

CHAPTER III

***STATE EXCISE
DUTIES***

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EXECUTIVE SUMMARY

Decrease in tax collection	In 2012-13 the collection of Excise revenue decreased by 5.02 <i>per cent</i> over the previous year. The contribution of the State excise duty in total tax receipts has decreased from 17.24 <i>per cent</i> to 15.25 <i>per cent</i> during this period.
Recovery by the Department against accepted audit observations	During 2007-08 to 2011-12, audit pointed out non/short levy, non/short realisation, loss of revenue etc., with revenue implication of ₹ 88.75 crore in 101 cases. Of these Department/Government accepted audit observations in 63 cases involving ₹ 21.96 crore and had since recovered ₹ 15.70 crore (71.49 <i>per cent</i>).
Results of audits conducted in 2012-13	<p>In 2012-13, test check of the records of 11 offices relating to Prohibition and Excise Department found audit observations relating to licensing system of bars and liquor shops involving ₹ 9.82 crore.</p> <p>The Department accepted audit observations of ₹ 25.75 lakh in six cases of which four cases involving ₹ 25.12 lakh were pointed out during the year 2012-13 and the rest in earlier years. An amount of ₹ 15.48 lakh was recovered in six cases.</p>
What audit has highlighted in this chapter	During the year 2012-13, audit observed non/short levy of additional license fee, on bars and restaurants with non-contiguous consumptions enclosures, non-levy and non-realisation of license transfer fees, issue & renewal of shop/bar licenses near educational/religious institutions and hospitals etc.
Conclusions	<p>Bar licenses are to be issued/renewed strictly as per provisions so as to ensure that sale outlets are not permitted near religious/ educational institutions/ hospitals.</p> <p>Provisions regarding change in the entity are to be strictly enforced. Status of entity of bar is to be changed only with prior approval of competent authority.</p> <p>Necessary amendment may be made to AP Excise (Grant of license of selling by bar and conditions of license) Rules 2005 for collection of additional license fee from bar licenses based on the area licensed for bar premises to dispense equal treatment.</p>

3.1 Tax administration

The Prohibition and Excise Department (P&E) is governed by the Andhra Pradesh Excise Act, 1968, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Andhra Pradesh Prohibition Act, 1995 etc. The Principal Secretary to Government, Revenue Department is the controlling authority at Government level. The Commissioner, Prohibition and Excise Department is the head of the Department in all matters connected with administration of these Acts. He is assisted by Director of Enforcement for implementation of the Acts. The 23 districts of the State, each headed by a Deputy Commissioner (DC), are classified under 53 excise districts. Each of the excise districts is under the charge of a Prohibition and Excise Superintendent (P&ES) who is assisted by the Assistant Excise Superintendent and other staff. Prohibition and Excise Inspectors are in charge of excise stations and check posts, while 23 DCs and Assistant Commissioners (AC) supervise the overall functioning of the offices of Excise Superintendents.

3.2 Trend of receipts

Actual receipts from State Excise Duty during the years 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the table 3.1 and graph 3.1.

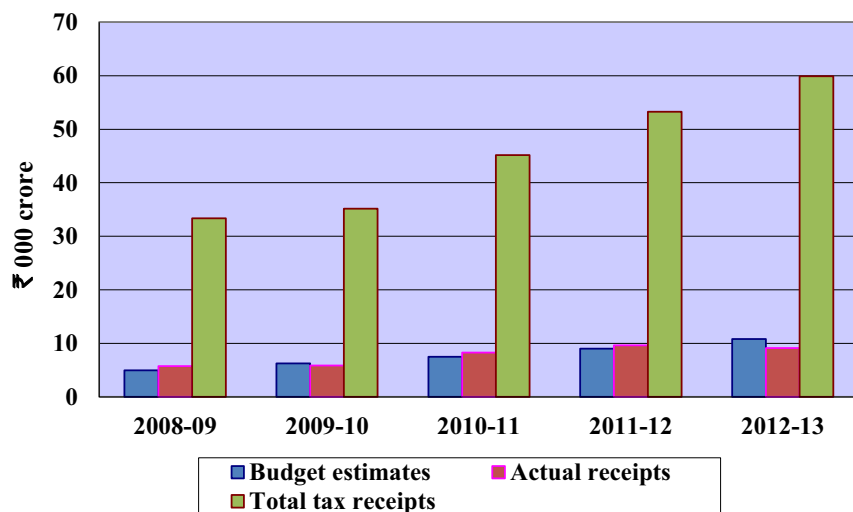
Table 3.1: Receipts from State Excise Duty

