

## CHAPTER-VI: STATE EXCISE

### 6.1 Tax administration

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

### 6.2 Trend of receipts

Receipts from state excise during the years from 2008-09 to 2012-13 along with the total tax receipts of the State during the same period have been exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage share of 3 in 6
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2008-09	2,025	2,169.90	(+) 144.90	(+) 7.16	14,943.75	14.52
2009-10	2,200	2,300.48	(+) 100.48	(+) 4.57	16,414.27	14.02
2010-11	2,460	2,861.41	(+) 401.41	(+) 16.32	20,758.12	13.78
2011-12	2,950	3,287.05	(+) 337.05	(+) 11.43	25,377.05	12.95
2012-13	3,850	3,987.83	(+) 137.83	(+) 3.58	30,502.65	13.07

Though in absolute terms, receipts of state excise have registered increase over the years, yet the percentage of revenue of State Excise Department to total tax revenue collection in the State has decreased when compared to the year 2008-09. During 2008-09, receipt of state excise accounted for 14.52 *per cent* of total tax revenue of the State, while in the year 2012-13, they accounted for 13.07 *per cent* of total tax receipts of the State.

### 6.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ₹ 219.12 crore, of which ₹ 203.36 crore were outstanding for more than five years. This indicates that the Department had not taken effective steps for recovery of arrears. The following table depicts the position of arrears of revenue

as on 31 March 2013:

(₹ in crore)

Year of arrear	Total arrears as on 1 April 2012*	Recovery during the year 2012-13	Recoveries outstanding as on 31 March, 2013
Upto 2007-08	205.14	1.78	203.36
2008-09	0.37	0.07	0.30
2009-10	0.28	0.03	0.25
2010-11	9.95	8.24	1.71
2011-12	19.74	6.24	13.50
<b>Total</b>	<b>235.48</b>	<b>16.36</b>	<b>219.12</b>

\* Includes additional demand due to Audit Paras, court cases etc. Some of these demands were pertaining to previous years but raised during the financial year 2012-13.

The chances of recovery of arrears of ₹ 203.36 crore outstanding for more than five years are bleak. It is recommended that the Government may take appropriate action for immediate recovery of the arrears.

#### 6.4 Cost of collection

The gross collection of the state excise receipts, expenditure incurred on collection of state excise revenue and the percentage of such expenditure to gross collection during the years 2008-09 to 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the same period are as follows:

(₹ in crore)

Sl. no.	Year	Gross collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage
1.	2008-09	2,169.90	64.46	2.97	3.66
2.	2009-10	2,300.48	85.74	3.73	3.64
3.	2010-11	2,861.45	87.45	3.06	3.05
4.	2011-12	3,287.05	82.92	2.52	2.98
5.	2012-13	3,987.73	82.66	2.07	NA

The percentage of expenditure on collection of state excise revenue to gross collection was lower than the all-India average percentage during the years 2008-09 and 2011-12, but was marginally higher during the years 2009-10 and 2010-11.

#### 6.5 Impact of Audit Reports

Cases of non-levy/short-levy, non-realisation/short-realisation, under assessment/loss of revenue, application of incorrect rate of tax, incorrect computation of tax *etc.* with revenue implication of ₹ 86.42 crore in 15 paragraphs were pointed out through the Audit Reports of the past five years. Of these, the Department/Government had fully/partly accepted audit observations in 11 paragraphs involving ₹ 6.14 crore and had since partly

recovered (December 2013) ₹ 3.38 crore in 8 paragraphs as shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Recovery	
	Number	Amount	Number	Amount	Number of paragraphs	Amount
2007-08	4	29.18	4	0.96	4	0.95
2008-09	4	45.44	2	0.42	2	0.42
2009-10	2	1.88	-	0.09	-	0.09
2010-11	1	7.91	1	2.67	1	1.85
2011-12	4	2.01	4	2.00	1	0.07
<b>Total</b>	<b>15</b>	<b>86.42</b>	<b>11</b>	<b>6.14</b>	<b>8</b>	<b>3.38</b>

The Department has recovered 55.05 per cent of the accepted amount.

The Government may issue instructions to the Department to recover the amount involved in the audit paragraphs on priority especially in those cases which have already been accepted by the Department.

