

Chapter VI
EIB and Confiscation

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Excise Intelligence Bureau has a pivotal role in combatting bootlegging and inter-state smuggling of liquor through intelligence gathering and subsequent coordinated raids and seizures. FIRs registered by Delhi Police under Delhi Excise Act, are followed by further investigation and prosecution. Confiscation Branch keeps record of all registered FIRs (including FIRs registered independently by Delhi Police) and tracks the disposal of seized case property.

It was observed that EIB and Confiscation Branch were working sub-optimally with little coordination. Routine data on FIR and seizures was maintained in a rudimentary manner with little analytical value. No actionable intelligence was generated for striking at the root cause of smuggling. Audit analysed sample data which showcases the risk of smuggling of country liquor due to structural factors.

6.1 Introduction

Excise Intelligence Bureau (EIB) is an important branch of the Excise Department supporting its regulatory function. It is tasked with the following responsibilities:

- Checking of inter-state smuggling of various intoxicants and drugs
- Detection of manufacture and sale of illicit liquor and drugs
- Checking illegal serving of liquor at unlicensed premises and ensuring compliance of P-10 license³⁶
- Liaison with various units of Delhi Police to combat bootlegging

EIB consists of dedicated field personnel from Delhi Police and a network of informants assisting the police. EIB conducts raids, seizes the illicit liquor and associated vehicles, prepares seizure memos and files First Information Reports (FIR) at the local Police Stations.

Confiscation Branch of Excise Department aggregates the records of all FIRs registered by the Delhi Police under Excise Act and conducts the destruction of seized liquor and auction of vehicles seized under Excise Act.

6.2 EIB Data analysis

Electronic data of all the seizure cases of EIB of four years (2017-21) and FIR details were analysed to draw some insights related to the pattern of smuggling of liquor and physical records were test-checked to examine the cognizance of cases by the Excise Department.

On analysis of EIB data for the period April 2017 to March 2021, Audit observed the following:

³⁶ P-10 Permit is a Permit for serving of Indian Liquor and Foreign Liquor at personal parties to be held at Residential Places and Community Centres.

- (i) A total of 3580 FIRs were registered by EIB.
- (ii) The total quantity of IMFL seized was 4.38 lakh quarts³⁷ (one quart is 750 ml) and country liquor seized was 9.12 lakh quarts.
- (iii) The number of FIRs has seen a continuous increase during the years 2018 (774), 2019 (876) and 2020 (1068). Districts of Delhi bordering Haryana (South, South West, South East, West, North West, Outer) accounted for 83 *per cent* of the total FIRs under Excise Act and 77 *per cent* of the liquor (IMFL and CL) by volume.
- (iv) Country Liquor was the most seized liquor type forming 65 *per cent* of the total liquor seized by EIB. Some reasons for the same are discussed in the following paragraph.

6.3 Structural weaknesses in Country Liquor procurement promoting its smuggling

Audit selected a total of 34 FIRs (2017-21), pertaining to bulk seizures, such that it accounted for at least 10 *per cent* of total Country Liquor seized in each year. These selected FIRs were analyzed in detail. Smuggling of CL points at structural weaknesses in the CL procurement and licensing policy.

- (i) The data shows that almost all of the seized liquor bottles were “Nips (180 ml)”. The CL sourcing policy placed a restriction on the number of Nips in the total quota. Nips could form only 20 *per cent* of the total supply. This restriction was artificial and unwarranted. Audit observed that in case of IMFL, “Nips” was the most popular liquor bottle size, contributing to more than 50³⁸ *per cent* of the bottles sold, which was more than the combined sale of all other sizes put together.

Government in its reply stated that the observation of Audit merits consideration and that a proposal was being sent to make necessary changes in country liquor sourcing policy so as to increase the proportion of nips. However, it was also stated that since country liquor is cheapest, it might be economical for the distillery to sell full bottle.

Audit finds the later part of reply unsatisfactory, as optimal supply and optimization of revenue should be the concern of Excise Department and not the economic consideration of distillery. The tendering process would anyway discover willing suppliers for appropriate quota at appropriate price.

- (ii) There had been no realistic assessment of the actual demand of Country Liquor in Delhi. For the past eight years, the supply of CL was capped at 300 lakh BL (Bulk Litre) per annum subject to variation upto plus or minus 25 *per cent* (the actual supply was substantially lesser at an average of

³⁷ Different bottle sizes are mentioned but aggregated as quart equivalent

³⁸ As per the sample for Vend sale data analysis in Chapter II of this report.