(₹ 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
2008-09	4,991.25	5,752.61	(+) 761.36	(+) 15.25	33,358.29	17.24
2009-10	6,260.00	5,848.59	(-) 411.41	(-) 6.57	35,176.68	16.63
2010-11	7,512.00	8,264.67	(+) 752.67	(+) 10.02	45,139.55	18.31
2011-12	9,014.40	9,612.36	(+) 597.96	(+) 6.63	53,283.41	18.04
2012-13	10,820.00	9,129.41	(-)1,690.59	(-) 15.62	59,875.05	15.25

It can be seen that excise receipts constituted between 15 and 18 *per cent* of the State's own total receipts during the last five years, during which period the receipts have grown at a Compounded Average Annual Growth Rate (CAGR) almost 12 *per cent*. However, while the total tax receipts of the State have increased by 79.49 *per cent* during the last five years, increase in the receipts from State Excise Duty has been recorded as 58.70 *per cent*. The contribution of the State Excise Duty in the total tax receipts has decreased from 17.24 *per cent* to 15.25 *per cent* during this period.

Graph 3.1: Budget estimates, actual receipts and Total tax receipts



3.3 Cost of collection

The figures of gross collection in respect of State Excise Duty, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2010-11 to 2012-13, along with the relevant all India averages are shown in Table 3.2, from which it is seen that the cost of collection has shown an increasing trend in the State, in absolute terms. In fact percentage of cost of collection to gross collection has increased in 2012-13 compared to 2011-12 though all India average has fallen during this period.

Table 3.2: Cost of collection of State Excise Duty

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Cost of collection to gross collection (per cent)	All India average percentage for the previous year
State Excise Duty	2010-11	8,264.67	233.64	2.83	3.64
	2011-12	9,612.36	263.81	2.74	3.05
	2012-13	9,129.41	288.46	3.16	2.98

3.4 Impact of Local Audit

During the last five years, audit had pointed out non/short levy, non/short realization and non-levy of interest with total revenue implication of ₹ 88.75 crore in 418 cases. Of these, the Department/Government had accepted audit observations in 63 cases involving ₹ 21.96 crore, and had since recovered ₹ 15.70 crore in 31 cases. The details are shown in Table 3.3.

Table 3.3: Impact of Local audit on State Excise Duty

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2007-08	50	79	6.41	8	0.01	0	0
2008-09	58	77	10.32	2 ⁶¹	0.00	2	0
2009-10	55	136	18.88	12	0.28	9	0.23
2010-11	55	25	26.54	14	20.52	1	15.42
2011-12	68	101	26.60	29	1.15	19	0.05
Total	286	418	88.75	65	21.96	31	15.70

3.5 Working of Internal Audit Wing

Internal audit is an important part of internal control mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. The orders issued by the Government of Andhra Pradesh from time to time stipulate, among others, that it is the responsibility of the Accounts branch of the Head of the Department to conduct internal Audit of the Regional Offices, District Offices, Unit Offices etc., periodically (at least once in a year) and furnish reports to the Commissioner.

No internal audit was conducted in the offices of Deputy Commissioners (23)/Assistant Commissioners (28)/Prohibition and Excise Superintendents (53).

⁶¹ Insignificant amount i.e. less than ₹one lakh.

3.6 Audit Observations

During scrutiny of the records in the offices of Prohibition and Excise Department, Audit observed several cases of non-observance of the provisions of the Acts/Rules, resulting in non-levy of additional licence fee, licence transfer fee etc. These cases are illustrative and are based on a test check carried out during a study on “Licensing and Monitoring of Bars and Liquor Shops”. Audit pointed out such omissions in earlier years too, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the monitoring and internal control system so that such omissions can be avoided, detected and rectified in a timely manner.

3.7 Licensing and Monitoring of Bars and Liquor Shops

The Prohibition and Excise Department plays a dual role of enforcing prohibition of arrack⁶² and generating revenue through regulation of Indian Made Foreign Liquor (IMFL), Foreign Liquor (FL) and toddy. The Department is responsible for control of Excise related crimes through detection, prevention, investigation and prosecution of offences under the law as well as prevention of illicit trafficking in narcotic drugs and psychotropic substances.

