

CHAPTER III: STATE EXCISE

3.1.1 Tax administration

The excise revenue is mainly derived from the auction fee for the grant of license of various vends and excise duties levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State. The Principal Secretary to Government of Haryana, Excise and Taxation Department is the administrative head at Government level and Excise and Taxation Commissioner (ETC) is head of the Department. He is assisted by the Collector (Excise) at headquarter and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

3.1.2 Results of Audit

Test check of the records of the offices of DETCs (Excise) in 2012-13 noticed non/short recovery of excise duty, license fee and penalty etc. amounting to ₹ 16.53 crore in 369 cases which fall under the categories detailed in Table 3.1.

Table 3.1

(₹ in crore)

Sr. No.	Category	Number of cases	Amount
Excise and Taxation Department (State Excise)			
1.	Non/short recovery of license fee from licensees	01	8.56
2.	Non/short deposit of license fee and loss of interest	109	2.12
3.	Non-recovery of penalty on illicit liquor	53	0.50
4.	Miscellaneous irregularities	206	5.35
	Total	369	16.53

During 2012-13, the Department accepted underassessment and other deficiencies amounting to ₹ 47.11 lakh involved in 79 cases, out of which ₹ 40.23 lakh involved in 71 cases were pointed out during the year and the rest in earlier years. The Department recovered ₹ 6.88 lakh in eight cases pointed out in earlier years.

A few illustrative cases involving ₹ 12.15 crore are mentioned in the succeeding paragraphs.

Audit findings

3.2 Non/short recovery of license fee from licensees

3.2.1 Non/short recovery of license fee

Under the Haryana Liquor License Rules, 1970 (HLL Rules) read with the State excise policy for the years 2009-10 to 2012-13 provide for payment of monthly installments of license fee by the 15th/20th of each month by the licensee/allottee failing which he is liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

3.2.1.1 In seven offices of DETC (Excise) for the years 2009-10 to 2012-13, we noticed that 119 licensees failed to pay monthly instalment of license fee for the periods between April 2009 and March 2013 in full by the prescribed dates. The licensees had paid only ₹ 77.99 crore out of ₹ 82.94 crore payable. The DETC (Excise), however, did not initiate any action to seal the vends even after the lapse of one to three years, resulting in non recovery of license fee of ₹ 4.95 crore.

3.2.1.2 In the offices of DETC (Excise), Rohtak and Rewari, we noticed that 12 retail outlets licensees did not deposit the license fee of ₹ 6.30 crore in full by due date for the years 2009-10 and 2010-11. They paid only ₹ 3.33 crore (including additional security of ₹ 15 lakh) leaving the balance amount of ₹ 3.12 crore. The Department cancelled their retail liquor outlets and forfeited the additional security of ₹ 15 lakh. These retail outlets could not be re-allotted and Department did not initiate any concrete action to recover the outstanding license fee resulting in non-realisation of Government revenue of ₹ 3.12 crore.

The Government accepted the audit observation (October 2013). DETC (Excise), Palwal stated that an amount of license fee of ₹ 1.62 lakh had been recovered and recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 8.05 crore.

3.2.2 Surety bonds not collected before the allotment of vends

As per State Excise Policy in force, every successful allottee was required to submit solvency certificate duly certified by the Tehsildar concerned and two sets of M-75 (Surety bond) on non-judicial stamp paper duly signed by the two solvent persons having solvency of equal amount to the license fee of the vend before the commencement of the business. Failure to do so shall be sufficient ground for the cancellation of license. The arrears of license fee can also be recovered under the Punjab Land Revenue Act, 1887.

In the office of DETCs (Excise), Gurgaon, Rohtak and Rewari, we noticed that 26 licensees did not submit the M-75 (Surety bond). We also noticed that DETC (Excise) Rewari, issued only notices to the concerned defaulting licensees. DETCs (Excise) Gurgaon and Rohtak had not taken surety bonds (M-75) from the defaulting licensees and recovery certificates were not issued under the PLR Act. No action was initiated by DETCs (Excise), even after the lapse of one to three years as required under the Excise policy.

The Government accepted the audit observation during the exit conference (October 2013) and stated that direction had been issued to complete all the surety bonds.

3.2.3 Non/short deposit of security and additional security

Under the HLL Rules read with the State Excise Policy for the year 2011-12, every successful allottee of retail licensed liquor outlet is required to deposit security equal to five *per cent* of the license fee on the day of draw of lots, five *per cent* within seven days of the allotment/draw of lot on or before 31 March of the respective year, whichever is earlier and 10 *per cent* by 7th April of the respective year. The balance 80 *per cent* shall be payable in equal nine monthly instalments by 20th of the month starting from the month of operation of vend and every subsequent month till entire license fee is realised. If an allottee/licensee fails to make the full payment of security in the prescribed time, his license shall be deemed to have been cancelled automatically and security deposited, if any, forfeited. Further, payment of additional security of ₹ one lakh and ₹ two lakh is to be made by retail licensed liquor outlet having license fee upto ₹ 75 lakh and above ₹ 75 lakh respectively. The amount of additional security shall be refunded after the close of the year when there would be nothing due against the licensee. In case, the allottee fails to make payment of security deposit equal to 20 *per cent* of annual license fee and defaults in payment of nine equated instalments of license fee along with interest, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district. In such events, the DETC (Excise) may re-allot it at the risk and cost of the original allottee by seeking prior permission of the Financial Commissioner.

