

CHAPTER-III- STATE EXCISE

3.1 Result of audit

Test check of records of State Excise conducted during 2005-06 revealed non assessment, under assessment, loss of revenue and non levy of penalty amounting to Rs.45.40 crore in 759 cases which can broadly be categorised as under:

(In crore of rupees)

| Sl. No. | Category | Number of cases | Amount |
|----------------|--|------------------------|---------------|
| 1. | Non levy/ short levy of excise duty | 122 | 1.49 |
| 2. | Loss of revenue due to low yield of alcohol | 02 | 17.72 |
| 3. | Non levy/ recovery of duty on excess wastage | 232 | 0.14 |
| 4. | Others | 403 | 26.05 |
| | Total | 759 | 45.40 |

During the year 2005-06, the department accepted under assessment of tax of Rs.20.32 crore involved in 577 cases.

A few illustrative cases involving Rs.4.09 crore are mentioned in the succeeding paragraphs:

3.2 Production of alcohol from molasses not in consonance with sugar contents

Madhya Pradesh Distillery Rules, 1995 (as adopted by Chhattisgarh Government) prescribe that every quintal of fermentable sugar present in molasses should yield at least 91.8 proof litre (PL) of alcohol. The Rules further say that samples of molasses will be drawn at intervals by the distillery officer as prescribed by the Excise Commissioner and sent to the departmental laboratory for determining the fermentable sugar content. On the basis of the report furnished by the departmental laboratory, the distillery officer shall calculate the minimum yield of alcohol likely to be extracted. If production of alcohol is less than minimum expected quantity, Excise Commissioner may impose penalty at the rate of Rs.30 per PL for the quantity of alcohol extracted short.

Test check of records of a distillery in Bilaspur district revealed in October 2005 that a set of 19 samples was drawn in five batches during the period from 3 June 2004 to 29 November 2004 and tested in departmental laboratory. Based on the report, 16,987 quintal fermentable sugar was present in 40,250 quintal molasses used by distillery during this period. The distillery produced 13,88,462 PL alcohol against minimum yield of 15,59,498 PL of alcohol as per grade and sugar contents in the molasses. Thus, there was a shortfall in recovery of 1, 71,036 PL alcohol on which penalty of Rs.51.31 lakh at the rate prescribed was leviable but was not levied. This resulted in non levy of penalty of Rs.51.31 lakh.

After this was pointed out in October 2005, the District Excise Officer (Distillery) Bilaspur stated that facts will be intimated after necessary examination. Further reply was awaited (October 2006).

The matter was reported to Excise Commissioner and Government in December 2005; their reply had not been received (October 2006).

3.3 Non recovery of excise duty on excess wastage of country liquor in transportation

According to Chhattisgarh Country Spirit Rules, 1995, wastage of country liquor transported in sealed bottles from manufacturing warehouse to storage warehouses situated within the district is admissible at the rate of 0.1 *per cent*. Excise duty for wastage in excess of limit is to be recovered from the licensee.

Test check of records of Assistant Commissioner, Excise, Bilaspur and Janjgir-Champa revealed between February and September 2005 that 19,45,215 PL of country liquor was transported from manufacturing warehouse to storage warehouse within the district during the period from November 2002 to August 2005 of which 19,27,355 PL was acknowledged. Wastage of 17,859.5 PL was allowed against the permissible limit of 1,945.20 PL. Thus, there was excess wastage of 15,914.30 PL of country liquor for which excise duty of Rs.7.64 lakh was leviable, but was not levied. This resulted in non realisation of revenue of Rs.7.64 lakh.

After this was pointed out in February 2005, the Assistant Commissioner, Excise, Janjgir-Champa stated in May 2006 that notice for demand had been issued against distiller, while Assistant Commissioner of Excise, Bilaspur stated in May 2006 that recovery of Rs.2.42 lakh had been made in April 2006. Further reply was awaited (October 2006).

The matter was reported to the Excise Commissioner, Raipur and Government; their reply had not been received (October 2006).

3.4 Non raising of demand of process expenses

Madhya Pradesh Excise Act, 1915 provides that all dues to Government that have not been paid by the defaulters may be recovered as arrears of land revenue under Madhya Pradesh Land Revenue Code, 1959. Madhya Pradesh *Lokdhan (Shodhya Rashiyon ki Vasuli) Adhiniyam 1987* (as adopted in Chhattisgarh) further provides that process expenses at the rate of three *per cent* of the principal amount of arrear shall be included in the demand notice to be issued to the defaulter in case of revenue recovery certificate.

