

## CHAPTER-IV DISTILLERIES, BREWERIES AND A.T. LABORATORIES

### 4.1 Introduction

Distillery and Breweries are licenced units registered under the U.P. Excise Act 1910 and Uttar Pradesh Brewery Rules, 1961. A distillery produces alcohol and beer is brewed in breweries. Molasses, grains and malt wash are distilled to obtain the spirit, which is redistilled, compounded, blended, processed and diluted to produce different kinds of Indian Made Liquors and other intoxicants. Three regional laboratories at Gorakhpur, Lucknow and Meerut conduct chemical examination of molasses, alcohol, beer and other chemicals received from distilleries, breweries, sugar factories, liquor shops and alcohol based industries to ensure quality maintenance and proper control. A central laboratory at Allahabad coordinates and controls the regional laboratories.

We examined the records of 21 out of 63 Distilleries, three out of five Breweries and two out of four Alcohol Technologists Laboratories (AT Labs). Besides these our observations during transaction audit in 18<sup>1</sup> distilleries have also been incorporated in the paragraphs related to system and compliance deficiencies. These observations incorporating money value of ₹ 969.12 crore are enumerated below.

#### *System deficiencies*

### 4.2 Inadmissible re-distillation wastage in manufacture of Extra Neutral Alcohol (ENA) and Absolute Alcohol (AA)

#### **Nine<sup>2</sup> distilleries**

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

We test checked the records of the above distilleries and noticed that the distilleries manufactured 1,564 lakh AL of ENA and 332 lakh AL of AA through the process of re-distillation of 2057 lakh AL of RS. These distilleries claimed a total wastage of 36 lakh AL of RS in the process of re-

distillation, as detailed below:

Number of Distilleries	Type of alcohol produced	RS Used (In lakh AL)	ENA/AA produced (in lakh AL)	Impure Spirit/RS in process (In lakh AL)	Wastage (In lakh AL)	Duty Involved (Rupees in crore)
8	ENA	1690.79	1563.65	95.87	31.27	36.45
2	AA	366.09	331.76	29.31	5.02	6.52
<b>Total</b>		<b>2056.88</b>	<b>1895.41</b>	<b>125.18</b>	<b>36.29</b>	<b>42.97</b>

<sup>1</sup> Bareilly (Superior), Bijnore (Dwarkesh and Mohit Petro Chemical), Ghazipur (Lords distillery), Gonda (Babhan & Mankapur), Ghaziabad (Modinagar, Mohan Meakins & Ghaziabad Organics), Lucknow (Mohan Meakins) Mau (Ghosi and Nibi), Muzaffarnagar (Shamli & Triveni), Meerut (Daurala and United Spirits), Saharanpur (Shakumbhari) and Unnao (UDBL).

<sup>2</sup> Balrampur (Balrampur Distillery) {both ENA and AA units}, Bareilly (Kesar Enterprises), Ghazipur (Lords Distillery), Ghaziabad (Modinagar), Muzaffarnagar (Mansoorpur, Shamli), Rampur (Rampur Distillery) Shahjahanpur (Roza) and Gonda (Balrampur Distillery Babhan Unit)

The Assistant Excise Commissioners concerned incorrectly allowed the wastage claimed though it was not allowed by the rules. This resulted in loss of revenue of ` 42.97 crore as excise duty.

After we brought this to their notice, the department replied in August 2009 that rule 760 of the U.P. Excise Act, 1910 provides for two *per cent* wastage during the process of re-distillation. We do not agree with the reply of the department as the wastages allowed under the said Rule are on certain specified processes and these do not include wastage in the process of manufacture of ENA and AA through re-distillation.

### **4.3 Recovery of alcohol below norms**

The UP Excise Rules framed under the UP Excise Act, 1910 provides that 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.