(a) In the office of DETC (Excise) Gurgaon for the year 2011-12, we noticed that 17 retail outlet licensees for ₹ 16.64 crore for the year 2011-12 did not deposit the security amount in full by the stipulated date (07 April 2011). Four allottees did not deposit security amounting to ₹ 20 lakh. Further, 17 licensees did not pay additional security of ₹ 29 lakh. The DETC (Excise) issued notices to the concerned defaulting licensees and further no action was taken as required under Act and Rules. The DETC (Excise), however, did not initiate any action to recover the additional security from the licensees. This resulted in non/short deposit of security and additional security amounting to ₹ 49 lakh (security 20 lakh and additional security 29 lakh).

The Government accepted the audit observations during the exit conference (October 2013) and stated that recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 49 lakh.

(b) Non-realisation of differential license fee on re-auction

In five offices¹ of DETC (Excise), we noticed that 11 retail outlet licensees did not deposit the license fee of ₹ 4.06 crore out of ₹ 5.38 crore. The Department cancelled their retail liquor outlets and forfeited the entire amount of security. These retail outlets were re-auctioned/re-allotted between September 2010 and January 2012 for the remaining period for ₹ 2.61 crore at the risk and cost of original licensees. The Department did not initiate any action to recover the differential amount of license fee of ₹ 1.45 crore (₹ 4.06 crore - ₹ 2.61 crore) from the original allottees resulting in non-realisation of Government revenue of ₹ 1.45 crore.

(c) Non/short recovery of interest

HLL Rules provides for payment of monthly instalments of license fee by the 20th of each month failing which the licensee is liable to pay interest at the rate of one and half *per cent* per month for the period from the first day of the month to the date of payment of the instalment or any part thereof. If the licensee fails to deposit the monthly instalment in full along with interest by the end of the month, the licensed outlet shall cease to be in operation on the first day of the following month and shall ordinarily be sealed by the DETC (Excise) of the respective district.

In six offices² of DETC (Excise) for the years 2010-11 and 2011-12, we noticed that 130 licensees had paid the monthly instalments of license fee amounting to ₹ 55.04 lakh for the period between April 2010 and March 2012 after the prescribed due dates. The delay ranged between 20 days to one year. The DETCs (Excise), however, did not initiate any action to cease/seal the vends and to levy interest for delayed payments of license fee. This resulted in non-levy of interest of ₹ 96.89 lakh.

We pointed out the matter to the Excise and Taxation Department between March 2012 and May 2013 and reported to the Government in July 2013.

The Government accepted the audit observations during the exit conference (October 2013). The DETCs (Excise), Jhajjar and Kurukshetra stated that an amount of ₹ 2.64 lakh had been recovered in 10 cases. Recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 2.39 crore.

¹ Faridabad, Kurukshetra, Palwal, Panipat and Sonapat.

² Faridabad, Gurgaon, Jhajjar, Karnal, Kurukshetra and Panipat.

3.3 Non levy/realisation of penalty for short lifting of quarterly quota of liquor

HLL Rules provides that a licensee is liable to lift the entire basic quota of CL and IMFL allotted to his vend as per prescribed quarterly schedule failing which penalty at the rate of ₹ 20 and ₹ 65 per proof litre (PL) for CL and IMFL (on quarterly basis) respectively for the deficient quantity will be imposed.

In Bhiwani, Gurgaon and Palwal offices of DETC (Excise) for the years 2010-11 and 2011-12, we noticed that all the 31 licensees had lifted 10.17 lakh PLs (CL: 3.47 lakh PLs; IMFL: 6.70 lakh PLs) out of prescribed combined liquor quota of 11.98 lakh PLs leaving a short lifting of 1.81 lakh PLs. DETCs (Excise) had not initiated any action to levy penalty amounting to ₹ 92.59 lakh.

We pointed out the matter to the Government which accepted the audit observations during the exit conference (October 2013) and stated that an amount of ₹ 36.65 lakh had been recovered and recovery proceedings had been initiated under the Land Revenue Act to recover the outstanding amount of ₹ 55.94 lakh.

3.4 Non levy/recovery of penalty for illegal possession and trade of liquor

Under Section 61 of the Punjab Excise Act, 1914, as applicable to the State of Haryana, penalty not less than ₹ 50 and not more than ₹ 500 per bottle of 750 milliliters is leviable on the offender for possession of illicit liquor³. Further, Haryana Imposition and Recovery of Penalty Rules, 2003, provide that if penalty is not paid within the stipulated period, the Collector or DETC (Excise) shall pass orders for confiscation of means of transport seized along with liquor and the means of transport shall be put to auction within 30 days from the date of order of confiscation. The auction amount, after deducting the expenditure incurred on it, shall be adjusted towards payment of penalty and the excess amount, if any, shall be refunded to the owner. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

In the offices of DETC (Excise) Kaithal, Kurukshetra and Jind, we noticed that the Department had detained 29,402 bottles of illicit country liquor in 171 cases and confiscated four vehicles {DETC (Excise) Kurukshetra} between January 2009 and September 2011. The Department, after giving reasonable opportunity, decided 163 cases and imposed penalty of ₹ 14.69 lakh during 2009-10 and 2011-12 and in eight cases penalty of ₹ 9.36 lakh could not be levied. Neither the defaulters paid the penalty nor the Department initiated any action to recover the amount by auctioning the confiscated vehicles even after a lapse of 12 to 24 months⁴. Non-observance of Rules 12 and 13 of the Haryana Imposition and Recovery Rules resulted in non-recovery of penalty of ₹ 24.06 lakh.

³ Illicit liquor means liquor prepared clandestinely/unlawfully, without any quality control checks, and not suitable for human consumption due to higher alcoholic concentration than permissible.

⁴ Delay calculated from the date of imposition of penalty to March 2012.

We pointed out the matter to the Government in July 2013 which accepted the audit observations during the exit conference (October 2013) and stated that an amount of ₹ 3.22 lakh had been recovered and efforts would be made to recover the balance amount of ₹ 20.84 lakh.