240 Lakh BL for the year 2017-18 to 2020-21). Interestingly, in 2009-10 and 2010-11, the supply of CL was 520.65 lakh BL and 495 lakh BL respectively. The supply of CL in the year 2013-14 was suddenly reduced to less than half of previous levels at 236 Lakh BL. The reason cited initially, was a “gradual shift in the consumer preference towards better quality liquor”, a claim which was unsubstantiated. This was originally done, through a cabinet decision, to introduce Delhi Medium Liquor (DML) as a CL substitute in 2012-13, however, it ended in failure and the DML project was discontinued in policy 2015-16. Incidentally, the CL quota was never restored to previous levels and continued at the reduced level of 300 lakh BL. Supply side constraint poses a risk of smuggling and illicit sale of CL ultimately leading to loss in excise revenue.

Government in its reply stated that annual tender for supply of Country Liquor was 33 lakh cases and the actual cases supplied had stagnated below 30 lakh cases, thus inferring that the supply for country liquor was actually sufficient.

The reply is unsatisfactory, as the data (Quota Utilized Report of Country Liquor) suggests that for the years 2017-18 to 2020-2021, the average quota, allotted by Excise Department, for supply was actually 27.32 lakh cases, instead of 33 lakh cases as mentioned in the reply. Moreover, there was also a shortfall of supply from wholesale licensees of CL and the actual supplied CL was an average of 26.52 lakh cases of liquor. There needs to be actual demand assessment based on adequacy of number of vends, proper geographical distribution of CL vends, impact of country liquor smuggling on demand for duty paid liquor etc.

- (iii) In case of Country Liquor, the manufacturers were selected as per auction of quota by Excise Department, thus the brands supplied depended on the few³⁹ manufacturers which make the cut. Massive smuggling of specific brands (e.g. Asli Santra, Raseela Santra) of Country Liquor might be indicative of customer choice as the manufacturers of these brand were not suppliers for Delhi CL quota and were virtually running a parallel supply chain.

Government in its reply stated that the wholesale license for country liquor was awarded through a transparent process where all distilleries were free to participate, and that no preference was given to any manufacturer.

The reply is unsatisfactory as the tendering process was actually restrictive because the “Terms and Conditions of tender for L3 license” explicitly disallowed the participation of suppliers who were willing to supply less

³⁹ Available Brands of Country Liquor year-wise: 2017-18 – 6 Brands, 2018-19 – 8 Brands, 2019-20 – 7 Brands, 2020-21 – 7 Brands.

than 10 *per cent* of total quota, thus there could only be a maximum of 10 CL brands in a year. This lack of choice for CL was irrational.

Thus, lack of proper demand assessment by the Department together with restrictive terms and conditions of tender for L3 licenses, ignoring customer preferences contributed towards parallel supply of Country Liquor leading to potential loss of revenue to the Government.

6.4 Role of Confiscation Branch and lack of coordination with EIB

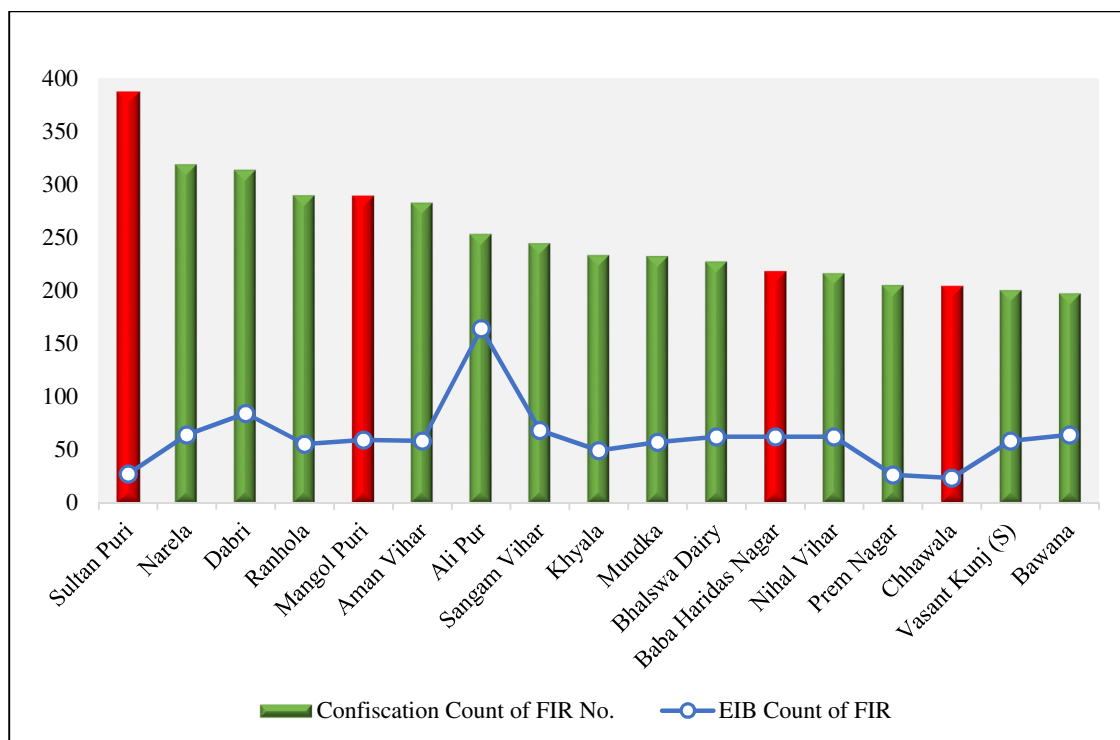
Confiscation data was furnished by the Department for the years 2010 to 2021. Analysis of cases was done for the period January 2017 to December 2021. Total 12,556 FIRs were registered by Delhi Police under Excise Act. The number of FIRs registered under Excise Act has seen a steady increase as per the data furnished. EIB cases were included in the confiscation data as Confiscation Branch maintained records of uptake and disposal of cases registered under Excise Act.

