 2021 to SE, Khurda. However, on comparison of their opening balance, EALs issued, damage and bottles supplied by them, the aggregate closing balance of EALs worked out to be 61.06 lakh. Thus, the suppliers had declared less closing balance of EALs by 38.59 lakh.
- In case of nine non-operating suppliers, EAL available with them at the beginning of 2017-18 were not found in the EAL register maintained by SE, Khurda. Four suppliers had not been issued any EALs during 2017-21 nor had they furnished balance of EALs with them. The remaining five did not renew their registration for supply during 2017-20 and became non-operative. In the absence of opening balance figure of EALs with them, Audit compared EALs issued to them with bottles supplied by them and found that 2.70 lakh EALs were lying with them since 21 to 45 months.

Audit noticed that no Excise Officer had been posted at OSBCL to exclusively monitor issue of EALs to manufacturing units located outside the State. It was observed that EAL accounts were not being maintained properly as a result of which 38.59 lakh EALs remained unaccounted for in respect of eight manufacturing units as of March 2021. Similarly, no action had been taken to prepare EAL accounts in respect of 17 manufacturing units. Lack of a full-time officer compromised vital internal controls to ensure that EALs are not misused. Non-maintenance of EAL accounts coupled with unaccounted EALs gives rise to the risk of misuse of EAL facilitating proliferation of illicit liquor as well as loss of excise revenue. The Excise Department had not deployed its officers to conduct physical verification of the EAL stock actually retained in the custody of such external units outside Odisha, even though all the units were not reporting basic information such as the closing balances of EALs.

The Department admitted (April 2022) that no Excise Officer had been posted at OSBCL and that no one had been deployed outside the State to conduct physical verification of EAL stock retained by external manufacturing units. However, the Department stated that one post of Deputy Superintendent of Excise and one post of Inspector of Excise had been created (March 2021) at OSBCL to monitor the EALs issued to manufacturing units located outside Odisha, and that these posts would be filled soon.

2.5 Other revenue losses

2.5.1 *Non-realisation of extra-hour operation cost*

Rule 79 envisages, *inter alia*, that operations in the manufacturing units shall be stopped on Sundays and other public holidays. Besides, no Excise Officer or any of his employees need to be on duty for more than eight hours per day. In case a manufacturing unit functions more than one shift, additional Excise staff shall be posted and the cost at a rate of ₹ 3,000 per hour towards such additional staff shall be borne by the said unit. Further, the overtime fee to be charged from the unit for each hour of overtime work done shall be one-fifth of a day's pay of the officer concerned.

Audit examined records related to extra-hour operations and additional production shifts at the 11 test-checked liquor manufacturing units and noticed that:

- M/s ACSIL, operated for 6,351 hours beyond the scheduled hours during the period 2017-21. Hence, the manufacturing unit was liable to pay ₹ 1.91 crore as charges towards extra operation hours. Against this, only ₹ 30 lakh had been realised from the unit by the Superintendent of Excise. Thus, extra-hour operations charges amounting to ₹ 1.61 crore remained unrealised as of January 2022.
- M/s ACSIL also had to pay overtime fees amounting to ₹ 26.98 lakh towards these 6,351 extra-hours of operation beyond the scheduled hours for five Excise Officers and two Excise Constables posted at ACSIL during the period 2017-21. However, no demand for the same had been raised as of January 2022 by the Superintendent of Excise. Thus, overtime fees of ₹ 26.98 lakh remained unrealised from the manufacturing unit.

The total amount to be realised from ACSIL was, therefore, ₹ 1.88 crore towards charges for extra-hour operations and overtime fees for deployment of Excise staff for additional production shifts.

The Department stated (April 2022) that the unit had been directed (February 2022) to deposit ₹ 1.88 crore towards charges for extra-hour operations and overtime fees, as pointed out in audit.

2.5.2 *Non-realisation of establishment cost towards deployment of Excise Officers and staff at manufacturing units*

As per Rule 92 (1) (3) and 93 read with instructions of the Excise Department (25 February 2015), establishment cost towards deployment of Excise Officers and staff shall be recovered from the distillery, bottling unit and brewery concerned. In case an Excise officer is posted in charge of supervision of more than one unit at a time in addition to his other assigned duties in the execution establishment, the establishment cost may be equally shared by the concerned units, with the aggregate cost payable by them not exceeding 50 per cent of the full cost of such staff.

