

CHAPTER IV: STATE EXCISE

4.1 Tax administration

In Haryana, Excise duty on alcoholic liquor for human consumption and on medicinal and toilet preparations containing alcohol or opium, Indian hemp and narcotics is levied and collected under the Punjab Excise Act, 1914 and Rules¹ made thereunder, as applicable to the State of Haryana and the Haryana Liquor License Rules, 1970 (HLL Rules). The revenue is mainly derived from the fixed, assessed and auction fee for the grant of license of various vends and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State. The Financial Commissioner and Principal Secretary to Government Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

4.2 Trend of receipts

Actual receipts from State excise duty during the years 2005-06 to 2009-10 along with the total tax/non-tax receipts during the same period is exhibited in the following table:

(` in crore)

Year	Budget estimates	Actual receipts	Variation excess(+)/shortfall (-)	Percentage of variation	Total tax/non-tax receipts of the State	Percentage of actual receipts vis-a-vis total tax/non-tax receipts
2005-06	967.00	1,106.86	(+) 139.86	(+) 14	11,537.21	10
2006-07	1,200.00	1,217.10	(+) 17.10	(+) 01	15,518.52	8
2007-08	1,320.00	1,378.81	(+) 58.81	(+) 04	16,714.90	8
2008-09	1,485.00	1,418.53	(-) 66.47	(-) 04	14,893.73	10
2009-10	1,700.00	2,059.02	(+) 359.02	(+) 21	15,960.90	13

Source: State Budget and Finance Accounts.

The actual receipts of the department during the period 2005-06 to 2009-10 ranged between eight and 13 *per cent*. The reasons for increase in revenue receipts (21 *per cent*) in 2009-10 was mainly due to more collection of duty from the sale of country liquor and foreign liquor.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 in respect of State Excise amounted to ` 84.96 crore of which ` 29.63 crore were outstanding for

¹ Punjab Excise Fiscal Orders, 1932; Punjab Liquor Permit and Pass Rules, 1932; Punjab Distillery Rules, 1932; Punjab Brewery Rules, 1956 and Punjab Excise Bonded Warehouse Rules, 1957.

more than five years. The following table depicts the position of arrears of revenue during the period 2005-06 to 2009-10:

(` in crore)

Year	Opening balance of arrears	Amount collected during the year	Closing balance of arrears	State Excise receipts	Percentage of column 4 to column 5	Percentage of realisation of arrears (Col. 3 to col. 2)
1	2	3	4	5	6	7
2005-06	35.83	0.61	39.56	1,106.86	4	2
2006-07	39.56	0.78	42.26	1,217.10	3	2
2007-08	42.26	2.57	52.31	1,378.81	4	6
2008-09	52.31	8.36	46.61	1,418.53	3	16
2009-10	46.61	2.75	84.96	2,059.02	4	6

We observed that arrears of revenue had increased from ` 35.83 crore at the beginning of the year 2005-06 to ` 84.96 crore (137 *per cent*) at the end of the year 2009-10. The percentage of realisation of arrears to the arrears at the beginning of the year ranged between two and 16 *per cent* during the years 2005-06 to 2009-10. Though the actual receipts increased by 86 *per cent* (from ` 1,106.86 crore in 2005-06 to ` 2,059.02 crore in 2009-10), the arrears outstanding was increased by 137 *per cent* (from ` 35.83 crore as on 1 April 2005 to ` 84.96 crore as on 31 March 2010).

The Government may advise the Excise and Taxation Department to take effective steps for collecting the arrears promptly to augment Government revenue.

4.4 Cost of collection

The gross collection of revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2005-06 to 2009-10 along with the relevant all India average percentage of expenditure of collection to gross collection for the relevant years are mentioned below:

(` in crore)

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
2005-06	1,106.86	10.75	0.97	3.40
2006-07	1,217.10	12.09	0.99	3.30
2007-08	1,378.81	12.95	0.94	3.27
2008-09	1,418.53	18.46	1.30	3.66
2009-10	2,059.02	20.48	0.99	-

4.5 Revenue impact of the Audit

4.5.1 Position of Inspection Reports

The performance of the Excise and Taxation Department to deal with the irregularities relating to State Excise detected in the course of local audit

conducted during the year 2008-09 and the corresponding figures for the preceding four years is tabulated below:

(` in crore)

Year	Units audited			Cases accepted		Recovery made during the year	
	Number	Number of cases	Amount	Number	Amount	Cases	Amount
2004-05	39	39	3.91	-	-	-	-
2005-06	45	14	13.56	14	13.56	1	0.16
2006-07	47	200	3.87	8	0.27	13	0.34
2007-08	41	826	41.83	231	4.68	17	0.28
2008-09	42	384	5.59	98	1.20	25	0.09
Total	214	1,463	68.76	351	19.71	56	0.87

We observed that the recovery in respect of accepted cases during the years 2004-05 to 2008-09 was only four *per cent*.

4.5.2 Position of Audit Reports

During the last five years (including the current year's report), audit through its Audit Reports had pointed out non/short recovery of excise duty, license fee, penalty, non-recovery of cost of supervisory staff posted at the distillery etc., with revenue implication of ` 14.48 crore in 11 paragraphs (including one review). The Department/Government had accepted all the audit observations involving ` 14.48 crore and recovered ` 38.91 lakh till 31 March 2010. The details are shown in the following table:

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	(` in crore)				(` in lakh)	
	Number	Amount	Number	Amount	Number	Amount
2005-06	1 (Review)	4.77	1	4.77	1	15.69
2006-07	2	0.48	2	0.48	1	1.25
2007-08	2	1.23	2	1.23	1	3.11
2008-09	4	2.35	4	2.35	4	8.83
2009-10	2	5.65	2.	5.65	2	10.03
Total	11	14.48	11	14.48	9	38.91

We observed that the recovery in respect of the accepted cases was only three *per cent*. The slow progress of recovery even in respect of accepted cases is indicative of failure on the part of the heads of offices/department to initiate action to recover the Government dues promptly.

We recommend that the Government may revamp the recovery mechanism to ensure that at least the amount involved in accepted cases are promptly recovered.

4.6 Working of internal audit wing

The department stated (July 2010) that an internal audit system was set up for control and supervision of expenditure as well as receipts. The department had one Chief Accounts officer, four (against five sanctioned posts) Accounts Officers and 11 (against 14 sanctioned posts) Section Officers. There were 17 Section Officers in the districts level offices who conducted internal audit in respect of the levy and collection of State excise duties/fees/penalty etc., bills/vouchers and cash books. Internal audit party had conducted 13 audits (against 36 auditable units) of revenue receipts and expenditure, but the Chief Accounts Officer failed to furnish the details of objections raised and settled along with the planning of auditable units etc. Thus, the monitoring at the apex level and coverage of internal audit was not adequate. The irregularities discussed in audit paragraphs 4.9.1 to 4.9.2 are indicators of ineffective internal control mechanism as none of these irregularities pointed out by us were detected by the internal audit parties. The Department, therefore, needs to strengthen the internal audit cell to ensure timely detection and correction of errors in levy and collection of excise duty, license fee and penalty.

The Government may strengthen the internal audit wing to ensure timely detection and correction of errors in levy and collection of excise duty.

4.7 Results of audit

Test check of the records of the offices of DETC (Excise) relating to State Excise conducted in audit during the year 2009-10 revealed non/short recovery of excise duty, license fee and penalty etc. amounting to ` 3.95 crore in 377 cases which fall under the following categories:

(` in crore)

Sr. No.	Category	Number of cases	Amount
Excise and Taxation Department (State Excise)			
1.	Non-recovery of penalty on illicit liquor	83	2.64
2.	Non/late deposit of license fee and loss of interest	200	0.88
3.	Non-imposition of penalty	12	0.11
4.	Miscellaneous irregularities	82	0.32
Total		377	3.95

During the year 2009-10, the department accepted underassessment and other deficiencies of ` 3.76 crore involved in 251 cases, of which 224 cases involving ` 3.59 crore had been pointed out during 2009-10 and the remaining in the earlier years. The department recovered ` 21.65 lakh in 42 cases during the year 2009-10, of which 15 cases involving ` 4.84 lakh related to the year 2009-10 and balance to the earlier years.

A few illustrative audit observations involving ` 5.65 crore are mentioned in the succeeding paragraphs.