#### **4.3.1 32 distilleries - Non-recovery of minimum yield of alcohol**

We noticed that in the above distilleries 402 composite samples of molasses were sent to the AT during the period April 2004 to March 2009 for

The norms of minimum recovery of alcohol prescribe that 52.5 litres of alcohol should be produced per quintal of fermentable sugar present in molasses.

determination of sugar content in 76.45 lakh quintals of molasses consumed by the distilleries. Based on the reports

of AT and the prescribed norms, 30.75 lakh quintal of fermentable sugar content was present in molasses, out of which 1,614 lakh AL of alcohol should have been produced. However, only 1,570 lakh AL was produced by these distilleries. This resulted in shortfall of 44 lakh AL of alcohol involving excise revenue of ` 79.41 crore as shown in Appendix–III.

When we brought these observations to light, the department replied in May 2009 that the duty on low yield of alcohol could not be levied because it is not actual but notional production. They also stated that this occurred due to disorder of the plant and machinery, interruption in the power supply, contamination of the molasses, etc. The reply of the department is not based on facts as the Excise Commissioner had while compounding 247 cases of low yield of alcohol, issued instructions to distillers between April 2004 and February 2009, to improve the recovery of alcohol within six months failing which their licenses would be cancelled and securities forfeited. Despite these instructions the distilleries had not improved the recovery of alcohol. Instead of cancelling the licences and forfeiting the securities as prescribed in the Rules, the Excise Commissioner continued to compound the cases and issued the same instructions in a routine manner.

The non-adoption of norms is fraught with the risk of depiction of incorrect quantity of production of alcohol that may lead to a loss of revenue to the Government.

**The Government may consider incorporating a deterrent measure for non-adherence to the norms prescribed in the process of manufacture of alcohol.**

### 4.3.2 Five distilleries - Non-achievement of minimum fermentation efficiency

We noticed in five distilleries that during the period April 2007 to March 2009, 158.37 lakh AL of alcohol should have been produced from 188.54 lakh

Rule 710 framed under the U.P. Excise Act 1910 provides that the distilleries shall maintain minimum fermentation efficiency of 84 *per cent* to yield wash from molasses.

AL of alcohol present in 32 batches of fermentable sugar by maintaining 84 *per cent* fermentation efficiency, against which actual production of alcohol was 156.98 lakh

AL. This resulted in short production of 1.39 lakh AL of alcohol involving excise revenue of ` 4.46 crore as shown in Appendix-IV.

We found that no action was initiated by the department against the distillers for non-achievement of prescribed minimum fermentation efficiency by the distilleries. The excise staff posted in the distilleries did not send the Continuous Out Turn wise statement to the Headquarters to assess these minimum prescribed efficiency percentages. Instead the department relied on the self-assessed fermentation efficiency reports sent by the distilleries to the Office of the Excise Commissioner in a monthly report in PD 29 formats<sup>3</sup>. The irregularities indicate that though the department had posted excise staff in the distilleries, there was lack of monitoring resulting in non-detection of the shortfall in production of alcohol.

### 4.3.3 17 distilleries - Non-achievement of minimum distillation efficiency

Rule 710 framed under the U.P. Excise Act 1910 provides that the distilleries shall maintain minimum distillation efficiency of 97 *per cent* to yield alcohol from wash.

We noticed that in 17 distilleries during the period April 2004 to March 2009, 1,357.27 lakh AL of alcohol should have been

produced from 1,399.25 lakh AL of alcohol present in 553 batches of wash. However, the actual production of alcohol was 1,338.47 lakh AL. This resulted in short production of 18.80 lakh AL of alcohol involving excise revenue of ` 49.43 crore as shown in Appendix-V.

The department had at no time taken any action to investigate the reasons for low yield of alcohol against any distiller or for non-achievement of prescribed minimum distillation efficiency by the distillery.

After we pointed out the low distillation and fermentation efficiency the department replied in May 2009 that the distiller cannot be punished for non-achievement of minimum norms fixed for distillation efficiency as the distilleries were already punished for low yield of alcohol cases. The reply is not correct as these norms are prescribed in the Act and the department needs to monitor the achievement by the distilleries at each stage to prevent any loss of revenue.

