

## CHAPTER III : STATE EXCISE

### 3.1 Results of audit

Test check of the records of State excise conducted during 2006-07 revealed non-assessment, underassessment, loss of revenue and non-levy of penalty amounting to Rs. 109.24 crore in 4,183 cases, which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	<b>Collection of excise receipts on liquor (A review)</b>	01	31.08
2.	Non-realisation of licence fee from excise shops	239	11.48
3.	Loss in re-auction/bidding of excise shops	207	5.57
4.	Non-levy of penalty on non-maintenance of minimum stock of country/rectified spirit	221	4.18
5.	Non-levy of penalty for breach of licence conditions	234	1.11
6.	Non-levy/recovery of duty on excess wastages	359	0.73
7.	Others	2,922	55.09
<b>Total</b>		<b>4,183</b>	<b>109.24</b>

During the year 2006-07, the department accepted underassessment of tax of Rs. 91.13 crore in 4,285 cases, of which, 2,793 cases involving Rs. 30.50 crore were pointed out during 2006-07 and the rest in the earlier years. An amount of Rs. 11.35 crore has been recovered in 1,311 cases.

After issue of draft paragraphs, the department recovered Rs. 9.31 lakh in 138 cases.

A review of “**Collection of Excise Receipts on Liquor**” involving Rs. 4.57 crore is mentioned in the following paragraphs.

## **3.2 Collection of Excise Receipts on Liquor**

### **Highlights**

- Failure of the department to prescribe maintenance of records and periodical returns to higher authorities for keeping a watch over receipt of verification reports resulted in non-realisation of excise duty of Rs. 10.93 crore.  
**(Paragraph 3.2.8)**
- Non-prescription of a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC resulted in non-levy of penalty of Rs. 4.29 crore.  
**(Paragraph 3.2.9)**
- Lack of monitoring of wastages during transit of liquor led to non-levy of excise duty of Rs. 74.19 lakh.  
**(Paragraph 3.2.11)**
- Lack of provision for recovery in the conditions of sale and inaction by the department led to loss of Rs. 3.31 crore.  
**(Paragraph 3.2.14)**
- Irregular grant of licence and failure to take action for default in payment of licence fee resulted in non-realisation of Rs. 2.37 crore.  
**(Paragraph 3.2.17)**
- Inaction to recover the loss in resale of retail shops of liquor resulted in non-realisation of revenue of Rs. 1.05 crore.  
**(Paragraph 3.2.18)**
- Incorrect application of rates of licence fee on 55 licences of hotel/restaurant bar resulted in short levy of Rs. 71.43 lakh.  
**(Paragraph 3.2.19)**

### **3.2.1 Introduction**

“Liquor” means intoxicating liquor, and includes spirits of wine, spirit, wine, *tari*, beer, all liquids consisting of or containing alcohol, and any substance which the State Government may by notification declare to be liquor. Country and foreign liquor are manufactured from alcohol produced in the distilleries through the process of blending<sup>1</sup>/reduction, compounding<sup>1</sup> and flavouring<sup>1</sup> or colouring or both. Beer is manufactured from malt, grain, sugar and hops etc. in breweries. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner under the provisions of Madhya Pradesh Excise Act, 1915 (Act) through annual licences

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<sup>1</sup> Process of removing waste material from liquor and mixing with harmonious combinations.

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granted by him. Licences are renewable annually on the payment of the prescribed fee under the provisions of the Act and the Rules made thereunder. Levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor in the State is governed under the Act and Rules made thereunder. These are the main sources of revenue of the Excise Department.

**Audit reviewed the functioning of the Excise Department regarding the collection of excise receipts on liquor. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.**

### **3.2.2 Organisational set up**

The State Excise Department is working under the Commercial Tax Department of the Government of Madhya Pradesh. The Excise Commissioner (EC) is the head of the department and is assisted by Additional Excise Commissioner (Addl. EC), Deputy Excise Commissioners (DEC), Assistant Excise Commissioners (AEC) and District Excise Officers (DEO), both at the headquarters at Gwalior and in the districts. In the district, the Collector heads the excise administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is responsible for realisation of the excise revenue.

The working of distilleries and bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the ADEOs and sub inspectors posted there.

### **3.2.3 Scope and methodology of audit**

The records for five years from 2002-03 to 2006-07 of the office of the Excise Commissioner, 16<sup>2</sup> out of 48 district excise offices, 19 out of 22 bottling plants, all the distilleries (10) and five breweries were test checked between June 2006 and June 2007.

