

CHAPTER-VI
STATE EXCISE

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6.1 Tax administration

State Excise revenue comprises receipts derived from any payment, duty, fee, tax, fine or confiscation imposed or ordered under the provisions of the Rajasthan Excise Act, 1950 and rules made thereunder. It also includes revenue from manufacture, possession and sale of liquor, bhang and lanced poppy heads. The Rajasthan Excise Act, 1950 empowers the Government to frame a periodical excise policy.

6.2 Trend of receipts

Receipts from state excise during the years from 2007-08 to 2011-12 along with the total tax receipts of the State during the same period have been exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts
2007-08	1,750	1,805.12	(+) 55.12	(+) 3.15	13,274.73	13.60
2008-09	2,025	2,169.90	(+) 144.90	(+) 7.16	14,943.75	14.52
2009-10	2,200	2,300.48	(+) 100.48	(+) 4.57	16,414.27	14.02
2010-11	2,460	2,861.41	(+) 401.41	(+) 16.32	20,758.12	13.78
2011-12	2,950	3,287.05	(+) 337.05	(+) 11.43	25,377.05	12.95

Though in absolute terms, receipts of state excise have registered increase over the years but the percentage of revenue of State Excise Department to total tax revenue collection in the State has decreased when compared to the year 2007-08. During 2007-08, receipt of state excise accounted for 13.60 *per cent* of total tax revenue of the State. In the year 2011-12, these receipts accounted for 12.95 *per cent* of total tax receipts of the State.

6.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 amounted to ₹ 214.35 crore, of which ₹ 204.59 crore were outstanding for more than five years. It indicates that the Department had not taken effective steps for recovery of arrears. The following table depicts the position of arrears of revenue as on 31 March 2012:

(₹ in crore)

Year of arrear	Total arrears as on 1.4.2011	Addition during 2011-12	Recovery during the year 2011-12	Recoveries outstanding as on 31.3.2012
Upto 2006-07	216.94	-	12.35	204.59
2007-08	0.01	-	0.01	-
2008-09	0.05	0.04	-	0.09
2009-10	-	-	-	-
2010-11	0.40	9.27	-	9.67
Total	217.40	9.31	12.36	214.35

The chances of recovery of arrears of ₹ 204.59 crore outstanding for more than five years are bleak.

It is recommended that the Government may take appropriate action for early recovery of the arrears.

6.4 Cost of collection

The gross collection of the revenue receipts, expenditure incurred on collection of state excise revenue and the percentage of such expenditure to gross collection during the years 2007-08 to 2011-12 and the corresponding all India average percentage of the preceding year are as follows:

(₹ in crore)

Sl. no.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of the preceding year
1.	2007-08	1,805.12	48.51	2.69	3.30
2.	2008-09	2,169.90	64.46	2.97	3.27
3.	2009-10	2,300.48	85.74	3.73	3.66
4.	2010-11	2,861.45	87.45	3.06	3.64
5.	2011-12	3,287.05	82.92	2.52	3.05

6.5 Impact of Audit Reports

Cases of non/short levy, non/short realisation, under assessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 104.29 crore in 16 paragraphs were pointed out through the Audit Reports of the past five years. Of these, the Department/Government had fully/partly accepted audit observations in seven paragraphs involving ₹ 4.14 crore and had since partly recovered (as of September 2012) ₹ 3.31 crore in seven paragraphs as shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2006-07	5	19.88	-	-	-	-
2007-08	4	29.18	4	0.96	4	0.95
2008-09	4	45.44	2	0.42	2	0.42
2009-10	2	1.88	-	0.09	-	0.09
2010-11	1	7.91	1	2.67	1	1.85
Total	16	104.29	7	4.14	7	3.31

6.6 Working of Internal Audit Wing

Financial Advisor is the head of the Internal Audit Wing in State Excise Department. Two internal audit parties are working in the Department each

headed by an Assistant Accounts Officer. No audit plan showing units to be audited during the year was prepared by the Department. The position of last five years of internal audit was as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remained unaudited
2007-08	57	40	97	20	77	79
2008-09	77	40	117	29	88	75
2009-10	88	40	128	58	70	55
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10

It was noticed that 847 paragraphs were outstanding at the end of 2011-12 of which 238 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	Total
Paras	238	25	74	119	391	-	847

Thus, the huge pendency defeated the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing in order to take appropriate measures for plugging the leakage of revenue and for compliance with the provisions of the Act/Rules. Appropriate instructions may also be issued to the Department for taking action on the reports of the Internal Audit Wing.

6.7 Results of Audit

Test-check of the records of 19 units of the State Excise Department conducted during the year 2011-12, revealed non/short recovery/loss of excise duty and licence fee and other irregularities involving ₹ 100.63 crore in 3,940 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1.	Non/short realisation of excise duty and licence fee	532	94.76
2.	Loss of excise duty on account of excess wastage of liquor	2,000	0.74
3.	Other irregularities	1,408	5.13
Total		3,940	100.63

The Department accepted non/short realisation and other deficiencies in 3,415 cases involving ₹ 21.93 crore, of which 644 cases involving ₹ 2.90 crore had been pointed out in audit during 2011-12 and the others in earlier years. The Department recovered ₹ 2.76 crore in 2,641 cases of which 142 cases involving ₹ 0.24 crore had been pointed out in audit during the year 2011-12 and the rest in earlier years.

A few illustrative audit observations involving ₹ 2.01 crore are mentioned in the succeeding paragraphs.

6.8 Receipts from Sale and Consumption of Lanced Poppy Heads

6.8.1 Introduction

India is the largest licit producer of opium (*Papaver somniferum*) in the world, which is both exported as well as used by the domestic pharmaceutical industry. Opium is the source of many narcotics, including morphine (and its derivative heroin), thebaine, codeine, papaverine, and noscapine. The opium crop cycle runs from October to May. In the month of February-March, the opium capsule is ready for lancing or extraction of the latex (raw opium) by incision of opium capsule.

The Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and Rules framed thereunder by the Government of India (GOI) regulate the cultivation of opium poppy plant. The Central Government notifies the permissible tracts of the tehsils/districts and the Central Narcotics Department (CND) grants licences to the cultivators. The raw opium from the crop is collected and controlled by the CND.



Opium Capsule

These opium capsules after extraction of raw opium are known as 'Lanced Poppy Heads' (LPH)/Poppy Straw/*doda*, whether in the original form, cut-crushed or powdered. The LPH is a restricted commodity and can be sold by licensed retailers only to those consumers who have consumption permits issued by the State Excise Department under NDPS Rules. The LPH is collected by the State Government as per section 10 of NDPS Act, 1985.

The State Government of Rajasthan has framed the Rajasthan Narcotic Drugs and Psychotropic Substances (RNDPS) Rules, 1985 to permit and regulate the possession, transport, import interstate, export interstate, warehousing, sale, purchase and consumption of LPH within Rajasthan.

As per Rule 26 of RNDPS Rules 1985, no person shall cultivate any Poppy straw except under licence by the Government of India under Rules which it may frame under sub-section (ii) of Section 9 of the NDPS Act, 1985. District Opium Officer of the CND, GOI, issues licences for production of opium or poppy straw in form no. I.

As per Rule 27 of RNDPS Rules 1985, every cultivator licensed under Rule 26 shall in each year submit by the 1st of April to the DEO of the area a true declaration in form 'C' in respect of the land in which he cultivated the Poppy and of the stock of LPH directly relatable to the crop produced by him and

shall also declare every building or place to be used by him for storing the same.

Wholesale licences are issued in form “NDPSL-7” under Rule 34(i)(a) of RNDPS Rules, 1985. The wholesale LPH licensee procures LPH directly from the farmers and stores it in non-duty paid bonded warehouses. Duty is paid by the wholesale licensee when LPH is transferred to wholesale godown of the wholesale licensee who alone can have a bonded warehouse.

Retail sale licences are issued in form “NDPSL-8” under Rule 34(i)(b) of RNDPS Rules, 1985. The retail LPH, licensee procures LPH from the wholesale LPH licensee on the basis of permits issued by the Department and after paying permit fees.

6.8.2 Scope of Audit

In Rajasthan, cultivation and production of opium is confined to seven districts¹, while consumption area of LPH is broadly spread over the jurisdiction of 10 District Excise Officers (DEOs)². Out of these, records for the year 2009-10 and 2010-11 of four DEOs³ of production and five DEOs⁴ of consumption were test checked during February to May 2012. The DEOs were selected on the basis of maximum production and consumption of LPH.

The test-check was conducted with a view to ascertain the efficiency and efficacy of the Department in collection, sale, consumption of LPH, collection of excise duty and licence fee and other charges payable thereon was in accordance with Act/Rules, Manuals and annual State Excise policy. The findings of audit are mentioned in the succeeding paragraphs.

