

CHAPTER-V: STATE EXCISE DUTY AND FEES

EXECUTIVE SUMMARY

Increase/decrease in tax collection	In 2012-13 the collection of State Excise Duty (SED) and Fees increased by 8.68 <i>per cent</i> over that of the previous year which was attributed to enhancement in the fee structure and SED against last year's fee and duty structure. However, it decreased by 0.09 <i>per cent</i> as compared to the Budget Estimate (BE) for the year which was attributed by Department to non-opening of more legal outlets and negative trend in lifting of IMFL/Beer by the licensees.
Working of Internal audit	Internal Audit Wing (IAW) of the Department was created only in September 2010 for audit of its units from 2010-11 onwards. During the period 2010-13 the internal audit wing covered only 18 out of 26 units planned and shortfall was attributed by Department to acute shortage of staff.
Recovery by the Department against the observations pointed out by audit in earlier years	During the period 2007-12 audit pointed out non/short-levy, non/short-realisation of SED and Fee etc., with revenue implication of ₹ 136.38 crore in 31,509 cases. Of these, the Department accepted audit observations in 28,042 cases involving ₹ 46.33 crore; but recovered only ₹ 1.84 crore in 269 cases. The average recovery position was 3.97 <i>per cent</i> compared with accepted audit observation.
Results of audit in 2012-13	<p>In 2012-13, records on assessment and collection of State Excise duties and fees were test checked and Audit noticed non/short levy/realisation, loss of revenue etc. of ₹ 141.17 crore in 1,001 cases.</p> <p>The Department accepted non-levy/short-realisation of Excise revenue of ₹ 18.04 crore in 374 cases pointed out during the year 2012-13 and recovered ₹ 0.08 crore in 51 cases for the earlier years i.e. 2008-09 to 2011-12.</p>

Highlights	<p>In this Chapter, illustrative cases with revenue implication of ₹ 7.17 crore selected from the observations noticed during test check of records relating to assessment of SED and Fees in the District Excise Offices (DEOs) are highlighted, where audit noticed that the provisions of the Acts /Rules/ Annual Excise Policies were not adhered to.</p> <p>It is a matter of concern that similar omissions have been pointed out by audit repeatedly in the Audit Reports for the past several years, but the Department has not taken adequate corrective action.</p>
Conclusions	<p>The Department needs to improve the internal control system including strengthening of IAW so that weaknesses in the system are addressed and omissions of the nature detected by audit are avoided in future.</p>

5.1.1 Tax administration

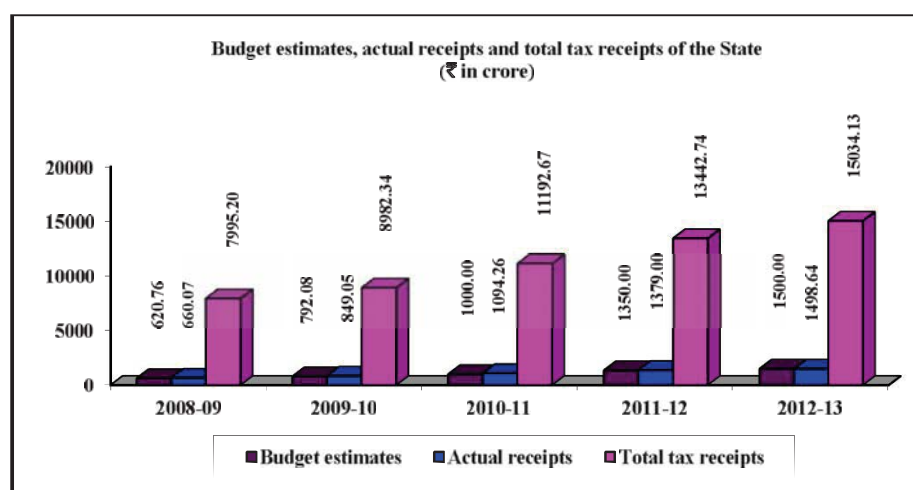
Levy and collection of State Excise Duty (SED), Fees and Penalty etc. are governed by the Bihar and Odisha Excise (B&OE) Act, 1915, Odisha Excise Rules (OER), 1965, the Board's Excise (BE) Rules, 1965, the Odisha Excise Exclusive Privilege (OEEP) Rules, 1970, the Odisha Excise (Exclusive Privilege) Foreign Liquor (OEEPFL) Rules 1989, the Odisha Excise (Methyl Alcohol) Rules, 1976, the Board of Revenue (BOR)'s Excise (Fixation of Fees on Mahua Flower) (BEFFMF) Rules, 1976 and the Annual Excise Policies (AEPs) framed by the Department. The Excise Commissioner (EC) being the head of the Department administers the various provisions of the above Act / Rules under the control of BOR as well as the overall control of the Principal Secretary of the Department. He is assisted by three Excise Deputy Commissioners (EDCs) at three Revenue Divisions, 30 Superintendents of Excise (SEs) at the District level and the field level staff thereunder.

