

## CHAPTER IV: STATE EXCISE

### 4.1 Results of audit

Test check of the assessment cases and other records relating to State Excise Department during the year 2008-09 revealed non-realisation of duties, fees etc., amounting to Rs. 71.68 crore in 25 cases which can be categorised as under:

(Rupees in crore)			
Sl. no.	Category	Number of cases	Amount
1.	<b>Receipts from State Excise (A review)</b>	01	68.66
2.	Non-renewal of licences	08	1.05
3.	Non-realisation of establishment charges	04	0.29
4.	Non-realisation of import pass fee	02	0.24
5.	Other irregularities	10	1.44
<b>Total</b>		<b>25</b>	<b>71.68</b>

During the year 2008-09, the department accepted irregularities in eight cases involving Rs. 68.59 crore. All these cases pertained to the year 2008-09. The department recovered Rs. 15.82 lakh in 01 case during the year 2008-09.

A review on **Receipts from State Excise** involving Rs. 68.66 crore is mentioned in the succeeding paragraphs.

## 4.2 RECEIPTS FROM STATE EXCISE

### Highlights

There was no mechanism to ensure that the liquor manufactured in the State conformed to prescribed standards as there was no departmental laboratory.

(Paragraph 4.2.7)

Due to the absence of a definition of 'cost price' in the Meghalaya Excise Act, the element of import fee was not included in the price for calculating the excise duty leading to loss of Rs. 30.32 crore.

(Paragraph 4.2.8)

The Department failed to inspect licensed premises at regular intervals and set up excise check gates which led to loss of Rs. 2.98 crore.

(Paragraph 4.2.9)

There was abysmally low detection of excise default cases, the shortfall ranged between 79.20 and 87.48 per cent against targets.

(Paragraph 4.2.15)

Excise duty of Rs. 33.10 crore was not paid by three bottling plants which indented spirits for manufacture of the IMFL.

(Paragraph 4.2.21)

### 4.2.1 Introduction

Excise revenue is derived from licence fees, label registration fees, import pass fees, excise duty, gallonage fees, availability fees, surcharge etc, imposed under the provisions of the Assam Excise Act 1910, the Assam Excise Rules, 1945, the Assam Bonded Warehouse Rules, 1965 and the Assam Distillery Rules, 1945 (as adopted by the state of Meghalaya). Various administrative and executive orders based on the said Acts and Rules regulate the functioning of the licensed units vis-à-vis collection of revenue therefrom. The Excise Department is one of the major revenue earning departments of the State.

The following table represents percentage of State Excise receipts vis-à-vis receipts from other tax revenue heads.

Table 1

(Rupees in crore)

Year	Receipt under state excise	Receipts from other tax revenue heads	Percentage of state excise receipts with reference to tax revenue
2003-04	52.80	124.88	29.72
2004-05	62.70	145.03	30.18
2005-06	59.16	193.51	23.41
2006-07	53.95	250.79	17.70

2007-08	58.62	260.48	18.37
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Thus, since 2006-07 the share of state excise receipts has fallen considerably from the level of around 30 *per cent* of the total tax revenue of the State during 2003-04 and 2004-05.

**A review of the receipts from State Excise revealed a number of system and compliance deficiencies which are discussed in the succeeding paragraphs.**

#### **4.2.2 Organisational set-up**

The Excise Department is headed at the Government level, by the Principal Secretary, Excise, Registration, Taxation and Stamps (ERTS) and at the Commissionerate level, by the Commissioner of Excise (CE). The CE is assisted by a Joint Commissioner, a Deputy Commissioner and one Assistant Commissioner at the Commissionerate and by an Assistant Commissioner, Superintendents/Deputy Superintendents of Excise, Inspectors of Excise and other staff at the district level.

#### **4.2.3 Audit objectives**

The review was conducted with a view to ascertain the -

- Effectiveness and efficiency of the system/mechanism for proper assessment, levy and collection of excise duty and other levies chargeable on IMFL and country liquor.
- Effectiveness in grant and issue of permits and licences for distillation, manufacture, storage, sale, transfer and import of IMFL and country liquor.
- Effectiveness in prevention of distillation, manufacture and sale of illicit liquor.
- Adequacy and effectiveness of internal controls.

#### **4.2.4 Scope of audit**

The review for the period 2003-04 to 2007-08 was conducted between January 2009 and April 2009 through test check of records of the Excise Department as a whole, both at the Commissionerate and as well as all the district offices<sup>25</sup>.

