

## **CHAPTER IV: STATE EXCISE**

### **4.1 Results of audit**

Test check of the records of the offices of DETC (Excise) relating to State excise conducted in audit during the year 2008-09 revealed non/short recovery of excise duty, license fees and penalty etc. amounting to Rs. 5.59 crore in 384 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
<b>Excise and Taxation Department (State Excise)</b>			
1.	Non/late deposit of license fees and loss of interest	212	4.45
2.	Non-recovery of penalty on illicit liquor	87	0.84
3.	Non-imposition of penalty	65	0.15
4.	Miscellaneous irregularities	20	0.15
<b>Total</b>		<b>384</b>	<b>5.59</b>

During the year 2008-09, the department accepted underassessments and other deficiencies of Rs. 1.20 crore involved in 98 cases, of which 27 cases involving Rs. 45.66 lakh had been pointed out during 2008-09 and the remaining in earlier years. The department recovered Rs. 8.84 lakh in 25 cases during the year 2008-09, of which one case involving Rs. 25,000 related to the year 2008-09 and balance to the earlier years.

A few illustrative audit observations involving Rs. 2.35 crore are mentioned in the succeeding paragraphs.

## **4.2 Audit observations**

*Scrutiny of records of DETC (Excise) relating to State excise revealed several cases of non-observance of provisions of Acts/Rules and other cases 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 remain undetected till an audit is conducted. There is need for the Government to consider directing the Department to improve the internal control system including strengthening of internal audit so such omissions can be avoided, detected and corrected.*

## **EXCISE AND TAXATION DEPARTMENT**

### **4.3 Non-observance of provisions of the Acts/Rules**

*The Punjab Excise Act/Haryana Liquor License (HLL) Rules, 1970/State Excise Policy/Punjab Distillery Rules, 1932 provides for:-*

- (i) levy of excise duty/license fee/interest/penalty at the prescribed rate; and*
- (ii) recovery of cost of supervisory excise staff posted at the distillery.*

*The DETC (Excise) of respective district did not observe some of the rules in cases mentioned in the paragraph 4.3.1 to 4.3.3 whereas no clear policy has been formed for recovery of salary of excise staff posted at the distillery despite specific recommendations of the PAC as mentioned in paragraphs 4.3.4. This resulted in non-realisation/recovery of license fee/interest/penalty/cost of Rs. 2.35 crore.*

#### **4.3.1 Non-realisation of differential license fee**

Under the HLL Rules, 1970 read with the State excise policy for the year 2006-07 and 2007-08, every successful allottee of retail licensed liquor outlet, shall be required to deposit a security equal to 20 per cent of the annual license fee of the licensed outlet, out of which, five per cent of the license fee has to be deposited on the day of draw of lot, five per cent within seven days of the allotment/draw of lot on or before 31 March of the year, whichever is earlier and remaining 10 per cent by 7<sup>th</sup> April of the respective year. A person to whom a liquor outlet has been allotted shall pay by the 15<sup>th</sup> of every month the remaining 80 per cent in eight instalments equal to 10 per cent of the total annual license fee upto the month of November of the respective year. In case the allottee refuses to accept the license or fails to deposit the monthly instalment in full alongwith interest by the end of the month, the licensed outlet shall cease to be in operation on the first of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. The DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

During test check of the records of four<sup>1</sup> offices of DETC (Excise) between May 2007 and April 2008, it was noticed that 12 retail outlets were auctioned

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<sup>1</sup> Faridabad, Karnal, Kurukshetra and Sirsa.

during March 2006 and May 2007 for Rs. 1.62 crore and Rs. 1.11 crore for the year 2006-07 and 2007-08. Out of 12 successful bidders, five bidders did not deposit the security amount and the remaining seven licensees failed to pay the monthly instalments of license fee in full by the due date. Of the total license fee of Rs. 2.73 crore, the allottees deposited security amounting to Rs. 40.21 lakh and monthly instalments amounting to Rs. 34.79 lakh. Thus, the allottees did not deposit the balance amount of Rs. 1.98 crore. The department cancelled their retail liquor outlets between June 2006 and August 2007 and forfeited the entire amount of security. These retail liquor outlets were reauctioned between August 2006 and September 2007 for the remaining period for Rs. 97.35 lakh at the risk and cost of original licensees. However, the department did not initiate any action to recover the differential amount of license fee of Rs. 1.01 crore<sup>2</sup> from the original allottees. This resulted in non-realisation of Government revenue of Rs. 1.01 crore.

