

CHAPTER-III: STATE EXCISE

3.1 Results of audit

Test check of the records of state excise, conducted during the year 2008-09, revealed non/short realisation of license fee/penalty and other irregularities amounting to Rs. 37.61 crore in 30 cases, which fall under the following categories:

(Rupees in crore)

Sr. No.	Particulars	Number of cases	Amount
1.	“Collection of duties and fees on working of distilleries in Himachal Pradesh” (a review)	01	8.29
2.	Non/short realisation of license fee/penalty	18	4.61
3.	Other irregularities	11	24.71
Total		30	37.61

During 2008-09, the department accepted under assessments of Rs. 1.35 crore involved in nine cases which had been pointed out in audit in earlier years.

A few illustrative audit observations involving Rs. 2.36 crore and a review of **Collection of duties and fees on working of distilleries in Himachal Pradesh** involving Rs. 8.29 crore are mentioned in the succeeding paragraphs.

3.2 Review of Collection of duties and fees on working of distilleries in Himachal Pradesh

3.2.1 Highlights

- Allowance of inadmissible wastage to a brewery licensee in Solan district without provisions in the Act resulted in loss of excise duty of Rs. 1.97 crore.

(Paragraph 3.2.9)

- Low yield of spirit from molasses in two distilleries in Solan and Una district resulted in short collection of excise duty of Rs. 4.31 crore.

(Paragraph 3.2.14)

- Non-application of distillery rules resulted in non-recovery of license fee of Rs. 2.86 crore on the production of 425.80 quarts of country liquor in five distilleries.

(Paragraph 3.2.15)

3.2.2 Introduction

A distillery is a licensed unit where spirits are obtained by distillation of molasses, grains and malt. It includes units where such spirits are redistilled, compounded, blended and diluted to produce different kinds of Indian liquor, which are then bottled for sale.

Levy and collection of duties and fees on production, manufacture, possession, storage, transport, purchase and sale of liquor by distilleries/breweries, bonded warehouses, bottling plants are governed by the Punjab Excise Act, 1914 (Act) and rules framed thereunder, as applicable to Himachal Pradesh with amendments.

Excise and Taxation Department is responsible for collection of excise duty, license fee, brand fee, import/export fee, overtime fee, interest and penalty. Excise duty forms major part of receipts from the distilleries¹ and breweries.

3.2.3 Organisational set up

Principal Secretary (Excise and Taxation) is the administrative head at Government level. The department is headed by Excise and Taxation Commissioner (ETC), who is empowered with the task of superintendence and administration of various fiscal measures, in addition to quasi-judicial as appellate and revisional authority under Excise laws. The department has been divided in three Zones² which are headed by Additional ETC (South Zone), Deputy ETC of North Zone and Central Zone. Besides, 22 Excise and Taxation

¹ includes bonded warehouses and bottling plants

² South Zone (Shimla, Solan, Sirmour, Kinnaur and Spiti area)

North Zone (Chamba, Kangra and Una)

Central Zone (Bilaspur, Hamirpur, Kullu, Lahaul area and Mandi)

Inspectors (ETI) under the control of Assistant Excise and Taxation Commissioner (AETC) of the respective districts, are posted at the site of distilleries/breweries to oversee and regulate levy/collection of excise duties and allied levies.

Audit reviewed the system of levy and collection of duties and fees on distilleries and breweries in the State and noticed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

3.2.4 Scope of audit

There are four³ distilleries, two⁴ breweries and 11⁵ bottling plants located in five districts⁶ of the State. Test check of the records of all distilleries, breweries, bottling plants situated in these districts relating to the period 2003-04 to 2007-08 was conducted between July 2008 and March 2009, except for one distillery in Kangra district which was closed since 17.4.2006 and the records were in the custody of Police department in a court case.

3.2.5 Audit objectives

The review was conducted with a view to ascertain whether:

- the provisions of the Act/rules and instructions issued thereunder are adequate to ensure that the duties and fees that are due in the process of manufacture in distilleries, are levied and collected;
- adequate norms exist for validating the claims of manufacturers about the production of alcohol from raw materials; and
- effective internal control mechanism exist in the department to monitor the levy and collection of Government revenue.

