

CHAPTER – III
STATE EXCISE DEPARTMENT

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3.1 Tax Administration

The State Excise Department is responsible for collection of revenue under Assam Excise Act, 1910 (as adapted by Meghalaya), the Assam Excise Rules, 1945 (as adapted), the Assam Distillery Rules, 1945 (as adapted) and the Assam Bonded Warehouses Rules, 1965 (as adapted) and enforcement of Excise laws. Excise revenue comes from *ad valorem* levy, establishment charges, various kinds of licence fees on foreign liquor/beer, country spirit, rectified spirit, *etc.* Further, import pass fee, export pass fee, transport pass fee, under bond pass fee, brand and label registration/renewal fee generate revenue for the State exchequer.

The Principal Secretary/Commissioner and Secretary to Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is in overall charge of the State Excise Department at the Government level. The Commissioner of Excise (CE) is the administrative head of the Department who is assisted by a Joint Commissioner of Excise and Deputy/Assistant Commissioners of Excise (DCEs/ACEs). At the district level, Superintendents of Excise (SEs) have been entrusted with the work of levy of excise duties and other dues from the licensees such as bonded warehouses, bottling plants, distilleries and retailer shops.

3.2 Results of Audit

Test check of records of four units during 2020-21 revealed non-realisation of duties, fees, *etc.*, in 50 cases involving ₹ 182.05 crore, which fall under the following categories:

Table 3.2.1: Results of Audit

Sl. No.	Category	2020-21		2021-22	
		No. of cases	Amount	No. of cases	Amount
1.	Non/Short realisation of duties, <i>etc.</i>	17	10.89	-	-
2.	Loss of revenue	10	95.61	-	-
3.	Other irregularities	23	75.55	-	-
Total		50	182.05		-

During the year 2020-21, the Department accepted loss of revenue and other deficiencies to the tune of ₹ 10.56 crore in 13 cases. Recovery at the instance of audit was ₹ 1.51 crore in 10 cases during 2020-21. No audit was undertaken during 2021-22.

A few illustrative cases having financial impact of ₹ 1.94 crore of short realisation of excise duty due to fraudulent sale of liquor at concessional rate and irregular issuance of permits and non-realisation of revenue is discussed in the succeeding paragraphs.

3.3 Short realisation of excise duty due to fraudulent sale of liquor at concessional rate

Failure of the Excise Department to ensure periodical stock taking of liquor sales led to misuse of the provisions of the notification for concessional rate of excise duty on rum sold to canteen licensees, resulting in short realisation of revenue amounting to ₹ 1.87 crore.

Government of Meghalaya, Excise, Registration, Taxation & Stamps Department notified (28 April 2011) concessional rate of excise duty on all types of rum drawn by canteen licensees³¹. As per the notification, the concessional rate of excise duty was fixed at 40 per cent ad-valorem levy on cost price per case of rum, subject to a minimum of ₹ 257 per case³². Subsequently, this concessional rate of excise duty was extended³³ to all types of Indian Made Foreign Liquor (IMFL) sold to canteen licensees with effect from 20 December 2017.

As per Rule 37 of the Assam Bonded Warehouse Rules, 1965 (as adopted by Meghalaya) the Superintendent of Excise or, in his absence, the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse at regular intervals to ensure that the licensee of the bonded warehouse pays to the State Government duty at the rates imposed on all spirits.

Scrutiny (June 2020, October - November 2022) of records pertaining to procurement and sale of rum revealed that two bonded warehouses namely (i) M/s Ram Bonded Warehouse, Shillong and (ii) M/s V.W. Bonded Warehouse, Shillong had inflated their sales of rum at concessional rates of excise duty to canteen licensees by 58,461 cases during the period from 01 April 2015 to 19 December 2017³⁴ as shown in **Table 3.3.1**

Table 3.3.1: Details of inflated sales of rum at concessional rates of excise duty by bonded warehouses to canteen licensees

Name of the Bonded Warehouse	Details of availability and sale of rum during 01 April 2015 to 19 December 2017 (in cases)					Excise duty evaded ³⁵	
	Opening balance ³⁶	Procured	Total	Sold as per sales permits	Excess sale	per case (in ₹)	Total (₹ in crore)
(1)	(2)	(3)	{4 (2+3)}	(5)	{6 (5-4)}	(7)	{8 (6x7)}
Ram Bonded Warehouse	10,468	47,652	58,120	1,03,411	45,291	321	1.45
VW Bonded Warehouse	6,049	17,415	23,464	36,634	13,170	321	0.42
Total	16,517	65,067	81,584	1,40,045	58,461		1.87

Source: Information furnished by the Department.

³¹ Licenses issued to Army, para-military and State Police Forces.

³² Each case of rum contains 12 bottles holding 750 ml each or equivalent quantity.

³³ Notification No. ERTS (E) 15/2017/14 dated 20 December 2017.

³⁴ From 20 December 2017, the concessional rate of excise duty was extended to all types of IMFL.