### **3.2.4 Audit objectives**

The review was conducted with a view to ascertain whether:

- fee and duties leviable on manufacture, possession and sale of spirit/liquor were realised as per the Act and Rules framed thereunder;
- internal control mechanism of the department was effective and sufficient controls were in place to safeguard collection of excise receipts on liquor.

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<sup>2</sup> Bhopal, Chhatarpur, Datia, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Morena, Mandsaur, Rajgarh, Ratlam, Raisen, Satna and Ujjain.

### 3.2.5 Acknowledgement

The audit findings as a result of the test check of the records were reported to the Government/department in June 2007. These were discussed in the meeting of the Audit Review committee (ARC) held in August 2007. The department was represented by the EC while the Principal Secretary, Commercial Tax Department represented the Government. The Government accepted most of the audit observations and their replies have been incorporated in the review.

### 3.2.6 Trend of revenue

The revenue earned for the last five years ending 31 March 2007 is mentioned below:  
(Rupees in crore)

Year	Target	Achievement	Variation (+) increase/(-) decrease	Percentage of variation
2002-03	890	890.32	(+) 0.32	(+) 0.04
2003-04	1,070	1,085.89	(+) 15.89	(+) 1.49
2004-05	1,185	1,192.36	(+) 7.36	(+) 0.62
2005-06	1,300	1,370.38	(+) 70.38	(+) 5.41
2006-07	1,450	1,536.31	(+) 86.31	(+) 5.95

### 3.2.7 Position of arrears of excise revenue

The position of uncollected revenue is monitored at the EC's level through monthly returns submitted by the DEOs. Revenue of Rs. 60.22 crore pertaining to the period from 1971-72 to 2006-07 was outstanding as on 31 March 2007.

(Rupees in crore)

Sl. No.	Particulars	Amount
1.	Cases forwarded to the Government for write off	8.73
2.	Write off cases pending with EC	5.71
3.	Cases pending for decision before various courts	2.10
4.	Cases pending in the district excise offices	43.68
<b>Total</b>		<b>60.22<sup>3</sup></b>

The Government stated in August 2007 that the arrears were likely to be written off as the defaulters were not traceable.

<sup>3</sup> Details like opening balance, addition and recovery during the year alongwith number of cases were not furnished by the department.

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## **Audit findings**

### **System deficiencies**

#### **3.2.8 Non-realisation of excise duty on unacknowledged export of liquor**

The Act and Rules made thereunder provide that if an exporter exports foreign liquor/beer and country liquor within India without payment of duty, he shall obtain a verification report from the officer in charge of the importing unit and furnish it to the authority who issued the permit within 21 days/one month of the expiry of the permit. If the exporter fails to do so, duty leviable on the liquor exported shall be recovered from him in addition to any other penalty leviable under the Rules. To be able to monitor the receipt of the verification reports, it is essential that records containing details such as the due date of receipt of verification report, quantity of liquor exported, date of actual receipt of verification report etc. are maintained in the manufacturing units. **No such records or periodical returns to the higher authorities for keeping a watch over receipt of verification reports have, however, been prescribed in the rules.**

Test check of the records of eight DEOs<sup>4</sup> between July 2006 and April 2007 revealed that seven licensees exported 6,48,523.65 proof litre of foreign liquor, 99,642 bulk litre of beer and 45,000 proof litre of country liquor on 202 permits between May 2003 and March 2007. The verification reports were not received in these cases even after a lapse of one to 36 months from the date of expiry of the permits. No action to recover the duty was taken by the department. Failure of the department to monitor the receipt of verification reports, therefore, resulted in non-realisation of excise duty of Rs. 10.93 crore.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for levy of duty/penalty would be taken.