3.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Excise and Taxation Department in providing necessary information and records for audit. An entry conference was held in August 2008 with the Principal Secretary (Excise) to the Government of Himachal Pradesh who represented both the Government and the department. The scope and methodology for conducting the review were discussed. The draft review report was forwarded to the department and the Government in May 2009 and was discussed in the exit conference held in July 2009. The Principal Secretary (Excise) represented the Government, while the ETC represented the department. Views of the Government/department have been incorporated in the relevant paragraphs.

³ Three in Solan and one in Una

⁴ One each in Sirmour and Solan

⁵ Kangra (two), Mandi (one), Sirmour (two), Solan (five) and Una (one)

⁶ Kangra, Mandi, Sirmour, Solan and Una

Audit findings

3.2.7 Trend of revenue

Provisions of Himachal Pradesh Budget Manual (HPBM) lay down that the actuals of previous years and the revised estimates ordinarily afford the best guide in framing the budget estimates (BEs). A continuance of any growth or decline in income indicated by them, may in the absence of definite reasons to the contrary, properly be assumed in all cases in which the proportionate estimates can be usefully employed. But special attention should be paid to new sources of revenue of which account has not been taken in previous years. The reasons which led to the adoption of the figures for the BEs should be briefly and clearly explained. A comparison of BEs with the actuals realised from distilleries, during the years 2003-04 to 2007-08, is given below:

(Rupees in crore)

Year	Receipt from distilleries			
	BEs	Actual	Variation (+) increase or (-) decrease	Percentage of variation
2003-04	4.22	3.31	(-) 0.91	(-) 22
2004-05	4.22	4.21	(-) 0.01	---
2005-06	4.77	5.73	(+) 0.96	(+) 20
2006-07	5.54	6.53	(+) 0.99	(+) 18
2007-08	7.04	5.84	(-) 1.20	(-) 17

Except for the year 2004-05, during 2003-04 and 2007-08, actual realisation from distilleries declined by 22 per cent to 17 per cent whereas during 2005-06 and 2006-07 it increased by 20 per cent and 18 per cent respectively. This indicates that the estimation during these years were arbitrary and were not prepared on realistic basis. The department stated in April 2009 that the Government fixed target/BEs to be achieved by the department under state excise which included receipts from the distilleries. The above facts revealed that the department had not followed the provisions of HPBM while framing the BEs, which led to variation.

Monitoring and internal checks

3.2.8 Internal control

Internal control comprises of two mechanisms i.e. internal audit and departmental inspections.

3.2.8.1 Internal audit

Internal audit (IA) wing has been functioning in the department since 1987. Manual regulating functioning of internal auditors had not been finalised as yet. However, norms for annual audit of district/units under excise head had been prescribed in the guidelines regulating the functioning of audit wing. None of the test checked manufacturing units located in the State were audited by internal auditors during the period under review. Reasons advanced by the department were insufficient staff and absence of specific manual defining the duties of internal auditors.

3.2.8.2 Departmental inspections

Financial Commissioner (FC) (Excise) fixed norms for inspections of distilleries/breweries in the State by various departmental officers which were to be carried out in July every year by rotation. The inspections required and actually conducted during the years 2003-04 to 2007-08 are mentioned below:

Year	Inspections required	Inspections done	Shortfall	% age of shortfall
2003-04	10	3	7	70
2004-05	15	1	14	93
2005-06	12	7	5	42
2006-07	11	4	7	64
2007-08	13	4	9	69
Total	61	19	42	69

The shortfall in departmental inspections ranged between 42 and 93 *per cent*.

The Government stated that due to finalisation of important matter the target could not be achieved and efforts would be made to achieve the target fixed. It was observed that no follow up action has been taken on inspections.

System deficiencies

3.2.9 Loss of duty on inadmissible wastages

Punjab Brewery Rules (PBR), 1932 as applicable to Himachal Pradesh provided for levy of duty on beer at the prescribed rate on the total quantity actually brewed as entered in the brewing book or as ascertained by the ETI whichever is higher, less an allowance of 10 *per cent* for wastage. This rule was struck down by the Hon'ble Supreme Court of India, in November⁷ 1996 on the plea that excise duty was exigible to duty at the time when the finished product i.e. beer was received in bottling tanks or the finished product is removed from the place of storage or warehouse etc. No rule since then has been framed for allowing the wastage.

