

CHAPTER-V: State Excise

5.1 Results of audit

Test check of records of the State Excise Offices, conducted in audit during the year 2002-03, revealed non/short recovery of excise revenue amounting to Rs.56.06 crore in 119 cases, which broadly fall under the following categories

(Rupees in crore)

S. No.	Category	Number of cases	Amount
1.	Non/short realisation of excise duty and licence fee	34	1.77
2.	Loss of excise duty on account of excess wastage of liquor	8	0.06
3.	Other irregularities	77	54.23
Total		119	56.06

During the year 2002-03 the Department accepted under assessment, short realisation etc. in 72 cases involving Rs.67.38 crore of which 34 cases involving Rs.2.85 crore had been pointed out in audit during 2002-03 and the rest in earlier years. The Department recovered Rs.14.01 crore in 65 cases of which 18 cases involving Rs.0.28 crore had been pointed out in audit during the year 2002-03 and rest in earlier years.

A few illustrative cases involving Rs.1.40 crore highlighting important audit observations are given in the following paragraphs:

5.2 Short raising of demand against defaulting licensees

Conditions governing tender for sale of lanced poppy heads (LPH) and bhang for the year 2001-02, *inter-alia* provides that the successful tenderer, before starting his business activities deposit security, solvency and surety equal to the licence fee. On failure to do so, the licence would be liable to be cancelled and re-allotted to other party at the risk and cost of the defaulter.

In Udaipur, it was noticed that licences for two¹ groups in Jhunjhunu district for sale of LPH and bhang during 2001-02, were sanctioned in March 2001 in favour of two licensees at licence fee of Rs.61.00 lakh and Rs.57.74 lakh respectively. On failure to deposit security, solvency and surety, both the licences were cancelled on 7th May 2001 at the risk and cost of licensees and the amount deposited by licensees towards earnest money was forfeited.

A combined group was subsequently re-allotted in favour of another licensee at Rs.36.11 lakh with effect from 31 August 2001. As such, differential amount of Rs.82.63 lakh was recoverable from the defaulters but the Department raised a demand of Rs.29.69 lakh only. This resulted in short raising of demand of Rs.52.94 lakh.

On this being pointed out, the Department stated in July 2003 that revised demand of Rs.82.63 lakh had been raised in February 2003.

The Government to whom the matter was reported in April 2003; confirmed the reply of the Department in August 2003.

5.3 Short recovery of excise surcharge

On 12 March 1997 Government notified levy of excise surcharge on beer. The surcharge on the beer sold by Rajasthan State Hotel Corporation was increased to Rs.9.62 per BL vide notification dated 21 April 1999, the recovery of which was, however, deferred upto 31 July 2001. Thus, the surcharge was payable by the Corporation in lumpsum after 31 July 2001.

In Jaipur city and Udaipur, it was noticed that permits for total quantity of 5,46,078 BL beer were issued to beer shops run by the Corporation during the period 21 April 1999 to 31 July 2001. Excise surcharge amounting to Rs.52.53 lakh was payable by the Corporation, out of which only Rs.8.51 lakh was recovered. This resulted in short recovery of excise surcharge of Rs.44.02 lakh.

On this being pointed out, the Department stated in July 2003 that Rs.0.88 lakh had been recovered in June 2003 and action to recover the balance amount was being taken. Final reply in the matter was awaited (August 2003).

The Government to whom the matter was reported in February and March 2003, confirmed the reply of the Department in July 2003.

¹ 1. Jhunjhunu–Nawalgarh, 2. Chidawa-Khetri-Udaipurwati.

5.4 Non-recovery of excise duty on beer becoming non-potable

Conditions and restrictions on establishment of bonded warehouse provide that Government shall not be responsible for loss of liquor in bond during the currency of the licence period. In case of loss, an enquiry shall be held by the Excise Commissioner. If it is found that the loss could have been prevented by reasonable precautions on the part of licensee, he may be required to pay duty and the decision of the Commissioner shall be final and binding on the licensee.

In Alwar, it was noticed that a brewery, having licence for 2001-02, stopped its production and clearance of beer in June 2001. At the time of closing, the brewery was having stock of 1,52,178 BL of strong beer and 47,280 BL ledger beer in its warehouse which became non-potable as certified by the Chemical Examiner and Chief Public Analyst, Rajasthan, Jaipur in April 2002. This resulted in loss of revenue of Rs.27.55 lakh on account of excise duty. Neither the duty was paid by the brewery nor was it demanded by the Department.

On this being pointed out in audit, the Department stated in March 2003 that recovery of excise duty was not justified in view of rule 50(1) of the Rajasthan Brewery Rule, 1972. The reply was not tenable as the said rule relates to refund of duty in case when the beer on which excise duty has been charged and paid become unfit for consumption and subject to the condition that the claim is preferred within 6 months of payment of duty. But in this case, the beer was declared non-potable due to non-clearance from warehouse of the brewery during the currency of the licence. Hence, the licensee was liable to pay excise duty.

The Government to whom the matter was reported in March 2003, confirmed the reply of the Department in May 2003.

5.5 Non-recovery of additional fee

Rajasthan Excise Rules, 1956 read with Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licenses) Rules, 1982, provide that a person seeking renewal of the licence shall apply at least one month before the commencement of the year, accompanied by a treasury receipt showing payment of prescribed licence fee. Where such application is not made within the prescribed period, it shall be accompanied by additional fee equivalent to 25 per cent of such fee.

In Jaipur, it was noticed that a licensee for the year 1999-2000 of wholesale vend of beer applied for renewal of licence. The licensee was required to submit application alongwith prescribed licence fee of Rs.17 lakh per year for renewal of licences for the years 2000-01 and 2001-02. The licensee though applied for renewal of licence in time but deposited licence fee of Rs.1.42 lakh equivalent to one twelfth of the prescribed licence fee. The balance licence fee of Rs.15.58 lakh was deposited in monthly instalments from the month of May

to March each year. Since licensee did not deposit the whole licence fee alongwith application an additional fee amounting to Rs.4.25 lakh was therefore, recoverable for each year but the same was not recovered. This resulted in non-recovery of additional fee of Rs.8.50 lakh.

On this being pointed out in audit, the Department stated in July 2003 that as per condition of the licence, the licensee was required to pay annual licence fee in 12 monthly instalments. The reply of the Department is not tenable as in the instance case the licensee was required to pay the prescribed licence fee at the time of application.

The Government to whom the matter was reported in February 2003, confirmed the reply of the Department in August 2003.

5.6 Non-recovery of excise duty on excess transit wastage of spirit

Rajasthan Stock Taking and Wastage of Liquor (At Distilleries and Warehouses) Rules, 1959, provide allowance for loss of spirit in transit. The actual loss in transit of spirit, imported or transported under bond, by leakage, evaporation or other unavoidable causes is allowed at the prescribed rates. Loss in excess of the prescribed limits is chargeable to duty.

In 5 District Excise offices¹, excess transit wastage of 6,583.629 London proof litre (LPL) spirit was allowed between May 2000 and February 2002 by the Department. This resulted in non-realisation of excise duty of Rs.6.58 lakh.

On this being pointed out in audit, the Department admitted the fact. It was further intimated in May 2003 that an amount of Rs.5.87 lakh had been recovered and efforts were being made to recover the balance amount.

The matter was reported to Government in February and March 2003; their reply has not been received (August 2003).

¹ Alwar, Hanumangarh, Jhunjhunu, Sawaimadhopur and Jodhpur.