

## CHAPTER-V OTHER IRREGULARITIES

Total Reducing Sugar (TRS) is the percentage of total sugar present in molasses which can be reduced to fermentable sugar (FS) and un-fermentable sugar (UFS). Alcohol is made from FS. Alcohol Technology (AT) laboratories have been established for determining the FS content present in the molasses. We noticed a few lapses and irregularities at the department level and in the field offices involving ` 280.69 crore which are enumerated below:

### *System deficiencies*

#### **5.1 Short levy of overtime fees**

##### **5.1.1 Short raising of demand from distilleries**

Rule 727 of Rules framed under the UP Excise Act, 1910 states that in case excise staff stationed at a distillery are required to attend the distillery on any of the holidays or after normal office hours, the distillers are required to pay to the Government an overtime fee at the prescribed rates. The Government revised the rate of overtime fee of excise staff vide Gazette notification dated 9 March 2007 as Rule 12 of Uttar Pradesh Excise (Establishment of Distilleries) (Seventh Amendment) Rules 2007. No provision to levy/recover the overtime fee from sugar factories existed in the Act/rules or notifications issued thereunder.

We noticed in six distilleries<sup>1</sup> that the Government excise staff was deployed in the distilleries at night; thus, overtime allowance was recoverable at the rate

If the excise staff were retained after office hours or part thereof not less than 15 minutes in nights and in holidays, the distillers were required to pay to the Government, overtime fees equal to four times of the average pay and for retention of the Excise Staff after office hours during the day time it was two times the average pay. No such provision existed for sugar mills.

of four times of the average salary. The department recovered it at the rate of two times the average salary during the period from March 2007 to December 2008. This resulted in short deposit of ` 17.97 lakh. After we pointed this out, one distillery (Dhampur) deposited ` 1.95 lakh in

March 2009. A report on action taken by other distilleries has not been received.

We have noticed that in the concerned notifications and subsequent circulars regarding levy of overtime fees, there is no provision for levy of overtime fee for excise staff posted in sugar mills by the Government despite lifting of molasses being permitted between 6 a.m. to 10 p.m. This resulted in non-recovery of overtime fees from the sugar mills.

<sup>1</sup> Bareilly (Kesar Enterprises), Bijnore (Dhampur), Ghaziabad (Modi), Meerut (Kinauni), Muzaffarnagar (Mansoorpur) and Saharanpur (Tapri)

### **5.1.2 Short realisation of overtime fee due to increase in the average pay of the staff**

We found that the Department did not demand the differential amount of over time on the increase in the average pay of the staff payable by the distilleries

The overtime fee was recoverable on the basis of the pay revised in accordance with the Sixth Pay Commission to the excise staff in December 2008.

after the implementation of the Sixth Pay Commission. This resulted in non-realisation of Government revenue of ` 67.24 lakh recoverable from the

distillers and brewers for the period from March 2007 to March 2009.

The Assistant Excise Commissioner of Skol brewery, Meerut recovered ` 16 lakh from the brewery after we pointed this out. The replies in respect of the other units has not been received (August 2010).

**The Government may consider suitable provision for levy of the overtime fee for excise staff posted in sugar mills and specify a point of time at which night begins for the purpose of working out overtime.**

## **5.2 Transit and storage loss of Total Reducing Sugar**

Under the provisions of the 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).

**5.2.1** We noticed that in 25 distilleries 63,17,816.31 quintals of molasses were transferred from the sugar factories to the distilleries during the period

The Act and Rules do not provide for any loss of Total Reducing Sugar (TRS) in transit. 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.

April 2004 to March 2009. We compared the percentage of TRS present in the molasses determined in the laboratories of sugar factories with that determined in the distilleries. It revealed reduction in percentage of TRS during

transportation that ranged between 0.03 to 11.50 *per cent*. The distilleries received 58,288.57 quintal of TRS short from which 26,92,931.30 AL of alcohol, involving excise revenue of ` 58.31 crore as shown in Appendix-VIII, could have been produced.

