

CHAPTER-III
STATE EXCISE

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3.1 Tax administration

The assessment, levy and collection of excise revenue in the State is governed by the provisions of the Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for Retail Sale of country/spiced country liquor, Foreign liquor, Beer and Composite liquor Shop) Rules, 2007. It is administered by the Secretary, Department of Registration, Excise and Prohibition (Excise) at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the ex-officio Controller of Molasses for the administration and execution of the Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four¹ divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, the Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

3.2 Results of audit

In course of audit of records of 39 units out of 50 auditable units relating to State Excise revenue during the year 2013-14, we found non/short realisation, loss of revenue and other irregularities involving ₹ 82.00 crore in 274 cases which fall under the following categories as detailed in **Table 3.1**.

Table- 3.1

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shop	47	37.44
2.	Defalcation of Government revenue	1	7.69
3.	Non-realisation of license fee	15	5.98
4.	Loss due to non/short lifting of MGQ	19	0.98
5.	Others	192	29.91
Total		274	82.00

During the year 2013-14, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 3.87 crore in 40 cases, of which one case involving ₹ 1.12 lakh was pointed out during the course of the year and the rest in earlier years. Further, the Department reported recovery of ₹ 5.67 lakh in nine cases which were pointed out during 2012-13 and 2013-14.

¹ Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

A few illustrative cases involving tax effect of ₹ 14.14 crore are mentioned in the following paragraphs.

3.3 Non-compliance of the provisions of the Act/Rules

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 3.4 to 3.8 resulted in non/short levy, non/short realisation of licence fee etc. of ₹ 14.14 crore. There is need for the Government to improve the internal control system so that such omission can be prevented.

3.4 Allotment of Excise Licences for liquor

3.4.1 Introduction

The State Government may grant privilege of manufacture and/or supply of country/spiced country liquor within any specified local area. The manufacturers have to supply liquor to the Bihar State Beverage Corporation Limited (BSBCL). The BSBCL is an exclusive wholesale depot, which supplies all types of liquor to retailers of excise shops in the State.

With a view to examine grant of licence for manufacture and wholesale supply of liquor, the records of the office of the Commissioner of Excise (CE), Bihar were scrutinised between April and July 2014 covering the period 2012-14. Besides, files relating to settlement of retail licences were also test-checked in eight² excise districts. The selection of seven district excise offices was based on statistical sampling through Probability Proportion to Size with Replacement (PPSWR) and one excise district, Patna on the basis of maximum number of settled excise shops.

The tender files and other relevant records of contract for supply of country liquor in Polyethylene terephthalate (PET) bottles for the period April 2014 to March 2019 was examined and it was noticed that supply under this contract has not yet been started as PET bottling plants have not been established by the tenderers. In the meantime, short term contract for supply of country liquor has been awarded and supply under these contracts is being made in sachets instead of PET bottles. Besides, settlement file/register, demand, collection and balance register, security deposit register, permit register etc. in selected district excise offices were also examined. The audit findings noticed in course of examination are discussed in the succeeding paragraphs.

The audit findings were forwarded to the Government for response in July 2014. An exit conference was conducted in August 2014 with the Secretary to the Government to discuss the audit observations and to elicit the view of the Government. The replies of the Government/Department have been suitably incorporated in the respective paragraphs. We acknowledge the co-operation of the Department for providing the information and records required for conducting audit.

² East Champaran (Motihari), Katihar, Kishanganj, Patna, Purnea, Saran, Supaul and West Champaran (Betiah).

Audit findings**3.4.2 Contract for manufacture and wholesale supply of country liquor in PET bottles during the period 1 April 2014 to 31 March 2019**

NIT was invited on 31 January 2014 by the Department for manufacture and wholesale supply of country liquor in PET bottles to BSBCL during the period 1 April 2014 to 31 March 2019.