5.1.2 Trend of receipts

Actual Receipts from SED and Fees during the years 2008-09 to 2012-13 along with the Budget Estimates and total tax receipts of the State during the same period is exhibited in the following table and graph.

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation	Total Tax Receipts of the State	Percentage of actual receipts vis-à-vis Total Tax Receipts
2008-09	620.76	660.07	(+)39.31	(+) 6.33	7,995.20	8.26
2009-10	792.08	849.05	(+)56.97	(+) 7.19	8,982.34	9.45
2010-11	1,000.00	1,094.26	(+)94.26	(+) 9.43	11,192.67	9.78
2011-12	1,350.00	1,379.00	(+) 29.00	(+) 2.15	13,442.74	10.26
2012-13	1,500.00	1,498.64	(-)1.36	(-)0.09	15,034.13	9.97

Source : Finance Accounts



The above table shows that excise revenue increased from ₹ 660.07 crore in 2008-09 to ₹ 1,498.64 crore in 2012-13 and its contribution to total tax receipt of the State varied between 8.26 and 10.26 *per cent*. Reason for increase in collection during 2012-13 was attributed to enhancement in fee structure and SED against last year's fee and duty structure. Decrease of Actual Receipts from Budget Estimate of 2012-13, however, was attributed to non-opening of more legal outlets and negative trend in lifting of IMFL / Beer by the licensees.

5.1.3 Analysis of arrears of revenue

Arrears of excise revenue was ₹ 28.80 crore as on 31 March 2013. Year wise/item wise breakup of the same as well as arrears outstanding for more than five years could not be supplied by the Department. However, the Department stated that arrears of ₹ 13.18 crore was covered by Certificate proceedings, ₹ 12.26 crore was stayed by the Supreme Court/High Court/other Judicial/Departmental authorities of the Government; ₹ 0.49 crore was under dispute and ₹ 2.87 crore had been proposed to be written off.

Audit recommend that the Department may pursue speedy disposal of pending cases.

5.1.4 Cost of collection

The gross collection of state excise revenue, expenditure incurred on collection and the percentage of such expenditure to gross collection during 2010-11 to 2012-13 along with all India average percentages of expenditure for collection to gross collection in respective previous years are mentioned below.

(₹ in crore)				
Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage
2010-11	1094.26	36.25	3.31	3.64
2011-12	1379.00	38.37	2.78	3.05
2012-13	1498.64	41.76	2.79	2.98

Source : Information furnished by Department

The percentages of the cost of collection during 2010-11, 2011-12 and 2012-13 were within the all India average percentages.

5.1.5 Impact of audit

Revenue impact

During the last five years (2007-08 to 2011-12), Audit pointed out non / short levy, non / short realisation of SED and Fees etc., with revenue implication of ₹ 136.38 crore in 31,509 cases. Of these, Department accepted audit observations in 28,042 cases involving ₹ 46.33 crore and recovered ₹ 1.84 crore in 269 cases.

The recovery position as compared to acceptance of audit observations was low. The Government may take appropriate steps to improve it, at least for the accepted cases.

5.1.6 Working of Internal Audit Wing

The internal audit of the units under the Department was being conducted by the Internal Audit Wing (IAW) of the Board of Revenue along with that of other offices under the Revenue Department to ensure correct assessment, prompt collection and timely deposit of excise revenue to Government account and to arrest leakage of such revenue. Since Excise is one of the major revenue earning departments of the State, IAW in the Department was created (September 2010) for internal audit of its units from 2010-11 onwards. Internal audit for 2010-11 and 2011-12 only was completed in 18 out of 26 units planned by the end of March 2013.

The Department may take appropriate steps to clear the backlog of internal audit.

5.1.7 Results of audit

During 2012-13, Audit test checked records on assessment and collection of state excise duties and fees and found loss, non/short levy/realisation of revenue of ₹ 141.17 crore in 1,001 cases. The Department accepted non-levy/short-realisation of Excise revenue of ₹ 18.04 crore in 374 cases pointed out during the year and recovered ₹ 0.08 crore in 51 cases for the earlier years i.e. 2008-09 to 2011-12.

5.2 Audit observations

Audit scrutinised assessment records of excise duty and fees in District Excise Offices (DEOs) and found several cases of non-observance of provisions of the Act/Rules/Annual Excise Policies (AEPs) leading to non/short-levy and realisation of excise duty, fees, fine etc., and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by Audit. Such omissions on the part of the Superintendents of Excise (SEs) are pointed out by Audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Department to improve the internal control system including strengthening of internal audit so as to avoid recurrence of such irregularities.

5.3 Non-observance of provisions of the Acts/Rules/Annual Excise Policies and instructions of Government

The Bihar and Orissa Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue (BOR) read with the Excise Manual, Annual Excise Policies (AEPs) and notifications of Government provide for levy and collection of State Excise Duty (SED), fees like Utilisation Fee (UF), Import Fee (IF), Bottling Fee (BF), Transportation Fee (TF) and cost of charges like Establishment cost and Extra hour operation charges etc. at the prescribed rates.

