

**Chapter III**  
**Issue of Licenses**



## Chapter III: Issue of Licenses

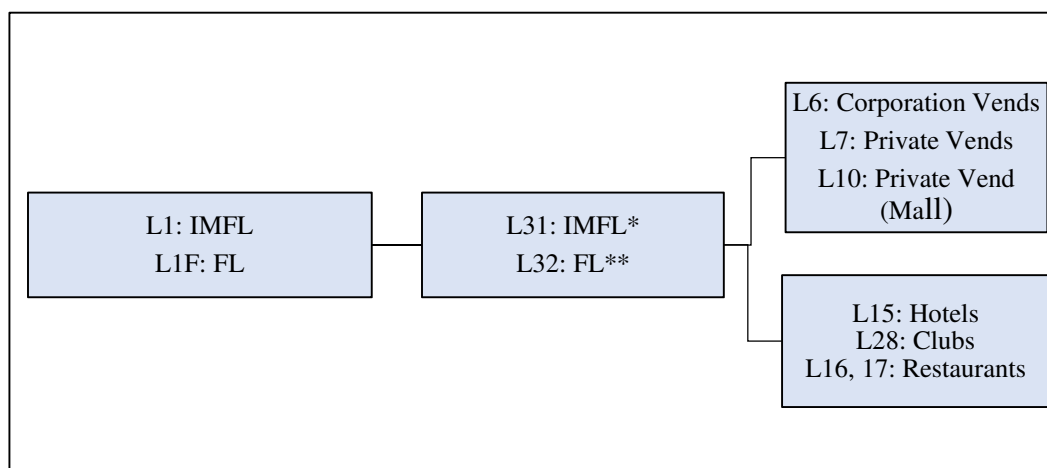
Various types of Licenses are granted by the Delhi Excise Department for retail and wholesale operations pertaining to liquor supply and are annually reissued or renewed subject to fulfilment of criteria laid down in the “Terms and Conditions for grant of License” for the respective License category for the year. The “Terms and Conditions” are to be coherent with the relevant operative provisions of the Delhi Excise Act, 2009 and Delhi Excise Rules, 2010. The compliance checks before issue/ renewal of license should ensure, among other conditions that the licensee conducts business in a fair and transparent manner, has no criminal antecedents and is solvent.

Audit found several irregularities. Licenses were issued to related parties, which was in violation of Rule 35 of Delhi Excise Rules. Regarding compliance with provisions of Section 13 of the Delhi Excise Act, the Department took only an affidavit from the licensee itself on matters like, criminal antecedents, age of employees, etc. The licenses were issued despite non-submission of data regarding sales and wholesale price declared in other states and across the year.

### 3.1 Introduction

The Department issues the following types of Licenses to various stakeholders in liquor supply chain in Delhi.

Chart 3.1: Types of licenses<sup>23</sup>



\*L31 is given for Bonded warehouse of L1, \*\*L32 is given for Bonded warehouse of L1F.

<sup>23</sup> These License types were applicable for the period excluding the withdrawn Excise Policy regime effective between 17 November 2021 and 31 August 2022. The License types for Excise Policy 2021-22 has been mentioned in Chapter VIII.

Interested parties are required to apply every year for issue/renewal of appropriate license to the Excise Department. Audit had selected 59 licensees who were issued licenses during the period 2017-18 to 2020-21, for detailed scrutiny. Out of these, records related to only 46 licensees<sup>24</sup> were provided to Audit. On scrutiny of records related to issue/renewal of licenses to these 46 licensees, various irregularities were observed. These are discussed in the succeeding paragraphs.

***Recommendation 3.1: Responsibility should be fixed for non-production of records relating to 13 licensees to Audit.***

### **3.2 Irregular issue of licenses to related parties**

Rule 35 of the Delhi Excise Rules, 2010 prescribes the following:

- No person shall be granted more than one<sup>25</sup> wholesale license.
- No License for retail sale<sup>26</sup> of liquor shall be granted to the holder of wholesale license and *vice versa*.
- No retail license for consumption of liquor “off” the premises shall be granted to a person holding<sup>27</sup> any other retail license.

All the licensees were required to declare<sup>28</sup> the names of all directors, partners etc. and addition and removal of partners and to furnish an Affidavit<sup>29</sup> in this regard. The above-mentioned provisions had ostensibly been incorporated primarily to prevent formation of monopolies and to ensure availability of brands of liquor as per consumer preferences. However, audit noticed cases where multiple licenses were issued to related parties<sup>30</sup> as given in **Table 3.1**.

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<sup>24</sup> 11 L1, 3 L1F, 8 L6, 4 L7, 8 L10, 12 HCR

<sup>25</sup> Provided that the holder of license in Form L-1 may be granted license in the form L1F: Provided further that for the purpose of license in Form L-1 and L-9, every distillery, brewery, winery and bottling plant shall be treated as a separate unit.

