

CHAPTER-III: STATE EXCISE

3.1 Trend of receipts

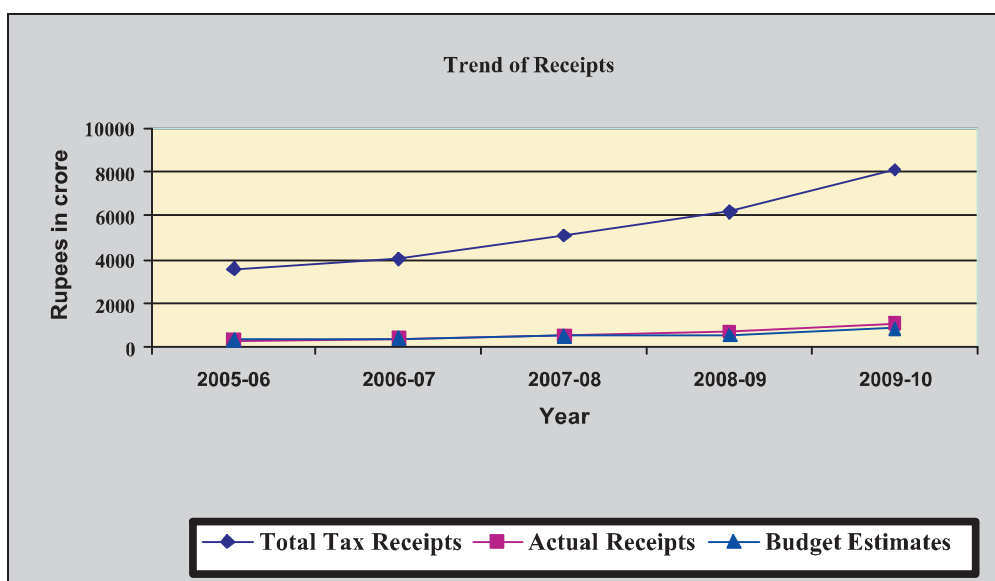
The variation between budget estimates and actual receipts from State excise during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is mentioned below:

(₹ in crore)

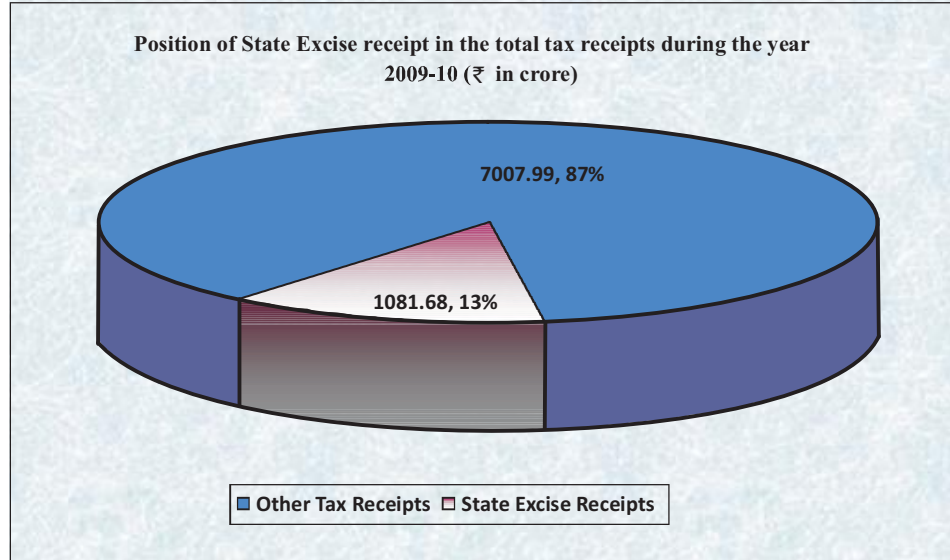
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2005-06	335.00	318.59	(-) 16.41	4.90	3,561.10	8.95
2006-07	400.00	381.93	(-) 18.07	4.52	4,033.08	9.47
2007-08	500.00	525.42	25.42	5.08	5,085.53	10.33
2008-09	537.69	679.14	141.45	26.31	6,172.74	11.00
2009-10	850.00	1,081.68	231.68	27.26	8,089.67	13.37

The above table indicates that the percentage of receipts from State excise when compared with the total receipts of the State increased consistently during the period.

The trend of receipts vis-à-vis the estimated receipts of State excise and total tax receipts is given in the graph below:



Further, the chart below depicts the contribution of State excise receipts to the total tax receipts (₹ 8,089.67 crore) of the State during 2009-10:



3.2 Cost of collection

The gross collection of State excise receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2007-08 to 2009-10 along with the relevant all India average percentage of expenditure on collection to gross collections for the relevant previous years are mentioned below:

(₹ in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the previous year
2007-08	525.42	22.14	4.21	3.30
2008-09	679.14	24.15	3.56	3.27
2009-10	1,081.68	44.02	4.07	3.66

The above table indicates that the percentage of expenditure on collection was higher than the all India average percentage for the preceding year.

The Government needs to take appropriate measures to bring down the cost of collection and keep it below the all India average.

3.3 Impact of audit

Revenue impact

During the period from 2004-05 to 2008-09, we have pointed out through our inspection reports, non/short levy, underassessment/loss of revenue etc., with revenue implication of ₹ 734.16 crore in 6507 cases. Of these, the Department/Government had accepted audit observations in 394 cases involving ₹ 90.07 crore and had since recovered ₹ 57 lakh. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2004-05	29	182	43.99	6	8.38	3	0.34
2005-06	42	2,659	149.90	83	1.08	Nil	Nil
2006-07	30	3,404	167.09	258	48.15	-	0.15
2007-08	32	149	149.60	4	0.47	Nil	Nil
2008-09	32	113	223.58	43	31.99	11	0.08
Total	165	6,507	734.16	394	90.07	14	0.57

This low recovery of ₹ 57 lakh (0.63 per cent) against the accepted cases involving ₹ 90.07 crore indicates lack of promptness on the part of the Government/Department in realising the Government dues.

