

CHAPTER-III
STATE EXCISE

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3.1 Tax administration

The Additional Chief Secretary to the Government of Haryana, Excise and Taxation Department, is the administrative head at Government level and the Excise and Taxation Commissioner (ETC) is the head of the Department. The ETC is assisted by the Collector (Excise) at headquarters and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

Excise revenue is mainly derived from fee for grant of licenses of various vends, excise duties levied on spirit/beer produced in distilleries/breweries and on their import/export to and from any other States.

The allotment of zone of vends is made by inviting e-tenders through a Departmental portal. The detailed procedure for e-tendering is finalised by the ETC and uploaded on the website of the Department.

3.2 Results of audit

Test check of the records of 29 out of 106 units of the State Excise Department during 2020-21 highlighted non/short realisation of excise duty/license fee/interest/penalty and other irregularities involving ₹ 189.85 crore (3.00 per cent of receipt of ₹ 6,322.70 crore for 2019-20) in 208 cases which fall under the categories depicted in Table 3.1.

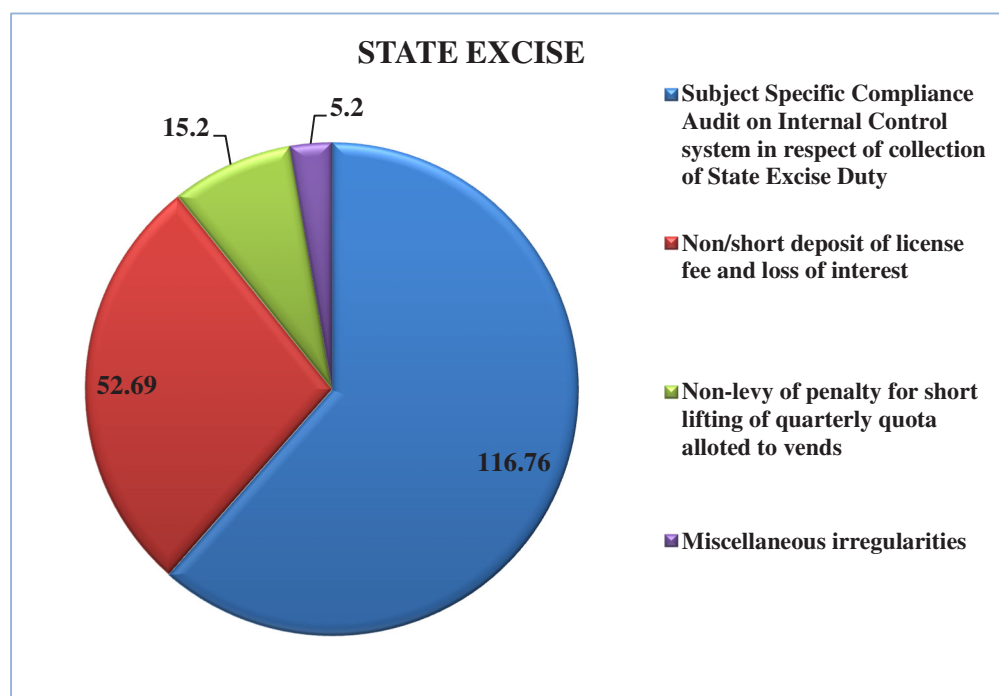
Table 3.1 – Results of audit

Sr. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Subject Specific Compliance Audit on Internal Control system in respect of collection of State Excise Duty	1	116.76
2.	Non/short deposit of license fee and loss of interest	114	52.69
3.	Non-levy of penalty for short lifting of quarterly quota allotted to vends	64	15.20
4.	Miscellaneous irregularities	29	5.20
	Total	208	189.85

Source: Data compiled by office

Chart 3.1
Results of audit

(₹ in crore)



Source: Data compiled by office

The Department accepted under-assessment and other deficiencies amounting to ₹ 72.61 crore involved in 203 cases pointed out during the year. The Department recovered ₹ 2.22 crore involved in 16 cases out of which ₹ 1.65 crore recovered in six cases pertained to the year and rest to earlier years.

Significant cases involving ₹ 123.32 crore are discussed in the following paragraphs.

3.3 Non/short recovery of license fee and interest

Deputy Excise and Taxation Commissioners (Excise), neither initiated any action to seal the vends for non-deposit of monthly instalment of license fee in time, nor levied interest, resulting in short levy of license fee and interest for delayed payment of license fee of ₹ 6.56 crore.

Para 6.4 of the State Excise Policy for the years 2018-19 and 2019-20 stipulated that every licensee holding a license for retail outlets of Indian Made Foreign Liquor (IMFL) and Country Liquor (CL), had to make payment of monthly instalment of license fee by 20th of each month. Failure to do so rendered the licensee liable to pay interest at the rate of 18 *per cent per annum* for the period from the first of the month in which the license fee was due, to the date of payment of the instalment. Further, as per Para 6.5 of the State Excise policy, if the licensee failed to deposit the monthly instalment in full along with interest by the end of the month, the zone of the vends were to be sealed on the first day

of the following month by DETC (Excise) of the respective district and his license would be cancelled.

A. Scrutiny of the records (November 2019) of DETC (Excise) Karnal for the year 2018-19 revealed that one vend out of 22 vends for sale of IMFL and CL were allotted to licensees for ₹ 4.76 crore. The licensee had paid license fee of only ₹ 4.09 crore and the balance license fee of ₹ 0.67 crore was yet to be deposited by the licensees. This resulted in short recovery of license fee of ₹ 0.67 crore. In addition, interest of ₹ 0.28 crore was also leviable. The DETC (Excise) did not initiate any action to seal the zone of vends who failed to pay the license fee.

On this being pointed out, DETC (Excise) Karnal intimated (February 2022) that an amount of ₹ 0.14 crore had been recovered/adjusted from the security and recovery proceeding/notice had been initiated to recover the balance amount against the defaulter.

B. Scrutiny of the records (between November 2019 and August 2020) of M-2¹ register, prescribed for watching of payment of license fee of DETCs (Excise) Karnal, Kaithal and Panipat for the years 2018-19 and 2019-20 revealed that 30 out of 62 zones had paid the monthly instalments of license fee amounting to ₹ 164.86 crore after the prescribed due date with delays ranging between 21 to 180 days. The DETCs (Excise) did not initiate any action to seal the zone of vends and to levy interest for delayed payment of the license fee. This resulted in non-levy of interest of ₹ 5.61 crore.

On this being pointed out, DETC Panipat intimated (February 2022) that an amount of ₹ 7.13 lakh had been adjusted from refundable additional security. DETC Karnal and Kaithal stated (February 2022) that recovery proceedings had been initiated against the defaulters and arrears had been declared as arrears of land revenue in 21 cases of Karnal and all cases of Kaithal.

During exit conference held in March 2022, the Department admitted the audit observations.

The Department may consider developing and implementing an IT application with features of calculation of interest in late payment cases as well as monitoring provisions against business rules to enable recovery and monitoring.

¹ Register of licenses granted on fee determined by auction. This includes name of licensee, license number and details of payment.

3.4 Subject Specific Compliance Audit on Internal Control system in respect of collection of State Excise Duty

3.4.1 Introduction

Internal controls are rules, protocols, procedures and activities that provide reasonable assurances about the achievement of an organisation's objectives concerning the reliability of financial reporting, effectiveness, and efficiency of operations and compliance with applicable laws and regulations. The processes of Internal Controls protect the Government Departments from fraud, corruption, waste and abuse. In order to assess compliance of applicable laws by the Excise and Taxation Department, a Subject Specific Compliance Audit (SSCA) on "Internal Control system in respect of collection of State Excise Duty" was conducted for the period 1 April 2019 to 31 March 2021.

3.4.2 Audit Scope, Sampling and Methodology

SSCA covering the period 2019-20 and 2020-21 was conducted between June and December 2021 through test check of records of the offices of Additional Chief Secretary (ACS), Excise and Taxation Department, Excise and Taxation Commissioner, 11 Deputy Excise and Taxation Commissioners² (DETCs) Excise, five³ distilleries and two offices of Superintendent of Police Sonipat and Panipat. Out of 22 districts in the State, 11 districts were selected by random sampling through Interactive Data Extraction Analysis (IDEA). An entry meeting with Additional Chief Secretary (ACS) Excise and Taxation Department, Excise and Taxation Commissioner (ETC) Haryana and other officers of the department was held on 21 May 2021 wherein audit objectives, audit methodology, criteria, etc. were discussed and inputs from the Department were taken for factoring in their areas of concern in audit. SSCA was conducted to see whether applicable laws and regulations were complied with; Operational controls were adhered to by the department; and Internal Audit Wing of the department was efficient.