#### **4.2.5 Acknowledgement**

Indian Audit and Accounts Department acknowledges the co-operation of the state Excise Department in providing necessary information and records for audit. An entry conference was held in March 2009 with the Excise Commissioner, Meghalaya in which the objective, scope and methodology of audit were explained. The draft review report was forwarded to the State Government in June for their response. The exit conference was held in October 2009 in which the

<sup>25</sup>

*Shillong, Jowai, Nongpoh, Williamnagar, Nongstoin, Tura and Baghmara*

results of audit and the recommendations were discussed. The replies of the department/Government received during the exit conference and at other points of time have been appropriately incorporated in the respective paragraphs.

## **Audit Findings**

### **4.2.6 Financial Analysis**

#### **4.2.6.1 Trend of revenue vis-à-vis budget estimates**

According to the Assam Budget Manual (as adopted by the State of Meghalaya), the actuals of previous years and the revised estimates ordinarily form the best guide in framing the budget estimates. The estimates prepared by a Government may be further revised by the Finance Department. The budget estimates and the revenue actually collected during the years 2003-04 to 2007-08 are shown below:

**Table 2**

*(Rupees in crore)*

Sl. No	Year	Budget estimate	Actual collection of revenue	Variation (+) excess (-) shortfall	Percentage of variation
1.	2003-04	71.00	52.80	(-) 18.20	26
2.	2004-05	78.00	62.70	(-) 15.30	20
3.	2005-06	80.00	59.16	(-) 20.84	26
4.	2006-07	60.00	53.96	(-) 6.05	10
5.	2007-08	71.58	58.62	(-) 12.96	18

The revenue realised repeatedly fell short of the budget estimates (BE). The wide variations ranging from 10 to 26 *per cent* indicated that the budget estimates were being framed without keeping in view the trend of revenue actually collected as envisaged in the Budget Manual.

While admitting the shortfall, the Government stated (October 2009) that the variation was mainly due to introduction of Value Added Tax (VAT) on liquor in the year 2005. The fact that excise duty was reduced had been overlooked while framing the budget.

## **System deficiencies**

### **4.2.7 Absence of departmental laboratory**

Rule 20 of the Assam Distillery Rules states that samples of material used in the distillery for the manufacture of spirit and spirit manufactured therefrom shall be sent to the chemical examiner for analysis once in July and again in December and at other times when considered necessary to ensure quality control in the production of alcohol in the State. Thus, setting up of a departmental laboratory is imperative to ensure that alcoholic products conform to the prescribed health and safety standards.

**Audit scrutiny revealed that the Government of Meghalaya had not set up any departmental laboratory to ensure quality control.** In the absence of such a laboratory, there was no mechanism in the department to ensure that the IMFL manufactured in Meghalaya conformed to the prescribed standards.

After this was pointed out, the Government stated (October 2009) that the post of chemical examiner had been sanctioned (August 2009) and proposal for setting up a laboratory was also being pursued.

**To ensure safety of the consumers, the Government needs to set-up an excise laboratory urgently.**

#### **4.2.8 Misclassification of IMFL**

Under the provision of the Assam Excise Act (as adopted by the State of Meghalaya), excise duty at different rates is payable based on the cost price of different brands of IMFL. **The term cost price has, however, not been defined in the Meghalaya Excise Act.** According to the taxation laws of the State, cost price means the price in terms of money value or valuable consideration paid or payable by a dealer for any purchase of taxable goods including any sum charged for anything done by the seller with or in respect of the goods at the time of or before delivery thereof. Import fee which is required to be paid by the licensee of a bonded warehouse before importing IMFL from outside the State, forms an element of cost price. The cost price of general brand (GB), deluxe brand (DB) and premium brand (PB) of IMFL ranges from Rs.336 to Rs. 635, Rs. 636 to Rs. 1,135 and Rs. 1,136 to Rs. 3,000 per case, respectively.

Test check of excise records for the period from 2003-04 to 2007-08 revealed that 26,55,962 cases of GB and 4,91,927 cases of DB were sold from 21 bonded warehouses and excise duty was realised on the basis of cost price which did not include the element of import fee of Rs. 54 per case that was paid by the proprietor of the bonded warehouses before importing the IMFL. Inclusion of import fee would result in the said GB liquor being classified as DB and DB liquor as PB with consequent higher rate of excise duty. **Absence of a precise definition of cost price thus led to loss of revenue of Rs. 30.32 crore.**

After the case was pointed out, the Government stated (October 2009) that urgent steps would be taken to amend the existing rules in order to incorporate the said fee in the definition of cost price.

