

CHAPTER- III : STATE EXCISE

3.1 Tax administration

The levy and collection of excise duty and other State excise receipts is governed by the Bihar Excise Act, 1915 and the Rules made/notifications issued thereunder, as adopted by the Government of Jharkhand. The Secretary of the State Excise and Prohibition Department is responsible for administration of the State Excise laws at the Government level. The Commissioner of Excise is the head of the Department. He is primarily responsible for the administration and execution of the excise policies and programmes of the State Government. He is assisted by a Deputy Commissioner of Excise and an Assistant Commissioner of Excise at the headquarters.

The State of Jharkhand is divided into three¹⁹ excise divisions, each under the control of a Deputy Commissioner of Excise. The divisions are further divided into 19²⁰ excise districts each under the charge of an Assistant Commissioner of Excise/Superintendent of Excise.

3.2 Trend of receipts

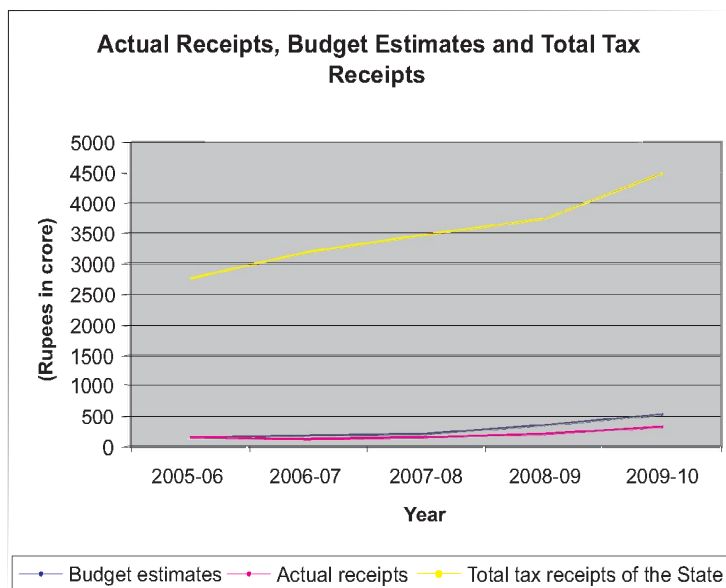
Actual receipts from 'State Excise' against the budget estimates during the period 2005-06 to 2009-10 along with the total tax receipts during the same period is exhibited in the following table:

(Rupees in crore)

| Year | Budget estimates | Actual receipts | Variation excess (+)/shortfall (-) | Percentage of variation | Total tax receipts of the State | Percentage of actual State Excise receipts vis-à-vis total tax receipts |
|---------|------------------|-----------------|------------------------------------|-------------------------|---------------------------------|---|
| 2005-06 | 155.00 | 161.64 | (+) 6.64 | (+) 4 | 2,758.04 | 5.86 |
| 2006-07 | 186.00 | 129.62 | (-) 56.38 | (-) 30 | 3,188.50 | 4.07 |
| 2007-08 | 211.11 | 156.86 | (-) 54.25 | (-) 26 | 3,473.55 | 4.52 |
| 2008-09 | 357.52 | 205.46 | (-) 152.06 | (-) 43 | 3,753.21 | 5.47 |
| 2009-10 | 550.00 | 322.75 | (-) 227.25 | (-) 41 | 4,500.12 | 7.17 |

¹⁹ North Chotanagpur Division, Hazaribag, South Chotanagpur Division, Ranchi and Santhal Pargana Division, Dumka.

²⁰ Bokaro, Chaibasa, Dhanbad, Deoghar, Dumka, Garhwa, Giridih, Godda, Gumla, Hazaribag, Jamshepur, Jamtara, Koderma, Lohardaga, Pakur, Palamu cum Latehar, Ranchi, Sahebganj and Saraikela-Kharsawan.



It would be seen from the above that the variation between budget estimates and actual receipts ranged between (+) 4 and (-) 43 *per cent* which indicated that the budget estimates were not prepared on a realistic basis.

