

**CHAPTER 6**  
**STATE EXCISE**

**6.1 Results of Audit**

Test check of records of departmental offices conducted during the period from April 2000 to March 2001 revealed non-levy/short levy of excise duty, non/short collection of licence fees, privilege fees etc., non/short levy of administrative service fee, non/short collection of penalty/interest, other cases etc. amounting to Rs.32942.28 lakh in 1154 cases which broadly fall under the following categories.

Sl No	Categories	No. of cases	Amount (Rs. in lakh)
1	Non levy/short levy of excise duty	4	4.67
2	Non/Short collection of licence fees, privilege fees etc.	27	52.17
3	Non-levy/short collection of administrative service fee	6	52.49
4	Non/short collection of penalty/interest	2	0.52
5	Other cases	38	1956.63
6	Review on "Receipts under State Excise"	1077	30875.80
	<b>Total</b>	<b>1154</b>	<b>32942.28</b>

During the course of the year 2000-2001, the concerned department accepted and recovered under-assessments of Rs.1.19 lakh in 4 cases.

A Review on "Receipts under State Excise" and an illustrative case involving a financial effect of Rs.310.38 crore are mentioned below.

## **6.2 Review on receipts under state excise**

### **Highlights:**

**(i) Non-forfeiture of privilege amount and security deposit on belated submission of application for Indian made foreign spirit retail licenses resulted in loss of revenue of Rs.152.90 crore.**

*[ Paragraph 6.2.5 ]*

**(ii) Incorrect adoption of yield rate of rectified spirit resulting in notional loss of revenue of Rs.143.28 crore**

*[ Paragraph 6.2.6 ]*

**(iii) Incorrect grant of allowance in bottling process resulted in loss of revenue of Rs.5.77 crore.**

*[ Paragraph 6.2.7 ]*

**iv) Incorrect allowance of wastage for distillation resulted in loss of revenue of Rs.5.44 crore.**

*[ Paragraph 6.2.8 ]*

### **6.2.1 Introduction:**

The Tamil Nadu Prohibition Act, 1937, and rules made thereunder provide for levy of excise duty, licence fee and vend fee on Indian Made Foreign Spirits. Other levies in the nature of export fee of molasses outside the State, excise duties on Medicinal and toilet preparations, licence fees on Bars and Star Hotels for possession of liquor are also levied.

### **6.2.2 Organisational Set up:**

The Special Commissioner of Prohibition and Excise, Chennai is the Head of the Department of Prohibition and Excise and is assisted by two Joint Commissioners and 29 District Collectors/Deputy Collectors at district level. Sixteen distilleries and five Indian Made Foreign Spirit Blending Units are controlled by the Excise Department through Distillery Officers and Excise Supervisory Officers respectively.

### 6.2.3 Scope of Audit:

A review was conducted between August 2000 and April 2001 to ensure the correctness of computation, levy and collection of excise revenue made as envisaged under the Tamil Nadu Prohibition Act, 1937 and the rules framed thereunder. Eleven distilleries (out of sixteen) and all five blending units covering seventeen districts (out of 29) were test checked covering the period from April 1995 to March 2000.

### 6.2.4 Trend of receipts

(Rupees in crore)

Year	Budget estimate	Receipts	Variations increase (+) / decrease (-)	Percentage
1995-1996	601.00	934.66	(+) 333.66	(+) 55.52
1996-1997	840.00	1063.07	(+) 223.07	(+) 26.56
1997-1998	1350.00	1299.85	(-) 50.15	(-) 3.71
1998-1999	1552.00	1709.81	(+) 157.81	(+) 10.17
1999-2000	1860.00	1833.70	(-) 26.30	(-) 1.41

While the increase in trend of receipts for the years 1995-96 and 1996-97 was attributed to increase in Excise Receipts on sale of Indian Made Foreign Spirits Liquor, Spirit and Malt Liquors etc., the increase in receipts during 1998-99 accounted for the increased upset price and privilege amount fetched in auction of Indian Made Foreign Spirit retail shop.