Audit findings

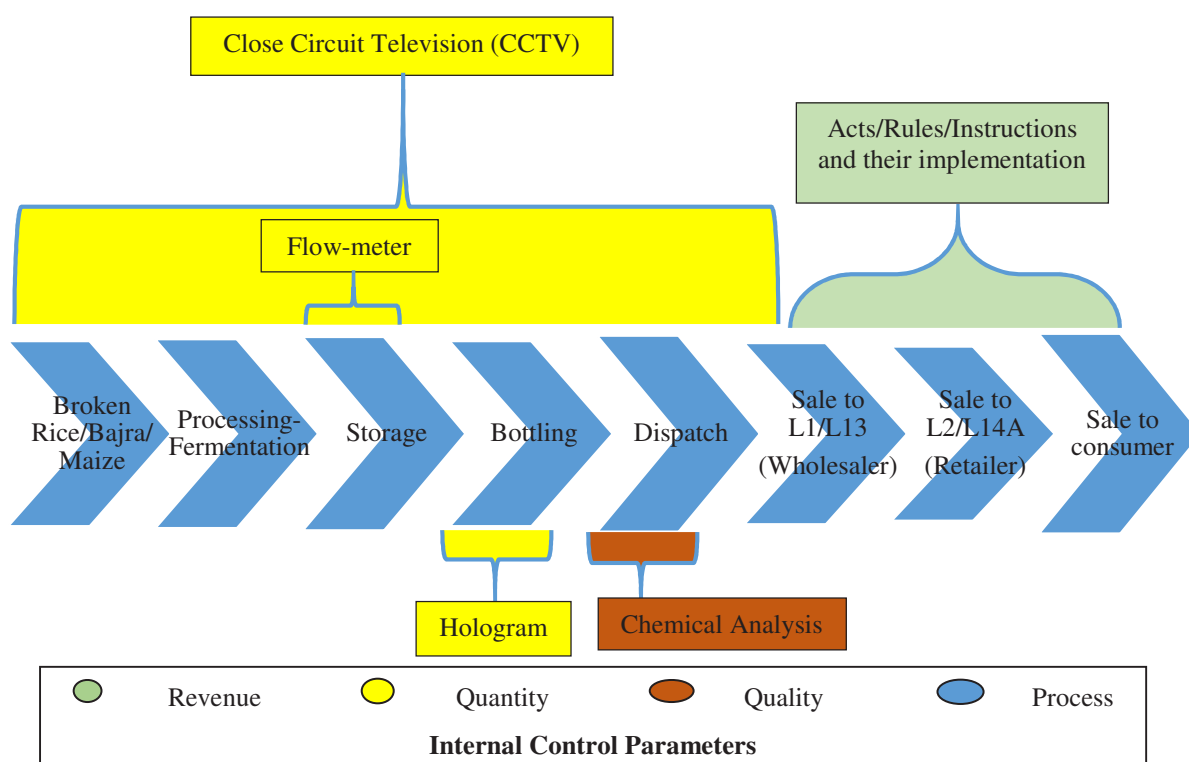
The primary objective of Excise and Taxation Department is to generate and secure revenue resources that can be utilised to finance developmental projects for the Government and also, to address the concerns of four key stakeholders *i.e.* the Government, the manufacturers, the licensees and the consumers. Establishing a robust system of internal controls works towards preventing errors and irregularities, establishing and strengthening reliability and integrity

² (i) Faridabad (ii) Gurugram (East) (iii) Gurugram (West) (iv) Hisar (v) Jagadhri (vi) Karnal (vii) Kurukshetra (viii) Panchkula (ix) Panipat (x) Rewari and (xi) Sonipat.

³ (i) M/s Ashoka Distillery and Chemical Private Limited, Hathin Palwal (ii) ADS Spirits Limited, Village Bhutiyan Jhajjar (iii) M/s Haryana Liquor Private Limited, Jundla, Karnal (iv) M/s NV Distillery, Village Bhadoli, Ambala and (v) M/s Piccadily Agro Industries Limited, Village Bhadson, Karnal.

of institutions; ensuring economical and efficient use of resources ultimately resulting in accomplishing established objectives and goals of the Department. Audit observed that the Excise Policies and working of the Excise Department (State Excise) were primarily based on four core areas *i.e.* Regulations on Quantity, Regulations on Quality, Regulations on revenue realisations from sale of liquor, and Regulations of enforcement measures to ensure achievement of policy objectives. The achievement of the objectives of the Department was ensured through internal controls in the form of instructions and Internal Audit. Besides, enforcement mechanism through the Department, Police formations also supplemented the other enforcement controls in achievement of the objectives of the Department. The graphical representation of movement of liquor from manufacturer to a consumer, along with internal control parameters is shown in the **Diagram 1** below:

Diagram 1: Movement of liquor from manufacturer to a consumer along with internal control parameters



Audit noticed that the internal control mechanism in the Department had multiple gaps. Major deficiencies on account of weak or non-existent internal controls have been discussed in succeeding paragraphs, categorised under the headings Quantity, Quality, Revenue and Enforcement:

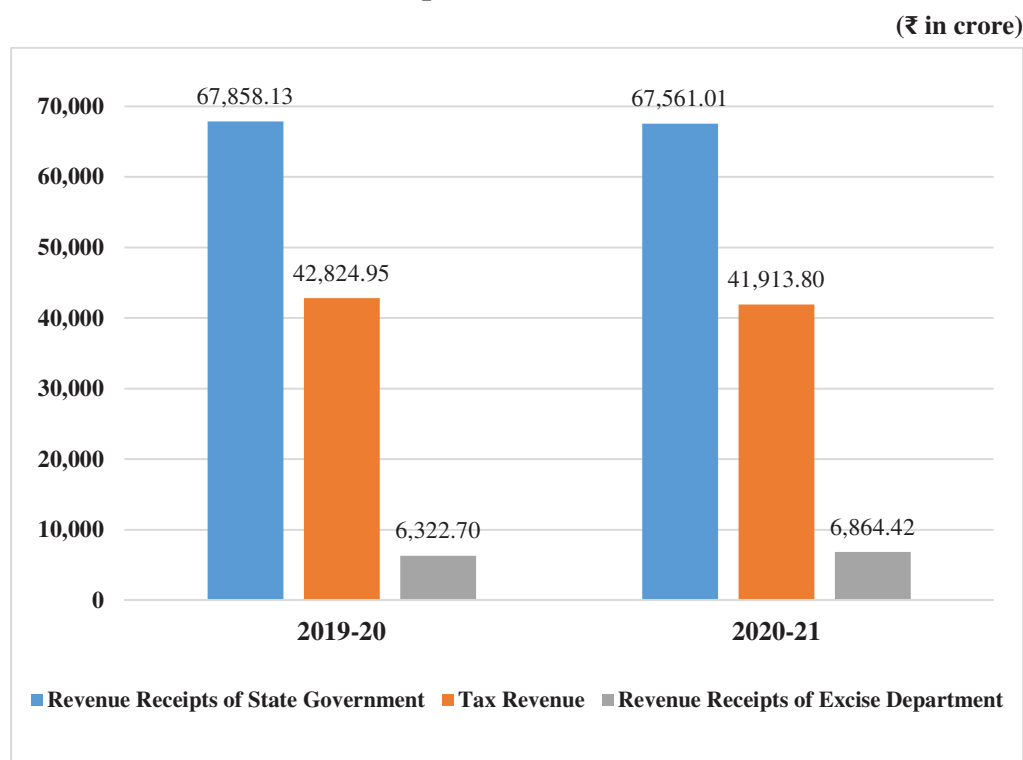
3.4.3 Budget estimates vis-à-vis actual

Important components of Excise revenue are levy of license fee for grant of licensees of various vends⁴ and Excise duty levied on spirit/beer removed from

⁴ A shop that sells mainly alcoholic drinks to be taken away and drunk at home.

distilleries and on their import/export to and from any other State. Total receipt of State in comparison to tax revenue receipts of the State and receipts of Excise Department (State Excise) for the years 2019-20 and 2020-21 are depicted in **Chart 3.2** below:

Chart 3.2: Total State receipts, Receipts from tax revenue and receipts of Excise Department (State Excise)



While there was minor decline of 0.44 *per cent* in State Revenue receipt, receipts of Excise and Taxation Department registered an increase of 8.57 *per cent* during audit period on account of higher receipt on sale of Foreign Liquor.

The revenue target fixed by the Department and the revenue actually collected during the years 2019-20 and 2020-21 are shown in Table 1:

Table 1: Revenue target *vis-à-vis* actual realisation

Year	Revenue target (₹ in crore)	Actual realisation	Achievement Increase (+), Decrease (-)	Percentage of variation
2019-20	6,700	6,322.70	(-) 377.3	5.63
2020-21	7,500	6,864.42	(-) 635.58	8.47

(Source: Finance Accounts and departmental data)

It was seen that the revenue realisation was 5.63 and 8.47 *per cent* below the revenue targets fixed for 2019-20 and 2020-21 respectively. Audit did not come across any defined/scientific method for arriving at the estimates for revenue targets by the Department.

Quantity**3.4.4 Quantitative issues pertaining to liquor****3.4.4.1 Non-adherence of provisions of Excise policy**

Various preventive measures such as Quick response, Code based track and trace system of Hologram, CCTV Cameras, transit slips, Flow meters etc. were prescribed in the Excise policy for safeguarding against spurious and adulterated liquor, effective assessment and monitoring the quantity of Extra Neutral Alcohol (ENA) produced. Audit noticed gaps in implementation of these measures as detailed below:

(i) Non-operational Quick Response (QR) Code based 'track & trace' system

In order to safeguard against spurious and adulterated liquor, hologram or Quick Response (QR) Code based 'track & trace' system, as approved by the Department in the manner prescribed was required to be adopted by the manufacturers of Country Liquor (CL) and Indian Made Foreign Liquor (IMFL).

