

EXECUTIVE SUMMARY	
Increase in tax collection	In 2010-11 the collection of taxes from Excise Department increased by 23.51 <i>per cent</i> over the previous year which was attributed by the Department to increase receipts of excise duty on account of intensive and continuous preventive operation as well as imposition of various restrictions, introduction of advalorem duty structure in foreign liquor and increase of initial grant fee, security deposit etc.
Internal Audit not conducted	Internal Audit Wing of the Excise Department has 23 auditable units but since 2006 the wing has not audited even a single unit. The reason behind this has been attributed to shortage of staff. Moreover, the Department has not prepared its manual also.
Very low recovery by the Department against observations pointed out by us	During 2006-07 to 2010-11, we had pointed out non/short levy, non/short realisation, underassessment /loss of revenue etc. with revenue implication of ₹ 365.82 crore in 29 paragraphs. Of these, the Department accepted audit observations in 16 paragraphs involving ₹ 113.94 crore of which only an amount of ₹ 0.63 crore has been recovered by the Department.
Results of audit conducted by us in 2010-11	<p>In 2010-11, we test checked the records of 11 units relating to receipts from Excise Department and found underassessment of tax and other irregularities involving ₹ 389.66 crore in 97 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 113.09 crore in 23 cases of which 22 cases involving ₹ 113.08 crore were pointed out in audit during the year 2010-11 and the rest in earlier years. An amount of ₹ 2.10 lakh has been realised in three cases during the year 2010-11.</p>
What we have highlighted in this Chapter	<p>In this Chapter we present a performance audit on 'Assessment, Levy and Collection of Excise Duty and Fees' with a financial effect of ₹ 293.85 crore.</p> <p>We have highlighted the following points in the chapter:</p>

	<p>(i) Absence of provision of allowable transit and handling wastages of spirit for foreign liquor (FL) manufactories resulted in undue benefit of ₹ 7.78 crore.</p> <p>(ii) Absence of provision for imposition of late fee for delayed renewal of FL licenses led to non-realisation of excise revenue of ₹ 46.01 lakh.</p> <p>(iii) Short yield of beer by 114.35 lakh BL resulted in non-realisation of excise duty of ₹ 14.87 crore.</p> <p>(iv) Failure of the Department to monitor and supervise the accounts of consumption of molasses resulted in non-realisation of excise duty of ₹ 206.62 crore.</p> <p>(v) Failure of the Department to detect transportation of molasses without/with expired transit pass led to non-imposition of maximum penalty of ₹ 17.56 crore.</p>
<p>Our conclusion</p>	<p>We noticed a number of system and compliance deficiencies in functioning of the Excise Department in respect of assessment and collection of excise revenue. Absence of some of the provisions in the Acts and Rules governing the function of the Department, adversely affected the collection of revenue. There was also lack of monitoring and supervision in respect of implementation of the molasses notified orders, 1986.</p> <p>The Department should develop a strong internal control system to check the deficiencies and lapses in implementation of the various provisions of the Acts/Rules so that the revenue receipts due to the Government are collected forthwith.</p>

CHAPTER IV : STATE EXCISE

4.1 Tax administration

State Excise revenue mainly comprises the receipts from the country spirit, foreign liquor, malt liquor, other spirits, fees and fines. The assessment and collection of excise revenue is governed by the Bengal Excise Act, 1909, the West Bengal Excise (Foreign Liquor) Rules, 1998, the Narcotic Drug and Psychotropic Substances Act, 1985, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the West Bengal Molasses Control Act 1973. The Excise Department is headed by the Principal Secretary who is assisted by the Excise Commissioner, Additional Excise Commissioner, four Deputy Excise Commissioners, three Special Superintendents of Excise, two Collectors of Excise and 19 Superintendents of Excise.

4.2 Trend of revenue receipts

The position of revenue realised from the State Excise duty during the last five years from 2006-07 to 2010-11 was as under:

(₹ in crore)

Year	Budget estimate	Actual receipts	Variation excess(+)/shortfall(-)	Percentage of variation
2006-07	869.95	817.36	(-) 52.59	(-) 6.05
2007-08	1,017.66	935.46	(-) 82.20	(-) 8.08
2008-09	1,115.42	1,082.94	(-) 32.48	(-) 2.91
2009-10	1,338.50	1,443.81	(+) 105.31	(+) 7.87
2010-11	1,759.78	1,783.34	(+) 23.56	(+) 1.34

Our analysis of the performance of the Department during the period 2006-07 to 2010-11 indicated that though the Department could not achieve the targets fixed during 2006-07 to 2008-09, however, the Department's overall performance has been consistent in achieving the targets as the variations were confined to below nine *per cent*.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 amounted to ₹ 10.12 crore of which ₹ 5.40 crore was outstanding for more than five years. The following table depicts the position of arrears of revenue during the period 2006-07 to 2010-11.

(₹ in crore)

Year			collected during the year	Closing balance of arrears
2006-07	12.34	3.54	NIL	15.88
2007-08	15.88	NIL	0.81	15.07
2008-09	15.07	NIL	4.57	10.50
2009-10	10.50	3.46	NIL	13.96
2010-11	13.96	NIL	3.84	10.12

Arrears of revenue have come down to ₹ 10.12 crore in 2010-11 and which was the lowest in the last five years. Although the Government has taken steps in collection of arrear revenue but they should be more active to collect the arrear revenue.

4.4 Cost of collection

The gross collection of Excise Revenue and the expenditure incurred on collection during the years 2008-09 to 2010-11 are given in the following table:

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage in the preceding years
State Excise	2008-09	1,082.94	65.76	6.07	3.27
	2009-10	1,443.81	77.99	5.40	3.66
	2010-11	1,783.34	92.43	5.18	3.64

Source: Finance Accounts.