<sup>26</sup> For consumption “off” the premises and for consumption “on” the premises; Provided that the holder of L-1 license may be granted license exclusively for retail sale of the brands produced by him in the Form L-9.

<sup>27</sup> Provided that more than one license in Forms L-6, L-8 and L-14 maybe granted to a person

<sup>28</sup> Rule 37 and Rule 38 of the Delhi Excise Rules, 2010.

<sup>29</sup> Under Section 13 of Delhi Excise Act, 2009 and, Rule 23 and 35 of Delhi Excise Rules, 2010, the applicant has no interest in the business of the holder of any license during the period of five years preceding the date of application.

<sup>30</sup> Common Directors

**Table 3.1: Multiple licenses to related parties**

Violation of Rule	Licensee Name & Type						Remarks
	(A)			(B)			
Wholesale licensees related to each other	Adie Broswon Breweries Pvt. Ltd. (L1)			AB Grain Spirits Pvt. Ltd. (L1)			Common director(s) in the same year (for 2019-20, 2020-21). Also linked in the period of 5 years prior to the issue of License through common director(s).
	Indospirits Distribution Ltd. (L1F)			Indospirits Marketing Pvt. Ltd. (L1F)			Common director(s) in the same year (for 2017-18, 2018-19). Also linked in the period of 5 years prior to the issue of License through common director(s).
Wholesale licensees related to Retail sale licensees	Buddy (Punjab) Bottlers Pvt. Ltd (L1)			Buddy Distribution Pvt. Ltd. (L10), Buddy Mantra Hospitality Pvt. Ltd. (L10), Buddy Mantra Retail Pvt. Ltd. (L10), Buddy T1 Delhi Retail Pvt. Ltd. (L10), Buddy (T3 Delhi) Retail Pvt. Ltd. (L10), Veetrag Constructions Pvt. Ltd. (L10)			Common director(s) in the same year (for 2018-19, 2019-20). Also linked in the period of 5 years prior to the issue of License through common director(s).
	Indo-Spirit Beverages Pvt. Ltd (L1), Indo-Spirit Distribution Ltd (L1F), Indo-Spirit Marketing Pvt. Ltd (L1F)			Indo-Spirit Bars Pvt. Ltd (HCR) , A2Z Trade Links Pvt. Ltd. (L10)			Common director(s) in the same year (for 2017-18, 2018-19, 2019-20). Also linked in the period of 5 years prior to the issue of License through common director(s).
Retail sale licensees related to each other	Indospirit Bars Pvt. Ltd (HCR);			A 2 Z Trade Links Pvt. Ltd. (L10)			Common director(s) in the same year (for 2017-18). Also linked in the period of 5 years prior to the issue of License through common directors.
	Buddy Distribution Pvt. Ltd. (L10)	Buddy Mantra Hospitality Pvt. Ltd. (L10)	Buddy Mantra Retail Pvt. Ltd. (L10)	Buddy T1 Delhi Retail Pvt. Ltd. (L10)	Buddy (T3 Delhi) Retail Pvt. Ltd. (L10)	Veetrag Constructions Pvt. Ltd. (L10)	Linked in the period of 5 years prior to the issue of License through common director(s). Common director(s) in the same year (for 2017-18).

\*List of common director in the same year is given in **Annexure III**.

\*\* List of directors linked in the period of five years prior to the issue of license is give in **Annexure IV**.

In **Table 3.1**, licensees mentioned in cell (A) are related to licensees mentioned in cell (B) of same row. Audit has used data from ESCIMS for license issue and expiry dates; and used data from Ministry of Corporate Affairs (MCA) website for list of directors with original date of appointment and date of cessation.

The six licensees (L10) mentioned in last row of **Table 3.1** were found related via common directorship. In all the cases the email domain of the company, as shown in the mail address of the company in the Ministry of Corporate Affairs website, was same. In some cases, the e-mail address of the company was also the same.

The Government in its reply stated that no violation of Rule 35 had been noticed in the instant cases as all the six wholesale licensees mentioned in the table were separate entities and registered under the Companies Act, 2013.

This reply is not acceptable as common directors in two different companies can influence decision making. In fact, for companies who had submitted their audited statements, it was found that the directors had given unsecured loans to the sister company and were original shareholders. The companies were also mentioned as associated company. Further, in case of L7 and L10, it is also a clear violation of terms and conditions as any person interested in any distillery holding L1 license should not hold L7/L10 license.

Moreover, Audit observed that there were other groups of licensees (L-7 and L-10) as well, which had proprietors of related vends and might be related. There were five such cases of two or more licensees having similar licensee names. The details are given in **Annexure V**.

The Government in its reply stated that L7 licenses were granted during the year 2002-03, and as per Clause 1.4 of Terms & Conditions (T&Cs) for that year, one could get two L-52 (now L7) licenses in one revenue district in Delhi and a total of seven in the National Capital Territory of Delhi, and hence there was no violation of Rule 35.