**The Government may take immediate steps to define cost price in the Act and the Rules to prevent loss of revenue.**

#### **4.2.9 Failure to inspect licensed premises leading to loss of excise duty**

**4.2.9.1** Instruction 239 of the Assam Excise Act (as adopted by the State of Meghalaya) empowers the excise officials to inspect licensed premises at regular intervals and conduct surprise visits once in each quarter. The officials should draw up fortnightly tour programmes duly approved by the SE under confidential cover and maintain a confidential note book. Any detection of case is to be invariably reported to the SE. Rules 293 and 329 of the Excise Rules make it

mandatory on the part of the licensees to maintain regular and accurate accounts and ensure their submission to the excise officials.

Audit scrutiny revealed that **the department has not prescribed the number of inspections to be planned and carried out during a particular period. There is no mechanism to ensure that all licensees are inspected at least once during the licence period.** Besides, there was lack of monitoring by the higher authorities. The position of surprise inspections during the period of review was as under:

Table 3

Year	No. of surprise inspection to be conducted	No. of surprise inspection actually conducted	Shortfall	Percentage of shortfall
2003-04	1,016	9	1,007	99
2004-05	1,240	54	1,186	96
2005-06	1,560	66	1,494	96
2006-07	1,452	39	1,413	97
2007-08	1,612	22	1,590	99
<b>Total</b>	<b>6,880</b>	<b>190</b>	<b>6,690</b>	<b>97</b>

Thus, there was shortfall ranging from 96 to 99 *per cent* in the surprise visits. Due to the lack of a monitoring mechanism, the CE remained unaware of such abnormally low percentage of inspections. Scrutiny conducted by audit during the review revealed the following.

- A firm located at Byrnihat, Ri-Bhoi district executed 26 import permits during 2004-05 and 2005-06 and imported 3,12,000 bulk litres of ethyl alcohol purportedly to manufacture oleo resin. The firm neither furnished any monthly statement of import, utilisation and closing stock of ethyl alcohol nor did the excise officials carry out regular inspections. The Industries Department of Meghalaya was approached by audit to verify the genuineness of the firm which confirmed that the firm did not function at all. This resulted in loss of revenue of Rs. 1.73 crore.

After the case was pointed out, the Government admitted (October 2009) that enquiry revealed that the firm was non-functional and the department had no prior intimation about it.

**4.2.9.2** A bonded warehouse located at Khanapara (under Superintendent of Excise, Ri-Bhoi district, Nongpoh) imported 26,150 cases of IMFL from a distillery in Bhutan by using 23 (twenty three) import permits dated between 16 May 2003 and 7 February 2005. Cross verification of the records of the CE revealed that no such permits were issued from that office. Thus, the bonded warehouse fraudulently used the permits and imported IMFL which was stocked and sold from some retail excise outlets located under the jurisdiction of the SE,

Nongpoh which the excise officials could not detect. This resulted in loss of revenue of Rs. 1.25 crore<sup>26</sup>.

After the case was pointed out, the Government stated (October 2009) that a criminal case had been instituted and the matter was pending in the court. However, strict instructions had been issued to excise officials to intensify inspections of retail outlets.

**The department may consider prescribing specific targets for inspections/surprise checks and ensure that all the licensees are inspected at least once during the licence period.**

#### **4.2.10 Leakage of revenue due to non-establishment of excise check gates**

Check gates set-up at strategic locations along inter-state borders play a vital role in curbing illegal inflow and outflow of goods. Thus, various departments *viz.*, Taxation Department, Transport Department and Directorate of Mineral Resources have set up check gates in order to minimise irregular flow of goods. However, the Excise Department has not set up any check gate **nor does the Act provide for establishment of excise check gates.**

As already reported in **paragraph 4.2.9.2** of this report, a bonded warehouse fraudulently imported 26,150 cases of IMFL from a distillery in neighbouring Bhutan, resulting in loss of revenue of Rs. 1.25 crore. Thus, in the absence of any excise checkgate, there was no mechanism for monitoring the import of liquor into the State.

After the case was pointed out, the Department admitted the lapse in October 2009 and stated that the Government was actively considering setting-up of integrated checkgates at all important entry/exit points in the State. The reply did not highlight the reasons for not erecting any check gate till date although 37 years have elapsed since Meghalaya got statehood.

**The Government may urgently set-up integrated check gates at the important entry and exit points to prevent leakage of revenue.**

#### **4.2.11 Security deposit**

Rule 246 of the Assam Excise Rules (as adopted by the State of Meghalaya) lays down that an advance deposit equivalent to licence fee calculated on the estimated sales of one month shall be realised from the holders of licences for retail sale of foreign liquor. Rule 4(3) of the Assam Bonded Warehouse Rules, 1965 lays down that the amount of security deposit in case of bonded warehouses may be fixed at Rs. 5,000 or more according to the volume of business.

