

CHAPTER-II: STATE EXCISE

2.1 Tax administration

Various kinds of liquor, such as Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) are manufactured from alcohol. Excise duty on production of alcohol and liquor in distilleries and breweries forms a major part of the State's excise revenue¹. Apart from excise duty, license fee² also forms a part of excise revenue. The United Provinces Excise Act, 1910 and Rules³ made thereunder govern the levy and collection of excise duty on liquor for human consumption and applicable license fee.

The Additional Chief Secretary (State Excise) is the administrative head of the State Excise Department (Department) at the Government level. The Department is headed by the Excise Commissioner (EC) who is assisted by two Additional Excise Commissioners (AECs). The Department has five zones headed by Joint Excise Commissioners (JECs), who are assisted by 18 Deputy Excise Commissioners (DECs). Assistant Excise Commissioners (AECs) head the districts. They are assisted by Excise Inspectors (EIs) to oversee and regulate levy/collection of excise duties and allied levies. Additional District Magistrate (Finance & Revenue) is in charge of collection and accounting of excise receipts under the overall administrative control of the District Collector.

2.2 Results of audit

During 2019-20, test-check of records in 59 units⁴ out of 128 auditable units of the Department revealed non/short realisation of excise duty/license fee/interest and other irregularities involving ₹ 207.93 crore in 4,949 cases which fall under the following categories as mentioned in **Table-2.1**.

Table-2.1

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1	Non/short realisation of excise duty	121	27.52
2	License fee/interest not realised	4,335	178.45
3	Other irregularities ⁵	493	1.96
Total		4,949	207.93

¹ CL formed 48 per cent, IMFL 36 per cent, beer 15 per cent and others 1 per cent of total excise revenue of 2018-19.

² License fee is applicable on licensees of CL, IMFL, beer, bars, distilleries, breweries, pharmacies, etc. and on other manufacturing units using alcohol as raw material.

³ Uttar Pradesh Excise (Settlement of licenses for retail sale of foreign liquor) (excluding beer and wine) Rules 2001.

UP Excise (Settlement of licenses for retail sale of foreign liquor) (excluding beer and wines) (Third Amendment) Rules 2002.

UP Excise (Wholesale and retail vend of foreign liquor) (Thirteenth Amendment) Rules 2002.

UP Excise (Settlement of licenses for retail sale of country liquor) Rules 2002.

UP Excise (Settlement of licenses for country liquor bonded warehouse) Rules 2003.

UP Excise (Settlement of retail licenses for model shop of foreign liquor) Rules 2003.

⁴ This consists of office of the Excise Commissioner (HOD), 34 District Excise Offices and 24 distilleries.

⁵ Non-imposition of penalty for failure in compliance of rule, Short imposition of compounding money for failure in minimum production of alcohol, Proper action not taken in cases of over-rating, MGQ (minimum guaranteed quantity) not adjusted on settled shop, Non-imposition of penalty for not getting minimum distillation efficiency, etc.

The Department accepted (between April 2019 and June 2021) three cases pointed out in the year 2019-20. Further, in respect of audit observations prior to the year 2019-20, the Department accepted (between April 2019 and June 2021) 171 cases amounting to ₹ 55.40 crore and reported recovery of ₹ 4.90 crore in 60 cases.

This Chapter discusses 2,540 cases worth ₹ 107.14 crore. All the audit observations were communicated to the Department between October 2019 to June 2020, however, their replies have not been received (July 2021). Out of these, some categories of irregularity have been reported repeatedly during the last five years as detailed in **Table-2.2**.

Table-2.2

Nature of observation	₹ in crore)											
	2014-15		2015-16		2016-17		2017-18		2018-19		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Failure to cancel the settlement of shops and forfeiture of basic license fee and security deposit	32	3.66	1,007	37.43	14,334	1,297.07	714	58.85	540	15.29	16,627	1,412.30
Loss of additional excise duty due to wrong computation of EDP of small bottles of IMFL	-	-	-	-	-	-	-	227.98	7	4.01	7	231.99

2.3 Failure to cancel the settlement of shops and forfeiture of basic license fee (BLF)/license fee (LF) and security deposit

The Department failed to act on the recommendation made by the Public Accounts Committee for timely deposit of basic license fee and license fee on settlement of shops. It did not initiate any action for cancellation of settlement and forfeiture of renewal fee/earnest money (₹ 6.75 crore), license fee/basic license fee (₹ 63.83 crore) and security deposit (₹ 32.26 crore) totalling to ₹ 102.84 crore, in contravention to the rules.