Audit observed that despite the presence of enabling provision in the Excise policies of State of Haryana for the years 2019-20 and 2020-21, only pre-printed paper holograms were adopted, without any QR Code based 'track & trace' system. Audit had sought details regarding the process of tendering and procurement by the Department for implementation of Hologram or QR Code based 'track & trace' system. However, these records were not made available to audit.

The Department stated (July 2021) that the tenders for QR based hologram was in advance stage. The reply is not acceptable as these requirements for QR based hologram and installation of CCTV were a part of Excise Policy of 2019-2021 and were required to be implemented preferably in 2019 and not to remain a work in progress in 2021-22. It was also seen that a tender for QR based hologram was cancelled on 7 May 2020 and records/ information in respect of subsequent procurement processes and efforts made, if any, have not been made available to audit.

(ii) Non-reconciliation of Paper Holograms

After printing of paper holograms in the Security Printing and Minting Corporation of India Limited (SPMCIL), Hyderabad, the holograms are issued to the various DETCs to be used at the distilleries under their jurisdiction. As per agreement for printing of holograms, it was noticed that 10-digit numbers are being generated through electronic mode by the agency i.e. the Security Printing and Minting Corporation of India Limited (SPMCIL), Hyderabad which are then printed on the Hologram. This 10-digit number forms the basis

for recognizing the liquor in the supply chain. However, this system lacks tracking ability. The DETCs issue these holograms to the distilleries through the staff of the Department, posted at the distilleries. The distillery affixes these holograms on the bottles of CL and IMFL manufactured by the distillery. The record of the holograms issued is maintained at different levels by various authorities including the Assistant Excise and Taxation Officer (AETO)/Excise Inspector (EI) at the distillery, DETC at district level and ETC at State level.

Audit noticed (September 2021) that no mechanism was devised to periodically reconcile the records relating to issue of holograms to various distilleries. In M/s Piccadily Agro Industries Ltd, Karnal it was noticed that there existed a significant difference in the quantity of holograms issued to the distillery and stock of holograms taken in hologram register by the distillery for the period 2019-21 as detailed in the Table 2 below:

Table 2: Difference in quantity of holograms issued and stock of holograms

Year	Hologram issued by ETC/DETC Karnal	Holograms as per stock register of Distillery	Difference
2019-20	6,41,25,000	6,26,05,000	15,20,000
2020-21	9,81,56,494	9,42,06,494	39,50,000
Total	16,22,81,494	15,68,11,494	54,70,000

Source: Compiled from Departmental records

Absence of any reconciliation mechanism was responsible for such a situation and the possibility of misutilisation of these 54,70,000 holograms could not be ruled out.

The officer-in-charge of M/s Piccadily Ltd. stated (12 March 2022) that the reconciliation of hologram was being done and final outcome would be intimated to audit in due course.

(iii) Non-installation of CCTV Cameras

In order to monitor the manufacturing and bottling operations and dispatches of liquor, Excise Policy of 2019-20 mandated installation of integrated Closed Circuit Television (CCTV) mechanism, to be installed in the Distilleries, Breweries and Bottling Plants in the State. A control room was to be set up at the office of the ETC for receiving live feed from the Distilleries so as to facilitate prompt and efficient decision making by generating online Management Information System (MIS). The distillery/ brewery/bottling plant were required to make available, the CCTV footage, in an electronic format every month, to the office of the Collector. Further, Excise Policy for the year 2020-21 provided that CCTV cameras were also to be installed at all wholesale licensee premises (L-1/L-13), with live feed to DETCs by such licensee at their own cost. The live feed from such CCTV Camera was to be made available to the DETC (Excise), who was to review the live feed periodically and recommend the penal proceedings, in case any violation was found.

Audit observed that prior to June 2021 CCTV cameras were installed only at the distillery and were owned by distilleries themselves. However, norms had not been fixed on the number of CCTVs, their positioning, monitoring of their live feed, storage of the footage and generation of MIS. In absence of these norms, no assurance could be derived regarding monitoring of the distilleries carried out at the levels of EI, DETC or ETC.

Other establishments did not have CCTV set-up. It was noticed that even though, the policy was brought in 2019-20 and 2020-21, the same remained work in progress at the time of audit. The Department accepted the audit observation and stated that the work of CCTV camera was in progress.

(iv) Absence of Flow Meters in the distilleries

The Excise Policy of 2020-21 mandated that in order to effectively assess and monitor the quantity of ENA produced and utilised by the distilleries, flow meters⁵ were to be installed in all the distilleries in the State by the Department, in the manner prescribed. Audit observed that despite there being policy decision to install flow meters, the same was not implemented as on date of audit. Instead, quantity of ENA produced and utilised by the distilleries was monitored manually. Thus, the objective of introduction of flow meters in the policies could not be achieved.

On being pointed out, the Department stated that the tender of installations of flow meters in the distilleries is in process and modalities were being finalised (July 2021).

(v) Non-issuance of transit slips

As per the Excise policies of 2019-20 and 2020-21, transit slips were required to be issued in order to keep control over the vehicles carrying liquor for other States / Union Territory through the State of Haryana. Further, transit slips were to be carried in such cases so that liquor meant for other States is not unloaded in the State of Haryana.

Audit observed that the Department had not taken any steps to implement this provision of transit slips, which is a mandatory requirement to exercise/check over the vehicles carrying liquor for other States through the State of Haryana. The department was unaware about the vehicles carrying liquor for other States/UTs and passing through the State of Haryana.

Thus, non-adherence of prescribed preventive measures of safeguard against spurious and adulterated liquor defeated the purpose of provisions of Policy.

⁵ It is an instrument used to measure linear, non-linear, mass or volumetric flow rate of a liquid or a gas.

3.4.4.2 Non-fixing of norms for yield of alcohol from grains

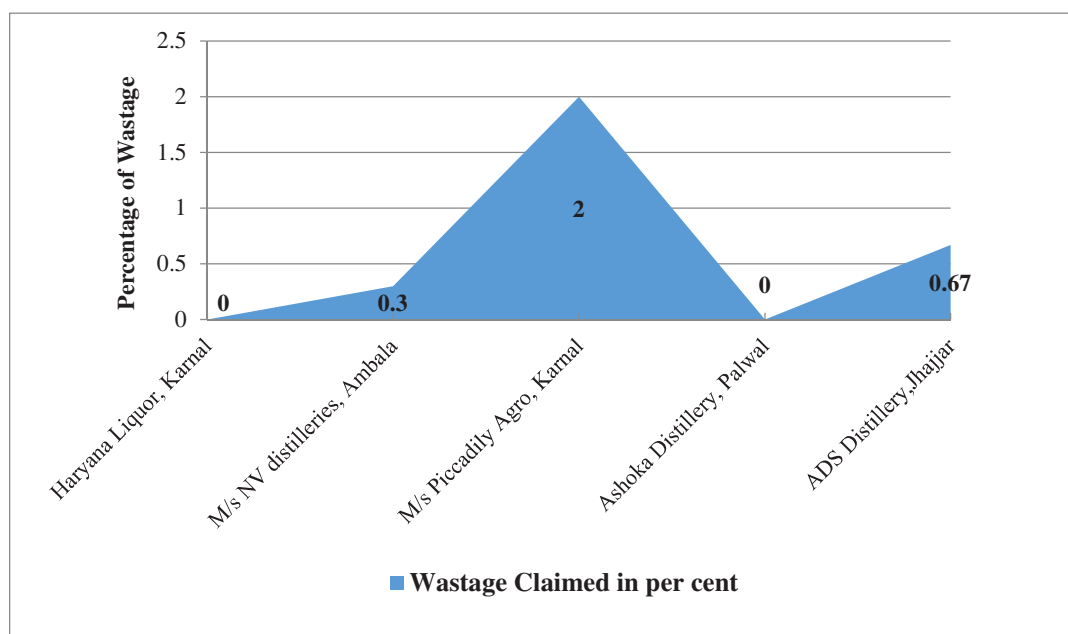
Sources for production of alcohol includes grains and fruits. States like Rajasthan and Andhra Pradesh had prescribed norms for preparation of alcohol from grains.

It was seen that the Punjab Distillery Rules, 1932 as applicable to the State of Haryana, provide for a minimum yield of 52.5 litre of alcohol per quintal of fermentable sugar present in the molasses but the State did not prescribe norms for preparation of alcohol from grains.

During scrutiny of records of ETC Panchkula for the period 2020-21, it was noticed that in the absence of any norms of production of alcohol from grain, minimum yield figures would vary across the distilleries. The distilleries claim a component of ‘wastage’ during the process of production of alcohol on the grounds of impurities/waste material in the raw inputs for alcohol *i.e.* the grains. This wastage is then subtracted from the total quantity of grains to arrive at the yield figures. Absence of any norms/SOP on the wastage component or grain yield leads to arbitrary claims on account of wastage, which also impacts the revenue as the same is dependent on quantity of alcohol produced.