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<i>Govt. dues/case=</i>	<i>Excise duty</i>	+	<i>Availability fee &amp; gallonage fee</i>	+	<i>Import pass fee</i>	=	<b>Rs. 479</b>
	(Rs. 362)		(Rs. 42+ Rs. 21)		(Rs. 54)		
<i>Revenue loss=</i>	<i>Rs. 479 X 26150 = Rs. 1.25 crore</i>						

Audit observed that **there was no system in the department to periodically review the rates of advance/security deposits to keep it aligned with the revenue at stake.** The security deposit for bonded warehouse remained static for more than 40 years.

Records revealed that the security for retail outlets was Rs. 2,000 only though their licence fee during the period of review was Rs. 42,000 per annum which was not aligned with estimated sales of one month. Similarly, a study of three leading bonded warehouses revealed that they generated excise revenue ranging between Rs. 3.52 crore and Rs. 5.73 crore in 2006-07 and 2007-08 whereas their licence fee has gone up from Rs. 1,000 to Rs. 1,20,000 per annum between 1965 and 2008.

After the case was pointed out in June 2009, the Government stated (October 2009) that the rate of security deposit had been revised in July 2009 as shown below:

**Table 4**

Type of unit	Revised rate
Bonded warehouse	Rs. 5 lakh
Distillery/bottling plant	Rs. 5 lakh
Retailers	Rs. 1 lakh
Bar licence	Rs. 75,000

Thus, though the security was revised by the Government, it still was far below the average yearly revenue yield of above three bonded warehouse which ranged between Rs. 1.18 crore and Rs. 1.90 crore during 2006-08.

**To prevent any loss of excise revenue, the Government may take steps to periodically enhance the securities payable by all the licence holders and keep it aligned with the revenue at stake.**

#### **4.2.12 Internal audit**

Internal audit is one of the vital tools of the internal control mechanism that evaluates the efficiency and effectiveness of the functioning of the organisation.

It was noticed that the Department did not have an internal audit wing. The internal audit organisation functioning under the Examiner of Local Accounts and responsible for conducting internal audit of the State Government departments did not audit the Directorate as well as the district levels during the entire period covered by the review barring a single audit of Deputy Commissioner (Excise) at Jowai covering the period from April 1998 to March 2005.

**The Government may consider setting up an appropriate mechanism for conducting regular internal audit of the functioning of the Department, both at the Directorate and the field levels.**

## Compliance deficiencies

### 4.2.13 Running of liquor establishments without renewal of licences

Under the provisions of the Assam Excise Act, read with the Assam Distillery Rules and the Assam Bonded Warehouse Rules, (as adopted) the retail and wholesale licensees of IMFL shall pay in advance, an annual fee at the rates prescribed from time to time for renewal of licences. The validity period of licences in Meghalaya is from April of a year to March of the next year. As per instruction No. 141 of the Excise Act, if the licensee fails to pay licence fee before the start of the respective financial year, his establishment is to be closed with the approval of the CE till the fee is paid and on failure to pay fees promptly, the licence is required to be cancelled.

To discourage late payments, the Government of Arunachal Pradesh under its order dated 15 March 1996, fixed penalties at various<sup>27</sup> rates for various categories of licences. Although powers to do so have been conferred on the Government of Meghalaya under Section 36 of the Excise Act, no action has been initiated to execute the penalty system.

**4.2.13.1** Test check of records of the CE and the district level offices revealed that licences of bonded warehouses and bottling plants were regularly renewed late, as a matter of routine, much after the start of the licensing year in perspective. Not a single case of timely payment of licence fee was noticed during the period under review. In the case of bonded warehouses, the delay ranged between 35 and 781 days. The table below demonstrates the position of late payment by bonded warehouses alone during the years 2003-04 to 2007-08:

**Table 5**

Sl. no	Year	No. of bonded warehouses	Delay in renewal of licences	Total delay (days)
1.	2003-04	21	Between 35 days and 470 days	3,188
2.	2004-05	23	Between 71 days and 480 days	6,707
3.	2005-06	23	Between 161 days and 781 days	8,094
4.	2006-07	26	Between 44 days and 690 days	9,225
5.	2007-08	26	Between 127 days and 761 days	8,332
<b>Total</b>				<b>35,546</b>

Although, the licences had not been renewed, permits were issued liberally to import IMFL. This not only resulted in blocking of revenue but also violated the provisions of the Excise Act and rules.