6.8.3 Revenue from LPH

Revenue from LPH is derived mainly in the form of licence fee realised from wholesale and retail licensees, excise duty and permit fees on the sale of LPH. The revenue realised during 2009-10 and 2010-11 is shown below:

(₹ in crore)

Collection year	Total excise revenue ⁵ collected	Revenue realised from LPH				Percentage of LPH revenue to total excise revenue
		Licence fees including renewal fees	Excise duty	Permit fees	Total	
2009-10	2300.48	67.84	5.94	0.68	74.46	3.24
2010-11	2861.45	77.47	6.96	0.80	85.23	2.98

Source: Information provided by the Department.

As would be seen from the above, the revenue collection from LPH was very small as compared to the total excise revenue but since the leakages at various stages (i.e. during production, collection and sale) have far wider social and

¹ Baran, Bhilwara, Chittorgarh, Jhalawar, Kota, Pratapgarh and Udaipur.

² Ajmer, Barmer, Bikaner, Hanumangarh, Jaipur (Rural), Jhunjhunu, Jodhpur, Pali, Nagaur and Sriganganagar.

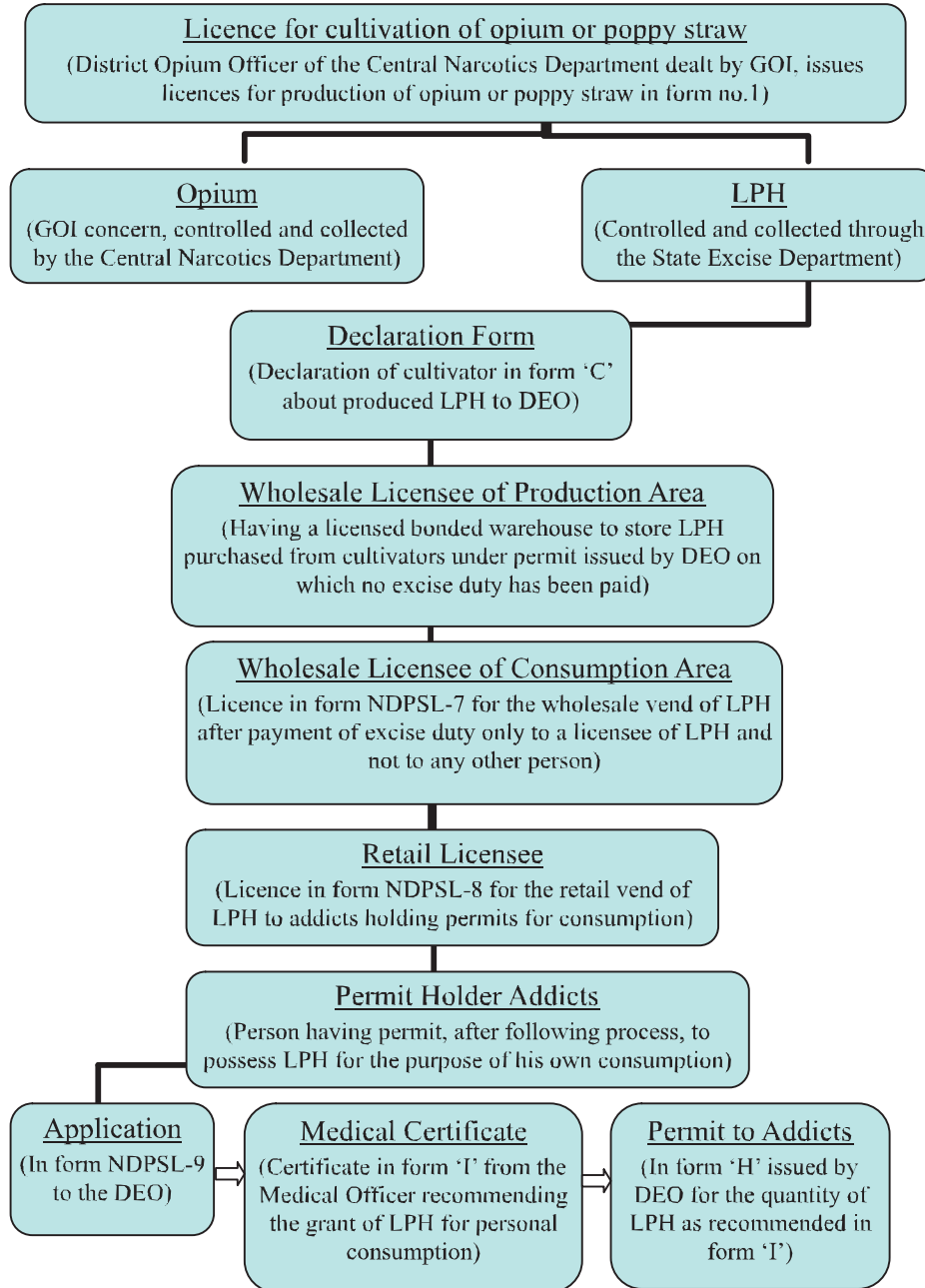
³ Baran, Chittorgarh, Jhalawar and Pratapgarh.

⁴ Barmer, Bikaner, Hanumangarh, Jodhpur and Sriganganagar.

⁵ Including Country Spirits, Malt Liquors, Wine & Spirits, Commercial Spirits, Bhang, LPH, Duties etc. and Miscellaneous.

economic ramifications which are discussed in test-check of the records of the Department controlling the LPH collection and consumption in the State was taken.

6.8.4 Pictorial presentation of LPH production, collection and consumption



Audit findings**A. Declaration of total LPH production by the registered cultivators in form 'C'****6.8.5 Non-submission/collection of declaration forms**

As per Rule 27 of RNDPS Rules 1985, every cultivator licensed under Rule 26 has to submit by 1st April of the year to the DEO of the area, a declaration in form 'C' in respect of the land on which he cultivated the opium poppy and of the stock of LPH directly relatable to the crop produced by him. The State Government issued (August 2004) directions to the Department to register offence against cultivators who fail to file such a declaration.

In pursuance of a request (July 2010) made by the Excise Department, the Department of Agronomy, Rajasthan College of Agriculture (MPUAT) Udaipur intimated (July 2010) the yield of LPH 500 to 600 kg per hectare in normal conditions.

Each year the State Excise Department (Department) receives list of licensed cultivators of opium from the Central Narcotics Department (CND). As per the information furnished (February to May 2012) by four DEOs⁶, opium was cultivated in 13,789.75 hectares of land by 41,454 cultivators during the crop years 2008-09 and 2009-10. Out of these, only 28,695 cultivators had filed declaration forms with the Department showing production of 40,523.40 quintals of LPH in 7,389.91 hectares of land resulting 548 kg average production per hectare.

It was noticed in units test checked that the DEOs maintained a register showing the names of cultivators who had submitted declaration forms. But the names of the remaining 12,759 licensed cultivators was not mentioned in the register during the years 2009-10 and 2010-11 in respect of 6,399.84 hectares of land. As per the existing/minimum norms of the Department 31,999.20 quintals of LPH valued at ₹ 160 crore⁷ should have been produced on this land. This LPH should have been collected and if not required, destroyed by the Department. Moreover, it was found that no offence case was registered in the offence register against any of the cultivators nor were any spot surveys / raids conducted by the Department. The Department also did not report about such defaulter cultivators to the CND and request them for taking and undertaking for submission of declaration forms by the cultivators. The possibility of illegal sale of 31,999.20 quintals of LPH with the approximate cost of ₹ 160 crore could not be ruled out. The DEOs had not monitored the submission of declaration forms from the remaining 12,759 licensed cultivators.

After being pointed out, the Government stated (August 2012) that LPH was purchased by the licensees as per the requirement. The cultivators had to sell

⁶ Baran, Chittorgarh, Jhalawar and Pratapgarh.

⁷ 31,99,920 kg LPH (approx. production) x ₹ 500 (retail price of LPH) = ₹ 160 crore.

or destroy LPH by 31 July. Thereafter, a random physical verification was conducted by Excise Inspectors. In case of any default, offence case was registered against cultivators.

The reply is not in line with Rule 27 of RNDPS Rules, 1985 which stipulates that every cultivator is bound to submit a true declaration in form 'C' by 1st April to the DEO of the area. Further, there was nothing on record to indicate the number of raids/inspections conducted by the Department. Out of four DEOs selected, physical verification report was prepared only for one year period by Excise Inspectors of two DEOs i.e. Jhalawar and Baran. In the other two DEOs no physical verification report was found. A number of discrepancies (as discussed in paragraph 6.8.6) were found on physical verification conducted by these officers which indicates lack of credibility of departmental action.