We recommend that the Government may issue suitable instructions to the Department for preparing the BEs on a realistic and scientific basis to ensure that these are close to the actuals.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2010 amounted to ₹ 30.94 crore. The year wise position of arrears of revenue during the period 2005-06 to 2009-10 were as under :

| (Rupees in crore) | | |
|-------------------|----------------------------|----------------------------|
| Year | Opening balance of arrears | Closing balance of arrears |
| 2005-06 | 15.18 | 12.33 |
| 2006-07 | 12.33 | 38.00 |
| 2007-08 | 38.00 | 29.16 |
| 2008-09 | 29.16 | 29.39 |
| 2009-10 | 29.39 | 30.94 |

The Department did not furnish the information regarding the addition and clearance of the arrears during the year. However, the above table indicates that the amount of arrears increased from ₹ 15.18 crore as on 31 March 2005 to ₹ 30.94 crore as on 31 March 2010, registering an overall increase of 104 *per cent*. As per information furnished by the Department, out of ₹ 30.94 crore, demands for ₹ 13.21 crore were certified for recovery as arrears of land revenue. Recovery of ₹ 16.10 crore and ₹ 0.07 crore were stayed by courts and the Government respectively. Recovery of ₹ 0.11 crore was held up due to parties becoming insolvent and an amount of ₹ 0.16 crore was likely to be written off. Specific action taken in respect of balance amount of ₹ 1.29 crore has not been intimated (March 2011). The position of the arrears of revenue, outstanding for more than five years, at the end of 2009-10 was also not furnished by the Department (March 2011) despite being requested (June 2010).

We recommend that the Government may consider issuing directions to the Department for speedy settlement of the arrear cases by continuously monitoring the arrears recoverable as arrears of land revenue as well as the court cases in the interest of revenue.

3.4 Cost of collection

The gross collection of revenue in respect of 'State Excise', expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2005-06 to 2009-10 along with the all India average percentage of expenditure on collection of the preceding years is indicated in the following table:

(Rupees in crore)

| Year | Collection | Expenditure on collection of revenue | Percentage of expenditure on collection | All India average percentage of the preceding years |
|---------|------------|--------------------------------------|---|---|
| 2005-06 | 161.64 | 6.51 | 4.03 | 3.34 |
| 2006-07 | 129.62 | 7.38 | 5.69 | 3.40 |
| 2007-08 | 156.86 | 7.51 | 4.79 | 3.30 |
| 2008-09 | 205.46 | 10.38 | 5.05 | 3.27 |
| 2009-10 | 322.75 | 13.75 | 4.26 | 3.66 |

Thus, the percentages of expenditure on collection were higher than the all India average in all the five years.

We recommend that the Department may take steps to reduce the cost of collection.

3.5 Results of audit

We test checked the records of nine units during the year 2009-10 and found cases of non/short realisation of licence fee, duty, loss of revenue etc. involving ₹ 29.78 crore in 242 cases which fall under the following categories:

(Rupees in crore)

| Sl. No. | Categories | No. of cases | Amount |
|--------------|--|--------------|--------------|
| 1. | Non/delayed settlement of excise shops | 169 | 17.89 |
| 2. | Undue financial benefits due to unauthorised concession | 9 | 0.69 |
| 3. | Non-renewal/re-settlement of exclusive privilege for whole sale supply of country spirit/spiced country spirit | 8 | 0.87 |
| 4. | Short lifting of liquor | 5 | 4.93 |
| 5. | Other cases | 51 | 5.40 |
| Total | | 242 | 29.78 |

During the course of the year, the Department accepted non/short realisation of licence fee, duty, loss of revenue and other deficiencies of ₹ 27.98 crore in 241 cases pointed out by us during the year 2009-10 and in earlier years.