Test check revealed that 298.21 lakh bulk litres (Bl) of finished beer were received in bottling tanks of a brewery in Solan district during the period 2003-04 to 2007-08. Out of this, wastage of 20.56 lakh Bls of beer was claimed and allowed by the department after the beer with required alcoholic strength reached the stage of bottling tanks. Allowance of wastage without any provision in the Act was incorrect and resulted in loss of excise duty of Rs. 1.97 crore.

3.2.10 Non/improper maintenance of record

Rule 10.16 of PBR stipulates that an inspector or any other officer authorised by the Collector can take samples of material used in any stage of the manufacture of beer. The reports of the chemical analyst on these samples would determine the strength of the beer. The excise announcements/allotments issued from time to time provide for different rates of excise duty for different kind of strengths of beer. For levy of excise duty at varying rates, strength wise separate stock

⁷ No. 1996 (9) in the case of M/s Mohan Meakin Ltd. Solan V/s ETC, HP and others

accounts of beer were to be maintained on the basis of these sample reports. However, no register for record of sample taken was prescribed under PBR though maintenance of such register is prescribed under PBR, 1956.

A brewery in Solan district is engaged in manufacture of beer of two strength i.e. upto five *per cent* alcoholic contents and above five *per cent* upto 8.25 *per cent* alcoholic contents. No record of strength wise stock of beer was maintained in the brewery, in absence of which, the correctness of the strength of 16.32 lakh Bls of beer involving difference in duty of Rs. 75.07 lakh, sold within the state during 2003-04 to 2007-08 could not be ascertained by Audit.

The department stated that sample register was not prescribed under PBR as such not maintained. However, for proper levy of excise duty on the strength of beer, sample register may be maintained.

3.2.10.1 To monitor the movement of in-bond⁸ consignments, a register in form L-36 containing 16 columns, has been prescribed to be maintained at district level. Column 1 to 10 is to be filled up at the time of issue of authorisation and column 11 to 16, on follow up of these consignments.

Test check of the records of Solan district, revealed that 3,825 sanctions of export in-bond were issued in favour of three distilleries between 2003-04 and 2007-08, by recording necessary entries in column 1 to 10 of the prescribed register at the time of issue of sanctions. Follow up of these in-bond consignments, required to be recorded in column 11 to 16 had not been filled up. Resultantly, it could not be verified by Audit whether all consignments had reached the destination in full and any shortages or non-receipts had also been charged to duty. Particulars of discharge of bonds was also not recorded. This proved that monitoring part was lacking at district level.

The Government stated that necessary instructions in this regard were being issued. Follow up action was awaited.

3.2.11 Non-recovery of revenue on samples not taken back

Punjab Distillery Rules (PDR), 1932 provide that samples of liquor shall be taken in three bottles of 750 mls each by the ETI incharge. One sample shall be handed over to the licensee, second shall be sent for analysis and the third to be retained by the excise officer concerned, pending disposal of the case. The licensee shall keep a regular account of the disposal of such duty free spirit. All spirit which becomes waste in the laboratory and does not by the addition of any chemicals or otherwise, become deleterious, shall be returned to the distillery for redistillation. However, no time limit had been prescribed for the return.

Test check of the records revealed that during 2003-04 to 2007-08, 7,528 and 9,974 samples of country liquor (CL) and Indian Made Foreign Liquor (IMFL) respectively were drawn from nine distilleries⁹ from their blended brands.

⁸ Authority for export of spirit without payment of duty

⁹ M/s Mohan Meakin Ltd. Brewery, Solan; M/s K.M. Distillery, Parwanoo; M/s United Spirit Ltd. Baddi; M/s Himalayan Gold Beverages Pvt. Ltd. Nalagarh; M/s Sabacchus Distillery Ltd., Nalagarh; M/s Tiloksons Brewery and Distillery, Manthapal; M/s Yamuna Beverages (P) Ltd. Nariwal; M/s VRV Foods Ltd. Sansarpur Terrace, Kangra and M/s Basandrai Bottlers Pvt. Ltd. Nerchowk, Mandi

Except one sample as sent to the chemical analyst, two samples each of 750 mls aggregating to 1,882 and 3,602 Pls of CL and IMFL were required to be taken back for redistillation. These were, however, not returned to stock which resulted in non-realisation of excise duty and license fee of Rs. 1.15 lakh.

The department accepted the audit observation and stated in February 2009 that Rs. 34,000 had been recovered from two distilleries. Further report on recovery has not been received.

