

## CHAPTER-III: STATE EXCISE

### 3.1 Results of audit

Test check of records of the State Excise Department during the year 2003-2004 disclosed non-recovery or short recovery of duty, licence fee, etc. amounting to Rs.150.49 crore in 153 cases, under the following categories:

(Rupees in crore)			
Sl. No.	Nature of objection	No. of cases	Amount
1	Error in computation	45	11.50
2	Non/short recovery of licence fee	04	9.26
3	Granting of excessive production loss/wastage	04	0.09
4	Other irregularities	100	129.64
	<b>Total</b>	<b>153</b>	<b>150.49</b>

During the year 2003-2004, the Department accepted under-assessments of Rs.34.07 crore involved in 126 cases and recovered Rs.1.50 crore involved in 70 cases (including Rs.1.48 crore involved in 67 cases which had been pointed out in audit in earlier years).

A few illustrative cases involving Rs.16.21 crore are given in the following paragraphs.

### 3.2 Excess adjustment of arrack rentals leading to loss of revenue

Under the Karnataka Excise Licences (General Conditions) Rules 1967, the licensees holding the lease of the right of retail vend of liquors are liable to pay monthly rent on or before 10<sup>th</sup> of each month.

A Rental Register is maintained in respect of each taluk by the Deputy Commissioner of Excise to record details such as opening balance of rentals due for the month, particulars of payments made by the contractors, mode of adjustment towards interest and rentals and closing balance.

In Gulbarga District, in respect of three taluks, as against the amount of Rs.1.09 crore remitted by three contractors, a sum of Rs.1.14 crore was

adjusted in the Rental Register. This resulted in excess adjustment of Rs.5.25 lakh leading to loss of revenue to that extent.

This was pointed out in audit in December 2003 to the concerned Deputy Commissioner of Excise and to the Excise Commissioner in January 2004; their replies have not been received (January 2005).

The cases were referred to Government in June 2004; their reply has not been received (January 2005).

### **3.3 Loss due to permitting sale of beer without a valid licence**

According to the definition in the Karnataka Excise Act 1965, Indian Liquor does not include beer. Under the Karnataka Excise (Sale of Indian and Foreign Liquor) Rules 1968, licences were being issued for running a Refreshment Room (Bar) for sale of both Indian and Foreign Liquors in Form CL-9. By an amendment effective from February 1990, Foreign Liquors were excluded from the purview of this licence. Thereafter, for selling beer in such places, a licence in Form-II issued under the Karnataka Excise (Lease of the Right of Retail Vend of Beer) Rules 1976 is required. Licences under both these Rules are to be obtained each year by payment of the amount prescribed.

It was noticed in October 2003, that CL-9 licence holders were incorrectly permitted to sell beer though they had not obtained the licence in Form-II as required under the Rules. This deprived Government of revenue of not less than Rs.10.99 crore during 1998-99 to 2002-2003 calculated at the minimum amount prescribed for issue of licence in Form-II as detailed below:

<b>Year</b>	<b>No.of CL-9 licensees</b>	<b>Minimum amount prescribed for issue of Form-II licence (Rs.)</b>	<b>Loss of revenue (Rs. in lakh)</b>
1998-1999	3348	11,500	385.02
1999-2000	3348	5,175	173.26
2000-2001	3567	5,175	184.59
2001-2002	3436	5,175	177.81
2002-2003	3443	5,175	178.18
<b>Total</b>			<b>1,098.86</b>

After this was pointed out in October 2003/ April 2004, Government contended in October 2004 that the licence issued in Form CL-9 privileges the licensee to vend beer also. The reply was not tenable as the amendment dated February 1990 excludes beer from the purview of CL -9.

### 3.4 Delay in termination of leases leading to accumulation of arrears

**3.4.1** Under the Karnataka Excise (Lease of the Right of Retail Vend of Liquors) (KE(LRRVL)) Rules 1969, the successful tenderer or bidder is required to furnish, within 15 days from the date of communication of acceptance of his offer, security for an amount equal to three and one-tenth of the monthly rent. Failure to comply with this provision would entail cancellation of the grant of the right of retail vend and forfeiture of the earnest money deposit. The vending rights could be disposed of afresh and loss sustained by Government recovered from the defaulter, where necessary, as arrears of land revenue.