As the shortfall in the alcohol production as mentioned above has led to loss of excise revenue of ` 133.30 crore, there is a clear system failure of the department in these instances. The department has no system in place to ensure that the prescribed deterrent measures are taken against distilleries not

<sup>3</sup> PD 29 Format: It shows the overall working of the distilleries like Molasses consumed, presence of fermentable sugar, maximum quantity of alcohol required to be produced and that produced in the distillery.

achieving the norms of minimum recovery of alcohol. There are also no measures in place to verify that the distilleries achieve the minimum fermentation and distillation efficiency.

**The Government may consider -**

- **strengthening the system to ensure the prescribed deterrent measures against distilleries not achieving the norms are enforced and the enforcement monitored so that there is no loss of excise duty;**
- **measures are put in place to verify that the distilleries achieve the minimum fermentation and distillation efficiency. A system to verify the correctness of the sample test of wash done by the distillery staff should also be put in place.**

#### **4.4 Short levy of excise duty — Lacuna in the policy**

We noticed that 15 batches of 1,54,680 bottles of 650 ml each prepared by Mohan Gold

As per the New Excise Policy and the labels approved for Kingfisher Beer, beer with strength of alcoholic content less than five *per cent* is classified as mild beer and beer with strength of alcoholic content less than eight *per cent* is classified as strong beer. It did not distinctly classify the beer with strength of alcoholic content of five *per cent*.

Water Brewery, Lucknow for Kingfisher Beer, were declared as mild beer and taxed at the rate of ₹ 16.50 and ₹ 18.50 per bottle

of 650 ml for the years 2006-07 and 2007-08 respectively. When the samples of these batches were test checked at ATL, Lucknow, they were found to have alcoholic content of five *per cent*. Hence these came under the category of strong beer and should be taxable at the rate of ₹ 30 and ₹ 32 per bottle of 650 ml each during 2006-07 and 2007-08 respectively. Incorrect classification led to short levy of excise duty of ₹ 20.88 lakh.

After we pointed this out, the department stated that beer with alcoholic strength up to five *per cent* was treated as mild beer. The reply of the department does not relate to our audit observation which refers to the beer strength with alcoholic content of exact five *per cent* while the reply furnished relates to strength of alcohol content upto five *per cent*.

**The Government may consider defining clearly the distinction between strong beer by mentioning the strength of the beer from five to eight *per cent* and that of mild beer as below five *per cent*.**

#### **4.5 Non-maintenance of Cash Book**

As per provisions of the Financial Handbook and orders issued by the Government and the department from time to time, all the receipts of Government must be entered in Cash Book. All the receipts of the Excise Department are entered in G-6 register of the District Excise Offices of the district concerned. AT Labs are required to maintain a cash book and verify/reconcile their receipts entered in cash book from G-6 register of District Excise Offices.

We noticed that in two ATLS<sup>4</sup> the Cash Books were not being maintained. These ATLS had realised ₹ 38.31 lakh on account of

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<sup>4</sup> Lucknow and Meerut

sample tests and auction of old bottles. Thus, these ATLS could not verify/reconcile their receipts with G-6 register of the District Excise Office. Due to non maintenance of the Cash Book at these ATLS we were unable to verify the correctness of the remittance of the Government receipts into the Government account.

When we pointed this out the concerned Assistant Alcohol Technologists intimated (September and October 2009) that they do not have any instructions for maintaining the cash book in the laboratories.

**The Department should ensure that all ATLS maintain cash books and reconcile them with G-6 register of District Excise Office at regular intervals.**

### *Compliance deficiencies*

#### **4.6 Manufacture of alcohol in excess of installed capacity**

The Government issued instructions on 23 July 1998 and 27 December 2004 that officers 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.

In test check of the records of four distilleries, we noticed that these distilleries produced 93.85 lakh BL (84.03 lakh AL) of alcohol in excess of the installed capacity of 328.40 lakh BL of alcohol. The production of the alcohol in excess of the annual/daily installed capacity was against the departmental instructions for which a fine of ₹ 742.50 crore as shown in Appendix-VI, was leviable.

