

APPENDIX-I

Para 4 of letter of Excise Commissioner specifying rates of licence fee under the Uttar Pradesh Excise Policy 2003-2004

9.1 Under the provisions of Para 4 of Excise Commissioner's letter specifying rates of licence fee under the Uttar Pradesh Excise Policy 2003-2004, the annual licence fee in respect of retail shops of foreign liquor is leviable on the basis of number of bottles sold in the current year. As per the new excise policy (from 2002) the number of bottles was to be calculated on the basis of actual sale of nine months i.e. from April to December and presumptive sale of three months on the basis of 1/3 of sale of April to December. From 2009-10 onwards it was calculated on the basis of actual sale of 10 months i.e. from April to January and presumptive sale of February and March by 1/5 of April to January.

In case, any difference of license fee realised from the retailers on the basis of the aforesaid formula henceforth called presumptive sales and the license fee realisable from the actual sales is noticed, the matter should be referred to the Government for seeking their guidance so that there is no loss of revenue to the Government.

Rule 14 of Uttar Pradesh Excise (Settlement of Licences of Retail Sale of Country Liquor) Rules, 2002

9.2 A minimum guaranteed monthly quota (MGQ) of country spirit to be lifted by each licensee is fixed by the department. A licensee is required to lift the entire MGQ fixed for him during a year. In case of failure, the licensing authority has to adjust the amount of licence fee of the liquor short lifted, from the security deposit of the licensee and also issue a notice to the licensee by the third day of the next month to replenish the deficit in the security amount either by lifting such quantity of country liquor involving duty equivalent to the adjusted amount or by depositing cash or a combination of both. In case the licensee fails to replenish the deficit in security amount by the tenth day of the next month, his licence would be cancelled.

Uttar Pradesh Excise Policy 2003- 2004

9.3 The Government order dated 10 January 2007, fixed the licence fee for setting up a model shop for the year 2007-08 or part thereof at ` eight lakh or the highest licence fee among the settled retail shops in the district for the same year, for both foreign liquor and beer, whichever was higher.

Rule 12 of Uttar Pradesh Excise (Settlement of Licences of Retail Sale of Country Liquor) Rules 2002

9.4 Under the provisions of Rule 12 of Uttar Pradesh Excise (Settlement of Licences of Retail Sale of Country Liquor) Rules, 2002 (as amended), the entire amount of Basic Licence Fee (BLF) is required to be deposited within three working days, half of the security amount within 10 working days and rest of the amount within 20 working days, of receipt of the intimation of the selection of shops. In case of default, the selection of shops would be cancelled and amount of BLF and security deposits, if any, would be forfeited in favour of the Government and the shops would be resettled forthwith.

Financial Hand Book Part I Volume V

9.5 As per provisions of Part I Volume V of the Financial Hand Book, any security deposit that remained unclaimed for three financial years is required to be treated as a lapsed deposit and credited to the revenue receipts of the Government. There is no provision for carrying forward the security deposits made by a licensee during a year to the next year either in the Act or in the rules.

Rule 27 of *Uttar Pradesh Sheera Niyamavali, 1974* and Section 11 of *UP Sheera Niyam Adhiniyam 1964*

9.6 Rule 27 of *Uttar Pradesh Sheera Niyamavali, 1974* provides for verification of MF 4 passes, by which molasses are received in distilleries from sugar factories, within one week of the arrival of the consignment at the distillery. Under the provision of Section 11 of *UP Sheera Niyam Adhiniyam, 1964*, a person contravening the provisions of this Act/rules/orders made or issued thereunder, will be punishable with imprisonment or with fine which may extend to two thousand rupees or both and, in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which the contravention continues after conviction for the first such contravention.

Rule 32 of the *Uttar Pradesh Sheera Niyamavali 1974*

9.7 Rule 32 of the *Uttar Pradesh Sheera Niyamavali 1974*, states that every sugar factory is required to maintain an accurate daily account of molasses produced, stored, issued, sold or wasted in a register in form M F 5. Quantity of the molasses stored in tanks can be calculated on the basis of the dips taken at the time of receipt or issue of the molasses.

