



CHAPTER – III: STATE EXCISE

3.1 Tax administration

In Assam, excisable items such as country spirit, extra neutral alcohol (ENA) and other spirits are imported from outside the State. India made foreign liquor (IMFL) and beer are manufactured and bottled in the State and also imported from outside the State. The State Excise Department is responsible for administration and collection of excise revenue under the relevant Acts and Rules and enforcement of the Excise laws on prohibition of illicitly distilled liquor, *Ganja*, *Bhang* and opium. In addition, the Department is given the responsibility of enforcing the provisions of Narcotic Drugs & Psychotropic Substances Act and the Medicinal & Toilet Preparation Act. The functioning of the Department is governed according to the provisions of the Assam Excise Act (AE Act), 1910 and the Assam Excise Rules (AER), 1945, and various administrative orders issued from time to time. The Assam Bonded Warehouse Rules (ABW Rules), 1965, regulate the establishment and working of bonded warehouses.

The Commissioner of Excise is the head of the Department who is assisted by an Additional Commissioner, one Joint Commissioner, one Deputy Commissioner and one chemical examiner at the headquarters. At the district/sub-divisional levels (field formation) there are Superintendents/Deputy Superintendents of Excise who are assisted by Inspectors of Excise and other officials in discharging their day to day functions.

3.2 Budget preparation

As per the provisions of the Assam Budget Manual, the estimates of revenue and receipts should show the actual demand including arrears due for past years and the probability of their realisation during the year. According to the Assam Financial Rules, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department.

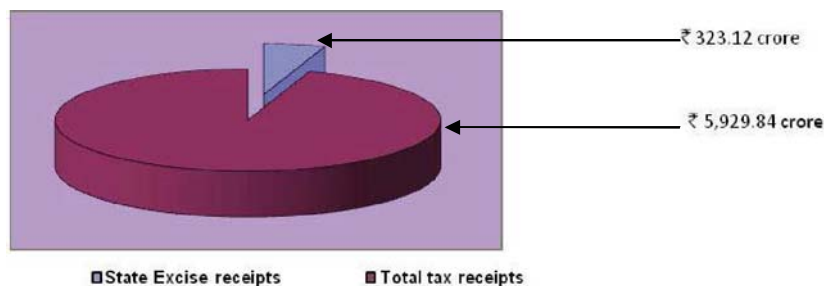
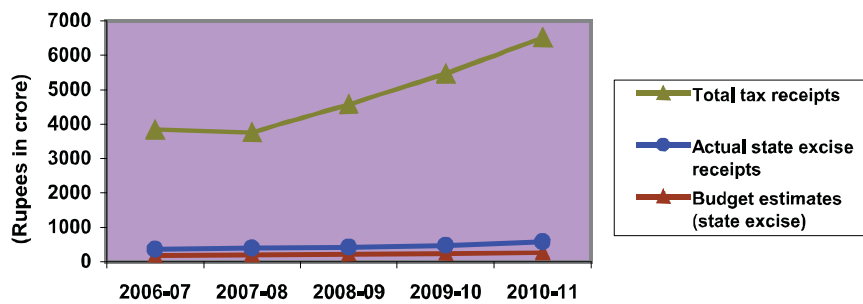
The Government of Assam, Excise Department stated (June 2011) that the budget estimates were being prepared with the basic objective of enhancement of revenue. The reply did not indicate whether the provisions of the Budget Manual or any scientific basis was adopted while preparing the estimates. Estimation of receipts was done on *ad hoc* basis which rendered budget estimates unrealistic as indicated in the Table 1 of the succeeding paragraph.

3.3 Trend of receipts

Position of budget estimates, actual receipts under state excise along with total tax receipts of the State during 2006-07 to 2010-11 is exhibited in Table 1 and graph/pie chart below.

Table 1
Analysis of excise receipts

(₹ in crore)						
Year	Budget estimate	Actual receipts under state excise	Variation excess (+) shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts {(3) to (6)}
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2006-07	184.61	174.88	(-) 9.73	(-) 5	3,483.32	5
2007-08	204.92	188.71	(-) 16.21	(-) 8	3,359.50	6
2008-09	223.30	198.68	(-) 24.62	(-) 11	4,150.21	5
2009-10	235.90	239.19	3.29	1	4,986.72	5
2010-11	259.46	323.12	63.66	25	5,929.84	5



The share of excise receipts in the total tax receipts of the State remained between five and six *per cent* during the last five years.

The Department stated (June 2011) that the reasons for abrupt increase of actual receipts during 2010-11 was attributable to the issue of more India made foreign

liquor (IMFL) ‘On’¹ licences and enhanced re-structuring of excise levies thereon.

3.4 Cost of collection

Details of gross collection of excise duty, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09 to 2010-11 along with the all India average percentage of expenditure on collection of preceding years are mentioned in Table 2.