Similarly, we also noticed that seven distilleries produced 2.56 lakh AL of RS in excess of their daily installed capacity for which a fine of ₹ 46.28 crore as shown in Appendix-VII was leviable. The same was not imposed by the department.

We further observed that the excess production made by the factories was not brought to the notice of Excise Commissioner by the excise officials posted in the distilleries. No explanation for the excess production made was called from any distiller.

**The Government may take stringent measures to ensure imposition of fines as per rules in case of any breach in the provisions of the Act/Rules.**

#### **4.7 Loss due to excess transit and storage wastages**

Under the provisions of UP Excise Rules, if rectified spirit (RS) is transported under bond in metal vessels, wastage is allowed upto 0.5 per cent in each consignment and wastage up to 0.4 per cent in monthly storage of RS in bonded warehouses.

Under the UP Excise Rules, excise duty is leviable on the wastages in excess of the admissible limit. It is also called consideration fee.

**4.7.1** We noticed in test check of the records of four<sup>5</sup> distilleries that 33,64,509.6 AL of RS/ENA were issued from the distilleries to other consignees under bond during the period April 2007 to March 2009. Against this the consignees received only 33,00,406.18 AL of RS/ENA. The admissible wastage was 16,822.55 AL. Hence the department should have recovered the duty of ` 1.45 crore on the remaining stock of 47,280.87AL of RS/ENA.

**4.7.2** We found that in Dhampur distillery 14,06,304.2 AL of RS was stored in the warehouses in December 2008, of which 4,61,151.6 AL of RS was issued from the warehouses. After allowing the admissible wastage of 5,625.2 AL, 9,39,527.4 AL of RS should have been in the warehouses. But during stock taking the actual stock was found as 9,35,097.36 AL. The missing stock of 4,430.04 AL of RS was excisable. The department incorrectly treated it as admissible wastage which resulted in short realisation of excise duty of ` 17.60 lakh.

After we pointed out the observation the Department accepted our contention. In the first case, they have recovered 30 *per cent* of the excise duty. In the second instance the Department has stated that the matter is pending for decision with the Excise Commissioner since June 2009.

#### **4.8 Short levy of Excise Duty due to non-adoption of actual strength of country liquor**

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)<sup>6</sup> for the period from April 2004 to February 2009.

We test checked the records of two distilleries<sup>7</sup> and noticed that 4,42,97,422 BL of spiced/plain country liquor was manufactured and issued for bottling.

Under the provision of UPE Act, 1910 and Rules made thereunder, the 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.

We found that the label affixed on these bottles indicated the alcoholic content of country liquor as 25, 36 and 42.8 *per cent* v/v. But the actual strength of

the liquor after addition of the colour and flavour materials was found to be 25.1, 36.1 and 42.9 *per cent* v/v as shown by the hydrometer. Thus, the actual strength was higher by 0.1 *per cent* v/v in all cases. The rates of excise duty on the country liquor have been prescribed volume by volume (v/v) for the period from April 2004 to February 2009. Thus by not imposing excise duty on the basis of actual alcohol content, the Department collected less duty of ` 94.16 lakh.

The Department replied (May 2009) that 0.5 proof *per cent* which was 0.2855 *per cent* v/v margin was allowed in the bottling as storage loss and the addition of 0.1 *per cent* was within the norms. The contention of the department is not relevant as these are not the cases of loss but relate to presence of higher alcohol content on which excise duty is chargeable. The

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<sup>5</sup> Ghazipur (Lords), Mau (Nibi) and Muzaffarnagar (Tikola and Triveni)

<sup>6</sup> v/v : v/v is the volumetric content of alcohol in the spirit which is equal to 57.06 *per cent*.

<sup>7</sup> Lucknow (Mohan Meakin) and Saharanpur (Tapri)

Department should have charged the excise duty on the strength of liquor which was actually bottled as per the provisions of the Act.

#### 4.9 Short levy of licence fee

As per UPE Act, an application for renewal of the licence for the excise year shall be made to the Excise Commissioner 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.