**The Government may consider prescribing the maintenance of appropriate records for monitoring the receipt of verification reports and may also consider prescribing a periodical return to be submitted to the EC for effective control and monitoring of such cases.**

#### **3.2.9 Non-monitoring of minimum stock of spirit at distilleries**

Madhya Pradesh Distillery Rules (MPDR) require licensee to maintain prescribed minimum stock of spirit at the distillery. Penalty not exceeding Rs. 5 per proof litre is leviable on the quantity found short of the minimum prescribed stock by the EC. This penalty shall be payable by the licensee irrespective of the fact whether any loss

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<sup>4</sup> Bhopal, Dhar, Gwalior, Jabalpur, Khargone, Morena, Raisen and Ujjain.

has actually been caused to the Government. The distillery officer is required to forward the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC for levy of penalty. **No time limit for sending these cases to the EC has been prescribed in the rules. Further, no periodical return has also been prescribed for submission to the EC for effective monitoring of such cases.**

Test check of the records of five DEOs<sup>5</sup> revealed that six distillers did not maintain the prescribed minimum stock of spirit on 1,115 occasions between September 2004 and February 2007. DEOs (Distillery) did not initiate any action to submit these cases to the EC for levy of penalty of Rs. 4.29 crore on 85.81 lakh proof litre spirit found short. Failure of the department to monitor minimum stock of spirit at the distilleries, therefore, resulted in non-levy of penalty of Rs. 4.29 crore.

After the cases were pointed out, the EC accepted (September 2007) the audit observation and stated that action for levy of penalty would be taken after calling for information from the concerned distillers.

**The Government may consider prescribing a time limit for sending the cases of non-maintenance of the minimum stock of spirit at the distillery to the EC for levy of penalty and may also consider prescribing a periodical return to be submitted by the DEO to the EC for effective monitoring.**

### **3.2.10 Non-recovery of duty on the quantity of foreign liquor transported**

The Act provides that no intoxicant shall be transported from any distillery, brewery, warehouse or any other place of storage unless the duty is paid or bond is executed for the payment of duty. In cases where an intoxicant is transported without paying the duty, the licensee is required to obtain the verification report from the destination and furnish it to the excise authority that issued the transport permit. **No time limit for submission of verification reports regarding transport of liquor has been prescribed in the rules. Further, relevant records and periodical returns to the EC for keeping a watch over receipt of verification reports have also not been prescribed.**

Test check of the records of five excise offices<sup>6</sup> revealed that 2,10,299.51 proof litre of foreign liquor and 4,36,020 bulk litre of beer involving excise duty of Rs. 4.06 crore were transported from bottling units/breweries to foreign liquor warehouses and military canteens between September 2002 and February 2007 without payment of duty or execution of bond. Further, verification report of these consignments had also not been received from foreign liquor warehouses/military

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<sup>5</sup> Chhatarpur, Dhar, Gwalior, Khargone and Raisen.

<sup>6</sup> Bhopal, Gwalior, Jabalpur, Morena and Ujjain.

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canteens even after a lapse of 1 to 49 months. In the absence of verification reports, it cannot be ascertained whether the duty of Rs. 4.06 crore was actually levied and recovered on the transported foreign liquor/beer.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and assured that appropriate action for levy of duty/penalty would be taken.

**The Government may consider prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of foreign liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor.**

### **3.2.11 Inadmissible wastages of liquor**

The Rules framed under the Act provide that in case of wastage of bottled liquor beyond permissible limit during transport and export, the duty at the prescribed rates shall be recovered from the licensees. Further, to keep a watch over wastages during export and transport of bottled liquor, it is essential that records containing the details of the amount of liquor transported/ exported, amount of liquor that reached the destination, amount of wastage and recovery on inadmissible wastages etc. are maintained by the excise officers. **Audit noticed that no such record or periodical return for monitoring by the EC or time limit for effecting recovery on the inadmissible wastages have been prescribed in the rules.**

Test check of the records of six DEOs<sup>7</sup> revealed that duty of Rs. 74.19 lakh was recoverable in 1,838 cases on wastages beyond permissible limit during transport and export of bottled liquor between November 2002 and March 2007 but it was not levied and recovered by the excise officers. This resulted in non-realisation of excise duty of Rs. 74.19 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for the levy of duty would be taken. AEC Bhopal recovered duty of Rs. 6.66 lakh in July 2007.

**The Government may consider prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed.**

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<sup>7</sup> Bhopal, Chhatarpur, Dhar, Gwalior, Morena and Raisen.

### 3.2.12 Inadmissible wastages of spirit

The Rules framed under the Act provide that in case of wastage of spirit beyond permissible limit during transport/export in tankers, storage and manufacture of liquor, penalty at the prescribed rate shall be leviable. Though the department has prescribed a system for monitoring of wastages of spirit during transport, storage and manufacture of liquor, **no time limit for sending the cases of inadmissible wastages to the competent authority<sup>8</sup> for levy of penalty has been prescribed. Further, in case of export of spirit, maintenance of relevant records for watching wastages, sending of periodical return to the EC, and the time limit for submission of cases of wastages for levy of penalty, have not been prescribed in the rules.** As a result, in a large number of cases levy of penalty was pending.

