

CHAPTER-I GENERAL

The State Excise Department attempts to achieve maximum revenue through the legal sale of intoxicants under the relevant Central and State laws and rules.

1.1 Legislative provisions

The power of the State Government to levy and collect State Excise Duties is derived from Article 246 of the Constitution of India and Entry 51 of the List – II – State List of the Seventh Schedule thereto.

The following Central and State Laws and the Rules made thereunder govern the levy and collection of the excise duties and other excise receipts like fees, fines etc.

Central laws

- (i) The Opium Act, 1878 and Rules made thereunder to control the cultivation of poppy and manufacture of opium therefrom.
- (ii) The Dangerous Drugs Act, 1930 and Rules made thereunder to suppress contraband traffic and control the abuse of dangerous drugs, especially those derived from opium, Indian hemp etc.
- (iii) The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and Rules made thereunder provide for levy and collection of duties of excise on medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drugs.

State laws

- (i) The Uttar Pradesh Excise Act, 1910 and Rules made thereunder to regulate the production, manufacture, possession, transportation, purchase and sale of intoxicating liquors and drugs, the levy of duty of excise and countervailing duties on alcoholic liquors and production and distribution of power alcohol.
- (ii) The *Uttar Pradesh Sheera Niyam*, 1964 and rules made thereunder.
- (iii) New Excise Policy of 2001, as amended from time to time.

The main provisions of the Uttar Pradesh State Excise Act, 1910 and rules and instructions made thereunder are mentioned in Appendix-I of this report.

1.2 Audit objectives

We conducted a comprehensive study of the working of the State Excise Department to examine whether

- (i) the system and procedures for monitoring levy and recovery of state excise receipts was adequate;
- (ii) financial management comprising of realistic budgeting, regularity in fund flow, appropriate accounting thereof as well as maintaining of proper cash books was sound;

- (iii) financial and operational controls existed and were periodically reviewed to fulfill the requirements of the internal control of the department; and
- (iv) the department periodically reviewed and assessed staffing requirements corresponding to departmental activities.

1.3 Audit methodology and scope of Audit

To present a comprehensive report of the working of the State Excise Department before the legislature, we attempted to focus on system issues covering even the smaller units. For this purpose, we conducted a comprehensive performance review, covering the period 2004-05 to 2008-09. We examined the records of 16¹ out of 157 Sugar factories, 21² out of 63 Distilleries, three³ out of five Breweries, two⁴ out of four Alcohol Technologists Laboratories (AT Labs), six⁵ out of 55 Pharmacies, seven⁶ out of 71 District Excise Offices and office of the State Excise Commissioner during the period October 2008 to December 2009. The units were selected on random sampling basis. Besides these, we have included issues noticed during 2008-09 in our transaction audit of 18 distilleries and four out of 44 District Excise Offices in this report.

1.4 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the State Excise Department in providing the necessary information and records to audit. An entry conference was held with the Finance Controller of the department in which the objectives of the review were explained to him. We forwarded the draft Performance Audit Report to the Government and the Department in January 2010 and discussed it with the department in an exit conference held in May 2010. This was attended by Finance Controller, Joint Commissioner, Excise and other technical staff of the department. We have included the replies of the department received during the exit conference and at other points of time in the respective paragraphs.

1.5 Organisational set up

1.5.1 Headquarters

The Excise Commissioner is the Head of the Excise Department and is entrusted with the responsibility of overall supervision of the excise department. He is also the Ex-Officio Controller of Molasses. He is assisted by two Additional Excise Commissioners, three Joint Excise Commissioners, 10 Deputy Excise Commissioners and six Assistant Excise Commissioners at headquarters. In financial matters, the Excise Commissioner who is assisted by

¹ Agauta Sugar Factory Bulandshahar, Asmauli, Bajaj Sugar Factory Gagnauli Saharanpur, Balrampur Sugar Mill Balrampur, Balrampur Sugar Mill Babhnan Unit, Balrampur Sugar Mill Mankapur Unit, Daurala, Dhampur, Ghosi Sugar Factory Ghosi Mau, J K Sugar Meeranaj, Mawana Sugar Mill Meerut, Tikola Sugar Factory Muzaffarnagar, Triveni Sugar Mill Thakurdwara Moradabad, Triveni Sugar Factory Khatauli Muzaffarnagar, Triveni Sugar Factory Deoband Saharanpur and Uttam Sugar Mill Bijnor.