The Superintendents of Excise (SEs) while finalising the assessments did not observe above provisions in some cases as mentioned in subsequent paragraphs which resulted in non/short-levy and non-realisation of SED/cost/charges/fees, fine etc. of ₹ 7.17 crore.

5.3.1 Non-realisation of differential State Excise Duty on Annual closing stock

As per Government notification of February 2001, Odisha State Beverage Corporation Ltd. (OSBC) obtains the entire stock of IMFL/Beer/CS, stores it in its depots and issues to the retailer at the issue price inclusive of SED. In AEP (2011-12), SED was increased by ₹ 2 to 25 per BL of Beer/LPL of IMFL/CS based on the brands.

During test check of pass issue (FL 16) records and stock taking reports in office of the Superintendent of Excise (SE), Khordha, Audit noticed (March 2013) that OSBC revised issue prices of IMFL/Beer/CS from 1 April 2011 incorporating enhanced SED as per the AEP 2011-12 and collected the enhanced SED as per revised rates from the retailers on the closing stock¹ of 2010-11. However,

the enhanced SED of ₹ 2.15 crore so collected on the closing stock of 2010-11 of IMFL (₹ 2.05 crore), Beer (₹ 0.09 crore) and CS (₹ 0.01 crore) was not deposited by OSBC to the Government account nor was any demand raised by SE, Khordha for realisation of the amount.

After audit pointed this out, SE, Khordha, accepted the audit observation and raised demand in March 2013.

¹ IMFL (11,46,772 LPL), Beer (2,94,354 BL) and CS (65,328 LPL).

Audit reported the matter to Excise Commissioner (EC), Odisha, Cuttack and the Government in May and June 2013. The replies are awaited (April 2014).

5.3.2 Non-realisation of differential duty on belated arrival of stock at OSBC depots

From 1 February 2001 onwards OSBC took over the wholesale trading of IMFL and Beer which it procures from manufacturers on presentation of passes in form FL16 issued by the SE, Khordha on payment of prescribed SED. After obtaining the stock, one copy of FL16, with endorsement of stock arrival particulars, is required to be submitted to the pass issuing authority (SE, Khordha), for his record and reference. However, the Officers-in-Charge (OICs) posted in OSBC depots, were not authorised to record the stock arrival reports. The passes issued in a particular year lapse on 31 March of the same year. The SEDs on IMFL and Canned Beer were revised from 1 April 2011 by way of revision of the slabs for IMFL and enhancement of SED on Canned Beer upto ₹ 3 per Beer.

During test check of Duty Paid Register available with SE, Khordha and Goods Received Notes (GRNs) for the month of April 2011 of OSBC depots, Audit noticed (February and March 2013) that 1,09,200 BL of Beer and 2,52,210 LPL of IMFL were received at OSBC depots on and after 1 April 2011 against passes obtained from SE, Khordha and valid till 31 March 2011. Moreover, OSBC revised the issue prices of IMFL/Canned Beer with effect from 1 April 2011 and realised SED from retailer at revised rate applicable for 2011-12. However, neither OSBC deposited the differential SED nor did SE,

Khordha raise any demand for the same. This resulted in non-realisation of differential SED of ₹ 49.84 lakh.

After Audit pointed this out, SE, Khordha raised demand (March 2013) for the same which was yet to be realised (May 2013).

Audit reported the matter to EC, Odisha, Cuttack in May 2013 and Government in June 2013. The replies are awaited (April 2014).

5.3.3 Non-realisation of differential duty on IMFL from OSBC Ltd. due to revision of landing cost

Under clause 10(2) of the AEP for 2011-12, SED is levied on IMFL on the basis of the Landing Cost (LC) per case of any liquor brand at OSBC Depot based on slabs. As per procedure adopted for fixation of issue price, the LC of any brand is based on the offer price of the supplier.

During test check of the records of Price Fixation Committee (PFC) and the accounts of the OSBC available in SE, Khordha, Audit noticed (March 2013) that due to increase in offer price and landing cost, the applicable slabs for levy of SED were changed

and attracted higher rate of SED for four brands of IMFL with three different sizes and OSBC revised the issue price of these brands from 22 November 2011. While OSBC collected the enhanced rate of SED from the retailers on the closing stock of 17,733 LPL of IMFL as on 21 November 2011, which were procured at lower rate of SED, the differential SED of ₹ 3.55 lakh so collected

was not deposited to the Government account. The SE also did not take any action to realise the amount till the date of audit (March 2013).

After Audit pointed this out, SE, Khordha issued (March 2013) demand notice to the concerned unit.

Audit reported the matter to EC, Odisha, Cuttack in April 2013 and Government in May 2013. The replies are awaited (April 2014).