The Comparison of wastage claimed and alcohol yield against the same in five test-checked distilleries for the years 2019-20 and 2020-21 are depicted in **Chart 1** as under:

Chart 1: Wastage of grain claimed by test checked distilleries



As can be seen from the chart, the wastage claimed by various distilleries ranged from zero to two *per cent*. In the absence of norms, the distilleries were claiming arbitrary wastage. It had financial implications for the state in cases of distilleries claiming higher wastage. The department stated (July 2021) that matter of fixation of norms would be investigated

3.4.4.3 *Non-disposal of liquor lying unsold in distillery*

Rule 10 of the Punjab Distillery Rules, 1932 as applicable to the State of Haryana provided that if a license be revoked/cancelled, the licensee was to dispose of his stock of spirit in such a manner as the Financial Commissioner directed. Thus, on expiry of license or non-approval of license for next year, the unsold stock was required to be removed in accordance with the rules in force. Further, the department had also issued instructions (November 2019) that the liquor whose brand license had not been approved by the department during the year and as a result, the liquor had become un-saleable, the manufacturer was to be permitted to redistill the same. As the complete exercise of redistillation was dependent on the critical variable of time, effective internal control measure would require prescribing specific timelines for re-distillation of unsold stock in the Rules.

Scrutiny of records of Haryana Liquor Pvt. Limited, Jundla, Karnal and NV Distilleries Pvt. Ltd., Badholi, Ambala for the period 2019-21, revealed that the department had discontinued 17 label licenses involving 10,847 cases and 17,535 Bulk Litre (BL)⁶ of liquor between 2014-15 and 2019-20 which was lying unsold in stock. It was noticed that no action was taken by the Department for destruction or re-distillation of the stock. Further, no time limit for disposal of liquor was fixed due to which possibilities such as theft, *etc.* of such liquor cannot be ruled out.

The EI, M/s Haryana Liquor Pvt. Ltd. (September 2021) and NV Distilleries Pvt. Ltd (October 2021) intimated that the company has applied for permission of re-distillation of unsold stock. They further stated that the process of re-distillation of unsold stock would be carried out on receipt of permission.

Quality

3.4.5 *Issues related to quality of liquor*

3.4.5.1 *Non adherence to codal provisions*

(i) *Sale of liquor without chemical examination certificate*

In order to ensure that the liquor is fit for human consumption, Rule 17 of Punjab Distilleries Rules, 1932 (as applicable to State of Haryana) stipulates that the licensee shall, when required, permit samples of materials used or spirit prepared in the distillery to be taken for analysis.

Scrutiny of the records of five distilleries for the period 2019-21 revealed that 10,279 samples of CL and IMFL were sent to Chemical examiners for analysis. In respect of four distilleries for 9,194 samples, the Chemical examiners sent

⁶ 1 BL = 1 normal litre i.e. 1000 ml.

their report after 28 to 312 days of receiving the sample from Officer-in-charge of the distillery as detailed in Table 3 below:

Table 3: Samples sent for Chemical examination from five distilleries in 2019-21

Sr. No	Name of distilleries	No. of samples sent for examination	Days after which Samples were received from Examiner	Quantity of liquor (in PL)	Excise duty ⁷ (in ₹)
1	Piccadily Distillery, Bhadson (Karnal)	3,484	33 to 105	3920.00	2,35,170
2	Haryana liquor Pvt. Limited Karnal	1,463	65 to 221	2019.94	1,21,196
3	NV Distilleries, Village Badholi, Ambala	2,055	29 to 312	2368.00	1,42,080
4	ADS Spirit pvt. Limited, Jhajjar	2,192	28 to 55	-	-
5	Ashoka Distillery and Chemical Pvt. Limited, Hathin, Palwal	1,085	-	414.38	24,863
	Total	10,279		8,722.32	5,23,309

It was further noticed that the liquor for which sample were sent for analysis were dispatched by the distilleries for sale within one to seven days of their manufacturing, before receiving any chemical examination certificate stating whether the liquor is fit for human consumption or not. In the absence of Certificate of Chemical Examiner, the quality of liquor cannot be ensured. Further, no period/time limit was prescribed in rules within which the liquor samples had to be examined and returned to distillery by Chemical Examiner. It was further noticed that even the AETOs/EIs in distillery did not raise this issue of the sale of liquor from distilleries, without the mandatory report of Examiner.

The AETO/EI of NV Distilleries and M/s Haryana liquor Pvt. Limited stated that as sale of liquor against permit received at distillery is a time-bound process, it is not feasible to hold the batches for such a long time as it would badly impact the sale of liquor. The officer-in-charge of M/s Piccadily Agro Industries stated that the matter would be examined. Similarly, officer-in-charge of M/s ADS Pvt. Limited intimated that as per availability of chemical examiner in the office and as per his guidance, collected samples were sent to him twice or thrice in a month.

As no time-limit was prescribed for completion of chemical analysis process, sales of liquor without the mandatory chemical certificate was taking place in the state.

Thus, the distilleries were sending the samples for testing under assumption of assurance that the stock would be fit for human consumption and the health-related control was put at risk.

⁷ Calculated on minimum excise duty of ₹ 60 per PL prescribed for CL.

(ii) Non-redistillation of sample sent for examination

The Excise Department of Haryana had issued instructions (November, 2019) that in cases of liquor samples collected in the distilleries in which the chemical analysis report was duly submitted, the manufacturers would be permitted to redistill the same. Thus, the samples which were sent for chemical examination were required to be taken back to distillery for re-distillation. As the exercise of re-distillation was dependent on the critical variable of time, effective internal control measure would require prescribing specific timelines for re-distillation of remaining liquor sample in the instructions.

Audit noticed that the collected samples were not returned for re-distillation, resulting in non-realisation of potential excise levy of ₹ 5.23 lakh. Audit also could not verify from the records made available whether these samples were separately preserved.

3.4.5.2 Non-drawal of sample of beer from microbrewery for analysis

Para 9.10 of Haryana Excise Policy for the year 2020-21 states that in order to promote healthy drinking habit of liquor with low alcoholic content, the DETC (Excise) was required to arrange and forward the Beer samples from microbreweries once every month to the nearest Government Excise Laboratory for analysis. The report so obtained thereon was to be displayed in the premises of Microbreweries.

During scrutiny of records of four DETC (Excise) for the year 2020-21 having 21 microbreweries⁸, it was noticed that Beer samples were not drawn/forwarded to Government Excise Laboratory for analysis. In the absence of such controls, the quantity and quality of alcoholic content in the beer served in the microbreweries could not be ascertained. Audit could not ascertain as to how the Department ensured the objective of promoting healthy drinking habit of liquor in absence of such control.

The DETCs (Excise) Gurugram (East), Gurugram (West) (November 2021) Faridabad (December 2021) and Panchkula (July 2021) stated that the point raised by the Audit would be kept in mind for future samples.

Revenue

Revenue generation forms the primary objective of the Department. While the Excise Policies lay down the roadmap for attainment of this objective, internal controls of the Department act as tools to maximise the achievement of the objective. Various categories of licenses (L-1, L-2, L-14A, L-2BF, L-52, L-4/5,

⁸ Faridabad: 2, Gurugram (East): 15, Gurugram (West): 2 and Panchkula: 2. Only 21 microbreweries were operational in test checked districts.

L-1BF)⁹ are granted by the Department against payment of fixed license fee at varying time intervals, which are covered in the Excise Policy. The two critical variables governing the provisions on license fees in the Excise Policy are quantity and time. An effective Internal Control System should include real time monitoring of these two variables with the assistance of IT tools to automate the processes and minimise deviations. Audit observed that the Department had gaps in its Internal Control Mechanism leading to absence of monitoring, non-adherence to norms of excise policy and lack of follow up.

It was observed that an amount of ₹ 47.11 crore on account of short/non recovery of monthly license fee and interest thereon and penalty of ₹ 26.97 crore against various categories of licensees were outstanding as discussed in succeeding paragraphs:

3.4.6 Deficiencies in Controls related to revenue generation

3.4.6.1 License fees

i. Non/Short recovery of monthly instalments of license fee and interest thereon

Para 6.4 of State Excise policy for the years 2019-20 and 2020-21 stipulated that every licensee holding a license for retail outlets of IMFL and CL licensees, shall make payment of monthly installment of license fee by 20th/15th of each month, respectively. Failure to do so renders the licensee liable to pay interest at the rate of 18 *per cent* per annum for the period from the first of the month in which the license fee was due to the date of payment of the instalment or any part thereof.

Scrutiny of the records of selected DETCs (Excise) revealed that in seven¹⁰ out of 11 DETCs (Excise), 67 licensees in 67 zones¹¹ out of 188 zones had paid license fee of ₹ 566.04 crore against the due license fee of ₹ 590.30 crore for 2019-20 and 2020-21. The Department had not devised any monitoring mechanism for periodical checking of outstanding license fee. DETCs did not initiate any action to recover this short payment of license fee of ₹ 24.26 crore and interest of ₹ 8.41 crore (**Appendix-XII**).

⁹ L-1: Wholesale license of Indian Made Foreign Liquor (IMFL), L-2: Retail sale of IMFL, L-14 A: Retail sale of Country Liquor (CL), L2BF-Sale of Imported Foreign Liquor (IFL) at L2/L-14 A, L-52: Anumat Kaksh, L-4/5: License of bars and L1 BF: Wholesale of IFL.

¹⁰ Faridabad, Gurugram (E), Gurugram (W), Hisar, Panipat Rewari and Sonipat. In remaining DETCs, audit did not come across such deficiencies.