The Department may set up a mechanism to ensure that the list of defaulter cultivators is reported to the CND, so as to enable them to reconsider the renewal of the licences of defaulter cultivators for opium cultivation for the succeeding crops.

6.8.6 Physical verification reports/'panchnama firds' made by Excise Inspector

As per circular issued (July 1977) by the Excise Commissioner, Udaipur, Excise Inspectors were to ensure that all the cultivators submit declaration forms within the prescribed time period.

The Excise Inspectors were to immediately check site of those cultivators who had not submitted declaration forms (100 per cent) within prescribed time period. The site of those cultivators who had submitted their declaration forms were to be checked to the extent of 10 per cent.

The information regarding physical verification conducted by the Excise Inspectors in respect of the cultivators that had not submitted the declaration forms was provided by only two DEOs i.e. Jhalawar (for only 2009-10) and Baran (for only 2010-11) out of four DEOs test checked. In the remaining two DEOs there was nothing on record to indicate that the Excise Inspectors had conducted the inspection in respect of

defaulted case. Further, no format for physical verification report had been prescribed by the Department. Following discrepancies were noticed in the physical verification reports:

- Excise Inspector of DEO Jhalawar prepared two 'panchnama firds' on the same date one for the cultivator and other for departmental use. The cultivator submitted the firds along with the declaration forms to the concerned DEOs. However, signatures of the cultivators on both the 'panchnama firds' were different.
- Excise Inspector of DEO Baran, prepared 138 'panchnama firds' of 2,372 cultivators during LPH collection year 2010-11 but date of physical

verification or preparation of such '*panchnama firds*' was not mentioned therein. In the absence of the same, it could not be ascertained whether actual physical verification was done on the site and the year to which physical verification pertained. Further, in all the 138 *panchnama firds* the quantity of LPH found on physical verification and destroyed by cultivators was shown 'nil' whereas declaration forms of only 1,259 cultivators were submitted by the wholesale licensees of production area to the Department. Remaining 1,113 cultivators (out of 2,372) had not submitted declaration forms even though they were granted licences by the CND.

After being pointed out, the Government accepted the audit observation (August 2012) and directed the Department to ensure that date and quantity are necessarily mentioned in the physical verification reports.

These cases point towards the necessity of strengthening the controls of the Department over the physical verification of cultivators regarding confirmation of availability/non-availability of LPH after 31 July. The Department may prescribe a format for physical verification report.

6.8.7 Collection of declaration forms by the wholesale licensees instead of submission by cultivators

As per Rule 27 of RNDPS Rules, 1985, each licensed cultivator is required to submit his declaration by 1st April of the year to the DEO of the area.

6.8.7.1 During test-check of the declaration forms of cultivators accepted by four DEOs⁸ it was noticed that all the declaration forms were submitted to the DEOs by the wholesale licensees of production area instead of the registered cultivators.

The wholesale licensee while applying for permit for purchase of LPH enclosed the declaration forms obtained by him from the cultivators from whom he intended to purchase the LPH.

The Department was allowing the wholesale licensees of production area to collect the declaration forms from the licensed cultivators. The wholesale licensees of production area during the audit period of 2009-11 showed collection of LPH which was almost as per the requirement of LPH addicts in the State.

As the Department did not have independent mechanism to collect the declaration forms from the cultivators, the possibility that the wholesale licensees of production area collected declaration forms from all the licensed cultivators but did not submit the same to the Department and their collection of entire production of LPH cannot be ruled out. The succeeding paragraphs discuss the fact that the wholesale licensees as well as the retail licensees traded in loss during the year 2009-11 which also raises the doubt on the machinery adopted by the Department in collection and disposal of LPH in the State.

After being pointed out, the Government stated (August 2012) that as a practical measure, the collection of declaration forms was assigned to the

⁸ Baran, Chittorgarh, Jhalawar and Pratapgarh.

wholesale licensees. However, the fact remains that deviation from the prescribed Rule 27 of RNDPS Rules, 1985 has resulted in irregularities as mentioned in succeeding paragraphs.

6.8.7.2 Declaration forms bearing signatures of persons other than the cultivators

Inconsistency was found in 143 declaration forms in Pratapgarh district involving 28,475 kg LPH and 125 declaration forms in Chittorgarh district involving 18,090 kg LPH as these forms were submitted with the names of cultivators but signatures of other persons. It was also found that several declaration forms were submitted with signature of relatives of the cultivators. The same were accepted by the Department. Thus, proper cross check on declaration forms was not exercised before issue of permits to wholesale licensees for collection of LPH by the Department.

After being pointed out, the Government accepted (August 2012) that the Department was accepting declaration forms from the relatives of the cultivators due to unavailability of the cultivators on site. However, in future strict vigil will be ensured regarding signature, mention of status of the relationship and other irregularities pointed out by the audit.

6.8.8 Acceptance of incomplete declaration forms

The farmer in declaration form should mention area of the land on which he has cultivated the opium poppy and stock of LPH directly relatable to the crop produced by him. He should also declare every building or place used or to be used by him for storing LPH mentioning the crop year and date of submission of form.

Scrutiny of declaration forms submitted by the wholesale licensees of production area for obtaining permit to collect LPH from DEOs during the year 2009-10 and 2010-11 revealed the following:

- Signatures of cultivators on declaration forms were not found in three cases of two villages in Pratapgarh district involving 460 kg LPH and in 30 cases of 13 villages in Chittorgarh district involving 3,940 kg LPH.
- 13 out of 25 declaration forms of two villages in Chittorgarh district were having only thumb impressions without mentioning any mark/name of cultivators to prove authenticity of thumb impression.
- 17 out of 19 declaration forms of a village in Jhalawar district and one out of seven declaration forms of a village in Baran district did not contain details regarding quantity of LPH produced by the cultivators. The Department *suo motu* recorded in its registers⁹ the LPH quantity of 1295 kg and 120 kg respectively in these cases. This was done without any verification from the cultivators.

⁹ Register maintained in the DEO offices having details of cultivators with produced quantity of LPH whose declaration forms had been accepted and permits were issued to the wholesale licensee of production area for collection of LPH.

- All the 33 cases of two villages in Jhalawar district and all the 8 cases of four villages in Baran district were accepted with overwriting in the quantity of LPH as mentioned in declaration forms in which figures were shown as either excess or short. In spite of the overwriting, permits for collection of LPH were issued to the wholesale licensees of the production area. It was also noticed that the signatures of Excise Inspector in token of acceptance of declaration were also not found in the above 8 cases of Baran district, though the same was required to ensure that the declaration forms had been checked before acceptance.
- All the 143 declaration forms from 7 villages of Chittorgarh district were accepted without mentioning the crop year and date of submission of the declaration forms. In absence of any date, it could not be ensured that these declaration forms were received in prescribed period.
- In 17 out of 25 declaration forms from two villages in Chittorgarh district and in the remaining 8 declaration forms from four villages in Baran district, the building or place, used or to be used for storing the LPH was not mentioned. In absence of this, the Department could not exercise physical verification of LPH stock with the cultivators.
- In two villages of Jhalawar district 13 cultivators submitted two declaration forms, However, two different quantity of LPH were shown to have been produced in each forms produced by them. The Department accepted both forms and issued permits for collection of the LPH without any verification.
- There was difference in quantity of LPH mentioned in the declaration forms and quantity shown in the registers maintained by the Department. For example, 97 kg LPH was shown excess in the registers than as declared by two cultivators of Jhalawar district and permit was issued to the wholesale licensee with excess quantity by the Department as detailed below:

(Quantity in kg)

Sl. No.	Name of cultivator	Village/ Tehsil	Area (in Are)	Declared quantity	Quantity shown in registers	Excess quantity
1	Bhole Singh/ Bhawani Singh	Harnawda/ Gangdhar	30	44	76	32
2	Chandri Bai/ Bala Ram	Semlia/ Pidawa	30	56	121	65
Total						97

Source: Information collected from the DEO, Jhalawar.

After being pointed out, the Government accepted the observations (August 2012) and directed the Department to ensure that such mistakes do not recur in future.

The foregoing findings indicate that while the Department worked towards granting permits to the wholesale licensees, it lacked in its focus on verification of the genuineness of the details given in the declaration forms. Therefore, permits were issued on such declaration forms which were incomplete, unsigned and probably fictitious.

The Department may adopt a suitable check mechanism for improvement or institutionalisation of a system for avoiding such lapses.

6.8.9 Non-collection of LPH from the cultivators whose declaration forms had been accepted

The cultivator may keep produced LPH upto 31 July of the year and within this period he shall either sell or destroy by burning the LPH left unsold in his possession. LPH can be sold by cultivators only to the LPH wholesale licensees having bonded warehouse after permit is issued by the DEO.