3.2.12 Irregular/inadmissible allowance of wastage in maturation process

The scale of wastage in maturation of malt spirit for Kasauli distillery had been prescribed by ETC in 1965. In case of excess wastage, the recovery of excise duty was to be made at stipulated rates. No such notification was issued in favour of other distillery in Himachal Pradesh.

Test check of the records of a distillery revealed that the department incorrectly applied the rates of wastage norms of Kasauli distillery to Una distillery which came into existence in 1979. This resulted in irregular allowance of wastage of 16,316.89 Pls of spirits in maturation process during 2003-04 to 2007-08 involving excise duty of Rs. 3.99 lakh.

The Government stated (July 2009) that there was a need to prescribe a scale of wastage for the State as a whole under the PDR, for future.

However, further action taken has not been intimated (September 2009).

3.2.13 Non-fixation/adherence of norms

Norms of yield of spirit from various carbon sources such as grains, waste sugar, liquid flour slurry and grain flour, being used in producing spirits, had not been fixed. Yield as disclosed by the licensee was taken for granted. The department had so far not made any studies on this count.

The Government stated (July 2009) that norms of yield would be fixed after getting the analytic work from Chemical Analyst. Further report was awaited.

Compliance deficiencies

3.2.14 Low yield of spirit from molasses

Rule 9.37 of PDR provides that one mound (0.37 quintals) of molasses shall be considered equal to 3.5 London Proof Gallons (15.89 Pls) of country spirit.

Two distilleries in Solan and Una districts put in 13,44,416 maunds (4,97,433.90 quintals) of molasses for manufacture of rectified spirit (RS) during 2003-04 to 2007-08. Against the yield of 213.63 lakh Pls, the actual yield was shown as 170.53 lakh Pls of RS. Thus, 43.10 lakh¹⁰ Pls of RS,

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Quantity in quintals	Quantity in maund	Production as per norms (Pls)	Actual production (Pls)	Short production (Pls)	Excise duty leviable @ Rs. 10/- PPls
4,97,433.90	13,44,415.94	2,13,62,770	1,70,52,629.67	43,10,140	4,31,01,400

involving excise duty of Rs. 4.31 crore was short produced, for which no reasons were investigated/on record.

After this was pointed out, the Government stated (July 2009) that it was not possible to adhere to the norms of yield fixed under PDR, because of changed circumstances. However, steps were being taken to refix the norms as per present realities. Since this had resulted in a constant source of loss of revenue to the State exchequer, this could have been foreseen and examined by the department earlier and norms got refixed.

3.2.15 Non-application of distillery rules

Rule 5AA read with rule 5(3) of PDR provide that a D-2A¹¹ license shall be granted/renewed on deposit of license fee of Rs. 75,000. Further, the license fee at the rate of 70 paise per quart of 750 mls of CL shall be charged on production basis quarterly subject to first adjustment of Rs. 75,000 paid at the time of grant/renewal of license.

Test check of the records revealed that five distilleries¹² had been granted D-2A license on payment of fee of Rs. 75,000, thereafter fee payable at each quart was not paid. This resulted in non-recovery of Rs. 2.86 crore on production of 4.26 crore quarts during the year 2003-04 to 2007-08.

After this was pointed out, the Government stated (July 2009) that D-2A license was granted only for double distillation of spirit but no bottling was done under this license and license fee on production basis was not chargeable.

Fact remains that rule 5(3) of PDR which stipulates payment of license fee on quart basis. Here the licensees had only paid the license fee of Rs. 75,000 and fee at the prescribed rates required to be payable quarterly on the quarts produced, after adjustment of Rs. 75,000, had not been paid.

3.2.16 Non-renewal of bonded warehouse license

Under rule 5(3) of Himachal Pradesh Bonded Ware House (HPBWH) Rules 1987, license fee for annual license on BWH-2 has been prescribed as Rs. 75,000 at the time of grant/renewal of license. Further, license fee at the rate of 70 paise per quart of 750 mls on production of CL is also required to be recovered within seven days after the expiry of each quarter. The license is required to be renewed at least 90 days before its expiry.

A bottling plant in Parwanoo engaged in in-bond import of RS, its receipt, storage, reduction, blending and bottling of CL was granted Bonded Warehouse license on form BWH-2 upto the year ending 31.3.2007. Thereafter, the license was not renewed though the plant is still continuing the storing and other activities. Non-renewal of license due for renewal in December 2006 and December 2007 for the period for 2007-08 and 2008-09 resulted in non-recovery of Rs. 9.09 lakh in addition to renewal fee at the rate of Rs. 75,000 each for these years.