9.8 Rule 32 of the *Uttar Pradesh Sheera Niyamavali 1974*, states that every sugar factory is required to maintain an accurate daily account of molasses produced, stored, issued, sold or wasted in a register (in form M F 5) and to work out the total in all the columns of the register (in form M F 5) fortnightly on the fifteenth and last working day of each month and send an extract thereof to the Controller of Molasses on the sixteenth day of the month and the first day of the following month in the prescribed statement MF 1 and MF 2.

Rule 3(1) of the *Uttar Pradesh Sheera Niyamavali, 1974* (proper and scientific storage of molasses) and *Uttar Pradesh Sheera Niyam Adhiniyam, 1964*

9.9 According to Rule 3(1) of the *Uttar Pradesh Sheera Niyamavali, 1974* and schedules prescribed in *Uttar Pradesh Sheera Niyam Adhiniyam, 1964*, the responsibility for proper and scientific storage of molasses devolves on the sugar factories. The sugar factory shall provide adequate safeguards against leakage, seepage, overflow or any other accident likely to damage the quality of molasses stored in the factory. It is required to be stored in covered accommodation which should store at any one time at least 50 per cent of the total production of molasses, calculated at four per cent of the total sugarcane that can be crushed in 140 working days according to the full registered cane crushing capacity of the factory or 50 per cent of the highest total production of molasses from the last four years, whichever is higher.

Molasses Fund

9.10 For provision and maintenance of adequate storage facilities, a separate fund, called 'Molasses Fund', has been created for which a fraction, as determined and notified by the Controller of the Molasses, of sale proceeds of molasses is required to be credited by the sugar factory. The present rates are as follows:

- A sugar factory which does not have adequate storage facility as prescribed in Rule 3(1) of the *Uttar Pradesh Sheera Niyamavali, 1974*.

Grade of Molasses	Percentage of sugar contents of molasses (expressed as reducing sugar)	Rates of Molasses Fund (Per 100 Kilograms) (Rupees)
I	50 per cent and above	2.00
II	44 per cent to 49.99 per cent	1.50
III	40 per cent to 43.99 per cent	1.50
Below grade	Below 40 per cent	1.50

- A sugar factory, which has storage facility as prescribed in Rule 3(1) of the *Uttar Pradesh Sheera Niyamavali, 1974*

Grade of Molasses	Rates of Molasses Fund (Per 100 Kilograms) (Rupees)
On all grades of molasses	0.50

Section 8(4) of the *Uttar Pradesh Sheera Niyamavali, 1964*

9.11 The occupier of the sugar factory shall be liable to pay to the State Government, in the manner prescribed, administrative charges at such rate, not exceeding fifteen rupees per quintal as the State Government may from time to time notify [through the Molasses Controller under powers defined in section 8 (1) of the *Uttar Pradesh Sheera Niyamavali, 1964*], on the molasses sold or supplied by him.

Rule 760 framed under the U.P Excise Act 1910

9.12 As per Rule 760 of Rules framed under the U.P Excise Act 1910, two per cent wastage is allowed in the process of redistillation of spirit subject to certain conditions. The rules however, do not provide for any wastage of RS, if any, claimed by a distillery in the manufacture of ENA or AA during the process of redistillation.

Rule 710 framed under the UP Excise Act, 1910

9.13 Rule 710 of Rules framed under the UP Excise Act 1910 states that:

- (1) The distillers shall be responsible for maintaining such minimum fermentation and distillation efficiencies and such minimum recovery of alcohol from molasses consumed for production of alcohol, as may be prescribed by the Excise Commissioner.

Note: - The minimum fermentation and distillation efficiencies and recovery of alcohol from molasses prescribed by the Excise Commissioner are as follows:

- | | |
|-----------------------------------|---|
| (i) Fermentation Efficiency | 84 <i>per cent</i> of fermentable sugars present in molasses |
| (ii) Distillation Efficiency | 97 <i>per cent</i> of alcohol present in the wash |
| (iii) Minimum recovery of alcohol | 52.5 litres of alcohol per quintal of fermentable sugars present in the molasses consumed for production of alcohol |

Failure to maintain the prescribed minimum efficiency and recovery of alcohol shall render the distillers liable to cancellation of licence and forfeiture of security deposits in addition to any other penalties imposed under the UP Excise Act, 1910 and under Section 74(A) of UP Excise Act, 1910, imposing the maximum compounding fee of ₹ 5,000 in each case.