We recommend that the Government take appropriate steps to recover the amount involved, at least in accepted cases.

3.4 Working of internal audit wing

There is an internal audit wing called Finance (Audit) which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the administrative Department.

An audit team of Finance (Audit) comprises of three members, one being the head of the team. In consideration of the quantum of requisitions for audit, personnel for audit teams are drawn from headquarters/divisional offices. The Department did not furnish further information to us regarding the number of offices due for audit, audit conducted, number of observations issued and amount involved in the cases.

3.5 Results of audit

During 2009-10 our test check of the records of 39 units relating to State excise revenue revealed underassessment of tax and other irregularities involving ₹ 451.60 crore in 175 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Levy and collection of State excise revenue (A review)	1	105.68
2.	Non/delayed settlement of excise shops	106	241.58
3.	Non-realisation of license fee	23	10.40
4.	Loss due to non/short lifting of MGQ	4	0.41
5.	Other cases	41	93.53
Total		175	451.60

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 305.42 crore in 152 cases, of which 140 cases involving ₹ 300.21 crore were pointed out during 2009-10 and the rest in earlier years.

Audit findings of the review on '**Levy and collection of State excise revenue**' with financial impact of ₹ 105.68 crore are mentioned in the following paragraphs.

3.6 Levy and Collection of State Excise Revenue

Highlights

Due to non/delayed settlement of excise shops coupled with non-operation of shops by the Department/through BSBCL, the Government sustained a loss of ₹ 134.29 crore in the shape of licence fee.

(Paragraph 3.6.9.1 and 3.6.9.2)

Due to absence of a mechanism of periodic review of shop-wise lifting of liquor against allotted MGQ, short lifting of liquor by the licensees remained unnoticed leading to a loss of Government revenue of ₹ 94.61 crore.

(Paragraph 3.6.10)

Due to delayed institution of certificate proceedings for recovery of arrears, there was loss of revenue of ₹ 3.14 crore in the shape of interest.

(Paragraph 3.6.12.2)

The internal audit was weak as evidenced by the low quantum of departmental inspections, non-maintenance of registers and lack of internal audit.

(Paragraph 3.6.13)

3.6.1 Introduction

Entry 8 of list II of the Seventh Schedule of the Constitution of India empowers the State Government to levy and collect excise revenue. In Bihar, the production of potable liquor is primarily derived from molasses, which is a by-product of sugar factories producing sugar from sugarcane. The control of distribution, supply, storage and price of molasses produced by the factories in the State is regulated by the Bihar Molasses (Control) Act, 1947 and Rules framed thereunder, while the levy and collection of excise revenue is governed by the Bihar Excise (BE) Act, 1915 and Rules made thereunder.

State excise revenue is one of the most important sources of tax revenue, which constituted 11.08 *per cent* of the total revenue raised by the State Government during 2009-10. This includes revenue derived or derivable from any duty, fee, tax, payment (other than a fine imposed by a Criminal Court) or confiscation imposed or ordered under the BE Act or any other law for the time being in force relating to liquor or intoxicating drugs.

3.6.2 Organisational set up

The assessment, levy and collection of excise revenue is administered by the Secretary, Department of Registration, Excise and Prohibition at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the ex-officio Controller of Molasses for the administration and execution of Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one

DCE at each of the four¹ divisional headquarters. At the district level, the Collector of the district is in charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

3.6.3 Audit objectives

We conducted the review to ascertain whether:

- the provisions of the BE Act and Rules made thereunder and Departmental instructions were adequate and appropriate to safeguard the interest of Government revenue and were being implemented effectively;
- the excise revenue was properly assessed, collected in time and deposited immediately on realisation into the proper head of Government account; and
- a system of internal control mechanism appropriate to the nature and volume of functions existed within the Department and was functioning effectively.

3.6.4 Scope and methodology of audit

For the purpose of the review, we test checked the records of the Commissioner of Excise-cum Controller of Molasses, in 13² out of 38 District Excise Offices and one³ out of three distilleries for the period from 2004-05 to 2008-09 during November 2009 to May 2010.

The selection of 11 district excise offices was based on statistical sampling through population proportionate sampling with replacement and simple random sampling with replacement method. Two⁴ district excise offices were selected on the basis of high unsettled shops and one distillery was selected on the basis of highest revenue collection.

3.6.5 Audit criteria

We referred to the following Acts and Rules in course of the review:

1. The Bihar Excise Act, 1915
2. The Bihar Excise (Settlement of Licences for Retail sale of Country/Spiced Country Liquor) Rules, 2004
3. The Bihar Excise (Settlement of Licences for Retail sale of Country/Spiced Country Liquor, Foreign Liquor, Beer and Composite Liquor Shop) Rules, 2007
4. The Bihar Financial Rules, Volume- I

¹ Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

² Aurangabad, Bhagalpur, Bhojpur, Darbhanga, East Champaran, Gaya, Gopalganj, Muzaffarpur, Nalanda, Patna, Saran, Siwan and West Champaran.

³ United Sprit Limited, Hathidah.

⁴ Gopalganj and Saran.