## 6.6 Working of Internal Audit Wing

Financial Adviser is the head of the Internal Audit Wing in the State Excise Department. Two internal audit parties are working in the Department, each headed by an Assistant Accounts Officer. No audit plan showing units to be audited during the year was prepared by the Department. The position of last five years of internal audit was as under:

Year	Units pending for audit	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2008-09	77	40	117	29	88	75
2009-10	88	40	128	58	70	55
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15

It was also noticed that 937 paragraphs were outstanding at the end of 2012-13, of which 242 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	Total
<b>Paras</b>	242	74	98	222	301	-	<b>937</b>

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

The Government may consider strengthening the functioning of the Internal Audit Wing in order to take appropriate measures for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

Appropriate instructions may also be issued to the Department for taking prompt action on the reports of the Internal Audit Wing.

### 6.7 Results of Audit

Test check of the records of 20 units of the State Excise Department conducted during the year 2012-13 revealed non-recovery/short recovery/loss of excise duty and licence fee and other irregularities involving ₹ 20.15 crore in 1,151 cases which fall under the following categories:

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1.	Non-realisation/short realisation of excise duty and licence fee	569	14.31
2.	Loss of excise duty on account of excess wastage of liquor	162	4.95
3.	Other irregularities	420	0.89
<b>Total</b>		<b>1,151</b>	<b>20.15</b>

The Department accepted deficiencies in 891 cases involving ₹ 28.59 crore, of which 487 cases involving ₹ 6.03 crore had been pointed out in audit during 2012-13 and the rest in earlier years. The Department recovered ₹ 22.63 crore in 500 cases of which 102 cases involving ₹ 0.08 crore had been pointed out in audit during the year 2012-13 and the rest in earlier years.

In one case the Department recovered entire amount of ₹ 50.30 lakh after issue of draft paragraph to the Department and the Government.

A few illustrative audit observations involving ₹ 8.08 crore are mentioned in the succeeding paragraphs.

## 6.8 Functioning of Excise Preventive Force

### 6.8.1 Introduction

The most important task of the State Excise Department (Department) is to prevent offences committed under the Rajasthan Excise (RE) Act, 1950 and the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and the rules made thereunder. Excise Preventive Force (EPF) is responsible for prevention of illegal production and effective control over sale, storage and transportation of illicit liquor and intoxicating substances. The main functions of EPF includes patrolling, raids, planning and execution of joint operation with circle inspectors of the Department and police to prevent such illicit activities.

The EPF is under the overall control of Excise Commissioner (EC) who is assisted by Additional Excise Commissioner (EPF). The other important functionaries are Joint Excise Commissioner (EPF), Deputy Excise Commissioner (EPF), 8 Excise Officers (EOs) at 8 Zones<sup>1</sup>, 34 Assistant Excise Officers (AEOs) and 206 Patrolling Officers (POs). There are 150 EPF Stations and 30 check posts. All the EPF stations and check posts are assigned with 1 post of Jamadar and 10 posts of Constables/Drivers each.

### 6.8.2 Scope of Audit

Audit test checked records of 2010-12 pertaining to 52 EPF Stations coming under 17 AEOs and 7 Zones<sup>2</sup>. The test check was conducted with a view to ascertain the efficiency and efficacy of the EPF in controlling illegal production, sale, transport and storage of liquor and other intoxicating substances through patrolling, raids and detection of cases in accordance with RE Act 1950, NDPS Act, 1985 and rules made thereunder, Excise Manual and State Excise Policies.

### 6.8.3 Seizure of illicit intoxicating goods by EPF

Scrutiny of Administrative Reports of the Department disclosed that 1.24 lakh bottles of illicit liquor, 41.48 lakh litres of wash, 0.79 lakh litres of spirit, 7.41 lakh bottles of Indian Made Foreign Liquor (IMFL), 1.84 lakh bottles of country liquor (CL), 2.78 lakh bottles of beer and 35,709 kg of lanced poppy heads (LPH) were seized in excise raids conducted by POs and Excise

<sup>1</sup> Ajmer, Bharatpur, Bikaner, Jaipur Rural, Jaipur City, Jodhpur, Kota and Udaipur.

<sup>2</sup> **Ajmer Zone** – Ajmer (Ajmer South, Beawar and Kekri EPF Stations), Bhilwara (Bhilwara City, Bhilwara Rural and Mandalgarh EPF Stations) and Tonk (Tonk City, Devli and Malpura EPF Stations) districts.

**Bharatpur Zone** – Bharatpur (Bharatpur City, Bharatpur Rural, Deeg and kama EPF Stations), Dholpur (Badi and Dholpur City EPF Stations) and Karoli (Hindaun City, Kaila Devi, Karoli, and Toda Bheem EPF Stations) districts.