**4.2.13.2** Bottling plants are required to renew their licences annually on advance payment of bottling fee, compounding and blending fee and bonded warehouse fee. Test check of records revealed that though a licensee of a bottling plant

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*Bonded Warehouse : Penalty of Rs. 100 per day of late payment*  
*Retail outlets : Penalty of Rs. 70 per day of late payment*  
*Bar licences : Penalty of Rs. 25 per day of late payment.*

situated at Baridua, Ri-Bhoi district had not renewed his licences since 2002-03, yet he had been issued import permits and allowed to sell his products unhindered, by the Excise Department.

On this irregularity being pointed out by audit, the licensee deposited the requisite fees amounting to Rs. 15.82 lakh for the years 2002-03 to 2007-08 in five instalments ending March 2009. Thus, although the licensee had violated the Excise Act and Rules, the Department did not initiate any action to close down his establishment and cancel his licence. This not only led to blocking of revenue but is also indicative of the indifferent attitude of the Department in ensuring adherence to the prescribed norms.

After the cases were pointed out, the Government admitted in October 2009 that there were some delays in according approvals to the renewal applications consequently leading to late payments of licence fees, and stated that utmost care would be taken to ensure that such lapses do not recur. The Government further stated that action would be taken to introduce penalty in such cases. Further development has, however, not been reported (January 2010).

**Thus, the Government may issue orders imposing financial penalties which would not only act as a deterrent but would also result in additional revenue to the state exchequer.**

#### **4.2.14 Undue concession of excise duty availed of by a bottling plant**

To encourage local bottling plants to manufacture IMFL indigenously, the Government of Meghalaya, ERTS department by a notification dated 31 August 2005 fixed the excise duty at Rs. 239 per case for all indigenous products of a bottling plant 'A' which were classified as NEB<sup>28</sup>. Further, import fee was not to be charged on any brand under NEB.

Test check of records of CE, Meghalaya revealed that this concession was extended by the Government to another bottling plant 'B' (set up at a later date) for production of Standard whisky and Himalayan XXX rum. These two brands were classified as NEB, making them eligible for the same concessions. Scrutiny, however, revealed that the said brands were not indigenously produced but with the technical knowhow and brand name and label of M/s National Industrial Corporation Limited, a distillery located in Uttar Pradesh. The distillery had, on earlier occasions, exported these brands to the bonds of Meghalaya. Thus, the classification of the products of bottling plant 'B' under NEB was improper. These were actually to be termed as popular brands with higher rate of excise duty (Rs. 335 per case) and import fee (Rs. 54 per case). Between December 2005 and March 2008, the bottling plant 'B' sold 12,045 cases of the said brands to the local bonded warehouses which, in turn, sold the same to the local retailers at the concessional rate of duty and without any import fee. The misclassification, thus, resulted in revenue loss of Rs. 18.07 lakh.

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North East Brand.

After the case was pointed out, the Government stated in October 2009 that based on a No Objection Certificate received from M/s National Industrial Corporation Limited, the concession was granted. The reply is not tenable as the products were not indigenous.

**The Government may immediately withdraw the exemption on bottling plant 'B' in the interest of revenue.**

#### 4.2.15 Abysmally low detection of cases against target

The Government of Meghalaya, Excise Department, instructed (2 July 2004) the CE to conduct extensive raids with a view to detecting rampant illicit distillation and sale of such liquor. Accordingly, the CE vide circular dated 20 August 2004 notified to all district heads of the Excise Department that a target of 35 cases per month and 15 cases per month was fixed for each Inspector of Excise and Assistant Inspector of Excise, respectively. Action was to be taken against officials who failed to achieve the target set.

Scrutiny of detection of excise cases vis-à-vis target set revealed as follows:

**Table 6**

Year	No. of Inspectors of Excise on roll	No. of cases to be detected per year (at 35 cases per month per Inspector)	No. of Assistant Inspectors of Excise on roll	No. of cases to be detected per year (at 15 cases per month per Asstt. Insp.)	Total No. of cases to be detected (columns 3 & 5)	No. of cases actually detected	Shortfall / less detected against norm set	Percentage of shortfall
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2003-04	30	12,600	22	3,960	16,560	2,198	14,362	86.73
2004-05	24	10,080	22	3,960	14,040	2,920	11,120	79.20
2005-06	24	10,080	26	4,680	14,760	1,848	12,912	87.48
2006-07	28	11,760	29	5,220	16,980	2,714	14,266	84.02
2007-08	28	11,760	26	4,680	16,440	2,427	14,013	85.24

Thus, the shortfall in cases detected against target/norm set ranged between 79.20 and 87.48 *per cent*, which was abysmally low. Nothing was, however, found on record to show that action had been taken against officials concerned for not achieving the target.