For sale, serving, stocking and transport of liquor, various kinds of licences are granted by the Department. These licences are governed by the provisions of AP Excise Act, 1968 and various sets of Rules made thereunder. The licensees have to comply with the terms and conditions attached to the licences, violation whereof attracts penal action under the extant provisions. As per the information provided by the Department, it had issued 1,431 licences (for serving) to Bars and 5,979 licences (for sale) to Liquor Shops for the year 2012-13.

An audit of licensing system and monitoring of bars and liquor shops was conducted with a view to

- ascertain whether the location and the premises of the bars were in accordance with the prescribed norms and the license fee was collected at correct rates;
- examine whether bar/shop licenses were renewed in time with the approval of the competent authority and in accordance with the Rules;
- verify whether allotment of shops was in accordance with Excise Rules, 2012 and its revenue implication when compared with allotment process followed under the Excise Rules 2005.

⁶² ‘Arrack’ includes all liquor produced or manufactured in India and supplied by the Government other than Foreign Liquor and Indian Made Foreign Liquor as defined in Section 2(1) of A.P. Excise Act, 1968.

For achievement of the above objectives, records⁶³ for the years 2009-10 to 2012-13 were test checked by Audit between June 2012 and May 2013. Out of total 53 P&ES offices in 23 districts, 11 offices⁶⁴ from six districts⁶⁵ were selected covering 843 Bars (out of 1431 or, 58.91 *per cent*) and 930 shops (out of 5,979 or 15.55 *per cent*). The districts were selected on the basis of maximum number of sanctions of Bars and Shops. The licenses of all selected bars were checked whereas for shops, licenses were test-checked. Joint physical verification was conducted with state excise staff to verify the functioning of bars. In respect of shops, inspection was conducted in selected cases in the presence of state excise staff. The records of the office of the Commissioner of Prohibition and Excise and Principal Secretary to the Government (Revenue) were also verified with regard to sanction and realisation of Excise revenue.

The audit objectives were benchmarked against the following audit criteria:

1. The AP Excise Act, 1968
2. AP Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005
3. A.P. Excise (Lease of right of selling by shop and conditions of license) Rules, 2005
4. A.P. Excise (Grant of license of selling by in-house and conditions of license) Rules, 2005
5. A.P. Excise (Lease of right of selling by shop and conditions of license) Rules, 2012⁶⁶.

During scrutiny of the records in 11 offices⁶⁷ of the P&ESs, audit noticed several cases of non-compliance to provisions of the Acts/Rules as discussed in the succeeding paragraphs.

3.8 Bar and Restaurants

3.8.1 Non-levy/collection of additional license fee (ALF) for non-contiguous additional enclosures

As per Section 28 of the Andhra Pradesh Excise Act, 1968 read with Rule 10 of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, the enclosures for consumption of liquor which are not contiguous shall attract levy of an additional license fee (ALF) at 10 *per cent* of original license fee for each such additional enclosure.

⁶³ Policy files, license fee register, instalment watch register, event permit register, bar renewal files.

⁶⁴ Dhoolpet, Gajuwaka, Guntur, Hyderabad, Medchal, Rajendranagar, Saroornagar, Secunderabad, Vijaywada, Visakhapatnam and Warangal.

⁶⁵ Guntur, Hyderabad, Krishna, Rangareddy, Visakhapatnam and Warangal.

⁶⁶ These rules superseded the earlier rules with effect from 1 July 2012.

⁶⁷ Dhoolpet, Gajuwaka, Guntur, Hyderabad, Medchal, Rajendranagar, Saroornagar, Secunderabad, Vijaywada, Visakhapatnam and Warangal

In terms of explanation given below the Rule, the word “enclosure” means one area of consumption of liquor, which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts additional license fee.

3.8.1.1 Audit noticed during joint inspection of bar and restaurants under jurisdiction of eight offices⁶⁸ of P&ES that the P&ESs concerned did not levy 10 *per cent* ALF amounting to ₹ 9.24 crore for the years 2009-10 to 2012-13 on 51 bar and restaurants with non-contiguous consumption enclosures like consumption halls situated in different places under different roofs of Bar premises, different floors of bars connected externally by steps, rooms situated in different areas in which liquor was served and in open areas outside bars etc.