5. The Bihar Treasury Code, Volume-I
6. The Bihar Budget Manual
7. The Bihar and Orissa Public Demands Recovery Act, 1914

3.6.6 Acknowledgement

We acknowledge the cooperation of the Department of Excise and Prohibition in providing necessary information and records to audit. An entry conference was held in February 2010 to explain the objectives of the review, the audit criteria and to elicit areas of Departmental concern, if any. The entry conference was attended by the Secretary to the Government, the Commissioner of Excise and the Managing Director of the BSBCL. The findings of the review were forwarded to the Government in June 2010 for their response. An exit conference was held in September 2010 with the Secretary to the Government, in which the results of audit and recommendations were discussed. The Managing Director of the BSBCL also participated in the exit conference. The replies of the Government have been appropriately included under the respective paragraphs.

3.6.7 Trend of revenue

3.6.7.1 Budget formulation

According to the provisions of the Bihar Budget Procedures, the estimates of revenue and receipts should indicate the amount expected to be realised within the year. The arrears and current demands should be shown separately and reasons given, if full realisation cannot be expected and should be based on the estimates furnished by the Department.

The Bihar Budget Procedure provides that accuracy in the budgeting must start from the lowest stage of estimating itself. All estimating officers should strive to provide in the budget for everything that can be foreseen and to provide only as much as necessary.

The revenue target should be fixed in such a way that it should constitute a valid benchmark for monitoring and for assessing performance.

A comparison of the estimates proposed by the Department, BEs and targets fixed by the Finance Department as well as revenue collection appearing in the Finance Accounts for the year 2004-05 to 2008-09 are as mentioned in the following table :

(₹ in crore)

Year	Estimate proposed by Department	Budget estimate	Target fixed by Finance Department	Revenue Collection as per Finance Accounts	Variation between Revenue collection and Budget Estimate (3-5)	Percentage variation between Revenue collection and Budget Estimate
1	2	3	4	5	6	7
2004-05	330.00	290.00	330.00	272.47	(-) 17.53	6.04
2005-06	335.00	335.00	335.00	318.59	(-) 16.41	4.90
2006-07	400.00	400.00	400.00	381.93	(-) 18.07	4.52
2007-08	480.00	500.00	700.00	525.42	25.42	5.08
2008-09	700.00	537.69	750.00	679.14	141.45	26.31

- We observed that the estimates were not proposed by the Department after obtaining the requisite data from the field offices.

The Government replied that a detailed exercise for preparation of budget estimates is undertaken by the Department and district excise officials in consultation with BSBCL in the month of February and March every year. The reply is not correct as the Department furnished the budget proposals to the Finance Department in the months of November and December of the preceding year which indicated that the budget proposals were framed without any field inputs.

Further, we noticed that the entire budget process as reflected in the above table was done without taking excise revenue arrear into consideration in violation of the Bihar Budget Procedure. The Government issued (October 2010) instructions to the district officers to include revenue arrears in the budget estimates.

- In the year 2007-08, against the BEs of ₹ 500 crore the target fixed by the Finance Department was ₹ 700 crore and revenue collection as reflected in Finance Accounts was ₹ 525.42 crore. During 2008-09, though the estimate proposed by the Department was ₹ 700 crore, the Finance Department fixed the BEs at ₹ 537.69 crore and the revenue collection target at ₹ 750 crore. Against this the actual revenue collection as reflected in the Finance Accounts was ₹ 679.14 crore. The above figures reveal unrealistic budget estimation and fixation of target by the Finance Department. After this was pointed out, the Finance Department replied (October 2010) that the budget estimates were prepared on the basis of actual receipts of the previous years. This reply is not correct because the estimates proposed by the Department should have been taken into consideration while preparing the budget estimates for the year 2008-09.

3.6.7.2 Inflated depiction of achievement

Article 284 of the Constitution of India provides that all moneys (other than Government revenue) shall be credited into the Public Accounts of the State. Further, Article 266 directs that no money shall be appropriated out of the Consolidated Fund of the State without legislative approval.

In 13 test checked excise districts, we noticed that security deposit of ₹ 55.27 crore relating to the period from 2004-05 to 2008-09 was credited under the revenue

receipt head “0039- State Excise” instead of security deposit head ‘8443 -Civil Deposit’.

The matter was reported to the Government through paragraph 3.7 of Audit Report (Revenue Receipts) for the year ended 31 March 2007. The Finance Department issued (May 2008) instructions to the Secretary-cum-Commissioner of the Department of Excise and Prohibition to comply with the audit observation. The Department of Excise and Prohibition circulated (May 2008) the instruction of Finance Department to all district excise offices. However, we noted that the instructions were not followed by the ACEs/SEs of the test checked districts.

Credit of security deposit into the revenue receipts head resulted in inflated achievement of the revenue collection figure. Further, security deposit was refunded to the licensees from the expenditure head ‘2039-State Excise’ without allotment, thereby violating the budgetary control mechanism.

The Government stated (October 2010) that the irregular practice of refunding security deposit from the expenditure head without allotment was on the advice of the Finance Department. We do not agree with the reply because the security deposit was required to be refunded after obtaining the budget allotment.

3.6.7.3 Reconciliation of revenue figures

As per provisions of the Bihar Financial Rules, the controlling officer is required to ensure timely reconciliation of revenue figures between the Departmental figures and those appearing in the books of the Accountant General (A&E).

The amount of revenue collection as furnished by the Department and the figures shown in the Finance Accounts for the period

2004-05 to 2008-09 is given below:

(₹ in crore)

Year	Revenue collection		Variation between Departmental figure and Finance Accounts (3-2)
	As per Finance Accounts	As furnished by Department	
1	2	3	4
2004-05	272.47	272.53	0.06
2005-06	318.59	319.70	1.11
2006-07	381.93	383.87	1.94
2007-08	525.42	535.56	10.14
2008-09	679.14	749.15	70.01

Thus, during the period 2004-09, there was variation of ₹ 83.26 crore in total receipts as appearing in the books of the Accountant General (A&E) and those furnished by the Department to us. This indicates that timely reconciliation of the figures as required under the existing rules was not done.