- (2) The Officer-in-charge of the distillery shall draw composite sample of molasses consumed in three successive out-turns and divide it into three equal parts which shall be sealed by the Officer-in-charge with his seal. Two parts of the sample duly sealed shall be handed over to the distillers who shall send one of the parts to the Chemical Examiner to the U. P. Government or any officer authorised by the Excise Commissioner, Uttar Pradesh, Allahabad or any officer or agency authorised by the State Government, as the case may be, for determination of the percentage of fermentable sugars and retain the other with them. The third part of the sample duly sealed shall be kept by the Office-in-charge. On the basis of the report furnished by the Chemical Examiner or any officer authorised by the Excise Commissioner, Uttar Pradesh, Allahabad or any office or agency authorised by the State Government, the Officer-in-charge of the distillery shall calculate the minimum quantity of alcohol which should have been produced by the distillers on the basis of minimum recovery prescribed by the Excise Commissioner. In case the recovery of alcohol is below the prescribed minimum level, the Officer-in-charge shall call for the explanation of the distiller and forward the same along with his comments to the Deputy/Assistant Excise Commissioner of the charge concerned. The Deputy/Assistant Excise Commissioner of the charge shall, if necessary, make inquiries in the matter and furnish his report to the Excise Commissioner for necessary orders.

Section 28 of UP Excise Act, 1910, Rule 890 and 891 framed under the UP Excise Act, 1910 and Uttar Pradesh Excise Policy 2006-2007 and 2007-2008

9.14 Under Section 28 of UP Excise Act, 1910 and Uttar Pradesh Excise Policy 2006-07 and 2007-08 excise duty is applicable on the basis of strength of beer such as mild and strong. The excise duty is higher on strong beer as compared to mild beer. For determination of strength of beer, sample of each batches are required to be sent to the laboratory for analysis under Rule 890 and 891 of Rules framed under the UP Excise Act, 1910.

Financial Hand Book Part I Volume V and Departmental Circular dated 29 December 1992

9.15 As per provisions of the footnote of Article 87 of Part I Volume V of the Financial Hand Book and Departmental Circular dated 29 December 1992, all the receipts of Government must be entered in the Cash Book. This was required to be verified from the Treasury after close of every month. All the receipts of Excise Department are entered in G-6 register of District Excise Office of the district concerned.

Section 60 of UP Excise Act, 1910, Rule 703 framed under the UP Excise Act, 1910 and Government and departmental orders issued from time to time

9.16 As per Rule 703 framed under the U.P Excise Act 1910, a distillery may manufacture spirit under the licence granted by the competent authority. Government and Department issued instructions on 27 November 1996, 23 July 1998 and 27 December 2004 that the officer of the Excise Department posted at a distillery should ensure that no distillery produces spirit/alcohol in excess of its installed daily/annual capacity fixed for production including purchase of alcohol for human consumption from other distilleries of the State. Under Section 60 of UP Excise Act 1910, unlawful manufacturing and removal of intoxicant by any distillery will be punishable with imprisonment for two years and with fine of ` 500 or not less than 10 times of the duty due, whichever is higher.

Rule 812 and 814 framed under the UP Excise Act, 1910 and Gazette Notification dated 15 November 2007

9.17 Rule 814 framed under the U.P Excise Act, 1910, envisages that if Rectified Spirit (RS) is transported under bond in metal vessels, wastage is allowed upto 0.5 *per cent* in each consignment and wastage upto 0.4 *per cent* in monthly storage of RS in bonded warehouses. It attracts duty (consideration fee) leviable on the wastages in excess of the admissible limit vide Gazette Notification dated 15 November 2007.

Section 28 of UP Excise Act 1910, Uttar Pradesh Excise Policy 2003-04 and Circular dated 12 June 2000 of Excise Commissioner

9.18 Section 28 of UP Excise Act, 1910 and Uttar Pradesh Excise Policy 2003-04 and Excise Commissioner's circular dated 12 June 2000 advocate that excise duty is applicable on the basis of strength of spirit. Apparent strength of spirit as indicated by the hydrometer after addition of colour and flavor materials is to be mentioned on the label affixed on the sealed bottles. According to the Government notifications, the rates of excise duty on country liquor have been prescribed as ` 79 to ` 104 per BL for 36 *per cent* volume by volume (v/v) for the period from April 2004 to February 2009.