After being pointed out, in respect of P&ESs, Warangal, Saroornagar and Medchal Department replied (October 2013) that respective DCs have been directed to monitor the collection of 10 *per cent* ALF. In respect of another bar in a hotel, it was contented that licensee had taken permission to serve the liquor for all the three floors which consisted of bar and rooms and that it was treated as contiguity and ALF need not be collected. Department’s reply was not consistent as additional license fee was collected for serving liquor in guest rooms in the case of another hotel under the jurisdiction of the same P&ES in the same period. P&ES, Dhoolpet stated that collection of license fee for additional enclosures was a policy matter.

Replies from four P&ESs⁶⁹ were not received.

3.8.1.2 During test check of records of offices of P&ES, Hyderabad and Dhoolpet, audit noticed that ALF of 10 *per cent*, though levied, was not collected for some periods between 2009-10 and 2012-13 from three bars, although no request/approval for discontinuance use of enclosures for serving liquor was found on record. The ALF in respect of these three bars worked out to ₹ 20.14 lakh.

Matter was referred to Department (between February and May 2013). Their reply has not been received (March 2014).

3.8.2 Non-levy and non-collection of license transfer fees

As per Rule 17(1) & (2) of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, no licensee shall transfer his license to any other person except with the sanction of the Commissioner of Prohibition and Excise. The Commissioner may allow such transfer of license on payment of 10 *per cent* of the license fee.

As per rule 17(4) when there are only two partners in the firm holding the license and one of them withdraws or expires, the entity of the firm is changed

⁶⁸ Dhoolpet, Hyderabad, Medchal, Saroornagar, Secunderabad, Vijaywada, Visakhapatnam and Warangal.

⁶⁹ Hyderabad, Secunderabad, Visakhapatnam and Vijayawada

from partnership to proprietary concern. It amounts to transfer of license. As per rule 17(5), conversion of proprietary concern into a firm or company or a firm into company and vice versa shall amount transfer of license.

3.8.2.1 In the offices of four P&ESs⁷⁰, audit noticed that status of the five concerns holding bar licenses was changed either due to death/retirement of partners or inclusion of partners/incorporation as firms. Change in status of the licensee concern called for levy of transfer of license fee amounting to ₹ 17.60 lakh.

- In respect of P&ES, Medchal the Commissioner replied (October 2013) that jurisdictional DC has been instructed to examine and submit a report.
- P&ES Guntur replied (March 2013) that issue was under scrutiny and matter referred to the Commissioner.
- P&ES Dhoolpet replied (November 2012) that request for conversion of the licensee from partnership into proprietary concern was under process.
- P&ES Vijayawada stated (April 2013) that matter would be examined and reply furnished in due course.

Matter was referred to Department (between February and May 2013). Their reply has not been received (March 2014).

3.8.3 Short levy of additional license fee

According to rule 10 of the A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, the annual license fee for the bar license shall be at rates notified by the Government from time to time.

Under the proviso to these Rules, additional license fee at 10 *per cent* is leviable for each enclosure utilised for consumption purposes if it is non-contiguous. As per proviso 2 of Rule 15 inserted through Government order⁷¹ dated 2 September 2008, the hotels holding bar licenses with status of four star and above in Greater Hyderabad Municipal Corporation (GHMC) area and in Rajiv Gandhi International Airport (RGIA) area and bars located in the terminal building of RGIA transacting business 24 hours a day are required to pay 25 *per cent* additional license fee.

Audit noticed from the license files of the office of P&ES Rajendranagar that in three cases, bar licensees, who were having non-contiguous enclosures and paid additional licence fee of 10 *per cent*, had applied for permission to transact business 24 hours a day in the licensed premises. Permission was granted but instead of charging additional license fee of 25 *per cent* on the main premises and non-contiguous enclosures, license fee of 25 *per cent* was charged on the main premises only. Audit observed that license fee

⁷⁰ Dhoolpet, Guntur, Medchal and Vijayawada.

⁷¹ G.O.Ms No 1079 Revenue (Ex II) dated 02 September, 2008.

amounting to ₹ 11.82 lakh was not levied on additional enclosures in these cases.