Audit examination of the records relating to reimbursement of establishment cost revealed that out of 11 liquor manufacturing units²⁷, four OSBC Depots²⁸ and one distillery unit²⁹ functioning under six DEO³⁰, 38 Excise Offices and 10 Excise Constables had been posted in four liquor manufacturing unit³¹, four OSBC depots and one distillery for supervision of operations during the years 2017-21. An amount of ₹ 1.42 crore was paid to them during this period against pay and allowance. However, the DEOs had not raised demand for the reimbursement of this establishment cost from the concerned units under their jurisdiction as of December 2021.

The Department stated (April 2022) that

- One unit (M/s USL, Gopalpur) had deposited (February 2022) the establishment cost.
- Two units (M/s Fortune Spirits Ltd., Gopalpur and M/s ACSIL, Aska) had been demanded (January and February 2022) to deposit the establishment cost.
- One unit (M/s Shakti Sugars Ltd., Dhenkanal) had appealed against demand raised for establishment cost by approaching the Hon'ble High Court of Odisha.

No reply was furnished in case of one beer manufacturing unit (M/s Maikal Brewery, Bolangir) and four OSBC Depots.

2.5.3 Loss of Government revenue due to issue of military canteen licence to defence civil organisations

Under the Annual Excise Policy for the years 2017-18 to 2020-21, Excise duty on IMFL and Beer meant for military canteens was fixed lower than that imposed for civil consumption. The licences of military canteens were to be renewed on payment of annual licence fee.

Audit noticed that the Joint Director, Canteen Services, Integrated Headquarter of Ministry of Defence (MoD), New Delhi had clarified (July 2017) that defence-civil establishments³² are not entitled to sell liquor. A list of defence-civil unit run canteens had also been notified, which included Sr. Quality Assurance Establishment (Armaments), Badmal. Despite this, DEO Bolangir issued military canteen licences on 31 March 2018 and 29 March 2019 to the above mentioned establishment. Audit noticed that during 2018-19 and 2019-20, the establishment lifted 18,555.25 LPL IMFL and 93.60 BL Beer from the depots of OSBCL depositing ED at subsidised rate *i.e.*, 70 per cent of the applicable ED resulting in loss of revenue.

²⁷ Aska Co-operative Sugar Industries Ltd, Denzong Brewery, Fortune Spirit, Kwality Bottling, Maikal Brewery, Oriental Bottling, Shakti Maltare & Lemonade, SOM Brewery, Trinath Smart Pack, United Brewery and United Spirit Gopalpur

²⁸ OSBC Depot Nirgundi Cuttack, OSBC Depot Bolangir, OSBC Depot Kanishi Ganjam and OSBC Depot Khurda

²⁹ Shakti Sugar Ltd., Dhenkanal

³⁰ Berhampur, Bolangir, Cuttack, Dhenkanal, Ganjam (Chhatrapur) and Khurda

³¹ ACSIL (Aska), Maikal Brewery (Bolangir), Fortune Spirit (Gopalpur) and United Spirit (Gopalpur)

³² Defence establishments with non-combatant officers and staff, such as Ordnance Factories

The Department stated (April 2022) that Demand Notice had been issued (April 2022) for deposit of differential ED of ₹ 75.35 lakhs by the unit, as pointed out by Audit.

2.5.4 Irregularities in maintenance of Sale Registers by retailers resulting in short-realisation of Special COVID Fee (SCF) from retail IMFL Off Shops

Excise Commissioner, Odisha had issued (November 1998) instructions that the DEOs shall ensure maintenance of Stock and Sales Registers by retailers, specifying type-wise, brand-wise and size-wise details. Excise Department, Government of Odisha had notified (23 May 2020) levy of Special COVID Fee (SCF) on all FMFL, IMFL, Beer, *etc.* This Fee was to be levied to enhance the revenue receipts of the State Government so as to meet expenses arising on account of response measures to manage the COVID-19 pandemic outbreak. The Excise Commissioner had also issued (26 May 2020) instructions to deposit the amount of SCF on the unsold stock remaining with the licensees of the IMFL Off and ON shops as on 24 March 2020 (date of lockdown imposed as response to COVID-19 pandemic outbreak). It was also clarified (01 June 2020) that while verifying the stock remaining with the retailers, the last lifting of stock from OSBCL Depots and the daily average sales of the retailer was to be taken into account.