### 6.2.5 Non-forfeiture of privilege amount and security deposit on belated submission of application for Indian Made Foreign Spirit retail licenses

Under the Tamil Nadu Liquor (Retail Vending) Rules, 1989, the auction purchaser of the Indian Made Foreign Spirit retail shop shall make an application to the licensing authority within seven days of confirmation of sale of the retail shops. The licensing authority shall on receipt of such application, issue the retail licence within three days. If the auction purchaser fails to apply within the stipulated period, the entire privilege amount together with earnest money deposit and security deposit remitted by him shall be forfeited in full and the shop shall be brought to reauction immediately.

In thirteen<sup>6</sup> districts, it was noticed that in 1023 cases the auction purchasers did not apply to the licensing authority during 1998-99 within the stipulated period. The delay ranged between 9 and 30 days and were given licenses to run the shops instead of forfeiting the entire privilege amount alongwith earnest money and security deposits and shops were not put to reauction. This resulted in loss of revenue by non-forfeiture of privilege amount and security deposit from the auction purchasers to the tune of Rs.152.90 crore.

On this being pointed out the department stated (July 2001) that the failure to follow the rule was only a minor violation.

The reply of the department is not tenable as unless the rules provide deterrent penalty, for the delay in application to the licensing authority by the auction purchaser is incorporated in the Act/Rules the existing lapses would continue.

**6.2.6 *Incorrect adoption of yield rate of rectified spirit resulting in notional loss of revenue***

Tamil Nadu Distilleries Rules, 1981, provide for minimum yield rate of rectified spirit to be recovered per metric tonne of molasses. According to the circular issued by the Commissioner of Prohibition and Excise, during the year 1995, September and November 1999, the yield rate of spirit is arrived at based on the average total reducing sugar (TRS) content available in a tonne of molasses processed by application of a formula as mentioned in the circular and the actual yield rate should not be lower than the minimum yield chart.

During the period from 1995-96 to 1999-2000, it was noticed that the formula prescribed by the Commissioner of Prohibition and Excise was not followed for the computation of the yield. In respect of eleven<sup>7</sup> distilleries the yield was restricted to the minimum yield as prescribed by the department instead of actual yield based on total reducing sugar actually available as per laboratory test. This resulted in low yield of 1,56,96,661.5 bulk litres of alcohol involving loss of excise duty of Rs.143.28 crore.

---

6 Coimbatore, Dinidgul, Erode, Karur, Madurai, Nagapattinam, Namakkal, Thanjavur, Theni, Thiruvarur, Tirunelveli., Trichy and Villupuram.

7 EID Parry (I) Ltd., SAFL, Trichy Distillery, Kothari Distillery, Thiru Arooram Sugars, Raj Shree Sugars and Distillery, Salem Co-operative Sugars, Bannari Amman Sugars and Distillery, Sakthi Sugars and Distillers, Amaravathy Co-operative Sugars and Distillers, and Dharani Sugars and Distillers .

On this being pointed out, the department stated that the actual yield as per formula was on the higher side than the minimum yield per metric tonne of molasses.

The reply of the department is not tenable because (i) the minimum yield chart is only a pointer to consider the penal provisions and not for restriction to keep the production to the minimum instead of obtaining the actual yield (ii) The Public Accounts Committee (29<sup>th</sup> Report/VIII<sup>th</sup> Assembly) in their recommendations to Para 4.1 of Audit Report 1979-80 presented in Assembly on 19 April 1986 had observed that "even assuming that attenuation factor would not be the sole criterion for determining the yield rate of alcohol, the attenuation factor itself would have been arrived at only after taking into account several processes involved in the manufacture of alcohol and hence it should be regarded as a main guiding factor to assess the probable quantity of alcohol to be manufactured from wash under given set of circumstances and suggested that norms of production of alcohol to be incorporated in the rules themselves".

### **6.2.7 Incorrect grant of allowance in bottling process**

According to Indian Made Foreign Spirit (Manufacture) Rules, 1981, an allowance of not more than half per cent for loss in bottling wastage shall be allowed on the quantity bottled. Any deficiency in excess of this wastage shall be charged with duty at the rate applicable.