³⁵ Excise duty on rum was ₹ 675 per case upto 14 March 2017 which was revised to ₹ 750 per case from 15 March 2017. For the purpose of calculation of evasion of revenue, non-concessional rate of excise duty of ₹ 675 per case (being on the lower side) has been taken and rate for the canteen sale at concessional excise duty, a rate of ₹ 354 excise duty per case has been taken. Hence, the excise duty evaded per case is ₹ 321 (₹ 675-₹ 354).

³⁶ Since the Excise Register maintained at the bonded warehouses and monthly stock register of IMFL are not maintained as per brand of the liquor like Whisky, Rum, etc., but based on their quality namely General brand, Deluxe brand, Premium brand, Super premium, Bottled in Origin (BIO) Wine and Beer, audit has taken the opening balance under Deluxe brand as the OB of Rum, which was also agreed/confirmed by the Bonded warehouses.

From **Table 3.3.1**, it is seen that the two bonded warehouses had inflated their sale quantity of rum to canteen licensees by 45,291 cases and 13,170 cases, thereby evading excise duty to the tune of ₹ 1.45 crore and ₹ 0.42 crore respectively. This fraudulent practice by the bonded warehouses led to short realisation of excise duty to the tune of ₹ 1.87 crore.

This indicated that the Excise Department had issued sale permits to the canteens without verifying the stock account and had also failed to conduct periodical stock taking as per the provisions of the Rules *ibid*. The lapses on the part of the Department allowed the two bonded warehouses to misuse the provisions of the notification dated 28 April 2011 *ibid* and report sale of a higher quantity of rum at concessional rates of excise duty than actual stock available.

On this being pointed out (August 2021), the Department issued (11 August 2021, 21 February 2022 and 20 September 2022) demand notices to the bonded warehouses for recovery of the excise duty.

The matter was further reported to the Government (October 2021 and December 2022). In response, the Department stated (February 2023) that M/s VW Bonded warehouse has made full payment of ₹ 42.00 lakh. However, the reply is silent about recovery of revenue from M/s Ram Bonded Warehouse (March 2023).

Recommendations:

- *The Government needs to strengthen the mechanism for issue of sales permits to ensure that the stock of the dealer is invariably verified before the permit is issued.*
- *The Government needs to ensure recovery of dues from M/s Ram Bonded Warehouse at the earliest.*

3.4 Irregular issuance of permits to licensees with expired licences

Lack of internal control and regulation by the Excise Department over the functioning of Indian Made Foreign Liquor (IMFL) retail and bar licensees led to operation of expired retail and bar licensees leading to irregular issuance of retail permits and non-realisation of annual renewal fee to the tune of ₹ 7.35 lakh.

Rule 244 of the Meghalaya Excise Rules (Assam Excise Rules, 1945 as adapted and amended by the State of Meghalaya) provides for the payment of an annual lump sum as licence fee by holders of retail ‘OFF’ and ‘ON’ licences³⁷, at rates prescribed by the Government from time to time. As per the conditions of the licence, the term of each retail ‘OFF’ and ‘ON’ licence is from April to March of each financial year. Licence fee for each licence must be paid in advance before the commencement of the financial year in order to obtain renewal of the licence. Failure to pay licence fee in time is a contravention of the Rule *ibid* and also invites action under Section 29 read with Section 35 of the Meghalaya Excise Act (Assam Excise Act, 1910 as adapted by Meghalaya),

³⁷ Retail ‘ON’ licence is a term for a shop licenced to sell alcoholic beverages for consumption on the shop premises, while retail ‘OFF’ is a term for a shop only licenced to sell alcoholic beverages for consumption off the premises of the shop.

which states that if any fee or duty payable by the licence holder has not been paid, the licence granted may be cancelled and any amount payable to the Government may be recovered from the defaulters by sale of their movable property or as arrears of land revenue.

The Excise Department, Government of Meghalaya revised the annual licence fee for retail licences and bars with effect from March 2017³⁸ as under:

Table 3.4.1: Rate of annual fee for retail IMFL and bar licences

Sl. No.	Type of Licence	Old Rate (₹)	New rate (₹)
1.	Retail “OFF” licence	60,000	1,50,000
2.	Retail “ON” licence (Bar Licence) Starred Hotel	60,000	1,50,000
3.	Retail “ON” licence (Bar Licence) Non-starred Hotel	45,000	75,000

Source: Information furnished by the Department.

Audit test-checked the records of the Superintendent of Excise (SE) Resubelpara (February 2020) and the Assistant Commissioner of Excise (ACE), Shillong (December 2020) and noticed the following irregularities:

I. Grant of retail permits to licensees who did not pay annual licence fee

Test check of retail permits (December 2020) issued by the ACE, Shillong for the month of May 2020 revealed that during 2020-21, 53 out of a total of 135 licensees had failed to pay the prescribed annual fee in time. The Department neither issued demand notices to the defaulting licensees for prompt payment of the annual licence fees, nor were the licences cancelled as envisaged in the Rules *ibid*. Audit further observed that despite their failing to pay the annual fees, the Department had issued as many as 106 retail permits to 20 out of the 53 defaulting retail licensees for lifting of 19,118 cases of beer, 354 cases of wine, 20,784 cases of IMFL and 160 cases of Bottled in Origin (BIO) liquor (**Appendix – 3.4.1**).