During test-check of the declaration forms accepted by DEO, Chittorgarh for the year 2010-11, it was noticed that declaration forms of 224 cultivators related to nine villages of Rashmi, three villages of Kapasan and two villages of Gangrar tehsils involving 37,953 kg LPH

valued at ₹ 1.90 crore¹⁰ involving excise duty of ₹ 13.28 lakh¹¹ were accepted by the Department. This quantity of LPH was also found entered in the registers maintained by the Department. But neither any permit for collection of LPH was found issued to the wholesale licensee by the DEO, Chittorgarh nor any record evidencing the burning of the LPH by cultivators was found. Possibility of illegal sale of LPH can not be ruled out and needs investigation by the Department.

After being pointed out, the Government stated (August 2012) that the wholesale licensee of Kapasan-Rashmi group had collected 314.53 quintal LPH from the cultivators of Rashmi and Kapasan tehsils in his bonded warehouse Kapasan and the wholesale licensee of Chittorgarh-Gangrar group had collected 65.00 quintal LPH from the cultivators of Gangrar tehsil in his bonded warehouse Jojro Ka Kheda. On physical verification (20.6.2010 to 25.6.2010) of the bonded warehouses, the Department found that 444.76 quintal LPH in Kapasan bond and 127.01 quintal LPH in Jojro Ka Kheda bond were in excess of the registered quantity in the stock. Cases against both the licensees were registered (12.07.2010) and compounded (27.09.2010) by Addl. Excise Commissioner, Excise Zone, Udaipur with amount ₹ 5.25 lakh on each licensee for illegal collection of LPH. Excise duty at twice the rate, amounting to ₹ 40.02 lakh¹² on excess stock was also recovered from both the licensees and bond facilities were withdrawn with immediate effect.

It was found that cases were registered by the Department against the licensees under section 26D and 32 of NDPS Act, 1985 and Rule 43(2) of RNDPS Rules, 1985, in which licences should have been cancelled as per condition number 6 of the licence as the offence was serious in nature. The above facts indicate that the Department had not taken action at the time declaration forms were received so that illegal collection could have been avoided.

¹⁰ Quantity of LPH 37,953 kg x retail sale price of LPH @ ₹ 500 per kg = 189.77 lakh.

¹¹ Quantity of LPH 37,953 kg x excise duty @ ₹ 35 per kg = ₹ 13.28 lakh.

¹² 44,476 kg + 12,701 kg = 57,177 kg x ₹ 70 = ₹ 40,02,390.

6.8.10 Collection of un-lanced¹³ poppy heads by the wholesale licensee of production area

Opium crop may suffer some damage due to natural calamity. To give relief from natural calamities, cultivators are allowed to get their un-lanced damage crop uprooted partially or fully under the supervision of the CND. For each partial and full uprooting, *panchnama* is to be drawn and entry made in the joint as well as individual licence.

According to Rule 34 of the RNDPS Rules, 1985 licences are issued for collection and sale of only lanced poppy heads as required in Rule 32 and not for collection and sale of un-lanced poppy heads.

During test-check of the declaration forms accepted by DEOs, Chittorgarh and Jhalawar for the crop year 2009-10, it was noticed that the Department accepted the declaration forms submitted by the wholesale licensee of production area of such cultivators whose crop was fully uprooted due to poor crop or

otherwise. Entries to this effect as “un-lanced poppy heads fully uprooted, balance nil” were mentioned in the cultivators' record maintained by village *Lambardar*¹⁴, copies of which were enclosed with declaration forms. In such condition without lancing opium straw should not be collected by the licensee and it should have been destroyed.

Sl. No.	Name of DEOs	Number of cultivators	Quantity of un-lanced poppy heads collected (in kgs)
1.	Chittorgarh	23	2,605
2.	Jhalawar	139	9,155
Total		162	11,760

Source: Information collected from the DEOs Chittorgarh and Jhalawar.

However, the Department issued permit to the wholesale licensees of production area for collection of 11,760 kg un-lanced poppy heads in contravention of rules and breach of the conditions of licence¹⁵.

After being pointed out, the Government stated (August 2012) that the CND had not provided the list of cultivators whose crops were uprooted, hence the Department accepted the declaration forms as per the earlier list of the cultivators.

The Department may put in place a system of obtaining the list of cultivators whose crops have been uprooted from the CND and ensure that only LPH is collected by the wholesale licensees.

¹³ The opium capsules before extraction of raw opium

¹⁴ The District Opium Officer of the CND may designate one of the cultivators of opium as *Lambardar* in each village who shall make arrangements to weigh opium produced daily before him by cultivator and make necessary entries in the records to be maintained by him as may be specified by the Narcotics Commissioner in this behalf (Rule 10 and 13 of the NDPS Rules, 1985).

¹⁵ Licence is issued in form NDPSL-7 to wholesale licensees for the wholesale vend of LPH.

6.8.11 Lack of control over destruction of unsold quantity of LPH

According to the RNDPS Rules, 1985, each cultivator of opium has to either sell LPH or destroy it by 31 July of the year.

During test-check of the records of DEOs Baran, Chittorgarh, Jhalawar and Pratapgarh, it was noticed that information of unsold quantity of LPH was not furnished by any of the cultivators to the Department.

As mentioned in para 6.8.7, the declaration forms having details of LPH produced were submitted by the wholesale licensee instead of the cultivators. As a result, the Department was not having any information on excess or unsold quantity of LPH with the cultivators and consequently had no information on such LPH being destroyed, if not sold, by 31 July.

It was noticed that the RNDPS Rules, 1985 did not provide any procedure by which the licensed cultivator should declare LPH sold or burnt by him after 31 July. The Department also did not prescribe any guidelines or instructions for the same. For exercise of proper and effective control on the disposal of LPH, the Department should have prescribed annual return to be furnished by the cultivator regarding the quantity produced, quantity sold and quantity destroyed by him immediately after 31 July of the year.

After being pointed out, the Government stated (August 2012) that there is no provision in the rules for submission of certificate or annual return regarding destruction of balance LPH by cultivators after 31 July. However, proposal in this regard is being sent to the Government for direction.

The Department may consider putting in place a system to monitor the destruction of unsold LPH by introducing regular returns to be submitted by the cultivators immediately after 31 July regarding the quantity sold and destroyed by them.

6.8.12 Trading of LPH in loss by the wholesale and retail licensees

The annual licence fees of each LPH group (wholesale and retail) is based on the revenue potential of the group in terms of the number of registered consumers of LPH and also on the basis of previous year's obtained price. Applications are invited with non-refundable application fees for the group and licences are granted by adopting lottery system. The annual licence fee is in fact the sitting cost for the licensee that permits him to procure LPH and trade in the same.

The Department realised revenue of ₹ 159.69 crore from the wholesale and retail licensees during the years 2009-10 and 2010-11 in terms of licence fee, renewal fee, excise duty and permit fee etc from LPH groups/licensees which were same during both the years

as detailed below:

(₹ in lakh)

Year	Revenue realised by the Department from LPH licensees						
	Licence fee				Excise duty @ ₹ 35.00 per kg	Permit fees @ ₹ 4.00 per kg	Total revenue realised (4+5+6+7)
	Licence fee of production area	Licence fees of consumption area	Total (2+3)	Licence renewal fees (1% of col. 4)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2009-10	2,411.67	4,372.75	6,784.42	NA	593.53	67.83	7,445.78
2010-11	3,014.59	4,656.14	7,670.73	76.71	696.03	79.55	8,523.02
Total	5,426.26	9,028.89	14,455.15	76.71	1,289.56	147.38	15,968.80

Source: Information provided by the Department.

The Licensees incurred expenditure of ₹ 69.20 crore on purchase of LPH from cultivators, VAT, transportation and handling charges *etc.* as mentioned below:

Year	Actual supply of LPH to addicts (in MT)	Expenditure incurred by the licensees ¹⁶					Total expenditure (4+6+7) (₹ in lakh)
		Purchase price of LPH from cultivator		VAT on total amount realised by the licensees		Transportation and handling charges @ ₹17.82 (9.90+7.92) per kg	
		Rate per kg (in ₹)	Total Price (2x3) (₹ in lakh)	Rate (in %)	VAT amount (₹ in lakh)		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2009-10	1,695.81	100	1,695.81	14.00	1,187.07	302.19	3,185.07
2010-11	1,988.67	100	1,988.67	14.00	1,392.07	354.38	3,735.12
Total	3,684.48		3,684.48		2,579.14	656.57	6,920.19

Source: Information provided by the Department.