During the period covered under review, it was noticed that in three<sup>8</sup> Indian Made Foreign Spirits blending units, bottling loss of 39.93 lakh bulk litres were claimed for the purpose of exemption from payment of excise duty vend fee and whole sale vend fee on the liquor that was stated to have been wasted/lost in bottling operation.

However, it was noticed that the blended liquor shown as wasted during bottling process was cent per cent collected in the rejection tanks, refiltered and rebottled immediately. Therefore, there was no actual wastage in the process of bottling and the exemption allowed from payment of excise duty for the period from April 1995 to March 2000 on a quantity of 39.93 lakh bulk litres had resulted in loss of revenue of Rs.5.77 crore.

On this being pointed out, the department accepted to raise the demand in the case of one unit (Mohan Breweries). In the other two cases the department agreed to examine the issue. Further reply has not been received so far (October 2001).

---

8 Balaji Distilleries, EMPEE Distilleries and Mohan Breweries.

### **6.2.8 Incorrect allowance for redistillation loss**

Under the Tamil Nadu Indian Made Foreign spirit (Manufacture) Rules 1981, redistillation of rectified spirit into neutral spirit, wastage can be allowed upto 3 per cent of spirit processed. The allowance on account of redistillation loss is applicable only to the blending units (Manufacturers of Indian Made Foreign Spirit) wherein neutral spirit is used in the manufacture of Indian Made Foreign Spirit.

Rule 39 of the Tamil Nadu Distillery Rules provides for penalty at Rs.16 per bulk litre of alcohol produced below the norms prescribed.

a) It was noticed that in two<sup>9</sup> distilleries in Udumalpet and Mohanur, redistillation loss of 2.01 lakh proof litre spirit was allowed during the period from 1995-96 to 1999-2000, though the distilleries producing spirit are not manufacturers of IMFL and therefore not eligible for redistillation loss and attract penalty of Rs.32.13 lakh.

This incorrect allowance on a quantity of 2.01 lakh proof litres spirit allowed as redistillation loss during the period 1995-96 to 1999-2000 resulted in loss of revenue amounting to Rs.32.13 lakh.

b) In respect of two blending units (M/s Empee Distilleries and M/s Balaji Distilleries – Tiruvallur District) which did not possess licences for redistillation process were allowed redistillation loss of 32.03 lakh proof litres for the period 1995-96 to 1999-2000 which resulted in incorrect allowance on production of neutral spirit and consequently resulted in loss of excise duties leviable thereon amounting to Rs.5.12 crore inclusive of Rs.21.96 lakh on account of Administrative Service Fee.

### **6.2.9 Non adoption of reserve price**

As per the guidelines issued by the Additional Commissioner, Prohibition and Excise to all the District Collectors (May 1998), the privilege amount realised during 1998-99 auction, should not be less than the privilege amount of 1997-98, i.e. the previous year's privilege amount, for any Indian Made Foreign Spirit retail shop (licence).

---

9 M/s Amaravathy Co-operative sugar Mills & Distilleries, Udumalpet, M/s Salem Co-operative sugar Mills & Distilleries, Mohanur

However, on a scrutiny of records at the offices of the Assistant Commissioners, Excise, Erode and Namakkal it was noticed that in respect of 39 shops, the privilege amount realised for 1998-99 auction was less than the privilege amount of 1997-98. The short realisation of privilege amount has resulted in loss of revenue to the tune of Rs.1.29 crore.

#### ***6.2.10 Improper control over the production/distribution of molasses***

According to Tamil Nadu Molasses Control and Regulations Rules 1958, the Commissioner of Prohibition and Excise shall monitor and control the estimated availability and demand of molasses in the State. He is also the licensing authority for distribution of molasses, for the purposes prescribed in the rules

It was noticed that during the period covered by review, that the production of molasses in the State of Tamil Nadu as per Commissioner, Prohibition and Excise records was 37.21 lakh Metric Tonnes (M.T). Based on the details collected from Commissioner of Sugar, Chennai and all (37) sugar factories in Tamil Nadu, the total quantity of molasses produced in the State during the period from April 1995 to March 2000 accounted for 38.33 lakh Metric tonne thus there was short accountal of molasses of 1.12 lakh Metric Tonne between two set of figures which would have fetched 1.89<sup>10</sup> lakh bulk litres of rectified spirit.