The Government replied (October 2010) that a report from all districts has been called for and the discrepancy of ₹ 70.01 crore between the Finance Accounts and the Departmental revenue figure during 2008-09 appeared to be due to special privileges fee deposited by the BSBCL. The reply, however, does not explain the reason for difference of the balance amount of ₹ 13.25 crore.

We observed that in 11⁵ test checked excise districts during 2004-05 to 2008-09, the amount of revenue reported through revenue statements was ₹ 1,214.15 crore as against ₹ 1,263.86 crore reflected in the treasury schedules. Thus, a sum of ₹ 49.71 crore was not reconciled. This discrepancy indicates deficient accounting and reporting mechanism.

We undertook an independent exercise in Siwan excise district for the months of July 2008 and March 2009 to find out the reasons for difference in the revenue figure of Revenue Statements and Treasury Schedules. We observed that the revenue statement was prepared on the basis of data available with the district excise office before preparation of the treasury schedule. The figure of excise duty mentioned in the revenue statement was derived on the basis of consumption of liquor in the district, even though its duty was paid in other districts, whereas the district treasury schedule showed excise duty deposited through challans in the concerned district only. Further, the amount of excise revenue forming part of the closing balance was included in the revenue figure of the revenue statement, though it was not mentioned in the treasury schedule as the amount was not deposited in the same month. We observed that the difference was not reconciled by the district excise office.

The Government should ensure adherence to the provisions of the Budget manual in preparation of the BEs as well as abide by the correct provisions with regard to crediting the amount of the security deposit into the proper head of account and its refund from the relevant head and not from the expenditure head. The Government may also take effective steps for ensuring timely reconciliation of the Departmental revenue figures with those of the Finance Accounts.

Audit findings

The Bihar Excise (Settlement of Licences for Retail sale of Country/Spiced Country Liquor) Rules, 2004 (Bihar Excise Rules 2004) was replaced with the Bihar Excise (Settlement of Licences for Retail sale of Country/Spiced Country Liquor, Foreign Liquor, Beer and Composite Liquor Shop) Rules, 2007 (Bihar Excise Rules 2007) in July 2007. Hence, our audit comments are based on the provisions of the relevant Rules as existing during the period of review.

⁵ Aurangabad, Bhagalpur, Bhojpur, East Champaran, Gaya, Gopalganj, Muzaffarpur, Nalanda, Patna, Saran and Siwan.

In our review of “Levy and Collection of State Excise Revenue” we found a number of deficiencies as discussed in the following paragraphs.

Levy of excise revenue

3.6.8 Settlement of excise shops

Upto June 2007, the licences for retail vend of excise shops were settled annually by public auction. With effect from July 2007, the settlement of licences for retail excise shops was to be made through lottery system.

The position of sanctioned excise shops and their settlement during 2004-05 to 2008-09 in the State was as under:

Year	No. of sanctioned shops	No. of settled shops	No. of unsettled shops	Percentage of unsettled shops
2004-05	3,436	3,075	361	10.5
2005-06	3,439	2,922	517	15
2006-07	3,436	3,235	201	5.8
2007-08	6,184	3,448	2,736	44.2
2008-09	5,718	3,988	1,730	30.25

(Source: Administrative Report of the Department of Registration, Excise and Prohibition for the year 2009-10)

We observed the following:

- After introduction of the Bihar Excise Rules, 2007, the percentage of unsettled shops jumped from 5.8 *per cent* in 2006-07 to 44.2 *per cent* in 2007-08 and 30.25 *per cent* in 2008-09. It may also be seen from the above table that while the number of sanctioned excise shops increased by 2,748 in 2007-08 over 2006-07, the number of settled excise shops increased by 213 only, leaving 2,736 number of shops unsettled.

The Government attributed (October 2010) this to rumours spread by the old monopoly cartels among the bidders of the shops, regarding discontinuance of the new excise policy, resulting in disappointing settlement. However, the percentage of unsettled shops reduced to 19 *per cent* in 2009-10 and to about five *per cent* in 2010-11.

- Settlement of maximum retail excise shops is a pre-requisite for the control of illicit trade in liquor and for optimum realisation of State excise revenue. The Department instructed (February 2008) the field offices to settle excise shops in groups for settlement of maximum number of shops. High revenue potential shops were required to be clubbed with low revenue potential shops while forming groups.

We observed in three⁶ district excise offices that during 2008-09, 47 out of 266 groups were formed by clubbing unsettled shops of 2007-08. Those groups were formed by clubbing only low potential shops instead of clubbing the low revenue potential shops with the high revenue potential shops, thus defeating the very purpose of allotting shops in groups and maximising the revenue potential. Consequently, such groups remained unsettled in 2008-09. The circumstances under which such groups were formed were not on record.

⁶ Bhagalpur, Saran and West Champaran.

The Government replied (October 2010) that clubbing is a complicated exercise and sometimes clubbing a high potential shop with other low potential shops may be counterproductive as this may prevent the settlement of even the high potential shops. We do not agree with the reply because formation of groups was required to be done in accordance with the departmental instruction of February 2008.

The Government may take effective measures for maximum settlement of excise shops in order to ensure supply of liquor through authorised shops and to check illegal trade of liquor.