Rule 866 and 868 framed under the UP Excise Act 1910

9.19 As per Rules 866 and 868 framed under the UP Excise Act 1910 an application for renewal of licence for the excise year shall be made to the Commissioner Excise on or before 28 February each year. A licence fee as prescribed from time to time shall be payable in advance for such a renewal

for a year or part thereof. The fee for the grant or renewal of a licence in Form B-1 shall be as under:

- (i) For breweries having an yearly production up to 5,000 kilolitres ₹ 1,00,000/-
- (ii) For breweries having an yearly production of over 5,000 kilolitres and up to 10,000 kilolitres ₹ 2,00,000/-
- (iii) For breweries having an yearly production of over 10,000 kilolitres, the fee shall be increased by ₹ 20/- per additional one kilolitre

Rule 912 framed under the UP Excise Act, 1910 and The Uttar Pradesh Excise (Amendment) Ordinance No. 5 of 1978

9.20 Under Rule 912 framed under the UP Excise Act, 1910 and The Uttar Pradesh Excise (Amendment) Ordinance No. 5 of 1978, monthly storage wastage up to 10 *per cent* is allowed for beer. The wastage was admissible only on unbottled beer and no wastage was permissible once the beer was bottled.

Section 38 (A) of UP Excise Act, 1910

9.21 Under the provision of Section 38 (A) of the Uttar Pradesh State Excise Act, 1910 (as amended), where any excise revenue is not paid within three months from the date on which it becomes payable, interest at the rate of 18 *per cent* per annum is recoverable from the date such excise revenue becomes due.

Government orders dated 6 October 2006

9.22 As per Government notification of October 2006, rates of sample fees were revised from ₹ 80/- per sample to ₹ 160/- per sample. The revised rates were effective from 6 October 2006.

Rule 727 framed under the UP Excise Act 1910 and Rule 12 of UP Excise {Establishment of Distillery} (Seventh Amendment) Rules, 2007 and Rule 18 of UP Sheera Niyamtran Niyamavali, 1974

9.23 Rule 727 of Rules framed under the UP Excise Act 1910 states that in case excise staff stationed at a distillery, is required to attend the distillery on any of the holidays or after normal office hours, the distillers are required to pay to Government an overtime fee at the prescribed rates. The Government revised the rate of overtime of excise staff vide Gazette notification dated 9 March 2007 as Rule 12 of Uttar Pradesh Excise (Establishment of Distilleries) (Seventh Amendment) Rules 2007. This amendment provided that, if the excise staff were retained after office hours or part thereof for not less than 15 minutes in nights and in holidays, the distillers were required to pay to the Government, over time fees equal to four times of the average pay. If the Excise Staff were retained after office hours, in day time, the distilleries were required to pay to the Government, overtime fees equal to two times the average salary. The rules, however, did not mention about the point of time at which night began for the purpose of working out the overtime.

9.24 Rule 18 of *UP Sheera Niyamtran Niyamavali* 1974, provides for lifting of molasses from 6 a.m. in the morning to 10 p.m. in the night. Lifting of

molasses should take place in the presence of excise staff posted in the sugar factories.

Rule 8, 20 and 25 of the *Uttar Pradesh Sheera Niyamavali, 1974* and Rule 710 of Rules framed under the UP Excise Act 1910 and Excise Commissioner's Circular dated 24 May 1995

9.25 Under the provisions of Rule 8 and 25 of the *Uttar Pradesh Sheera Niyamavali, 1974*, one *per cent* wastage is allowed in transit in each consignment of molasses and two *per cent* wastage is allowed in storage of molasses in a year. The Act and Rules *ibid* are silent about wastages occurring in contents of Total Reducing Sugar (TRS) or Fermentable Sugar (FS) present in molasses. The Act and Rules do not provide for any loss of TRS or FS in transit as well as in storage. Under the provisions of Rule 20 of the *Uttar Pradesh Sheera Niyamavali, 1974*, the ownership of all molasses dispatched in Railway tank wagons to distillery shall continue to vest in the sugar factory concerned until it is actually delivered at the distillery and all losses occurring due to any cause other than a willful omission on the part of the distillery shall be borne by the sugar factory. The ownership of molasses to be transported by road shall pass on to allottee as the molasses are taken out of the factory premises with gate pass in Form M.F. 4 and such allottee shall be responsible for its safe arrival at the destination and for the loss in transit if any.