This reply is not acceptable as the Delhi Excise Act, 2009 and Delhi Excise Rules, 2010 were enacted after the above mentioned T&Cs and hence Rule 35 would take precedence over the T&Cs. Moreover, Clause 6 of the conditions for renewal of license of retail vends for the years 2017-18 to 2020-21 states that there should be compliance with the Delhi Excise Act and Rules made there under. Thus, there was a clear violation of Rule 35.

***Recommendation 3.2: Government needs to review all the licenses to ensure compliance with Rule 35 of the Delhi Excise Rules, 2010. Government should also investigate all these cases and fix responsibility for ignoring the information establishing relation between licensees, in violation of the Delhi Excise Rules, 2010. Further, Multiple Licenses should not be issued to related parties. Clear guidelines in this regard should be formulated.***

### **3.3 Issue/renewal of licenses without verification of criminal antecedents**

As per Section 13 (1) (c) of the Delhi Excise Act, a licensee shall furnish within thirty days of the grant of license a certificate issued by the Superintendent of Police of the district or the Commissioner of Police showing that he possesses a good moral character and has no criminal background or criminal record.

Audit observed that Excise Department, in its terms and conditions for grant of licenses, ignored the requirement of such certificate and instead sought only an affidavit/declaration regarding compliance. Thus, no such certificate was found in the files of any of the test-checked 46 licensees for the period 2017-21. Audit also observed an instance where Excise Department received a copy of FIR against a licensee through a complaint, and the Department had no prior information about the FIR. Thereafter, initially license was suspended in September 2018 as licensee

failed to intimate about the FIR, and various other violations as well. But license was restored after imposing penalty of ₹ 8 lakh in order dated 6 November 2018.

Thus, licenses were issued without verifying the eligibility of licensees, which kept the Excise Department in dark about the actual antecedents of the applicant.

The Government in its reply stated that an undertaking/affidavit was taken from all licensees to the effect that no criminal antecedents or case was pending against them in any court of law in compliance of Section 13 (1) (c). Further, if the affidavit was found false/fake then the license was liable for cancellation and the licensee was liable for penal action.

The reply is not acceptable because Excise Department itself did not follow Section 13(1)(c) of the Delhi Excise Act, in letter and spirit by relying on the self-affidavit of the licensee regarding possession of good moral character and having no criminal record rather than obtaining a Certificate regarding the same from Superintendent of Police of the District or Commissioner of Police.

***Recommendation 3.3: Criminal antecedents should be verified for all licensees by the Excise Department and stringent action should be taken against officers for not complying with the Delhi Excise Act. Terms and Conditions which are not in consonance with the Delhi Excise Act should be brought in consonance.***

#### **3.4 Non-adherence to the directions of the competent authority regarding monitoring of the license issued**

Audit observed that while considering the license renewal application of an L1 licensee for the year 2019-20, Deputy Commissioner (Excise) sought (August 2019) the data of confiscated liquor belonging to the licensee. Accordingly, data of confiscated liquor for the preceding year was provided, which showed that 307 out of total 736 FIRs lodged (August 2018 to August 2019) by EIB for NDPL/illicit liquor belonged to brands of one licensee. Out of total 1,08,704 bottles caught during 2018-20, 49640 bottles (i.e. 46 per cent) pertains to brands registered by the licensee.

Despite the preponderance of this Licensee in confiscated liquor cases, Department did not examine the latter's involvement and license was renewed with directions by DC (Excise) to monitor the Licensee on quarterly basis. However, the directions given were not adhered to.

The Government in its reply stated that FIRs were against the bootleggers in the name of individuals/owners of vehicles instead of the Licensee and confiscated brands were not registered in Delhi. Further, licensee submitted affidavit regarding Section 13 of Delhi Excise Act, 2009 to the effect that no criminal case is pending against them in any court of law.

Reply is not acceptable as the officials of Excise Department ignored the direction of DC (Excise) to monitor the activity of licensee every three months. The Enforcement Registers thereafter showed that not a single inspection was carried

out against the licensee and Department's Enforcement activity did not even comply with the directions.

### **3.5 Issue/renewal of licenses without ensuring solvency of the licensees**

As per Section 13 (1) (Qualification for grant of license) of the Delhi Excise Act, 2009, while considering an application for grant of license, the licensing authority shall have regard that the licensee is solvent.

Accordingly, the terms and conditions required the licensees to furnish a solvency certificate for the specified amount, as given in **Table 3.2**.

**Table 3.2: Requirement of solvency certificate**

<b>License Type</b>	<b>Requirement of Solvency Certificate</b>
L1	A Certificate of solvency to the extent of ₹ Two lakh, signed by a magistrate not below the rank of SDM
L1F	No Solvency Certificate required
L7	Renewal at the original conditions, which included Solvency Certificate of ₹ 25 lakh
L10	A Solvency Certificate of ₹ 50 lakh issued by SDM/ a scheduled Commercial bank
L-6	No Solvency Certificate required
Hotels, Clubs and Restaurants	No Solvency Certificate required

In this regard, Audit observed that the requirement for solvency certificate for different types of licensees was not consistent, as explained below.