**Bikaner Zone** – Bikaner (Bikaner Rural, Lunkarnsar and Nokha EPF Stations), Hanumangarh (Hanumangarh, Nohar and Sangriya EPF Stations) and Shri Ganganagar (Anupgarh, Shri Ganganagar Rural and Shri Karanpur EPF Stations) districts.

**Jaipur City Zone** – Adarsh Nagar, Ashok Nagar and Mansarovar South EPF Stations.

**Jaipur Rural Zone** – Chomu, Dudu and Kotputli EPF Stations.

**Jodhpur Zone** – Jodhpur (Falodi, Jodhpur East and Jodhpur West EPF Stations) and Sirohi (Abu Road, Revdar and Sirohi EPF Stations) districts.

**Kota Zone** – Baran (Baran, Chhabra and Shahbad EPF Stations), Bundi (Bundi, Lakheri and Nainwa EPF Stations), Jhalawar (Bhawani Mandi, Eklara and Jhalawar EPF Stations) and Kota (Gumanpura, Nayapura and Ramganj Mandi EPF Stations) districts.

Inspectors during 2010-12. The seizure of huge quantity of wash and spirit by the Department indicated that there was high magnitude of illegal liquor distillation in the state.

It was also noticed that the State Police Department seized 2.39 lakh kg of LPH, 1,375 kg of opium and 95 kg of other intoxicating drugs during 2010 and 2011. Narcotics Control Bureau in its Annual Report 2011 stated that the drugs trafficking scenario in India was mainly because of diversion from licit sources and illicit production.

A similar paragraph on 'Receipts from Sale and Consumption of LPH' was featured in the Audit Report (State Receipts) for the year ended March 2012 concerning rampant illegal trafficking of LPH within the State.

Although the EPF's functions involved prevention of illicit distillation, smuggling, sale and storage of illicit liquor, opium and other intoxicating substances, yet it was not able to prevent such illicit activities. Some of the audit findings are mentioned in the succeeding paragraphs:

## **Audit findings**

### **6.8.4 Performance of EPF stations**

The Patrolling Officer (PO) is the incharge of an EPF Station and has to prevent smuggling and illegal cultivation of opium and hemp plants, and illicit distillation within his jurisdiction.

#### **6.8.4.1 Regular Patrolling by POs**

As per Para 23.7 of Excise Manual, PO of each EPF Station has to conduct minimum 15 tours per month during day time and 15 tours per month at night. Day to day activities of each movement of PO are recorded in the movement register maintained at each EPF Station with full particulars of the personnel, time of outward and inward movement, vehicle used and purpose of visit.

Test check of the movement registers and log book of vehicles for the years 2010-11 and 2011-12 of the selected EPF Stations disclosed that

- each PO had fulfilled the required norms of 15 days' patrolling during daytime but had not carried out 15 days of night patrolling. Though the entries of patrolling were made in the movement register, further activities done during patrolling were not recorded in the movement registers. In its absence, the possibility that entries were made in the movement register without conducting actual patrolling could not be ruled out.
- in three EPF Stations (Ajmer Rural, Kekri and Chhabra), 11 personnel who were on leave or absent from duty, were shown as part of the patrolling team in the movement registers on 50 occasions.

- vehicles of three EPF Stations (Ajmer Rural, Nohar and Sriganganagar) for which entries were made in movement registers were found to be non-operational or engaged for other purposes (as per the vehicle log book) on the dates of such patrolling.
- vehicles of two EPF Stations (Ajmer Rural and Sriganganagar) were shown to be used in patrolling in log books but no movement about such patrolling was found mentioned in the movement registers.
- three EPF stations of AEOs, Bikaner and Kota for the year 2011-12 had not conducted any patrolling during nine months even though required staff were posted at these EPF stations. Though the fact of non-conducting of patrolling was reported to the AEO and EO through monthly reports, no action was taken by the higher authorities to find out the reasons thereof.

The above findings clearly indicate that incorrect entries of patrolling were made in movement registers and vehicle log books to show that the staff were involved in patrolling and that the minimum prescribed mileage of the vehicles were covered. There was no control mechanism to check the correctness and genuineness of entries made in such records.