Though the percentage of expenditure on collection of excise revenue has steadily come down from 6.07 per cent in 2008-09 to 5.18 per cent in 2010-11 but total expenditure on collection has steadily grown up from ₹ 65.76 crore to ₹ 92.43 crore during the same period. It was also higher than the percentage of all India average of preceding years. Thus there is scope for the Government to improve the efficiency of collection.

4.5 Revenue impact of audit reports

During the last five years (including the current year's report), through our audit reports we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 365.82 crore in 29 paragraphs. Of these, the Department/Government had accepted audit observations in case of 16 paragraphs involving ₹ 113.94 crore and had since recovered ₹ 63 lakh. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted by the Departments		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2006-07	14	37.69	7 ¹	27.02	2	0.06
2007-08	4	11.13	2 ²	0.27	1	0.23
2008-09	6	20.66	3 ³	0.73	2	0.32
2009-10	4	2.49	3	0.86	1 ⁴	0.02
2010-11	1	293.85	1 ⁵	85.06	NIL	NIL
Total	29	365.82	16	113.94	6	0.63

Against the revenue effect of ₹ 113.94 crore of the audit observations accepted by the Department, the actual recovery was very low, amounting to only ₹ 63 lakh (0.55 per cent).

The Government may revamp the recovery mechanism to ensure that the amount involved in accepted cases is promptly recovered.

4.6 Results of audit

In 2010-11 we test checked the records of 11 units relating to excise receipts and found underassessment of tax and other irregularities involving ₹ 389.66 crore in 97 cases which fall under the following categories:

(₹ in crore)

Sl. no.	Categories	No. of cases	Amount
1	Assessment, levy and collection of excise duty and fees (A performance audit)	1	293.85
2	Non/short realisation of excise duty due to short yield of alcohol/beer	4	16.90
3	Non/short levy of excise duty, wastage fee on chargeable wastage of rectified spirit/India made foreign liquor	10	10.31
4	Non/short realisation of privilege fee, additional fee, pass fee etc.	13	4.58
5	Other cases	69	64.02
Total		97	389.66

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 113.09 crore in 23 cases, of which 22 cases involving ₹ 113.08 crore were pointed out in audit during the year 2010-11 and the rest

¹ Out of seven, two paragraphs are partly accepted.

² All are partly accepted.

³ Out of three, one partly accepted.

⁴ Partly accepted.

⁵ Partly accepted.

in earlier years. An amount of ₹ 2.10 lakh was realised in three cases during the year 2010-11.

A performance audit on '**Assessment, Levy and Collection of Excise Duty and Fees**' with a financial effect of ₹ 293.85 crore is mentioned in the following paragraph.

4.7 Performance audit on 'Assessment, levy and collection of Excise Duty and Fees'

Highlights

- Absence of provision of allowable transit and handling wastages of spirit for Foreign Liquor (FL) manufactories resulted in undue benefit of ₹ 7.78 crore.
(Paragraph 4.7.7)
- Absence of provision for imposition of late fee for delayed renewal of FL licenses led to non-realisation of excise revenue of ₹ 46.01 lakh.
(Paragraph 4.7.9)
- Short yield of beer by 114.35 lakh BL resulted in non-realisation of excise duty of ₹ 14.87 crore.
(Paragraph 4.7.11)
- Failure of the Department to monitor and supervise the accounts of consumption of molasses resulted in non-realisation of excise duty of ₹ 206.62 crore.
(Paragraph 4.7.16)
- Failure of the Department to detect transportation of molasses without/with expired transit pass led to non-imposition of maximum penalty of ₹ 17.56 crore.
(Paragraph 4.7.24)

4.7.1 Introduction

State Excise is one of the most important sources of revenue of the State. It comprised 8.44 *per cent* of the total revenue raised by the Government of West Bengal during 2010-11. The assessment, levy and collection of excise duty and other excise receipts on production, possession, sale, export, import and transport of liquor or intoxicating drug are governed by the Bengal Excise (BE) Act 1909, rules made thereunder and notifications issued by the Government from time to time.

In West Bengal, liquor is generally produced from the molasses and grains. The control of production, distribution, supply and price of molasses produced by the distilleries in the State is regulated by the West Bengal Molasses Control (WBMC) Act, 1973.

There is one distillery company⁶ in the State producing rectified spirit (RS) from molasses and grains. Besides, there are 15 foreign liquor (FL) manufactories, 14 country spirit (CS) manufactories, two coloured and/or flavoured spirit (C&FS) manufactories and 56 FL bonded warehouses cum trade. There is also one chemical examination laboratory to analyse the samples of molasses and intoxicants.

⁶ M/s IFB Agro Industries Ltd., Noorpur, South 24 parganas.

We reviewed the functioning of the State Excise Department for the period from 2005-06 to 2009-10. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

4.7.2 Organisational Set up

The assessment, levy and collection of excise revenue are administered by the Secretary, Excise Department. The Excise Commissioner (EC) is the head of the Excise Directorate. He is assisted by one Additional Commissioner, 15 Deputy Commissioners and 34 Superintendents of Excise (SE). At the district level, the SE functions under the Collectors of the concerned districts except in Kolkata where the Collector of Excise is the district excise authority. Deputy Excise Collectors (DEC) under the control of the SEs are posted at the distilleries, bottling plants, manufactories, bonded warehouses and other units for supervision, levy and collection of excise duties and fees.

