

CHAPTER-III: STATE EXCISE

3.1 Results of audit

Test check of the records of the excise offices, conducted during the year 2008-09, revealed loss of revenue of Rs. 223.58 crore due to short lifting of minimum guaranteed quantity, non/delayed settlement of excise shops *etc.*, and other deficiencies in 113 cases which fall under the following categories:

(Rupees in crore)

Sl. no.	Categories	No. of cases	Amount
1.	Non/delayed settlement of excise shops	51	183.75
2.	Non/short lifting of minimum guaranteed quantity	20	19.22
3.	Non-realisation of license fee	03	0.83
4.	Loss of revenue due to low yield of spirit	01	0.65
5.	Other cases	38	19.13
Total		113	223.58

During the year 2008-09, the department accepted underassessment and other deficiencies of Rs. 31.99 crore in 43 cases, of which 18 cases involving Rs. 24.34 crore were pointed out during 2008-09 and the rest during the earlier years. The department reported recovery of Rs. 8.43 lakh.

A few illustrative audit observations involving Rs. 123.57 crore are discussed in the following paragraphs.

3.2 Audit observations

Scrutiny of the records of the state excise offices revealed several cases of non-compliance of the provisions of the Act, Rules and orders of the department as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the excise authorities are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted in the subsequent year. There is need for the Government to improve the internal control system so that such omission can be prevented.

3.3 Settlement of excise shops

Under the provisions of the Bihar Excise (settlement of licences for retail sale of country/spiced country liquor/foreign liquor/beer and composite liquor shops⁶⁵) Rules, 2007 (effective from 1st July 2007) framed under the Bihar Excise Act, 1915, the settlement of licence for retail sale of country liquor/spiced country liquor, foreign liquor/beer, wine and composite liquor shops shall be made through lottery system. According to the new excise policy, 2007 and conditions of the sale notification, the excise shops were required to be settled before the commencement of the excise year⁶⁶ (beginning from 1st April and ending on 31st March of next year). The Rules *ibid*, further provide for the licensees to deposit one twelfth part of the annual licence fee in each month in advance, failing which the licence shall be cancelled and the security deposit forfeited and the shop shall be re-settled for the remaining period with other willing applicants, as prescribed. Further, if any retail liquor shop is not settled through lottery, the Bihar State Beverage Corporation Limited (BSBCL), with the approval of the Excise Commissioner, will manage to establish and run such shops.

3.3.1 Non-settlement of excise shops

During scrutiny of the records in 14 excise districts⁶⁷ between April and December 2008, it was noticed that 455 country/spiced country liquor, 375 India made foreign liquor and 643 composite liquor shops remained unsettled. No efforts were made to operate these shops through the BSBCL during the excise year 2007-08 (*i.e.* 1 July 2007 to 31 March 2008). This resulted in loss of revenue of Rs. 118.18 crore.

After the cases were pointed out, the Assistant Commissioners of Excise/Superintendents of Excise (ACEs/SEs) of nine excise districts⁶⁸ stated between May and December 2008 that shops could not be settled due to non-availability of willing applicants and the matter was intimated to the Excise Commissioner for operation of unsettled excise shops through the BSBCL.

⁶⁵ Shops in which country liquor/spiced country liquor, foreign liquor and beer sold under one licence.

⁶⁶ For the year 2007-08 the excise year commenced from 1st July 2007.

⁶⁷ Begusarai, Bettiah (West Champaran), Bhagalpur-cum-Banka, Bhojpur-cum-Buxar, Biharsharif, Gaya, Jehanabad-cum-Arwal, Katihar, Khagaria, Motihari (East Champaran), Muzaffarpur, Patna, Rohtas-cum-Kaimur and Siwan.

⁶⁸ Bhagalpur-cum-Banka, Bhojpur-cum-Buxar, Biharsharif, Gaya, Jehanabad-cum-Arwal, Khagaria, Muzaffarpur, Patna and Rohtas-cum-Kaimur.

