

CHAPTER - III

STATE EXCISE

3.1 Results of Audit

Test-check of records of State Excise conducted during 2003-2004 revealed non-assessment, under-assessment, loss of revenue and non-levy of penalty amounting to Rs.187.21 crore in 7660 cases, which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
1.	Loss in foreign liquor trade in Madhya Pradesh	2,833	44.69
2.	Loss of revenue due to low yield of alcohol	252	11.58
3.	Accumulation of arrears of licence fees/ auction money	627	34.65
4.	Non-levy of penalty for breach of conditions of licence	819	14.19
5.	Non-levy/recovery of duty on excess wastage	1,515	9.31
6.	Others	1,613	37.43
7.	Review on Working of distilleries	01	35.36
	Total	7,660	187.21

During the year 2003-2004, the Department accepted under-assessment of tax of Rs.167.96 crore involved in 7,167 cases.

A review, **Working of distilleries** and other important observations involving Rs.13.10 crore are discussed in the following paragraphs:

3.2.1 Review on Working of Distilleries

Highlights

- Penalty of Rs.45.53 lakh was not imposed on short-production of 1.52 lakh proof litres alcohol.
(Paragraph 3.2.7)
- Duty on export of foreign liquor worth Rs.1.71 crore on account of non-receipt of verification reports within the prescribed period was not recovered.
(Paragraph 3.2.11)
- Penalty of Rs.1.17 crore was not imposed on non-maintenance of prescribed minimum stock by the distilleries.
(Paragraph 3.2.14)

3.2.2 Introduction

Alcohol is produced in distilleries mainly from molasses and other bases like Mahua, Grain and Salseed khali etc. through fermentation and distillation. Country and foreign liquor is manufactured from alcohol through process of blending/reduction, compounding and flavouring or colouring or both. The manufacture, distribution and sale of country and foreign liquor is governed by the Madhya Pradesh Excise Act, 1915 (Act)/rules and notifications issued thereunder. Licences for manufacture are granted/renewed every year on payment of prescribed fee by Excise Commissioner subject to prior approval of the State Government. Though the norms of production of alcohol from molasses have been prescribed in the Act, no norms have been laid down for production of alcohol from the base other than molasses.

Levy and collection of duties and fees on the production, possession, sale, export and import is the main source of the revenue of the Excise Department.

3.2.3 Organisational set-up

The Principal Secretary, Commercial Tax Department is administrative head at Government level and the Excise Commissioner (EC) is the Head of the Department. He is assisted by two Additional Excise Commissioners (Addl. ECs.), a Deputy Excise Commissioner (DEC), an Assistant Excise Commissioner (AEC) and two District Excise Officers (DEOs) with head quarter at Gwalior. One flying squad at State Level and seven flying squads at Divisional Level are working under the directions of EC. Collector is the head of Excise Administration in the district and is assisted by AECs at divisional head quarters and by DEOs at District head quarters/distilleries and bhang godowns.

3.2.4 Scope of audit

Records from 1999-2000 to 2003-04 of nine out of ten distilleries, 14 out of 17 bottling units in 11 districts and that of Excise Commissioner were test-checked between April 2003 and April 2004.

3.2.5 Audit objective

The review was conducted with a view to ascertain whether

- adequate norms exist for production of alcohol from raw materials and whether these are being adhered to
- proper compliance of the provisions of the Act/Rules is done by the Department.
- sufficient internal controls exist to safeguard the Government revenue.

3.2.6 Trend of Revenue

The budget estimates and actual revenue realised by the Excise Department during the last five years is shown in the table below:

(Rupees in crore)

Year	Budget estimates	Actuals	Variations	Percentage of variation
1999-2000	1,060	1,073.38	(+) 13.38	(+) 1.26
2000-2001	1,220	974.94	(-) 245.06	(-) 20.09
2001-2002	950	704.68	(-) 245.32	(-) 25.82
2002-2003	890	896.23	(+) 6.23	(+) 0.07
2003-2004	1,100	1,098	(-) 2.0	(-) 0.18

It would be seen from the above, that there was a huge variation between the Budget Estimates and the Actuals during 2000-2001 and 2001-2002.

3.2.7 Failure to achieve the norms of yield of alcohol

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 91.8 proof litres of alcohol. For this purpose, composite samples of the molasses are required to be drawn by the officer-in-charge of the distillery 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 proof litre.