3.6.9 Operation of excise shops

3.6.9.1 The Bihar Excise Rules, 2004 did not have any provision regarding operation of unsettled shops. As per the departmental instruction issued in April 2005, in case of excise shops remaining unsettled, the supply of CS and SCS in the areas concerned of 10⁷ districts were to be operated by the Department through its own management, so that the consumers of liquor may not fall into the trap of illegal suppliers of liquor. No such instructions were issued for the remaining districts and unsettled IMFL shops in all districts.

- In four⁸ excise districts we noticed that 49 CS, 26 SCS and nine IMFL shops put to auction, remained unsettled in the absence of interested bidders during 2004-05 to 2007-08 (April to June 2007).
- Further, we noticed that in 10⁹ excise districts, 305 CS, 210 SCS and 138 IMFL shops were settled after delays ranging from four to 326 days.

These CS and SCS shops were also not operated departmentally during the period of non-settlement, except in four¹⁰ districts. Thus, due to non/delayed settlement of shops, the Government lost revenue of ₹ 11.33 crore (due to non-settlement: ₹ 1.52 crore and delayed settlement: ₹ 10.72 crore after adjusting revenue of ₹ 90.72 lakh collected through departmental operation of shops in four excise districts) worked out on the basis of reserve fee of unsettled shops.

The Government stated (October 2010) that there was no statutory provision for the operation of unsettled shops by the Department. The fact remains that the Department did not take action in accordance with its own instructions of April 2005.

3.6.9.2 As per the Bihar Excise Rules 2007 issued vide notification of June 2007, if any retail shop is not settled through lottery, the BSBCL with the approval of the CE will establish and run such shops.

- We observed in 13 selected excise districts that 310 CS, 257 IMFL and 495 composite liquor shops remained unsettled during 2007-08 (July 2007 to March 2008) and 2008-09, due to non-availability of willing applicants.

⁷ Arwal, Aurangabad, Bhojpur, Gaya, Jehanabad, Nawada, Purnea, Rohtas, Saran and West Champaran.

⁸ Aurangabad, Darbhanga, Saran and West Champaran.

⁹ Bhagalpur, Bhojpur, Darbhanga, East Champaran, Gaya, Muzaffarpur, Patna, Saran, Siwan and West Champaran.

¹⁰ Aurangabad, Bhojpur, Gaya and West Champaran.

- Further, we noticed that during 2007-08 (July 2007 to March 2008) and 2008-09, 116 CS, 83 IMFL and 145 composite shops were settled after expiry of time ranging between four to 309 days.

The excise shops which were settled after delays as well as the shops which remained unsettled were required to be operated through BSBCL. But the BSBCL expressed (December 2007) its inability to operate unsettled shops due to lack of resources. Thus, the Government was deprived of revenue of ₹ 122.96 crore (due to non-settlement: ₹ 113.32 crore and delayed settlement: ₹ 9.64 crore) worked out on the basis of licence fee of unsettled shops.

The Government stated (October 2010) that the BSBCL expressed its inability to run the unsettled shops. The fact however remains that the Government did not evolve any alternative mechanism to run the unsettled excise shops even after refusal of the BSBCL to operate such shops during 2007-08 and 2008-09. Consequently, the notification issued in June 2007 remained ineffective.

As per the Bihar Excise Rules and condition 6(a) of the sale notification, excise shops are settled for the whole of the excise year (beginning from 1st April and ending on 31st March of next calendar year). Further, the Bihar Excise Rules provide that on violation of the provisions of the Rules, conditions of licence or conditions of sale notification or general conditions applicable to vend licences by the licensees in any manner which causes loss of revenue to the State, in addition to the total amount of loss, an equal amount shall be imposed as penalty under Section 42 of the BE Act.

3.6.9.3 In six¹¹ districts, we observed that licenses for 42 CS, 30 SCS, 28 IMFL and 22 Composite Liquor Shops settled for the excise year 2006-07, 2007-08 (July 2007 to March 2008) and 2008-09 were cancelled between August 2006 and February 2009 due to non-payment of licence fees. These shops were neither resettled nor operated through the Department/BSBCL after cancellation, which

resulted in loss of revenue of ₹ 10.72 crore including penalty of ₹ 4.53 crore. The district excise officers did not initiate any action against the defaulting licensees to recover the loss of revenue to Government as per the provisions of the Act.

The Government directed (October 2010) filing of cases for recovery in all cases of default.

The Government may consider evolving a mechanism to operate the unsettled retail liquor shops to minimise the risk of supply of illicit liquor and to maintain the yield of revenue.

¹¹ Bhojpur, Darbhanga, East Champaran, Patna, Saran and Siwan.

3.6.10 Lifting of liquor by retail licensees

As per the provisions of the Bihar Excise Rules, 2004 and the Bihar Excise Rules, 2007 as well as the conditions of sale notification, the annual Minimum Guaranteed Quantity (MGQ) of liquor for the whole excise year shall be divided in twelve equal installments and the licensee shall have to lift one part thereof every month. Further, the BE (Amendment) Act (effective from January 2007) provides that in case of a breach of any of the conditions of the licence which cause loss of revenue to the Government, in addition to the total amount of the revenue involved, an equal amount shall be imposed as penalty.

The MGQ of liquor of a district as determined by the CE is distributed among the excise shops of that district by the Licensing Authority. The licence fee of each excise shop is fixed on the basis of annual MGQ of that shop.

The Government resolution (June 2007) provides for exact

determination of MGQ of liquor on the basis of population. However, no detailed guidelines for fixing MGQ as envisaged in the resolution were issued by the Department. Though the MGQ of the excise shops was proposed by the district excise offices, the basis of determination of MGQ of excise shops was not found in the records of the district excise offices.