**3.2.12.1** In six DEOs<sup>9</sup>, penalty of Rs. 9.35 lakh that was leviable in 581 cases of wastages of spirit beyond the permissible limit during transport, export, storage and reduction operations between November 2002 and March 2007, was not levied and recovered. Failure of the department to monitor the wastages during transport/export, storage and reduction, therefore, led to non-levy of Rs. 9.35 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observations and assured that appropriate action for the levy of penalty would be taken.

**The Government may consider prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. They may also prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit.**

**3.2.12.2** In cases of transport, storage and manufacture of liquor, the rules provide for allowance on wastages **but do not provide for any allowance for wastages of rectified spirit (RS) during re-distillation for manufacturing extra neutral alcohol (ENA).**

Test check of the records of Rajgarh and Raisen distilleries revealed that 218.42 lakh proof litres of RS in 576 cases was redistilled to produce ENA between March 2003 and February 2007 and wastage of 1.16 lakh proof litres of RS was allowed. This was not admissible and resulted in loss of excise duty of Rs. 1.22 crore.

After the cases were pointed out, the Government stated (August 2007) that the wastages of RS during the manufacture of ENA were allowed under Rule 6 (2) of MPDR. The reply is not tenable as Rule 6 (2) read with Rule 4, is related to wastages

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<sup>8</sup> For wastages during transit, the competent authority is the DEC and in other cases, the competent authority is the EC.

<sup>9</sup> Bhopal, Chhatrapur, Dhar, Gwalior, Jabalpur and Khargone.

during re-distillation of spirits that are below standard or unfit for human consumption. The above mentioned cases on the other hand were those where re-distillation of RS was carried out for making ENA. These were not the cases of re-distillation of RS unfit for human consumption or below standard.

### **3.2.13 Non-realisation of excise duty due to non-disposal of foreign liquor**

MP Foreign Liquor Rules provide that on expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of liquor under the control of the DEO. However, he can be permitted to dispose of such stock to any other licensee within 30 days of such expiry or cancellation failing which the EC may ask any other eligible licensee of the state to purchase such stock or may give necessary directions for the disposal of the stock. **No periodical return for submission to the EC has been prescribed in the rules for effective control and monitoring of levy of excise duty in such cases.**

Test check of the records of DEOs at Chhatarpur and Ujjain revealed that 23,722.5 proof litre of foreign liquor and 16,500.25 bulk litre of beer involving excise duty of Rs. 41.26 lakh was not disposed even after 23 to 36 months of the expiry of the licences/labels. No efforts were made by the department to dispose the stock. Failure of the department to monitor the disposal of foreign liquor stock resulted in non-realisation of revenue of Rs. 41.26 lakh.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and stated that action to dispose the stock was in progress.

**The Government may consider prescribing the submission of periodical returns for effective control and monitoring of disposal of foreign liquor stock by the EC.**

### **3.2.14 Absence of provision for recovery of losses suffered during resale of shops under the lottery system**

The Government introduced lottery system for the sale of liquor shops from the year 2004-05. However, the shops which could not be sold under the lottery system were to be sold through the tendering process. The conditions of the sale of the liquor shops through tendering process during 2004-05 and 2005-06 provide that if any highest bidder takes back his offer, fails to pay basic licence fee/security deposit in time or breaches any condition of sale, the shop shall be resold. In case of any loss suffered by the Government due to resale, such loss shall be recoverable from the defaulter. **The conditions of sale notified by the Government under the lottery system do not provide for recovery of loss suffered by the Government during resale of shops.**

Test check of the records of six DEOs<sup>10</sup> revealed that 19 and 10 applicants were declared successful under the lottery system for allotment of 21 and 20 liquor shops at the annual value of Rs. 18.62 crore and Rs. 11.27 crore for the year 2004-05 and 2005-06, respectively. The successful applicants failed to deposit the basic licence fee and security deposit within the prescribed dates and the shops had to be resold. In the process of resale of the shops, the Government suffered revenue loss of Rs. 2.29 crore and Rs. 1.02 crore during the years 2004-05 and 2005-06 respectively, after taking into account the forfeiture of deposit and income derived from the departmental running of the shops. No action could be taken to recover the loss sustained during 2004-05 as the conditions of sale did not provide for recovery of such loss from the defaulters under the lottery system. For the loss sustained during 2005-06, though undertakings from the applicants in respect of recovery of loss during resale of shops had been obtained by the excise officers, yet no action was taken by them to recover it from the defaulters.