4.8 Audit observations

During scrutiny of records of the DETC (Excise) relating to State Excise, we noticed the cases of non-observance of provisions of Acts/Rules and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions remain undetected till an audit is conducted. There is a need for the Government to consider directing the Department to improve the internal control system including strengthening of internal audit so that such omissions can be detected, corrected and avoided.

EXCISE AND TAXATION DEPARTMENT

4.9 Non-observance of provisions of the Acts/Rules

The Punjab Excise Act/HLL Rules/State Excise Policy provides for levy of excise duty/license fee/interest/penalty at the prescribed rate. We noticed that the DETC (Excise) of respective district did not observe provisions of the rules in the cases mentioned in the paragraphs 4.9.1 to 4.9.2. This resulted in non-realisation/recovery of license fee/interest/penalty of ` 5.65 crore.

4.9.1 Non-recovery/levy of penalty on illicit liquor owners

Under Section 61 and 61-A of the Punjab Excise Act, 1914, as applicable to the State of Haryana, penalty not less than ` 50 and not more than ` 500 per bottle of 750 ml is leviable on the offender for possession of illicit liquor². The Act further provides that if penalty is not paid within the stipulated period, the Collector or DETC (Excise) shall pass orders for confiscation of means of transport seized along with liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount after deducting the expenditure incurred on it shall be adjusted towards the payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

4.9.1.1 During test check of the records of the offices of DETC (Excise), Faridabad, Kurukshetra and Panchkula in July 2009, we noticed that the department had detained 1,07,436 bottles of illicit country liquor and confiscated 13 vehicles in 13 cases during road checking between April and June 2008. The department, after giving reasonable opportunity, decided these cases and imposed penalty of ` 2.62 crore between April 2008 and May 2009. Neither the defaulters paid the penalty nor did the department initiate any action to recover the amount by auctioning the confiscated vehicles even after lapse of period of seven to 20 months³. This resulted in non-recovery of penalty of ` 2.62 crore.

² Illicit liquor means liquor prepared clandestinely/unlawfully, without any quality control checks, and not suitable for human consumption due to higher alcoholic concentration than permissible.

³ Delay calculated from the date of imposition of penalty to 31 December 2009.

After we pointed out these cases in July 2009, DETC (Excise), Panchkula stated in June 2010 that recovery proceedings were being initiated by way of auctioning nine vehicles to recover penalty of ` 1.45 crore. DETCs (Excise), Faridabad and Kurukshetra stated in January and June 2010 that efforts were being made to recover the penalty of ` 1.17 crore from four offenders. We have not received further report on recovery (August 2010).

4.9.1.2 During test check of the records of the office of DETC (Excise), Ambala in May 2009, we noticed that in 21 cases, 89,563 bottles of illicit country liquor were detained between July 2008 and March 2009. The department had seized vehicles in 20 cases. The department neither imposed minimum penalty of ` 44.78 lakh nor initiated any action to recover the amount even after a lapse of three to 12 months. This resulted in non-levy/recovery of minimum penalty of ` 44.78 lakh.

After we pointed out the case in May 2009, ETC, Haryana stated in December 2009 that DETC (Excise), Ambala had imposed penalty of ` 45.39 lakh in all the cases between May and August 2009 and recovered ` 1.28 lakh in two cases in May and August 2009. Efforts were being made to recover the balance amount of ` 44.11 lakh. We have not received further progress of recovery (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department in August and September 2009 and reported to the Government in February 2010; we are yet to receive their reply (August 2010).

4.9.2 Short/non-recovery of license fee and interest

Under the HLL Rules read with the State excise policy for the years 2006-07 to 2008-09, every successful allottee of retail licensed liquor outlet, shall be required to deposit a security equal to 20 *per cent* of the annual license fee of the licensed outlet, out of which, five *per cent* of the license fee has to be deposited on the day of draw of lot, five *per cent* within seven days of the allotment/draw of lot on or before 31 March of the year, whichever is earlier and remaining 10 *per cent* by 7th April of the respective year. The balance 80 *per cent* shall be payable in eight equated instalments starting from April to November of the respective year. In the year 2008-09, the remaining 80 *per cent* was to be paid in nine equated instalments. Failure to pay equated monthly instalments renders him liable to pay interest at the rate of one and a half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. In case the allottee fails to make payment of security deposit equal to 20 *per cent* of annual license fee and defaulted in payment of eight/nine equated instalments of license fee alongwith interest, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. In such events, the DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