It was seen in the audit of two distilleries¹ that as per chemical analysis report of departmental laboratory, 29,439.5 quintal fermentable sugar contained in 82,413 quintal of molasses used by the distillers the production of alcohol should have resulted in 27,02,547.4 proof litre of alcohol but the actual production of alcohol was 25,50,771.00 proof litre resulting in short-production of 1,51,776.4 proof litre of alcohol. However, the DEOs did not initiate any action to levy the penalty of Rs.45.53 lakh as detailed below:

¹ M/s Cox India Ltd., Nowgaon Chhatarpur and
M/s Associated Alcohol and Breweries Barwah, Khargone

Period	Name of distillery	Molasses used in quintals	Quantity for fermentable sugar in quintals	Required production as per norms PL	Actual production PL	Shortfall PL	Penalty (Rupees in lakh)
May & June 2003	A	738	285.68	26,225.4	25,204.00	1,021.4	0.30
April to October 2003	B	81,675	29,153.83	26,76,322	25,25,567	1,50,755	45.23
		82413	29,439.51	27,02,547.4	25,50,771	1,51,776.4	45.53

The non-levy of penalty for non-achievement of the norms prescribed under the Act was also not monitored by the Excise Commissioner at any stage though a return in this regard was being sent to him by each DEO.

After this was pointed out in audit, the DEO (Distillery), Chhatarpur, stated that notices to the distillery would be issued while DEO (Distillery), Khargone, stated that production was according to the chemical analysis report of the Departmental laboratory. Reply was not tenable as the chemical analysis report of departmental laboratory has also indicated that the production was below the prescribed norm as such proceedings for levy of penalty should have been initiated by the DEO.

3.2.8 Production of alcohol not in consonance with the norms prescribed by ISS and Technical Excise Manual

According to Indian Standard Specification (ISS) 95 per cent of total invert sugar² is fermentable.

Test-check of records of a distillery in Barwa Khargone revealed that the distiller used 1,06,425 quintal molasses between December 2002 and December 2003. As per departmental chemical analysis report the molasses contained invert sugar of 41,984.85 quintal from which fermentable sugar of 39,885.6 quintal should have been produced as per the ISS norms instead of 38,636.41 quintal shown to have been produced by the Department. This resulted in shortage of fermentable sugar of 1,249.20 quintal, which could yield 1,14,676.56 proof litre of alcohol involving excise duty of Rs.27.52 lakh.

This was pointed out in audit December 2003. The DEO (Distillery) stated that yield was on the basis of percentage of fermentable sugar shown in the chemical analysis report of the department laboratory.

The reply of the Department was not tenable as the quantity of the sugar fermentable as per departmental analysis was considerably less than that of ISS standard. The Department should therefore either follow ISS standard or should fix its own standards so that Government revenue is safe guarded against any future loss.

3.2.9 Production of alcohol from the base other than molasses

The State Government has not laid down any norms for production of alcohol from the base other than molasses even after commitment of 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 maize should yield 40.03 proof

² *Invert sugar means the quantity of total reducing sugar present in the molasses*

litre of alcohol while *mahua* and starch should yield 48.45 proof litre and 118.6 proof litre of alcohol respectively.

Test-check of records of four distilleries³ revealed that the distilleries used 51,469 quintal grain, 9,621 quintal mahua and 1,95,360 quintal of flour during June 2002 to March 2004 and showed a production of 134.49 lakh proof litre of alcohol as against 257.06 lakh proof litre which should have been produced under the provision of Technical Excise Manual. This resulted in short-production of 122.57 lakh proof litre of alcohol involving excise duty of Rs.29.42 crore.

Thus, it would be seen from the above that there is a need for framing the norms for production of alcohol from bases other than the molasses to save the Government from any loss.

3.2.10 Inadmissible wastage of spirit

The Distillery Rules allow wastage between 0.1 and 0.2 per cent on account of leakage or evaporation of spirit transported or exported in tankers from a distillery/warehouse to another distillery/warehouse. In case of wastage beyond permissible limit, the Excise Commissioner or the officer authorised for the purpose may impose penalty.