In 15 taluks of three<sup>9</sup> districts, during the year 2001-2002 for grant of lease of the right of retail vend of liquors in 15 cases, as against required security for Rs.24.98 crore, bank guarantees for Rs.20.34 crore only were obtained. Despite shortfall in furnishing bank guarantees for Rs.4.64 crore, the leases were not cancelled. The lessees had accumulated arrears of Rs.12.84 crore (after adjustment of securities and earnest money deposits furnished). If bank guarantees had been insisted for the prescribed extent, the arrears would have been reduced by Rs.4.57 crore. Thus, non-obtaining of prescribed security led to non-realisation of revenue of Rs.4.57 crore.

These cases were pointed out in audit between March/April 2003 to the Department and reported to Government in June 2004; their replies have not been received (January 2005).

**3.4.2** Under the Karnataka Excise Licences (General Conditions) (KEL(GC)) Rules 1967, rent is to be credited on or before 10<sup>th</sup> of that month or before the end of that month together with interest at 15 *per cent* per annum leviable from the 11<sup>th</sup> day of that month. If the monthly rentals are not paid, the right of retail vend of arrack has to be cancelled. However, the Deputy Commissioner may after obtaining irrevocable bank guarantee of a Scheduled Bank for an amount equal to one month's rent together with interest due, grant further time up to one month, and the Excise Commissioner is authorised to grant further extension of time of 15 days. Further, under the KE(LRRVL) Rules, the contractor is also required to furnish a security equal to three months rent in a phased manner within 60 days from the date of confirmation of lease of retail vend of liquors. If he fails to do so, lease shall be cancelled and the right of retail vend of liquor shall be disposed of afresh at the risk of the defaulter.

In Parasagada taluk of Belgaum district, the lease of the right of retail vending of arrack was confirmed in favour of a bidder in July 2002 on a monthly rental

<sup>9</sup> Kodagu, Kolar, Mysore

of Rs.28 lakh. He paid only Rs.10.98 lakh towards rent for the month of July 2002. As against the required security for Rs.84.00 lakh, security for Rs.38.00 lakh only was furnished by him. Though no extension of time was sought by him, he was allowed to transact business and lease was determined only at the end of September 2002. By this time, he had accumulated arrears of Rs.36.90 lakh after adjusting the securities furnished by him towards the arrears of rentals and interest of Rs.1.88 lakh. Thus, delay in termination of lease resulted in avoidable accumulation of arrears of Rs.36.90 lakh.

After this was pointed out in audit in August 2003, Government contended in October 2004 that measures such as cancellation of lease have to be resorted to only after taking into account the entire situation prevailing at that time and hence the time taken to arrive at such decision need not be considered as delay. The reply is not tenable as the Department delayed determination of the lease despite persistent defaults and for condonation of the same, no discretion was vested with the Department.

### **3.5 Incorrect adjustment of payments leading to avoidable accumulation of interest**

Under the KEL (GC) Rules, as amended from January 2002, when part payments are made towards arrears comprising both principal and interest, interest due till the date of such payment is to be first cleared and then the balance, if any, only is to be adjusted against the principal outstanding.

In Kodagu district, in respect of leases granted for retail vend of liquor in Madikeri and Virajpet taluks during the year 2001-2002, interest of Rs.22.69 lakh pertaining to the period from January 2002 was outstanding against two contractors. In terms of the amendment, moneys received after January 2002 should have been first adjusted towards interest and the balance towards rent. This was not done resulting in avoidable accumulation of arrears of interest of Rs.22.69 lakh.

After this was pointed out in March 2003, the Department stated that the calculations and onward adjustments of belated payment towards interest and the remaining amount towards rentals have been restruck.

The cases were referred to Government in June 2004; their reply has not been received (January 2005).