**5.2.2** We noticed that 23 distilleries stored 60 lakh quintals of molasses during the period

Excise Commissioner's Circular dated 24 May 1995 fixed norms of minimum 88 *per cent* Fermentable Sugar content in TRS. The Act and Rules do not provide for any loss of Fermentable Sugar (FS) in storage.

2004-05 to 2008-09. There was loss of fermentable sugar during storage of molasses that ranged between 0.05 and 6.27

*per cent.* This amounted to 78,513.06 quintals of Fermentable Sugar from which 41,21,936.11 AL of alcohol involving excise revenue of ` 74.10 crore could have been produced (Appendix-IX).

When we pointed this out, the Department replied that recovery of alcohol is based on the fermentable sugar reported by the ATLS and not on the basis of TRS content dispatched from sugar factories or received/stored in distilleries. The reply of the department is not correct as ATLS have been established for determining the FS content present in the molasses. The variations between the percentage of TRS mentioned in the MF 4 Pass of molasses dispatched from sugar factories and that of the TRS received by the distilleries should have been examined to ascertain the actual production of alcohol in the interest of revenue.

**5.2.3** Test check of the records of 13 sugar factories revealed that during the period April 2005 to October 2009, 71,38,819.46 quintals of the molasses were stored in sugar factories. The TRS content was determined at different intervals and it was noticed that there was loss in TRS which ranged between 0.02 to 3.42 *per cent* during storage. This resulted in loss of TRS of 55,853.55 quintals containing 49,151.11 quintals of fermentable sugar having potential of producing 25,80,433.90 AL of the rectified spirit, involving excise duty of ` 99.41 crore as shown in Appendix-X.

The Act and Rules do not provide for any loss of TRS content in storage.

After we pointed this out, the Department stated that with the passage of time the TRS content decreases due to the different layers of molasses with different TRS, thus percentage of the TRS may vary. The reply of the Department is not in line with Rule 11 of the UP *Sheera Niyamtran Niyamavali* which provides for drawing up of the samples from all the three layers of molasses i.e. upper, middle and lower layers. So loss of the TRS content noticed as a result of the sample test by the same laboratory should have been investigated in the interest of revenue.

**5.2.4** In a related case in the records of Kinauni sugar factory we noticed that at the time of dispatch of 30,84,996.60 quintals of molasses to its distillery

The Act and Rules do not provide for any loss of Total Reducing Sugar (TRS) or Fermentable Sugar (FS) in transit of molasses from a sugar factory to its distillery through pipeline.

through pipeline, the TRS contents present in molasses ranged from 44.50 to 46.80 *per cent*. However, the TRS contents

received by the distillery was shown between 41.00 to 45.90 *per cent*. The reduction of TRS content ranged between 0.18 to 3.95 *per cent* in 30,84,996.60 quintals of molasses transported through pipeline, resulting in loss of 22,268.90 quintals of TRS from which 10,28,825.50 AL of rectified spirit, involving potential excise revenue of ` 20.28 crore could have been produced. We noticed that the Department had at no time made any effort to ascertain the reasons for the loss though the distillery and sugar factory are located in the same premises.

**5.2.5** We noticed that there was no provision in the Act/rules regarding action to be taken where distilleries fail to achieve minimum 88 *per cent* fermentable sugar content in TRS. In the test check of the records of two<sup>2</sup> ATs we noticed that during 2007-08 to 2008-09, in 68 samples received in the ATs, the distilleries failed to achieve 88 *per cent* of minimum fermentable sugar derived from TRS. Thus there was short production of 5,045.01 quintals of fermentable sugar from the TRS and consequently 2,64,863.13 AL of rectified spirit could not be produced. This would involve excise revenue of ` 8.03 crore.

Excise Commissioner's Circular dated 24 May 1995, fixed norms of minimum 88 *per cent* fermentable sugar content in TRS.