9.26 Excise Commissioner's Circular dated 24 May 1995, fixed norms of minimum 88 *per cent* fermentable sugar content in TRS. Under the provisions of UP Excise Working of Distilleries (Amendment) Rule 1978, for every quintal of fermentable sugar content present in the molasses, the distillery shall yield minimum alcohol of 52.5 alcoholic litres (AL). Distilleries are generally allowed to purchase and use molasses from grade one to three. But molasses of below grade are not permissible to be used in distilleries.

Rule 19 and 27 of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956

9.27 Under the provisions of Rule 19 of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956, transit wastage of spirit is not allowed. If in any particular case, it is proved to the satisfaction of the Excise Commissioner that the loss is bonafide and not due to negligence or connivance on the part of the pharmacies, the duty payable in respect of such loss may be waived in full or in part according to the merits of the case. Rule 27 of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956, emphasised that subject to the provisions of Rule 19, duty at the rate levied by the State Government on alcoholic liquors on all wastages shall be paid by the licensee of the bonded manufactory into a Government treasury, on receipt of a demand from the officer-in-charge and a copy of the treasury receipt shall be sent to the distillery officer who shall thereupon make the necessary adjustment in his registers.

Rule 137(3) of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956

9.28 Under the provisions of Rule 137(3) of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956, excise locks are supplied by the department for locking all warehouses, spirit pipes and vessels etc. to prevent

any misuse, or leakage of spirit in the pharmacy. Rule 738 made under the UP Excise Act, 1910 provides that locks were required to be interchanged at regular intervals. But the above provision is neither provided in the Act *ibid* nor in the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956.

Rule 21 of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956

9.29 Under the provisions of Rule 21 of the Medicinal and Toilet Preparation (Excise Duties) Rules, alcohol can be stored in pharmacies without payment of excise duty by executing a bond in B 1.

Rule 25 of the *Uttar Pradesh Sheera Niyamavali, 1974*

9.30 The Controller of Molasses has no direct control either on issue of molasses from sugar factories or on its receipt by the consignee distilleries and other industrial licensees. Rule 25 of the *Uttar Pradesh Sheera Niyamavali, 1974* provides for issue of gate pass (M F 4) either by the sugar factories, or by an officer, authorised by the Controller of Molasses, before the actual transportation of molasses. A copy of the gate pass is required to be handed over to the Sub-Inspector of Excise posted at the factory.

General provisions

9.31 Inspection is an important part of internal control mechanism for ensuring proper and effective functioning of a department and for timely detection of loopholes and to stop their recurrences. As the Excise Department is the second major contributor to state exchequer, periodical inspections at higher levels assume significance. However, no norms have been fixed by the Government for the Excise Commissioner Uttar Pradesh for periodical inspection of the State Excise offices. As per instructions issued by the Excise Commissioner dated 1 January 1990 to all sub-ordinate offices, periodicity to inspect District Excise offices, distilleries, bonded/un-bonded manufactories and sugar factories are as follows:

Sl. No.	Designation of officer	District Excise Offices	Distilleries	Breweries	Pharmacies	Sugar Factories
1.	Joint Excise Commissioner	Every six months	Every four months	Every six months	Every six months	Every six months
2.	Deputy Excise Commissioner	Every four months	Every three months	Every six months	Every six months	Every four months
3.	Assistant Excise Commissioner	Every three months	Every two months	Every four months	Every four months	Every four months

9.32 Internal audit is an important tool for appraisal of deficiencies in the activities viz. proper and timely assessment and realisation of dues and implementation of Acts/Rules and in issue of guidelines for improving accounting etc. for better collection of revenue and plugging various loopholes within the organisation. This wing functioned under the control of Finance Controller and Chief Accounts Officers, who were assisted by two Assistant Audit Officers, responsible for conducting of audit of the field units of the Department.