¹¹ The vends in urban and rural areas, for the purpose of allotment are grouped into zones. The command area of a zone is the geographical area specified for the zone in the excise arrangement under Excise Policy, one license is granted per zone.

Further, test check of records of selected DETCs (Excise) revealed that in ten¹² out of 11 offices, 175 (*Appendix-XIII*) zones had paid monthly instalments of license fee of ₹ 473.86 crore with delay ranging between 16 to 137 days. In the absence of any defined mechanism, the DETCs (Excise) neither monitored the delay in payment of the license fee nor initiated any action to levy interest thereon. This resulted in non-levy of interest of ₹ 11.24 crore on delayed payment of license fees.

It was also noticed that *L-1 BF licenses* had deposited license fee with delays ranging from 22 to 89 days for which ₹ 1.53 crore as interest on delayed payment was leviable (*Appendix-XIV*) as per provisions of the policy. However, the DETCs had not initiated the process of recovery of interest from the licensees.

On this being pointed out, DETC (Excise) Faridabad, Sonipat Gurugram (East) and Gurugram (West) intimated that the matter is being examined and recovery on account of non/short deposit of license fee and interest thereon would be made. The DETC (Excise) Panipat stated that the recovery would be made from three *per cent* security lying with the department. However, the response was not acceptable as the amount under audit observation exceeded the three *per cent* security portion referred to in the reply and the recovery of the same shall not offset the pending amount due. The DETC (Excise) Jagadhri stated that final reply would be submitted after examining the facts. The DETC (Excise) Hisar intimated that notices are being issued to the licensees. The DETC Karnal stated that interest amounting to ₹ 23.31 lakh had been recovered/adjusted and DETC Panchkula stated that all the amount of interest except ₹ 0.52 lakh had been recovered/adjusted.

Regarding recovery of interest from L-1BF, DETCs Gurugram (East and West) stated (November 2021) that the outstanding interest would be recovered from three *per cent* security lying with the Department.

ii. Short recovery of license fee from L-2BF Licensee

Para 9.5.13 of the Haryana Excise Policy 2020-21 introduced a new license (L-2BF) for retail sale of Imported Foreign Liquor (IFL) Bottled in Origin (BIO) by the retail outlets of IMFL and Bar Licensees. The new license was to be granted at a fixed price mandatorily to certain earmarked retail outlets in accordance with the potential of the vend for sale of IFL (BIO). Against a fixed license fee of ₹ 28.60 lakh, ₹ 15.63 lakh was outstanding for six zones of the DETC Sonipat for the year 2020-21 as detailed in Table 4 below:

¹² Faridabad, Gurugram (E), Gurugram (W), Hisar, Jagadhri, Karnal, Panchkula, Panipat, Rewari and Sonipat.

Table 4: Outstanding license fee of L2BF license

(Amount in ₹)

Zone No.	Fixed License fee for L-2BF license	Amount Recovered	Balance due
ZSNP03	2,60,000	95,000	1,65,000
ZSNP04	7,80,000	2,35,000	5,45,000
ZSNP07	5,20,000	2,00,000	3,20,000
ZSNP11	5,20,000	4,31,600	88,400
ZSNP24	5,20,000	2,55,000	2,65,000
ZSNP30	2,60,000	80,000	1,80,000
Total	28,60,000	12,96,600	15,63,400

Source: Compiled from Departmental records

The DETC Sonipat intimated (October 2021) that the matter would be examined and recovery on account of license fee of ₹ 15.63 lakh would be made from the licensees.

iii. Short levy and non-recovery of license fee from L-52 (Anumat Kaksh) licensees

Para 1.4.1 of State Excise policy for the year 2019-20 stipulated that in order to prevent rowdy and drunken behaviour in public, an authorised drinking place called “Anumat Kaksh” with each retail vend was allowed by the DETC (Excise) in urban areas and sub-urban areas falling within 5 KMs from the outer limit of respective Municipalities and borders with other States. Further, Para 1.4.3 of the policy stipulated that the fee structures for Anumat Kaksh in urban zone and sub-urban zone would be 0.8 per cent and 0.4 per cent of license fee of zones of vends respectively.

Scrutiny of records and documents of 11 selected units revealed that DETCs (Excise), Sonipat and Panipat, while granting the L-52 licenses for Anumat Kaksh in 11 urban zones, levied license fee at the rate of 0.4 per cent instead of 0.8 per cent of the zone license fee resulting in short levy of license fee to the extent of ₹ 91.04 lakh as detailed in the Table 5 below:

Table 5: Outstanding license fee for Anumat kaksh

(Amount in ₹)

Sonipat					
Sr. No.	Zone no.	Bid amount	License fee as per policy (0.8 per cent)	License fee actually levied (0.4 per cent)	License fee short levied
1	01	42,71,11,000	34,16,888	17,08,444	17,08,444
2	02	26,11,11,000	20,88,888	10,44,444	10,44,444
3	03	18,11,11,000	14,48,888	7,24,444	7,24,444
4	04	15,11,11,000	12,08,888	6,04,444	6,04,444
5	06	13,11,11,000	10,48,888	5,24,444	5,24,444
6	07	14,50,10,000	11,60,080	5,80,040	5,80,040
7	09	45,71,00,000	36,56,800	18,28,400	18,28,400
8	10	19,71,71,000	15,77,368	7,88,684	7,88,684
Sub-total		1,95,08,36,000	1,56,06,688	78,03,344	78,03,344
Panipat					
1	05	12,11,75,000	9,69,400	4,84,700	4,84,700
2	08	11,81,51,000	9,45,208	4,72,604	4,72,604
3	13	8,60,00,000	6,88,000	3,44,000	3,44,000
Sub-total		32,53,26,000	26,02,600	201,315	201,315
Total		2,27,61,62,000	1,82,09,288	91,04,648	91,04,648

Source: Compiled from Departmental records

The DETC (Excise) Sonipat stated (October 2021) that these eight zones of vends were specified as Urban + Rural zones as per Excise Arrangement¹³ 2019-20 and accordingly they fell under sub-urban zones, attracting 0.4 *per cent* levy. The reply is not tenable as the Anumat Kaksh were permitted and covered only in urban and sub-urban areas under the Excise Policy 2019-20 and there was no provision for Urban + Rural areas in the policy. Since these eight zones of vends were covered under urban areas as per the licenses granted to the vends, the applicable license fee was at the rate of 0.8 *per cent* of license fee of the zone.

The DETC (Excise) Panipat stated (October 2021) that short recovery of license fee from L-52 licensees would be made from the licensee from three *per cent* refundable security lying with the department.

iv Non recovery of license fee of L- 4/5 licenses (Bars)

Para 9.8.3 (d) of the State Excise Policy for the year 2020-21 provides that the annual license fee for grant or renewal of bar licenses was ₹ 18 lakh, ₹ 15 lakh and ₹ 10 lakh for Gurugram, Faridabad and remaining districts respectively. Further, Para 9.8.3 (e) of State Excise Policy for the year 2020-21 stipulates that a composite fee of ₹ 1.50 crore was to be charged for grant or renewal of licenses for bar operated by Haryana Tourism Corporation (HTC). The annual license fee for a bar (L-4/L-5/ L-12C/L-12G) license was to be paid in four equal quarterly instalments, payable in the first week of each quarter, failing which the license was liable to be cancelled and corresponding security forfeited. In the wake of Covid pandemic, the ETC decided (September 2020) to renew the bar licenses (L-4/L-5/ L-12C/L-12G) with effect from 1st September 2020 and for the purpose of calculating 1st and 2nd quarter license fee, proportionate calculation on per day basis, reckoned from the day of opening of bars was decided. The policy for the year 2020-21 was in force till 31 March 2021. However, owing to impact of restrictions during Covid, the Excise Policy for 2020-21 was extended up to 19 May 2021.

Scrutiny of records of selected 11 units revealed that in the offices of ETC, DETC (Excise) Sonipat, Gurugram (East), Gurugram (West), for the year 2020-21, six bar licensees out of 506 licensees had paid license fee of ₹ 42.25 lakh against the due license fee of ₹ 1.02 crore as detailed in the Table 6 below:

¹³ A document issued by Excise Department showing the classification of various zones at the time of auction of liquor vends for a year.

Table 6: Outstanding license fee of bars

(Amount in ₹)

Sr. No.	ETC/ DETCs (Excise)	Bar Licensee	License Fee leviable	License fee levied	Outstanding License fee
1	ETC	Haryana Tourism Corporation	75,00,000 [#]	37,50,000	37,50,000
2	Sonipat	M/s Fissle Beer Island Bar and Café Pvt Ltd	6,36,111	3,75,000	2,61,111
3	Gurugram (East)	The Ark	6,95,000	0	6,95,000
4	Gurugram (West)	A.V. Bristo Pvt. Ltd.	4,50,000	0	4,50,000
5	Gurugram (West)	Smassh Entertainment	4,50,000	0	4,50,000
6	Gurugram (West)	Black Bucks American diner	4,50,000	1,00,000	3,50,000
		Total	1,01,81,111	42,25,000	59,56,111

Source: Compiled from Departmental records

All the licensees except HTC have not been renewed for next year. The Department did not initiate any action to cancel the licenses, forfeit the security of these bars or recover the outstanding license fee of ₹ 59.56 lakh resulting into revenue loss of to the same extent.