After the case was pointed out, the Department stated in October 2009 that shortfall in raids conducted and detection of cases was due to non-availability of vehicles and shortage of constabulary staff. The fact, however, remains that the reason put forth by the Department was in their knowledge, but no efforts were made by them to acquire vehicles and move the Government for appointment of constabulary staff so as to achieve the set target.

**4.2.16 Failure to auction IMFL in stock of closed bonds leading to sedimentation and loss of excise duty**

Under Rule 23 of the Assam Bonded Warehouse Rules, (as adopted) subsequent to the closure of a bond, the stock of IMFL shall be taken over by the CE for recovery of excise duty by sale through auction. Also, Rule 17 lays down that one set of keys of a bonded warehouse is to be retained by the Excise Inspector.

**4.2.16.1** Test check of records revealed that a bonded warehouse at Shillong was closed in January 1991. However, it was only in June 2006 that the stock of IMFL comprising 893 cases was transferred to the premises of a running bonded warehouse at Shillong. Samples of the stock sent for chemical examination disclosed that the same had sedimented and was thus unfit for consumption. The permission of the Government was sought for destroying the said stock and waiver of excise duty of Rs. 4.17 lakh. The Government on its part asked the CE to explain as to why the procedure prescribed under Rule 23 *ibid*, was not followed at the time of closure of the bond. The CE stated (April 2007) that the department was in the dark regarding the existence of IMFL in the bond. The statement is contradictory of Rule 17. Besides, the monthly statements of import, sale and stock of IMFL would indicate the stock in the bonded warehouse. Thus, due to non-observance of Excise Rules, there was a loss of Rs. 4.17 lakh.

After the case was pointed out, the Government stated in October 2009 that the licensee was directed at frequent intervals to open the Bonded Warehouse, but the latter failed to respond. Since the licensee had abandoned his business, it was not possible for the Excise Department to dispose of the case. The reply is not tenable as the Rules authorise the CE to seize the stock of IMFL subsequent to the closure of a bonded warehouse.

**4.2.16.2** Another bonded warehouse at Shillong was closed down (November 2001) and the stock of IMFL confiscated. The stock of 3646 cases was transferred (31 July 2002) to two local bonded warehouses and the Excise Office *Malkhana*<sup>29</sup>. Samples of the stock were sent (06 December 2002) for chemical analysis and it was reported that 1239 cases had sedimented. However, after a lapse of 19 months, the Enforcement Branch informed (14 August 2003) the Assistant Commissioner of Excise that the remaining stock of 2,407 cases had also sedimented, resulting in loss of revenue in the form of excise duty to the tune of Rs. 9.37 lakh. The loss could have been avoided had the department disposed of the confiscated stock in time.

After the case was pointed out, the Government accepted the lapse and admitted (October 2009) that the confiscated IMFL should have been auctioned earlier. The reply was, however, silent regarding action to be taken against the defaulting officials as also about preventive measures to be taken to avoid recurrence of such cases in future.

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A godown where seized excisable items are stored

#### 4.2.17 Irregular grant of exemption from payment of Import Fee

Rule 27 of the Assam Excise Rules, exempts non-profit making organisations such as charitable institutions, educational institutions, laboratories, firms and museums and Government hospitals from payment of import pass fee for import of rectified spirit and absolute alcohol.

Test check of records of the Assistant CE, Shillong revealed that a commercial firm located at Shillong imported 28,000 bulk litre (BL) of spirit, 24,000 BL of absolute alcohol and 4,000 BL. of methylated spirit in four consignments between 28 April 2006 and 27 May 2008 on which import fee<sup>30</sup> of Rs. 1.92 lakh though realisable was not realised by the Department although the Rules do not exempt a commercial firm from payment of import fee.

After the case was pointed, out the Government stated in October 2009 that the matter was being examined. Further reply has not been received (February 2010).

#### 4.2.18 Position of offence cases

The CE under circular dated 20 August 2004 intimated all subordinate officers that excise officials were to ensure that the cases detected by them and submitted to the court are disposed of expeditiously as delay in disposal of cases results in dropping of the same by the court. The controlling officers were instructed to inspect the case register at least once a week and take necessary steps to dispose the pending cases and send specific reports of having done so to the superior officers.