The Department may ensure that the movement registers and log books are verified on regular basis to ensure genuineness of the entries made in such records.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

#### **6.8.4.2 Improper maintenance of records**

As per Excise Commissioner's order dated 9 May 2011, each EPF station is required to maintain 11 registers (in proforma EPFC-1 to EPFC-11) and make necessary entries/take necessary action unfailingly. AEO and EO offices are also to keep 8 registers (in proforma EPFC-4 to EPFC-11) for each EPF station under their jurisdiction.

During test check of EPFC registers, it was noticed that except EPFC-1 and EPFC-2 registers, no registers were maintained in the prescribed manner at any of the selected EPF Stations, AEO and EO offices. It was noticed that most of the staff of EPF Stations were retired army men who were not provided any training regarding functioning of the EPF Station. As a result, most of the columns of EPFC proforma were found to be either blank or incorrect.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).



#### **6.8.4.3 Raids conducted by the POs of EPF Stations**

As per order issued (30 April 2009) by Director Enforcement (DE), each PO has to conduct minimum 20 raids per month in the sensitive/very sensitive areas and try to seize maximum IMFL/CL/illicit liquor.

- Test check of the movement registers of the selected EPF Stations disclosed that no distinction between patrolling and raids was made in the movement registers. The staff of EPF Stations treated patrolling and raids interchangeably and reported all entries made in the movement register as raids conducted by the EPF Station to higher authorities in monthly reports. There was no control mechanism to check the correctness and genuineness of entries made in movement register and monthly report submitted to higher authorities.
- The Department had identified and uploaded list of 265 sensitive places of production, collection and sale of illicit liquor in the State on its website. It was noticed that only 17 out of 809 registered cases in Kota Zone were detected in sensitive places during the period of two years. Further, not a single case was detected by the POs of two EPF Stations (Baran and Shahbad) of Baran district and two EPF Stations (Bundi and Nainwa) of Bundi district despite the fact that 6 villages in Baran and 12 villages in Bundi districts were identified by the Department as sensitive.

It was further noticed that the Department did not periodically update the list of sensitive places. The monthly reports indicated that regular patrolling was done in these identified sensitive areas and that no case was found regarding sale of illicit liquor. However, no effort was made by the Department to remove these areas from the list of sensitive places.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

#### **6.8.4.4 Case registration**

As per order (Sl. No. 4.9) dated 30 April 2009 of the Enforcement Director, State Excise, Rajasthan, each PO of EPF has to register 10 cases per month.

Further, as per orders dated 26 November 2010 of the EC Rajasthan, the cases registered in Excise Circles and EPF Stations are classified into two categories - ordinary report cases and special report (SR) cases. Seizures of intoxicating substances such as IMFL/CL/Illicit in excess of 50 litres and beer in excess of 96 bottles etc. are classified under SR cases.

As mentioned above, the EPF Stations did not carry out regular patrolling and raids which reflected poor performance of EPF Stations in detection and registration of cases of illicit liquor distillation, sale and smuggling of illicit liquor in the State. Audit findings are discussed in the succeeding paragraphs:



- The classification of cases registered and intoxicating substances seized in 16 EPF Stations under 5 AEO offices during the period 2010-12 is mentioned below:

Sl. No.	Name of AEO Offices (EPF Stations)	Seizure	Illicit / hathkad liquor	Possession of liquor more than prescribed quantity	Possession of liquor of other States	Wash/ Spirit/ Hemp	Breach of licence conditions
1	Bharatpur (4)	No. of cases	47	37	41	6	2
		Seized quantity	418.70 BL	3873.98 BL	363.00 BL	4200 BL wash & 2.6 kg hemp	-
2	Dholpur (2)	No. of cases	35	14	16	-	-
		Seized quantity	218.50 BL	117.57 BL	115.11 BL	-	-
3	Karoli (4)	No. of cases	3	24	17	-	2
		Seized quantity	16.00 BL	1341.30 BL	217.39 BL	-	-
4	Jaipur City (3)	No. of cases	398	46	64	-	1
		Seized quantity	2031.50 BL	8058.59 BL	20375.61 BL	-	-
5	Jaipur Rural (3)	No. of cases	156	55	62	3	5
		Seized quantity	667.75 BL	4511.43 BL	43877.04 BL	48.5 ton wash & 10800 BL spirit	-
	<b>Total (16 EPF Stations)</b>	<b>No. of cases</b>	<b>639</b>	<b>176</b>	<b>200</b>	<b>9</b>	<b>10</b>
		<b>Seized quantity</b>	<b>3352.45 BL</b>	<b>17902.87 BL</b>	<b>64948.15 BL</b>	<b>52.7 ton wash 10,800 BL spirit &amp; 2.6 kg hemp</b>	<b>-</b>
	<b>Percentage</b>	<b>No. of cases</b>	<b>61.80</b>	<b>17.02</b>	<b>19.34</b>	<b>0.87</b>	<b>0.97</b>
		<b>Seized quantity</b>	<b>3.89</b>	<b>20.77</b>	<b>75.34</b>	<b>-</b>	<b>-</b>