4.7.3 Audit objectives

We conducted the performance audit with a view to ascertain:

- the adequacy and sufficiency of the provisions of the Acts and Rules with a view to safeguard the interest of the excise revenue;
- compliance with the provisions of the Act, rules and notifications thereof;
- whether follow up action in case of default was adequate; and
- whether the internal control system of the Department is efficient and effective.

4.7.4 Scope and methodology of audit

We conducted the performance audit between November 2010 and March 2011, covering the period from 2005-06 to 2009-10. The performance audit was conducted in nine⁷ out of 21 excise districts selected on the basis of stratified random sampling method. We divided the 21 units in three strata on the basis of collection of revenue and selected 100 *per cent* i.e. four⁸ units from the first stratum, 50 *per cent* i.e. four⁹ units from the second stratum and 10 *per cent* i.e. one¹⁰ unit from the third stratum.

In the performance audit, we test checked the records of the sole distillery company, 15 FL manufactories, eight CS manufactories, one C & FS manufactory and 40 FL bond cum trades of the selected units.

4.7.5 Acknowledgement

We acknowledge the co-operation of the Excise Department in providing necessary information and records. Before taking up the performance audit we had organised an entry conference in November 2010 which was attended by

⁷ Kolkata (South), Kolkata (North), Hooghly, South 24 Parganas, Nadia, Burdwan (West), Purba Medinipur, Jalpaiguri and Howrah.

⁸ Burdwan (West), Hooghly, Kolkata (South) and South 24 Parganas.

⁹ Howrah, Jalpaiguri, Kolkata (North) and Nadia.

¹⁰ Purba Medinipur.

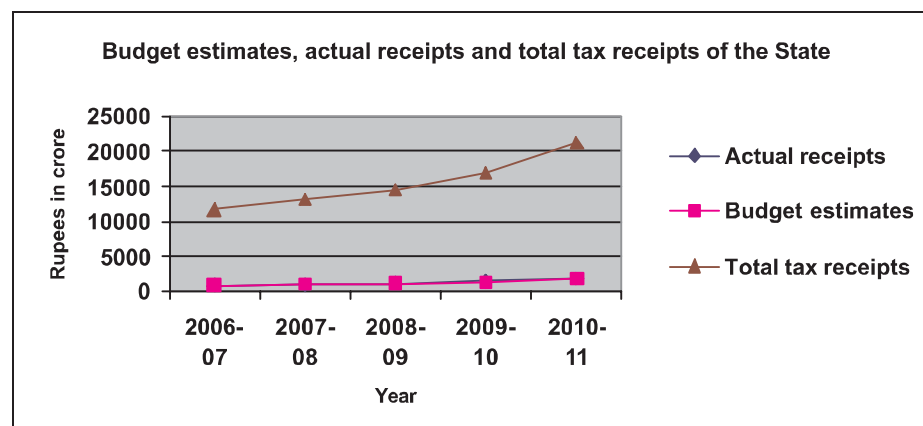
the Addl. Commissioner wherein the scope and methodology was explained to the Department. An exit conference was held in June 2011. The Excise Commissioner represented the Department. The views of the Department have suitably been incorporated in relevant paragraphs.

4.7.6 Trend of receipts

Actual receipts from State Excise during the years 2006-07 to 2010-11 along with the total tax receipts during the period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	869.95	817.36	(-) 52.59	(-) 6.05	11,694.77	6.99
2007-08	1,017.66	935.47	(-) 82.19	(-) 8.08	13,126.33	7.13
2008-09	1,115.42	1,082.94	(-) 32.48	(-) 2.92	14,419.15	7.51
2009-10	1,338.50	1,443.81	(+) 105.31	(+) 7.87	16,899.98	8.55
2010-11	1,759.78	1,783.34	(+) 23.56	(+) 1.34	21,128.74	8.44



The percentage of variation between the budget estimates and actual receipts were between (-) 8.08 per cent and (+) 7.87 per cent during 2006-07 and 2010-11.

A study of the budget estimates vis-à-vis actual receipts showed that the gap between the budget estimates and actual receipts had narrowed in 2008-09 and thereafter the actual receipts exceeded the estimates. This indicates a good tax administration and realistic budget preparation.

Audit findings

System deficiencies

4.7.7 Discrepancy in allowable wastages of spirit between CS and FL manufactories

Rule 28 and 38 of the Consolidated Rules, 1915 and Rule 32 and 42 of the West Bengal Excise (Foreign Liquor) WBE (FL) Rules, 1998 prescribe the allowable transit and handling wastages of spirit to the CS and FL manufactories respectively. Upto October 2008, the allowable transit wastage and handling wastage of spirit in respect of CS and FL manufactories were the same. By an amendment w.e.f. October 2008, these wastages were lowered for CS manufactories but no amendment has yet been made for FL manufactories.

We found from the Registers of receipt of spirit (Register 76) maintained in ten¹¹ FL manufactories of four¹² districts (out of 15 FL manufactories test checked) that wastages of 1.11 lakh LPL¹³ was allowed against the allowable transit wastage of 30,183 LPL on 3.53 crore LPL spirit transported during the period from October 2008

to March 2010. It was in excess of 80,469 LPL in comparison to transit wastage allowable to CS manufactories.

Further, we found from the stock taking report of the FL manufactories that handling wastages of 5.71 lakh LPL was allowed against the allowable wastage of 2.33 lakh LPL for handling 9.30 crore LPL of spirit during the period 2008-09 and 2009-10 which was in excess of 3.38 lakh LPL in comparison to handling wastage allowable to CS manufactories.