3.6.10.1 Country Spirit and Spiced Country Spirit

As per notification issued by the Board of Revenue in November 2004 (effective from January 2005) under the provisions of the Bihar Excise Rules 2004, the rate of issuance fee of CS and SCS for retail vends was fixed at ₹ 2.50 per LPL up to the fixed MGQ.

During test check of records of 11¹² districts we noticed that the retail licensees of excise shops did not lift the allotted MGQ of CS and SCS during 2005-06 to 2007-08 (April to June 2007) resulting in loss of revenue of ₹ 2.93 crore including penalty

of ₹ 17.37 lakh for the period April 2007 to June 2007 as detailed in the following table:

¹² Aurangabad, Bhagalpur, Bhojpur, East Champaran, Gaya, Gopalganj, Muzaffarpur, Patna, Saran, Siwan and West Champaran.

Period	Annual Quota (LPL)		Annual Lifting (LPL)		Short lifting (LPL)		Loss of revenue (Amount in ₹)
	CS	SCS	CS	SCS	CS	SCS	
2005-06	1,35,34,258	30,79,600	89,03,468.98	10,38,216.22	46,30,789.02	20,41,383.78	1,66,80,432
2006-07	90,32,663	19,48,894	64,32,587.18	8,74,400.76	26,00,075.82	10,74,493.24	91,86,423
2007-08 (April to June 2007)	16,79,577	5,09,669.22	13,44,384.26	1,50,102.98	3,35,192.74	3,59,566.24	17,36,897
Total	2,42,46,498	55,38,163.22	1,66,80,440.42	20,62,719.96	75,66,057.58	34,75,443.26	2,76,03,752

3.6.10.2 India Made Foreign Liquor and Beer

In 11¹³ excise districts we observed that the retail licensees of excise shops lifted 70.06 lakh LPL of IMFL and 49.25 lakh BL of beer only against their allotted MGQ of 125.11 lakh LPL of IMFL and 135.26 lakh BL of beer. Thus the licensees did not lift 55.05 lakh LPL of IMFL and 86.01 lakh BL of beer, worked out on the basis of MGQ fixed for the respective shops. This resulted in loss of revenue of ₹ 91.68 crore including penalty of ₹ 23.43 crore and after adjusting security deposit of ₹ 1.12 crore imposed by three¹⁴ SEs.

We also noticed that though the provision of lifting of MGQ of liquor was made in the Bihar Excise Rules, yet modalities for periodical review of lifting of liquor by the licensees of excise shops, reports/returns to be furnished by the district excise officers and monitoring by higher officers have not been prescribed. Consequently, the Department/Government was not in a position to know the loss of revenue due to short lifting of MGQ of liquor at appropriate times.

The Government replied (October 2010) that after introduction of the BE Rules, 2007, the State MGQ in totality was being lifted approximately and the position was improving year to year. The Government further stated that report from all district excise offices has been called for and if necessary, action for realisation of revenue would be initiated.

The Government may consider framing suitable internal control mechanisms to obtain regular feedback on shop-wise lifting of liquor against MGQ and to initiate action as per Rules in case of short lifting.

¹³ Aurangabad, Bhagalpur, Bhojpur, East Champaran, Gaya, Gopalganj, Muzaffarpur, Patna, Saran, Siwan and West Champaran.

¹⁴ Bhagalpur, Muzaffarpur and Siwan.

3.6.11 Licence fee

Under the Bihar Financial Rules, it is the duty of the controlling officer to ensure that the Government dues are correctly and promptly assessed, collected and remitted into the treasury.

The Bihar Excise Rules, 2007 and the conditions of sale notification provides that after the acceptance of settlement by the licensing authority, one twelfth portion of annual licence fee shall be paid by the settlee as advance licence fee, which will be adjusted in the last month of the excise year.

The monthly installment of licence fee specified in the licence and determined by the Government shall be deposited by the licensee in the Government treasury of the district by the first day of the month, which in any event must be deposited by 20th of the month and if the day is a holiday, on the next working day, failing which the licence shall be cancelled and all deposited security amount shall be forfeited and the shop shall be settled to the next bidder.

The BE Act/Rules did not provide for imposition of interest on delay in the payment of licence fee.

3.6.11.1 During scrutiny of records of ACE, Bhojpur we observed that during 2007-08 (1 July 2007 to 31 March 2008) seven licensees did not deposit advance licence fee amounting to ₹ 7.51 lakh after the settlement of shops. Issue of licence without deposit of advance licence fee was irregular. No action for cancellation of

licences, forfeiture of security deposits or realisation of arrears was taken by the ACE against the defaulting licensees. This dereliction of duty on the part of the ACE deprived the Government of excise revenue.

The Government assured (October 2010) that suitable action would be taken after examination of the matter.

3.6.11.2 The BE Act provides for maintaining a register of non-payment, late payment etc of licence fees in excise form no. 132.

- We observed that none of the test checked district excise offices maintained this register to watch the delay in payment of licence fee. We further noticed that during 2008-09, 244 licensees in 10¹⁵ districts deposited monthly licence fee amounting to ₹ 6.18 crore after delays ranging between three to 140 days after the grace period of 20 days. No action was taken against the defaulting licensees.
- We observed from the records of the ACE, Bhojpur that 13 licensees did not deposit the licence fee amounting to ₹ 27.47 lakh during 2007-08 (1 July 2007 to 31 March 2008). In five cases, licences were cancelled at the end of the excise year, in six cases licences were cancelled after three to four months of default and in two cases, no action was taken as per the conditions of the sale notification. Non-adherence to the Departmental

¹⁵ Aurangabad, Bhagalpur, Bhojpur, Darbhanga, East Champaran, Gopalganj, Muzaffarpur, Patna, Saran and West Champaran.

rules by the field officers resulted in accrual of arrears indicating lack of control over compliance issues.