After the cases were pointed out, the Government accepted (August 2007) the audit observation and stated that the action against erring officers had been initiated.

**The Government may consider providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.**

### **3.2.15 Delay in remittances**

As per Madhya Pradesh Treasury Code (MPTC) Volume-I, the money received on behalf of the Government shall be remitted into treasury in full without undue delay.

The State Excise Department has entered into an arrangement with the Punjab National Bank (PNB) in which the PNB collects the daily sale proceeds from the retail licensees on behalf of the department and remits to the treasury every fortnight. This arrangement, however, is not in conformity with the MPTC which provides for re Test check of the records of the EC office, Gwalior revealed that Rs. 916.89 crore was collected by the PNB on account of sale of liquor from seven warehouses<sup>11</sup> during the period from November 2002 to March 2007. It was noticed that there was undue delay in remittance of these funds into the treasury in 126 out of 127 cases. The accumulated collections of the fortnight were being remitted to the treasury with delays ranging from four to 40 days. This was not only contrary to the Treasury Code but also deprived the Government of interest of Rs.1.56 crore<sup>12</sup> on the delayed deposit of amount of funds by the PNB.

After the cases were pointed out, the Government stated (August 2007) that the procedure of fortnightly remittance was followed as per the orders of the MP Finance Department (MPFD) to prevent fake and forged treasury challans. The reply of the Government is not tenable as the system for reconciliation of departmental challans with the treasury receipts already exists for watching fraudulent challans.

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<sup>10</sup> Datia, Gwalior, Hoshangabad, Indore, Jabalpur and Raisen.

<sup>11</sup> Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain.

<sup>12</sup> Calculated at the minimum interest rate of 5.6 per cent on which the Government borrowed loans from the market during the period from 2002-03 to 2006-07.

Moreover, the MPTC did not allow the PNB to accumulate the daily sale proceeds and remit to the treasury every fortnight. MPTC provides for immediate remittance of the money in the treasury.

### **3.2.16 Internal audit**

The internal audit wing of a department is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the department to assure itself that the prescribed systems are functioning reasonably well.

An internal audit wing was established in the EC's office in the year 1978. As per its roster, audit of 48 units was to be conducted each year during the period from 2002-03 to 2006-07. Scrutiny of the records revealed the following position:

<b>Year</b>	<b>Number of units audited</b>	<b>Shortfall with reference to roster</b>	<b>Percentage of shortfall</b>
2002-03	41	07	14.58
2003-04	28	20	41.67
2004-05	21	27	56.25
2005-06	14	34	70.83
2006-07	23	25	52.08

Thus, the internal audit wing fell short of the targets fixed by the department. In addition, the details about the number of objections raised by the internal audit, money value involved, amount recovered etc. were not available with the internal audit wing. Records relating to follow up action on audit observations were not prescribed. As a result, internal audit function of the department was rendered ineffective.

The audit observation was accepted by the Government. It assured that the audit roster would be followed in future. As regards non-maintenance of records, EC stated in October 2007 that the records were now being maintained from the year 2007-08 at the instance of audit.

## **Compliance deficiencies**

### **3.2.17 Irregular grant of licence/non-recovery of licence fee**

The Act and the conditions of sale of retail shops provide that the successful applicant/tenderer shall pay the prescribed basic licence fee and security deposit before the issue of licence. If he does not deposit/deposits it partly, within the prescribed period, the deposits made by him shall be forfeited and the shop resold. The annual licence fee<sup>13</sup> is payable by the licensees in 24 equal fortnightly instalments in the prescribed manner. In case of default, the licence granting authority is empowered to cancel or suspend the licence. Where a licence is cancelled, the collector may take charge of the management of such shops or resell the shops at the risk and cost of the ex-licensees. The loss, if any, sustained in this process will be recovered as excise revenue from the defaulter.