² Asmauli, Baheri, Balrampur, Gagnauli, Jagatjeet (grain), Jubillant Organosys, Kaptanganj, Tikola, Roza, Tapri, Nanauta, Dhampur, Kinauni Meerut, Mansoorpur, Rampur, Rampur (grain unit), Saraiya, IGL Gorakhpur, Naglamlal Distillery Meerut, Jain Distillery Bijnor and Radio Khaitan Rampur Marg.

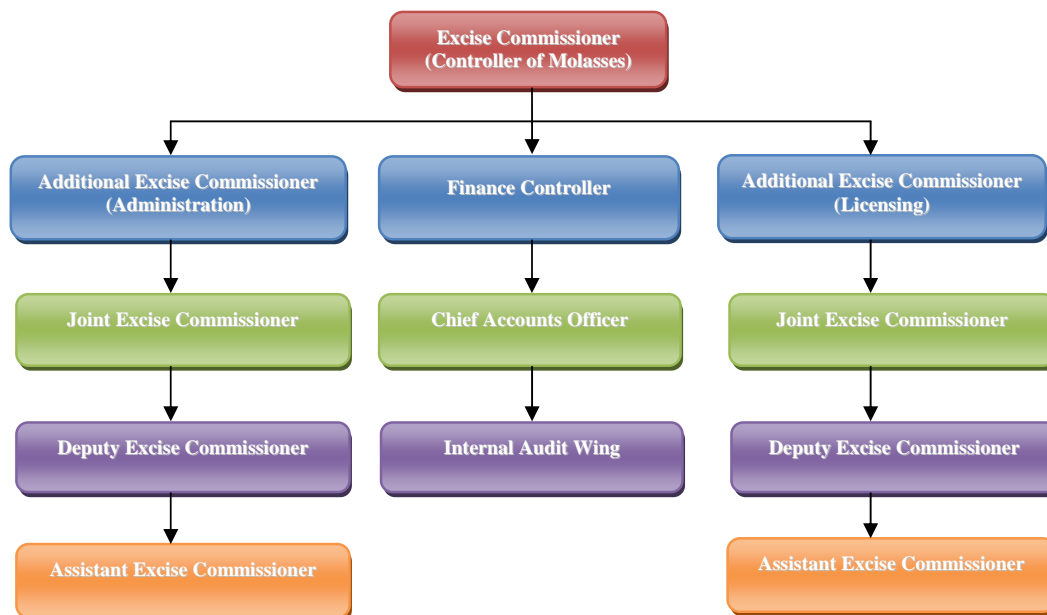
³ Mohan Gold Water Lucknow, Manav Brewery Ghaziabad and Skol Brewery Meerut.

⁴ AT Lab Lucknow and AT Lab Meerut.

⁵ Dabar India Ltd. Ghaziabad, Roop Chemical Pvt. Ltd. Lucknow, R.S. Bhargav Pharmacy Bulandshahar, Sri Durge Chemical Aligarh, Vijay Chemical Pvt. Ltd. Aligarh and Wardex Pharmaceutical Ltd. Ghaziabad.

⁶ DEO: Aligarh, Ghazipur, G.B. Nagar, Lucknow, Moradabad, Muzaffarnagar and Saharanpur.