Though both the CS and FL manufactories use the same mode of transport and handling, due to non amendment of rule for FL manufacturing they enjoy more transit/handling wastages than CS manufactories. This resulted in undue allowance of excess wastage of 4.18 lakh LPL of RS and consequent undue benefit of ₹ 7.78 crore to the FL manufactories.

After we pointed this out, the Department admitted (August 2011) the audit observation and agreed to take steps for amendment in the relevant provisions of the rule.

¹¹ M/S Mahestala Drinks Pvt. Ltd., M/S IFB Agro Industries Ltd. Mahestala, M/S United Spirits Ltd, Asansol, M/S NC Shaw & Company, M/S Prasant Impex Private Limited, M/S Passion beverages private limited, M/S IFB Agro Industries Limited, Hooghly, M/S United Spirit Limited (IMFL) Serampore Unit, M/S United Spirit Limited (IMFL) Bhadrakali and M/S United Spirit Limited (Distillery unit), Serampore.

¹² South 24 Parganas, Burdwan (West), Kolkata (South) and Hooghly.

¹³ London Proof Litre (LPL) means the strength or proof as ascertained by means of Sykes Hydrometer and denotes that spirit which at the temperature of 51 degree Fahrenheit weighs exactly 12/13 part of an equal measure of distilled water.

The Government may consider amending the relevant provisions of the WBE (FL) Rules, 1998 to remove the disparity of transit/handling wastages between the two types of manufactories.

4.7.8 Absence of provision for levy of interest for delayed payment of excise dues

The Bengal Excise Act, 1909 does not provide for levy of interest for non/delayed payment of excise dues.

We found from the Demand and Collection Registers of two¹⁴ out of five foreign liquor bonded warehouses under the SE, Burdwan (West)

that the licensees made payment of excise duty of ₹ 56.11 lakh between July, 2007 and August, 2009 after a delay ranging between 14 and 71 months from the date of issue of demand notices. In absence of provisions for levy of interest in the BE Act, interest of ₹ 18.68 lakh¹⁵ could not be levied for delayed payment of excise dues.

The Public Accounts Committee in its 22nd Report submitted to the legislature on 17 April 1995 had recommended for introducing the interest and penalty clauses in the relevant Act to prevent delay in payment. A similar observation was also featured in the Audit Report (Revenue Receipts) for the year ended 31 March 2003. However, the Department has not taken any action despite the fact there was a recommendation from the PAC.

After we pointed this out, the Department admitted (August 2011) the audit observation and agreed to take steps for amendment in the relevant provisions of the rules but did not furnish report on further developments (October 2011).

The Government may consider levying interest for delayed payment of excise duties by amending the relevant provisions of the Act/Rules.

¹⁴ M/S Johal & Co. Pvt. Limited and M/S United spirits Limited.

¹⁵ Calculated at the rate of 18 *per cent* per annum as prescribed under the Andhra Pradesh Excise (Levy of Interest on Government Dues) Rules, 1982.

4.7.9 Absence of provision for realisation of late fee for delay in renewal of licence

As per Rule 21 of the West Bengal Excise (Grant of Licence for the Manufacture of Labelled and Capsuled Bottles of Country Spirit and Sale by Wholesale) Rules, 1998, late fee at the rate of ₹ 300 per *diem* is realisable for delay in application for renewal of licence.

However, there is no provision for realisation of late fee under the FL Rules, 1998 if the licensee for manufacture of FL applies for renewal of licence after the date of its expiry.

We found from the licence renewal files and relevant challans in the offices of the DEC's in charge of four¹⁶ out of eight test checked FL manufactories that the licensees did not pay requisite fees for renewal of different licences as mentioned in **Annexure-II** of the report.

The licences were irregularly renewed by the concerned Collectors for the said periods without realisation of the requisite licence renewal fees. Since there is no provision for charging of late fee for delay in application for renewal of licence in the case of FL manufacturers, the Department could not charge late fee of ₹ 46.01 lakh.

After we pointed this out, the Department admitted (August 2011) the audit observation and agreed to take necessary action but did not furnish report on further action taken (October 2011).

The Government may consider levy of late fee for delay in application for renewal of FL manufactory licence.

4.7.10 Non-realisation of excise duty on issue of over/under strength foreign liquor

Rule 41 of the WBE (FL) Rules, provides that all potable foreign liquor shall be manufactured at the strength prescribed under the rules subject to an allowable limit of variation of 0.2⁰ proof on either side. The samples of the FL are sent to the CE for determination of strength of the FL. If the report of the 'CE' shows any variation from the prescribed strength beyond the allowable limit, the manufacturer shall pay on demand the excise duty on the excess quantity of spirit used in manufacture. However, there is no such provision for levy of duty on issue of under strength FL.

4.7.10.1 We found from the Report of the CE in the office of the DEC in charge of a foreign liquor manufactory (M/s United Spirits Ltd. at Bhadrakali) that the licensee produced 1,328 batches of foreign liquor in 2003-04 and 2004-05. As per the Bottling

Register, those 431 batches of FL were of strength of 75⁰ proof. As per the

¹⁶ IFB Agro Industries Ltd., Mahestala, Madhusala Drinks Pvt. Ltd. Budge Budge in South 24 Parganas, United Spirits Limited in Asansol and Hooghly.

CE's report received between January 2006 and October 2009, spirit of these batches was of over strength ranging between 0.3° and 1.4° proof. Thus, the manufacturer was liable to pay excise duty for issue of excess quantity of spirit which was neither levied nor realised till the date of audit. This resulted in non-realisation of excise duty of ₹ 46.55 lakh.