The Government stated (October 2010) that a report from all district excise offices has been asked for and if necessary, action against erring officers would be taken.

3.6.12 Recovery of arrears of revenue

The BE Act provides that dues may be recovered from the person primarily liable to pay the same or from his surety (if any), by distress and sale of his movable property or by the process prescribed for the recovery of arrears of revenue.

As per schedule-I under Section 3(6) of the Public Demands Recovery (PDR) Act, 1914, the amount due to the Government is required to be paid within the prescribed period. In case of default, the recovery is to be made as arrear of demand and accordingly the dues remaining unpaid and declared as arrear must be recovered by filing certificate case by the Requiring Officer (RO) to the Certificate Officer (CO) in terms of section 4 of the PDR Act. As per the instructions of the Board of Revenue under the PDR Act, the RO and the CO are jointly responsible for the speedy disposal of the certificate cases.

3.6.12.1 The BE Act does not specify the period after which revenue recovery proceedings is to be initiated.

We observed that out of the total outstanding revenue arrears of ₹ 30.41 crore¹⁶ as on 31 March 2009 (as furnished by the Department), a sum of ₹ 24.89 crore only was covered under certificate proceedings.

We observed in 13 selected excise districts that total outstanding arrear

demand relating to the period 1970-71 to 2008-09 was ₹ 11.22 crore, against which certificate cases for recovery were initiated for ₹ 5.91 crore only. No action has been initiated for filing certificate cases for the remaining cases.

The consolidated figure showing age wise/year wise outstanding arrear revenue was not available with the Department. We observed that in the nine test checked district excise offices most of the arrears were outstanding for long periods of time as detailed in the following table:

¹⁶ Except the arrear of Banka, Kaimur, Lakhisarai and Munger.

(₹ in lakh)

Sl. No.	District	Arrear of more than 20 years	Arrear of more than 15 years	Arrear of more than 10 years	Arrear of more than 5 years	Arrear up to 5 years	Total arrears
1.	Saran	2.80	54.05	22.35	18.86	1.67	99.74
2.	West Champaran	0.12	3.29	14.08	46.64	5.42	69.55
3.	Nalanda	7.41	4.41	5.75	0.65	0.02	18.25
4.	Muzaffarpur	-	18.53	15.68	15.07	24.20	73.49
5.	Patna	40.89	71.23	158.50	55.45	0.43	326.49
6.	Gopalganj	0.72	2.45	9.09	2.90	16.65	31.81
7.	Bhagalpur	-	0.28	0.28	3.01	-	3.57
8.	East Champaran	23.90	25.74	25.07	17.81	1.51	94.03
9.	Bhojpur	0.65	16.95	30.78	11.47	25.76	85.61
	Total	76.49	196.93	281.58	171.86	75.66	802.54

Though the PDR Act has placed joint responsibility on RO and CO for revenue recovery proceedings and speedy disposal of certificate cases, we observed that the concerned ACEs/SEs did not take effective measures for disposal of certificate cases. Non-realisation of arrears caused blocking of Government revenue.

The Government replied (October 2010) that the report from all district excise offices has been called for and if necessary, action against erring officers would be taken.

3.6.12.2 Loss of interest due to delay in filing certificate case

Under the PDR Act, 1914, interest upon public demand to which the certificate relates, shall be charged at the rate of 12 *per cent* per annum from the date of signing of the certificate up to the date of realisation. Any delay in the institution of certificate proceedings would result in loss of revenue in the shape of interest.

We observed that in 12¹⁷ excise districts, arrear demands of ₹ 4.12 crore relating to the period 1976-77 to 2004-05 were outstanding. Against this, the Department instituted certificate

cases after delays ranging from one to 23 years. Thus, due to delayed institution of certificate proceedings, there was a loss of revenue of ₹ 3.14 crore in the shape of interest.

The Department may consider prescribing time limits for instituting certificate cases for timely recovery of revenue arrears.

¹⁷ Aurangabad, Bhagalpur, Bhojpur, Darbhanga, East Champaran, Gaya, Muzaffarpur, Nalanda, Patna, Saran, Siwan and West Champaran.

3.6.13 Internal Control Mechanism

3.6.13.1 Internal audit

Internal audit is one of the most vital tools of the internal control mechanism and evaluates the efficiency and effectiveness of the system in place. It also independently appraises the activities of the Department.

The audit wing of the Finance Department works as the internal auditor for all Departments of the State Government including the

Department of Excise and Prohibition. The internal audit of departments was being conducted on the basis of requisitions received from the Administrative Department for its subordinate offices. We, however, noticed that internal audit of the test checked offices was never conducted during the period 2004-05 to 2008-09. This indicated that the Department had no means of ascertaining the areas of malfunctioning in the system and thus could not take timely and appropriate remedial action.

The Government stated (October 2010) that the Finance Department would be requested to take up internal audit of the Department's records and accounts.

The Government may ensure that internal audit of the Department is carried out at regular intervals so that the irregularities/omissions are detected timely and rectified.

3.6.13.2 Departmental inspections

As per the provisions of the BE Act, the Deputy Commissioner of Excise (DCE) is required to inspect all excise offices once in a year and the ACE/SE is required to inspect his office twice in a year.

The following is the status of inspections conducted in 13 test checked district excise offices during the period 2004-05 to 2008-09:

Inspecting officer	No of inspections due	No of inspections conducted	Shortfall
DCE	65	3	62
ACE/SE	130	5	125

From the above table it may be seen that the DCEs conducted only five *per cent* and ACEs/SEs conducted four *per cent* of the required inspections in the test checked districts.