5.3.4 Irregularities in settlement of IMFL OFF shops resulted in loss of revenue

As per the existing provisions of Excise Laws², licence for the wholesale or retail vend of intoxicants may be granted by the Collector of the District for a financial year after inviting objection from public through notice in Form 'A' indicating the specified place for which the exclusive privilege is to be granted with wide publicity. After a shop is sanctioned by Government against the proposal of the Collector through the Excise Commissioner (EC), it shall be put to sale to the interested applicants by way of inviting applications and in case of more than one applicant through drawal of lottery. As per clause 22 (b) of the Annual Excise Policy (AEP) for 2010-11 and 2011-12 a non-refundable application fee of ₹ 10,000 and ₹ 25,000 respectively is to be deposited along with the application for the exclusive privilege. A shop, which has started operating in its sanctioned locality, shall not ordinarily be shifted within the financial year. Shifting of a sanctioned shop to any other site for any special reason shall be subject to the prior approval of the EC, Odisha. While proposing for shifting of a shop, the consideration money of the nearby shops may be taken into account.

During the test check of records of the EC, liquor shop settlement register and files, licence fee register of the District Excise Office (DEO), Rayagada, Audit noticed (December 2012 and February 2013) the following irregularities;

(A) One IMFL 'Off shop' was settled with a monthly consideration money (C money) of ₹ 35,000 in Mukundpur on 4 January 2011. However, without obtaining prior approval of the EC, the collector, based on the proposal of SE, permitted shifting of the shop to another GP area³ on the ground of public opposition and security problems. As per the prescribed procedure C money of the Shop at the new place should have been

fixed at ₹ 85,051 (2010-11) considering that of the nearby shop. Due to non-adoption of prescribed procedure revenue of ₹ 40.39 lakh towards C money and SED on applicable minimum guarantee quantity (MGQ) could not be earned.

It was also noticed that no dues certificate (NDC) from competent authority was not submitted by licensee while applying for the shop.

² Section 22, 26(A) and 38 (2) of Bihar and Odisha (B&OE) Act, 1915 read with Rule 31 of Odisha Excise Rules (OER) 1965, Rule 3 of the Odisha Excise (Exclusive Privilege) Foreign Liquor (OE, EP, FL) Rules, 1989 and paragraph 92 of Board's instruction and paras 3(v) and XI b of sale notice prescribed under Statutory Rules and Orders of 28 April 2005.

³ B.C Road of JK pur under Chandeli GP.

(B) The Collector, Rayagada submitted two proposals to the EC on 9 June 2011 for opening eight⁴ new IMFL 'OFF' shops with the monthly C. money of ₹ 35,000 each for GP area and ₹ 40,000 each for Municipal area respectively which was sanctioned by the Government on 18 July 2011 for the remaining period of 2011-12. On 3 August 2011, only after six days of getting license, (27 July 2011) the shops were shifted (20 October 2011) to new locations due to public objections. Audit noticed that

- proposal regarding location of the shop and C money were not called for from the charge officers (Sub Inspector of Excise) by the DEO;
- wide publicity was not given while settling the shop;
- prior approval was not obtained from the EC for shifting the shop. However, approval of EC was obtained in the same month and
- C money of the nearby shops were not considered for determining that for shops at the new location.

Due to non-adoption of C money of the nearby shops, ₹ 61.22 lakh in form of C money and SED on applicable MGQ could not be earned.

After Audit pointed this out, SE, Rayagada as well as EC, Odisha stated that detailed reply would be furnished after verification of records.

Audit reported the matter to EC, Odisha, in May 2013 and the Government in June 2013. Replies are not yet received (April 2014).

⁴ Bethiapada, Bhatpur, Dumurnelli plus Gurumguda, Ward No-1, Jayaramguda, Ward No.-23, Konda Tambiguda, Ward No.-14, Kotlaguda Ward No.-24, R.P. Office area and Ward No.-1.

5.3.5 State Excise Duty on spoilt Beer

As per Rule 39A (7) of the Board's Excise Rules (BER) 1965 if any stock of IMFL/Beer stored becomes unfit for human consumption, the licensee shall be liable to pay the SED along with fine equal to five times of the duty payable to the Government on the stock so spoiled. As per item No.10 of AEP 2011-12, the SED on Beer is ₹ 20 per BL. Further as per the liquor sourcing policy of OSBC Beer more than six months period from the date of manufacture shall be destroyed under the orders of the collector /EC depending on the quantity.

During scrutiny of records of District Excise Office (DEO), Bolangir (February 2013), relating to stock position of a Brewery, Audit noticed that 60,376 BL (7,740 cases) of Beer manufactured between 10 May and 8 August 2011 were lying in the brewery warehouse beyond six months from the date of manufacture. Neither the licensee nor the OIC posted in the brewery initiated any proposal for destruction of the stock due to

prolonged storage and also no chemical analysis was done to check its fitness for human consumption. Even after lapse of 15 months from date of its manufacture, Beer was not disposed and so Government revenue of ₹ 72.45 lakh was blocked towards SED (₹ 12.07 lakh) and penalty (₹ 60.38 lakh) for a period exceeding one year.