The table above shows that number of cases registered under illicit liquor was the highest (61.80 percent of the total cases) whereas quantity seized in such cases was very low (3.89 percent of the total seizure).

- Analysis of cases registered at the selected EPF Stations disclosed that almost 80 *per cent* of cases registered by these stations pertained to possession and sale of illicit liquor. The remaining cases were of sale of liquor of other states.
- The POs of only four EPF Stations<sup>3</sup> could achieve their targets of detection and registration of cases i.e. 120 cases per year. Further, even one case per month was not detected in 9 EPF Stations<sup>4</sup> during 2010-11 and in 12 EPF Stations<sup>5</sup> during 2011-12. Further, not a single case was detected at Eklara EPF Station during 2010-11.

<sup>3</sup> Hanumangarh, Sangriya, Abu Road and Mansarovar South EPF Stations during 2010-11; Hanumangarh, Anupgarh, Abu Road and Mansarovar South EPF Stations during 2011-12.

<sup>4</sup> Revdar, Baran, Lakheri, Dholpur City, Kama, Karoli, Kaila Devi, Hindaun City and Toda Bheem EPF Stations.

<sup>5</sup> Bikaner Rural, Lunkansar, Revdar, Baran, Shahbad, Nainwa, Lakheri, Eklara, Kama, Kaila Devi, Hindaun City and Toda Bheem EPF Stations.

- From scrutiny of the FIR (first investigation report) files maintained at AEO Bikaner, it was noticed that 11 FIRs of four EPF Stations (Bikaner Rural-5, Khajuwala-1, Lunkaransar-4 and Nokha-1) were submitted without signature of POs and the same were accepted by AEO, Bikaner. It shows that FIRs were prepared in a casual manner and the same were accepted by AEO without checking.
- In comparison to total cases registered during the period 2010-12, percentage of SR cases ranged between 1.64 and 13.88 *per cent* as detailed below:

Name and no. of selected			No. of total registered cases	No. of SR cases	Percentage of SR cases
Zones	AEO Office	EPF Stations			
Ajmer	3	9	1050	18	1.71
Bharatpur	3	10	244	4	1.64
Bikaner	3	9	1384	77	5.56
Jaipur City	1	3	509	16	3.14
Jaipur Rural	1	3	281	39	13.88
Jodhpur	2	6	821	68	8.28
Kota	4	12	809	20	2.47
<b>Total</b>	<b>17</b>	<b>52</b>	<b>5,098</b>	<b>242</b>	<b>4.75</b>

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

#### 6.8.4.5 Follow up of cases

As per Section 67(2) of RE Act 1950, no cognizance shall be taken by the Magistrate after expiry of one year from the date of alleged commission of offence under this Act except with the special sanction of the State Government. According to Section 173(2) of Criminal Procedure Code (CrPC), report of police officer on completion of investigation is to be forwarded to the Magistrate empowered to take cognizance of the offence.

Under Section 173(8) of CrPC, nothing shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate. If the officer incharge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence.

Director Enforcement issued (25 May 2009) instructions to all EPF Officers to complete further investigation of pending SR cases in which permission had been granted under Section 173(8) of CrPC to arrest the culprits.

During test check of 'Abhiyog Registers' and files pertaining to registered cases of selected EPF Stations, it was noticed that the cases were prepared in a

routine manner without conducting in-depth investigation. As already pointed out in para 6.8.4.4, maximum number of cases were registered for possession of very low quantity of illicit liquor/*hathkad* liquor.

