

CHAPTER-IV: State Excise Duty

4.1 Results of audit

Test check of records in departmental offices relating to revenues received from State excise duty conducted in audit during the year 2005-06 revealed under assessments of taxes and duties and loss of revenue amounting to Rs.13.56 crore in 14 cases as depicted below:

Sl. No.	Heads of revenue	Number of cases	Amount (Rupees in crore)
1.	Review on Receipts from State Excise duty	1	4.77
2.	Other irregularities	13	8.79
	Total	14	13.56

During the year 2005-06, under assessments of Rs.13.56 crore in 14 cases were pointed out. Out of these Rs.1.44 crore pertains to the year 2005-06 and the remaining pertains to the earlier years.

A review on "Receipts from State Excise Duty" involving Rs.4.77 crore highlighting important cases are mentioned in this chapter.

4.2 Receipts from State Excise Duty

Highlights

Licence fee and interest of Rs.1.78 crore was short recovered from a licensee by DETC, Kaithal during 2002-03.

(Paragraph 4.2.9)

In Kaithal district, additional licence fee of Rs.1.31 crore was not recovered for short lifting of quota of liquor.

(Paragraph 4.2.10.1)

Failure of the Controller of Molasses to initiate timely action to transfer the molasses lying in a closed distillery which was drained off resulted in potential loss of excise duty of Rs.52.78 lakh.

(Paragraph 4.2.13)

Excise duty of Rs.4.06 crore was short realised due to non supply of fixed quota of liquor by two distilleries.

(Paragraph 4.2.14)

Recommendations

4.2.1 To plug loopholes and enforce control over working of Excise Department in levy and collection of excise duties/fees etc., Government may consider:

- to strengthen its revenue collection administration and modify lengthy procedures in order to expedite recovery from defaulters.
- to develop a strong internal control mechanism with a view to locate discrepancies in monthly returns submitted by field offices and to ensure that the process of recovering the dues is strengthened and monitored at apex level.
- to implement penal provisions of the Acts/Rules by imposing deterrent penalty to discourage illegal trade of liquor.

Introductory

4.2.2 Excise duty on alcoholic liquor for human consumption and on medicinal and toilet preparations containing alcohol or opium, Indian hemp and narcotics in Haryana is levied and collected under the Punjab Excise Act, 1914 and Rules made thereunder, namely; the Punjab Excise Fiscal Orders, 1932, the Punjab Liquor Permit and Pass Rules, 1932, the Punjab Distillery Rules, 1932, the Punjab Brewery Rules, 1956, the Punjab Excise Bonded Warehouse Rules, 1957 and the East Punjab Molasses (Control) Act, 1948 and

Rules made thereunder as applicable to Haryana and the Haryana Liquor Licence (HLL) Rules, 1970.

The revenue is mainly derived from the fixed, assessed and auction fees for the grant of licence of various vends under the HLL Rules and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State under the Punjab Excise Fiscal Orders, 1932.

Organisational Set up

4.2.3 The Financial Commissioner and Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and 19 DETCs, ETOs, AETOs, inspectors and other allied staff for proper administration of department in the field.

Audit objectives

4.2.4 The review was conducted with a view to ascertain whether:

- excise duty was levied and collected according to the Act/Rules, regulations and annual State excise policy;
- compliance of the provisions of State excise policy was done by the department to grant various vends in the State; and
- effective internal control mechanism exists in the department.

Audit coverage

4.2.5 Records of the ETC Haryana and all the 19 DETCs in Haryana for the period from 2001-02 to 2004-05 were test checked between July 2005 and February 2006 with a view to ascertain the extent of compliance of various rules and orders regarding levy and collection of excise duty.

Trend of revenue receipts

4.2.6 The budget estimates and actual revenue realised from State excise during the last four years from 2001-02 to 2004-05 were as under:

(Rupees in crore)

Year	Budget estimate*	Revenue realised	Excess(+)/shortfall(-)	Percentage excess(+)/shortfall (-)
2001-02	924	875.39	(-) 48.61	(-) 5
2002-03	940	878.72	(-) 61.28	(-) 7
2003-04	1,018	923.28	(-) 94.72	(-) 9
2004-05	995	1,013.16	(+) 18.16	(+) 2

* During 2001-02 and 2002-03 the figures of revised estimates as Rs.870 crore and Rs.925 crore were shown in para 1.2 and 1.4 of Audit Reports for the years 2001-02 and 2002-03 respectively. This is the reason for variation in figures in Chapter I and figures as indicated here.