Test check of the records of four DEOs<sup>14</sup> revealed that 46 liquor shop licences were granted for one year or part thereof during 2004-05 and 2005-06 for an aggregate annual licence fee of Rs. 9.35 crore. The licences for retail liquor shops were granted to 17 successful applicants despite their failure to deposit the requisite security deposit and basic licence fee within the prescribed period. Instead of granting the licences, the shops should have been resold by forfeiting the partial/insufficient amount of security deposit and basic licence fee of Rs. 24.04 lakh that had been deposited by the successful applicants.

Further, all these 46 licensees defaulted in making payment of the fortnightly instalment of the licence fee but no action for cancellation of the licences was taken in 19 cases. The licences of 26 shops were cancelled after the lapse of one to four months from the date of default and the shops were resold/operated by the department. The management of remaining one shop was undertaken after a lapse of six months from the date of default without cancellation of the licence. As a result, the department suffered a revenue loss of Rs. 2.37 crore which was recoverable from the defaulters. The department did not take any action to recover it resulting in non-realisation. It was also noticed in DEO, Raisen that bank guarantee of Rs. 3.25 lakh obtained against the security deposit of one country liquor shop could not be encashed due to failure of the department to submit the claim in time before the bank.

After the cases were pointed out, the Government/EC stated (August and September 2007) that necessary action for recovery was in progress and action against the erring DEOs was also being taken. Further report in the matter has not been received (January 2008).

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<sup>13</sup> Annual licence fee is equal to the value of the shop minus basic licence fee.

<sup>14</sup> Datia, Hoshangabad, Jabalpur and Raisen.

### **3.2.18 Loss due to resale of liquor shops**

The conditions of sale of liquor shops through tendering process during 2005-06 and 2006-07 provide that if any highest bidder withdraws his offer, fails to pay the basic licence fee/security deposit in time or breaches any condition of sale, the shop will be resold. In case of any loss suffered by the Government due to resale, such loss will be recoverable from the defaulter.

Test check of the records of four DEOs<sup>15</sup> revealed that the successful bidders failed to pay the prescribed amount of basic licence fee and security deposit in respect of one and 14 liquor shops for the year 2005-06 and 2006-07, respectively. As a result, the shops had to be resold. The Government suffered a loss of Rs. 1.05 crore due to resale after taking into account the forfeiture of security and earnest money deposits (EMD). No action was taken by the department for recovery of this amount from the defaulters resulting in non-realisation of revenue of Rs. 1.05 crore. It was further seen that the AEC, Bhopal had failed to forfeit the EMD of Rs. 2.49 lakh in respect of one shop.

After these cases were pointed out, the Government accepted (August 2007) the audit observation and stated that the action against erring officers had been initiated.

### **3.2.19 Short levy of licence fee due to incorrect application of rates**

The Government instructions of January 2005 read with the notification issued in April 2005 provided for issue of licences to restaurants and hotel bars on payment of licence fee at the prescribed rates. Slab rates of licence fee were prescribed on the basis of the population of the city in which the bars were situated. The departmental instructions in February 2005 provided for full levy of licence fee even if the licence was granted for a part of the year. The notification in April 2005 also provided for concessional rates in respect of the hotels of Madhya Pradesh *Paryatan* Nigam (MPPN) for the year 2005-06.

Test check of the records of the EC office and seven DEOs<sup>16</sup> revealed that 47 licences were granted during 2004-05 to 2006-07 to hotel bars of private individuals for Rs. 1.90 crore as against the leviable amount of Rs. 2.48 crore. This was due to applications of lower slab rates of licence fee on account of treating the population of Jabalpur city below 10 lakh and by proportionately reducing the licence fee in cases where licence was granted for a part of the year. Further, eight licences were granted to hotels/restaurant bars of MPPN for the year 2006-07 at a concessional licence fee of Rs. 14 lakh as against the leviable normal fee of Rs. 27.80 lakh. Concessional rates were extended to the MPPN for the year 2006-07 on the basis of the Government

<sup>15</sup> Bhopal, Hoshangabad, Indore and Jabalpur.

<sup>16</sup> Bhopal, Chhatarpur, Gwalior, Hoshangabad, Jabalpur, Raisen and Ujjain.

directions but no notification was issued under the Act. Short levy of licence fee on 55 licences granted to hotel/ restaurant bars resulted in short realisation of revenue of Rs. 71.43 lakh.