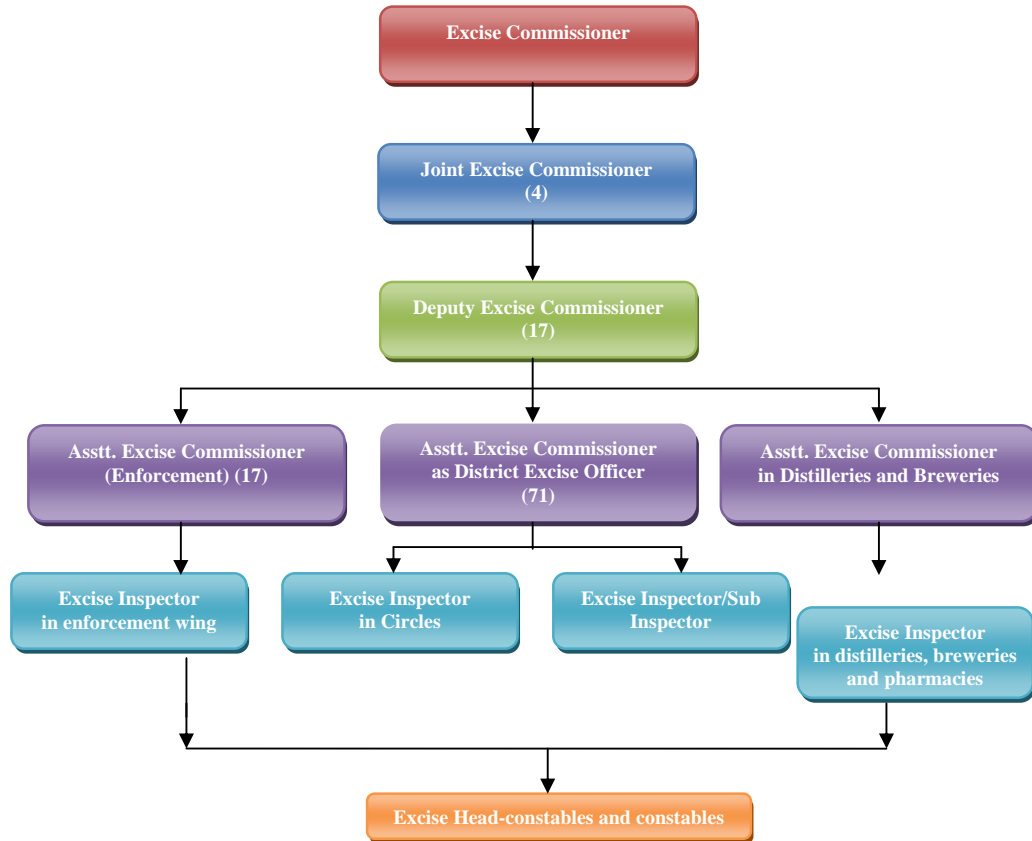
the Finance Controller and Chief Accounts Officer is also responsible for keeping watch over different units through the Internal Audit Wing. We noticed that during the last five years i.e. from April 2004 to March 2009, six Excise Commissioners were posted and the period of their tenure ranged from eight months to two years with an average stay of 10 months.



At the Government level the Principal Secretary, Excise is responsible for the overall control of the department and formulating the policy issues. During the last five years i.e. from April 2004 to March 2009, five Principal Secretaries, Excise were posted and the period of their tenure ranged from two months to 22 months with an average stay of 12 months.

1.5.2 Field formation

For the purpose of effective administration the State is divided into four zones and 17 charges, each under the charge of a Joint Excise Commissioner and a Deputy Excise Commissioner respectively, who are assisted by an Assistant Excise Commissioner in each district. In case of Excise receipts, the Collector of the district is the Head of the Excise administration within the district. An Assistant Excise Commissioner, who is posted at the District Headquarters and designated as the District Excise Officer (DEO), carries out all functions on his behalf. All the powers of the Collector regarding Excise administration are delegated to him. Each district is further divided into circles, under the control of one Excise Inspector in each circle. To assist the Excise Inspector in the field, head constables and constables are also posted in the circles.



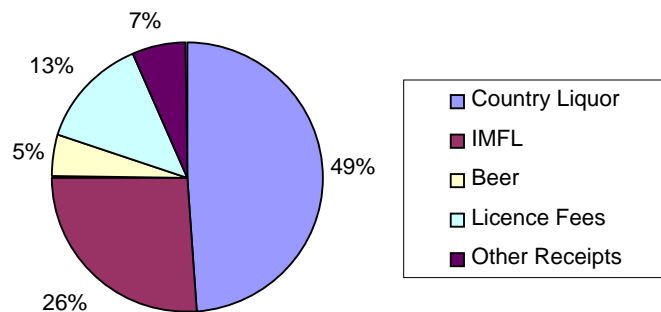
1.6 Activities

State Excise revenue is one of the most important components of the state’s tax revenue. It is mainly derived from the shop rentals, fee for licences issued to distilleries, breweries and liquor dealers, duties on liquor, other spirits, beer, medicinal and toilet preparations containing alcohol, taxes and rent on toddy trees and composite fees, fines, penalties, etc. Revenue realised by the State Excise Department for the last five years from Country Liquor, IMFL, Beer, Licence fee and other receipts is as under:

(Rupees in crore)

Year	Country Liquor	IMFL	Beer	Licence Fees	Other Receipts	Total
2004-05	1,388.69	662.24	120.15	344.72	170.39	2,686.19
2005-06	1,525.77	756.35	147.35	426.37	232.70	3,088.54
2006-07	1,685.79	929.08	190.11	514.00	232.27	3,551.25
2007-08	1,900.47	1,091.92	204.64	507.25	244.12	3,948.40
2008-09	2,236.97	1,307.00	237.20	593.92	344.92	4,720.01
Total	8,737.69	4,746.59	899.45	2,386.26	1,224.40	17,994.39

% of total state excise receipts



There is an exhaustive Government control on the manufacture of rectified spirit, alcohol, etc., as per the Excise Act and the Rules. The Government lays down the norms for production, wastages, evaporation, etc., for different stages of manufacture and for different types of liquor. Alcohol is also made available at concessional rates of duty for certain industrial and other special purposes. In these areas some standard norms are also used for assessing the requirements of alcohol and to ensure its effective utilisation. Duty is also normally levied at concessional rates in respect of liquor exported outside the State.

An excise policy called the “New Excise Policy” promulgated with effect from 1 April 2001 provides for the entry of new liquor professionals by ending the monopoly of liquor syndicates. The main feature of the policy was the allotment of shops through public lottery in place of auction through bids or tender. The policy also ensures availability of better quality liquor at reasonable price to the customers. Affixing of safety holograms on the bottles/cans of the liquor curbed the supply of illicit liquor of below standard quality and also safeguarded the excise revenue.

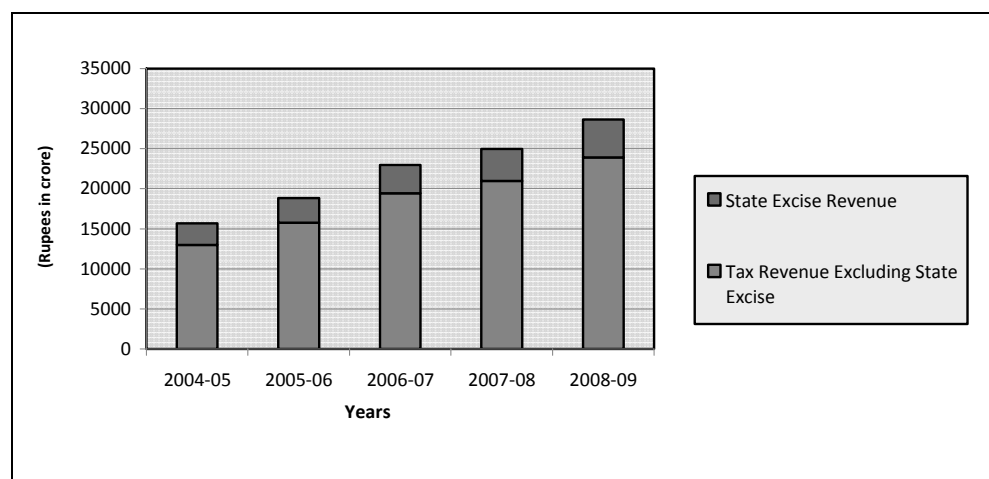
1.7 Trend of revenue with economy

1.7.1 Revenue position

The tax revenue raised by the State Excise Department as a part of the total tax revenue of Government of Uttar Pradesh for the period 2004-05 to 2008-09 was as below:

(Rupees in crore)

Sl. No.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
i	Tax revenue	15,692.61	18,857.90	22,997.97	24,959.32	28,658.97
ii	State Excise revenue	2,686.19	3,088.54	3,551.25	3,948.40	4,720.01
iii	Percentage of increase from previous year	8.65	14.98	14.98	11.18	19.54
iv	Percentage of i to ii	17.12	16.38	15.44	15.82	16.47