Reasons for abrupt increase of budget estimates from Rs.940 crore in 2002-03 to Rs.1,018 crore in 2003-04 and lowering of budget estimates to Rs.995 crore in 2004-05 were not furnished by the department (August 2006).

Uncollected excise revenue

4.2.7 ETC Haryana intimated that uncollected excise revenue as on 31 March 2005 was Rs.35.83 crore. Year wise break up of uncollected excise revenue as intimated by ETC and as compiled by audit on the basis of monthly returns of arrears submitted by field offices for the month of March 2005 was as under:

(Rupees in crore)

Year	As intimated by ETC	As worked out by audit	Difference
Upto 2000-01	21.42	21.68	0.26
2001-02	2.13	3.11	0.98
2002-03	7.99	8.13	0.14
2003-04	0.99	1.16	0.17
2004-05	3.30	3.79	0.49
Total	35.83	37.87	2.04

Thus, uncollected excise revenue for the whole State was shown less by Rs.2.04 crore. This shows that arrears compiled by the department were not correct and require reconciliation. Reasons called for less reporting of arrears were not intimated (August 2006).

Arrears of Rs.21.68 crore (out of Rs.37.87 crore) were outstanding for more than five years which constituted 57 per cent of the total arrears. Substantial accumulation of arrears shows that department did not tackle the problem vigorously. Further, audit scrutiny revealed that the oldest amount of Rs.2.34 lakh and Rs.0.50 lakh pertained to DETC Faridabad and Panchkula for the year 1967-68. Arrears amounted to Rs.76.31 lakh, Rs.1.92 crore and Rs.4.34 crore remained uncollected for a period more than 30 years, 20 years and 10 years respectively.

Uncollected excise revenue was at the following stages:

(Rupees in crore)

Sl. No.	Stage of action	Amount
1.	Under stay by Court	3.06
2.	Property attached	2.95
3.	Inter district arrears	2.88
4.	Inter State arrears	0.95
5.	Moved for writing off	0.40
6.	Recoveries being effected in instalments	0.11
7.	Recoverable arrear	15.22
8.	Other stages	12.30
	Total	37.87

Internal control mechanism

4.2.8 To have an effective internal control, the Excise Department prescribed 15 statements/returns to be submitted every month by DETCs, distilleries, breweries to ETC Haryana (headquarters).

4.2.8.1 Scrutiny of records in the office of ETC Haryana revealed in July 2005 that monthly progress returns were stated to be received from field offices almost every month but the headquarters did not compile these returns and placed these returns on the record as it is. ETC stated in May 2006 that the excise revenue is fixed every year during the month of March. Though the monthly statements, licence fee, fixed fee and quota of country liquor/IMFL are reviewed in the departmental officer's meeting as and when held, the excise branch was unable to supply the exact number of meetings held during the years 2001-02 to 2004-05 and copy of minutes of meetings recorded and issued. This indicated that though internal control mechanism existed in the department yet it was not effective to safeguard Government revenue as the arrears of State excise revenue were mounting year after year.

4.2.8.2 Internal audit is considered to be an effective mechanism for evaluating various internal controls in the system and identifying their weaknesses. Section officers had been posted in each district and in ETC office in Excise Department for conducting audit of levy and collection of excise duties/fees etc. under the Acts/Rules.

Scrutiny of records in 15* DETC offices for the years 2001-02 to 2004-05 revealed that internal audit wing of Excise Department conducted the audit of 10 field offices as detailed below but no audit note was made available:

Sl. No.	Name of the offices audited	Period upto which audit conducted
1.	Gurgaon	Upto 31 March 2002
2.	Fatehabad	Upto 31 March 2003
3.	Kurukshetra, Sirsa	Upto 31 March 2004
4.	Ambala, Bhiwani, Karnal, Panipat, Rewari and Sonipat,	Upto 31 March 2005

No internal audit was conducted in respect of remaining five districts during the years 2001-02 to 2004-05. This indicated that a very vital component of internal control had not been utilised.