Analysis of the pending cases during the years 2003-04 to 2007-08 revealed the following:

Table 7

Year	No. of raids	Cases detected (No.)	Unclaimed cases (No.)	Cases registered (No.)	Cases disposed of (No.)	Cases in arrear (No.)
2003-04	719	2,198	349	1,849	1,048	801
2004-05	998	2,920	507	2,413	1,648	765
2005-06	1,848	1,848	498	1,350	631	719
2006-07	834	2,414	160	2,254	1,692	562
2007-08	645	2,420	350	2,070	1,380	690
<b>Total</b>	<b>5,044</b>	<b>11,800</b>	<b>1,864</b>	<b>9,936</b>	<b>6,399</b>	<b>3,537</b>

Thus, in spite of the instructions circulated by the CE, 3,537 out of 9,936 cases (35.60 *per cent*) remained undisposed. Nothing was found in the case register to show that the controlling officers had inspected it weekly. There were also no

<sup>30</sup> Between 28.04.06 to 31.03.07 the firm imported 24,000 B.L of spirit and between 01.04.07 to 27.05.08 the firm imported 4,000 BL of spirit.

records to show that necessary steps had been initiated by them to dispose the pending cases.

After this was pointed out, the Government stated in October 2009 that all the excise officials had been alerted on the issue and the position of disposal of pending cases was expected to improve soon.

**The Government may devise a mechanism for speedy disposal of the arrear cases and their effective monitoring.**

#### **4.2.19 Non-realisation of import pass fee**

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1995 empowers the State government to levy import pass fee for import of IMFL. The rate of import fee was Rs. 54 per case of IMFL (Rs. 108 per case from 16<sup>th</sup> March 2007) and Rs. 31.20 per case of beer. The State Government has not exempted the defence/para military organisations from payment of import fee.

Test check of records revealed that the Assistant C.E, Shillong issued permits to the defence and para-military organisations, stationed in Meghalaya to import 69,584 cases of IMFL and 10,558 cases of beer from outside the State during 2006-07 and 2007-08. Import fee amounting to Rs. 61 lakh had, however, not been realised while issuing the permits.

After the case was pointed out, the Department stated in October 2009 that the matter was being referred to the Government. Further development has not been reported (January 2010).

#### **4.2.20 Non payment of Value Added Tax on IMFL lifted by defence forces**

The Government of Meghalaya, ERTS Department, under notification dated 31 August 2005 imposed 20 *per cent* VAT on pre-paid basis on IMFL. The Excise Department has been vested with the authority to collect VAT along with excise duty and deposit the same under proper head of Government account.

Test check of records of Assistant Commissioner of Excise, Shillong revealed that VAT was being realised on IMFL lifted by defence forces from 1 August 2006. During the period from 01 September 2005 to 31 July 2006, the defence forces lifted 20,176 cases of IMFL from outside the State and 8,906 cases from local bonds without payment of VAT. The Excise Department failed to ensure that licensees paid VAT along with excise duty which resulted in revenue loss of Rs. 55.11 lakh.

After the case was pointed out, the Government stated in October 2009 that the matter was under examination and necessary instructions would be issued. The reply is, however, silent regarding the loss suffered by the Government.

#### 4.2.21 Non-payment of excise duty on spirit indented by bottling plants for manufacture of IMFL

The Government of Meghalaya, Excise Department under notification dated 24 April 2003 imposed excise duty of Rs.500 per case of rectified spirit indented by the bottling plants for manufacture of IMFL.

A test check of records revealed that three bottling plants<sup>31</sup> imported 79,43,250 BL or 6,61,937 cases of rectified spirit<sup>32</sup> between 2003-04 and 2007-08 for manufacture of IMFL. No excise duty had, however, been paid by the bottling plants against the said imports. For non-payment of excise duty, there was non-realisation of revenue of Rs. 33.10 crore.

After the case was pointed out, the Government stated in October 2009 that demand notices had been issued. A report on recovery has not been received (January 2010).

#### 4.2.22 Non-realisation of licence fee from owners of country spirit vends under local chiefs

The Government of Meghalaya, Excise Department under notification dated 16 July 1975 appointed the *Syiems*, *Lyngdohs* and chiefs of other local clans as excise officers and authorised them to issue licences for manufacture and sale of country spirit within their respective *elakas* (territories). It was further instructed by the Government in July 1975 that 50 *per cent* licence fee collected from the licensees by the local chiefs could be retained by them and the balance should be deposited with the Government.