¹¹ Establishment of still for redistillation of spirit

¹² M/s HPGIC Parwanoo; M/s K.M. Distillery Parwanoo; M/s Patiala Distillers and Manufactures Ltd. Baddi; M/s Yamuna Beverages Pvt. Ltd. Sirmour and M/s VRV Foods Ltd. Sansarpur Terrace, Kangra

After this was pointed out in audit, the Government stated (July 2009) that recovery of renewal fee of Rs. 1.50 lakh was being made from the licensee. As regards recovery of Rs. 9.09 lakh, it was stated that the same had already been recovered. Fact remains that as recoveries already made pertained to D-2A license of the licensee. Moreover, in the absence of this license, quarterly recoveries against it were without justification.

3.2.17 Non-invoking of provisions of bond

Rule 21 of HPBWH Rules provide that liquor may be removed from a warehouse (1) under bond and (2) on payment of duty within the State or outside the State. In case of issue of liquor under bond, the licensee shall execute a bond in form L-37 to deliver the spirit at a particular place or destination and shall furnish proof of his having done so in form L-38, within a period of 30 days or as specified in the bond, before the bond can be discharged. If the proof is not produced within the specified period, unless the omission is satisfactorily explained, the Collector shall call upon the manager to deposit the amount specified in the bond executed by him in respect of the consignments.

During May 2004 and October 2007 to March 2008, 22 sanctions authorising export in-bond of 87,201 Pls of IMFL and 91 sanctions of 5.06 lakh Bls of beer were granted in favour of two distilleries and one brewery¹³ on execution of a bond in form 37. The licensee was required to furnish certificates in form L-38 of arrival of IMFL/beer at specified destination within specified time limit, which had expired during June 2004 and November 2007 to April 2008. The certificates in form L-38 were awaited and the provisions of the bond were not invoked till January 2009, despite the fact that limitation period for procuring certificate of arrival had already expired. This resulted in non-recovery of excise duty amounting to Rs. 81 lakh.

The Government stated (July 2009) that the Collector of the zone was being directed to take action immediately. Further report on recovery was awaited (September 2009).

3.2.17.1 Non-levy of penalty in delayed submission of L-38 Form

The certificates of arrival of IMFL/Beer in form L-38 are required to be furnished to the Collector (DETC) within the prescribed period. Section 68 of the Act provides for a fine which may extend upto one thousand rupees for every such act or omission contravening the provisions of the Act or any rule.

Test check of the records of a distillery in Una district revealed that 257 export in-bond sanctions were issued during 2007-08. Out of these, in 244 cases L-38 were received late. The delay ranged between 27 days to five months. None of these cases were sent to the Collector till January 2009, for levy of penalty for violation of the provisions of the bond. The codal provisions were therefore, violated by the department itself.

¹³ M/s Himalayan Gold Beverages Pvt. Ltd. Nalagarh, M/s Ranger Brewery Ltd. Mehatpur and M/s South Asia Brewery Tokion

The Government stated (July 2009) that Collector of the zone was being directed to take action immediately. Further report was awaited (September 2009).

3.2.18 Non-furnishing of prescribed returns

Rule 9.37 of PDR provides that a licensee shall on the 1st and 15th day of each month report to the ETI, the quantity in stock of grain, molasses and empty bottles, labels, corks etc. in gross numbers and shall permit the ETI to verify the quantity, if he desires to do so.

Test check of records of 16 licensed distilleries/breweries revealed that the above reports were neither called for by the department nor the licensees were furnishing the report to the inspector filing such returns. This aspect had also been overlooked by departmental officers entrusted with the periodical inspections.

Scrutiny of detail of bottles, labels and corks received, used, wastage and balance of a distillery for the year 2007-08, further revealed in audit that against consumption of 38.03 lakh labels of different quantity for equal number of bottles filled, 40.93 lakh labels were shown as consumed including wastage of 67,000 labels as claimed by the management. The excess consumption of 2.23 lakh labels was sufficient enough to bottle 96,000 Pls of CL involving excise duty of Rs. 4.82 lakh.

The Government stated (July 2009) that necessary instructions were being issued. Further report was awaited.