* Ambala, Bhiwani, Fatehabad, Gurgaon, Jagadhari, Jhajjar, Jind, Karnal, Kurukshetra, Narnaul, Panipat, Rewari, Rohtak, Sirsa and Sonipat.

Short recovery of licence fee and interest

4.2.9 The HLL Rules, read with clause 6 of the State excise policy for the year 2002-03, provide for payment of monthly instalment of licence fee by 20th of each month by the licensee holding licence for selling country liquor (CL) and Indian made foreign liquor (IMFL) through vends in group, failing which he would be liable to pay interest at the rate of two *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full by the end of month, the operation of the liquor vend will cease. Further, the Punjab Excise Act, 1914 provides that all excise revenue may be recovered from the person liable to pay the same or from his surety as arrears of land revenue.

During test check of records of DETC, Kaithal for the year 2002-03, it was noticed that licence for sale of CL/IMFL in Azamgarh group was allotted to a licensee for Rs.1.60 crore from 12 July 2002 to 31 March 2003. The licensee failed to pay the monthly instalments of licence fee in full by the due date from July to October 2002 and did not pay the instalments thereafter. DETC did not take any action to cease the vend. Against Rs.1.60 crore, the licensee had paid licence fee of Rs.48.51 lakh only. This resulted in short recovery of licence fee of Rs.1.11 crore besides interest of Rs.67.13* lakh. DETC had not initiated steps to recover the amount due as arrears of land revenue.

After this was pointed out, DETC, Kaithal stated in September 2005 that proceedings to recover the amount due under Land Revenue Act were being initiated. Further progress of recovery had not been received (August 2006).

Non recovery of additional licence fee for lifting of short/additional quota

4.2.10.1 The HLL Rules, read with State excise policy for the year 2002-03, provide that the total annual quota in proof litres (PLs) of liquor shall be announced for each district before each district is put to auction. The licensee shall lift the quota fixed for the year failing which, he would be liable to pay 105 *per cent* of the original licence fee.

Test check of records of DETC, Kaithal for the year 2002-03 revealed that licences for sale of liquor were allotted to two licensees for Rs.24.50 crore and Rs.1.60 crore and they were required to lift the combined quota of CL and IMFL of 3.45 lakh and 0.40 lakh PLs respectively. However, the licensees lifted CL 1.62 lakh and IMFL 0.22 lakh PLs out of prescribed combined liquor quota resulting in short lifting of 1.83 lakh and 0.18 lakh PLs respectively. For this, they were liable to pay additional licence fee of Rs.1.31 crore (five *per cent* of Rs.26.10 crore). DETC neither initiated any action to recover additional fee for short lifting of the quota nor did the licensee pay the same. This was also not monitored by headquarters though monthly statements showing details of quota lifted by each licensee was sent by DETC office. This resulted in non recovery of additional licence fee of Rs.1.31 crore.

* Interest calculated up to March 2005.

After this was pointed out, DETC, Kaithal intimated in September 2005 that proceedings for recovery of amount as arrears of land revenue were being initiated. Further progress of recovery had not been received (August 2006).

4.2.10.2 The HLL Rules, read with State excise policy for the year 2003-04, provide that the total annual quota in PLs shall be announced for each district before each district is put to auction and lifting of quota shall be obligatory. Additional quota will be allowed to the licensee upto 25 per cent of annual allotted quota on 25 per cent licence fee of the State incidence duty* for the year 2003-04.

During test check of records of DETC, Jind for the year 2003-04, it was noticed in November 2004 that against the allotted quota of 33.95 lakh PLs of CL and IMFL the licensee was allowed to lift 37.08 lakh PLs of CL/IMFL without realising the additional licence fee for lifting of additional quota of 3.13 lakh PLs. Neither the licensee deposited additional licence fee nor was it demanded by DETC. This resulted in non recovery of additional licence fee of Rs.90.82** lakh.

After this was pointed out, DETC, Jind stated in October 2005 that quota drawn in excess was consumed in Kaithal and Karnal districts. The reply was not tenable as there is no provision for transfer of quota fixed for one district to another. In addition, on verification of records of DETCs Kaithal and Karnal it was revealed that no additional quota was received from DETC Jind during the year 2003-04.