The Assistant Alcohol Technologists replied (May 2010) to our observation that the facts were reported to the Excise Commissioner and excise staff posted at the distilleries. Further action taken has not been received (August 2010).

**5.2.6** On test check of the records of two<sup>3</sup> AT Laboratories, we also noticed that there was a loss of TRS in storage as the sample of molasses received in AT Laboratories were of below grade (TRS of less than 40 *per cent* equivalent of FS of less than 35.20 *per cent*). Based on the information furnished we noticed loss of 10,235.87 quintals of FS which would have produced 5,37,383.81 AL of rectified spirit involving excise revenue of ` 19.70 crore.

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.

When we pointed this out, the Assistant Alcohol Technologists replied (May 2010) that the facts were reported to the Excise Commissioner and excise staff posted at the distilleries. Further action taken was not produced to audit.

**The Department may examine the issues and make suitable amendments in the rules regarding loss of TRS in transit and storage as it involves loss of revenue. A penal provision also needs to be incorporated regarding loss of TRS in transit/storage beyond permissible limits and failure of distilleries to recover minimum quantity of fermentable sugar.**

### *Compliance deficiencies*

## **5.3 Non-levy of excise duty on transit wastages of spirit**

Under the provisions of Rule 19 of the Medicinal and Toilet Preparation (Excise Duties) Rules, 1956, transit wastage of spirit is not allowed. The Excise Commissioner may however, if satisfied about merits of the case waive the duty payable in respect of such loss either in full or in part.

We test checked the records of Roop Chemical Pharmacy, Lucknow, and noticed that 2,94,595.8 AL of ENA was dispatched from distilleries to the

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<sup>2</sup> Lucknow and Meerut  
<sup>3</sup> Lucknow and Meerut

pharmacy under bond in 86 passes. The consignee received only 2,93,798 AL of ENA against the dispatched quantity. The fate of the remaining 797.8 AL of ENA was not known to the Department. Thus excise duty of one lakh was recoverable from the pharmacy.

When we pointed this out, the Department replied that the transit wastage of 0.5 *per cent* was allowed. The reply of the Department is not correct as no transit loss is admissible under the Act. Moreover the Department had not processed the case even for waiving the loss incurred on account of non-receipt of the alcohol. Thus inaction on the part of the Department resulted in loss of revenue to the Government.

#### 5.4 Non-Inter-change of excise locks

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 Medicinal and Toilet Preparation (Excise Duties) Act, 1955 nor in the rules made thereunder.

We test checked the records of four<sup>4</sup> pharmacies and noticed that the required number of excise locks was not provided by the Department for the period 2004-05 to 2008-09 and they were not interchanged at regular intervals.

**We suggest that the Department should provide the excise locks and make provision in the Act/Rules for interchange of locks at regular intervals so that there is no loss/pilferage.**

#### 5.5 Non/short execution of bond

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.

We test checked the records of four<sup>5</sup> pharmacies and noticed that two pharmacies i.e. Roop Chemical Pharmacy and Vijai Chemical Pharmacy did not execute the required bond and the remaining two i.e. Bhargav Pharmacy and Sri

Durga Chemical Pharmacy executed bonds with less value as compared to alcohol stored in their premises.

<sup>4</sup> Bhargav Pharmacy (Bulandshahar), Wardex and Dabur Pharmacy (Ghaziabad) and Roop Chemical (Lucknow)

<sup>5</sup> Bhargav Pharmacy (Bulandshahar), Roop Chemical (Lucknow), Vijai Chemical Pharmacy and Sri Durga Chemical Pharmacy (Aligarh)

Distilleries  
are  
generally  
allowed to  
purchase

*Performance Audit Report (Revenue Receipts) for the year ended 31 March 2009*

The storing of alcohol in the premises of a pharmacy without requisite bond or with bond of less value was a violation of Rule 21 and is fraught with the risk of non-recovery of dues in case of a default in payment of the excise duty.