In response the Department replied (October 2013) that out of ₹ 11.82 lakh, an amount of ₹ 1.55 lakh pertaining to one bar was collected. The Commissioner had instructed the jurisdictional DC to expedite the collection of balance license fee.

3.8.4 Loss of license fee due to delay in grant of new bar license

According to Section 28 of AP Excise Act, 1968 read with Rule 5 of AP Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, Commissioner may grant Prior Clearance⁷² to a person intending to establish a new bar on payment of requisite fee.

Under Rule 10, the annual license fee for bars shall be at the rates notified by Government from time to time. For licenses granted during the first quarter (i.e. between July to 30 September), the full license fee is to be paid whereas for licenses issued in subsequent quarters, the amount is proportional to the number of quarters remaining in the excise year including the one in which the license is issued.

Commissioner in his circular⁷³ dated 10 October 2006 clarified that the P&ES and DC should ensure that the bar licenses were issued within the same quarter in which the Prior Clearances were granted.

During the course of audit of the office of the P&ES Secunderabad, audit noticed that Prior Clearance was granted on 19 August 2011 to an applicant. Applicant had applied for grant of bar license on 3 September 2011 and license was issued by the Department on 17 November 2011. Even though licensee applied during the quarter July-September, delay by Department in grant of license in the subsequent quarter i.e., October-December resulted in loss of license fee of ₹ 7.75 lakh.

Matter was referred to Department (May 2013). Their reply has not been received (March 2014).

3.8.5 Issue/renewal of shop/bar licenses near educational/religious institutions and hospitals

As per Rule 6 of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005 and Rule 25 of A.P. Excise (Grant of license of selling by shop and conditions of license) Rules, 2012, licenses for Bars and Liquor Shops shall not be granted if the premises is located within 100 meters from educational institutions recognised by the Government, places of public worship such as temples (registered with the Endowments Department), mosques (registered with the Wakf Board), churches and hospitals (minimum

⁷² Prior Clearance is permission granted by the Commissioner to establish a bar on payment of ₹ 5000. As per Form 2A, the Prior Clearance is valid for 45 days from the date of its issue.

⁷³ Cr. No.6147/2006/CPE/G2, dated 10 October, 2006

30 beds). Three star and above category hotels with bar licenses are exempted from maintaining the stipulated distance.

As per proviso to these Rules, the distance referred to above shall be measured from the mid-point of the entrance of the proposed bar/licensed shop premises along the nearest path by which a pedestrian would ordinarily reach to the mid-point of the nearest gate of the educational institutions/place of public worship/hospitals.

3.8.5.1 During joint inspection of bars and shops under the jurisdiction of nine offices⁷⁴ of P&ES, audit noticed that 61 bar and 24 shop licenses were issued/ renewed though they were located within 100 meters from educational institutions, places of public worship or hospitals.

- In respect of P&ES, Warangal, Department accepted (October 2013) audit objection in six cases and issued notices to the five licensees to shift the bar/shop premises and in one case the license was not renewed for the year 2013-14. In respect of remaining six cases, Department informed that DC, Warangal had been directed to verify the premises and submit report.
- P&ESs Medchal, Dhoolpet, Hyderabad, Vijayawada, Gajuwaka, Guntur, and Visakhapatnam stated that detailed reply would be submitted.

3.8.5.2 Audit noticed that two bar licenses were issued to two hotels under the jurisdiction of P&ESs, Visakhapatnam and Medchal in anticipation of star category recognition by the Tourism Department, although as per Rule 6 *ibid*, star category status is a prerequisite for exempting hotels serving liquor from maintaining stipulated distance from religious/educational institutions/hospitals.

On being pointed out, Department in respect of P&ES, Medchal replied (October 2013) that the restrictions under Rule 6(1) (i) to (iii) shall not be applicable to star hotels of three star and above. But, as the hotel had not received the star status from the Tourism Department on the date of issue of license (December 2011), the Commissioner directed (August 2013) the licensee to submit certificate of five star status by 15 November 2013. Reply in respect of P&ES, Visakhapatnam has not been received.