It was further seen that the selected district excise offices had no data to indicate that sufficient inspection/raids had been conducted by the excise officials to check the supply of illicit liquor in the areas that were not covered by any licensed shops.

Thus the internal control mechanism remained weak due to negligible number of inspections. As a result, the higher authorities were deprived of information about the functioning of the subordinate officers.

The Government assured (October 2010) to conduct the required inspections.

3.6.13.3 Maintenance of registers

The BE Act provides for maintenance of forms and registers to ensure effective control over the timely realisation of excise revenue.

Our scrutiny of records of the test checked districts revealed that the following important registers were not being maintained as per the provisions of the Act:

- **Challan Register (Excise Form No. 106)**

With a view to ensuring uniformity in maintaining an abstract of all the Challan Registers in the District Excise Office, one separate volume in Excise Form No. 106 was required to be maintained in the 'Abstract Challan Register'.

We noticed that this Abstract Challan Register was not being maintained in eight¹⁸ excise districts during the period 2004-05 to 2008-09 and in Bhagalpur during 2008-09. Further, it was not authenticated by the ACE/SE during 2004-05 to 2008-09 in Gaya and Bhagalpur. Non-maintenance of the Abstract Challan Register made it difficult for the departmental officers to determine the actual revenue remitted into the treasury.

- **Register of misconduct of excise vendors (Excise Form No 73)**

The orders inflicting punishment on excise vendors for malpractices should be noted in the register.

We observed that this register was not being maintained in Aurangabad for the period 2004-05 to 2007-08, in Gopalganj and East Champaran for 2004-05 to 2008-09, in Bhojpur during 2005-06 to 2007-08 and in Bhagalpur during 2008-09.

Thus the amount of fines/penalties imposed for misconduct could not be ascertained.

- **Register of memorandum of demand, collection etc. (Excise Form No 67)**

A memorandum of demand, collection and balance of licence fees as well as duty was required to be prepared at the end of each month.

We observed that the register was not maintained for the year 2008-09 in East Champaran. In nine¹⁹ excise districts, the registers were not closed during 2004-05 to 2008-09. It was not verified by the ACE in Gaya. Thus, the demand, collection and balance position in these district excise offices was not easily available.

- **Arrear register**

The arrear register contains details such as the amount of arrears, the name of the licensee against whom the arrears are outstanding and the period to which it pertains.

¹⁸ Aurangabad, East Champaran, Gopalganj, Muzaffarpur, Nalanda, Patna, Saran and Siwan.

¹⁹ Aurangabad, Bhojpur, Gopalganj, Muzaffarpur, Nalanda, Patna, Saran, Siwan and West Champaran.

We observed that in Saran, West Champaran, Bhojpur and Gaya during the period 2004-05 to 2008-09, in Gopalganj during 2007-08 to 2008-09 and in Siwan during 2005-06 to 2008-09 arrear registers were not maintained. Consequently the details of arrears were not available in these district excise offices.

- **Certificate case register**

The certificate case register contains details of licensees against whom certificate cases were instituted, the period to which the arrears pertain, the case number, the date of institution of the certificate case and the amount covered by the certificate case.

Since this register was not authenticated by ACE/SE in Gaya, Bhojpur and Saran, the entries in the register were not reliable.

- **Register 89**

This register shows the month wise issue of permit of liquor against the allotted quota.

We observed that this register was not being maintained in five²⁰ excise districts during 2007-08 and 2008-09. In Nalanda, the annual quota was not mentioned and not attested by the SE. In Saran, the names of the licensees were not mentioned in some cases. As a result, the quantity of liquor for which permits were issued was not easily available.

- **Register of Security deposits of excise vendors (Excise form no 103 A)**

Security deposits taken from licensees in the form of cash, demand draft, fixed deposit, bank guarantee, NSC etc. are entered in Security Deposit Register.

We observed that in the office of the SE, Muzaffarpur (2004-05 to 2008-09) and the SE, Aurangabad (2005-06 to 2006-07), the security deposit registers were not maintained. Further, the SE, Nalanda did not maintain this register in the proper format. As a result, the details of security deposit and refund position were not easily available.

In absence of these registers, we could not exercise the prescribed checks as required under the Rules nor verify the correctness of the data.

The Government stated (October 2010) that instructions would be issued to subordinate officers to meticulously maintain all prescribed registers and records.

²⁰ Bhojpur, East Champaran, Muzaffarpur, Patna and West Champaran.

3.6.14 Conclusion

The review on levy and collection of State Excise revenue revealed deficiencies in the formulation of the BEs. The Government had no control over the operation of non-settled excise shops resulting in revenue loss. Absence of a mechanism for the periodic review of shop-wise lifting of liquor led to leakage of excise revenue and non-realisation of penalty. No time frame was prescribed for sending revenue arrear cases to Certificate Officers resulting in accumulation of substantial revenue arrears not covered by certificate cases. Due to the non-conducting of inspections by the internal audit wing, the Department could not detect the weaknesses in its functioning.

3.6.15 Summary of recommendations

The Government may:

- ensure adherence to the provisions of the budget manual in preparation of BEs;
- evolve effective mechanisms for the operation of non-settled excise shops;
- frame suitable internal control feedback mechanism regarding the shop wise lifting of liquor against MGQ and take timely action as per Rules in case of short lifting of liquor;
- ensure effective control over timely collection of revenue including incorporating provisions to ensure levy of interest on delayed deposit of licence fees; and
- ensure that internal audit of the Department is carried out at regular intervals.