

CHAPTER III : STATE EXCISE

3.1 Results of Audit

Test check of records of State Excise conducted during 2004-05 revealed non assessment, under assessment, loss of revenue and non levy of penalty amounting to Rs.149.44 crore in 4,286 cases, which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non levy of penalty on not taking minimum stock by retail seller	254	13.74
2.	Loss of revenue due to low yield of alcohol	384	57.78
3.	Accumulation of arrears of licence fees/ auction money	257	14.60
4.	Non levy of penalty for breach of conditions of licence	548	19.50
5.	Non levy/recovery of duty on excess wastage	727	21.78
6.	Others	2,116	22.04
	Total	4,286	149.44

During the year 2004-05, the Department accepted underassessment of tax of Rs.8.47 crore involved in 1,344 cases. All these cases were pointed out during 2004-05.

A few illustrative cases involving Rs.9.60 crore are mentioned in this chapter.

3.2 Production of Alcohol not in consonance with sugar contents

3.2.1 Production of Alcohol not in consonance with the provisions of Rules

Madhya Pradesh Distillery Rules, 1995 require the distillers to maintain minimum fermentable and distillation efficiencies at 84 and 97 *per cent* respectively. Every quintal of fermentable sugar present in molasses as per departmental laboratory reports should yield minimum 91.8 proof litres (PL) of alcohol. For this purpose, composite samples of the molasses are required to be drawn by the officer in charge of the distillery after the end of each week and sent for examination to the departmental laboratory. In case, the distiller fails to maintain prescribed efficiencies and recovery of alcohol, the Excise Commissioner may impose maximum penalty of Rs.30 per PL.

Test check of records of two distilleries¹ revealed between September and December 2004 that as per chemical analysis report of departmental laboratory 37,551 quintal fermentable sugar was contained in 99,915 quintal of molasses used by the distillers during the period from November 2003 to August 2004. The production of alcohol should have been 34,47,184 PL instead of actual production of 32,31,101 PL resulting in short production of 2,16,083 PL of alcohol. However, the district excise officers (DEOs) did not refer the cases to the Excise Commissioner for levy of penalty of Rs.64.82 lakh.

After this was pointed out in audit, the DEOs (Distilleries) stated that production was according to the Rules. The reply of the DEOs (Distilleries) was not tenable as the production was not according to the chemical analysis report of the departmental laboratory as provided in the Rules, but was lower than the prescribed norms. As such proceedings for levy of penalty should have been initiated by the DEOs.

3.2.2 Non provision of norms for production of alcohol from base other than molasses

The State Government has not laid down any norms for production of alcohol from base other than molasses even after commitment given by the Excise Commissioner (EC) in June 1997. However, as per provisions of Technical Excise Manual (TEM), a quintal of grain that may consist of wheat, *jawar* and *bajara* should yield 40.03 PL of alcohol while starch should yield 118.6 PL of alcohol.

¹ M/s Associated Alcohol and Breweries Khodigram Barwah, Khargone
M/s Som Distillery Sehatganj, Raisen

Test check of records of three distilleries² revealed that the distilleries used 1,13,160 quintal grain and 81,494 quintal of flour during November 2003 to October 2004 and produced 86.97 lakh PL of alcohol as against 141.95 lakh PL produceable under the provision of TEM. This resulted in short production of 54.98 lakh PL of alcohol involving excise duty of Rs.44.73 crore.

The matter was reported to the Department in August 2004 and to the Government in March 2005; their reply has not been received.

3.3 Non realisation of excise duty due to non disposal of foreign liquor

Madhya Pradesh Foreign Liquor Rules, 1996 provide that on expiry or cancellation of the licence in form FL-9/FL-9A, the licensee may place the entire stock of spirit and bottled foreign liquor, under the control of the DEO/Assistant Excise Commissioner (AEC). However, he can be permitted to dispose of such balances to any other licensee within 30 days of such expiry or cancellation, failing which the Excise Commissioner may ask any other licensee of the state to purchase such stocks or may give necessary direction for the disposal of the stock.

Test check of records of AEC Bhopal revealed in March 2005 that 2,791.53 PL foreign liquor and 42,120.94 PL of spirit involving excise duty of Rs.67.37 lakh was not disposed of even after 24 months of expiry of licence of one licensee on 31 March 2003. No efforts were made by licensee/Department to dispose of the stock. This resulted in non realisation of Government revenue to that extent.

After this was pointed out in audit, AEC stated that the matter was reported to EC for disposal.