- Among the wholesalers, while the L1 licensees were required to submit a Solvency Certificate for ₹ 2 lakh, L1F licensees were not required to submit the same. This appears to be unreasonable and inconsistent, indicating a bias in favour of FL licensees by putting in place a more liberal regime for them.
- Wholesaler business volumes are much higher than a retail vend, however, the amount of Solvency Certificate demanded from an L10 Retail Vend (₹ 50 lakh) was 25 times more than that demanded from a wholesaler (₹ 2 lakh), which appears to be unreasonable and devoid of logic.
- Excise Department was renewing L7 licensees on the basis of terms and conditions which were applicable initially (at the time of issue of license), i.e., with a Solvency Certificate for ₹ 25 lakhs. However, licenses were renewed without taking fresh Solvency Certificate.
- No requirement of Solvency Certificate was prescribed for Hotels, Clubs and Restaurants serving liquor. Reasons for excluding them from furnishing the Certificate were also not provided to Audit.

Thus, only L1, L7 and L10 licensees were required to furnish Solvency certificates for ₹ 2 lakh, ₹ 25 lakh and ₹ 50 lakh respectively. Audit examined the records of 11 L1 licensees, four L7 licensees and eight L10 licensees, to assess whether the



requisite Solvency Certificate was furnished by licensee and considered by the Department before issue/renewal of license.

Scrutiny of 84 cases relating to these 23 licensees for the period 2017-21 revealed that only in two cases, licensees submitted the requisite Solvency Certificate as per the terms and conditions of these licenses. In 80 cases, no Solvency Certificate was found in the files and in the remaining two cases, the licensee had not submitted Solvency Certificate from the appropriate authority.

Solvency Certificate is vital to assess the financial position of the applicant. However, requirement of Solvency Certificate was ignored by the Excise Department and licenses were issued indiscriminately to the applicants despite not submitting the requisite Solvency Certificate.

The Government in its reply stated that most of the L-1 license holders had been licensees for many years in Delhi. Excise duty was taken in advance as soon as Import Permit (IP) was placed by L-1. Further it was mentioned that, Government revenue was protected by many ways like taking Fixed Deposit certificate for all registered brands, advance amount in electronic wallet for paying various duties/fee for IP/Bar codes etc. In regard to Hotel, Club & Restaurant (HCR), it was stated that Solvency Certificate was not prescribed as per terms & conditions, Excise Rules and policy. The reply further assured that Solvency Certificates would be taken wherever it is required as per approved Excise Policy and its terms and conditions.

Reply is not acceptable as the Delhi Excise Act, 2009 did not provide any exemption from Solvency Certificate to long term licensees and principal importers of foreign liquor.

### **3.6 Issue/renewal of licenses without ensuring that licensee was not in arrears of any Government dues**

As per Section 13 (1) (d) of the Delhi Excise Act, the licensing authority shall have regard that the licensee is not in arrears of any government or public dues. Further, appropriate clauses have been included in the terms and conditions of L1 License for submission of No-dues Certificate from Excise Department, and DVAT Department. But no such clauses were included in the terms and conditions of retail licenses (L-7 and L-10), instead a declaration was sought from the applicant that no government dues was pending against them.

Audit, however, observed that L7 and L10 licensees were required to submit the Income Tax clearance Certificates or latest ITRs along with Assessment Orders, whereas L1 and L1F licensee were not required to submit Assessment Orders along with the ITRs. Audit could not ascertain as to how the Excise Department ensured that no dues were pending against L1 and L1F licensees towards Income Tax Department, through ITR, without verifying the Assessment Order. Such loopholes were not consistent with the requirements of the Section 13 (1) (d).

**Table 3.3: Submission status of No-dues certificates by L-1, L-7 and L-10 licensees (Relating to 84 cases of 23 Licensees for the period 2017-21)**

	No-dues Certificate from VAT Department	No-dues Certificate from Excise Department
Submitted	14	0
Not submitted/ Not found in file	22 (certificate of quarterly return filed) 48 (not submitted/not found)	84

Notably, Excise Department itself had not issued even a single No-dues Certificate. Audit observed that despite not submitting of requisite documents to establish that licensee was not in arrears of any government or public dues, Excise Department issued licenses to these licensees in violation of Section 13 (1) (d).

The Government in its reply stated that applicant of L-1 license needs to submit a copy of last year's Income Tax Return/Assessment order, Copy of PAN card of company/firm, an affidavit to the affect that no dues in respect of Excise Department are pending and No-dues Certificate issued by the VAT Officer. Further, Government in its reply assured that no license was granted unless all the dues to Excise Department were cleared by the licensee.