Audit test checked Sales Registers of 31 liquor retail shops under the jurisdiction of five DEOs³³ and noticed that:

- The price of the liquor products varied across brands and across size of the bottles/ cans.
- Brand-wise Sales Registers had not been maintained by the retailers. It was, therefore, not possible to calculate the exact amount of SCF to be levied on each retailer based on the closing stock as on 24 March 2020.
- Software applications, backed by mandatory use of Department-issued Point of Sale machines at retailers, have been implemented by several State Governments including Delhi and Punjab. The Excise Department, Government of Odisha has not implemented any software application which is mandatory for licensed retailers to install and update their stock positions on a daily basis. As a result, there is no real-time information available with the Department on the quantum of stock and sales at each retail outlet.
- Due to the imposition of lockdown on 24 March 2020, the retailers had remained closed up to 24 May 2020. The closing balance from the Sale Registers as of 24 March 2020, *i.e.*, two months earlier, had not been collected, prior to the reopening of the retailers.
- In case of the 31 test-checked retailers, there were significant corrections, over-writing and changes made to the entries recorded in the Sales Registers for the month of March 2020. The impact of such corrections, over-writing and changes made was that the closing balances recorded as of 24 March 2020 were negligible in these cases.

³³ Berhampur, Bolangir, Cuttack, Dhenkanal and Khurda

- Physical stock verification at the retailers was stated to have been carried out on 25 May 2020 and SCF was realised on the basis of the physical stock available on that date.

Manipulation of Sales Registers by retailers to evade realisation and deposit of SCF needs to be investigated. In the absence of brand-wise Sale Registers or a software to record daily stock and sales at retail outlets, the Department was compelled to levy SCF on the basis of physical verification carried out after 2 months *i.e.*, on 25 May 2020 leading to potential loss of revenue.

2.6 Monitoring and enforcement

Monitoring of compliance of liquor manufacturing units and traders with Excise Rules as well as enforcement require adequate human resources. Since the principal function of the Excise Officers and staff in the Excise Department is monitoring and enforcement, adequacy of required human resources is an essential requirement. Audit analysed the availability of human resources and noticed the following:

2.6.1 Absence of full-time Excise Officers posted at manufacturing units

As per Rule 93 of Odisha Excise Rules, the Excise Commissioner shall determine and appoint the Excise Officer and staff necessary for proper supervision of the operation carried on in each warehouse or store room to monitor aspects related to production, storage and dispatch of liquor products from the premises of the manufacturing unit. Audit reviewed the posting details of Excise Officers in the 11 test-checked manufacturing units during 2017-18 to 2020-21 and noticed that in 10 units, no full time and exclusive Excise Officers were posted for periods ranging between 3 to 48 months.

Further, as against the sanctioned strength of 297 Excise Officers to conduct enforcement activities in four test-checked districts for each year, only 246, 242, 231 and 243 were in position at the end of 2017-18, 2018-19, 2019-20 and 2020-21 respectively.

Audit observed that non-filling up of Excise OIC posts for long durations and assigning the responsibility to other officers as additional charge placed significant additional responsibility on these Officers. As a result, the Excise Officers posted at the manufacturing units could not discharge their supervisory functions efficiently, thereby weakening the internal control mechanism at these units.

The Department stated (April 2022) that:

- Proposal had been prepared (February 2022) for creation of 545 posts of Excise Officers to address the shortage of personnel to effectively monitor the supply chain for liquor products.
- Steps had been taken for recruitment of 87 Sub-Inspectors of Excise and 392 Excise Constables during 2021-22.