After the cases were pointed out between May 2007 and April 2008, DETC (Excise), Sirsa stated in January and May 2009 that license fee amounting to Rs. 25,000 had been recovered in one case and efforts were being made to recover the balance amount of Rs. 39.75 lakh from the original four allottees and issued recovery certificate for Rs. 3 lakh to DETC Hisar in one case. DETC (Excise), Kurukshetra, Karnal and Faridabad stated between August 2008 and January 2009 that efforts were being made to recover the differential amount of Rs. 60.70 lakh from the original eight allottees. A report on recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department in July 2007 and July 2008 and reported to the Government in March 2009; their reply has not been received (August 2009).

### 4.3.2 Short recovery of license fee and interest

The HLL Rules, 1970 read with the State excise policy for the year 2006-07 and 2007-08, provide for payment of monthly instalment of license fee by the 15<sup>th</sup> of each month by the licensee holding license for retail outlets for vending 'Country Liquor' (CL) and 'Indian Made Foreign Liquor' (IMFL). Failure to do so renders him liable to pay interest at the rate of one and a half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

**4.3.2.1** During test check of the records of the offices of DETC (Excise), Kaithal, Karnal and Sonapat between May 2007 and August 2008, it was noticed that retail liquor outlets for the sale of CL/IMFL were allotted to 19 licensees for Rs. 5.11 crore for the year 2006-07 and 2007-08.

<sup>2</sup> Rs. 2.73 crore - Rs. 1.72 crore (Rs. 40.21 lakh + Rs. 34.79 lakh + Rs. 97.35 lakh) = Rs. 1.01 crore

The licensees failed to pay the monthly instalments of license fee for the period between August 2006 and November 2007 in full by the prescribed dates. Against Rs. 5.11 crore, the licensees had paid only Rs. 4.59 crore. The DETCs (Excise), however, did not initiate any action to cease/seal the vends for non-deposit of monthly instalments and to levy interest for belated payments of license fee. This resulted in non/short recovery of license fee of Rs. 52.48 lakh besides interest<sup>3</sup> of Rs. 16.92 lakh.

After the cases were pointed out between May 2007 and August 2008, DETC (Excise), Sonapat stated in November 2008 and February 2009 that license fee of Rs. 4.64 lakh and interest of Rs. 76,150 had been recovered between September 2007 and January 2009. DETC (Excise), Kaithal stated in April 2008 that efforts were being made to recover the license fee. DETC (Excise), Karnal stated in August 2008 that action would be taken to recover the license fee as per provisions of the Rules. A report on recovery and final reply has not been received (August 2009).

**4.3.2.2** During test check of the records of the offices of DETC (Excise), Kaithal and Panipat for the years 2006-07 and 2007-08 in October 2007 and April 2008, it was noticed that 56 licensees failed to pay monthly instalments of license fee amounting to Rs. 5.07 crore for the period between April 2006 and November 2007 by the prescribed dates. The DETCs (Excise), however, did not levy interest for belated payment of the license fee ranging between 15 to 184 days. This resulted in short recovery of interest of Rs. 11.89 lakh.

After the cases were pointed out in October 2007 and April 2008, DETCs (Excise), Kaithal and Panipat stated between February 2008 and March 2009 that an amount of Rs. 28,071 had been recovered in one case in July 2008 and efforts were being made to recover the balance amount. A report on recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department between July 2007 and October 2008 and reported to the Government in March and April 2009; their reply has not been received (August 2009).