The Collector (Excise)-cum Joint ETC Haryana stated (July 2021) that a letter had been written to Managing Director, HTC to deposit the balance amount of one quarter. The DETC (Excise) Sonipat, Gurugram (East) and Gurugram (West) intimated (November 2021) that efforts would be made to recover the outstanding amount.

v ***Non levy and recovery of penalty for short lifting of quarterly basic quota of liquor***

As per Para 3.3.1 and 3.3.2 of State Excise Policy for the year 2019-20 and 2020-21, a licensee was required to lift the basic quota of IMFL and CL allotted to zones, as per the prescribed quarterly schedule. Non- lifting of quarterly quota attracted penalty at the rate of ₹ 55 and ₹ 100 for the year 2019-20 and ₹ 70 and ₹ 125 for the year 2020-21 per Proof Litre (PL)¹⁴ for CL and IMFL respectively on a quarterly basis, for the short-lifted quota. The provisions of lifting of quota and penalty for non-lifting of quota in case of retail outlets of IMFL and CL were to apply *mutatis mutandis* to L-2BF licensees. However, the penalty for short-lifting of IFL was ₹ 5,000 per case for whisky & wine and ₹ 2,000 per case for Beer for 2020-21.

[#] The annual fee for Haryana Tourism was ₹ 1.50 crore. However, due to covid restrictions, the fee due for first two quarters had been relaxed by the department. Hence, Total fee recoverable was ₹ 75 lakh.

¹⁴ Strength of alcohol is measured in terms of 'Degree Proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 Degree Fahrenheit is assigned 100 Degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 Degree is called PL.

Scrutiny of the records of 11 DETCs (Excise) revealed that in nine¹⁵ DETCs, 202 zones allotted to IMFL and CL and six zones allotted to L2-BF licensees of IFL had short lifted their quota as required in the Excise policy and accordingly, attracted levy of penalty of ₹ 24.87 crore and ₹ 2.10 crore respectively (**Appendix-XV**). Audit did not come across any control mechanism for monitoring the gaps in lifting of quarterly quota. Correspondingly, the DETCs (Excise) concerned, did not monitor the quota and the licensee had not lifted their prescribed liquor quota. The DETCs (Excise) did not initiate any action to levy and recover the penalty on account of short lifting of quarterly quota, leading to non-recovery of penalty of ₹ 26.97 crore.

The DETC (Excise), Sonipat (October 2021), Faridabad, Gurugram (East) and Gurugram (West) (November 2021) intimated that the matter is being examined and recovery on account of short lifting of quota, if any would be made from the licensee. The DETC (Excise) Panipat stated (October 2021) that recovery on account of short lifting of quota would be made from three *per cent* security lying with the department. The DETC (Excise) Jagadhri and Panchkula stated that final reply would be submitted after examining the facts.

3.4.6.2 Non-recovery of Additional Excise duty as Covid cess

Para 3 of Excise Policy for the year 2020-21 stipulated that *w.e.f.* 6 May 2020 an additional excise duty in the form of Covid Cess was to be levied at different rates on sale of CL, Beer, IMFL/Wine, *etc.* Retail licensees were required to deposit the amount of Covid Cess, to be levied within one day of procurement of the stock from wholesale dealers, to the Government treasury.

Scrutiny of the records of the selected units revealed that in the office of DETC (Excise), Jagadhri for the year 2020-21, additional excise Duty in the form of Covid Cess of ₹ 1.41 crore was due from 52 retail licensees for the period May-June 2020 which was not levied and collected by the office resulting in non-recovery of ₹ 1.41 crore from the licensees. In remaining DETCs, audit did not come across such deficiency.

The DETC (Excise), Jagadhri stated (March 2022) that an amount of ₹ 1.36 crore had been recovered/ adjusted.

3.4.6.3 Non-recovery of stock transfer fee

Para 8.8 of Haryana Excise Policy for the years 2019-20 and 2020-21 stipulates that any quantity of liquor in physical possession of the outgoing licensee at the termination of the contract for the year 2019-20/2020-21 and transferred to an incoming licensee for the year 2020-21/2021-22 in accordance with the provisions of the Haryana Liquor License Rules, 1970 would not be counted

¹⁵ Faridabad, Gurugram (E), Gurugram (W), Hisar, Jagadhri, Panchkula, Panipat, Rewari and Sonipat.

towards lifting of annual quota for the year 2019-20/2020-21. A stock transfer fee was to be levied at the rate of ₹ 7 per PL for CL, ₹ 13 per PL for all brands of IMFL and ₹ 11 per BL for Beer. For IFL (BIO), the stock was to be transferred on payment of differential amount arising from increase in permit fee and levy of assessment fee. In addition, a transfer fee was also be levied at the rate of ₹ 120 per PL for Whisky, Scotch, Rum, Vodka, Gin and Brandy *etc.*, ₹ 120 per BL for wine and ₹ 50 per BL for Beer.

Scrutiny of records of selected units revealed that in the office of DETC (Excise) Gurugram (East) for the year 2019-20, an amount of ₹ 38.36 lakh was not levied on account of transfer fee, on unsold stock and difference of assessment fee in respect of M/s Lake forest wine private limited {IFL (BIO)}. Similarly, record relating to office of the DETC (Excise), Jagadhri for the year 2020-21, revealed that 12 (CL/IMFL) licensees had unsold liquor stock of 14981.06 PL/BL against which stock transfer fee of ₹ 2.64 lakh was levied but not recovered. Therefore, an amount of ₹ 41.00 lakh was outstanding on account of stock transfer fee.

The DETC Gurugram intimated (November 2021) that the detailed reply of recovery of transfer fee as well as assessment fee would be submitted after verifying the facts. DETC Jagadhri intimated (March 2022) recovery of ₹ 1.74 lakh had been made and efforts are being made for remaining amount.

Enforcement and Internal Audit

The Excise Department and the Police Department are to enforce the provisions of Excise Policy in the State. Delays in deciding breach cases, non-enforcement of amended provisions in seizure of illicit liquor, delays in destruction of seized liquor and absence of auditing standards/ manual for internal audit were noticed in both the Departments as discussed in succeeding paragraphs:

3.4.7 Deficiencies in Controls related to Enforcement of Excise Policy and Internal Audit

3.4.7.1 Ad-hoc decisions in breach cases

Section 36 (c) of the Punjab Excise Act, 1914, as applicable to Haryana provides that the authority granting any license, permit or pass under this Act may cancel or suspend it, in the event of any breach by the holder of such license. Further, Rule 37 (36) of Haryana Liquor Rules (HLL) Rules, provides that if a licensee becomes liable to cancellation under any law for the time being in force, the competent authority may either (i) cancel the license and make such arrangements as he may think fit for carrying on the business for which the license was granted and any fee paid or deposit made in respect thereof shall be forfeited to Government. (ii) permit the licensee to retain the license on payment of such further fee as he may deem fit to accept. Under Rule 37 (37) of HLL Rules, “On the cancellation or determination of any license, the licensee or his

representative shall cease to carry on his business under it and shall return his license to the Collector”.

During test check of records of breach cases in the offices of 11 test checked DETCs (Excise) for the period 2019-20 and 2020-21, the following deficiencies in deciding the breach cases were noticed:

(i) Delay at different levels

In the 11 DETCs (Excise) test checked, there were a total of 1123 breach cases. Out of these, 138 cases¹⁶ (100 per cent of cases of Panipat and Sonipat) of breach of Rules/License for the period 2019-20 and 2020-21 were checked in detail. The delays in handling breach cases are mentioned in Table 7 below:

Table 7: Delays in deciding breach cases

Year	Number of cases	No. of Days			
		Decision on breach cases by collector			Time for Dispatch of pronounced orders of collector
		Range	Average	Median	
2019-20	38	166 to 265	101	56	14 to 134
2020-21	100	5 to 122	61	48	0 to 38

Source: Compiled from Departmental records

Delays in deciding the cases (between five to 265 days) resulted in delay in recovery of penalty imposed on the licensee and allowed the licensees to continue their business activity even after commitment of breach of law. Thereafter, the delays in dispatch of orders (upto 134 days) after decision of Collector, reflects gaps in internal control mechanism in the Department.

(ii) Issuance of permit/pass even after cancellation of license

As per order of Collector (Excise)-cum-JETC, Haryana, in case of cancellation of license under section 36 (C) of Punjab Excise Act, the amount of security was required to be forfeited and cancellation of license and forfeiture of security stood revoked on payment of penalty as decided by the Collector. It was noticed that 547 permits/passes¹⁷ in respect of four licensees were approved between March 2021 to June 2021 by the AETOs even after their licenses had been cancelled, in violation of Rule 37(37) of HLL Rules. Audit noticed that the Department did not have any manual or IT enabled mechanism to ensure prevention of such cases. Reply had not been received on this point.

¹⁶ 2019-20: Panipat-7, Sonipat-31; 2020-21: Panipat-42 and Sonipat-58.

¹⁷ (i) Panipat- Date of cancellation: 20 April 2021-200 passes were approved between 20 April 2021 to 10 June 2021, (ii) Sonipat- Date of cancellation: 17 November 2020- 205 passes were approved between 17 November 2020 to 02 January 2021, (iii) 07 December 2020 -61 passes were approved between 07 December 2020 to 25 December 2020, (iv) 07 December 2020-81 passes were approved between 07 December 2020 to 17 December 2020.