The above tables reveal that the licensees incurred expenditure of ₹ 228.89 crore on licence fee, purchase price excise duty, VAT, transportation and handling charges *etc.* during both the years whereas the total amount realised by the licensees from sale of LPH, as detailed below, was only ₹184.22 crore resulting in a clear deficit of ₹ 44.67 crore

Year	Total Amount realised by the licensees from sale of LPH				
	No. of addicts	Requirement of LPH (in MT)	Actual supply of LPH to addicts (in MT)	Rate per kg (in ₹)	Total Amount realised (4x5) (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)
2009-10	27,215	2,271.68	1,695.81	500.00	8,479.05
2010-11	26,585	2,250.83	1,988.67	500.00	9,943.35
Total	53,921	4,522.51	3,684.48		18,422.40

Source: Information provided by the Department.

¹⁶ On the basis of purchase price, VAT, Transportation and handling charges decided by the State Government in the Excise Policies 2009-10 and 2010-11.

The losses incurred by the licensees in both the years indicate that the licensees were trading in loss. As such, possibility of their involvement in illicit trade of LPH to cover up their losses can not be ruled out as no business will be carried out incurring losses.

The Department fixed the annual licence fees of LPH groups at higher side even though there was fixed price for purchase and thereafter sale of LPH to the permit holder addicts. It was noticed that the same groups renewed their licences for the year 2010-11 at higher price than previous years' obtained price but the Government/Department did not analyse as to how the licensees were paying and incurring expenditure over their reported income from the sale of LPH which was required to be sold only to the permit holder addicts and on fixed sale price.

After being pointed out, the Government stated (August 2012) that the Department was not responsible for the profit and loss of licensees. Further the loss of licensees pointed out by audit was not acceptable by the Department. Since social aspects are involved in the trade, the chances of illegal trade to cover the loss incurred by licensees could not be ruled out. The Government/Department may analyse the previous years' transactions of the licensees before renewal of their licences to control the illicit trade of LPH.

It is recommended that the Government may consider putting in place a suitable control mechanism to monitor issue of licences of LPH by inviting tenders.

6.8.13 Non-recovery of licence transfer fee

Rule 35(2) of RNDPS Rules, 1985 read with Rule 72 (B) of the Rajasthan Excise (RE) Rules, 1956 envisage that every licence shall be deemed to have been granted or renewed personally to the licensee and no licence shall be sold or transferred without obtaining the prior permission in writing from the licensing authority, Excise Commissioner (EC) in case of LPH wholesale, and this permission will be accorded after the payment of fifty *per cent* of licence fee by the licensee.

During test-check of the licence files of LPH groups at EC Office, Udaipur for the period 2009-10 and 2010-11 it was noticed that LPH wholesale licence of Chittorgarh-Gangrar group under the jurisdiction of DEO, Chittorgarh for the year 2010-11 was renewed in the name of

co-licensee instead of the name of original licensee without depositing of ₹ 49.13 lakh¹⁷ as licence transfer fee.

After being pointed out, the Department accepted the audit observation (June 2012) and directed the DEO, Chittorgarh to recover the licence transfer fees from the original licensee of 2009-10.

¹⁷ Fifty *per cent* of licence fee of the group i.e. ₹ 98,26,250 = ₹ 49,13,125/-

6.8.14 Possession of more than 500 kg of LPH by retail licensees

As per Rules 32 and 33 of the RNDPS Rules, 1985, no person shall sell LPH except who holds a licence in form NDPSL-8 for the retail vend of LPH issued under Rule 34(1)(b) of the Rules *ibid*.

Condition No. 2 of retail licence of NDPSL-8 envisages that the licensee shall not have in his possession at any time more than 500 kg of LPH.

During test-check of retail sale registers of LPH submitted by retail licensees to DEOs, Barmer and Hanumangarh for the period 2009-10 and 2010-11, it was noticed that eight (out of 25) retail licensees during 2009-10 and two (out of 25) licensees during 2010-11 of Hanumangarh

district and three (out of 22) retail licensees during 2009-10 of Barmer district kept in their possession LPH in quantity more than the prescribed limit of 500 kg at a time in contravention of the above stated licence condition. Of these a few cases are mentioned below:

Sl. no.	Name of DEOs	Year	Name of retail licensees	Date	Quantity of LPH at a time (in kg)
1	Hanumangarh	2009-10	Peelibanga	08.05.2009	590
			Sangriya	08.05.2009	590
			Tibbi	23.01.2010	660
		2010-11	Sangriya	06.08.2010	590
			Bhadra	20.07.2010	690
2	Barmer	2009-10	Gudamalani	27.04.2009	580
			Ghohatan	26.06.2009	724
			Sindhari	28.04.2009	660

It was noticed that the Excise Inspectors had verified the retail sale registers but had not pointed out to the licensees who were keeping more than 500 kg of LPH at a time.

After being pointed out, the Government stated (August 2012) that after deduction of sale of the specified dates, balance LPH was upto the limit of 500 kg with the retail licensees. However, the fact remains that the licensees had more than 500 kg of LPH at a time. This was in contravention of the condition number "2" of retail licence of LPH which envisaged that the licensees shall not have in his possession at any time more than 500 kg of LPH either before or after the sale of the LPH.

B. Status of LPH addicts in the State

Retail sale of the LPH against permits is allowed to addicts only by the retail licensees of LPH. EC directed (February-march) each year after 2001-2002 that no new permits for addicts may be granted for consumption of LPH by the Department, only renewal of the existing permits of addicts was being allowed. The number of registered addicts and consumption of LPH in the

State during the year 2009-10 and 2010-11 is detailed below:

Collection Year	Number of addicts	Consumption of LPH (in kg)
2009-10	27,215	16,95,810
2010-11	26,585	19,88,670

Source: Information provided by the Department.

Deficiencies noticed in renewal of permits of addicts are mentioned in the succeeding paragraphs:

6.8.15 Renewal of permits of addicts

As per directions issued by EC every year at the time of renewal of permit, no new permit except renewal of existing permits were allowed to be granted by DEOs. On receipt of application in form NDPSL-9 for renewal of permit, the DEO may renew the permit, on receipt of a fee of ₹ 50 per year or part thereof, for such quantity of LPH as recommended by the Medical Officer.

During test-check of the files related to permit renewal of addicts in five DEOs¹⁸ it was noticed that 1,040 permits during 2009-10 and 1,091 permits during 2010-11 were renewed after depositing permit fees ₹ 150 to ₹ 1,000 from an addict. It was noticed that these

permits were renewed after 3 to 20 years by depositing lump sum permit fees. Though there was no provision in the rules for renewal of permits after lapse of more than one year, these inactive permits were made operative in contravention of rules.

At the time of renewal of these permits, the Department did not ask the addicts about the source from where they had purchased the LPH during the period in which their permits were not renewed.

Maximum limit for personal consumption of LPH by an addict was 10 kg per month fixed by the Department. Even if half the quantity i.e. five kg per addict per month as an average consumption is considered, the following table shows that the quantity of LPH 1,278.60 quintal amounting to ₹ 714.96 lakh was purchased by these addicts from grey market during year previous to the renewal year of permits itself.

Year	No. of permits renewed after lump sum fees	Average consumption per addict per month (in kg)	Previous year	Total consumption during previous year (in kg)	Retail rate of LPH per kg. during previous year	Value of LPH in Grey market during previous year (₹ in lakh)
2009-10	1040	5	2008-09	62,400	621.25	387.66
2010-11	1091	5	2009-10	65,460	500.00	327.30
Total				1,27,860		714.96

Source: Calculation based on the information provided by the Department.

After being pointed out, the Government stated (August 2012) that renewal of permits of addicts for more than one year was done by the concerned DEOs

¹⁸ Barmer, Bikaner, Hanumangarh, Jodhpur and Sriganganagar

due to migration of permit holder addicts for their personal work or for de-addiction. Further renewal of such permits during 2009-10 and 2010-11 was done by DEOs in compliance of the ECs' orders dated 19.03.2009 and 11.03.2010.

The reply is not tenable as the cases pointed out by audit pertain to renewal of permits after 3 to 20 years. Renewal of permit after one year should be treated as a fresh case and action should be taken accordingly. Further, the ECs' order cited by the Government is not relevant in these cases as the order was issued for renewal of permits wherein the Medical Officer had recommended granting of LPH for the future period. However, in the cases pointed out by audit, no such recommendation was made by the Medical Officer in the permits for granting LPH in succeeding years.

6.8.16 Renewal of permits without obtaining recommendation of Medical Officer in Form 'I'

Proviso (a) of Rule 44 (2) of RNDPS Rules, 1985 envisages that no such permit shall be granted or renewed except on the production of a certificate in Form 'I' issued by a Medical Board or Medical Officer, as the case may be, in the manner provided in Rule 45 in which the Medical Officer shall also prepare a record of the medical examination of the addicts in Form 'M'. The Medical Officer shall record his opinion clearly and explicitly in Form 'I' as to whether the applicant is required to use LPH as a medical necessity.