Test check of records of District Excise Officer (DEO), Mahasamund revealed in December 2005 that in five cases demand of process expenses of Rs.12.37 lakh on principal amount of arrear of Rs.4.12 crore was not included in the relevant demand notice issued to the defaulter during the year 2003-04. This resulted in non raising of demand of process expenses of Rs.12.37 lakh.

After this was pointed out in December 2005, DEO stated that action for recovery of process expenses could not be taken due to absence of provisions in Excise Act. The reply was not tenable as *Madhya Pradesh Lokdhan Adhiniyam* specifically provides for raising of demand of process expenses when the dues are recoverable as arrears of land revenue. Further reply was awaited (October 2006).

The matter was reported to the Excise Commissioner and Government in March 2006; their reply had not been received (October 2006).

3.5 Non levy of penalty on failure to maintain minimum stock of spirit

3.5.1 As per Madhya Pradesh Country Spirit Rules 1995 (as applicable to Chhattisgarh), the licensee is required to maintain at each 'manufacturing warehouse' a minimum stock of rectified spirit equivalent to average issue of seven days of preceding month. In the event of failure to maintain the minimum stock of rectified spirit at manufacturing warehouse, the collector may impose a penalty not exceeding Rs.2 per proof litre on the licensee for the quantity found short of the minimum prescribed stock. This penalty shall be payable by the licensee irrespective of the fact whether any loss has actually been caused to Government.

Test check of records of warehouse Parasada in district Bilaspur revealed in September 2005 that on 15 occasions, 11, 29,269 PL of spirit had been found short against prescribed minimum stock of spirit (78,007.8 PL per day) during the period from 18 June 2004 to 3 August 2005. During these days the minimum penalty was not levied for the quantity of stock found short. This resulted in loss of revenue of Rs.22.59 lakh.

After this was pointed out in September 2005, Assistant Commissioner Excise, Bilaspur stated that supply of liquor had not failed. The reply was not tenable as the prescribed minimum stock was required to be maintained at warehouse as per rules above.

The matter was reported to the Excise Commissioner and Government in December 2005; their reply had not been received (October 2006).

3.5.2 As per Madhya Pradesh Distillery Rules, 1995 (as applicable to Chhattisgarh) licensee shall maintain at distillery, the minimum stock of spirit as prescribed by the Excise Commissioner from time to time. In the event of failure, Excise Commissioner may impose a penalty not exceeding Rs.5 per PL on the quantity found short of the minimum prescribed stock. This penalty shall be payable irrespective of the fact whether any loss has actually been caused to Government.

Test check of records of two distilleries in Bilaspur and Durg district revealed in September 2005 and January 2006 that the distillers failed to maintain prescribed minimum stock of spirit at distillery by 43.43 lakh PL on 52 occasions during the period from 1 March 2005 to 31 December 2005. Penalty of Rs.2.17 crore was leviable but not levied.

After this was pointed out in September 2005 and January 2006, Assistant Commissioner Excise Bilaspur replied in July 2006 that the reports relating to short quantity of spirit from minimum prescribed quantity maintained at distillery have been sent to Excise Commissioner. Further reply was awaited (October 2006)

The matter was reported to Excise Commissioner and Government (December 2005); their reply has not been received (October 2006).

3.6 Non recovery of duty, cost of liquor and other charges for balance stock handed over to new licensees

As per Government notification dated 23 May 2001, on expiry of a license of country liquor shop the balance stock is to be returned to wholesale warehouse. Excise duty on balance stock already paid shall not be refunded to the licensee. The disposal of balance stock is to be made in accordance with orders of the Excise Commissioner. Madhya Pradesh Excise Act, 1915 provides that no intoxicant shall be imported, exported or transported except after payment of any duty.

Test check of records of Assistant Commissioner Excise, Bilaspur and District Excise Officer, Jashpur revealed in September and October 2005 that balance stock of 1,09,503 PL foreign liquor, 95,706 PL country liquor and 52,132 bulk litre of beer in 132 shops was handed over to new licensees on 11 April 2005 by the Excise Department without prior recovery of excise duty. This resulted in non recovery of excise duty of Rs.97.64 lakh.

After this was pointed out in October, 2005 Assistant Commissioner Excise, Bilaspur stated in July 2006 that notices had been issued to the concerned

licensees. DEO Jashpur replied in October 2005 that balance stock was handed over to new licensees on 11 April 2005 for which Rs.10.36 lakh was recoverable from new licensees out of which Rs.8.23 lakh on account of excise duty had been adjusted and for remaining balance of Rs.2.13 lakh, notices were being issued to new licensees.

The matter was reported to the Excise Commissioner and Government (between December 2005 and January 2006); their reply had not been received (October 2006).