The files pertaining to registered cases pending before court were not made available to audit. Scrutiny of 20 case files wherein the decision of judicial magistrate had been given in four AEO offices (Bharatpur-8, Dholpur-3, Jaipur Rural-5 and Jaipur City-4) disclosed that EPF officials did not make any enquiry to find out the source of supply of such liquor to culprits and the investigation reports ended merely with the conclusion regarding possession of illicit liquor/ *hathkad* liquor by the accused. In a majority of registered cases seizure was always very low in quantity. These cases were decided by the judicial magistrate after acceptance of crime by the accused on payment of prosecution cost ranging between ₹ 200 and ₹ 5,000 and allowing the benefit of Sections 4 and 5 of the Indian Offenders and Probation Act, 1958 under probation for a period ranging between one and three years on production of *Jamanat* or *Muchlka* of ₹ 5,000 to ₹ 10,000 according to gravity of cases. Cases pending for final decision in five AEO offices at the end of year 2012 is summarised below:

Name of AEO Offices	Bharatpur	Dholpur	Karoli	Jaipur City	Jaipur Rural
No. of cases pending for final decision	181	122	107	2,694	448

It was further noticed that 27 cases registered during 2007-08 to 2011-12 were pending under Section 173(8) of CrPC in EPF Stations of five AEO offices (Ajmer-16, Baran-2, Bhilwara-2, Jhalawar-4 and Sriganganagar-3) wherein the report of enquiry officer on completion of investigation was submitted in courts under Section 173(2) of CrPC and permission to keep the cases open for further enquiry/collection evidences was obtained from higher authorities. However, further investigation was not carried out by enquiry officers in these cases even after a lapse of one to five years.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

The officials of EPF may conduct enquiries to locate the source of supply of illegal liquor to alleged offenders.

#### 6.8.4.6 Check posts

The Department established 30 temporary check posts in form of tents at various entry points/border areas of the State for prevention of illegal trafficking of intoxicating substances. However, it was noticed that though the State borders were connected through different routes, these temporary structures remained static. There were no records either at check posts or PO/AEO offices to show that regular patrolling/nakabandi was done at different routes other than where the check posts were located.

During test check of records of 12 check posts under the selected units, it was noticed that only attendance register of the personnel was being maintained. No other records such as register for entering the details of vehicles with

intoxicating substances passing through check posts, register of movement of personnel, register of visit of concerned PO at check posts, register of inspection of check posts by higher authorities etc. were found maintained. In the absence of such records, audit was not in a position to make any detailed comment on the functioning of check posts.

It was also noticed that 241 cases in 2010-11 and 165 cases in 2011-12 of possession of illegal liquor from other states were registered in selected EPF stations which showed that supply of liquor from other states was available all over the state by evading the check posts, EPF Stations, excise circle offices, police stations etc. This indicates that the staff at check posts as well as EPF stations had very little control over smuggling or the information network of the EPF was deficient. No monitoring mechanism was put in place to evaluate and examine the performance of check posts.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

#### **6.8.4.7 Manpower constraints at EPF stations**

On scrutiny of sanctioned and working strength of POs at 141 working EPF Stations of the State during 2011-12, it was noticed that only 23 POs of the Department were posted whereas 44 POs were taken on deputation from Police Department and additional charge of remaining 74 POs were allotted to POs or Excise Inspectors of nearby Stations along with their regular charge as detailed below:

During the year 2011-12	No. of EPF Stations	No. of EPF Stations where POs posted			No. of EPF Stations working without POs or with additional charge
		EPF	Police	Total	
Total working EPF Stations in the State	141	23	44	67	74
EPF Stations selected for audit	52	10	14	24	28

In the absence of posting of regular POs at EPF Stations, the work of patrolling and raids suffered heavily. It was noticed that registration of cases in EPF Stations where no PO was posted was negligible and the staff posted at such EPF Stations remained idle and without proper powers/guidance.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

#### **6.8.4.8 Inadequate training of EPF personnel**

Specific training regarding RE Act/Rules, CrPC, Indian Penal Code, NDPS Act/Rules etc. was necessary for EPF staff. During scrutiny of budget allotment and expenditure statements of Enforcement Directorate and EC Office, it was noticed that no allotment under training head was made by Director, Enforcement/EC, Rajasthan from 2005-06 to 2011-12. In the years 2008-09 and 2009-10, ₹ 1,000 each which was allotted for training was not utilised.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

### 6.8.5 Poor monitoring by AEO/EO of EPF Stations

Work evaluation was not done by higher authorities despite availability of daily and monthly reports regarding activities of each EPF station. It was noticed that monthly reports were prepared in a routine manner and were transmitted from EPF stations to the AE office onward to Zonal office and finally to the EC office. No analysis was done on these reports. No action was found to be taken by the concerned AEO/EO to find out the reasons for non-fulfilment of norms.