According to the Rule 44, permits to addicts of LPH, for the purpose of their own consumption, are issued in Form 'H' by the DEO for such quantity as may be recommended by the Medical Officer in Form 'I'.

During test-check of the permits of addicts renewed by DEO, Bikaner for the period 2009-10 and 2010-11, it was noticed that all permits to addicts during both years were renewed without obtaining recommendations of Medical Officer in Form 'I'. However, Medical Examination reports of addicts in Form 'M' made by the Medical Officer were enclosed with renewal of permits in which no specific quantity of LPH for consumption was recorded by the Medical Officer. It was noticed that the Medical Officer continuously recommended

the consumption quantity of LPH 'as per previous norms' on the Form 'M' (set language printed) instead of issuing the Form 'I'.

After being pointed out, the Government stated (August 2012) that in future permits of addicts will be renewed after obtaining the recommendation of Medical Officer in Form 'I'.

It is recommended that Government may issue instructions to the Medical Officers not to issue Forms 'M' in a routine manner without actually looking into the possibility of de-addiction in each case and the Department may renew permits only after obtaining the recommendation of Medical Officer in Form 'I'.

6.8.17 Non-adherence to advice of Medical Officer to regulate the quantity of LPH for consumption

As per Rule 45(3) of RNDPS Rules, 1985, an addict shall submit application in Form NDPSL-9 to the concerned DEO for renewal of his permit (Form 'H') along with a Medical Certificate (Form I) in which Medical Officer recommends the quantity of LPH for consumption.

6.8.17.1 During test-check of the permits of addicts renewed by DEOs, Hanumangarh and Sriganganagar, it was noticed that the Medical Officer advised for deduction of a certain quantity of LPH per quarter in Medical Certificate issued to addicts as detailed below:

Name of DEOs	No. of Addicts	Deduction per quarter as per the 'I' forms
Sriganganagar	31	400 grams to 1 kg
Hanumangarh	21	500 grams to 30 kg

Source: Information collected from DEOs.

But the DEOs renewed the permits of addicts without mentioning the reduction in quantity recommended by the Medical Officer. As a result, the quota of concerned retail LPH shop remained the same.

After being pointed out, the Government stated (August 2012) that proviso under sub rule (vii) of rule 45 of RNDPS Rules, 1985 had been removed vide notification dated 30.08.1990 in which 1/8th quarterly reduction of LPH was mentioned. So the point of deduction of LPH quantity in medical certificate was not considered at the time of renewal of permits.

However, the fact remains that the recommendation of the Medical Officer on the quantity required by the permit holder addicts was based on the examination of the addicts. Therefore, renewal of the permits by the Department without consideration of the requirement of LPH by the addicts seemed more in interest of the retail licensees than in the de-addiction. The Department should renew the permits as per the recommendation of Medical Officer.

The Department may consider the recommendation of Medical Officer regarding deduction of LPH which will help him in de-addiction. Further, the Government may reintroduce the proviso regarding quarterly reduction of LPH.

6.8.17.2 The monthly consumption of each addict is prescribed by a Medical Officer. Based on this, retail licensees sell LPH to addicts subject to prescribed limit. During test-check of the retail sale registers of 14 retail LPH shops of four DEOs¹⁹, it was noticed that between two and nine kg LPH was sold in excess of the monthly consumption quantity prescribed by the Medical Officer to a permit holder addict.

After being pointed out, the Government stated (August 2012) that the name of retail LPH shop, from which addicts will purchase LPH, is being mentioned on the permits and retail licensee is bound to sell LPH only to the concerned permit holder addicts.

¹⁹ Barmer, Bikaner, Jodhpur and Sriganganagar.

The reply of the Government is not relevant to our observation which relates to sale of LPH by the retail licensee to a permit holder addict in excess of prescribed monthly consumption quantity.

The Government may direct the Department to cancel/ revoke licences of those retail licensees who violate the conditions prescribed in the licence to prevent the sale of LPH to unauthorised persons and spread of LPH addiction in the society.

6.8.18 Issue of two permits/p ermits bearing the same permit number to more than one addict

As per Rule 44(2) of RNDPS Rules 1985, LPH can be purchased by holder of valid permit in Form 'H' issued by the competent authority.

6.8.18.1 During test-check of the records of DEOs, Barmer (2 cases) and Hanumangarh (7 cases) for the years 2009-10 and 2010-11, it was noticed that two permits were issued to an addict. The Department

did not check the details such as father's name, address etc of the addict before issuing/renewal the permit so that the addict could not purchase LPH through two permits from two different or same retail shop of LPH. This clearly indicates the negligence of the DEOs in issuance of permits to the addicts.

6.8.18.2 During test-check of the records of DEOs, Hanumangarh and Jodhpur for the years 2009-10 and 2010-11, it was noticed that permits with the same number were issued to two or three addicts as detailed below:

Name of DEOs	Year	No. of same permit issued to	
		Two addicts	Three addicts
Hanumangarh	2009-10	124	2
	2010-11	128	3
Tiwari, Jodhpur	2009-10	7	-
	2010-11	5	1

Source: Information collected from DEOs.

This proves that the DEOs need to be more vigilant while issuing permits to the addicts.

After being pointed out, the Government stated (August 2012) that permits of addicts were issued during 1996-97, 1999-2000 and 2001-02 starting from serial number one, so two or three addicts could have been allotted the same number. However, the name of addicts and year were different. The Government further stated that presently new numbers are allotted at the time of renewal of permits to ensure that two permit holder addicts do not have the same number. However, the reply was silent about audit observation on sub para (i) in which two permits were also issued to the same addict having the same details such as father's name, address etc.

The Department may computerise the data of permit holder addicts and retail shops for better monitoring of permits and lifting of LPH by each addict and the retail shop.

6.8.19 Non-maintenance of records for returning the permits to addicts after renewal

As per direction of the Excise Commissioner the DEOs are required to return the permits after their renewal only to the addicts and not to retail licensees.

During test-check of permit renewal records of DEOs Barmer, Bikaner and Sriganganagar for the years 2009-10 and 2010-11, it was noticed that registers, in which signature/thumb impression of addicts should be taken in token of returning the permits only

to addicts after renewal, was not maintained by the DEOs during the year 2009-10. During 2010-11, though registers were maintained by the DEOs, but these were incomplete and only a few entries were found made in the registers.

In absence of these registers, it could not be ensured that all the renewed permits were handed over to the concerned addicts only.

After being pointed out, the Government accepted the fact (August 2012) that after renewal of permits at DEO office or Camp, the same were returned to permit holder addicts and no separate receipts were recorded. The reply, however, did not address further action required to be taken by the Department for obtaining receipts.

C. Sale of LPH to addicts

6.8.20 Sale of LPH to addicts before renewal of their permits

During test-check of the retail sale registers and permit renewal records of DEO, Barmer for the year 2009-10, it was noticed that LPH was sold by the retail licensees to the addicts even before renewal of their permits which falls in the category of illegal sale. For example, permit renewal fees of 22 addicts of Gandhav and 96 addicts of Gadra retail LPH shops were deposited in the Government Account on 15.04.2009 and 22.04.2009 respectively. Illegal issue of 168 kg LPH to 112 (out of 118) such addicts from 12.04.2009 and 13.04.2009 were also found.

After being pointed out, the Government stated (August 2012) that LPH was sold before renewal of permits because these permits were in the process of renewal.

The Department may put in place a system for renewal of permits within a time limit and ensure that LPH cannot be sold to addicts before renewal of their permits.

6.8.21 Illegal sale of LPH to person not in possession of permit by retail licensees

Condition No. 6 of retail licence for sale of LPH envisages that the licensee shall keep in ink a true daily account showing the receipt and sale of LPH each day and the balance in stock. He shall also show the name, father's name and residence of each purchaser of one kg LPH and upwards.

During test-check of retail sale registers of LPH at DEO, Barmer for the year 2009-10, it was found that 1,350 kg LPH amounting

to ₹ 6.75 lakh²⁰ was sold to 643 persons who were not in the list of permit holder addicts of concerned retail shop as shown in the table below:

Sl. No.	Name of retail licensee/shop	No. of person entered other than addict	Quantity of LPH involved (in kg)
1	Gandhav	134	239
2	Sandari	297	687
3	Siwana	40	80
4	Sanwara	48	96
5	Sata	124	248
Total		643	1,350

Source: Information collected from DEOs.

It was observed that the Excise Inspectors had signed on these registers test checked by audit in token of having verified the facts; however they failed to monitor the sale to permit holder addicts.

After being pointed out, the Government stated (August 2012) that LPH was purchased by permit holder addicts from other retail shops due to non-availability of LPH at their prescribed shop.