Table 2
Cost of collection

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	(₹ in crore)	
				All India average percentage of expenditure on collection of preceding year	
2008-09	198.68	11.62	6	3.66	
2009-10	239.19	22.22	9	3.66	
2010-11	323.12	25.94	8	3.64	

“Source: Finance Accounts and Departmental figures”.

The percentage of expenditure to gross collection in all the three years (2008-09 to 2010-11) was significantly higher than the All India average percentage of expenditure on collection.

3.5 Impact of audit

During the period 2005-06 to 2009-10, we had, through our inspection reports (IRs) pointed out non/short realisation of establishment charge/excise duty, non-payment of licence fee, loss of revenue due to warehouse going dry and other irregularities with revenue implication of ₹ 20.01 crore in 268 cases. Of these, the Department accepted audit observations in 32 cases involving recovery of ₹ 1.84 crore and since recovered ₹ 1.32 crore. Details are shown in Table 3.

Table 3
Impact of audit

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	13	42	3.72	4	0.05	4	0.05
2006-07	20	56	8.40	4	0.12	Nil	Nil
2007-08	21	51	1.15	4	0.14	Nil	Nil
2008-09	19	43	1.42	2	0.05	Nil	Nil
2009-10	11	76	5.32	18	1.48	16	1.27

¹ Where the licensee is allowed to serve intoxicants in its premises.

Total	84	268	20.01	32	1.84	20	1.32
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The Department/Government has accepted only 12 *per cent* cases pointed out by us during the last five years and recovered ₹ 1.32 crore which is more than 72 *per cent* of the accepted amount. However, the percentage of recovery when seen against the total amount objected stood at seven *per cent* which needs improvement.

We recommend that the Department strengthen the system of monitoring audit paragraphs with special attention on recovery of accepted cases.

3.6 Working of internal audit wing

Internal audit, a component of the internal control mechanism, functions as the ‘eyes and ears’ of the management and is a vital tool which enables an organisation to assure itself that prescribed systems are functioning reasonably well.

We observed that there is no internal audit wing in the State Excise Department. Inspection of different establishments under the Department is conducted by officers of the Department of different levels. Had the Department arranged internal audit of its records/accounts at periodic intervals, deficiencies detected by us during local audit could have possibly been detected and rectified.

We recommend that the Department should arrange for internal audit of its records/accounts either by establishing an internal audit wing or by the Director of Local Audit.

3.7 Results of audit

Our test check of records of 15 units relating to the State Excise Department during 2010-11 revealed non-levy of excise duty, non/short realisation of establishment charges, loss due to warehouse going dry and other irregularities involving ₹ 8.19 crore in 76 cases as mentioned in Table 4.

Table 4
Results of audit

Sl. No.	Categories	No. of cases	(₹ in crore)
			Amount
1.	Loss due to non-levy of excise duty	5	1.61
2.	Non-payment of licence fee	12	0.54
3.	Non/short realisation of establishment charges	7	0.39
4.	Loss due to warehouse going dry	2	0.13
5.	Other irregularities	50	5.52
Total		76	8.19

The Department accepted 36 cases with revenue implication of ₹ 90.76 lakh pointed out during 2010-11 and recovered ₹ 15.35 lakh in 14 cases.

We noticed in case of a bonded warehouse (M/s Zarang India Pvt. Ltd Dibrugarh) that after allowance of excess transit loss pointed out in audit, the full amount of ₹ 2.53 lakh was recovered by the Department from the licensee.

A few illustrative audit observations with financial implication of ₹ 2.31 crore are mentioned in the following paragraphs.

3.8 Audit observations

Our scrutiny of the records of the State Excise Department revealed several cases of non-observation of the provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on test checks carried out by us. Such omissions on the part of the departmental officers are pointed out by us each year. However, not only do the irregularities persist, these remain undetected till we conduct subsequent audits. We are concerned as these observations are also sent to the higher authorities including the Government. There is, thus, a need for Government to improve the control and monitoring mechanism, besides putting in place an effective internal audit system so that these omissions are prevented, detected and corrected regularly and promptly.

3.9 Non-realisation of excise duty on short production of liquor

[Superintendent of Excise (SE), Kamrup; between July and September 2010]

As per the Assam Excise Rules (AER), 1945, maximum permissible wastage for blending and bottling of 'India made foreign liquor' (IMFL) is one *per cent*.

We observed that the Assam Distillery Rules do not prescribe any norm for manufacture of IMFL from extra neutral alcohol (ENA). This is fraught with the risk of evasion of excise duty as duty is payable on IMFL which is produced from ENA and any shortfall in production due to absence of any benchmark would result in loss of revenue. In the absence of any prescribed benchmark/norm in AER, we noted the norm followed by three distilleries (out of seven distilleries operational in Guwahati) as certified by the concerned inspectors of excise which is – one bulk litre ENA X 1.66 strength = 1.66 LPL²/0.75 degree proof = 2.2213 LPL.