Test-check of records of five district excise offices⁴ revealed between June 2001 and December 2003 that 45.13 lakh proof litre rectified spirit was transported/exported in tankers by four distilleries on 181 permits but only 44.82 lakh proof litre was acknowledged by the warehouse/importing State. The wastage of 0.23 lakh proof litre was in excess of the permissible limit of 0.08 lakh proof litre. Though penalty of Rs.6.90 lakh was leviable, no action was initiated to levy the same by the Department.

After this was pointed out in audit, the DEOs stated that the cases were sent to the concerned districts for necessary action.

3.2.11 Non/Late receipt of verification reports

Madhya Pradesh Foreign Liquor Rules, 1996 provide that for export of foreign liquor within India, the exporter shall obtain a verification report from the officer in charge of the importing unit and furnish it to the authority who issued the export permit within 21 days of the expiry of period of permit. If the exporter fails to do so, the leviable duty on the foreign liquor exported shall be recovered.

- Test-check of records of District Excise office⁵ of six districts revealed that excise duty of Rs.1.71 crore was not recovered from licensees on export of 2.85 lakh proof litre of foreign liquor on 75 permits during June 2002 to February 2004 as the verification reports were not received even after a lapse of one to 11 months as against the specified period of 21 days. No action for recovery of duty was taken by the Department. The failure of Department to recover duty has resulted in non-realisation of revenue of Rs.1.71 crore.

After this was pointed out in audit, the Department stated that action to collect verification reports would be taken. The reply is not tenable as in the absence of

³ M/s Cox India limited Nowgaon Chhatarpur

⁴ Balaghat, Dewas, Khargone, Rajgarh and Ujjain

⁵ Chhatarpur, Dhar, Gwalior, Indore, Khargone and Ratlam

receipt of verification report within the prescribed period, the excise duty should have been levied/collected by the Department.

- In one distillery excise duty of Rs.1.19 crore was not recovered from distiller on export of 1.98 lakh proof litre of foreign liquor on 43 permits during April to September 2003 though the verification reports were received late by four to 149 days, resulting in non-recovery of Government revenue to that extent.

After this was pointed out in audit, DEO (Distillery) stated that the distiller had been directed to deposit the excise duty. Further reply had not been received.

3.2.12 Loss of revenue due to non-disposal of foreign liquor

The Madhya Pradesh Foreign Liquor Rules, 1996 provide that on the expiry or cancellation of the licence in Form FL-9, the licensee may place the entire stock of spirit and bottled foreign liquor, under the control of the DEO. The former licensee may be permitted to dispose of such balances within 30 days of expiry or cancellation of the licence. If he fails to do so, the Excise Commissioner may ask any other licensee of the state to buy all or part of such balance at a rate fixed or give directions about its disposal.

Test-check of records of DEO, Rajgarh revealed that 13,732 proof litre of foreign liquor and 11,752 proof litre of spirit of a Bottling Plant involving excise duty of Rs.15.29 lakh remained undisposed from the date of expiry of his licence on 31 March 2002. There was nothing on record to indicate that EC had asked any other licensee of the state to sell of the stock of spirit pending disposal. Thus, inaction on the part of Department resulted in blockage of revenue of Rs.15.29 lakh.

3.2.13 Non-realisation of expenditure incurred on Government establishment

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

Test-check of records of four distillers⁶ revealed that the expenditure incurred on Government establishment during 2002-2003 was Rs.12.20 lakh and the revenue earned by Government was Rs.42.93 lakh. Thus, expenditure of Rs.10.06 lakh in excess of five percent of revenue earned was realisable but not realised from the distillers.

After this was pointed out in audit, the Department stated that action would be taken to raise the demand in accordance with the rules. Further reply had not been received (May 2005).

⁶ *Gwalior Distillery Ltd., Rairu, Gwlaior*
Rairu Distillery Ltd., Rairu Gwalior
M/s Associated Alcohol Pvt. Ltd., Khodigram, Barwah, Khargone.
M/s Agrawal Distillery Sabalpura Barwah, Khargone

3.2.14 *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 proof litre may be leviable on the quantity found short of the minimum prescribed stock by the EC.

Test-check of records of DEOs of four distilleries⁷ revealed that the distillers did not maintain prescribed minimum stock of spirit on 26 occasions during December 2002 to March 2004. However, DEOs did not initiate any action to send the case to the EC for levy of penalty of Rs.1.17 crore on 23.47 lakh proof litre spirit found short. The EC also did not monitor the maintenance of the stock though a return in this regard was being sent to him by the DEOs.