The possibility of illicit distillation of rectified spirit cannot be ruled out as illicit rectified spirit was seized in large quantity every year<sup>11</sup>. As per the information supplied (July 2001) by the Director General of Police (DGP), Police Department that 14.49 lakh litres of rectified spirit was seized during the period from 1995-96 to 1999-2000, as per the detail given below:

---

<sup>10</sup> 1.12 X 170 bulk litres (bearest minimum yield of rectified spirit per metric tonne)

<sup>11</sup> Chief Minister's statement printed in the policy note on Policy Note on P & E for 1999-2000

Year	Quantity of spirit seized (in litres) as per DGP	Quantity of spirit seized (in litres) as per Govt.
1995-1996	214489	---
1996-1997	379400	---
1997-1998	215776	233000
1998-1999	269774	221000
1999-2000	369640	289000
<b>Total quantity seized</b>	<b>1449079</b>	<b>743000</b>

This shows that there was failure in ensuring the controls vested with the Commissioner of Prohibition and Excise to monitor and regulate the availability, the demand and distribution of molasses in the State.

**6.2.11 Failure to levy administrative service fee on rectified spirit at production point in distilleries**

The Government of Tamil Nadu vide notification (February 2000) levied administrative service fee at the rate of fifty paise per bulk litre of rectified spirit produced in the distillery with retrospective effect from 4 June 1990.

During the review, it was noticed that in respect of two<sup>12</sup> distilleries in Thanjavur and Tirunelveli districts, the Administrative Service Fee during the period from 1995-96 to 1999-2000 was levied and collected on the quantity of spirit removed instead of the quantity actually produced which resulted in short levy of Administrative Service Fee of Rs.7.67 lakh.

The matter was reported (May/June 2001) to the Government and followed up with reminder (September 2001). However in spite of such efforts no reply was received (October 2001).

---

12 M/s Dharani Sugars & Distilleries (Tirunelveli), M/s Thiru Arooran Sugars and Distilleries (Thanjavur)



### 6.3. Non-collection of enhanced privilege fee

Under the Tamil Nadu Liquor (Licence and Permit) Rules, 1981, Star hotels in the State have to obtain FL3 licences for the possession of liquor in their hotels. Accordingly they have to pay privilege and licence fees annually.

Government by a notification (December 1998) enhanced the privilege fee (double the old rates) payable by such licencees.

It was noticed (During November/December 1999) in the office of Commissioner of Prohibition and Excise, Chennai, that in respect of 251 star hotels and 5 hotels with additional bars, privilege fees for the year 1998-99 were collected at the old rates instead of at the enhanced rates. This had resulted in short collection of Rs.162 lakh as detailed below.

(Rupees in lakh)

Sl No	Star Gradation	Total no. of hotels	Privilege amount to be collected per hotel	Privilege Amount Collected per hotel	Difference	Total Short collection
1	One Star	199	1.00	0.50	0.50	99.50
2	Two Star	14	1.50	0.75	0.75	10.50
3	Three Star	29	2.00	1.00	1.00	29.00
4	Four Star	5	3.00	1.50	1.50	7.50
5	Five Star	4	4.00	2.00	2.00	8.00
<b>Total - A</b>						<b>154.50</b>
<b>Renewal of Additional Bar</b>						
1	One Star	1	1.50	0.75	0.75	0.75
2	Two Star	1	1.50	0.75	0.75	0.75
3	Five Star	3	4.00	2.00	2.00	6.00
<b>Total - B</b>						<b>7.50</b>
<b>Grand Total (A+B)</b>						<b>162.00</b>

On this being pointed out (May/October 1999) the Government replied (July 1999) that date of effect has to be taken into account from the date of next financial year i.e., 1999-2000. The reply is not tenable as in a similar case the Honourable Madras High Court had upheld<sup>13</sup> on 6 January 2000 that enhanced privilege fees is payable by FL3 licencees retrospectively.

The matter was reported to the Government (April 2000); the Government stated (July 2001) that necessary notification would be issued.

---

13 WMP 22107/99 – South India Hotel and Restaurant Association Vs. Government of Tamil Nadu