2.6.2 Deficiencies in posting of key personnel and tenures of personnel in key posts related to regulation of the supply chain

As per Rule 158 of Odisha Excise Rule, 2017 read with the Notification of Board of Revenue dated 1 February 2002, the Superintendent of Excise, Khurda shall keep the printed EALs in his safe custody for distribution to OIC of Distilleries, Bottling Plants/ Breweries operating inside the State and the Commissioner shall appoint an officer of the rank of Inspector of Excise (Inspector) in OSBCL for receipt and distribution of EALs for IMFL and Beer imported from outside the State. OSBCL, in each case of import permit, shall present the permit to the Inspector with a requisition for issue of required number of EALs to ensure that no bottle/ can is received without affixture of EAL and taken to depots of the OSBCL. Audit noticed that no full time Excise Officer had been posted at OSBCL to monitor issue of EALs to manufacturing units located outside the State. Lack of a full time officer compromised the exercise of vital internal controls to ensure that EALs are not misused.

The Department stated (April 2022) that one post of Deputy Superintendent of Excise and one post of Inspector of Excise had been created (March 2021) at OSBCL to monitor the EALs issued to manufacturing units located outside Odisha, and that these posts would be filled soon.

2.7 Functioning of Enforcement Wing of Excise Department

2.7.1 Internal controls to detect illicit manufacture and trade of non-duty paid liquor products

In the absence of track and trace functionality in the EALs, as discussed in **Paragraph 2.4.1**, the Enforcement Wing was not in a position to insist on maintenance of records and periodic submission of returns from field formations on:

- Total number of retail sale points to be inspected and actually inspected;
- Total number of liquor products subjected to inspection at each retail point;
- Number of liquor products found during inspections without EALs affixed on them;
- Number of liquor products found during inspections with invalid/ fake EALs affixed on them;
- Out of liquor products with genuine EALs affixed, number of liquor products found to not have a full history of source of origin (no recorded history of having been routed through OSBCL Depots, therefore potential evasion of Excise Duty and VAT);
- Out of liquor products with genuine EALs affixed, number of liquor products found to not have a full history of source of origin (recorded history of having been routed through OSBCL Depots but no recorded sale at Depot to retailer, therefore potential evasion of VAT).

If the track and trace functionality had been implemented, each instance of such detection at retail points would enable the Excise Department to fix responsibility on the manufacturing unit or OSBCL Depot concerned, from

where the diversion of liquor products from the legal supply chain may have taken place.

The Department stated (April 2022) that:

- Three teams had been deputed to other States during 2021-22 to study the track and trace system implemented in those States, so that the same could be implemented in Odisha State.
- All District Excise Officers had been pressed upon to conduct regular inspections of retail outlets and strong steps are taken when fake EALs or sale of liquor products without EALs are detected.
- Enforcement Cell had been created at the Excise Commission to monitor the enforcement activities centrally.
- Mobile Squads had been sensitised for strengthening enforcement activities.

2.7.2 *Deficiencies in inspection of retailers and manufacturing units by excise authorities*

To check the clandestine sale of non-duty paid IMFL and to augment excise revenue, the Government (December 1998 and March 2021) and Excise Commissioner (February 2018), instructed the Superintendents of Excise (SEs) and Excise Deputy Commissioners (EDCs) to inspect the excise shops and manufacturing units as per the following norms:

Table 2.6: Norms for inspection of excise shops and manufacturing units

Excise officer	Norms for inspection		
	IMFL 'Off'/'ON' shop	CS shops	Bottling units and Distilleries
EDC	As many as possible in every inspection	As many as possible in every inspection	Once in a quarter
SE	Once in two months	Once in a quarter	Once in a month
DSE	Once in a quarter	Once in a quarter	--
IE	Once in a month	Once in a month	--
SIE	Once in a fortnight	Once in a fortnight	--

(Source: Instructions of the Excise Commissioner)

On scrutiny of records related to inspection of 1,834 liquor shops furnished by the Officer-in-Charge of Excise Stations functioning under the jurisdiction of six DEOs³⁴ during the years 2017-21, Audit noticed that:

- The Excise Officers had to conduct 83,133 inspections against 1,834 liquor shops as per the norms. However, the Excise Officers conducted only 7,129 inspections during the years 2017-21, resulting in short fall of 76,004 inspections. The percentage of inspection actually carried out was only 8.6 per cent of the target for conducting inspection.
- Retailers had not maintained Brand-wise Sale Registers. Therefore, utility of the inspections carried out was doubtful in the absence of such basic documentation and track and trace functionality for liquor products.