Reply is not acceptable because as per the Clause f (iii) of Annexure-I of terms & conditions of L-1 license from 2017-18 to 2020-21, applicant needs to submit a No dues Certificate issued by the DC (Excise), Delhi but Government in its reply talks about affidavit instead of No dues Certificate. Even the reply is incomplete as Government did not say anything about issuing of license without submission of complete documents by the applicant.

### **3.7 Issue/renewal of licenses without verification of persons employed by the licensees**

As per the Section 13 (1)(g) of Delhi Excise Act, the licensing authority shall have regard that the applicant shall not employ any Salesman, or representative who

- has criminal background, or
- suffers from any infectious and contagious disease, or
- is below 21 years of age.

Further as per Section 24 of Delhi Excise Act, no licensee shall employ or permit to be employed in his premises any person under the age of 21 years or suffering from contagious disease.

Audit observed that the Excise Department has not incorporated any provisions for employees' criminal background check and for infectious/contagious diseases, in "Terms and conditions for grant of license" and licensees were also not submitting this information.

In respect of age of the employees, imprisonment upto three months and/or fine upto ₹ 50,000 was prescribed under Section 42(2) of the Delhi Excise Act if a

licensee employs any person under the age of 21 years. During test-check of records, Audit observed that during 2019-20, two L1 licensees had employed persons below 21 year of age in their warehouses. However, this fact was ignored by Excise Department, while considering and approving the licensee's application.

The Government in its reply stated that this issue was raised with the licensees and in both cases while referring Section 13 (1)(g), licensee stated that above mentioned employees were working as Data Entry Operators and their job was not related to liquor work. The replies of the licensees that these employees were Data Entry Operators is not acceptable as Section 24 of Delhi Excise Act prohibits employment of any person under the age of 21 years, at the licensee premises, irrespective of the nature of job.

***Recommendation 3.4: Appropriate action under Delhi Excise Act should be taken against the Licensee as well as the officials responsible for not taking any action despite the shortcomings.***

### **3.8 Issue/renewal of licenses without obtaining personal bond with surety from L1 licensees**

As per Rule 50 of Delhi Excise Rules 2010 read with Terms and Conditions of the license, L1 licensee shall furnish a personal bond with the surety in the sum of ₹ 5,00,000/- (Rupees five lakh).

Scrutiny of records related to 11 test checked L1 licensees for the period 2017-21 revealed that licensee had not submitted personal bond with surety in 10 out of 36 cases. In 12 other cases, the surety was either given by a related company, Director of the same company or by an employee of the company. Accepting such a surety bond was against the spirit of the Rule.

The Government in its reply stated that there was no violation of Rule 50 of the Delhi Excise Rules, 2010 in accepting the surety given by the related company, Director of the same company or by the employee of the company as it was to the satisfaction of the licensing authority. Further, it was mentioned that majority of L-1 licensees were old and continuing their operations for last many years in Delhi.

Reply is not acceptable because not obtaining the surety violates the spirit of the Rule which is to obtain an independent assurance. The Excise Department's duty was to prepare such a format of surety bond which can adhere to the real requirement of the Rule. However, the Department failed to develop a fool proof surety bond which could adhere to the actual spirit of the Rule.

### **3.9 Issue of L1F licenses without submission of audited financial statements**

As per the license conditions, the applicant is required to submit "An attested copy of the annual accounts and balance sheet duly audited, for the last accounting period for which such audited annual accounts/ balance sheets are available". During test check, it was found that none of the three test-checked L1F licensees had provided

the above documents for the year 2020-21. However, licenses were issued by the Excise Department without any objection.

The Government in its reply accepted the audit observation and stated that due to Covid lockdown, the licenses were granted on the basis of affidavit only without seeking any other documents as approved in the Policy for the year 2020-21.

The reply is not acceptable as the policy cannot be made in violation of Delhi Excise Act/Rules. Further, lockdown due to Covid-19 is no excuse for violation of Act and Rules.

### **3.10 Issue of L1 and L1F licenses without submission of Sales data and Whole Sale Price (WSP)**

As per Appendix – B of L1 License conditions, the applicant of license must give an affidavit for each brand declaring actual sales figures and Ex-Distillery Price (EDP), for all over India, during the last two years (irrespective of the price bracket within which its EDP falls).

Test Check of 11 L1 License files for the period 2017-21 revealed that only three licensees had given details of actual sales figures and EDP of other states, as called for in Sl. No. 1 of Appendix-B. The details provided by even these three licensees were not complete<sup>31</sup>/not provided in some years. Others have stated that it is not required as per free pricing policy or it is not applicable as per para 2.3 (e) (iv) and 7.4 (a) (i) of the Terms and Conditions of the L1 Licensee.