After Audit pointed this out, S.E Bolangir replied (February 2013) that EC was moved for destruction of Beer in November 2012 and his orders were awaited.

Audit reported the matter to EC, Odisha, Cuttack and Government in May 2013. The replies are awaited (April 2014).

5.3.6 Non-realisation of State Excise Duty on short lifting of MGQ of Country Spirit

As per Rules 6 and 6(A) of the Odisha Excise Exclusive Privilege (OE, EP) Rules, 1970, every successful bidder for CS shop shall, before obtaining Licences, guarantee the sale of MGQ of CS as fixed by the Collector of the district concerned. The Collector may permit the Licensee to lift the short drawn MGQ of a previous month in the subsequent month except for the month of February; whereas the EC can do so for any month up to the month of January by the end of February. The licensee shall remit the SED on CS in two equal installments into Government treasury. The Collector may insist on Bank Guarantee (BG) from any bidder upto the extent of Consideration money and SED against the MGQ for the entire year. As per Clause 20(b) of the AEP for 2011-12, SED at the rate of ₹ 20 per LPL is payable on CS. Deficit in payment of SED is to be adjusted from the BG.

During test check of MGQ return statements of two DEOs⁵, Audit noticed (February and April 2013) that 44⁶ CS shop licensees could not lift 3,62,143 LPL⁷ of CS against the monthly MGQ fixed for different months of 2011-12, resulting in non-realisation of SED of ₹ 72.43 lakh. Neither was SED deposited by the licensee on the shortfall quantity nor did SEs raise demand for realisation of the amount.

After Audit pointed this out, SE, Cuttack stated (March 2013) that necessary report would be submitted after proper verification of records and the SE, Khordha stated (April 2013) that the demand notices were being issued.

Audit reported the matter to EC, Odisha, Cuttack in May 2013 and Government in June 2013. The replies are awaited (April 2014).

⁵ Cuttack and Khordha.

⁶ DEO Cuttack (24 licensee) and DEO, Khordha (20 licensee).

⁷ Cuttack: 193027 LPL and Khordha: 169116 LPL.

5.3.7 Non-realisation of State Excise Duty on short lifted quantity of IMFL and Beer

As per Rule 6A of the Odisha Exclusive Privilege (Foreign Liquor), Rules, 1989, the licensee shall lift the monthly MGQ of liquor in respect of every FL ON/OFF* shop, failing which the licensee is liable to make good the loss of SED at the end of the year as per the prescribed rate of the AEP with fine of 10 per cent on the deficit SED. The minimum rate of SED on IMFL and Beer was fixed at ₹ 150 per LPL and ₹ 20 per BL respectively in the AEP for 2011-12.

During test check of MGQ registers and monthly statements on lifting of IMFL/Beer under three⁸ SEs, Audit noticed (between February and March 2013) that for the year 2011-12, eight licensees in different months short-lifted 6,725 LPL of IMFL and 9,879 BL of Beer against the monthly MGQ fixed for respective shops. This resulted in non-realisation of ₹ 12.06 lakh towards SED and fine of ₹ 1.21 lakh.

After Audit pointed this out, the SE, Khordha, issued the demand notice and the SE Rayagada, stated that final compliance would be submitted after verification of records. The SE, Mayurbhanj, stated that licence of the shop which was sealed with effect from August 2011 for selling of duplicate liquor was cancelled on 17 January 2013. However, the SEs are to keep track on lifting of MGQ and there is no provision for relaxation of the Rules in the event of sealing of shop.

Audit reported the matter to EC, Odisha, Cuttack and Government in June 2013. The replies are awaited (April 2014).

* 'ON' shop licence issued for consumption of liquor in the shop, where as 'OFF' shop is licenced to sale sealed bottles of intoxicant only.

⁸ Khordha, Mayurbhanj and Rayagada.

5.3.8 Non-realisation of Establishment cost and extra hour operation charges

i. Non-realisation of Extra hour operation charge and Overtime fee:

As per Rule 20 of BER 1965, all operations in a Distillery, Bottling Unit, Brewery which require the presence of an Excise officer shall be stopped on Sundays, other public holidays and specially declared holidays. As per the provisions of Rule 34 of BER, the production unit may function for the second shift with prior permission of the EC and additional staff shall be posted as determined by the EC. The cost of the Excise establishment shall be borne by the unit along with payment of Extra hour fee at the rate of ₹ 1,000 for each hour of operation beyond the scheduled hours in addition to the overtime fees payable to the excise staff at the rate of one seventh of a day's pay of the Officer-In-Charge (OIC) per extra hour of operation. The EC instructed the DEOs as early as in February 1989 and January 1990 for realisation of cost of establishment from the licencees of Foreign Liquor (FL) bonded warehouses including the warehouse of the FL manufacturers but did not include the distilleries in the order.

During test check of records relating to realisation of Government dues like Establishment cost, Extra hour fee, overtime fee etc. in two⁹ DEOs, Audit noticed (February and March 2013) that Government dues amounting to ₹ 31.14¹⁰ lakh remained unrealised till the dates of audit.