SEs of five excise districts⁶⁹ stated between May and August 2008 that in spite of all efforts, the shops remained unsettled due to non-availability of willing applicants. The replies, however, do not explain why the unsettled shops were not operated through the BSBCL. Further replies have not been received (January 2010).

3.3.2 Delayed settlement of the excise shops

During scrutiny of the records in nine excise districts⁷⁰ between May and December 2008, it was noticed that 86 country/spiced country liquor, 61 India made foreign liquor and 74 composite liquor shops were settled after the expiry of time ranging between 4 to 208 days during the excise year 2007-08. Thus, due to delayed settlement of the shops coupled with failure to operate the shops through the BSBCL till date of settlement, the Government lost revenue of Rs. 3.08 crore.

After the cases were pointed out, the ACEs/SEs concerned stated between May and December 2008 that efforts were made to settle the shops but due to non-availability of willing applicants, the shops could not be settled in time. The replies, however, do not explain why the unsettled shops were not operated through the BSBCL till the date of settlement. Further replies have not been received (January 2010).

3.3.3 Non-settlement of the excise shops after cancellation

During scrutiny of the records in Jehanabad-cum-Arwal and Patna excise districts between October and November 2008, it was noticed that the licences for four country/spiced country liquor, three India made foreign liquor and 10 composite liquor shops settled for the excise year 2007-08 were cancelled between September 2007 and January 2008 due to non-payment of the licence fees. These shops were neither resettled nor operated through the BSBCL after cancellation, which resulted in loss of revenue of Rs. 65.07 lakh.

After the cases were pointed out, the ACE/SE concerned stated between October and November 2008 that efforts were made to settle the shops after cancellation, but due to non-availability of willing applicants, the shops could not be settled. The replies, however, do not explain why the unsettled shops were not operated through the BSBCL after cancellation. Further replies have not been received (January 2010).

The cases were reported to the Government between September 2008 and March 2009; their replies have not been received (January 2010).

3.4 Short lifting of minimum guaranteed quantity

As per condition 19 of the sale notification issued under the provisions of the Bihar Excise Act, the licensee is bound to lift the monthly minimum guaranteed quantity (MGQ) of India made foreign liquor during the month and, in case of beer, the annual MGQ within the licence period failing which

⁶⁹ Begusarai, Bettiah (West Champaran), Katihar, Motihari (East Champaran) and Siwan.

⁷⁰ Begusarai, Bettiah (West Champaran), Gaya, Jehanabad-cum-Arwal, Katihar, Khagaria, Motihari (East Champaran), Muzaffarpur and Patna.

the licence is liable to be cancelled. Further, the Bihar Excise (Amendment) Act, 2006, provides that in case of a breach of any of the conditions of the licence which cause loss of revenue to the State, in addition to the total amount of revenue involved, an equal amount shall be imposed as penalty.

During scrutiny of the records in Bettiah (West Champaran) excise district in March 2008, it was noticed that 33 retail licensees of excise shops lifted 1.09 lakh london proof litre (LPL)⁷¹ of India made foreign liquor and 0.42 lakh bulk litre of beer against their allotted MGQ of 1.74 lakh LPL of India made foreign liquor and 1.55 lakh bulk litre of beer during the year 2006-07. Thus, the licensees did not lift 0.65 lakh LPL of India made foreign liquor and 1.13 lakh bulk litre of beer. The SE, however, did not raise the demand notice for payment of the balance duty and penalty. This resulted in loss of revenue of Rs. 1.66 crore including leviable penalty.

After the case was pointed out, the SE, Bettiah stated in March 2008 that the MGQ fixed was very high. The fact, however, remains that once MGQ is fixed, the licensee is bound to lift the MGQ. Also, the licensee started lifting only after accepting the MGQ. Further reply has not been received (January 2010).

The case was reported to the Government in September 2008; their reply has not been received (January 2010).

⁷¹ Strength of alcohol is measured in terms of 'degree proof'. Strength of alcohol, 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.