The reply is not tenable as quota of LPH is fixed for each shop according to their sanctioned addicts and shops are allowed to sell LPH to their authorised addicts. The reply that these persons were permit holder addicts of some other retail shop also could not be ascertained as no records were maintained by the retail licensees to show that sale was made to permit holder addicts of other recognised retail shops.

6.8.22 Fraudulent entries in the retail sale registers

During test-check of the retail sale registers of LPH, it was noticed that the retail licensees were not maintaining their sale registers properly and accurately.

Condition No. 4 of retail licence envisages that LPH shall not be sold in quantity exceeding two kg to an individual/addict at any time in a day. It means, a retail licensee can sell LPH in a day upto quantity twice of addicts sanctioned for the shop.

6.8.22.1 During test-check of retail sale registers of LPH at DEOs, Barmer and Bikaner, it was noticed that 27 retail licensees sold 2,232 kg LPH in excess of the quantity of permit holder addicts sanctioned

for the shop in a day against norms prescribed in licence condition:

Particulars	Barmer		Bikaner		Total
	2009-10	2010-11	2009-10	2010-11	
Number of Retail LPH shops	9	4	4	10	27
Total number of addicts	1,103	367	411	711	2,592
Quantity of LPH permitted for sale in a day (2 x number of addicts) (in kg)	2,206	734	822	1,422	5,184
Actual sale of LPH (in kg)	3,195	1,095	961	2,165	7,416
Excess sale of LPH (in kg)	989	361	139	743	2,232

²⁰ Quantity of LPH 1,350 kg X retail sale price of LPH @ ₹ 500 per kg = 6.75 lakh.

The licensees entered either the names of fake addicts or repeated the name of the addicts. Further, during test-check of the records of four DEOs²¹, it was noticed that the retail licensees had irregularly sold more than two kg LPH to an addict in a day. Possibility of illicit trade of LPH also can not be ruled out.

6.8.22.2 During test-check of retail sale registers of LPH at DEOs, Barmer and Jodhpur for the years 2009-10 and 2010-11, it was noticed that 45 retail licensees had sold 10,504 kg LPH in excess of sanctioned monthly quota of the permit holder addicts of their shops. The excess quantity ranged between five kg and 585 kg of LPH.

Particulars	Barmer		Jodhpur		Total
	2009-10	2010-11	2009-10	2010-11	
Number of Retail LPH shops	13	9	11	12	45
Sanctioned monthly quota	6,629	7,641	10,474	10,078	34,822
Maximum quantity of LPH which could be sold as per quota in various months (in kg)	11,263	11,502	17,277	43,635	83,677
Actual sale of LPH by the retail shops in the same period (in kg)	13,947	12,094	19,410	48,730	94,181
Excess sale of LPH (in kg)	2,684	592	2,133	5,095	10,504

It was further noticed that the details regarding sale of LPH were not entered in the retail sale register.

After being pointed out, the Government stated (August 2012) that LPH was sold as per prescribed monthly quota to addicts by retail licensees. The reply further stated that there was a possibility that the permit holder addicts purchased less than one kg LPH more than one time in a day, which could have resulted in purchase of more than two kg. In this way, the sale of more than the prescribed quantity could have been made to the permit holder addict.

The reply is not tenable as the retail licensees sold LPH in excess of sanctioned monthly quota and did not enter details of sale in the registers which were not checked by the Department.

The Department may ensure that the retail sale registers are verified/checked on regular basis to ensure genuineness of the sale to permit holder addicts. This can be achieved through computerisation of retail sale registers duly linking with details of permit holder addicts.

²¹ Barmer, Bikaner, Jhodpur and Sriganganagar

6.8.23 Increase in number of addicts in the State

As per the National Policy on Narcotic Drugs and Psychotropic Substances 2010, the State Government was to ensure that the quantity of poppy straw to be provided to the addicts is progressively reduced so as to ensure that after a certain period of time, say, three years from the date of announcement of policy, there are no addicts requiring poppy straw. After this no poppy straw will be allowed to be used for addiction and it shall only be ploughed back as per procedure under the supervision of the CND.

6.8.23.1 It was observed that no mechanism was put in place for progressively reducing the number of LPH permit holder addicts by the state to ensure eradication of the poppy straw addiction within three years as envisaged in the national policy. A test checked DEOs revealed that no efforts were made by the Department for coordination with the Medical Department to ensure compliance of the national policy, which is indicative of weak willpower of the State.

After being pointed out, the Government stated that the number of renewed permits of addicts has been reducing progressively. Efforts will be made to remove the addiction of LPH addicts in future.

6.8.23.2 During test-check of the registration records of addicts for one month (July 2010) of a private de-addiction centre of Jodhpur (M/s Rajasthan Pharmacia) it was noticed that 339 addicts of LPH were registered in the centre for de-addiction. It was found that these addicts were not permit holders from the Excise Department; however, they were regularly consuming one to 10 kg LPH per month. The source of LPH supply was not disclosed by addicts. The de-addiction centre was also not keeping any information regarding the source from where the addicts had acquired the LPH as seeking such information may discourage addicts from joining the centre. The enrollment of such high number of addicts in one month itself indicates that there is a wide network of illegal trafficking of LPH in the State which the Department has failed to control.

After being pointed out, the Government stated (August 2012) that all kinds of addicts like LPH, opium, liquor etc. are registered in the de-addiction centre M/s Rajasthan Pharmacia, Jodhpur. Further as per NDPS Policy of India Government, licence system of LPH will be ended after 31 March 2015 and before this date all addicts living in the State have to be de-addicted. Proposal in this regard has already been sent to the Government by the Department.

The reply is not tenable as the Department has not made any effort for progressive de-addiction of permit holder addicts and for the prevention of further addiction of LPH/opium addicts which exists in the society.

6.8.24 Conclusion

It was noticed that the Department failed to collect and dispose of the LPH from the cultivators who had not submitted the declaration forms. The Department neither reported the cases of non-compliance to the CND nor registered any offense case against the defaulter cultivators. This inaction encourages future non-compliance and illegal trafficking of LPH within the State. The declaration forms were collected by the wholesale licensees of production area instead of the Department. Further, no verification of the declaration forms was done by the Department and incomplete and doubtful declaration forms were accepted which raises doubt on the authenticity of these declarations forms. The physical verification reports submitted by the Excise Inspectors regarding confirmation of non-availability of LPH with cultivators were incomplete and inconsistent. Moreover, the licensees incurred expenditure of ₹ 228.89 crore on licence fee, excise duty, VAT, purchase price etc. during the year 2009-11 whereas the total amount realised by the licensees from sale of LPH was only ₹ 184.22 crore resulting in a clear deficit of ₹ 44.67 crore. The Government/Department did not analyse as to how the licensees were managing to incur expenditure over their income from the sale of LPH which was required to be sold only to the permit holder addicts and on fixed sale price. During 2009-11, permits of 2131 addicts were renewed by the Department after the period ranging between 3 and 20 years though there was no provision in the rules for renewal of permit after lapse of more than one year. The Department made no efforts to find out the source from where the addicts had purchased the LPH during the period in which their permits were not renewed. Further, the renewal of permits was done without obtaining recommendation of Medical Officer in Form 'I'. There were other serious lapses such as non-adherence of Medical Officer's advice to deduct/issue the LPH for consumption, issue of double permits/permits bearing the same permit number to more than one addict, sale of LPH to addicts before renewal of their permits etc. Further, there were cases wherein illegal sale was made by the retail licensee to persons other than permit holders. There are alarming numbers of LPH addicts within the State though they are not permit holders. This raises doubt on the control exercised by the Department in regulating sale of LPH within the State.

6.8.25 Recommendations

The Government may consider:

- **reporting the list of defaulter cultivators to the CND so that the licences of defaulter cultivators for opium cultivation are not renewed;**
- **fixing the norms of LPH according to per kg production of opium permitted by the CND;**
- **introducing e-governance and computerisation of data pertaining to permit holder addicts, retail licensees, wholesale licensees, cultivators, purchase and sale of LPH etc. and**
- **taking effective measures to control addiction in the State as per the National Policy.**

6.9 Other Audit observations

During test-check of the records, several cases of non/short recovery of excise revenue came to the notice which are mentioned in the succeeding paragraphs of this chapter. Some of these omissions were pointed out in the earlier years also. However, not only do the irregularities persist, but also they remain undetected till the next audit is conducted. These cases are illustrative only and are based on test-check of the records produced to Audit. There is a need for the Government to improve the internal control system including strengthening of internal audit in order to avoid recurrence of such cases.