3.2.19 Non-levy of duty on excess wastage in manufacture of Extra Neutral Alcohol

PDR provide 1.5 *per cent* wastage allowance in redistillation of spirit. Wastage of spirit over and above the prescribed limit would be charged to excise duty.

A distillery in Una district manufactured 9.71 lakh Pls of extra neutral alcohol (ENA) through the process of redistillation of 10.12 lakh Pls of RS during 2003-04 and 2004-05. The loss in the process was 40,817 Pls of ENA against the permissible wastage allowance of 15,180 Pls. Excise duty of Rs. 6.90 lakh for the excess wastage of 25,637 Pls was not recovered from the licensee.

3.2.20 Non-recovery of interest on late deposit of license fee

PDR provide for levy of interest at the rate of 12 *per cent* per annum up to one month and at 18 *per cent* per annum thereafter in case of late payment of license fee or part thereof. However, no such provisions had been made in the rules for late deposit of overtime fee.

Test check of the records revealed that three distilleries in Solan and Sirmour districts deposited the quarterly license fee late ranging between three and 476 days. Interest amounting to Rs. 2 lakh was neither demanded by the AETCs nor paid by the licensees resulting in non-recovery of interest to that extent.

After this was pointed out in audit, the department/Government stated (July 2009) that between February and July 2009, Rs. 27,000 had been recovered

from two distilleries and efforts were being made to recover the balance amount. Further report on recovery was awaited (September 2009).

3.2.21 Non-recovery of duty on spirits short transferred

PDR prescribe for maintenance of various control registers such as spirit store room (D-14) (SSR), blending and bottling operations (D-13B) involved in the manufacturing process of liquor. Spirits transferred from one SSR/Vat to another through the pilfer proof fitted pipes involves no transitory wastages. As such quantity issued from one Vat to another should be the same.

Test check of D-14 and D-13B registers revealed the following irregularities:

- A distillery in Mandi district issued 14,630.17 Pls of spirits from D-14 to D-13B on 5th and 30 April 2007. This quantity was not accounted for in D-13B.

The Government stated (July 2009) that 7,243.42 Pls of spirits transferred on 5th April were accounted for on 7th April. However, no reply was furnished for remaining quantity of 7,386.75 Pls of spirits involving excise duty of Rs. 1.70 lakh, transferred on 30th April.

- Another distillery of Solan district issued 6,90,481.14 Pls of spirits/ENA from D-14 during May 2004, October 2004 and February 2005. Against this, quantity 6,26,119.93 Pls were shown as accounted for in D-13B. The short accountal of 64,361 Pls involved excise duty of Rs. 17.38 lakh.

The cases were pointed out in August 2008, neither the reconciled accounts were shown to audit nor the recovery of excise duty was affected.

The Government stated (July 2009) that as per report of ETI, there was no short accountal and nothing was outstanding against the distillery. However, in view of the variations noticed by audit in the records maintained by the distillery there is a need for investigation of the matter by the departmental officers.

3.2.21.1 Test check of D-14 register of a distillery in Solan district revealed that against 3,929.28 Pls of spirits of a brand of liquor, 3,046.3 Pls only were dispatched to another distillery in the same district as per excise pass number 213515 dated 24.4.2004. But the entire quantity was shown as transferred from D-14 of the licensee. Thus, 883.58 Pls of spirits involving excise duty of Rs. 24,000 was short transferred, for which no reasons were on record.

After this was pointed out, the Government stated (July 2009) that the matter was being enquired into. Further reply was awaited (September 2009).

3.2.22 Non-payment of license fee for bottling of CL

Condition No. 7 of the D-2/D-2A license stipulate that if the licensee infringes, or causes or permit any person to infringe, any of the condition of the license, the FC may forthwith revoke and determine the license. Under condition No. 8 of the license, the licensee is required to pay regularly and by due dates all payment which may due to Government. Under rule 5 of PDR, the license fee is required to be paid by seventh of the next month of the completed quarter.

Test check of the records of two distilleries in Sirmour district revealed that Rs. 15.45 lakh was outstanding as on 31.3.2008 on account of license fee for the year 2007-08. No action was taken for revocation and determination of licenses of these defaulters. Instead, the licenses were renewed for the year 2008-09 also.

The Government stated (July 2009) that an amount of Rs. 8.86 lakh out of Rs. 10.03 lakh had been recovered from a licensee. Further report on recovery and reply from another licensee was awaited (September 2009).