Quarterly inspection of each EPF Station by EOs and monthly inspections by AEOs were required to be conducted as per instructions issued by EC in May 2011. Further, as per order dated 7 May 2010 of EC, Rajasthan, Additional Commissioners (AC), Excise Zones were required to inspect the AE Office annually and 25 *per cent* of EPF Stations under their jurisdiction. However, it was noticed that out of 17 AE offices and 52 EPF stations, following inspections were conducted during 2011-12:

Sl. No.	Inspection conducted by	AE offices		EPF stations	
		No. of inspections required as per norms	No. of inspections actually conducted	No. of inspections required as per norms	No. of inspections actually conducted
1	ACs	17	8	13	24
2	EOs	17	Nil	208	6 <sup>6</sup>
3	AEOs	-	-	624	8 <sup>7</sup>

It would be seen from the above that as against target of 208 and 624 inspections of EPF stations during 2011-12, EOs and AEOs conducted only 6 and 8 inspections respectively. Further, 9 AE offices remained uninspected during the year 2011-12.

It was also noticed that registers maintained at EPF Stations were not inspected monthly/quarterly by AEO/EOs though they were to be inspected monthly by AEO and quarterly by EO concerned and inspection note in this regard was to be recorded in EPFC registers.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

<sup>6</sup> Ajmer Rural, Kekri, Beawar, Baran, Jhalawar and Nokha EPF Stations.

<sup>7</sup> Ajmer Rural, Abu Road, Bhilwara City, Jodhpur Rural, Falodi, Bhawani Mandi, Dudu and Kotputli EPF Stations.

### 6.8.6 Lack of coordination between EPF Stations and Police Department

As per Excise Manual 1988, it is essential that the officers of the Police and Excise Department should work in tandem in the detection and investigation of excise and opium offences.

Further the State Government issued work plan by order dated 23 December 2008, which was also effective during 2009-10 and 2010-11, to ensure regular strict action against trade of illicit liquor and intoxicating drugs in the State. The theme of execution of the work plan was to develop cooperation among the officers of police, EPF and Excise. According to the work plan of the State Government, incharge of police station, competent officers of EPF and Excise Inspectors had to organise two joint meetings on first and third Wednesday of each month and plan a coordinated action. Point-wise minutes of such meetings were to be furnished to concerned district excise officers (DEOs), POs and police circle officers. DEOs and EOs EPF of each district have to review the report, received from the incharge of police station, on last working day of each month.

During test check of the records of selected EPF stations, it was noticed that no system was evolved in EPF stations to share or exchange the information regarding habitual culprits and suspected places of illicit liquor with police and excise circle offices for the purpose of joint activities or raids in sensitive areas. No information or minutes regarding above meetings were found maintained at EPF stations.

As a result, both the agencies worked separately for the same goal. The number of Excise offences registered by the Police Department in the State was much higher than that of EPF stations which puts a question mark on the efficacy of the functioning of EPF stations. The table below shows the number of cases registered against violation of the RE/NDPS Acts and Rules in the State during calendar year from 2007 to 2012:

	2007	2008	2009	2010	2011	2012
No. of cases registered by the Police Department	10,134	11,473	13,331	12,852	13,532	14,026
No. of cases registered by the EPF Stations	5,970	7,577	7,131	7,009	7,439	11,076 <sup>8</sup>

It is clear from the above table that the Police Department was more active in the detection and registration of cases whereas the EPF stations performed poorly. The following table further shows the comparative position of cases registered in 13 EPF Stations of four AE offices and Police Stations

<sup>8</sup> Includes cases registered in Circle Offices of the Department.

in the same jurisdiction during the period 2010-12:

Sl. No.	Name of AEO office	No. of EPF Stations selected	No. of registered cases during 2010-12	
			At EPF Stations	At Police Stations
1	Bharatpur	4	133	696
2	Dholpur	2	65	352
3	Karoli	4	46	98
4	Jaipur City	3	509	782
	<b>Total</b>	<b>13</b>	<b>753</b>	<b>1,928</b>

The registration of high number of cases in the State through Police and the EPF Stations every year indicates that there was wide network of illegal trafficking of liquor and other intoxicating substances in the State which the Department had failed to control.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

The Department may evolve a mechanism to share or exchange information with the Police Department for effective control of excise offences.