The Government in its reply stated that as per para 7.4 (a)(i) of the Terms and Conditions for granting L-1 license, licensee shall be at liberty to declare EDP if MRP of a certain type of liquor crosses certain limit given in the above mentioned clause. Further, Government referred clause 2.3 (e) of the Terms and Conditions for granting L-1 license, where MRP range had been prescribed for different categories for which no sales figures were required. Free<sup>32</sup> EDP policy has been done away in the licensing year 2021-22.

Reply is not acceptable because these two conditions relate to eligibility of licensee not falling under free pricing policy to have a certain number of sales figures in previous years and restriction on MRP pricing. These conditions do not exempt applicant falling under free pricing policy from giving the details called for in Sl. No. 1 of Appendix-B. It was not mentioned anywhere in the terms and conditions that certain applicants were not required to submit details in para 1 (Sales figure and EDP in other states) of Appendix B as mentioned in para 2 (minimum EDP in India) of Appendix B.

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<sup>31</sup> Sales figure and EDP of all the states was not provided for all brands.

<sup>32</sup> Free EDP policy is practice where a wholesale licensee is free to declare his Ex Distillery Price if the MRP is above a certain level e.g. ` 400 per bottle for whisky. In the brands where the price is below this level, Excise Department demands EDP in Delhi which is lowest across all states in India.

Similarly, license conditions require the L1F licensees to furnish the sales data of the brand (Appendix C, Part-II), landing price per case for the brand and brand-wise prevailing WSP (Appendix C, Part-III) in Delhi/All India and other states where the brand is sold, in the previous two years.

During the test-check of the brands pertaining to the three selected L1F licensees, it was found that while two<sup>33</sup> licensees provided data regarding sales in other states, one<sup>34</sup> licensee had not furnished sales data for its brands for the year 2017-21. Regarding the declaration of WSP in other states, none of the licensees had submitted the prevailing WSP in other states.

The Government in its reply stated that the 'requirement of WSP of different states in respect of Foreign Liquor had not been prescribed anywhere in the Terms and Conditions'. The statement is incorrect because as per the Terms and Conditions of L1F (2017-18 to 2020-21) a declaration was required in Part III of Annexure C giving WSP in other states. Moreover, since 2019-20 an affidavit was also required to be submitted in this regard.

### **3.11 Irregular grant of L1F license to supply “Baltika 9” beer**

Manufacturer of foreign liquor gives authorization to a principal importer in India for distribution and sale of its liquor brands. This principal importer usually authorizes region wise distributors for the sale of liquor. Usually these regional distributors apply for L-1F license in Delhi.

Excise Department issued L1F license to Aryan Wines for Baltika Beer for the year 2020-21. Aryan Wines was appointed as the sole distributor of Baltika Beer by Vosco Beverages, which was authorized by the principal importer (Veesha Food and Beverages) for sales and marketing and label registration of Baltika Beer in Delhi.

Audit, however, observed the following inconsistencies:

- VOSCO Beverages appointed Aryan Wines as sole distributor of Baltika Beer for the period 2020-24, however, the period for which principal importer was authorized to distribute the brand was not mentioned in the authorization letter. Thus on what basis VOSCO Beverages appointed Aryan Wines for four years is not clear.
- VOSCO Beverages appointed Aryan Wines as sole distributor of Baltika Beer on 1 July 2020, however, VOSCO Beverages itself was authorised by principal importer only on 2 July 2020.

Audit also observed from the license file that one label on Baltika Beer mentioned ‘Veesha Food and Beverages’ as principal importer and another label mentioned ‘VOSCO Beverages’ as the principal importer. This ambiguity and misinformation has implications for the end consumer and may attract a product liability action

<sup>33</sup> Brindco Sales and Aryan Wines

<sup>34</sup> Indospirit Distribution

under Consumer Protection Act, 2019. This irregularity was overlooked by the Excise Department and the brand was approved without due diligence.

In respect of the above observations, Government has accepted the Audit contention.

### **3.12 Irregular issue of licenses without ensuring legal possession of premises/vend**

License conditions require that the vend/ HCR licensees should be in legal possession of the vend/premises i.e., the lease agreement should be duly registered with applicable stamp duty.

In this regard, Audit observed the following:

- **L6 (Corporation Vends):** Out of the eight L6 licensees whose records were made available to Audit, for the period 2017-21, registered lease agreements of six licensees were not available in the file.

In one of the above mentioned six cases, two shops were taken on rent by the licensee in 2006, from two individuals, who were allotted these shops by Directorate of Estates, GoI for specific purpose, and were not to be transferred to any other person in any case. Thus, these shops were irregularly transferred to the licensee for sale of liquor. License conditions also requires that the property should be clear from all legal disputes, however, one L6 vend of DSIIDC at Sarai Pipal Thala was found to be under litigation since year 1992 as per the records made available to Audit. Despite the litigated status of property, vend at this property was allowed by the Excise Department.