3.8.6 Unauthorised alteration of bar premises without approval of the competent authority

According to Section 31(1)(b) of AP Excise Act 1968 read with rule 13(2) (a) of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005 no change or alteration of the licensed premises shall be made during the license period without the prior approval of the DC. Under Section 47 of the Act, the offence of violation can be compounded by accepting a sum of money not exceeding ₹ one lakh.

⁷⁴ Dhoolpet, Gajuwaka, Guntur, Hyderabad, Rajendranagar, Saroornagar, Vijaywada, Visakhapatnam and Warangal.

During joint inspection of Bars under the jurisdiction of seven offices⁷⁵ of P&ESs, audit noticed that in respect of 34 Bars, the approved premises were altered without approval of the competent authority. The Departmental officers neither noticed this at the time of renewal of licenses nor during their periodical inspection.

- P&ES, Gajuwaka accepted (September 2013) the two cases pointed out by audit and collected compounding fee of ₹ one lakh each.
- P&ES Hyderabad, Secunderabad, and Vijaywada replied (November 2012-April 2013) that inspection of the premises would be conducted of bar & restaurants for taking necessary action.
- P&ES Dhoolpet and Medchal furnished (November/December 2012) irrelevant replies. Reply from P&ES, Visakhapatnam has not been received.

The matter was referred to the Department (February 2013). Their reply has not been received (March 2014).

3.8.7 Irregular utilisation of bar liquor for event permits

According to Rule 5 of AP Excise (Grant of license of selling In-house and conditions of license) Rules, 2005, licenses may be granted by the P&ES to sell or serve liquor within the licensed premises during fairs, festivals or on other specified occasions. Conditions for issue of license prescribe that the details of IMFL and FL purchased, utilized and balances are to be furnished to P&ES. According to Rule 26(2) of the above Rules, the licensee is required to procure IMFL and FL from the allotted depots of the Andhra Pradesh Beverages Corporation Limited (APBCL) or from liquor shops.

In terms of Section 47 of the AP Excise Act, 1968 read with Commissioner's circular⁷⁶ dated 10 March 2011, taking liquor out of the licensed bar premises is a compoundable offence and compounding fee of ₹ one lakh is leviable for each such violation.

During the course of audit of the P&ES Saroornagar audit noticed that a bar licensee had obtained 60 event permits in the year 2011 (January to December) and 146 event permits in the year 2012 (January to December). Instead of procuring the liquor from APBCL depots or liquor shops for serving against the event permits, the bar licensee had supplied IMFL and FL procured from bar to the events conducted outside the bar.

Audit also observed that accounts were not submitted by the event permit holder to the Excise Department and the Department too did not insist upon the same for any of the events held by the bar licensee. Although the rules were violated by the bar licensee no case was booked by the Department.

In response, the Commissioner replied (October 2013) that the licensee has purchased the stocks from liquor shops for supply at the events but had not

⁷⁵ Dhoolpet, Gajuwaka, Hyderabad, Medchal, Secunderabad, Vijayawada and Visakhapatnam

⁷⁶ Cr No 3600/2010 dated 10 March 2011

maintained the records. However, there was no documentary evidence in support of the reply.

3.8.8 Grant of bar license to a person charged with illegally serving liquor

According to Section 28 of AP Excise Act, 1968 read with Rule 5 of AP Excise (Grant of license of selling by Bar and conditions of license) Rules, 2005, Commissioner may grant prior clearance to a person intending to establish a bar on payment of requisite fee.

As per Rule 5(3) of the above Rules the holder of prior clearance has to apply for grant of license for a bar. In terms of Rule 5(2) the Commissioner may grant prior clearance for a bar having due regard to requirement and other factors as he may deem fit.

During scrutiny of the bar files in P&ES Office, Hyderabad, audit noticed that the Commissioner of Prohibition and Excise granted prior clearance for establishment of bar and restaurant on 17 August 2011 which was valid upto 30 September 2011.

During the scrutiny of records audit noticed that the applicant served liquor in his restaurant without obtaining a license. A case was booked by the Prohibition and Excise task force against him for the offence on 3 December 2011. The applicant was absconding upto 21 December 2011 and obtained bail on 22 December 2011. However the Department granted prior clearance to the applicant on 17 December 2011 and issued bar license on 31 January 2012. Issue of bar license to charged person was in itself irregular. In response, the P&ES, Hyderabad replied (November 2012) that the case was under investigation.