(iii) Non-recovery of penalty

During 2019-20 and 2020-21, shortage of liquor was detected by the Department from the godowns of wholesale licensees. Accordingly, breach cases of licenses were prepared and sent to Head office, Panchkula for further decision. The Collector (Excise) cum JETC, Haryana decided these cases and penalty of ₹ 39.68 crore was imposed against 60 licensees in eight districts¹⁸ (**Appendix-XVI**). The Department did not initiate any recovery proceedings against the licensees.

The DETC (Excise) Panipat, Sonipat (October 2021) and Rewari (December 2021) stated that efforts are being made to recover the penalty as imposed by the collector. The DETC (Excise) Gurugram (East) (November 2021) and DETC (Excise) Faridabad intimated (December 2021) recovery would be made after verifying the facts.

3.4.7.2 Seizure of illicit liquor

(i) Delay in imposing/non-recovery of penalty

During scrutiny of records of the office of six DETCs (Excise)¹⁹, it was noticed that a penalty amounting to ₹ 83.17 lakh on accounts of seizure of illicit liquor by the Excise Department was outstanding (**Appendix-XVII**). Though, the Department had imposed the penalty, there were no efforts on part of the Department to ensure the timely recovery of outstanding penalty.

The DETC (Excise) Sonipat (October 2021) and DETC (Excise) Hisar (December 2021) stated that efforts were being made to recover the outstanding amount of penalty.

(ii) Non-compliance with amended provisions of the Act

Timely implementation of Government notifications is an important control tool. The Government amended the Act w.e.f. 31 March 2020 and penalty was replaced with imprisonment and fine.

It was noticed that Collector-cum-DETC (Excise), Gurugram (East & West) had imposed penalty of ₹ 3.92 lakh in 13 cases {Gurugram (East)-4, Gurugram (West) - 9} of illicit liquor detected after 31 March 2020. However, in terms of the amended Act w.e.f. 31 March 2020, penalty as per the amended act was required to be imposed i.e. imprisonment for a term which may extend to three years and with fine which may extend to ten lakh rupees. The DETCs concerned did not follow these amended provisions and offenders were released after imposing only monetary penalty which was not in statute w.e.f. 31st March 2020, having been replaced through an amendment.

¹⁸ Faridabad, Gurugram (E), Jagadhri, Karnal, Panchkula, Panipat, Rewari and Sonipat.

¹⁹ Faridabad, Gurugram (W), Hisar, Panchkula, Panipat and Sonipat.

The DETC (Excise), Gurugram (East & West) stated (November 2021) that the copy of amendment of Act was received on 23 April 2020 and all cases after the date were referred to the Police Department for further action. The reply was not acceptable as amendment in Act was notified in Gazette on 31 March 2020 itself and all cases were required to be dealt with the provisions of amended Act. However, the DETC did not know about the same and kept levying penalty in all such cases till 23 April 2020.

3.4.7.3 Destruction/storage of seized liquor

Section 47 of Punjab Excise Act (as applicable to Haryana) provides that any authorised officer of the Excise, Police, may arrest without warrant any person found committing an offence punishable, under Section 61, or Section 63, and may seize and detain any intoxicant which he has reason to believe to be liable to confiscation under the Act. Further, the department had issued instructions for destruction of confiscated liquor in August 2015 and November 2019 vide which permission of the Collector (Excise) was required to be taken before destruction of confiscated liquor within a fortnight of the commencement of every quarter of the financial year, for the cases pertaining to the previous quarter.

During scrutiny of records of the office of three DETCs (Excise) for the period 2019-21, it was noticed that the department had not issued any instructions on storage of seized illicit liquor. Details of destruction of seized illicit liquor for the period 2019-21 are shown in Table 8 below:

Table 8: Delay in destruction of confiscated liquor

Sr. No.	Name of the DETCs	Period of seizure	Permission for destruction sought from ETC Office	Permission received from ETC Office	Delay in destruction of liquor (in months)
1	Panipat	July 2017 to March 2018	May 2019	June 2019	10 to 34
		April 2018 to March 2020	February 2021	March 2021	
2	Sonipat	January 2018 to August 2018	December 2018	January 2019	01 to 22
		August 2018 to June 2020	June 2020	August 2020	
		February 2019	December 2020	January 2021	
3	Faridabad	April 2018 to March 2019	April 2019	May 2019	01 to 14
		April 2019 to September 2019	November 2019	December 2019	
		October 2019 to March 2020	December 2020	December 2020	

Source: Compiled from Departmental records

Thus, seized illicit liquor was destroyed with a delay ranging from one to 34 months despite clear instructions from the head office. Delay in destroying

the seized illicit liquor was also fraught with the risk of theft of liquor. Two cases of theft of liquor have been detailed below:

(i) A firm was granted a license of L-I-AB²⁰ in 2016-17. The premises of licensee were checked in August 2016 and irregularities were noticed by the Department in the form of shortage of stock. The Collector-cum-AETC (HQ) cancelled the license in September 2016 and ordered the forfeiture of the security along with transferring the liquor to Seema Theatre. The godown was sealed in October 2016 by the office of DETC (Excise), Panipat. At the time of sealing, physical stock of the firm was 5,539 cases. The firm appealed before ETC, Panchkula, which was dismissed in December 2016. Further, against the order of ETC, Panchkula, appeal was filed before State Government which was decided with a direction that the license of the licensee would be restored if the firm paid a penalty of ₹ 2.22 crore. The firm moved to the High Court of Punjab and Haryana and the appeal of the firm was disposed of in December 2018 without any relief.

In the meantime, the godown, which had been sealed in October 2016 was not monitored by the Department. The officer of the Excise Department, who had sealed the godown left the control of the godown to a private person *i.e.* the manager of the godown. Effectively, the control of the stock was left to the individual against whom the department had taken action in the form of cancelling the license. Further, even after the order of cancellation of license by the Collector, the cases of liquor sealed at godown were not transferred to the designated place of storage *i.e.* Seema Theatre which facilitated in theft of the stock as depicted in the Table 9 below:

Table 9: Details of theft of confiscated stock

Sealed stock of firm(October 2016): 5,539 cases		
Date of theft	Cases of liquors found short	Action taken
07 April 2018	1,782	First Information Report (FIR) was registered. Inspection report regarding inspection of godown was not found placed on record. No personnel deployed to look after godown. Liquor not transferred to designated place of storage even after theft.
28 April 2020	2,925	No Excise/Police personnel deployed to look after godown. The left out stock of 832 cases transferred to official godown (Seema Theatre, Panipat) in May 2020. This theft took place during COVID-19 lockdown

Source: Compiled from Departmental records

The DETC (Excise), Panipat stated (October 2021) that Police personnel were deployed in April 2020 to look after the sealed godown. Thus, the action which was to be taken by the DETC (Excise), Panipat in October 2016 was actually taken after the second theft took place and due to inaction on the part of

²⁰ L-1-AB-Wholesale license for non- distiller of Haryana.

Department, there had been cases of theft of liquor. In addition, the possibility of sale of such huge quantity of liquor could not be ruled out which resulted into loss to the State exchequer on account of Excise duty. It was noticed that the Department did not quantify the loss on account of such theft.

(ii) Total 3,967 cases of illicit liquor was detected on 4 February 2019 in a godown situated at Matindu Chowk, Kharkhoda. The excise team sealed the liquor at the same premises due to non-availability of space in their office premises. During checking by the joint team of Excise as well as Police (May 2020), 2,832 out of 3,967 cases of confiscated illicit liquor were found short. Audit noticed that residual illicit confiscated liquor was disposed of by the Department on 15 January 2021 *i.e.* after a delay of 21 months. Further, the Department had not shown promptness in deciding the case as a penalty of ₹ 25.80 lakh was imposed under section 61 of the Punjab Excise Act, 1914 on 10 February 2020 *i.e.* after one year of detection of illicit liquor, out of which an amount of ₹ 24.80 lakh was outstanding.

Thus, inaction on the part of DETC, Sonipat in destruction of seized illicit liquor and delay in deciding the case enabled the theft of liquor of 2,832 cases, which also resulted in loss to State exchequer. It was noticed that the Department did not quantify the loss on account of such theft.

The DETC (Excise) Faridabad (December 2021) and DETC (Excise) Sonipat stated (October 2021) that the permission for destruction of confiscated liquor was sought timely and liquor was destroyed after getting permission from the head office. The reply is not tenable as request for permission to destroy the seized illicit liquor was sought with delays and major part of delay was on part of the concerned DETC (Excise) offices.

The Special Enquiry Team (SET), constituted by the State Government vide order dated 11 May 2020 had also highlighted, *inter alia* illegal sale of liquor, non-implementation of provisions contained in the Excise Policy of the State, failure to issue specific instructions for closure of liquor vends during lockdown period (Covid 19 related), destruction of seized liquor as well as deficiencies in timely imposition and recovery of penalty in cases of seized liquor.

Issues related to seizure of liquor by Police

3.4.7.4 Delay/non-destruction of seized/storage illicit Liquor

Section 47 of Punjab Excise Act (the Act), as applicable to State of Haryana provides that any officer of the Excise, Police, not below such rank and subject to such restrictions as the State Government may prescribe, may arrest without warrant any person found committing an offence punishable, under Section 61, or Section 63, and may seize and detain any intoxicant which he has reason to believe to be liable to confiscation under this Act.