After Audit pointed this out, SE, Ganjam stated that demand for Extra hour/Overtime fee only had already been raised (April 2012), but the unit did not deposit the amount, and SE, Khordha, stated that demands for Establishment cost and Extra hour/Overtime fee were raised (March 2013). However, in all these cases, no amount was realised despite clear provision in the BER, 1965.

ii. Non-raising of demand for establishment cost:

From the files relating to reimbursement of establishment cost of DEO, Dhenkanal, Audit noticed (February 2013) that an

amount of ₹ 5.21 lakh was paid towards pay and allowance of two excise officials posted in a Distillery under the SE, Dhenkanal. But the amount was neither claimed by the SE nor reimbursed by the Distillery till the date of audit. Hence the amount remained unrealised. After Audit pointed this out, SE, Dhenkanal replied that suitable clarification in this regard was sought from the Excise Commissioner.

Audit reported the matter to EC, Odisha, Cuttack and Government in June 2013. The replies are awaited (April 2014).

⁹ Ganjam and Khordha.

¹⁰ ₹ 5.72 lakh as Establishment cost from five units of Distilleries/ Breweries, of ₹ 5.49 lakh as overtime fee from five units and ₹ 19.93 lakh for extra hour operation fee from Aska Co-operative Sugar Industries Ltd (ACSIL) under the DEO Ganjam.

5.3.9 Non/Short- realisation of Depot License Fee

As per the instructions at paragraph 154 of the BOR Odisha, the Licences and premises for sale of CS and FL should be separate. The OSBC has the exclusive right to carry on wholesale trade and distribution of CS from May 2001 onwards. As per AEP 2010-12, all depots established by OSBC will pay an amount of ₹ 5 lakhs each per annum towards depot licence fee (DLF). Separate Depot Licences for storing CS and IMFL are issued by the Collectors of the District concerned in different forms specified for the purpose.

During test check of Licence Registers and related records of four¹¹ SEs, Audit noticed (May 2011 February and March 2013) that Collectors of three districts¹², though issued two separate licences each, for storing CS and IMFL in form No. DW5 and FL1 respectively, for the year 2010-11 and 2011-12, realised DLF for one depot only. Collector, Sambalpur issued one license on realisation of DLF for one depot though two depots were functioning at two different premises situated at two different localities during 2011-12. Hence annual DLF was not collected from the OSBC in respect of three depots for 2010-11 and 2011-12 and for one depot¹³ for 2011-

12, which resulted in non/short-realisation of ₹ 35 lakh.

After Audit pointed this out, the SE, Khordha raised (March 2013) the demand. SE, Sambalpur and Balasore accepted the observation and agreed to realise the amount. The SE Cuttack, however, contended (April 2013) that the amount is not realisable as different licences were not issued to OSBC for sale of IMFL/Beer/CS. However, Audit found, separate licenses were issued and renewal endorsed in separate forms, warranting collection of DLF for both the depots at prescribed rates.

Audit reported the matter to EC, Odisha, Cuttack and Government in May and June 2013. The reply is awaited (April 2014).

¹¹ Balasore, Cuttack, Khordha and Sambalpur.

¹² Balasore, Cuttack and Khordha.

¹³ Sambalpur.

5.3.10 Non-realisation of Label Registration Fee on liquor stored/sold at OSBC godown

As per Rule 41A of BER 1965, FL manufactured in or imported into the State shall not be stored in a warehouse or issued for sale unless the brand names and labels are approved and permits are issued by EC, Odisha, on payment of the prescribed fees. The permit once issued shall remain valid until 31 March next. As per Section 4 of B&OE Act 1915, Beer is also treated as foreign liquor. As per the AEP for 2011-12, the minimum slab rate of Label Registration Fee (LRF) was fixed at ₹ 50,000. In the AEP the application fees at the rate of ₹ 20,000 per brand for Beer and ₹ 15,000 per brand of IMFL were prescribed. Further, as per the letter dated 26 March 1998 of BOR, renewal of brands and labels beyond February, but by end of March and beyond March attracts penalties of 50 per cent and 100 per cent respectively over the prescribed fees fixed by the Board.

During test check of records related to label registration, Annual stock taking report of one OSBC Depot at Nirgundi and relevant records in the Office of the EC, Audit noticed (December 2012) that during 2011-12 OSBC procured and stored 29 brands of IMFL/Beer for sale without registration of the brand name and labels which led to non-realisation of ₹ 33.20 lakh from the manufacturers towards application fee (₹ 4.90 lakh), LRF (₹ 14.15 lakh) and penalty (₹ 14.15 lakh) till the date of audit. The SE and the OIC posted at the depot did not notice this lapse and did not raise the demand.

After Audit pointed this out, EC stated (December 2012) that compliance would be furnished later.

Audit reported the matter to EC, Odisha, Cuttack in May 2013 and Government in June 2013. The replies

are awaited (April 2014).