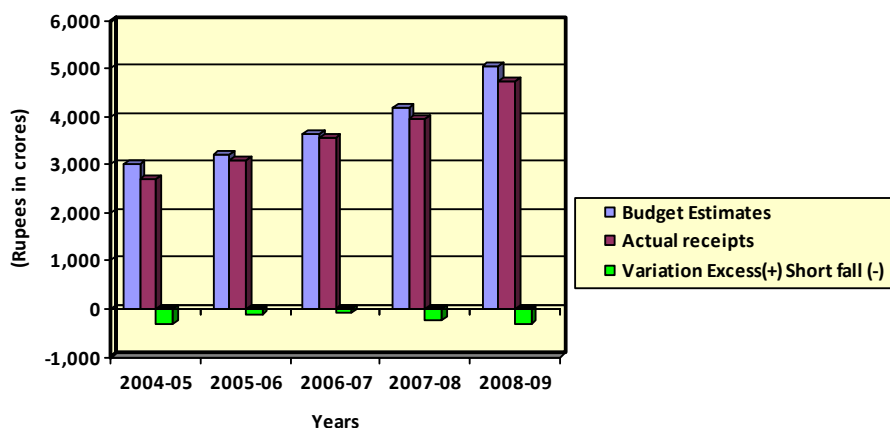


It is seen that although there was gradual increase in excise revenue over previous years, the percentage of excise revenue to total state revenue showed marginal fluctuations.

1.7.2 Variation between the budget estimates and actuals

The variation between the budget estimates and actual revenue receipts for the period 2004-05 to 2008-09 was as under:

(Rupees in crore)				
Year	Budget estimates	Actual receipts	Variation excess(+) shortfall (-)	Percentage of variation
2004-05	3000.00	2686.19	(-) 313.81	(-) 10.46
2005-06	3200.00	3088.54	(-)111.46	(-) 3.48
2006-07	3650.00	3551.25	(-) 98.75	(-) 2.71
2007-08	4192.00	3948.40	(-) 243.60	(-) 5.81
2008-09	5040.00	4720.01	(-)319.99	(-) 6.35



It would be seen from the above that variation between the budget estimates and the actuals was (-) 2.71 to (-) 10.46 per cent. This indicates that the budget estimates were realistic.

1.7.3 Analysis of arrears of revenue

We noticed that the arrears of revenue, as on 31 March 2009, in respect of the State Excise Department, amounted to ` 56.73 crore. Out of this, ` 54.66 crore were arrears of more than five years. Of the total arrears, demand for ` 32.08 crore had been certified for recovery as arrears of land revenue out of which ` 0.80 crore have been recovered and recovery certificates amounting to ` 0.05 crore were sent to other States. Recoveries amounting to ` 21.93 crore had been stayed by the Courts and the Government. Demand for ` 2.72 crore was likely to be written off.

1.8 Cost of collection

The gross collection of the State Excise revenue receipts, expenditure incurred on collection and percentage of such expenditure to the gross collection during the years 2006-07, 2007-08 and 2008-09 along with the relevant all India average percentage of cost of collection to gross collection was as under:

(Rupees in crore)

Head of revenue	Year	Gross Collection	Cost of collection	Percentage of cost of collection to gross collection	All India average percentage for cost of collection
State Excise	2006-07	3,551.25	37.34	1.05	3.30
	2007-08	3,948.40	44.57	1.13	3.27
	2008-09	4,720.01	50.19	1.06	3.66

We noticed that the cost of collection for the State Excise Department is below the All India average.

1.9 Outstanding inspection reports and audit observations

To test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures, we conduct periodical inspection of the State Excise Department. Once the inspection is completed, we issue Inspection Reports (IRs), to the Head of Office inspected, with a copy to the next higher authority. These IRs contain irregularities detected during the inspection. We also report serious irregularities to the Head of the Department and the Government. The Head of Office is required to furnish replies to IRs through the Head of the Department within a period of two months.