A few illustrative cases involving ₹ 48.71 lakh are mentioned in the following paragraphs:

3.6 Audit observations

We scrutinised the records in the offices of Excise and Prohibition Department relating to revenue received and found several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of license fee and fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions are pointed out each year; but not only do the irregularities persist; these remain undetected till we conduct an audit. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

3.7 Non-observance of the provisions of Act/Rules

The Bihar Excise Act, 1915 (adopted by the Government of Jharkhand) and Rules made thereunder provide for:

- i) settlement of exclusive privilege for wholesale supply of country spirit in due time;*
- ii) renewal of licences for vendors/contractors;*
- iii) payment of annual licence fee for wholesale supply of country spirit (CS), retail excise shops, wholesale supply of India Made Foreign Liquor (IMFL); and*
- iv) lifting of minimum guaranteed quota (MGQ) by excise retail shops.*

We noticed that the Government had not prescribed any time period for each authority/stage concerned with the settlement of wholesale and retail shops to ensure their timely settlement/ approval so as to prevent loss of revenue. Loss of revenue due to delayed settlement of the shops is mentioned in the following paragraphs 3.7.1 to 3.7.4.

3.7.1 Delayed settlement of exclusive privilege for wholesale supply of country spirit

Under the provisions of the Bihar Excise Act and Rules, the Excise Commissioner was required to publish a notice for settlement of wholesale suppliers of country spirit three months prior to expiry of the term of the existing contract specifying the area, quantity, nature and quality of spirit required to be supplied and the warehouse at which the delivery was to be made.

We noticed during October 2009 to January 2010 that in two excise districts²¹ tender notification for wholesale supply of country spirit was published after a delay of three months on 3 April 2008 instead of

January 2008 for the period from 2008-09 to 2010-11. The license for supply of CS was actually settled with two licensees on 1 August 2008 after a delay of four months. Thus, delay of three months in notification and a further delay of four

²¹ Bokaro and Giridih.

months in settlement of exclusive privilege for wholesale supply of country spirit by the Excise Commissioner, Jharkhand, Ranchi resulted in loss of excise revenue amounting to ₹ 18.37 lakh²² for the period 1 April 2008 to 31 July 2008.

We reported the matter to the Department in March/April 2010 and to the Government in May 2010. Their reply has not been received (March 2011).

3.7.2 Non/delayed settlement of retail excise shops upto June 2008

Under the provisions of the Jharkhand Excise Act, 1915 the Government adopted (February 2004) a excise policy effective from 2004-05 under which retail shops were required to be settled in two groups viz. one for country spirit/spiced country spirit and the other for India made foreign liquor/beer for a block of three years, *i.e.*, from July 2004 to March 2007. The Excise Commissioner issued instructions from time to time to the Deputy Commissioners for extension of the licence period upto June 2008. Thereafter w.e.f. 1 July 2008, the Government adopted a new excise policy which envisaged a composite licence irrespective of the groups.

We noticed (October 2009 to January 2010) in five excise districts²³ that the Excise Commissioner ordered to extend licenses for retail shops of Group I and II up to June 2008. However, no licensee came forward to renew his license and all the retail shops of these districts remained inoperative up to 30 June 2008 except for 21 shops of Jamtara Gr-II, Giridih Gr-I and Palamu cum Latehar that were run

Departmentally and earned

revenue of ₹ 25.32 lakh during the period from 1 April 2008 to 30 June 2008. Further, the shops of Dumka district remained inoperative till 14 September 2008. Timely settlement of the shops would have fetched revenue of ₹ 4.75 crore²⁴ in the shape of license fee and excise duty after adjustment of revenue earned through Departmental operation.

22 Loss is based on the minimum guaranteed quota (MGQ) to be lifted by the licensee
 MGQ per month = $1377512/12 = 114792.67$ LPL
 MGQ for 4 months = 459170.66 LPL
 Licence fee @ ₹ 4 per LPL = ₹ 18.37 lakh.

23 Bokaro, Dumka, Giridih, Jamtara and Palamu cum Latehar.

24 The loss is in the shape of license fee and excise duty calculated on the basis of reserve fee and MGQ fixed for the shops in the preceding years.

3.7.3 Non-settlement of excise shops from 1 July 2008

The Department of Excise and Prohibition notified (May 2008) a new excise policy, effective from 1 July 2008, for *cent per cent* settlement of excise shops of the district and full collection of Government revenue during the year. According to the amended resolution dated 7 May 2008, all excise shops of a district (country spirit, spiced country spirit, IMFL and beer) were merged into one group for settlement under exclusive privilege through auction for the period 2008-09.