The matter was reported to the Department and to the Government in April 2005.

3.4 Non realisation of excise duty on unacknowledged export of foreign liquor/beer

Madhya Pradesh Foreign Liquor Rules, 1996 provide for export of foreign liquor/beer within India on payment of duty or on furnishing a bank guarantee or on executing a bond with adequate solvent sureties for the amount of duty involved. Rules also provide that the leviable duty is to be recovered if verification reports from importing units of foreign liquor/beer are not furnished by the exporter within the specified period of 21 days.

Test check of records of seven districts³ between June 2004 and March 2005 revealed that excise duty of Rs.4.06 crore was recoverable from licensees on export of

² *M/s Great Gallion Sejwaya, Dhar*
M/s Associated Alcohol and Brewery Khodigram Barwah Khargone
M/s Som Distillery Pvt. Ltd. Sehatganj Raisen

³ *Bhind, Bhopal, Chhatarpur, Gwalior, Indore, Morena and Raisen*

2,11,893.55 PL of foreign liquor and 7,77,270 bulk litre (BL) of beer on 193 permits during June 2003 to January 2005 as verification reports were not received even after a lapse of 15 to 457 days over and above the specified period of 21 days. No action for recovery of duty was taken by the Department. Failure of the Department to recover duty resulted in non realisation of excise duty of Rs.4.06 crore.

After this was pointed out in audit, the excise officers stated between June 2004 and January 2005 that action to collect verification reports would be taken. The reply was not tenable as non receipt of verification within 21 days attracted levy of duty.

The matter was reported to the Department and the Government in August 2004 and February 2005; their reply has not been received (December 2005).

3.5 Incorrect fixation of selling rates of country liquor in sealed bottles

The selling rates of sealed country liquor bottles of different sizes are fixed by the Excise Commissioner. As per instructions issued by the Government in June 1999, the selling rates are to be so fixed that besides the cost of empty bottles and sealing charges, the price obtained for a specific quantitative unit of liquor sold remains uniform irrespective of the size of the bottle.

Test check of records of four district excise offices⁴ revealed between August 2004 and March 2005 that selling price of country liquor per BL in bottles with different quantities viz 180 ml., 375 ml. and 750 ml. were fixed by the Excise Commissioner inclusive of cost of empty bottles and sealing charges. This resulted in incorrect determination of rate of country liquor by Rs.8.61 in masala, Rs.9.73 in plain of size of 180 ml. and Rs.4 for both masala and plain bottles with size of 375 ml. during April to August 2004.

This resulted in loss of revenue of Rs.48.24 lakh on sale of 6.67 lakh BL of country liquor.

After this was pointed out in audit all the excise officers stated (between September 2004 and March 2005) that the liquor was sold at the rate fixed by the Excise Commissioner. The reply is not tenable as the selling rate was not fixed in accordance with the instructions issued by the Government in June 1999, keeping in view the cost of bottles and sealing charges.

The matter was reported to the Department and the Government (between November 2004 and March 2005); their reply has not been received (December 2005).

⁴ *Bhopal, Khandwa, Khargone and Raisen*

3.6 Non maintenance of minimum stock of spirit at distillery

Madhya Pradesh Distillery Rules, 1995 require licensees to maintain prescribed minimum stock of spirit at the distillery. A penalty not exceeding Rs.5 per PL may be leviable on the quantity found short of the minimum prescribed stock by the Excise Commissioner.

Test check of records of DEO's of five distilleries⁵ between June and December 2004 revealed that the distillers did not maintain prescribed minimum stock of spirit on 41 occasions during December 2003 to November 2004. DEOs did not initiate any action to send the case to EC for levy of penalty of Rs.2.85 crore on 57.13 lakh PL spirit found short. The EC also did not monitor the maintenance of stock though a return in this regard was being sent to him by the DEOs.

The matter was reported to the Department and the Government between August 2004 to February 2005; their reply has not been received. (December 2005)

3.7 Non recovery of difference of cost price

Madhya Pradesh Country Spirit Rules, 1995 provide that the licensee is liable to maintain uninterrupted supply of country spirit to the retail vendors and prescribed minimum stock of spirit and filled bottles at the warehouses, failing which, the DEO may purchase rectified spirit at the prevalent open market at the risk and cost of the licensee. Further, the Excise Commissioner may impose a penalty not exceeding Rs.2 per PL on the quantity found short of the prescribed minimum stock.