The EIB as well as Delhi Police together (contributing to total confiscation cases) are responsible for seizure of illicit liquor (outside the regulatory purview of Excise Department) being supplied in Delhi.

The confiscation data should be able to provide the hotspots and focus areas where EIB can direct their subsequent efforts. **Chart 6.1** shows that many hotspots were being ignored by EIB as the number of planned raids were not proportionate to cases as revealed by the action of Delhi Police. It is apparent that confiscation data information was not used for planning EIB raids.

It was observed that for some regions/ Police Stations (P.S), EIB contributed a large proportion of total cases (as reflected from confiscation data). For example, Alipur P.S. accounted for 164 EIB cases in a total of 253 cases. However, the same does not hold true for many regions, where Delhi Police had registered a large number of FIRs, but EIB did not seem to prioritize those areas. Sultanpuri P.S. accounted for the highest number of FIRs i.e. 387, but EIB had contributed to only 27 of these. Similarly, lots of hotspots have not seen added thrust from the EIB, which shows a lackluster and uncoordinated/ unplanned operations by EIB. (Refer to the **Chart 6.1**).

Chart 6.1: 2017-21 FIR Comparison



EIB should work in conjunction with Enforcement/ Confiscation Branch of Excise Department since without the EIB's intelligence inputs, the efforts towards prevention of smuggling of liquor gets ineffective and perfunctory.

Government in its reply stated that EIB considers the fact that certain areas are smuggling prone and it accordingly lays emphasis on those areas using local police informers. Performance of EIB teams are monitored regularly (minutes of meeting were not enclosed) and recovery data is analyzed. EIB, after capturing liquor, gives formal complaint to investigating agency i.e. Delhi Police which lodges the FIR and close coordination is maintained. The coordination between EIB, Confiscation, Enforcement and Delhi Police was emphasized, along with identification of hotspots and coordinated raids.

The reply is unsatisfactory as no supporting evidence was provided for such meticulous planning and coordination between EIB, Enforcement Branch and Confiscation Branch. Even the data was maintained in a fragmented manner on excel sheets with numerous data entry errors. The increasing smuggling cases over the years, with same brands figuring in increasing numbers, belies the claim of strictness. Moreover, in certain areas the number of cases taken up by EIB was not proportionate to cases taken up by Delhi Police, which shows a lack of coordination and focus. Lack of coordination with Enforcement Branch is evident from the fact that, despite violations being found in 75 per cent (9 out of 12 enforcement raids found violations) of planned enforcement raids at L1, L1F/L31, L32 licensee premises in 2018-19, only two enforcement raids were conducted in 2019-20.

Recommendation 6.1: ESCIMS should be utilised to capture granular data related to EIB, Confiscation and Enforcement cases. Detailed analysis of the case-wise aggregated data of confiscation and EIB cases should be made, to identify liquor smuggling hotspots, brands involved, reasons for smuggling, estimated revenue leakage etc.

6.5 Other lacunae and lack of coordination

Audit test checked 70 FIRs (IMFL-16, FL-20, CL-34) registered during 2017-21, and observed the following:

- (i) Audit noticed that the role of EIB was largely disconnected from the functioning of Excise Department in general (issue and management of licenses and regulation thereafter). EIB raids revealed a systematic and very predictable pattern of smuggling of liquor in terms of areas more prone to smuggling, and the type and brands of liquor smuggled etc. The data shows that four IMFL brands manufactured by one distillery (ADS Spirits) comprised of 38 *per cent* of all IMFL seizures and one CL brand pertaining to the same distillery comprised of 69 *per cent* of the total Country Liquor seizures. The smuggled liquor with brand name of “Asli Santra” and “Santra Masaledar” caught in Delhi was almost exclusively marked, “for sale in Haryana”. In case of brand named “Crazy Romeo”, liquor usually seized in Delhi was marked “for sale in Arunachal Pradesh”.