5.3.11 Non-demand of Utilisation Fee on Molasses

As per Rule 6D of the Odisha Excise Exclusive Privilege (OE, EP) Rules, 1970 read with the AEP for 2011-12, for shortfall in utilisation of annual MGQ of Molasses fixed by Collector, the licensee is required to pay the Utilisation Fee (UF) on the quantity of shortfall at the rate of ₹ 130 per MT along with a fine of 15 per cent of the UF. In the event of non-payment of the dues, the licence is liable for cancellation and the amount is required to be realised as arrears of land revenue under the Odisha Public Demand Recovery (OPDR) Act, 1962.

During scrutiny of copies of the distillery licences, returns relating to utilisation of molasses and stock utilisation accounts of a licensee in SE, Ganjam, Audit noticed (January and February 2013) that the licensee had utilised 3,866 MT of molasses against the annual MGQ of 11,362 MT fixed for 2011-12. Thus, there was shortfall in utilisation of 7,496 MT of Molasses, for which ₹ 11.21 lakh was realisable towards UF (₹ 9.75 lakh) and fine (₹ 1.46 lakh). The amount was, however, neither demanded from the licensee nor was the licence cancelled till date of audit.

After Audit pointed this out, though SE replied (January 2013) that demand would be raised soon, no demand was raised (January 2014).

Audit reported the matter to the EC, Odisha, Cuttack in March 2013 and Government in May 2013. The replies are awaited (April 2014).

5.3.12 Non-realisation of revenue on trading of Molasses without obtaining Trading Licence

As per Section 20 of the B&OE Act, 1915, no intoxicant shall be sold except under the authority and subject to the terms and conditions of a licence granted by the Collector of the District. Molasses is an intoxicant as per Section 2 (12 (a)) of the above Act. As per Sl. 9 of the AEP for 2011-12, the application fee and license fee for trading on Molasses was fixed at ₹ 20,000 and ₹ 3 lakh respectively. The EDC is required to inspect the Sugar factories at least once in a year. In the event of unlawful import, export, transport, manufacture and sale etc. of Molasses penalty of ₹ 20,000 to ₹ 50,000 per case is leviable against the offender under Section 47 (g)(i) of the above Act.

During test check of records, (sale figures of licensees of molasses) in four¹⁴ SEs, Audit noticed (December 2012 to April 2013) that during 2011-12 four sugar factories sold molasses without obtaining licences. Hence application fee of ₹ 0.80 lakh and licence fee of ₹ 12 lakh was not realised. Besides this minimum penalty of ₹ 0.80 lakh is also leviable.

After Audit pointed this out SE, Bargarh and Ganjam agreed to realise the amount whereas SE, Cuttack admitted the fact. SE, Bolangir stated clarification from EC on the matter would be obtained.

Audit reported the matter to EC, Odisha, in May 2013 and Government in June 2013. The replies are awaited (April 2014).

¹⁴ Bargarh, Bolangir, Cuttack and Ganjam (Chattrapur).

5.3.13 Non-realisation of Transport Fee on Denatured Spirit

As per Section 17 of the B&OE Act, 1915, no intoxicant shall be removed from any Distillery, Brewery, Warehouse or other place of storage, unless SED and Transport Fee (TF) have been paid or bond executed for such payment. As per AEP for 2011-12, the TF on Denatured Spirit (DS) is realisable at ₹ 4 per BL. Further, as per Section 2 of the above Act 'Transport' means to remove from one place to another within the State and 'Place' includes building, house, shop, booth, vessel, raft, vehicle or tent. Licence for wholesale trading of DS are issued in Form DS-1 and that for retail sale in Form DS-2.

During test check of DS pass issue registers of two¹⁵ DEOs, Audit noticed (February and April 2013) that 929 passes for transportation of 2.34 lakh BL of DS were issued to DS-2 licensees without realisation of TF of ₹ 9.36 lakh.

After Audit pointed this out, SE, Khordha, raised the demand (March 2013). However, SE, Cuttack replied that TF was not realised as per instruction dated 10 July 2007 of EC. However, unlike SED, Transport Fee (TF) is leviable in the event of transportation of DS from one place to other on each occasion.

Audit reported the matter to EC, Odisha, Cuttack and Government in June 2013. The replies are awaited (April 2014).

5.3.14 Short-realisation of State Excise Duty on excess wastage of spirit

As per Rule 16 of the BER, 1965, the concerned SE shall take an account of the Distillers stock of spirit at least once in every quarter and the wastage upto a maximum 2 per cent of all spirits in the process of re-distillation shall be allowed. Rectified Spirit (RS) the raw material for foreign liquor is also categorised as 'foreign liquor' under Section 2 of B&OE Act. The minimum ED on IMFL as per the AEP for 2010-11 was fixed at the rate of ₹ 150 per LPL.