Excise Policy of Uttar Pradesh for the years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 stipulate that the amount of License Fee⁶ (LF)/Basic License Fee⁷ (BLF) shall be deposited in full within three working days, half of the security amount⁸ within 10 working days and rest of the amount within 20 working days of receipt of intimation of the selection of the shop. The Excise Policy for the years 2015-16, 2016-17 and 2017-18 also stipulated that in case of renewal of shops, half of the LF/BLF shall be deposited at the time

⁶ License fee for foreign liquor/beer shop means a sum fixed in consideration of the grant of the license for exclusive privilege for selling of foreign liquor in a retail shop. License fee for country liquor shop means the remaining part of consideration for grant of license for exclusive privilege of retail sale of country liquor, payable by the licensee, in addition to the basic license fee and this sum shall be equal to the consideration fee leviable on the annual minimum guaranteed quantity fixed for the shop.

Year-wise amount of LF-₹ 227 per Bulk Litre (BL) (2015-16)-₹ 226 per BL (2016-17 and 2017-18) and ₹ 222 per BL (2018-19 and 2019-20).

⁷ Basic license fee means that part of the consideration for grant of license for the exclusive privilege of retail sale of country liquor, payable by the licensee before the license is granted to him.

Year-wise amount of BLF-₹ 25 per BL (2015-16, 2016-17 and 2017-18) and ₹ 28 per BL (2018-19) and ₹ 30 per BL (2019-20)

⁸ 10 per cent of the license fees fixed for the shop.

of application, half of the security amount within 10 days of renewal of shop and the remaining amount of LF/BLF and security deposit shall be deposited upto 15th March of the respective financial years. In case of default, the renewal/selection of shops would be cancelled and the amount of LF/BLF and security deposits are required to be forfeited and these shops need to be resettled.

The Excise Policy for 2019-20 stipulates that in case of renewal of shops, half of the BLF/LF shall be deposited within three working days, remaining amount of BLF/LF shall be deposited upto 28 February 2019 and the amount of difference in security deposit shall be deposited upto 31 March 2019. In case of default, the settlement of shops would be cancelled and the amount of BLF/LF, renewal fees and 15 *per cent*/50 *per cent* of the security deposit for 2018-19 in case of CL shop/FL, beer and Model shop are required to be forfeited and these shops need to be resettled.

In a similar issue highlighted in Para 3.8.8.1 of Audit Report on Revenue Sector for the year ended March 2013, the Public Accounts Committee had recommended (May 2015) to the Government to take action against the defaulting licensees and ensure that similar irregularity is not repeated in future.

Audit test-checked the records of 31 District Excise Offices (DEOs) and noticed (between October 2019 and March 2020) that licensees of 2,521 out of 5,571 liquor shops (45.25 *per cent* of number of shops checked) in 31 districts, which were settled or renewed during the years 2015-16 to 2019-20, did not deposit the entire amount of security deposit and LF/BLF within the prescribed time frame. During examination of the Departmental records (G-12 Register prescribed for settlement of shops) audit specifically checked therein the due date of deposit, actual date of deposit, delayed deposit of LF/BLF and security deposit, etc. and noted that only partial amount of LF/BLF and security deposit was deposited within the prescribed timelines by the licensees during the course of settlement of shops. The delay⁹ ranged from 1 to 292 days. It was also noticed that out of the cases pointed out in audit, 199 applicants in 10 DEOs¹⁰ did not deposit half the amount of LF/BLF with the application for renewal of shops during 2017-18 as required by the Excise policy. The applications of these applicants were accepted by the DEOs in violation of the provisions of the Excise policy. No action was however initiated by the concerned DEOs as envisaged under the Rules according to which no relaxation is allowed. Inaction on delays in deposit of due amounts resulted in non-forfeiture of an amount of ₹ 102.84 crore (Renewal fee/Earnest Money ₹ 6.75 crore, LF/BLF ₹ 63.83 crore and security deposit ₹ 32.26 crore) as shown in **Appendix-I**.