A large number of the audit observations relating to the revenue receipts upto 30 June 2009 were pending for reply or action by the department as on 31 December 2009. The details for the preceding three years are mentioned below:

Sl. No.	Number of outstanding IRs/paras/revenue involved	2007	2008	2009
1	Number of Inspection Reports pending for settlement	764	830	814
2	Number of outstanding audit observations	1,173	1,191	1,276
3	Amount of revenue involved (Rupees in crore)	412.17	391.32	381.54 ⁷

The Government needs to take speedy and effective action on the issues raised in the IRs.

1.10 Audit committee meetings

A mechanism of Audit Committee Meetings (ACMs) has been devised in order to expedite the clearance of the outstanding audit observations. These committees should meet regularly and ensure appropriate and prompt action on all the audit observations and the IRs.

⁷ The observations relate to the period 1984-85 to 2008-09.

Three audit committee meetings were held during 2008-09 and 2009-10 in which only 26 paragraphs worth ` 7.88 crore were settled. Thus, merely 2.66 *per cent* of the total outstanding observations were settled during this period. This indicates that the Government/Department had not made optimum utilisation of the mechanism created for expeditious settlement of outstanding audit observations.

The Government may consider holding more meetings of ACMs during a year to expedite the settlement of the audit observations.

1.11 Follow up of Audit Reports (ARs) - summarised position

Irrespective of whether the cases were taken up for examination by the PAC or not, the Department of Finance issued instructions in June 1987, to initiate *suo moto* action on all the paragraphs/reviews figuring in the Audit Reports. These were issued to ensure the accountability of the executive in respect of all the issues dealt in the various ARs. We have not received explanatory notes (ENs) in respect of two paragraphs/reviews as on 31 December 2009 even after the lapse of the prescribed period of three months. The outstanding ENs dating back to 2003-04 are as mentioned below:

Year of Report	Date of presentation of Audit Report to the legislature	No. of paragraphs/reviews included in the Audit Reports	No. of paragraphs/reviews on which ENs have been received from the department	No. of paragraphs/reviews on which ENs have not been received from the department
2003-04	20 July 2005	2	0	2
2004-05	11 March 2006	2	2	0
2005-06	25 January 2007	12	12	0
2006-07	15 February 2008	2	2	0
2007-08	17 February 2009	2	2	0
Total		20	18	2

1.12 Compliance with the earlier Audit Reports

We had reported cases of under assessment, non/short levy of state excise receipts involving ` 416.45 crore in the Audit Reports 2003-04 to 2007-08. Of these, as on December 2009, the department has accepted observations of ` 2.76 crore and recovered ` 0.83 crore. Audit Report-wise details of cases accepted and recovered are mentioned below:

(Rupees in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2003-04	6.02	0.00	0.00
2004-05	0.50	0.34	0.34
2005-06	408.15	2.42	0.49
2006-07	0.52	0.00	0.00
2007-08	1.26	0.00	0.00
Total	416.45	2.76	0.83

As is evident from the above, the pace of recovery was very slow, as it was only 30 *per cent* of accepted money value of the audit observations.

The Government may advise the Excise Department to take necessary action for prompt recovery.

1.13 Results of audit

Our test check of the records of the offices of State excise, conducted during the year 2008-09 for this Performance Audit Report, revealed cases of low recovery of alcohol from molasses, non-lifting of minimum guaranteed quota (MGQ) of country liquor, non-realisation of licence fee, non-levy of interest and other irregularities amounting to ` 1,372.36 crore in 189 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Working of State Excise Department	1	1,344.56
2.	Low recovery of alcohol from molasses	11	6.75
3.	Non-lifting of MGQ of Country Liquor	14	3.45
4.	Non-levy of licence fee	21	2.31
5.	Non-levy of interest	21	0.31
6.	Other irregularities	121	14.98
Total		189	1,372.36

During the year 2008-09, the Department recovered ` 19.68 lakh, involved in nine cases of low recovery of alcohol, non-lifting of MGQ and other irregularities, pointed out by us in the earlier years.

This report contains 29 paragraphs including eight chapters involving revenue impact of ` 1,344.56 crore. We have mentioned some of the major findings in the succeeding chapters.

**CHAPTER-II
DISTRICT EXCISE OFFICES**