During test check of reprocessed stock statement of an IMFL distillery under SE, Khordha, Audit noticed (February and March 2013) that during the year 2010-11, the distillery reprocessed 83,132 LPL and obtained 70,240 LPL of IMFL. The differential quantity of 12,892 LPL was shown as processing loss against the admissible wastage of 1,663 LPL (2 per cent of quantity reprocessed). Thus, there was excess wastage of 11,229 LPL. However, against realisable SED of ₹ 16.84 lakh for the above excess wastage at the minimum rate of ₹ 150/LPL, the unit

paid ₹ 10.22 lakh only in March 2011. The balance SED of ₹ 6.62 lakh was not realised by the SE (March 2013).

After Audit pointed this out, SE, Khordha issued (March 2013) demand notice and stated that on receipt of collection report, final compliance would be furnished.

¹⁵ SE, Khordha and Cuttack.

Audit reported the matter to EC, Odisha, Cuttack and Government in May 2013. The replies are awaited (April 2014).

5.3.15 Non-realisation of composite Label Registration Fee and User Charges

As per the AEPs, the Retail Licensees have to annually register the labels of different brands of IMFL/Beer at the District level on payment of Composite LRF at the rate of ₹ 10,000 for each shop per annum. The licensees of IMFL/OS/CS shops were also required to pay a non-refundable User Charges (UC) of ₹ 5,000 per annum per shop.

During test check of Licence Fee (LF) Registers and Challan Registers of six¹⁶ SEs, Audit noticed (between February and April 2013) that 16 Military Canteens with retail licence to sell excisable goods did not pay the Composite LRF and UCs of ₹ 4.05 lakh. The DEOs concerned failed to notice this and did not raise the demand.

After Audit pointed this out, SE, Khordha raised (March 2013) demand and SE, Rayagada agreed (February 2013) to raise demand. SE, Balasore and

Bolangir stated, clarification on the matter would be obtained from EC/Government. SE, Jagatsinghpur stated, they would submit compliance after verification of records, whereas SE, Cuttack stated, they had issued notice to concerned units. Replies of SE Bolangir and Balasore are not acceptable as Military canteens are also licensees of retail shops where IMFL/Beer are sold and not being exempted by Government are required to deposit the above fees/charges.

Audit reported the matter to EC, Odisha, Cuttack and Government in June 2013. Their replies are awaited (April 2014).

¹⁶ Balasore, Bolangir, Cuttack, Jagatsinghpur, Khordha and Rayagada.

5.3.16 Short-realisation of Licence Fee from 'ON' Hotels

As per Clause 14 of the AEP for the year 2011-12, all the existing IMFL 'ON' licenses may be renewed for the year on payment of annual Licence Fee (LF) on fulfillment of other stipulated conditions including the MGQ fixed for them. Hotels situated in six major cities of the State including Bhubaneswar with lodging facilities are to pay annual licensee fee of ₹ 3.50 lakh with monthly MGQ of 100 LPL of IMFL and 300 BL of Beer. Three-star hotels and above are to pay annual LF of ₹ 3.00 lakh, with the monthly MGQ of 75 LPL of IMFL and 200 BL of Beer.

During test check of LF register of SE, Khordha, Audit noticed (February and March 2013) that five hotels situated in Bhubaneswar renewed their Licences for the year 2011-12 on payment of annual LF at the rate of ₹ 3 lakh instead of the applicable rate of ₹ 3.50 lakh. This resulted in short realisation of LF of ₹ 2.50 lakh.

After Audit pointed this out, SE, Khordha, issued a demand notice in March 2013.

Audit reported the matter to EC, Odisha, Cuttack in June 2013 and Government in June 2013. Their replies are awaited (April 2014).

5.3.17 Short-levy of Transport Fee on Mohua Flower

Rule 6C of the OE (EP) Rules, 1970 read with Rule 11 of the Odisha Excise Mohua Flower (MF) Rule 1976 and provision of Annual Excise Policies (AEPs) for 2010-12 provide for realisation of TF at the rate of ₹ 15 per quintal of MF and Utilisation Fee (UF) at prescribed rates against the MGQ of MF fixed by Collector of the district for lifting and utilisation in a financial year. The licensee has to pay TF in addition to UF on the entire MGQ of MF irrespective of its short lifting/ utilisation.

During test check of records of three¹⁷ SEs, Audit noticed between December 2012 and March 2013, that 163 outstill shops under their jurisdiction lifted and utilised 3.52 lakh quintal of MF against MGQ of six lakh quintal fixed for the years 2010-12. Thus there was shortfall of lifting and utilisation of 2.48 lakh quintal of MF. Though UF at the prescribed rates was realised on the entire MGQ, TF of

₹ 37.22 lakh remained un-realised on the short lifted quantity of MF.

After Audit pointed this out, SE, Bargarh and Sambalpur stated (December 2012 and March 2013) that demand notice would be issued for realisation of Government dues and SE, Bolangir (February 2013) stated that compliance would be submitted after verification of records.

Audit reported the matter to EC, Odisha, Cuttack and Government in May 2013. Their replies are awaited (April 2014).

¹⁷ Baragarh, Bolangir and Sambalpur.