After the cases were pointed out, the Government accepted (August 2007) short levy of licence fee in respect of 47 cases of Jabalpur. The EC replied in September 2007 that licence fee of Rs. 15.60 lakh had been recovered in 13 cases. In rest of the cases, recovery could not be effected due to stay order obtained by the licensees in July 2007. Regarding short levy of licence fee on licences granted to MPPN hotel/restaurant bars, the Government stated (August 2007) that the notification for extending concessional rates to MPPN during the year 2006-07 had been issued in August 2007 with retrospective effect. The reply is not tenable as section 27 of the Act empowers the Government to increase/reduce the licence fee with retrospective effect but not from the date earlier than the commencement of the financial year. Therefore, the cases pertaining to the year 2006-07 are beyond the purview of the notification of August 2007.

### **3.2.20 Non/short levy of transport/import fee**

Madhya Pradesh Foreign Liquor Rules (MPFLR) provide for levy of transport/import fee on foreign liquor, rectified spirit (RS) and ENA transported/imported to bottling unit of foreign liquor at the rates prescribed from time to time.

Test check of the records of the AEC office Bhopal revealed that 2.62 lakh bulk litre ENA was transported from the distilleries to the bottling units of foreign liquor in April 2006. The licensees paid transport fee of only Rs. 550 as against leviable fee of Rs. 6.55 lakh. In Dhar and Gwalior, 2.76 lakh bulk litre ENA was imported by the licensees between April and August 2006. The licensees paid import fee of Rs. 6.72 lakh as against the leviable import fee of Rs. 13.50 lakh. In Chhatarpur, import fee of Rs. 2.02 lakh was not levied and recovered on 28,790 beer bottles brought from Uttar Pradesh in January 2007. Non/short levy of transport/import fees resulted in non/short realisation of revenue of Rs. 15.34 lakh.

After the cases were pointed out, Rs. 13.32 lakh was recovered by the excise authorities in Bhopal, Dhar and Gwalior between July 2006 and June 2007. As regards non-levy of import fee of Rs. 2.02 lakh on beer bottles, the EC contended that these beer bottles had been exported by the licensees during 2004-05 but brought back into the State in January 2007 as they were six months old and had expired. The reply is not tenable as the rules do not provide for non-levy of import fee in such cases.

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### **3.2.21 Irregular manufacture and bottling of foreign liquor**

MPFLR provides that special bottling licence (FL-9 A licence) for bottling of foreign liquor of such labels or brands already being manufactured outside Madhya Pradesh can only be granted to those licensees who have the licence (FL-9 licence) for bottling and manufacture of foreign liquor in MP. In other words, FL-9 licence is essential for bottling of foreign liquor under FL-9A licence.

Test check of the records of the bottling unit of Khargone in June 2007 revealed that two companies<sup>17</sup> got special bottling licence (FL-9A licence) on sub lease from another licensee after obtaining permission from the EC. These companies manufactured foreign liquor under FL-9A licence without having FL-9 licence on which licence fee of Rs. 5 lakh was chargeable during 2006-07. The manufacture of foreign liquor was, therefore, not only irregular but also deprived the Government of licence fee of Rs. 10 lakh.

After these cases were pointed out, the Government stated in August 2007 that the notices for recovery of licence fee had been issued.

### **3.2.22 Conclusion**

Audit noticed that the systems instituted by the Excise Department for collection of excise receipts on liquor were deficient. Monitoring of key areas such as verification reports on exported liquor, maintenance of minimum stock of spirit in distilleries, wastages during export, transport, storage and manufacture of liquor, etc. was non-existent. Internal audit, an important component of the internal control mechanism, was also rendered ineffective due to lack of follow up on audit observations. Additionally, the department failed to follow the provisions of the Act/rules and instructions issued by the Government in many areas like grant of licences for manufacture and sale of liquor, collection of licence fee, collection of fee on transport and import of liquor/spirit etc. resulting in significant amount of non/short realisation of excise receipts on liquor.

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<sup>17</sup> Diageo India Private Limited, Bombay.  
Diageo Radico Distilleries Private Limited, New Delhi.

### **3.2.23 Summary of recommendations**

The Government may consider implementation of the following recommendations for rectifying the system and compliance issues:

- prescribing the maintenance of appropriate records for monitoring of receipt of verification reports and a periodical return to be submitted to the EC for effective control and monitoring of such cases;
- prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of foreign liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor;
- prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed;
- prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. It may also prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit;
- prescribing the submission of periodical returns for effective control and monitoring of disposal of foreign liquor stock by the EC; and
- providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.