We noticed that M/s North East Distilleries Pvt. Ltd., under the jurisdiction of SE, Kamrup used 64,63,913 BL of ENA during 2009-10. As per the norms adopted by the distilleries test checked in audit, 64,63,913 BL of ENA should have yielded 15,73,747 cases³ of IMFL whereas the distillery showed production of 14,96,188

² London proof litre – Strength of alcohol is measured in terms of 'degree proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

³ 64,63,913 BL of ENA X 1.66 strength/0.75 degree proof = 1,43,06,794 LPL reduced by 1,43,067 LPL (being maximum one *per cent* blending and bottling loss) = 1,41,63,727 LPL/9 BL = 15,73,747 cases (1 case = 12 bottles of 750 ml = 9 BL).

cases of IMFL. The shortfall in the yield of 77,559 cases of IMFL involved excise duty of ₹ 3.10 crore⁴.

We recommend that the Department/Government may initiate immediate steps to notify the norms officially for manufacturing IMFL from ENA to serve as a benchmark for distilleries and prevent cases of avoidable short production leading to loss of revenue.

After we pointed this out, the Government forwarded (August 2011) the reply of the SE, Kamrup stating that there was a variation of 633 cases of IMFL on which duty of ₹ 2.65 lakh has been demanded. We noticed that the reply furnished was obtained from the distiller by the SE in which the quantity of opening, closing stock and import of ENA during 2009-10 differed from those furnished to us by the officer-in-charge of the distillery during audit. Further, the distiller in its reply has showed transfer of 1.20 lakh BL of ENA to other distilleries during the year which was not mentioned by the officer-in-charge in his report to us. The figures of opening, closing stock and import/transfer of ENA as furnished by the distiller are not acceptable as the figures furnished by the excise officer-in-charge are considered as final and the assessment of revenue and other control measures exercised by the CE on the distiller are based solely on these figures. Government did not furnish reply to our recommendation on fixation of norms for manufacture of IMFL from ENA.

3.10 Non-realisation of revenue on non/short lifting of country spirit

[SE, Jorhat and Kamrup; February and July-September 2010]

The AER provide that a licensee is required to prove to the authority granting a pass that the quantity specified in the pass has actually been lifted and delivered to the officer-in-charge of the country spirit warehouse. In case of non-lifting of the full quantity, the licensee has to obtain non-execution certificates (NEC) duly countersigned by the SE of the district {Commissioner of Excise (CE), Assam's order of October 2004} within 15 days from the date of expiry of the validity of the permit and furnish the same to the CE. Otherwise, a sum equal to the amount of duty payable on the unlifted quantity will be realised from the defaulting licensee.

3.10.1 We noticed that a Government approved contractor, Shri Deepak Sonowal under SE, Jorhat was permitted (September 2006 with validity upto 27 November 2006) to lift one lakh bulk litre (BL) of rectified spirit. The licensee neither imported the spirit nor furnished the required NEC despite lapse of more than three years as on the date of audit (February 2010).

⁴ Total 77,559 cases, of which 19,417 cases calculated @ ₹ 340 per case (minimum rate of excise duty leviable on general brands) and the remaining 58,142 cases calculated at ₹ 419 per case (revised rate of excise duty on general brands applicable from June 2009 onwards).

3.10.2 In another case, we noticed that a Government approved contractor, M/s Maruti Nandan Enterprise, Guwahati under SE, Kamrup was permitted (April and July 2009 with the validity upto July and October 2009 respectively) to lift 3.30 lakh bulk litre of country spirit. The licensee, however, lifted 80,000 BL of country spirit (between May 2009 and August 2009) resulting in short lifting of 2.50 lakh BL of country spirit. The balance quantity was neither lifted by the licensee nor did he file the requisite NECs within the prescribed period of 15 days after the expiry of the permits.

The Department also did not raise demand for recovery of the excise revenue of ₹ 1.45 crore⁵ on the unlifted quantity of country spirit in the two cases.

After we pointed this out, the Government stated (August 2011) that the contractor under the SE, Jorhat had not executed the permit and returned the same in March 2011. As regards the other case, the Government stated that the contractor had submitted NECs from the respective distilleries. However, we found that while in the first case the contractor did not submit any NEC, in the other case, the NECs furnished were not acceptable as these were not countersigned by the concerned SE. Further, these NECs were submitted after four years from the dates of expiry of validity of the permits.

The above observations and replies furnished by the Government point towards a need for improving the control mechanism in such cases as it failed to keep a watch on the execution of the permits/receipt of NEC within the prescribed timeline till the issue was raised by us.