3.4.2.1 Non-adoption of lowest rate for supply of liquor leading to huge loss of revenue of ₹ 341.32 crore during 2014-19

Rule 131 R (xiv) of the Bihar Finance (Amendment) Rules, 2005 provides that contract should ordinarily be awarded to the lowest evaluated bidder (L-1). However, where the lowest acceptable bidder is not in a position to supply the full quantity required, the remaining quantity, as far as possible be ordered from the next higher responsive bidder at the rates offered by the lowest responsive bidder. Central Vigilance Commission (CVC) instruction (March 1999) clarifies that many a time the quantity to be ordered is much more than L-1 alone can supply. In such cases, the quantity ordered may be distributed in such a manner that the purchase is done in a fair, transparent and equitable manner.

We scrutinised the conditions of NIT for supply of country liquor in PET bottles and observed that condition no. 2 (ix) of the NIT provided that the entire state was divided into 17 supply zones. Further, condition no. 3 of the NIT stipulated that the lowest tenderer (L-1) would be allotted one zone of his first preference and thereafter remaining tenderers would be allotted one supply zone each of their preference on the basis of their quoted rate and this process would continue till all the supply zones were allotted. Condition no. 3 further provided that each tenderer was required to deposit differential amount of base rate (₹ 5.78 and ₹ 9.76 for 200ml and 400 ml pack size respectively) and tendered rate. The provision of deposit of differential amount of base rate and quoted rate tantamounts to allowing supply of country liquor at different rates in different zones.

Condition of allotment of 17 supply zones to 17 different tenderers at different rates was against the provision of the Bihar Finance (Amendment) Rules, 2005 and CVC instruction because (i) capacity of L-1 was not exhausted before offering supplies to next higher responsive bidder, (ii) there was no provision that other suppliers would have to supply liquor at the rate quoted by L-1. It is also noteworthy that it was a departure from the established procedure adopted in previous tenders for the periods 2005-08, 2009-12 and 2012-14 in which the Department had fixed uniform rate for supply of liquor in the entire State.

The Department selected (February 2014) 17 tenderers for supply of liquor at different rates in 17 supply zones and the tenderers were required to deposit the differential amount. Thus, due to allowing payment of differential amount on the basis of their tendered rate instead of rate quoted by L-1 the Department would be deprived of ₹ 341.32 crore during 2014-15 to 2018-19 (₹ 68.26 crore per annum) calculated on the basis of Minimum Guaranteed Quantity (MGQ) of country liquor for the year 2013-14 as detailed in **Annexure- XV**.

After this was pointed out, the Department stated (August 2014) that this was a policy decision and was approved by the Council of Ministers. The Department further stated that mandate of policy decision had been bestowed to Government by the Constitution.

The Government replied during exit conference (August 2014) that concept of base rate was introduced in tendering process for the first time. So the high level committee under the chairmanship of the Chief Secretary had resolved that in order to break away the barriers of supply chain and the cartel of liquor traders, the entire State be divided into 17 different zones. Further the choice of zone became the focal point for decision making in awarding contract. It is mentioned in NIT that L-1 to L-17, whatever be the offer, would be provided with the opportunity of selecting a zone of its choice on the basis of minimum quoted rate at the very outset and the same procedure was to be continued till the last and final zone was awarded. Hence, the concept of L-1 has not been the criteria of the NIT, viewing the varying MGQ of the area/availability of human resources/accessibility of the area/and other local factors specific to the area. So, the freedom of choice remained the main criteria and ultimately one tenderer was to be awarded only one zone. If L-1 would have been the criteria, he might have claimed to grab all the 17 zones, if there would not have such in built restriction of allotting only one zone to one tenderer.