### **4.3.3 Non-recovery of penalty**

Under Section 61 and 61-A of the Punjab Excise Act, 1914, as applicable to Haryana, penalty not less than Rs. 50 and not more than Rs. 500 per bottle of 750 ml is leviable on the offender for possession of illicit liquor. The Act further provides that if penalty is not paid within the stipulated period, the Collector or DETC shall pass orders for confiscation of means of transport along with the liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount after deducting the expenditure incurred on it shall be adjusted towards payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

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<sup>3</sup> Interest calculated upto December 2008.

During test check of records of the offices of DETC (Excise), Fatehabad and Kurukshetra between August 2006 and May 2008, it was noticed that in 48 cases, 15,171 bottles of illicit country liquor were detained between April 2005 and October 2007 and penalty of Rs. 30.60 lakh was imposed. The department had confiscated six vehicles in these cases. Neither the defaulters paid the penalty nor the department initiated any action to recover the amount either by auctioning the confiscated vehicles or by recovery through revenue recovery certificate as arrears of land revenue even after the lapse of 17 to 47 months. This resulted in non-recovery of penalty of Rs. 30.60 lakh.

After the cases were pointed out in August 2006 and May 2008, DETC (Excise) Fatehabad and Kurukshetra stated between December 2008 and January 2009 that an amount of Rs. 2.90 lakh had been recovered in 19 cases (including auction money of two vehicles amounting to Rs. 2.60 lakh) between May 2007 and September 2008 and efforts were being made to recover the balance amount of Rs. 27.70 lakh. Further progress of recovery has not been received (August 2009).

The matter was pointed out to the ETC, Excise and Taxation Department between October 2006 and June 2008 and reported to the Government in March 2009; their reply has not been received (August 2009).

#### **4.3.4 Non-recovery of cost of supervisory excise staff**

Under Rule 13 and 16 of the Punjab Distillery Rules, 1932, as applicable to Haryana, the licensee shall agree to the posting of a Government excise establishment to his distillery for the purpose of ensuring the due observance of the Rules and for watch and ward. The licensee shall, if required by the Excise Commissioner, make into the Government treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the distillery, but he shall not make any direct payment of any member of such establishment. Further, Rule 4.1 of the Punjab Financial Rules, Volume I, as applicable to Haryana, stipulates that the amount due to the Government shall be properly assessed and after realisation it shall be paid into the treasury.

Mention was made in paragraph 4.2.12 of the Report of the Comptroller and Auditor General of India for the year ended March 1996 (Revenue Receipts) Government of Haryana regarding non-recovery of cost of supervisory excise staff. The Public Accounts Committee (PAC) in their 50<sup>th</sup> Report<sup>4</sup>, in response to similar reply during oral discussion, recommended that the Government may decide a clear policy in the matter of salary of excise staff posted at the distillery. But no such action has been taken in this regard even after the recommendation of the PAC.

During test check of the excise records of the offices of DETC (Excise), Hisar, Panipat, Sonipat and Yamunanagar between July 2007 and January 2008, it

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<sup>4</sup> 50<sup>th</sup> Report presented to the House on 15 March 2001.

was noticed that the Excise and Taxation Department posted 35 employees<sup>5</sup> in five<sup>6</sup> distilleries and paid salary expenses aggregating to Rs. 22.09 lakh during the year 2006-07. The cost of the establishment (pay and allowances) amounting to Rs. 22.09 lakh recoverable from the distilleries was neither demanded by the department nor paid by the management of these distilleries.

After the cases were pointed out between July 2007 and January 2008, the ETC stated in July 2009 that the Government had decided to recover the salary cost of supervisory staff posted in the distillery on quarterly reimbursement basis from 2009-10. Due to delay in the decision even after the recommendations of the PAC in March 2001, the department suffered a loss of revenue of Rs. 22.09 lakh.

The matter was reported to the Government in January 2009; their reply has not been received (August 2009).

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<sup>5</sup> Two Assistant Excise and Taxation Officers; 21 Excise Inspectors; two clerks and 10 peons.

<sup>6</sup> Associated Distillery Limited, Hisar; Panipat Co-operative Distillery, Panipat; Frost Falcon Distilleries Limited, Murthal (District Sonipat), Frost Falcon Distilleries Limited, Jahari (District Sonipat) and Haryana Distillery Limited, Yamunanagar.

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