3.11 Non-realisation of establishment charges

[SE, Kamrup, Nagaon, N C Hills and Tezpur; between April and September 2010]

The Assam Bonded Warehouse Rules, 1965 (ABWR) and the Assam Distillery Rules, 1945, provide that the CE shall appoint such excise officer and establishment as he thinks fit to the charge of bonded warehouses/distilleries and for this, the licensees shall pay establishment charges (pay and allowances, leave salary and pension contribution) at the prescribed rates at the end of each calendar month.

During test check of the records of the above SEs, we observed that two distilleries and 15 bonded warehouses did not pay the establishment charges of ₹ 35.58 lakh due for various periods falling between August 2008 and August 2010 for the excise officials engaged in

their warehouses/ distilleries. The concerned SEs also did not issue demand

⁵ M/s Maruti Nandan –quantity short lifted – 2.50 lakh BL = 4,13,500 LPL (1 BL = 1.654 LPL) X excise duty @ ₹ 27/LPL = ₹ 111.65 lakh.
M/s Deepak Sonowal – quantity not lifted – 1 lakh BL = 1,65,400 LPL X excise duty @ ₹ 20/LPL = ₹ 33.08 lakh.

notices to the defaulters for payment of establishment charges. This resulted in non-realisation of establishment charges of ₹ 35.58 lakh.

After we pointed this out, the Government stated (August 2011) that ₹ 11.22 lakh has been recovered from 10 licensees while demand notices have been issued to the remaining seven licensees for payment of establishment charges. Further developments have not been reported (August 2011).

3.12 Non-realisation of licence fees

[SE, Kamrup, Nagaon and North Cachar Hills; between April and September 2010]

The AER provides that the licensees of wholesale bonded warehouse and foreign liquor retail licence holders are required to pay annual fee in advance for renewal of their licences.

In case of failure to do so, their shops are to be closed with the approval of the CE (instruction No. 141 under Chapter-IV of NE Region Excise Manual) till the fees are paid. Their licences are also to be cancelled in case they do not pay the fees promptly after closure of their shops.

During scrutiny of the records in the above offices, we observed that 15 licence holders of bonded warehouse, wholesale, distillery, retail, bar etc., did not pay licence renewal fee between 2005-06 and 2010-11. The CE/SE did not take any action to raise demand for payment of the licence fee or to close their shops and cancel their licences. We also noticed that there is no system for verifying the validity of licences while

issuing permits. This resulted in running of the businesses without proper licences and non-realisation of revenue of ₹ 20.70 lakh due as licence fees.

After we pointed this out, the Government stated (August 2011) that ₹ 1.60 lakh has been recovered⁶ from three licensees; demand notices issued to two licensees⁷ for payment of dues of ₹ 4 lakh while no specific reply was furnished as regards the other licensees⁸.

⁶ M/s Kollong Valley Enterprise Bonded warehouse (₹ 1 lakh), M/s Oasis Bar and M/s Siroylily Bar (₹ 30,000 each).

⁷ M/s M K Bonded warehouse and M/s A B Bonded warehouse.

⁸ M/s Kollong Valley Enterprise Bonded warehouse's wholesale licence – pending with the CE; M/s Rhino Agencies – no reply furnished;

M/s Honey drop wine shop – the case is pending;

M/s QBBA Bar and M/s Jankar B Booth – closed (our comments - licence fee is payable in advance, hence licence fees stand realisable in these cases);

M/s Ritu Chandra Deka – contractor requested to adjust security of ₹ 1 lakh against the dues (our comments - amount payable is ₹ 2 lakh, neither specific orders forfeiting the security nor any reply how the balance ₹ 1 lakh would be recovered were furnished).

We recommend that the Government install an effective system for verification of validity of licences while issuing the permits.

3.13 Non-realisation of revenue due to warehouse going dry

[SE, North Lakhimpur and Tinsukia; October 2009 and March 2010]

The AER provide that a contractor shall maintain such minimum stock of spirit in the warehouse as may be fixed from time to time so that the warehouse does not go dry. Otherwise, he is required to compensate the loss of revenue sustained by the Government owing to his failure to maintain adequate/minimum stock of spirit.

Three contractors/licenseses M/s Chavelier Enterprise, Ujjal Baruah and the Excise Warehouse Laipuli, Tinsukia did not maintain adequate/minimum stock of spirit and the stock declined to zero during 263 days at different spells between the period 1 June 2008 and 30 August 2009. As a result, the Government was deprived of revenue of ₹ 29.53 lakh which the

contractors were liable to compensate. The contractors neither paid the compensation nor did the Department make any attempt to recover the amount which resulted in non-realisation of revenue of ₹ 29.53 lakh.

After we pointed this out, the Government stated (August 2011) that show cause notices have been issued to the contractors under SE, North Lakhimpur while in the case of the contractor under SE, Tinsukia no specific reply was furnished (August 2011).