The reply of the Government was not in consonance with the facts as the memorandum submitted to the Council of Ministers did not elucidate the reasons for relaxation of Rule 131 R (xiv) of the Bihar Finance (Amendment) Rules, 2005. Further, Rule 18(1) of the Rules of Executive Business of Government of Bihar inter-alia prescribes the requirement of inclusion of the salient facts of the case and the main arguments for and against the particular course advocated in the memorandum for bringing a case before the Council of Ministers for a decision. This was not done as the consequential loss to the Government due to provision for allotment of supply zones to tenderers at rates higher than L1 was not placed in the memorandum. As it turns out now it is leading to a loss of ₹ 341.32 crore during the period 2014-15 to 2018-19.

Further, reply of the Government regarding apprehension of grabbing all the 17 zones by L1 is also not correct as in the previous tender, the Government itself approved the rate of lowest tenderer (L1) for supply of liquor in 17 different supply zones by 17 different tenderers, but in the instant case, the Government/Department had allowed the 17 successful tenderers to supply country liquor in their allotted zones at the price quoted by them instead of the lowest tendered rate (L1).

Moreover, the stated objective of breaking the cartelisation also could not be achieved as three successful tenderers had quoted same rate of ₹ 3.91 for 200 ml pack size and three other tenderers had quoted the same rate of ₹ 4.66 for 200 ml pack size. Further, the contract was yet to be executed since the tenderers were not in a position to supply in PET bottles due to delay in establishing of PET bottling plants and as a result, country liquor continued to be supplied in sachets which was sought to be discontinued since it could lead to supply of spurious liquor. The adoption of this method of awarding tenders would result in loss of revenue to the extent of ₹ 341.32 crore without conferring the claimed advantages during 2014-19.

3.4.2.2 Non-commencement of supply of liquor in PET Bottles

According to the Departmental Resolution (October 2013), manufacture and wholesale supply of country liquor in PET bottles to the BSBCL was to commence from 1 April 2014 and the process of tender was to be initiated prior to it.

During scrutiny of the tender file and other records, we observed that the supply of liquor in PET bottles has not commenced till date (July 2014), though it was to be started from 1 April 2014.

After this was pointed out, the Department stated that manufacturing of PET bottle is a lengthy process and lot of machines and construction of building are required and it would take time in its commencement.

The reply of the Department is not in consonance with the fact that in the previous two tenders (2009-12 and 2012-14) also the tendering process was inordinately delayed on the ground of policy decision for supply of liquor in PET bottles and extensions were given to existing licensees for supply of liquor in sachets. Though the Department was well aware that the manufacturing of PET bottles was a lengthy process and it would take considerable time, the Department did not take timely action to initiate tendering process for supply of liquor in PET bottles. Thus, due to delay in execution of tender for supply of country liquor in PET bottles, the Department could not achieve its objective to maximize the supply of better quality of liquor from authorised sources for past six years.

3.4.2.3 Non-transparency in allotment of supply zones

According to condition 3 (vi) (ii) of the NIT, the allotment of zones was to be made on the basis of preferences of tenderers submitting minimum rates. In the first stage, one zone each was to be allotted to 17 tenderers qualified in technical bid.

We scrutinised the condition of NIT and noticed that there was no specific criteria relating to finalisation of bid in case of identical financial bids. Thus, allotment of zones to three tenderers, who quoted same rate of ₹ 3.91 for 200 ml pack size and three other tenderers quoting the same rate of ₹ 4.66 for 200 ml pack size, was made in ad-hoc and non-transparent way.

Even though same situation had arisen in previous tender for the period from December 2012 to March 2014, no steps were taken to provide process for allotment in case of identical bids.

After this was pointed out, the Department intimated (August 2014) that allotment of zones among tenderers of identical rates were done in a prescribed manner. However, the Department did not furnish the criteria adopted in case of allotment of zones in identical bids.

3.4.3 Supply of substandard liquor

According to conditions of licence (Form 27), the country liquor sold should be of good quality and in accordance with the standard prescribed by the Commissioner of Excise. The liquor kept for sale in godown shall be analysed periodically and the licensee is bound to rectify the deficiency found, if any.