4.7.10.2 We found from the report of the CE in the office of the DEC in charge of a foreign liquor manufactory (M/s N.C Shaw Beverages Pvt. Ltd., Kolkata) that the manufactory produced 1,505 batches of FL during 2005-06 to 2009-10, out of which chemical examination reports were received in case of 79 batches after a delay ranging between 15 and 23 months. We noticed in 33 batches that the licensee produced FL below the alcoholic strength ranging between 0.3 degree and 4.7 degree proof than the prescribed strength of 75 degree proof during 2005-06 to 2009-10. The licensee used 4.84 lakh LPL spirit for production of FL of the prescribed strength in those batches. However, actual spirit utilisation based on CE's report was 4.81 lakh LPL. Thus, the actual consumption of spirit was less by 2,817 LPL which should have been shown in the closing stock. However, this was not reflected in the closing stock. Thus, differential quantity of spirit has been consumed for which excise duty was leviable but not levied. This resulted in non-realisation of excise duty of ₹ 5.24 lakh.

After we pointed these out, the Department admitted (August 2011) the matter and agreed to realise the revenue but did not furnish report on realisation (October 2011).

Compliance deficiencies

4.7.11 Non-realisation of excise duty due to short production of beer

Para 677(17) of the Manual of Excise and Salt Department, 1918 prescribes that 15.42 kg of malt, 14.52 kg of rice flake and 12.70 kg of sugar would produce 81.823 bulk litre (BL) of wort. Under the WBE(FL) Rules, the minimum yield of beer should be 92 per cent of wort accepted for fermentation.

We found from the Brewing Book and Annual Stock Taking Reports of the DEC in charge of a brewery (M/s United Breweries Ltd, Kalyani), that the brewery consumed 87.07 lakh kg of malt, 44.42 lakh kg of rice flakes and 13.87 lakh kg of sugar and produced 680.58 lakh BL of wort during the period from 2008-09 to 2009-10.

However, as per norms in the Excise Manual, the average yield should have been 801.70 lakh BL of wort. Shortfall of wort by 121.12 lakh BL resulted in short yield of 114.35 lakh BL of beer considering average distillation efficiency of 94.41 per cent involving excise duty of ₹ 14.87 crore as shown in **Annexure - III**.

After we pointed this out, the Department did not furnish any specific reply.

4.7.12 Non-realisation of registration fees

Rule 118 of the WBE (FL) Rules, 1998 provides for registration of brand names and labels of different measures of FL lying unsold in the bonded warehouse prior to 4 May 2007. Registration is valid for a period not exceeding one year from April to March. Fees for grant of label registration will be charged at the rates prescribed from time to time.

We found from the brand wise stock register and other relevant records of M/s Johal & Co. Ltd, Asansol (a foreign liquor bonded warehouse) that 73 brands and labels of 119 measures of foreign liquor were lying in the licensee's bonded warehouse during 2004-05 to 2006-07 after expiry of their registration. The

brands and labels were liable to be registered but the Department did not initiate any action to get them registered on realisation of the registration fees. Thus, inaction on the part of the Department resulted in non-realisation of registration fees of ₹ 1.07 crore.

After we pointed this out, the Department admitted the audit observation (August 2011) and agreed to realise the registration fees.

4.7.13 Non-realisation of fee due to non-destruction of unsold stock of expired beer

Rule 241(1) of the WBE (FL) Rules provides that with effect from 4 May 2007, the licensee shall forthwith intimate the Collector for destruction of the FL lying unsold in any licensed premise after the period indicated as "best for use" in the label of the bottle.

Further, the licensee shall pay a fee at the rate of ₹ 2 per BL per diem on such stock for the period from the date on which the foreign liquor ceased to be best for use till the date of intimation to the Collector.

We found from the daily register of trade (Register 915) in the office of the DEC in charge of a foreign liquor trade licensee¹⁷ that the licensee had unsold stock of 1,172.60 BL of expired beer on 30 November 2007 with the month of manufacture as February 2007 and it was expected to be used before nine months from the month of manufacture. The licensee

was required to apply to the Collector, Howrah for destruction of the same on 01 December 2007 but he did not apply till March 2010. However, the licensee had sold 134 bottles of expired beer and destroyed the remaining stock without approval of the excise authority. This resulted in non-realisation of fee of ₹ 19.98¹⁸ lakh for the period from December 2007 to March 2010.

¹⁷ M/S United Wines, Howrah.

¹⁸ 1,172.60 BL x ₹ 2 x 852 days = ₹ 19.98 lakh.

Besides chances of health hazards due to consumption of expired beer could not be ruled out.

After we pointed this out, the Department stated (August 2011) that the matter was pending before the Hon'ble High Court against the judgment of the West Bengal Taxation Tribunal in case No. RN 351 of 2007. The reply is not tenable as the said case was related to the realisation of establishment fee under the provision of Rule 23 and removal of FL from bonded warehouse to trade after expiry of one year as per Rule 241 (2) of the WBE(FL) Rules which is not at all related with the Rule 241(1) of the said Rules.

4.7.14 Irregular allowance of wastage of spirit in transit in plastic container

Rule 32(1) of the West Bengal Excise (Foreign Liquor) Rules, 1998 provides allowance for loss in transit by leakage and evaporation of spirits in wooden or metal vessels during transport of spirit. However, no transit loss is allowable on foreign liquor in glass bottles or other approved materials as per Rule 31 of the said Rules. Excess wastage in transit is chargeable to duty at the rate of ₹ 186 per LPL

We found from the records of the DEC in charge of a foreign liquor manufactory, (M/S N. C Shaw & Co. Beverages Pvt. Ltd, Kolkata) that the licensee imported 5.65 lakh LPL High Bouquet Spirit (HBS) in plastic drums from

M/s Seagram India Pvt. Ltd, Bicholim and M/s Pernod Ricard India Private Limited, Goa during May 2007 to March 2010. However, the excise officer allowed transit wastages of 4,060 LPL as applicable to the wastage of spirit imported in metal vessels. This resulted in irregular allowance of transit wastage and consequent non-realisation of excise duty of ₹ 7.55 lakh.