³⁴ Berhampur, Bolangir, Cuttack, Dhenkanal, Ganjam (Chhatrapur) and Khurda

- The Excise Officers who conducted the inspections at retailer premises did not submit Inspection Report and did not maintain Tour Diaries.

Audit also noticed that the eleven test-checked liquor manufacturing units³⁵ functioning under the jurisdiction of the selected six DEOs had also not been inspected by the concerned DEOs during 2017-21, against the norm of monthly inspections by DEO and quarterly inspections by the Deputy Excise Commissioner.

The Department stated (April 2022) that fresh guidelines for inspections had been issued (July 2021) and that all District Excise Offices were now ensuring compliance with these guidelines. The Department also stated that all possible steps are being taken to revamp monitoring and internal control system to prevent loss of excise revenue.

The fact, however, remained that the shortfall in inspections and capacity to carry out effective supervision in compliance with the fresh guidelines will be only be addressed once the newly recruited personnel have completed their training period and have been posted to the field formations.

2.8 Conclusion

Audit noticed several deficiencies in complying with the provisions of the Odisha Excise Rules, 2017 with regard to management of supply chain of liquor products in the State. Though procurement and use of raw material used for manufacturing India Made Foreign Liquor (IMFL) *i.e.*, Extra Neutral Alcohol (ENA) is regulated under the Odisha Excise Rules to monitor production and supply of IMFL, accounting of ENA was not done properly. No assurance regarding the actual quantity of IMFL produced by the manufacturers and its utilisation could be provided as transit loss was allowed beyond the norms and physical verification of ENA stock with the manufacturers was not conducted. The Excise Officers attached to the manufacturing units did not monitor daily production but accepted the production report furnished by the manufacturing units. Thus, under reporting of production by the manufacturing units and diversion for illegal sale could not be ruled out as instances of despatch of liquor products without permit issued by the Excise Authorities and non-receipt of liquor stock, purportedly despatched by the manufacturing units, by OSBCL were noticed. In export sale of liquor products, irregularities in issue of permits for export were also noticed.

Excise Adhesive Labels (EALs), conceived to be a check measure to identify liquor products infiltrated to the supply chain through illegal means, lacked requisite security features due to which it was not possible for the Excise Officers to detect the same through EALs affixed on liquor bottles. Further, Odisha State Beverages Corporation Limited (OSBCL) had not developed an appropriate computerised system to monitor supply and dispatch of liquor products as well as EALs. Control over usage of EAL was almost absent since there was no account in respect of 27.74 lakh EALs and no information on

³⁵ Aska Co-operative Sugar Industries Ltd., Denzong Breweries, Fortune Spirits Ltd., Kwality Bottlers (P) Ltd., Maikal Breweries Ltd., Oriental Bottling Pvt. Ltd., Shakti Maltware & Lemonade Pvt Ltd, Som Distilleries & Breweries Pvt. Ltd., Trinath Smart Pack Pvt. Ltd., United Breweries, and United Spirits Ltd.

status of 41.29 lakh EALs issued to the suppliers including 2.70 lakh EALs supplied to the suppliers from outside the State who had discontinued their transactions with OSBCL.

Another major reason for mismanagement of the supply chain of liquor products in the State was shortage of Excise Officers. The responsibility of monitoring procurement and usage of raw material to monitoring production and despatch of IMFL/ beer as well accounting of EALs of more than one manufacturing unit were given to a single Excise Officer.

2.9 Recommendations

The Department may consider adopting the following measures:

- Review of norms fixed for transit loss of ENA and strict monitoring of procurement and usage of ENA.
- Discontinue the practice of accepting production figures as reported by the manufacturing units and make submission of system generated production figures by the manufacturing units mandatory.
- Implement mandatory Point of Sale machines at retail outlets and a software application to monitor the stock and sale position at retail level to ensure effective and real time monitoring of the end point of the supply chain for liquor products.
- Develop and use appropriate computer applications so that manufacturing details, supply details, duty paid status, *etc.*, can be ascertained through scanning EAL.
- Conduct periodic physical verifications of ENA, liquor products and EALs and rendering accounts thereof.
- OSCBL to monitor production and supply of liquor products as envisaged in the Excise Rules.
- Revamp the monitoring and internal control system.