The Government in its reply stated that an affidavit was taken that "if any dispute arises between Corporation and the owner of the premises where L6 was proposed to be opened, Excise Department will not bear any responsibility in this regard".

Reply of Government is not acceptable as merely taking an affidavit did not ensure that the owner was in legal possession of the premises and it was the duty of Excise Department to check the legality before issuing license as per the renewal conditions.

- **L7 (Private Vends):** Among the four L7 licensees whose records were made available to Audit, one licensee's lease agreements were not found in the file for the period 2017-21. Additionally, another licensee's lease agreements were not registered for entire four year span (2017-21), while a third licensee's lease agreements were not registered for two years (2019-21).
- **L10 (Private vends in Shopping Mall):** Out of the eight licensees whose records were made available to Audit, lease agreement was not duly registered by seven licensees for all four years (2017-21).

The Government in its reply stated that rent period of L-7 and L-10 premises concerned was less than one year (11 months), so these rent agreements were not compulsorily to be registered.

Reply is not correct as rent period of all above mentioned vends were more than one year. Thus, rent/lease agreement of these vends had to be compulsorily registered. Further, registration is a license condition.

- **Hotel, Club & Restaurant (HCR):** Out of the 11 licensees whose records were made available to the Audit, the lease agreements of four licensees were not duly registered, whereas in the case of one licensee, no lease agreement was found in the file for the period 2017-21.

The Government in its reply stated that lease agreements referred by the Audit team were for the period of less than 11 months so these rent agreements were not compulsorily to be registered.

The reply is incorrect as all submitted agreements were for more than the period of 11 months as mentioned above.

In one instance, one L-10 Licensee had submitted a suspected forged lease deed to Excise Department and Excise Department had also accepted the same. Licensee had falsified the photocopy of an old lease deed, by manipulating the original lease period of '15 April 2012 to 14 April 2017' to '15 April 2012 to 14 April 2021'.

The Government has not given any reply in this case.

***Recommendation 3.5: Acceptance of suspected forged document also indicates lack of due diligence on the part of Excise Department. Appropriate investigation should be done in this matter and necessary action thereafter should be taken.***

### **3.13 Issue of licenses without ensuring insurance against fire and natural hazard**

License conditions require the licensed premises to be duly insured against fire and natural hazards. In this regard, Audit observed the following:

- **L6 (Corporation Vends):** Out of the eight L6 licensees whose records were made available to Audit, none of the licensees had furnished Insurance documents since the issue of licenses.
- **L7 (Private Vends):** Test check of records relating to four L7 licensees for the period 2017-21 revealed that:
  - All four licensees did not provide an Insurance policy for 2020-21;
  - In the case of one licensee, no Insurance policy for the remaining three years was found in the file;
  - Another licensee's file lacked Insurance policy for the year 2018-19;

- The file of a third licensee did not contain Insurance policy for the period 2018-20; and
  - The fourth licensee submitted an Insurance policy from June 2017 to June 2018 during the period 2017-21.
- **L10 (Private vends in Shopping Mall):** Test check of records relating to eight L10 licensees for the period 2017-21 revealed that no licensee had provided an Insurance policy for the period 2020-21, Insurance policy was not found in the file of these eight licensees for 2018-20 and five licensees had not submitted Insurance policy for complete year of 2017-18.

The Government in its reply stated that after the implementation of ESCIMS portal, the renewal of license for the period 2017-18 to 2021-22 (up to 30 September 2021 for L-7, L-10 and up to 16 November 2021 for L-6) was being done only from online portal where licensee had to furnish details by attaching relevant documents of Fire Insurance, Lease Agreement & declarations. Details were checked and verified by the Department. Further, it was mentioned that Audit team has not verified these documents on ESCIMS portal.

Reply is not acceptable because the access of ESCIMS provided to Audit was not having any of the above mentioned documents and Government had not attached any supporting documents with the reply. Despite 16 reminders (June 2021 to January 2022) issued to the Department, no access of above mentioned document was provided to Audit.

- **HCR:** Out of the 11 licensees (2017-21) whose files were made available to Audit, insurance against fire, natural hazards etc. was not found in the files of two licensees. Further, access to ESCIMS records of HCR files were not available to Audit despite several reminders.

In all these cases, Excise Department had issued/renewed licenses of these licensees without considering the conditions of license. This indicates lack of due diligence by the Excise Department in its most primary role of verification of eligibility of applicants before issue of licenses.

The Government in its reply stated that documents can be downloaded from the ESCIMS portal.

Reply is not acceptable, as access of ESCIMS portal for various licensees was not granted even after 16 reminders (from June 2021 to January 2022) nor copies of downloaded documents were provided to Audit.

### **3.14 Issue of licenses without ensuring CCTV system**

As per Sl. No 5 of renewal conditions of retail vends, licensees were required to install CCTV camera systems having coverage of minimum 50 meters and archival period of 30 days in good working condition, and to furnish a declaration in this regard along with renewal application.