4.9.2.1 During test check of the records of four⁴ offices of DETC (Excise) between August and December 2008, we noticed that 25 retail outlets were auctioned in February and March 2007 for ` 6.95 crore for the year 2007-08. Out of 25 successful bidders, 22 bidders did not deposit the security amount in full and the remaining three licensees failed to pay monthly instalments of license fee in full by the due date. Of the total license fee of ` 6.95 crore, the allottees deposited security amounting to ` 72.75 lakh and monthly instalments amounting to ` 4 lakh. Thus, the allottees did not deposit the balance amount of ` 6.18 crore. The department cancelled their retail liquor outlets between April and August 2007 and forfeited the entire amount of security. These retail liquor outlets were reaucted between May and October 2007 for the remaining period for ` 4.36 crore at the risk and cost of original licensees. However, the department did not initiate any action to recover the differential amount of license fee of ` 1.83 crore⁵ from the original allottees. This resulted in non-realisation of Government revenue of ` 1.83 crore.

After we pointed out these cases between August and December 2008, DETCs (Excise) stated in September and December 2009 that notices were being issued to recover the amount of ` 1.83 crore from the concerned allottees. We have not received further report on recovery (August 2010).

4.9.2.2 During test check of the records of five⁶ offices of DETC (Excise), between May 2007 and July 2009, we noticed that retail liquor outlets for the sale of country liquor/Indian Made Foreign Liquor (IMFL) were allotted to 23 licensees for ` 5.57 crore. The licensees failed to pay monthly instalments of license fee for the period between April 2006 and December 2008 in full by the prescribed dates. Of the total license fee of ` 5.57 crore, the licensees had paid only license fee of ` 5.04 crore. Thus, the allottees did not deposit the balance amount of ` 52.17 lakh. The DETCs (Excise), however, did not initiate action to cease/seal the vends for non-deposit of monthly instalments in full by the end of the month and levy interest for belated payment of the license fee. This resulted in short recovery of license fee of ` 52.17 lakh besides interest⁷ of ` 15.41 lakh.

After we pointed out these cases between May 2007 and July 2009, DETCs (Excise) Karnal and Kurukshetra stated in December 2009 that license fee of ` 8.17 lakh (including interest of ` 3,000) had been recovered from four licensees between January 2008 and August 2009 and efforts were being made to recover the balance amount of ` 8.33 lakh. DETC (Excise), Ambala, stated in December 2009 that recovery proceedings under the Land Revenue Act had been started in five cases involving revenue of ` 4.93 lakh. DETCs (Excise) Bhiwani and Kaithal stated in October and December 2009 that efforts were being made to recover the balance amount of ` 30.77 lakh. We have not received further progress of recovery of license fee and interest (August 2010).

⁴ Bhiwani, Jhajjar, Jind and Karnal.

⁵ ` 6.95 crore-` 5.12 crore (` 72.75 lakh + ` 4 lakh + ` 435.70 lakh) = ` 1.83 crore.

⁶ Ambala, Bhiwani, Kaithal, Karnal and Kurukshetra.

⁷ Interest calculated upto December 2009.

4.9.2.3 During test check of the records of the offices of DETC (Excise), Jind and Karnal in July 2009, we noticed that 28 licensees had paid the monthly instalments of license fee amounting to ` 2.69 crore for the period between April and December 2008 after the prescribed dates. The delay ranged between 21 to 245 days. The DETC (Excise), however, did not initiate any action to cease/seal the vends for non-deposit of monthly instalments by the end of the month and to levy interest for belated payments of license fee. This resulted in non-levy of interest of ` 7.71 lakh.

After we pointed out these cases in July 2009, DETC (Excise) Jind stated in November 2009 that interest of ` 57,881 had been recovered from two licensees in September 2009 and efforts were being made to recover the balance amount of ` 3.55 lakh. DETC (Excise), Karnal, stated in December 2009 that notices were being issued to the defaulters to recover the outstanding amount. We have not received further progress of recovery of interest (August 2010).

We pointed out the matter to the ETC, Excise and Taxation Department between July 2007 and September 2009 and reported to the Government in February 2010; we are yet to receive their reply (August 2010).