The position of outstills<sup>33</sup> under the local chiefs and licence fees<sup>34</sup> outstanding since 2004-05 as noticed in audit is tabulated below:

TABLE 8

Sl. No.	Name of local chief	No. of outstills	Period for which licence fee payable	fees payable (Rs)
1	Syiem of Myllem	100	April 2004 to March 2009-	6,25,000.00
2	Syiem of Khyriem	86		5,37,500.00
3	Syiem of Nongspung	8		50,000.00
4	Syiem of Mawphlang	13		81250.00
5	Syiem of Sohra	6	April 2004 to March 2005	7500.00
		10	April 2005 to March 2006	12500.00

31  
*M/s N.E.B, Baridua*  
*M/s Milestone, Jamulkuchi*  
*M/s M.D.H., Umiam*

32  
*Rectified spirit including E.N.A. Malt spirit, High Bouquet – all used as base spirit for manufacture of IMFL.*

33  
*an establishment where country liquor is manufactured and sold.*

34  
*Under Notification No. ERTS (E) 11/98/47 dt. 25.04.03 licence fee for outstill (other areas) has been fixed at Rs. 2500 per annum.*

		21	April 2006 to March 2007	26250.00
		21	April 2007 to March 2008	26250.00
		21	April 2007 to March 2009	26250.00
6	Lyngdoh of Sohiong	21	April 2004 to March 2005	26250.00
		24	April 2005 to March 2006	30,000.00
		27	April 2006 to March 2007	33750.00
		35	April 2007 to March 2008	43750.00
		62	April 2008 to March 2009	77500.00
7	Sirdar of Mawlong	6	April 2004 to March 2009	37500.00
8	Sirdar of Pomsangut	3		18750.00
9	Syiem of Mawsynram	2		12500.00
<b>Total</b>				<b>16,72,500</b>

Thus, failure of the department to realise 50 *per cent* of licence fee payable to Government from the local chiefs led to non-realisation of revenue of Rs. 16.73 lakh.

After the case was pointed out, the Department stated in October 2009 that the matter would be taken up with the Government.

#### **4.2.23 Irregular adjustment of licence fees**

Section 24 of the Excise Act states that every licence granted under the provisions of the Act shall remain in force for the period for which it was granted. Also, as per Section 29(3), the holder of a licence shall not be entitled to refund of any fee paid in respect thereof.

Test check of records revealed that contrary to the provisions of the Act, the Government of Meghalaya, ERTS Department issued orders to adjust the licence fee deposited by a bonded warehouse and a bottling plant for the year 2006-07 against the succeeding year *i.e.* 2007-08. Since, there is no provision in the Excise Act for adjustment of fees, the orders were irregular and resulted in loss of Rs. 4.15 lakh in the form of licence fees<sup>35</sup>.

After the case was pointed out, the Department stated in October 2009 that the Government approved the adjustment of licence fee as the plant had not started functioning. The reply is not tenable as there is no provision for such adjustment in the Excise Act.

#### **4.2.24 Conclusion**

The review revealed a number of systems and compliance deficiencies. As there was no departmental laboratory, there was no means to ensure that the liquor

<sup>35</sup> Bonded warehouse fees : Rs. 1,20,000 Bottling fee: Rs. 1,00,000 Compounding and blending fee Rs. 75,000 (Bottling plant to pay licence fee totaling Rs.2,95,000 and Bonded warehouse Rs.1,20,000).

manufactured in the State conformed to the prescribed standards. The Government had no control over the pricing of liquor. In the absence of a definition of the 'cost price', the element of import fee was not included in the price for calculating the excise duty payable, leading to loss of revenue. Licences were renewed long after the due dates. Department had no set up to inspect all the licensees in a year and there were negligible surprise inspections. Further, import fee was not realised from non-exemptee units. Detection of illicit distillation cases was low as compared to target set. Besides, no excise check gates had been set up to arrest illegalities in the trade. Thus, the defects in the Act, Rules and notifications, coupled with non-compliance of the provisions of the Act, Rules and departmental instructions resulted in leakage of revenue. Due to the absence of an internal audit wing, the Department could not detect the loopholes and lacunae in its functioning some of which have been pointed out in this review.

#### **4.2.25 Summary of recommendations**

The Government may consider implementing the recommendations noted under the paragraphs included in the review with special emphasis on the following for rectifying the deficiencies.

- setting-up a departmental laboratory for ensuring quality control of liquor;
- review the brand slabs and include import fee as an item of cost price;
- carrying out regular inspections of licensed outlets as per instructions laid down in the Act;
- setting-up integrated checkgates;
- revising the security fee slabs to ensure that adequate security is realised from licensees;
- setting up a mechanism for regular conducting of internal audit;
- ensuring that the licences are renewed in advance on payment of requisite licence fees; and
- impose penalty on licensees for late renewal of licence.