During scrutiny of records in the office of Superintendent of Police (SP), Sonapat and Panipat for the year 2019-20 and 2020-21, it was noticed that 23 Police stations destroyed the seized/storage illicit liquor with inordinate delay ranging from one month to 25 months, with an average delay of seven and a half months (*Appendix XVIII*). It has also been noticed that in 19 Police Stations, 35,739 bottles, 215 litre lahan liquor and four bags (*Appendix XIX*) of liquor seized during 2019-21 had not been destroyed till February 2022. Non-destruction of liquor in a timely manner is fraught with the risk of theft of liquor as detailed in *sub-paragraph 3.4.7.3*. The Act does not have specific provision on manner or procedure of destruction of seized illicit liquor.

During audit, it was observed that once the cases of seizure of illicit liquor by Police were presented in the Sessions Court, the committee²¹ appointed for destruction of seized liquor was required to issue declaration certificates upon completion of the destruction of seized illicit liquor. The committee was also required to verify the brand wise quantity of the confiscated liquor before destroying it. During audit, following irregularities were noticed in respect of process adopted by these committees:

- i. Proceedings of Committee were undated or there were no dates under the signatures of the committee members.
- ii. There was no mention of the venue/place at which seized illicit liquor had been destroyed.
- iii. There was no evidence attached with the destruction certificate at successful completion of the exercise of destruction of the seized illicit liquor (Brand-wise).

3.4.7.5 Non-recovery of penalty

Section 61 (1) (aaa) (i) of the Punjab Excise Act, 1914, (as applicable to the State of Haryana), provided that prior to 31 March 2020²², penalty of not less than ₹ 50 and not more than ₹ 500 per bottle of 750 milliliters or part thereof was leviable on an offender for possession of illicit²³ liquor. After an amendment in the Act, penalty for unlawful possession of liquor was changed to punishment with imprisonment for a term which could extend to three years and with fine which could extend to ten lakh rupees.

Further, Rule 3 and 4 of Haryana Imposition and Penalty Rules, 2003 provided that the Excise officer was to detain the offender, liquor and means of transport, if any, and was required to prepare a seizure memo and forward the liquor and

²¹ The committee comprising representative of the Deputy Commissioner of the concerned district, DETC (Excise), DETC (ST) and included officers from Police, Excise and Revenue Authorities.

²² The provision was amended by an amendment in the Act, with effect from 31 March 2020.

²³ 'Illicit' alcohol is produced illegally, outside of the approved and regulated production processes of registered and legitimate manufacturers.

the means of transport, if any, along with the necessary documents to the Collector within twenty-four hours of such detention.

Scrutiny of records of the office of SP Sonipat and Panipat for the year 2019-20 and 2020-21 revealed that illicit liquor was seized both by the Police Department and Excise Department. It was noticed that neither the Excise Department was aware of the liquor seized by the Police Department nor did the Police Department give timely information to the Excise Department of such seizure. It was noticed that as envisaged in the Rule 3 and 4 of Haryana Imposition and Penalty Rules 2003, all cases of seizure were required to be forwarded to the Collector within twenty-four hours of such detention but information in respect of seizure of 9,434.5 bottles of liquor was not sent to Collector-cum- DETC (Excise) and was lying with the Police Department. Resultantly, the Collector could not finalise the cases of seizure resulting in non-levy of total penalty ranging from a minimum of ₹ 4.72 lakh to a maximum of ₹ 47.17 lakh (*Appendix-XX*).

3.4.7.6 Non-accountal of seized liquor

Any officer of the Excise or police may seize and detain intoxicant which he has reason to believe to be liable to confiscation under Section 47 of Punjab Excise Act as applicable to Haryana. The illicit liquor seized by the Police Department is entered into Register-19²⁴ for further action.

Scrutiny of records of the office of SP Sonipat for the year 2019-20 and 2020-21, revealed that 30 cases of illicit liquor seized during 2019-21 were not accounted for by the Police Department (*Appendix-XXI*). The SPs of these districts had not devised any monitoring mechanism for periodical checks of quantity of seized liquor; resultantly 533 bottles of seized liquor remained out of account. This carries risk of misappropriation of seized liquor.

3.4.7.7 Internal Audit Wings (IAW)

Internal audit is an important tool for appraisal of deficiencies in the activities of the Department, namely, proper and timely assessment and realisation of dues and implementation of Act/rules and in issue of guidelines for proper accounting, *etc.*, for better collection of revenue and plugging various loopholes within the organisation. The Internal Audit Wing (IAW) of the Department was functioning under the overall control of the Excise and Taxation Department. The Accounts Officer in the ETC office in charge of accounts wing was entrusted with the functions of Internal Audit with supporting staff. All the 23 units planned for internal audit for the period 2019-20 were audited by the department. However, out of 23 units planned for the year 2020-21, 14 units were audited (November 2021).

²⁴ An internal document of the Police Department which included cases of material seized by the Police Officers.

Audit did not come across any auditing standards or guidelines laid down by Government for internal audit in the department and key duties of audit personnel were not properly defined to ensure accountability of individual officials. Further, there was no Internal Audit Manual codifying the practices and procedures relating to conduct of internal audit. The staff position for the IAW is given in Table 10 below:

Table 10: Staff position for the IAW

Designation	Sanctioned Post	Person in position	Vacant Post
Chief Accounts Officer	1	1	-
Accounts Officer	5	3	2
Section Officer	14	5	9

Source: Departmental records

Thus, in absence of adequate manpower, guidelines for planning, execution of internal audit functions, reporting and follow up of observations, rendered internal Audit in the Excise and Taxation Department, ineffective.

3.4.8 Non production of records

During Scrutiny of records of the office of the Excise and Taxation Commissioner, Haryana for the period 2019-21, certain data, records and documents were sought from the Department by the Audit in June 2021. Thereafter, the matter of non-production of records was again taken up in exit meeting held with Collector cum- JETC in July 2021. However, the records were not produced even after the matter was taken up at Head of Department Level in August 2021 and January 2022 as detailed in Table 11:

Table 11: Details of information not made available to Audit

Sr. No.	List of records/ Information regarding	Concerned wing/branch	Date of requisition/ requisition Number	Date of Reminder	Status of information
1	Implementation of holograms	Excise	AENQ-6867 dated 28 June 2021	OBS-118921 15 July 2021	Not received
2	Inspection of Distilleries/Breweries Bottling plants etc.	Excise	AENQ -6969 dated 29 June 2021		
3	Information Technology (IT) Application	IT	AENQ -7297 dated 05 July 2021		
4	Inspection Conducted by DETC (E), AETO and EI	Excise	AENQ – 7687 dated 08 July 2021		
5	Seizure of illicit liquor	Excise	AENQ- 8104 dated 13 July 2021		
6	Issuance of permit pass	Excise	AENQ-8106 dated 13 July 2021		
7	Non adherence of policy provisions	Excise	AENQ -8154 dated 13 July 2021		
8	Rendering denatured spirit fit for human consumption.	Excise	AENQ -8315 dated 14 July 2021		
9	Destruction/storage of seized confiscated liquor	Excise	AENQ-8308 dated 14 July,2021		
10	QR based hologram	Excise	AREQ 9342 dated 15 July 2021		
11	Amendment made in Excise Act 1914 in March 2020	Excise	AREQ 9342 dated 15 July 2021		

In the absence of records, transparency in public expenditure/revenue, appropriateness of the expenditure or revenue related action/decision could not be ensured in Audit.

3.4.9 Conclusion

Excise revenue is an important source of revenue of the State Government. Audit observed that the Department had not devised any monitoring mechanism for periodical check of outstanding excise duty as instances of non/short recovery of monthly license fee, interest, penalty, Covid cess from licensees of various categories were noticed. No timelines were fixed for deciding the breach cases as delay at different levels, issuance of permits/passes to the licenses even after cancellation of license were noticed.

Audit also observed that, provisions of the Excise Policies relating to installation of CCTV cameras, QR based holograms; transit slips, etc. were not implemented. The State Government had not fixed norms for production of alcohol from grain due to which potential revenue loss is possible on excessive wastage in production. Owing to non-coordination between Excise and Police department, penalty on seized liquor was imposed with a delay upto 1,517 days. The department had not destroyed the confiscated liquor in a timely manner due to which, cases of theft of huge amount of confiscated liquor were noticed. The department failed to take samples from microbreweries. The records related to unsold stock lying with the distilleries were not monitored by the department. Offenders in cases related to illicit liquor were discharged in contravention of provisions of Excise Act. Further, Internal Audit Wing did not have any manual. The need for stricter enforcement of the provision of the relevant Act and Rules and effective monitoring is evidenced by non/short recovery by ₹ 116.76 crore highlighted in preceding paragraph. During exit conference in March 2022, the Department admitted all the audit observations.

3.4.10 Recommendations

The Government may consider:

- Putting in place, systems and procedures to augment, its internal control mechanism;
- Replacing the various control registers like M-2 etc. with an IT enabled system to eliminate the manual intervention in calculation of levy and collection of interest;
- Fixing timeframe for deciding the breach cases and report of the Chemical Examiner; and
- Fixing norms for production of alcohol from grain.