The action of the Department in permitting the defaulting licensees for lifting liquor from bonded warehouses and selling it to the public without renewing their licences, was in violation of Section 29 of the Meghalaya Excise Act (Assam Excise Act, 1910 as adapted by Meghalaya) which allows cancellation of such licences if the annual licence fee has not been paid. Further, it also reflects unregulated issuance of permits and absence of any control mechanism in the Department to restrict the issuance of liquor permits to proper licence holders.

II. Delayed renewal of licences

Audit further observed that out of 135 retail licensees and 40 bar licensees under the jurisdiction of the ACE, 65 retail licensees and 29 bar licensees did not pay their annual fees on time for the years 2019-20 and 2020-21. The delay in payment of annual fees by both the IMFL retail and bar licensees are shown in **Table 3.4.2**.

³⁸ Vide Notification No. ERTS (E) 24/2008/94 dated 15 March 2017.

Table 3.4.2: Delay in payment of annual fees by retail IMFL and bar licences

Type of Licence	Year	Total number of Licensees	No. of licensees paid on time	No. of licensees paid with delay/ not paid (%)	Range of delay	Remarks
IMFL retail licences	2019-20	135	121	14 (10)	2 to 351 days	Appendix – 3.4.2
	2020-21		82	53 (39)	40 to 177 days	Appendix – 3.4.2(A)
Bar licences	2019-20	40	35	5 (13)	1 to 334 days	Appendix – 3.4.3
	2020-21		15	25 (63)	57 to 364 days	Appendix – 3.4.3 (A)

Source: Information furnished by the Department.

As can be seen from **Table 3.4.2**, out of the total 135 IMFL licensees, 10 per cent of the licensees in 2019-20 and 39 per cent during 2020-21 had been allowed to pay their annual fee after delays of up to 351 days (2019-20) and 40 to 177 days (2020-21). For 2020-21, the annual fee remained unpaid by two licensees³⁹ till date (January 2023) though the licensees continued to operate their businesses. Similarly, in respect of bar licensees, out of 40 licensees, 13 per cent and 63 per cent of the bar licensees during 2019-20 and 2020-21 respectively had been allowed to pay their annual fees after delays of up to 334 days (2019-20) and 57 to 364 days (2020-21). Out of the defaulting bar licensees of 2020-21, one licensee viz., M/s Orchid, Polo had not paid the annual fee till date (January 2023), though it continues to operate the Bar in its premises. Audit also noticed that the Government had not prescribed any monetary penalty provision for delay in renewal of licences by the IMFL/bar licence holders.

III. Non-realisation of revenue

- Audit also observed (February 2020) that out of 27 retail licensees under the SE, Resubelpara, one licensee viz., Smt. Tasilchi D. Sangma was served (January 2020) a demand notice to pay the annual fees/renewal fee of licence amounting to ₹ 5.10 lakh for four years from 2016-17 to 2019-20 which has not yet been paid by the licensee (March 2023). Audit further noticed that the security deposit of the licensee had lapsed. Thus, inaction on the part of the SE, Resubelpara/Department resulted in non-realisation of revenue to the tune of ₹ 5.10 lakh.

On this being pointed out (April 2022), SE, Resubelpara stated (June 2022) that the licensee, Smt. Tasilchi D. Sangma, had closed down her business and demand notices for recovery of dues have been issued to her. However, no documentary evidence of recovery of dues has been produced till date (January 2023).

- Further scrutiny of records of ACE, Shillong (December 2020) revealed that two licensees viz., M/s Ban, Hat Thymmai, Pynursla and M/s Orchid, Polo did not pay their annual fee of ₹ 2.25 lakh of 2020-21 till the date of audit (October 2022).

Thus, inaction on the part of the ACE, Shillong/Department resulted in non-realisation of revenue amounting to ₹ 2.25 lakh.

The matter was reported to the Government (November 2022); reply is awaited (January 2023).

³⁹ (1) M/s Ban, Hat Thymmai, Pynursla (2) M/s Plenty.

This indicates that the Excise Department did not have any monitoring mechanism in place to ensure that the sale of liquor from retail shops and bars was carried out only by proper licence holders, in conformity with the Excise Act and Rules. It also reflects laxity on the part of the line department in the enforcement of the Excise Act and Rules. Audit is of the view that the Department should have cancelled outright the licences of the licensees who failed to renew their licence on time and forfeit their security deposit instead of issuing them retail permits without valid licence.

Recommendation

- *Excise Department should strictly enforce the issuance of retail permits to IMFL retailers and bar licensees, only to the licence holders who had paid the annual renewal within the scheduled date of payment. Further, appropriate provision may also be made in the Meghalaya Excise Rules for punitive action with regard to retail and bar licensees who neglect to pay their dues.*