6.10 Non-observance of the provisions of Act/Rules

The Rajasthan Excise Act and Rules provide for:

- (a) *levy of licence fee for hotel bar licence at the prescribed rate;*
- (b) *levy of licence fee for composite shops at the prescribed rate; and*
- (c) *levy of permit fee at the rate of ₹2.50 per bulk litre on rectified spirit.*

It was noticed that the District Excise Officers did not observe the above provisions in the cases mentioned in the paragraphs 6.10.1 to 6.10.3.

6.10.1 Short realisation of hotel bar licence fee

As per the Rajasthan Excise (Grant of Hotel Bar/Club Bar Licences) Rules, 1973, hotels are broadly categorised in three categories viz. 'luxury', 'others' and 'heritage' for the purpose of recovery of hotel bar licence fee. Luxury hotels are to be further categorised in Five Star, Four Star and Three Star by the Department of Tourism, Government of India. Heritage hotels are the hotels which are duly recognised by the Department of Tourism, Government of India as heritage hotels. Heritage hotels are to be categorised in 'A', 'B' and 'C' categories by a committee constituted by the State Government. Different rates of licence fee for hotel bar licence were prescribed for each category of hotels. As per notification dated 31 January 2012, hotels defined as 'Heritage Rajasthan Hotels' are recognised by the State Government. Prior to this, the heritage hotels were those hotels which were recognised by Government of India.

(i) During test-check of the files related with hotel bar licences at the Excise Commissioner's office for the year 2010-11, it was noticed (November 2011) that hotel bar licences of 21 hotels for the year 2010-11 were renewed by the Excise Commissioner under heritage category. The Department recovered the licence fee at the rate applicable for 'B' or 'C' category of heritage hotels. It was observed that these hotels were not recognised as heritage hotels by the Department of Tourism, Government of India, however, the committee constituted by the State Government categorised them into 'A', 'B' and 'C' categories which was incorrect. Thus the licence fee for the hotel bar licence

for the period prior to January 2012 was required to be assessed as 'other hotels'.

When the rates charged by the Department for these 21 hotels were compared with the rates prescribed for 'other' hotels, the difference of the licence fee worked out to ₹ 63 lakh which is recoverable from these hotels.

After being pointed out (between December 2011 and February 2012), the Government stated (June 2012) that for categorisation of heritage hotels, a committee was constituted by the State Government on 09 September 2010. The committee subsequently recognised 19 out of 21 hotels pointed out by audit under 'B' and 'C' category 'Rajasthan heritage hotels'. In respect of remaining two hotels, efforts are being made to recover the difference amount of licence fee.

The reply in respect of 19 hotels is not tenable as recognition as 'Heritage Hotels' by the Department of Tourism, Government of India was prerequisite for categorisation by the State Government constituted Committee.

(ii) During test-check of the files related with hotel bar licences at the Excise Commissioner's Office and District Excise Offices, Jodhpur and Kota for the year 2010-11, it was noticed (between November 2011 and January 2012) that hotel bar licences for five hotels²² for the year 2010-11 were renewed by the Department as 'other' category hotels. These hotels had advertised as Star category in public domain/website of Tourism Department of Government of India/major travel websites/Rajasthan hotel directory etc. It was further observed that out of these five hotels, two hotels of Jaipur had earlier sought the hotel bar licence under Five Star categories. However, the Department renewed licence of these two hotels for 'other' category. This resulted in short realisation of licence fee of ₹ 36.50 lakh as detailed below:

(₹ in lakh)

Name of DEOs	Name of Hotels	Category	Recoverable licence fee	Licence fee recovered	Amount of short recovery
Jodhpur	Manvar Resort & Camp, Khiyansaria, Jodhpur	3 Star	8.00	1.50	6.50
Jodhpur	Kalinga Hotel, Jodhpur	3 Star	8.00	6.00	2.00
Jaipur	Hotel Cambay Spa and Resort, Kukus, Jaipur.	5 Star	15.00	6.00	9.00
Jaipur	Cambay Golf Resort, Jamdoli, Jaipur	5 Star	15.00	6.00	9.00
Kota	Hotel Umaid Bhavan Palace, Kota.	5 Star	15.00	5.00	10.00
Total			61.00	24.50	36.50

After being pointed out (between December 2011 and February 2012), the Government stated (July 2012) that (i) in one case (Kalinga Hotel, Jodhpur), the amount has been recovered (ii) in two cases (Manvar Resort & Camp, Khiyansaria, Jodhpur and Hotel Umaid Bhavan Palace, Kota), demand has

²² Manvar Resort & Camp, Khiyansaria, Jodhpur, Kalinga Hotel, Jodhpur, Hotel Cambay Spa and Resort, Kukus, Jaipur, Cambay Golf Resort, Jamdoli, Jaipur and Hotel Umaid Bhavan Palace, Kota.

been raised but recovery has been stayed by High Court in case of Manvar Resort & Camp, Khiyansaria, Jodhpur and (iii) for remaining two cases, the reply was silent about recovery.

6.10.2 Non/short realisation of annual licence fee for composite shops

As per the terms and conditions of licence for retail sale of country liquor issued under the Rajasthan Excise Act, 1950, annual licence fee for composite shops located within five kilometres of municipal limit was to be levied equivalent to the rate of licence fee of Indian Made Foreign Liquor/ Beer shops located in the nearest municipal area.

During test-check of the records of District Excise Offices (DEOs) Jhunjhunu, Jodhpur and Kota for the year 2010-11, it was noticed (between July 2011 and January 2012) that eight composite shops²³ were located within five kilometres of municipal limit. It was observed that:

(i) In respect of five shops of Jodhpur and Jhunjhunu, the Department recovered licence fee of ₹ 4.68 lakh at the rate applicable for shops located in rural area instead of ₹ 33 lakh at the rate applicable for shops located in the nearest municipal area as shown in the table below:

(₹ in lakh)

Sl. no.	Name of DEOs	Villages/areas in which shops located	Nearest municipal areas (within five K.M.)	Year	Applicable licence fee	Recovered licence fee	Short recovery
1.	Jodhpur	Khichan	Phalodi	2010-11	3.90	0.71	3.19
2.		Sangaria (near Tanawara Phata)	Jodhpur	2009-10	7.50	0.25	7.25
				2010-11	9.00	2.08	6.92
3.	Jhunjhunu	Pratap pura (Math)	Jhunjhunu	2010-11	4.80	0.93	3.87
4.		Vahidpura	Mandawa	2010-11	3.90	0.25	3.65
5.		Raghunathpura (Dhola Kheda)	Udaipurwati	2010-11	3.90	0.46	3.44
Total					33.00	4.68	28.32

(ii) In respect of one shop at Kheda-Rasoolpur, Kota, licence fee of ₹ 9 lakh was recovered for the year 2008-09 to 2010-11 at the rate applicable for shops located in Kaithoon municipality instead of ₹ 16.35 lakh at the rate applicable for Kota municipal area which was the nearest municipal area.

(iii) In respect of two shops of Pal Group, Jodhpur, licence fee of ₹ 9 lakh was recovered for only one shop instead of ₹ 18 lakh for two shops.

Thus, application of incorrect rates/non-recovery of licence fee resulted in short realisation of ₹ 44.68 lakh.

²³ Country liquor shops having license for retail sale of Indian Made Foreign Liquor and Beer also.

After being pointed out (between August 2011 and February 2012), the Government accepted (July 2012) the audit observation in 10 cases. However, further action taken has not been received (November 2012).

6.10.3 Non-realisation of permit fee

Rule 69B of the Rajasthan Excise Rules, 1956 provides for levy of permit fee at the rate of ₹ 2.50 per bulk litre on rectified spirit transported within the State by a distillery and utilising it for the manufacture of country liquor.

During test-check of the records of District Excise Offices, Sriganganagar and Udaipur for the year 2010-11, it was noticed (between September and November 2011) that two bottling plants²⁴ had imported rectified spirit for manufacturing of country liquor from a distillery²⁵ situated in the State, but no permit fee was charged during 2010-11 on 104 permits involving 22,52,000 bulk litres of rectified spirit. This resulted in non-realisation of permit fee of ₹ 56.30 lakh²⁶.

After being pointed out (between October and December 2011), the Government stated (July 2012) that vide its notification dated 01.04.2012 permit fee has been exempted on rectified spirit transported within the State for the manufacture of country liquor.

The reply is not tenable as the Notification exempting permit fee on rectified spirit transported within the State for the manufacture of country liquor was issued on 01.04.2012, the cases pointed out by audit pertain to the pre notification period. Thus, recovery in previous cases is to be made.

²⁴ H.H. Bottling Plant, Sriganganagar and Mahamaya Liquor Industries Private Limited, Udaipur.

²⁵ Globus Spirits Limited, Alwar.

²⁶ 22,52,000 BL x ₹ 2.50 per BL = ₹ 56,30,000.