3.2.23 Ineffective control through excise barriers

In order to curbing inter state smuggling of liquor and illicit distillation in the State, ETC issued instructions in 1998 wherein excise staff posted in all multipurpose barriers were directed to maintain "Excise Check Registers" (ECR) containing full particulars of the consignments of liquor passing through these barriers.

ECR maintained by a barrier in Solan district revealed that the register had been maintained haphazardly without entering full particulars of the consignments. It was also noticed that the ECR had not been checked by any departmental officers entrusted with barrier inspection. Test check further revealed that a bottling plant in same district exported in-bond 243 consignments during 2007-08 containing 9.84 lakh Pls of IMFL through multipurpose barrier, Baddi, as recorded on the excise passes issued by the inspector Incharge of the plant. Out of this, only 206 consignments containing 8.34 lakh Pls of IMFL were found entered in the ECR maintained at Baddi barrier. The remaining 37 consignments containing 1.50 lakh Pls of IMFL involving excise duty of Rs. 34.47 lakh were not entered in the register. No periodical return to higher authority had been prescribed in the rules to make a correlation of entries in the register with consignments actually dispatched on sanctions so issued. Hence, the control through excise barrier had proved ineffective.

The Government stated (July 2009) that necessary instructions in this regard were being issued. Further reply was awaited (September 2009).

3.2.24 Non-levy of penalty for late deposit of overtime fee

Rule 9.32 (1) of PDR provides that a distillery may remain open for work on public holiday or on any other day being a holiday in Government offices provided a written approval of Excise and Taxation Officer (ETO), incharge of the distillery or in his absence approval of the ETI of the distillery, has been duly obtained atleast 24 hours before the holiday. For this purpose, a fee of Rs. 500 per day and in cases where the distillery remain open after normal working hours in any day, a fee of Rs. 100 per hour or part thereof shall be payable within seven days of the closure of the month concerned. Section 68 of the Act, provides for a fine which may extend upto one thousand rupees for contravening the provisions of the Act/Rules.

Test check of the records revealed that three distilleries deposited overtime fee of Rs. 1.23 lakh late by two to 108 days in 37 cases, no penalty was imposed.

The Government stated (July 2009) that concerned ETO/ETI had been directed to send the cases of late deposit of overtime fee for penal action. Further report was awaited (September 2009).

3.2.25 Non-authentication and maintenance of control registers

PDR provide for maintenance of various control registers through which the department could exercise checks on the receipt and disposal of spirits and liquors.

- Control registers such as D-12A¹⁴, D-13A¹⁵, D-13B¹⁶, D-14¹⁷ and D-14A¹⁸ prescribed in the PDR had not been maintained/authenticated for the period 2003-04 to 2007-08 by ETI incharge of distilleries one each in Solan, Sirmour, Una, Kangra and Mandi districts.
- Wastage registers such as D-26¹⁹, D-27²⁰, D-28²¹, D-29²² showing loss of spirits at various stages of manufacturing of liquor had not been maintained by four distilleries in Solan, Sirmour, Kangra and Mandi districts.
- D-24, a sample register showing samples drawn for chemical analysis had not been maintained by a distillery in Sirmour district.

Prescribed checks were thus not exercised as required under rules. In the absence of prescribed control registers, correctness of receipt and disposal of spirits/liquors could not be verified in Audit.

The Government stated (July 2009) that necessary instructions in this regard were being issued. Report on follow up action was awaited (September 2009).

3.2.26 Conclusion

Excise receipt is an important source of revenue of the state Government. The Government has not yet specified norms for the production of spirits from grain and other carbon sources to regulate production of spirits. The department did not exercise control over the working of distilleries/breweries through inbuilt control mechanisms. The monitoring mechanism to watch and control collection of excise revenue on in-bond consignments was ineffective and needs to be strengthened. The Punjab Excise Act, 1914 (Act) is applicable in the State, there is a need for an Excise Act and legislation which is applicable uniformly to the entire State.

14 Redistillation of RS
 15 Spirit received
 16 Bottling operation
 17 SSR
 18 Bottled spirit store room
 19 Wastage in SSR
 20 Wastage in bottling operation
 21 Wastage in BSSR
 22 Wastage in redistillation

3.2.27 Recommendations

In order to plug loopholes and enforce control over working of distilleries, the Government may consider:

- strengthening of internal audit system of the department by clearly defining the duties of internal auditor;
- prescribing a sample register containing strength wise stock of beer under the rule;
- prescribing norms of yield of spirit from molasses and other carbon sources; and
- bringing out its own Act and legislation on the levy and collection of state excise duties and fees.