- We scrutinised sample test report in the office of the Chemical Examiner, Patna for the period 2012-13 and 2013-14 and observed that out of 1,940 samples of country liquor chemically examined, 224 samples were not in accordance with the standard and in three districts³ out of 89 samples, 24 samples contained sediments. With the view to check whether the lots from where the samples containing sediments were issued to retail shops, we checked the records in two⁴ excise districts and observed that 3.39 lakh LPL of country liquor belonging to those lots were issued to BSBCL during the period 2012-13 and 2013-14 for sale to retailers.

After this was pointed out the Department replied (August 2014) that sub standard liquor was destroyed and action was being taken against the suppliers. The reply was in contrary to the reply of the concerned SEs who stated (July 2014) that timely action could not be taken due to delay/non-receipt of sample test reports.

- We further observed that 17,600 sachets of 400 ml pack size of country liquor manufactured in December 2012 were substandard and were lying in the godown of BSBCL, Kishanganj for destruction till date of audit (July 2014).

After this was pointed out, the SE Kishanganj stated (July 2014) that letter was written (April and November 2013) to headquarters for necessary guidelines for destruction of 17,600 sachets.

The Government further stated during exit conference (August 2014) that eight new laboratories had been sanctioned and added that BSBCL would be directed to introduce methodology for liquor testing at the depot on random basis.

3.4.4 Settlement of licences for retail excise shops

Upto June 2007, the licences for retail vend of excise shops were settled annually by public auction and thereafter the settlement of licences for retail excise shops was to be made through lottery system as per the provisions of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/foreign liquor/beer and composite liquor shop) Rules, 2007 (effective from 1 July 2007).

As per Rule 7 of the Rules *ibid*, a sale notification in excise Form-127 shall be published with the prior approval of the Board of Revenue, ordinarily 15 days before the date fixed for commencement of settlement, in which general conditions of settlement shall be mentioned.

3.4.4.1 Improper determination of Minimum Guaranteed Quantity of liquor for excise shops

Rule 5 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/foreign liquor/beer and composite liquor shop) Rules provides that the licensing Authority shall be competent to determine the minimum guaranteed quantity (MGQ) of each shop viz. country

³ Begusarai, Kishanganj and Supaul.

⁴ Kishanganj and Supaul.

liquor/spiced country liquor, foreign liquor/beer and wine including composite liquor shop but such MGQ of all the shops of a district shall not be less than the MGQ determined by the Excise Commissioner for that district. The Excise Commissioner shall issue a guideline to all the licensing Authority and the licensing Authority shall be bound by the consideration to follow the guideline of Excise Commissioner.

Further, Rule 20 (ii) of the Rules *ibid* stipulates that additional licence fee shall not be charged for additional lifting up to 15 *per cent* of the fixed MGQ, but for lifting more than 15 *per cent*, the additional licence fee shall be charged at the rate of 50 *per cent* of the fixed licence fee.

During test-check of Permit registers and data provided by BSBCL relating to nine⁵ districts excise offices, we observed between October 2013 and July 2014 that licensees of 92 out of 922 excise shops had lifted India made foreign liquor (IMFL)/country/spiced country liquor/beer in excess of their fixed MGQ during the period from 2010-11 to 2012-13, as detailed in **Annexure-XVI**.

This indicated that the licensing Authority had not determined the MGQ of excise shops in view of actual lifting of previous years although the data shows the trend of excess lifting during above periods. Also, the Excise Commissioner did not issue any guideline to the licensing Authorities to fix MGQ of the excise shops in their districts. Thus, in absence of such guideline and determination of MGQ of excise shops without considering their potential not only provides financial benefit to the licensees by exempting 15 *per cent* of MGQ and allowing them to pay only 50 *per cent* licence fee for lifting in excess of fixed MGQ but also the Government was deprived of revenue of ₹ 3.04 crore during the year 2012-13 as detailed in **Annexure-XVI**.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and agreed to look into the matter.