After this was pointed out in audit, Officers incharge of all the distilleries stated that show cause notices for short-maintenance of stock have been issued. However, no action to initiate penalty proceedings was taken.

3.2.15 *Recommendation*

To plug loopholes and enforce control over working of distilleries the Government may consider:

- prescribing norms for chemical analysis of molasses and other bases to calculate and regulate production of alcohol to keep control over revenue leakage.
- evolving effective internal control and monitoring system for realisation of duty and levy of penalty.

3.3 **Non-fixation of norms for yield of beer**

Madhya Pradesh Brewery Rules, 1970 and 2002 do not lay down any norms for yield of beer. However, Para 243 of Technical Excise Manual provides that 36 gallon of wort is obtainable from 84 pounds of malt or 56 pounds of sugar. Further, Para 208 of the Manual provide an allowance of 5 percent wastage in the process of manufacture.

Test-check of records of DEO, Bhopal revealed that in one brewery 40,005 quintal malt and 10,296 quintal sugar were used during the period from October 2001 to January 2004 which yielded 185.05 lakh bulk litre as against produceable yield of 238.41 lakh bulk litre of wort under the provision of Technical Excise Manual. Short-production of 53.36 lakh bulk litre of wort or 50.69 lakh bulk litres of beer resulted in loss of excise duty of Rs.339.16 lakh.

This was pointed out in audit, Assistant Excise Commissioner, Bhopal stated that norms for yield of beer have not been provided in the rules. Reply is not tenable as in the absence of any norms, the provisions of 'Technical Excise Manual' should have been followed. No action to fix the norms had been taken by the department.

⁷ *M/s Associated Alcohol Pvt. Ltd., Barwah Khargone*
M/s Agarwal Distillery Barwah Khargone
M/s Cox India Ltd. (Distillery) Nawgaon Chhatarpur
M/s Ratlam Alcohol & Carbondioxide Plant Ratlam

The matter was reported to the Government (March 2004); their reply had not been received (May 2005).

3.4 Non-realisation of excise duty on unacknowledged export

Madhya Pradesh Foreign Liquor Rules, 1996 provide that the leviable duty is to be recovered if verification reports of foreign liquor exported are not furnished by the exporters within the specified period of 21 days of the expiry of period of permit.

Test-check of records of DEO (Brewery), Indore revealed (November 2003) that excise duty of Rs.13.81 lakh was not recovered from one licensee on export of 1.38 lakh bulk litre beer during the period from June to October 2003. The verification reports were not received from importers after lapse of one to five months from the specified period. This resulted in non-recovery of excise duty of Rs.13.81 lakh.

After this was pointed out in audit, the DEO (Brewery), Indore stated that action to collect verification reports has been taken. The reply is not tenable as the rules require recovery of excise duty in the event of non-production of verification reports within prescribed period.

The matter was reported to the Government (February 2004); their reply had not been received (May 2005).

3.5 Non-pursuance of R.R.C. cases

Madhya Pradesh Excise Act, 1915 provides for the recovery of excise revenue from the person primarily liable to pay the same or from his surety (if any) as arrears of land revenue. Further for finalisation of RRC (Revenue Recovery Certificates) cases, action was to be taken by the Tahsildar under whose jurisdiction the case falls.

Test-check of records of DEO, Mandsaur revealed that in two cases after cancellation of licence, RRC's for recovery of Rs.8.11 crore were issued between August 2000 and December 2001 to Tahsildar, Mandsaur. In one case the Tahsildar after receipt of RRC in December 2001 had not even issued Demand Notice while other case was irregularly transferred to Collector, Neemuch for further action in jurisdiction of another Tahsildar. Thus, transfer of the case to Collector, Neemuch resulted in non-realisation of revenue of Rs.8.11 crore.

After this was pointed out in audit (August 2002), DEO stated that the revenue recovery certificate was sent to the Collector, Neemuch for effecting recovery of dues. The reply is not tenable as the defaulters belonged to Mandsaur district hence transmission of revenue recovery certificate to the Collector, Neemuch was irregular.

The matter was reported to the Government (January 2003); their reply had not been received (May 2005).