Audit observed that out of test-checked four L7 and eight L10 licensees, 11 licensees furnished the declaration, but only during 2017-18 and in rest of the cases, declarations were not found in the file. However, licenses of all these licensees were renewed regularly without any objection from the Excise Department.

In the absence of properly working CCTV system, it will be difficult for the Excise Department to address complaints of overcharging and other unlawful activities. Evidence collection will also become difficult during raids and inspections. It was also observed during Enforcement raids that CCTV footage was not available which could have helped in proving the violations.

The Government in its reply stated that licensees declare requisite details as per Section 13 of the Delhi Excise Act, 2009 including the installation and proper functioning of CCTV camera at the premises of the vend. It was not mandatory to furnish separate declaration for CCTV cameras.

Reply is not acceptable because Section 13 of the Delhi Excise Act, 2009 has no mention of CCTV system, even the sample copy of declaration proforma attached with the reply did not contain the point related to CCTV system. Further, as per renewal conditions, licensees were required to submit declaration stating that CCTV cameras system having coverage of minimum 50 meters and archival period of 30 days has been installed and is in good working condition.

### **3.15 Issue of licenses without declaration regarding conditions as outlined in circular for renewal of license**

As per the renewal condition for the period 2017-21, L7 and L10 licensee has to make a declaration regarding 15 conditions like 'None of the Directors/Partners/Proprietors of the company/firm have been disqualified under Section 13 of Delhi Excise Act 2009; the Directors/Partners/Proprietors of the company/firm do not possess any wholesale license or any other retail license of liquor; the licensed premises is duly insured; The Directors/Partners/Proprietor of the company/firm shall abide by all instruction/orders issued by the Excise Department etc. Further as per the renewal conditions an applicant will not be allowed to submit the renewal application without submitting the declaration.

Scrutiny of files relating to selected eight L10 licensees for the period 2017-21 revealed that no document of declaration was found in the files for the period 2018-21. Further, scrutiny of files relating to selected four L7 licensees for the period 2017-21 revealed that only three licensees in the year 2017-18 had given this 15-point declaration, and one licensee had given 5-point declaration for the year 2019-20, and no document of declaration was found in the files for the rest of the licensees. The issue of license without the declaration was in violation of the above-mentioned condition.

The Government in its reply stated that after the implementation of ESCIMS portal, the renewal of license for the period 2017-18 to 2021-22 (upto 30 September 2021 for L-7, L-10 and upto 16 November 2021 for L-6) was being done only from online portal where licensee had to furnish details by attaching relevant documents of Fire

Insurance, Lease Agreement & declarations. Details were checked and verified by the Department. Further, it was mentioned that Audit team had not verified these documents on ESCIMS portal.

Reply is not acceptable because access of ESCIMS provided to Audit was not having any of the above mentioned documents, and Government had not attached any supporting document with the reply. Despite 16 reminders (from June 2021 to Jan 2022) issued to the Department, no access of above mentioned document was provided to Audit.

### **3.16 Issue of licenses without requisite approval of Tourism Department**

Along with the application, applicants of HCR license are required to submit an approval from Department of Tourism (DoT). Out of the 11 HCR licensees whose records were made available to Audit, requisite approval of DoT was not submitted by three licensees. Moreover, Excise Department observed the deficiency in case of one of these three licensees but still issued license without obtaining the document.

Government accepted the audit observation.

***Recommendation 3.6: Selective adherence of various Rules and Regulations while issuing Licenses should be strictly dealt with and sample checking of various type of License Files should be done at higher level. Also responsibility should be fixed in this regard.***

### **3.17 Conclusion**

The Excise Department issued licenses to many licensees (Wholesale, Retail and HCR) without verifying documents required as per the Delhi Excise Act/Rules and Terms and Conditions. The Department, in violation of Section 13 of Delhi Excise Act, took only an affidavit on the basis of which it concluded that there was no requirement of checking even the criminal antecedents of licensee and its employees, solvency status etc. Further L1 Licenses were issued without taking Surety Bond, Performance Report etc. In respect of Retail Licensee (L6, L7 & L10) and Licenses issued to HCR, Excise Department had issued the Licenses without ensuring that the licensees were in legal possession of the vend/premises. Even documents of Insurance and mandatory declarations were not obtained.

L1 and L1F Licenses were issued despite applicants not submitting mandatory sale data, WSP details etc., of previous years. Such data is critical to the Government in framing a better pricing policy for next year for better regulation and maximization of Excise Revenue. Moreover, in violation of Rules and Terms and Conditions of Licenses, multiple Licenses were issued to related parties (having common Directors).

Issue of Licenses without fulfilling the mandatory requirement of Rules and Regulations is a serious issue. Allowing such a practice can lead to extending of discretionary powers in the hands of authorities issuing the license and lead to dishonest dealings.