3.4.4.2 Non-provision of solvency condition

We scrutinised settlement register/file, lottery register and application file for the year 2012-13 and 2013-14 in all test-checked district excise offices and observed (between May and July 2014) that condition for submission of solvency certificate by licensees was not included in the sale notification for 2012-13 and 2013-14, though required under Rule 9 of the Bihar Excise Rules, 2007. As a result, none of the licensees had submitted the aforesaid certificates before settlement of excise shops. In the office of the SE, East Champaran, we noticed (June 2014) that first lottery winners of eight groups of excise shops did not turn up for settlement of shop. Further, in the office of the Assistant Commissioner of Excise (ACE), Patna, we observed (September 2013) that settlement of 26 groups of excise shops were cancelled between May 2012 and July 2013 on the ground of non-deposit of security money and advance licence fee. Delay in cancellation of licences of excise shops resulted in outstanding security money and licence fee of ₹ 4.17 crore against the defaulting licensees as detailed in **Annexure-XVII**. Further, we observed that demand of ₹ 1.15 crore was raised against 15 defaulting licensees only. Thus, in absence of any

⁵ East Champaran (Motihari), Kishanganj and Supaul (Selected districts) Aurangabad, Begusarai, Buxar, Kaimur (Bhabhua), Madhubani and Nalanda (Compliance audit).

mechanism to determine the solvency of the applicants for lottery of excise shops, non-serious applicants participated in lottery process, who did not turn up after settlement of excise shops.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and agreed to look into the matter.

3.4.4.3 Submission of security deposit by person other than the licensees of excise shops

Condition 14 (a) of sale notification for 2012-13 and 2013-14 provides that the settlee⁶ of excise shop shall deposit security money equivalent to one twelfth portion of annual licence fee immediately after settlement.

We scrutinised the settlement file/register and security deposit register of the SE, West Champaran for the year 2012-13 and 2013-14 and observed that in case of 82 groups of excise shops, security deposits were furnished by persons other than the licensees of excise shop and further analysis revealed that out of above 82 groups of excise shops, three persons furnished security deposits for 33 groups of excise shops in contravention to the condition of sale notification.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and agreed to look into the matter.

3.5 Cases of defalcation of excise revenue

Condition 14 of the sale notification for the years 2009-10 to 2013-14 of excise shops provides that the monthly installment of licence fee specified in the licence and determined by the Government shall be deposited by the licensee in the Government treasury of the district by the 1st day of the month, which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security amount shall be forfeited and the shop shall be settled to the next applicant.

As per Rule 7 read with Rule 37 of the Bihar Financial Rules Volume-I, it is the responsibility of the departmental authority to see that all sums due to the Government are regularly and promptly assessed, realised and duly credited in the Government account under proper head without any delay.

Under provisions of sub para 22 of para 485 of chapter XIV (Appendix-I) of Excise Laws of Bihar Volume-II, every excise office will maintain a Challan Register in Form-106 and every challan for excise payments presented should be entered in the register after being satisfied of the correctness of the entries therein. The register will be sent to treasury at the end of each day for the signature of the Treasurer. The entries of payments made in other registers should be on production of challan of payments, be also duly compared with the entries made in the challan register, and discrepancies reconciled.

⁶ Settlee is a person with whom retail excise shop is settled through lottery.

As per Rule 45 of the Bihar Treasury Code, 2011, it shall be the duty of head of office in Excise Department to ensure that there is no loss of Government revenue. If the challan is in order in all respects, the departmental officer shall enforce it with an order to the Bank to receive the money and to grant a receipt.

3.5.1 During test-check of the Demand, Collection and Balance registers of the District Excise Office, Munger between February and July 2014, we observed that licence fee of ₹ 7.77 crore deposited by 16 licensees during the period April 2012 and February 2014 was not found deposited in the treasury schedule under head '0039 – State Excise'. Thus, the permits were issued against fake and fictitious payments. As the challan register was not maintained, the District Excise Officer could not verify the genuineness of the challans submitted by the licensees with the treasury records.