As per the case files, the processing of cases was limited to issuing notices to the accused, auction of vehicle and destruction of liquor. Other important facts that had a bearing on the management/ regulation of supply of liquor were not investigated further to bring out the supply side issues of the problem.

Also, the records available with the department, did not show any analysis conducted regarding the impact of smuggling of some brands on domestic sale of same/ competing brands or its possible impact on revenue.

A concerted action with excise authorities of other States would have been able to gather evidence about the source of liquor being smuggled and in understanding the modus operandi.

- (ii) The FIRs and seizure memo were not properly drafted and ignored the exact name of brand smuggled and the manufacturer of said liquor. In two FIRs, discrepancy was noticed between the brands/ quantity mentioned in the FIR, seizure memo and the confiscation notice issued by Excise Department. HI Speed Whisky (Queen Distillery) in FIR was written as Besto Whisky (NV Distillery) in Seizure memo. The number of bottles seized of 'Asli Santra' brand, i.e., 6900 nips, was not mentioned in the notice issued by the Excise Department.
- (iii) Between November 2014 and February 2020, Palate Fest Pvt. Ltd. was permitted to buy 7.8 lakh bottles of liquor by issuance of 29 P-10A licenses.

However, on 31 October 2014, Palate Fest Pvt. Ltd. had applied for three permits for three lakh bottles of liquor, to be bought for a three day event and permission for the same was granted. Subsequently an FIR (South Campus) pointed to hoarding of liquor issued on P-10A license to Palate Fest Pvt. Ltd., which went unused and was allegedly being supplied to restaurants (to evade the additional excise duty levied on restaurants). The matter was not investigated further by the Excise Department to examine why the entity was issued such enormous quantity of liquor on a P10A license which was exponentially more than their normal demand pattern for over five years.

In all the 70 test checked FIRs, it was found that in none of the FIRs, the Excise Department tried to address the supply side issue of the confiscated liquor.

Government in its reply stated that there is no role of EIB in grant of licenses as per Excise Act, 2009. It also mentions that the EIB data is utilized and performance of teams is monitored and recovery data is analyzed, and that close coordination is maintained between EIB, Enforcement and Enforcement activities. Regarding poorly drafted FIR, it was said that in spite of diligence, there might have been some inadvertent errors. For reasons for smuggling, it was also suggested that the smugglers might have legally purchased liquor from adjoining states to leverage price differential. It was mentioned that the new Excise Policy for the year 2021-22 will remove the role of manufacturers as they are not licensees. Regarding the alleged misuse of P-10A permit, it was stated that the liquor purchased against P-10A permit is not tagged with the permit and no relation can be established between the liquor and the permit. It was also stated that no restaurant serves Non-Duty paid liquor as it is a major offence.

The reply is not satisfactory, since no supporting evidence was provided for such meticulous planning and coordination between EIB, Enforcement and Confiscation, as emphasized in the reply. Even the data is maintained in a fragmented manner on excel sheets with numerous data entry errors. The increasing smuggling cases over the years, with same brands figuring in increasing numbers, belies the claim of strictness. Further, regarding alleged misuse of P-10A permit, the Department has denied the findings in the FIR and contended that restaurants do not serve NDPL, which is contrary to the findings of enforcement team and EIB. The outcome of investigation following the FIR may be adduced before arriving at any conclusion.

Recommendation 6.2: Feedback from the EIB and Confiscation Branch should be incorporated to strengthen administrative and regulatory function of Excise Department like issue of license and planning enforcement raids.

Recommendation 6.3: Coordinated action, with other states' Excise Departments must be planned to strike at the illicit liquor supply chain.

6.6 Conclusion

The Country Liquor sourcing policy placed a restriction (20 *per cent* of the total supply) on the number of nips in the total quota, which was artificial and prone to encourage smuggling. In the year 2013-14, supply of CL was capped at half of previous year supply on the ground of introducing Delhi Medium Liquor (DML) as a substitute for CL. Though DML project was abandoned in 2015-16, the CL quota was not restored to previous levels. The artificial demand supply gap encourages smuggled liquor. EIB and Confiscation branch were not working in coordination. Confiscation data was not being used for planning EIB raids. FIRs and seizure memos were not properly drafted and usually ignored the exact name of brand smuggled and the manufacturer of said liquor in many cases.