We noticed (October 2009 to January 2010) in five excise districts²⁵ that settlement of 96 country spirit shops, 55 spiced country spirit shops and 111 IMFL excise shops were cancelled (17 July 2008) by the Government with the instructions to settle the shops of all districts of the state in one phase only (i.e. along with the shops of Ranchi, Bokaro and Dhanbad, these shops were

scheduled for settlement by the Department in different phases). The shops were settled on 12 November 2008 and during the period from 1 July 2008 to 11 November 2008 the shops remained inoperative. Timely settlement of the shops would have fetched revenue of ₹ 8.64 crore²⁶ in the shape of license fee and excise duty. Thus, delayed settlement of the shops resulted in loss of revenue to the Government to that extent.

3.7.4 Non-settlement of excise retail shops of Giridih

The Department of Excise and Prohibition adopted a new excise policy for *cent per cent* settlement of excise shops of the district and full collection of Government revenue during the year. According to the amended resolution (31.05.2008), all excise shops of the district (country spirit, spiced country spirit, India made foreign liquor and beer) are merged in one group for settlement under exclusive privilege through auction for the period of 2008-09 (i.e. 1 July 2008 to 31 March 2009).

We noticed (October 2009 to January 2010) in Giridih district that the process of settlement of retail shops (37 country spirit shops, 6 spiced country spirit shops and 28 IMFL excise shops) was initiated twice (on 21 June 2008 and 2 August 2008) by the Superintendent of Excise, Giridih. The first proposal for settlement of excise shops was cancelled on 18 July 2008 by the Commissioner on the grounds that auction for all districts should

be held in one phase only while the second proposal for settlement of excise shops was not approved till 1 September 2008. Thereafter, in pursuance of a writ petition lodged on 2 September 2008 by a bidder, the Jharkhand High Court directed that no license shall be issued by the Department till finalization of the case in the district of Giridih. The order was vacated by the court on 19 February 2009 and the license was awarded on 3 March 2009. Thus, the excise retail shops remained inoperative during the period from 1 July 2008 to 2 March 2009. Timely settlement of the shops would have fetched revenue of ₹ 4.51 crore²⁷ in the shape of license fee and excise duty. Thus, delayed settlement of the shops resulted in loss of revenue to the Government to that extent.

²⁵ Bokaro, Deoghar, Godda, Jamtara and Palamu cum Latehar.

²⁶ The loss is in the shape of license fee, excise duty calculated on the basis of reserve fee and MGQ fixed for the shops in the preceding years.

²⁷ The loss is in the shape of license fee, excise duty calculated on the basis of reserve fee and MGQ fixed for the shops in the preceding years.

We reported the matter to the Department in March 2010 and to the Government in May 2010. Their replies have not been received (March 2011).

We recommend that the Government may prescribe a time period for each authority/stage to ensure timely settlement/approval of wholesale and retail shops in the state to prevent loss of revenue.

3.8 Short lifting of liquor by retail vendors

Under the provisions of the Jharkhand Excise Act and the Rules made thereunder each licensed retail vendor of an excise shop is required to lift a minimum guaranteed quota (MGQ) of liquor of each kind fixed by the Department for the shop failing which excise duty, license fee and fiscal penalty equivalent to loss of excise duty suffered by the Government shall be recoverable from the vendor.

We noticed (July 2009) in Jamtara excise district that a retail licensed vendor was required to lift MGQ of 2.90 London Proof Litre (LPL) of liquor from the wholesale licensee of the district. However, the retailer lifted only 1.19 lakh LPL of the liquor during 2008-09 for the period from 15 September

2008 to March 2009. Thus, there was short lifting of 1.71 lakh LPL of liquor. The Department had not taken steps to recover the excise duty and levy fiscal penalty. This resulted in non-realisation of Government revenue of ₹ 48.71 lakh.

After we pointed out the case in July 2009 the concerned Superintendent of Excise stated that recovery would be made from the security deposit of the licensee. Further reply has not been received (March 2011).

We reported the matter to the Department in March 2010 and to the Government in May 2010. Their replies have not been received (March 2011).