Non imposition/recovery of compounding fee

4.2.11 Punjab Excise Act provides that compounding fee not less than Rs.50 and not more than Rs.500 per bottle of 750 ml is leviable on illicit liquor confiscated. The Act further provides that if penalty is not paid within seven days, the collector or the DETC shall pass orders for confiscation of means of transport seized along with the liquor which shall be put to auction within 30 days from the date of order of confiscation. The auction amount shall be adjusted towards the payment of penalty. The unrecovered amount of penalty, if any, shall be recovered as arrears of land revenue.

4.2.11.1 Scrutiny of the records of seven*** DETCs revealed that in 100 cases 59,874**** bottles of illicit liquor were confiscated/seized alongwith the vehicles during 2001-02 to 2004-05 by the department. The department neither imposed penalty nor initiated any action to recover the amount by auctioning the impounded vehicles used by the offenders. The omission resulted in non levy/recovery of minimum penalty of Rs.29.94 lakh.

After this was pointed out, DETC Faridabad stated in May 2006 that recovery of Rs.2.13 lakh was effected in 13 cases in December 2005 and final position

* State incidence duty= revenue realised by auction of liquor quota
combined quota (CL/IMFL)

** (3,12,862 PL X Rs.116.11 per PL) X.25=Rs. 90,81,602

*** Bhiwani, Faridabad, Fatehabad, Kurukshetra, Narnaul, Panipat and Rewari.

**** 2001-02: 6,999; 2002-03: 972; 2003-04: 26,855 and 2004-05: 25,048.

in the remaining three cases was awaited. DETC Narnaul stated in July 2005 that recovery proceedings were in progress. DETC Rewari stated in August 2005 that the cases are pending because of investigation and are under process. Further progress and reply from other DETCs had not been received (August 2006).

4.2.11.2 During test check of records of 15* DETCs, it was noticed between April 2004 and March 2005 that 151 vehicles carrying illicit liquor were detained and penalty of Rs.3.45 crore was imposed during the period 2001-02 to 2004-05. The department had not detained vehicles in 74 cases. However, the vehicles detained in other cases were not put to auction even after lapse of period of 11 to 59 months and consequently no adjustment against penalty recoverable could be done. Besides, no action was taken to recover the dues as arrears of land revenue. This resulted in non recovery of Government revenue of Rs.3.45 crore.

After this was pointed out, DETC Faridabad stated in May 2006 that a sum of Rs.13.56 lakh was recovered in December 2005. Five** DETCs stated between July 2005 and February 2006 that recovery proceedings were in progress. Further progress of recovery and reply from the remaining DETCs had not been received (August 2006).

Short realisation of compounding fee

4.2.12 Under the Punjab Excise Act, DETCs have been empowered to compound offences and levy compounding fee. To make illegal operations prohibitively expensive and to reduce the temptation of smuggling, ETC Haryana directed all the DETCs in July 2003 to charge maximum compounding fee of Rs.300 per bottle. In case compounding fee is charged less than Rs.300 per bottle, copies of such orders be sent to head office alongwith reasons.

Test check of records of five districts*** between July 2005 and February 2006 revealed that vehicles carrying 29,522 bottles of illicit liquor were seized between April 2004 and March 2005 and penalty of Rs.41.49 lakh was levied and recovered instead of compounding fee of Rs.88.57 lakh leviable. DETCs had not sent copies of the orders to headquarters explaining the reasons for levy of penalty less than the compounding fee. This resulted in short levy/realisation of compounding fee of Rs.47.08 lakh.

After this was pointed out, DETCs Kaithal, Narnaul and Rewari stated between July and December 2005 that penalty was levied according to the provision in the Act and there was no short levy. Replies of DETCs were not tenable in view of instructions of ETC Haryana issued in July 2003 that headquarters was to be informed about reasons for levy of penalty less than

* Ambala, Bhiwani, Fatehabad, Faridabad, Jagadhari, Jhajjar, Jind, Kaithal, Karnal, Kurukshetra, Panchkula, Panipat, Rewari, Rohtak and Sirsa.