After this was pointed out, the Department intimated (August 2014) that departmental proceeding was under consideration against the head of the office, FIR was lodged against officers and officials who neglected the provisions of the Bihar Excise Rules and request has been made to investigate the matter by Economic Offence Investigation unit and the clerks, who had issued permits without verification of challans, are under judicial custody. The challans for the period prior to 2012 were being verified by the Collector, Munger.

3.5.2 During scrutiny of Demand, Collection and Balance register of the ACE, Patna for the period 2008-09 to 2009-10, we observed (June 2013) that licence fee amounting to ₹ 35.99 lakh as shown deposited by six licensees in the Demand, Collection and Balance register pertaining to the period October 2008 to February 2010 was not found deposited in treasury schedule.

After this was pointed out, the ACE, Patna stated (May 2014) that it appears that the said amount was not deposited in Government Treasury and necessary action was being taken against all concerned. It was observed that certificate case under Bihar and Orissa Public Demand Recovery Act 1914 was instituted against the defaulting licensees.

3.5.3 During test-check of the Demand, Collection and Balance register of the District Excise Office, Banka in March 2013, we observed that licence fee of ₹ 2.13 lakh deposited by two⁷ licensees during the period April 2009 and February 2011 was not found deposited in the treasury schedule under head '0039 – State Excise'. The concerned branch of State Bank of India also certified (3 July 2013) that the aforesaid sums were not found deposited into the bank. Thus, the permits were issued against fake and fictitious payments. As the challan register was not maintained properly in the office, the District Excise Officer could not verify the genuineness of the challans submitted by the licensees with the treasury records.

After we pointed (15 March 2013) this out, the SE, Banka stated (18 March 2013) that at the instance of audit the entire money had since

⁷ Shri Deepak Kr. Bhagat: Gr. No. 13 (2009-10) and Shri Sarwan Chaudhary: Gr. No. 4 (2010-11).

been recovered from one licensee⁸ and deposited (18 March 2013) in the Treasury and in other case report would be sent to audit after verification.

The Government stated (August 2014) during exit conference that the system of online payment was being introduced shortly and instructions had been issued to all district excise offices to ensure non-occurrence of these issues.

Similar issues were pointed out in paragraph 3.2.3 and 3.8 of Audit Reports (Revenue Sector) 2011-12 and 2012-13 respectively. In reply to the paragraph 3.2.3, the Government had stated that the amount was recovered in Muzaffarpur, FIR was lodged against the defaulting licensees in Patna and departmental proceeding against the erring officials had been initiated. The nature of lapses are still persisting which shows ineffectiveness of the internal control system of the Department to prevent recurring leakage of revenue.

Non-verification of the amount deposited by licensees from the records of treasury as well as non-observance of condition of sale notification by the Excise officers resulted in defalcation of Government Revenue of ₹ 8.15 crore by 24 licensees. Excise Department did not ensure checking areas of malfunctioning in system and could not take appropriate remedial measures which showed non-adherence to internal control mechanism.

3.6 Short realisation of licence fee of excise shops after cancellation

Rule 15 of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules framed under the Bihar Excise Act stipulates that after the acceptance of settlement through lottery by the licensing Authority, one twelfth portion of the annual licence fee shall be paid by the settlee as security money and an equal amount shall be deposited by the settlee as advance licence fee which will be adjusted in the last month of the excise year.

Further as per Rule 17 (2) of the Rules *ibid* read with clause 14 of condition of sale notification of excise shops, one twelfth part of annual licence fee of each shop shall be deposited by the licensees in the treasury of the district by the first day of the month, which in any event must be deposited by the 20th of the concerned month, failing which the license shall be cancelled and all deposited security money shall be forfeited.