After we pointed this out, the Department stated (August 2011) that the matter was under consideration of the Government.

The Government stated in September 2011 that development in this context would be communicated in due course but did not furnish report on further development (October 2011).

4.7.15 Excess transit wastage of molasses

Paragraph 11(4) (d) of the West Bengal Molasses Control (Regulation, Storage and Transport) Notified Order, 1986 provides that if the loss or wastage of molasses in transit exceeds one per cent, the licensee is liable to pay penalty at the prescribed rates.

We found from the molasses receipt register in the office of the DEC in charge of a distillery that in 106 consignments the distiller received 1,713.77 MT of molasses against the advised quantity of 1,760.27 MT during April 2007 to May 2008. The quantity of molasses was received short by 46.5 MT which

exceeded allowable transit wastage of 17.60 MT¹⁹ for which maximum penalty of ₹ 31.75 lakh though leviable was not levied.

After we pointed this out, the Department agreed (August 2011) to take necessary action against the licensee.

4.7.16 Non/short accounting of consumption of molasses resulting in non-realisation of duty

We found from the information furnished by the DEC in charge of a distillery²⁰ that the distillery consumed 3.91 lakh MT molasses for production of RS during the period from December 2004 to March 2010. However, the Molasses Consumption Register and the Rectified Spirit (RS) Production Register revealed that 3.87 lakh MT molasses was consumed for production of 15.65 crore LPL RS (average yield of 404.76 LPL per MT) during the same period. Thus, consumption of 3,995.94 MT of molasses was kept out of record.

Further, we found from the 'Register of Receipt and Issue of Way Bills' that the distillery imported 23,448.92 MT of molasses from M/s Tate and Lyle, Thames Silver Tower, London for production of RS during the period between March and June 2005 without no objection certificate (NOC)/permit issued by the EC.

Thus, Government was deprived of excise duty of ₹ 206.62 crore calculated on production of 1.11 crore LPL of RS from consumption of 27,445 MT (3,996 MT + 23,449 MT) of molasses at an average yield of 404.76 LPL/MT.

After we pointed this out, the Department stated (August 2011) that the licensee was asked (June 2011) to produce the relevant records and they sought time to furnish the same.

4.7.17 Non-realisation of excise duty due to transport of spirit without bond

Section 10(a) of the BE Act, 1909 provides that no intoxicant shall be transported unless the duty has been paid or a bond has been executed for the payment thereof. Rule 29 of the Consolidated Rules, 1915 made under Section 86 of the BE Act provides that spirit intended for a warehouse is conveyed thereto under bond and at the sole risk and responsibility of the contractor, distiller or licensee of the warehouse.

We found from the register of receipt of spirit (Register 76) and other relevant records of the DEC in charge of a foreign liquor manufactory that a licensee (M/s N.C Shaw Beverages and Co Pvt. Ltd.) imported 20,000 BL/33,399.23 LPL grain neutral spirit from M/s Chandigarh Distillers & Bottlers Ltd. Banur, Patiala and it was diverted (29 September 2008) to a

¹⁹ One per cent of the advised quantity.

²⁰ M/S IFB Agro Industries Ltd, Noorpur, South 24 Parganas.

foreign liquor manufactory, M/s Essencia Beverages Pvt. Ltd., Howrah as per the EC's order dated 13 April 2009. However, it was noticed that no bond value on the quantity of spirit transported was deducted from the bond register maintained at M/s Essencia Beverages Pvt. Ltd. Thus, the licensee M/S Essencia Beverages Pvt. Ltd. did not discharge the due responsibility of transport of spirit involving excise duty of ₹ 62.12 lakh.

After we pointed this out, the Department stated (August 2011) that the spirit was transported as per the orders of the EC after observing all relevant rules. The reply is not tenable as it was confirmed by the DEC in charge of M/s Essencia Beverages Pvt. Ltd, Howrah that transportation of spirit was made without bond.

4.7.18 Issue of beer without realisation of duty

Rule 114(1) of the WBE (FL) Rules provides that the brewer shall pay duty on beer manufactured only at the time of issue of beer from the brewery.

We found from the annual stock taking reports of the DEC in charge of M/S United Breweries Ltd, Nadia that in 2005-06, the DEC allowed export of 53,220 BL (63,600 bottles each of 650 ml and 36,000 pints each of 330 ml) beer without realisation of duty in contravention of the aforesaid rule. This resulted in non-realisation of excise duty of ₹ 6.92 lakh.

After we pointed this out, the Department stated (August 2011) that there was provision for issue of beer under bond (without realisation of duty) vide notification no. 447 Ex dated 26 July 1999 effective from 1 September 1998. The reply is not tenable as the said provision is related to the fee for grant of license and fee for storage of beer, which is not at all relevant with the issue of beer under bond.

After we pointed this out, the Government stated in September 2011 that beer is a kind of foreign liquor and its export under bond is permissible under the provisions of WBE(FL) Rules. The reply is not tenable since the Rule *ibid* specifically prohibits transport of beer under bond.