The matter was referred to Department (between February and May 2013). Their reply has not been received (March 2014).

3.8.9 Non compliance with accounting procedure

As per Rule 37 and 38 of A.P. Excise (Grant of license of selling by Bar and conditions of licenses) Rules, 2005 the licensee shall maintain full and day to day accounts of IMFL and FL received and disposed of and daily brand wise accounts in Form 6B and 7B respectively. Any violation of the Rules attracts penalty under Section 36 and is a compoundable offence under Section 47 of the Act. In terms of Rules 38 and 40, any officer not below the rank of Prohibition and Excise Sub Inspector is authorised to inspect the accounts of the Bars.

During joint inspection of bars under the jurisdiction of office of P&ES Dhoolpet, audit observed that 19 bar licensees did not maintain the 6B registers. Owing to non-maintenance of such accounts, unauthorised sale or purchase made by licensee, if any, would not be detected by the Department.

In response to audit observation, P&ES Dhoolpet replied (November 2012) that instructions have been issued for maintaining the accounts.

3.9 Liquor Shops

3.9.1 Adoption of incorrect procedure in allotment of liquor shop

For issue of licenses for liquor shop, Department issues a notification in the District Gazette mentioning the serial number and name of the locality where the shop will be established. As per Rule 12(6) of A.P. Excise (Grant of license of selling by shop and conditions of license) Rules, 2012, the selection process of the license holder of liquor shops shall be taken up shop-wise in accordance with serial numbers allotted to them, as notified in the District Gazette. The applicants have to submit an earnest money deposit of 10 *per cent* of the license fee up to a maximum of ₹ five lakh in the form of a Demand Draft along with their applications. The selection among the eligible applicants for grant of license shall be by draw of lots by the Collector in the presence of the applicants available at the time of selection. If the successful applicant is not available at the place of selection, the process is to be continued by taking a fresh lot, if necessary. In terms of Rule 12(8) where an applicant applies for more than one shop and gets selected for one shop, the other applications filed by him shall automatically become invalid. The annual license fee of liquor shops situated in the jurisdiction of Greater Hyderabad Municipal Corporation (GHMC) is ₹ 1.04 crore for each shop for the year 2012-13.

During scrutiny of liquor shop allotment files and registers of P&ES, Hyderabad for the year 2012-13, audit noticed that against shops notified for serial numbers 117 and 118, two applications each were received from three persons {2 for shop 117 and 2 (one being common) for shop 118}. At the time of selection of licensee for shop 117, the successful applicant was absent and hence the allotment authority proceeded to next shop i.e. 118 without allotting the shop 117. As per the procedure, the shop 117 was to be allotted to applicant who had applied for both the shops. But allotment authority allotted shop 118 to applicant whose application for the same would have become invalid if the shop 117 was allotted to him in accordance with the rules. Thus, the incorrect procedure adopted resulted in non-disposal of shop 117.

In response, P&ES, Hyderabad replied (November 2012) that selected applicant who applied for shop 117 was absent even after three calls. Hence, allotment authority conducted draw of lots for next shop 118. Reply of the Department is not tenable as there was an applicant, Mr. Y, who was present at the time of allotment but was not allotted the shop as per Rules.

Matter was referred to Department in May 2013. Their reply has not been received (March 2014).

These issues were referred to the Government in August 2013. Their reply has not been received (March 2014).

3.10 Conclusions

Audit reviewed the process leading to issue of bar and shops licenses and collection of fees with reference to the applicable Rules. License fee was not collected for non-contiguous consumption enclosures or was short-levied. Licenses were transferred without collecting requisite fee. Licenses were issued/ renewed near educational/religious institutions/ hospitals.

3.11 Recommendations

Based on audit observations, following recommendations are made so as to arrest revenue leakage.

- Ensure that the bar licenses are issued/renewed strictly as per the provisions such as ensuring that sale outlets are not permitted near religious/educational institutions/hospitals.
- Ensure that the status of entity of Bar was not changed without prior approval of competent authority.
- Necessary amendment may be made to A.P. Excise (Grant of license of selling by Bar and Conditions of License) Rules, 2005 for collection of Additional License Fee from bar licenses based on area utilised for bar premises to dispense equal treatment.
- Insist on application for permission when the legal nature of the licensee changes and to dispose of such applications within reasonable time limits.