We noticed in Manav Brewery, Ghaziabad that the brewery produced

For breweries having an yearly production upto 5,000 kilolitres, the license fee shall be ₹ 1,00,000, while for breweries having an yearly production of over 5,000 kilolitres and up to 10,000 kilolitres the license fee shall be ₹ 2,00,000. For breweries having an yearly production of over 10,000 kilolitres, the fee shall be increased by ₹ 20 per additional one kilolitre.

15,211.26 kilolitres of beer during the year 2006-07. The minimum B-1 licence fees payable by the brewery for the years 2007-08, 2008-09 and 2009-10 was ₹ 3.04 lakh each year. Against this the brewery deposited B-1 licence fee of ₹ two

lakh for the year 2007-08 and ₹ 2.5 lakh for the year 2008-09 and 2009-10 respectively. This led to short deposit of licence fee of ₹ 2.13 lakh.

The Department has accepted our observation and stated in May 2010 that ₹ one lakh has been deposited.

#### 4.10 Loss due to excess storage wastage of beer

Under the provisions of the Uttar Pradesh Brewery Rules, 1961 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.

We noticed that two<sup>8</sup> breweries claimed wastage of 2,55,310.8 BL in the storage of beer between June 2005 and October 2007. The claim was allowed though the admissible wastage was only 1,73,576.5 BL. The extra wastage of 81,734.3 BL

claimed by the breweries involving excise duty of ₹ 40.22 lakh should have been disallowed.

When we pointed this out, the concerned Officer-in-charge (Excise) replied that wastage was calculated on the basis of total stock stored which included bottled stock. This indicated that the department had incorrectly worked out the wastages. Allowing of wastage on the bottled beer was incorrect and resulted in loss of revenue of ₹ 40.22 lakh.

**The Department may consider putting in place a monitoring system for indicating the quantity of bottled and unbottled beer separately in the Monthly Stock Taking returns and issue directions for not allowing any wastage on bottled beer.**

<sup>8</sup> Ghaziabad (Manav Brewery) and Lucknow (Mohan Gold Water)

#### **4.11 Non-levy of interest on belated payment of excise revenue**

**4.11.1** We test checked the records of four<sup>9</sup> distilleries and three<sup>10</sup> breweries and noticed that excise revenue of ` 77.45 lakh pertaining to the period 1997-98 to 2008-09 was deposited between April 2004 to August 2009 i.e. with average delay of 51 months. However, interest amounting to ` 19.31 lakh on the belated payment was not levied by the Department.

Under the provision of the Uttar Pradesh State Excise Act, 1910, 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.

**4.11.2** We also noticed that 15<sup>11</sup> distilleries and two<sup>12</sup> breweries paid licence fees of ` 1.84 crore with average delay of 27 months. The Department did not levy interest amounting to ` 67.85 lakh on the delayed payment.

#### **4.12 Loss of revenue due to levy of sample fees at pre-revised rate**

During the test check of records of two ATLS<sup>13</sup> we noticed that during the period 6 October 2006 to 14 November 2006, sample fee was levied at the pre-revised rate. During this period 426 samples were checked resulting in short levy of sample fee of ` 34,080. The Department has issued instruction for the recovery of the fees (May 2010).

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.

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<sup>9</sup> Bijnor (Dhampur), Meerut (Naglamal) and Muzafarnagar (Tikola and Shamli)

<sup>10</sup> Ghaziabad (Manav), Lucknow (Mohan Gold Water) and Meerut (Skol)

<sup>11</sup> Balrampur (Balrampur Distillery), Bareilly (Superior), Bulandshahar (Jagatjeet), Ghazipur (Lords Distillery), Ghaziabad (Modinagar, Mohan Meakins), Gorakhpur (Saraiya), Lucknow (Mohan Meakins), Muzafarnagar (Mansoorpur, Shamli), Meerut (Daurala), Rampur (Rampur Distillery), Shahjahanpur (Roza), Saharanpur (Cooperative Distillery, Tapri) and Unnao (UDBL)

<sup>12</sup> Lucknow (Mohan Gold Water) and Meerut (Skol)

<sup>13</sup> Lucknow and Meerut