4.7.19 Non-realisation of excise duty and fees due to short issue of beer

Rule 114 of West Bengal Excise (Foreign Liquor) Rules provides that the brewer shall pay duty at the time of issue of beer from the brewery. No beer shall be stored in the brewery unless the fees for storage without pre-payment of duty credited and accounted for in the personal ledger account.

We found from the annual stock taking reports, production register and issue register of beer of a brewery (M/s United Breweries Ltd, Nadia) that the brewery produced 2.23 crore bottles and 5.20 crore bottles of beer measuring 650 ml each in the years 2006-07 and 2009-10 respectively. The

stock taking officer found that issue of beer in 2006-07 was 2.03 crore bottles and in 2009-10 the issue was 5.16 crore bottles. However, it was ascertained from the production register, issue register and annual stock taking report of the brewery that the actual quantity of beer liable²¹ to be issued was 2.15 crore bottles in 2006-07 and 5.21 crore bottles in 2009-10. Thus, there was discrepancy²² of 12.21 lakh bottles and 5.18 lakh bottles in issue of beer in the year 2006-07 and 2009-10 respectively. The excise authority was in dark about the discrepancy in issue of beer during those years. This resulted in non-realisation of excise duty and fees of ₹ 1.58 crore (excise duty: ₹ 1.47 crore and fees: ₹ 11 lakh).

After we pointed this out, the Department did not furnish any specific reply.

4.7.20 Internal control mechanism

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, safeguarding resources against irregularities, adhering to laws, regulations and management directives and developing and maintaining reliable data. Effective internal control system is a pre-requisite for efficient functioning of any Department. We noticed the following deficiencies in the internal control mechanism.

4.7.21 Working of internal audit wing

The internal audit wing of an organisation is a vital component of its internal control mechanism and is generally defined as the control of all controls to enable the organisation to assure itself that the prescribed system is functioning reasonably well.

The internal audit wing of Excise Department was established in the year 1983 with the objectives of having the accounts audited independently so that errors and frauds would be detected in time and action could be taken promptly and effectively upon such detection. The wing is headed by a Deputy Commissioner of Excise (Audit) who is assisted by three Assistant Commissioners of Excise (Audit) and three Auditors. The wing has not yet prepared its manual. The Excise Department has 23²³ auditable units but since 2006 the wing has not audited even a single unit. This was attributed to vacancy in the posts of Deputy Commissioner of Excise (Audit) and Assistant Commissioner of Excise (Audit) since May 2001.

²¹ Quantity of beer liable to be issued = opening stock plus production minus godown breakage minus closing stock.

²² Discrepancy = Quantity of beer liable to be issued minus quantity of beer actually issued.

²³ Collector of Excise-2, Superintendent of Excise-19, Directorate of Excise-1, Medicine and toilet preparation-1.

4.7.22 Maintenance of correct and true accounts

Paragraph 16 of the West Bengal Molasses Control (Regulation, Storage and Transport) Notified Order, 1986 states that every licensee shall maintain correct and true accounts of the opening stock, quantity received, quantity disposed of and daily closing stock of molasses for each place of his godown in the prescribed Form 'E' and 'F'. In addition, he is required to submit monthly summary returns of transaction of molasses.

We found in the offices of four²⁴ Superintendent of Excise (SE) that five²⁵ molasses storage licencees had not maintained the daily accounts of molasses registers in Form 'E' and 'F' during the period from April 2005 to March 2010. They did not submit the monthly summary of return of molasses during those years. Thus, the licencees contravened the provisions of the Notified

Order for which their licences were required to be suspended or cancelled. However, neither were their licences cancelled nor was any penalty in lieu thereof levied and realised. This resulted in non-levy of penalty.

After we pointed this out in exit conference, the department agreed to take necessary action against the licencees.

4.7.23 Non-conducting periodical stock taking of molasses at the distillery

Paragraph 13 of the West Bengal Molasses Control (Regulation, Storage and Transport) Notified Order, 1986 provides that the Collector or the Superintendent of Excise shall take an account of the stock of molasses in the first week of March, June, September and December and submit it to the Commissioner.

We found from the DEC in charge of a molasses based distillery M/S IFB Agro Industries Ltd, Noorpur that the Collector or the Superintendent of Excise, South 24 Parganas had not conducted any stock taking in respect of stock of

molasses lying with the distillery for the 4th quarter and the annual stock taking for the year 2005-06. No stock taking was also conducted for the 3rd and 4th quarter ending and the annual stock taking for the year 2006-07 and no report in this regard was sent to the EC. The EC did not take any action for non-submission of report by the SE. This resulted in non-compliance of provision of the notified order.

After we pointed this out in exit conference, the department agreed to take necessary action.

²⁴ Asansol, South 24 Parganas, Nadia and Purba Medinipur.

²⁵ IFB Agro Industries Ltd, Noorpur, Shyam Ferro Alloys Ltd, Durgapur, Corporate Ispat Alloys Ltd, Durgapur, Philips Carbon Black Ltd, Durgapur and AB Mauri India Pvt Ltd, Kalyani, Nadia.

4.7.24 Transport of molasses without transit pass

Paragraph 7 of the condition of license in Form B granted under the West Bengal Molasses Control (Regulation, Storage and Transport) Notified Order, 1986, as amended from 5 November 2007, prescribes that molasses while transported in West Bengal shall be accompanied by a transport pass (TP). Paragraph 10 of the said condition of licence, as amended from 18 April 2008 prescribes that the licensee shall exercise due diligence in case of import, transport, possession, storage and sale/use of molasses as per the requirements of the West Bengal Molasses Control Act.