Recommendation:

The Department needs to ensure adherence to the provisions of the Act/Rules and the recommendation made by the Public Accounts Committee, to safeguard the financial interest of the State.

⁹ Delay up to 15 days, shops-1288, amount-₹ 45.60 crore; delay between 16 to 30 days, shops-377, amount-₹ 13.49 crore; and delay more than 30 days, shops-856, amount-₹ 43.74 crore.

¹⁰ Azamgarh, Basti, Chitrakoot, Firozabad, Jhansi, Kaushambi, Mathura, Moradabad, Sant Kabir Nagar and Varanasi.

2.4 Loss of additional consideration fee due to anomaly in the Excise Policy 2018-19

There was loss of additional consideration fee of ₹ 4.30 crore on 6.20 crore small bottles of Indian Made Foreign Liquor (IMFL) due to anomaly in the Excise Policy 2018-19.

Maximum Retail Prices (MRP) of IMFL are determined as per the formulae provided in the excise policies issued by the Government from year to year. Excise Policy 2018-19 prescribed that if the MRP calculated as per the formula was not a multiple of ten, MRP would be rounded off to the next higher ten rupees and the differential amount would be payable as additional consideration fee. Irregularity at any stage of computation/adding of different components of MRP (Ex-distillery price (EDP), consideration fee, wholesalers'/retailers' margins) affects additional consideration fee which may accrue to the state exchequer from rounding off the MRP to the next higher ten rupees.

Excise Policy 2018-19 prescribed that the consideration fee for 750 ml bottles of IMFL would be calculated first and thereafter consideration fee for smaller bottles would be calculated on proportionate basis. However, for calculation of EDP of smaller bottles, it was prescribed that EDP of 750 ml bottles would be calculated first and thereafter EDP for small bottles would be calculated on proportionate basis (as per complete number of smaller bottles being made from 750 ml bottle) by adding ₹ 2/₹ 3 (375 ml/180 ml) to the EDP of 750 ml.

As per the above provisions of the Excise Policy, the consideration fee for 180 ml bottles of IMFL was collected on the actual quantity of liquor in the bottle (i.e. consideration fee for 750 ml bottle*180/750) whereas at the time of calculation of EDP of 180 ml bottles, the EDP was fixed by adding ₹ 3 to EDP of 750 ml bottle and then dividing it by four. Thus, for 180 ml bottles, distillers got EDP for 187.5 ml (750 ml divided by 4) but paid consideration fee for 180 ml only.

This anomaly in the Excise Policy had the effect of unduly increasing the profits of the private distillers while depriving the state exchequer of commensurate additional consideration fee.

Audit examined the records of 19 brand approval files of 2018-19, in the office of the Assistant Excise Commissioners of Dhampur Sugar mills Ltd. (Distillery Div.), Bijnor, Mohan Meakin Ltd., Ghaziabad and Wave Distillery and Breweries Ltd., Aligarh and found (between August 2019 and November 2019) that by allowing additional amount of EDP¹¹ in favour of the distillers instead of levying additional consideration fee on 180 ml bottles, the Department permitted short levy of additional consideration fee resulting in undue benefit of ₹ 4.30 crore on the sale of 6.20 crore small bottles of IMFL to the distilleries, as detailed in **Appendix-II**.

Audit reported the matter to the Department (June 2020). Their reply was awaited (July 2021). Earlier, in a similar audit observation reported in Para 4.2.1 of the CAG's Audit Report on 'Pricing of Production and Sale of Liquor' for the year ended March 2018 and in Para 2.5 of the Audit Report on

¹¹ Calculating EDP of 187.5 ml instead of 180 ml.

Revenue Sector for the year ended March 2019 of Uttar Pradesh, the Department had accepted and assured (July 2018) that the anomaly would be removed through an amendment in the Excise Policy. Audit noticed that this discrepancy has been rectified in the Excise Policy 2019-20.