3.3 Other Audit observations

Scrutiny of records in the offices of Excise and Taxation Department relating to revenue received revealed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of license fee and fees 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 are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

3.4 Non-compliance of provisions of Act/Rules

The Himachal Pradesh Liquor License Rules, 1986 provide:

- (i) *levy of license fee;*
- (ii) *levy of fixed fee at prescribed rate.*

The AETC did not observe some of the above provisions in cases mentioned in paragraphs 3.4 and 3.5 which resulted in non/short levy of license/fixed fee of Rs. 235.84 lakh.

3.4.1 Non/short recovery of license fee on the closing stock

Rule 35(16) of Himachal Pradesh Liquor License Rules, 1986, as amended from time to time, stipulates that entire quota of liquor lifted by the licensee during the year shall have to be sold during the validity of his license and the licensee shall not be permitted to sell it after expiry of the license. Rule 37(32) provides that if any person who had been granted license under these rules and had in his possession any stock which he was not in a position to dispose of till 31 March, shall surrender the same to the Collector, who shall make over the surrendered stock to the incoming licensee. As per para 5(b) of Excise Allotments (EAs) for the year 2007-08, the license fee based on the lifting of quota, was Rs. 130 and Rs. 160 per proof litre (Pl) for CL and IMFL and Rs. 15 per bulk litre for Beer.

3.4.1.1 Test check of the records of AETC Mandi in March 2009 revealed that 1,05,723.662 proof litres of country liquor and 52,513.188 Pls of IMFL were surrendered on 31 March 2007 by the outgoing licensees, on which license fee of Rs. 2.21 crore was recoverable from incoming licensees of 2007-08. This was not recovered resulting in non-recovery of license fee of Rs. 2.21 crore.

After this was pointed out in audit, the Government stated in July 2009 that an amount of Rs. 12.20 lakh had been recovered on account of surrendered stock of country liquor and IMFL and nothing is due for recovery now. Reply of the department is not correct as the department had recovered the license fee only on 1,496.315 proof litres of country liquor and 6,406.324 Pls of IMFL whereas the outgoing licensees as on 31 March 2007 surrendered 1,05,723.662 proof litres of country liquor and 52,513.188 Pls of IMFL.

3.4.1.2 In AETC Solan, scrutiny of records between June and August 2008 revealed that 10,986.967 proof litres of country liquor/IMFL (liquor) and 3,528.460 bulk litres of Beer were lying unsold on 31 March 2007. The

department was required to recover the license fee of Rs. 17.38 lakh from the concerned licensees against which it recovered Rs. 8.81 lakh on the quantity of 5,833.640 Pls of liquor and 148.20 Bls of beer only. This resulted in short recovery of license fee of Rs. 8.57 lakh.

After this was pointed out in audit, the Government stated in July 2009 that AETC had directed the ETI to recover the amount of Rs. 8.57 lakh from the licensees. Further report on recovery has not been received (September 2009).

3.5 Short recovery of fixed fees

As per Announcements of EAs for the year 2007-08, "Fixed fees" for L-1B license in respect of wholesale vend of foreign liquor, had been prescribed as Rs. 1 per Pl subject to minimum of Rs. 25,000 whereas for beer, wine and cider, it was 30 paise per Bl subject to minimum of Rs. 15,000.

Test check of the records of AETC Kangra at Dharamsala in February 2009 revealed that "Fixed fees" from two licensees²³ had not been realised at the prescribed rates on the quantity of 20.52 lakh Bls of beer and 52,000 Pls of IMFL, imported by them during 2007-08. Against the payable amount of Rs. 6.67 lakh, the department had recovered the minimum "Fixed fees" of Rs. 40,000 only. This resulted in short recovery of fees of Rs. 6.27 lakh. The AETC did not take any action to recover the fees short realised.

After this was pointed out in audit, the Government stated in July 2009 that fixed fees of Rs. 6.15 lakh had been recovered and action for recovery of balance amount of Rs. 12,000 was being taken. Further report on recovery has not been received (September 2009).

²³ M/s Devans Modern Breweries, Dhangupir: Rs. 6 lakh and M/s Pioneer Industry Ltd., Damtal: Rs. 27,000