We scrutinised the Settlement files, Demand, Collection and Balance registers and Security Deposit register in six⁹ district excise offices and observed (between January 2013 and January 2014) that the licences of 31 groups of excise shops were cancelled during the period between December 2010 and August 2013 due to non-payment of monthly licence fee. Further, we observed that the shops were cancelled after a delay of one to five months, though it was required to be cancelled after the 20th day of the same month of default. Thus,

⁸ Shri Deepak Kr. Bhagat: Gr. No. 13 (2009-10) : ₹ 1,65,000 vide Challan No. 55 dated 18.3.2013.

⁹ Banka, Begusarai, Buxar, East Champaran (Motihari), Nawada and Patna.

due to delay in cancellation of shops, a sum of ₹ 1.83 crore remained unrealised till date of audit. No records of any action taken/initiated by the excise authorities for realisation of ₹ 1.83 crore were found/made available.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and stated that suitable action would be taken.

3.7 Undue favour to licensees due to incorrect adjustment of security money

As per Rule 17 (2) read with Rule 15 given in paragraph 3.6, in case of failure in deposit of monthly licence fee by 20th day of the month, the licence shall be cancelled and all deposited security money shall be forfeited.

During scrutiny of settlement files and Demand, Collection and Balance registers of four¹⁰ district excise offices, we observed (between February and December 2013) that licences of 16 groups of excise shops were cancelled due to non-payment of monthly licence fee during the period between March 2011 and July 2013. Further, we observed that the outstanding dues were adjusted from their deposited security money. The adjustment of security money of ₹ 1.14 crore against outstanding dues was in contravention to the provisions of the Rules *ibid*, which stipulates forfeiture of security money in case of cancellation of excise shops. This led to short realisation of revenue of ₹ 1.14 crore and resulted in undue favour to the licensees.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and stated that suitable action would be taken.

3.8 Non-levy of penalty for delayed deposit of licence fee

Condition 14 of the sale notification of excise shops provides that the monthly installment of licence fee shall be deposited by the licensee in the Government treasury of the district by the first day of the month, which in any event must be deposited by the 20th day of the month, failing which the licence shall be cancelled and all deposited security money shall be forfeited and the shop shall be settled to the next bidder.

Section 42(b) of the Bihar Excise Act provides that if any duty or fee payable by the holder thereof be not duly paid the licensing Authority may cancel, suspend it or impose penalty.

Further, Section 68 of the Act *ibid* stipulates that excise officer may accept from any person whose licence, permit or pass is liable to be cancelled, suspended or imposed penalty on economic offence under clause (a), (b), (d), (e), (f), (g) and (h) of Section 42, payment of a sum of money minimum of ₹ one thousand and maximum ₹ one lakh in lieu of such cancellation, suspension or by way of composition for such offence, as the case may be.

¹⁰ Bhagalpur, Munger, Patna and Rohtas (Sasaram).

During test-check of Demand, Collection and Balance registers in four¹¹ districts excise offices, we observed between June 2013 and February 2014 that 97 licensees of liquor shops had deposited their monthly license fees of ₹ 9.04 crore for the period between June 2012 and November 2013 with delay ranging between four and 60 days. However, they were required to deposit their monthly licence fee latest by the 20th of each month as per the condition of sale notification. But the licensing Authorities neither cancelled/suspended the licence nor imposed penalty on defaulting licensees. Instead they accepted the amount of licence fee without realising the sums in shape of penalty. Moreover, encouragement to other licensees to default on payment of fee cannot be ruled out and thus penalty should have at least been imposed as a deterrent measure.

After this was pointed out, the Government accepted the audit contention during exit conference (August 2014) and stated that suitable action would be taken.

3.9 Internal Audit

There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team. The Finance Department did not conduct internal audit of the Registration, Excise and Prohibition (Excise) Department during 2013-14.

¹¹ Buxar, Kaimur (Bhabhua), Nalanda and Nawada.