Test check of records of DEOs of Barwani and Bhopal revealed between January and March 2005 that a distillery was granted a licence for supply of country liquor for the period from 25 May 2004 to 31 March 2005. As the licensee failed to maintain supply of liquor during October 2004 to February 2005, the excise officers purchased 1,41,770 PL of rectified spirit from another distillery at the rate of Rs.21.50 per PL against the licensee's rates between Rs.0.43 and Rs.0.88 per PL. The Department did not initiate any action to refer the cases to EC for imposition of penalty and recovery of difference amount. This resulted in non recovery of Rs.29.77 lakh. Besides a penalty of Rs.22.94 lakh was also not imposed on 11.47 lakh PL of spirit found short of the prescribed minimum stock.

The matter was reported to the Department and to the Government between February and April 2005; their reply has not been received (December 2005).

⁵ *M/s Great Galleon Sejwaya Dhar*
M/s Rairu Distillery Rairu, Gwalior
M/s Associated Alcohol and Breweries, Khargone
M/s Som Distillery Sehatganj, Raisen
M/s Ratlam Alcohol and Carbon dioxide, Ratlam

3.8 Non realisation of expenditure incurred on Government establishment

Madhya Pradesh Distillery Rules, 1995 provide that if the expenditure incurred on the establishment in a distillery exceeds five *per cent* of revenue earned on the issue of spirit therefrom by export fee or any other levy, the amount in excess of five *per cent* shall be realised from the distiller.

Test check of records of four district excise offices⁶ between June and December 2004 revealed that expenditure incurred on establishment in six distilleries⁷ was Rs.17.51 lakh and the revenue earned by Government was Rs.47.29 lakh during 2002-03 to 2003-04. Consequently an amount of Rs.15.15 lakh incurred in excess of five *per cent* of revenue earned was required to be realised from the distilleries. No action was taken by the Department to recover the same.

After this was pointed out in audit, all the excise officers stated between June and December 2004 that excess expenditure on establishment was not deposited by the distillers. The reply is not tenable as the officers have not taken any steps to recover the same.

The matter was reported to the Department and the Government (between August 2004 and March 2005); their reply has not been received (December 2005).

3.9 Inadmissible wastage of country liquor

Madhya Pradesh Country Spirit Rules, 1995 allow a maximum wastage of 0.5 per cent in transit by breakage of bottles transported from manufacturing warehouses to storage warehouses. On deficiencies occurring in excess of the allowable wastage, the distillery/supply contractor is liable to pay excise duty with penalty not exceeding Rs.30 per PL.

Scrutiny of the records of six districts⁸ revealed that transit wastage of 0.23 lakh PL of country liquor allowed during transit in 1,316 cases during the period between October 2000 and September 2004 was in excess of the permissible limits. The licensee was liable to pay excise duty of Rs.7.70 lakh on excess wastage of country liquor. Besides penalty of Rs.6.90 lakh was also leviable. The Department did not levy the same resulting in short realisation of Government revenue of Rs.14.60 lakh.

The matter was reported to the Department and the Government between May 2003 and February 2005; their reply has not been received. (December 2005)

⁶ Dhar, Gwalior, Khargone and Raisen

⁷ 1. M/s Great Galleon Pvt. Ltd. Sejwaya, Dhar

2. M/s Oasis Distillery Borali Dhar

3. M/s Gwalior Distillery Rairu, Gwalior

4. M/s Associated Alcohol and Brewery Khodigram Khargone

5. M/s Agrawal Distillery Sabalpur Barwah, Khargone

6. M/s Som Distillery Sehatganj Raisen

⁸ Dhar, Harda, Panna, Sidhi, Sheopur and Ujjain

3.10 Non recovery of cost of empty bottles & sealing charges from the retail vendors

Madhya Pradesh Excise Act and Rules made thereunder provide that any licenced vendor of intoxicant may be required to purchase the intoxicants left by another licensee on the payment of such price as the DEO may determine.

Test check of records of AEC Shajapur revealed in November 2004 that 10 country liquor shops run departmentally between April and October 2004 were allotted to the retail vendors for the rest of the financial year. The balance of liquor in these shops was transferred to the new licensees, but the excise duty, cost of empty bottles and sealing charges amounting to Rs.5.93 lakh were not recovered from them.

After this was pointed out, AEC stated in November 2004 that action for recovery would be taken.

The matter was reported to the Department and the Government between January and March 2005; their reply has not been received (December 2005).