We found from the records of two SEs²⁶, in charge of two²⁷ molasses storage licensees that the licensees received 1,016 consignments of molasses from Budge-Budge, Bihar and Nepal during 2007-08. The consignments were not accompanied with any TP. Thus, the licensees contravened the conditions of the licence.

We also found that the said two licensees received 678 consignments of molasses from Hilli (Dakshin Dinajpur), Budge-Budge and South 24 Parganas during the period between 2008-09 and 2009-10 after expiry of the validity period of the TPs in contravention of the conditions of the TPs. Thus, the licensees did not exercise due diligence in transporting the molasses. The EC neither suspended or cancelled the licences nor compounded the cases in lieu thereof. This resulted in non-levy of maximum penalty of ₹ 17.56 crore.

After we pointed this out, the Department agreed (August 2011) to take necessary action against the licensees.

Other topics of interest

4.7.25 Payment of molasses transport cost led to undue benefit to a distiller

The BE&WBMC Acts do not provide for payment of molasses transport cost by the State to the distillers who supply rectified spirit distilled by them in West Bengal for the purpose of manufacture of country liquor in the State.

We found that ₹ 83.21 crore was paid by the Department to a distiller (M/S IFB Agro Industries Limited, South 24 Parganas) towards payment of molasses transport cost, against consumption of 3.18 lakh MT of molasses.

Since there is no provision for payment of molasses transport cost in the Acts the payment of ₹ 83.21 crore was irregular.

²⁶ SEs: Asansol and South 24 Parganas.

²⁷ M/S IFB Agro Industries Ltd. Noorpur, South 24 Parganas and M/S Shyam Ferro Alloys Ltd., Durgapur.

After we pointed this out, the Department accepted (August 2011) the fact that there was no provision in the Act/Rule for payment of molasses transport cost. However, to keep a control over the retail price of CS the Government was making payment of such cost. The Department added that such payment had been discontinued from November 2010.

4.7.26 Performance of Chemical Examination Laboratory

The Chemical Examination Laboratory was entrusted with the analysis of samples of molasses and intoxicants received from distilleries, manufactories, bottling plants and warehouses including samples sent by different investigating officers as per provisions of the BE Act.

The performance of the Chemical Laboratory regarding testing of samples during the period from 2005-06 to 2009-2010 is shown in the following table:

Year	Opening balance	Samples received	Total samples	Samples analysed	Percentage of shortfall
2005-06	15,284	12,764	28,048	6,434	77.06
2006-07	21,614	11,963	33,577	4,706	85.98
2007-08	28,871	11,464	40,335	3,285	91.86
2008-09	37,050	12,533	49,583	1,614	96.74
2009-10	47,969	13,477	61,446	3,570	94.19

It is evident that the CE laboratory failed to analyse the samples ranging between 77.06 *per cent* and 96.74 *per cent* of samples available for analysis during the period 2005-2010. We also found that not a single sample of molasses was tested out of 898 samples sent to the CE for examination during that period.

4.7.27 Lack of infrastructural facility

a) The sanctioned strength and man-in-position of scientist/examiner/non-technical staff at the chemical examination laboratory during 2005-06 to 2009-10 were as follows:

Year	Scientist/Examiner			Non-technical staff		
	Sanctioned strength	Actual deployment	Percentage of shortfall	Sanctioned strength	Actual deployment	Percentage of shortfall
2005-06	18	8	55.55	53	20	62.26
2006-07	18	7	61.11	53	18	66.04
2007-08	18	6	66.66	53	14	73.58
2008-09	18	5	72.22	53	14	73.58
2009-10	18	6	66.66	53	14	73.58

Thus, it would be evident from above that the laboratory functioned with shortage of technical and non-technical staff ranging between 55.55 and 73.58 *per cent* of the sanctioned strength during 2005-06 to 2009-10.

b) The Chemical Examination Laboratory did not have instruments like Gas Chromatograph, High Performance Liquid Chromatograph and Spectrophotometer etc. for analysis of samples. Besides, the laboratory did not

have sufficient space for storing samples. No action was taken by the Department for procurement of testing instruments and arrangement for proper space for smooth functioning of the laboratory.

After we pointed this out, the Department admitted (August 2011) the audit observation and stated that they had planned to introduce a new system of automated testing facility soon.

4.7.28 Conclusion

We noticed a number of system and compliance deficiencies in functioning of the Excise Department in respect of assessment and collection of excise revenue. Absence of some of the provisions in the Acts and Rules governing the functioning of the Department, adversely affected the collection of revenue. There was also lack of monitoring and supervision in respect of implementation of the molasses notified orders, 1986. The monitoring and supervision of the Department was not adequate resulting in unauthorised transportation of molasses without transport pass.

The Department should develop a strong internal control system to check the deficiencies and lapses in implementation of the various provisions of the Acts/Rules.

4.7.29 Summary of recommendations

The Government may consider taking the following steps to enhance the efficiency and effectiveness of the Excise Department:

- incorporating suitable provisions in the Acts and Rules regarding charging fees on short production of spirit from molasses, charging late fees for delay in application for renewal of licence for foreign liquor manufactories and charging interest for non/delayed payment of excise dues;
- amending the provision of transit and handling wastages of spirit in respect of foreign liquor manufactories to remove the discrepancies of allowable wastages between the CS manufactories and FL manufactories and introduction of minimum penalty for contravention of conditions of license under the BE Act/WBMC Act;
- introducing computerised system of chemical examination of samples to avoid delay and improving the infrastructure in the chemical examination laboratory; and
- strengthening the internal control for effective implementation of Rules and regulations and control over the functioning of the Department.