** Jagadhari, Kaithal, Panchkula, Rewari and Rohtak.

*** Kaithal, Kurukshetra, Narnaul, Panchkula and Rewari.

the compounding fee. Charging of compounding fee less than Rs.300 per bottle not only defeated the very purpose to control illegal operation/smuggling of liquor in the State, but also loss of revenue to Government. No reply had been received from DETCs Kurukshetra and Panchkula (August 2006).

Loss of excise duty due to lack of internal control

4.2.13 As per East Punjab Molasses (Control) Act, 1948 and Rules made thereunder, every sugar factory and distillery shall store molasses in steel tanks or pucca covered tanks or other receptacles and take all reasonable precautions to ensure that quality of molasses does not deteriorate. ETC Haryana (Controller) may direct that stock of molasses in respect of which he is satisfied that contravention of the Act has taken place, shall be forfeited to Government.

Pollution Control Board, Haryana sealed a distillery in Samalkha in August 2000. Although the bottling process remained in operation but the manufacturing process of spirit from molasses was not carried out till March 2005. Scrutiny of records revealed that 7,803.5 quintal of molasses lying in the tank since August 2000 remained in the tank till January 2005. With the passage of time, the sugar contents diminished and molasses became contaminated, acidic and unfit for distillation. Though DETC Panipat reported the position of molasses through monthly returns to the Controller of Molasses, he failed to initiate timely action for its transfer to some other distillery. Molasses, which otherwise were capable of producing 3,51,860 PLs of rectified spirit, on which excise duty of Rs.52.78 lakh could have been payable, was shown nil in February 2005. Thus, non initiation of timely action by the controller to transfer the molasses to other distillery resulted in potential loss of excise duty of Rs.52.78 lakh.

The matter was brought to the notice of the department in October 2005 and January 2006; reply had not been received (August 2006).

Non utilisation of the optimum capacity of distilleries

4.2.14 Distilleries in the State are under contractual obligation to manufacture and supply country liquor to the excise licensees as per quota fixed by the State Government.

It was noticed in October 2005 and February 2006 that Panipat Co-operative Sugar Mills (Distillery Unit), Panipat and M/s Associated Distilleries, Hisar, failed to manufacture and supply CL quota fixed by the State Government for the years 2001-02 to 2004-05 leading to potential loss of Rs.4.06 crore,

as detailed below:

(Rupees in lakh)

Year	Quota of CL fixed	CL manufactured and supplied in the State	Quantity short supplied	Rate of excise duty (Rupee per PL)	Excise duty leviable on short supply
Quantity in lakh PLs					
M/S Panipat Co-operative Sugar Mills (Distillery Unit), Panipat					
2002-03	53.13	51.07	2.06	11	22.66
2003-04	50.22	42.90	7.32	01	7.32
2004-05	50.22	47.30	2.92	01	2.92
Total	153.57	141.27	12.30		32.90
M/S Associated Distilleries Limited, Hisar					
2001-02	73.62	65.07	8.55	21	179.55
2002-03	54.00	37.70	16.30	11	179.30
2003-04	50.22	40.50	9.72	01	9.72
2004-05	44.82	40.14	4.68	01	4.68
Total	222.66	183.41	39.25		373.25
Grand Total	376.23	324.68	51.55		406.15

Non utilisation of installed capacity of the distilleries resulted in low production of spirit; consequently; there was less supply of country liquor to licensees and loss of excise revenue.

The matter was brought to the notice of the department in November 2005; reply had not been received (August 2006).

Conclusion

4.2.15 The review revealed lapses in monitoring of levy and collection of Government revenue due to non observance of provisions of the Acts/Rules, excise policies and instructions issued by ETC Haryana. As a result, amount due to Government remained unrealised. As State excise duty constituted a major part of tax revenue of Government, it is the duty of the department to have a detailed look at the working of DETCs, distilleries and breweries in the State with a view to ensure proper and accurate realisation of excise duties/fees/penalty and implementation of provisions of Acts/Rules. Internal control mechanism though existed in the department had not been utilised properly.

Acknowledgement

4.2.16 Audit findings as a result of test check of records of Excise and Taxation Department, Haryana were reported in May 2006 to Government with a specific request in June 2006 for attending the meeting of the Audit Review Committee so that the view point of Government may be taken into account before finalising the review. The meeting was held on 21 June 2006 which was attended by the ETC, Haryana.