#### 6.8.7 Navjeevan Yojana

As per the Excise and Temperance Policy 2009-10, the State Government launched (25 May 2010) a scheme 'Navjeevan Yojana' for social and economic rehabilitation of the families/communities of rural and suburban area of the State who were traditionally engaged in manufacturing and selling of illicit liquor. The Government decided to spend one *per cent* of excise revenue through the scheme 'Navjeevan Yojana' for rehabilitation of such families who were not withdrawing themselves from the trade of illicit liquor despite taking legal action against them. This scheme was to be executed by 'Social Justice and Empowerment Department' (SJED) from 2011-12.

Scrutiny of cases registered during 2010-12 at Jaipur South EPF Station disclosed that 233 cases (out of 270 cases) related to illicit liquor of which 185 cases were registered against women of a particular community traditionally engaged in manufacturing and selling of illicit liquor. It was also seen that maximum cases were registered against women (185 cases) and some of them were already booked in more than two to six cases each. However, it was seen that the EPF stations had not forwarded their names for their rehabilitation by SJED. The

EPF Station also did not make any effort for prevention of repeated involvement of people/community in manufacture and sale of illicit liquor.



It was also seen that though the scheme envisaged budget provision of one *per cent* of excise revenue for 'Navjeevan Yojana', the Department provided only ₹ 18.71 crore against the targeted provision of ₹ 54.10 crore during 2010-12. Further scrutiny revealed that out of ₹ 18.71 crore, only ₹ 7.98 crore was utilised.

Further, no person was allowed benefit under the scheme in 18 out of 34 AEOs during 2011-12. Details of benefit provided to people/community involved in manufacture and sale of illicit liquor were not provided to audit by SJED.

The matter was brought to notice of the Department and reported to the Government (November 2013 and January 2014), their reply is awaited (February 2014).

The EPF stations may forward the names of the persons who are traditionally involved in the trade of illicit liquor to the SJED for their rehabilitation under the scheme.

#### **6.8.8 Conclusion**

It was noticed that the staff of EPF Stations treated patrolling and raids interchangeably and reported all entries made in the movement register as raids conducted by the EPF Station to higher authorities. Inaccurate entries of raids in movement registers and log books were made and there was no control mechanism to check the correctness and genuineness of entries made in such records. POs of selected 48 EPF Stations (out of 52) could not achieve their targets of detection and registration of the cases i.e. 120 cases per year. The performance of EPF stations regarding SR cases was dismal and the percentage of SR cases ranged between 1.64 to 13.88 per cent in comparison to total cases registered during the period 2010-12. Thus, most of the cases registered at EPF Stations were ordinary report cases with nominal quantity of seizure. The Department did not periodically examine the list of sensitive places of production, collection and sale of illicit liquor in the State to ensure that they indeed continued to be sensitive. The enquiry officers did not complete investigation even after lapse of one to five years. There was no control mechanism to evaluate the performance of check posts. There was no system in place in EPF stations to share or exchange information regarding habitual culprits and suspected places of illicit liquor with State Police Department.

There was high magnitude of illicit distillation and sale of illicit liquor, smuggling of opium, LPH and other intoxicating substances and the EPF failed to effectively discharge its functions.

### **6.9 Other Audit observations**

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

### **6.10 Non-observance of the provisions of Act/Rules**

*The Rajasthan Excise Act and Rules provide for:*

- (a) levy of brand fee at the prescribed rate;*
- (b) levy of special vend fee at the prescribed rate; and*
- (c) levy of excise duty on beer not delivered at the destination.*

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

### 6.10.1 Non-recovery of brand fee

As per Rule 3(2) of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licences) Rules, 1982, annual brand fee of ₹ 50,000 per brand shall be charged before import by wholesaler from units not having bonded warehouse in Rajasthan. Further, notification no. F.4(85) FD/Ex/2003 dated 19 February 2004 (effective from 1 April 2004), exempts wholesale licensees of IMFL and beer from payment of brand fee in excess of ₹ 10,000 of wine, ready to drink (RTD) liquor and foreign liquor bottled in other country (popularly known as Bottled-In-Origin or BIO).

During scrutiny of 1,002 permits, issued by District Excise Officer (DEO), Jaipur City to M/s Rajasthan State Beverage Corporation Limited (RSBCL), for brands of IMFL/beer/wine/BIO imported from other States during 2011-12, it was noticed (December 2012 and October 2013) that M/s RSBCL which was having individual licence for wholesale vend of IMFL/beer/wine/RTD/BIO, imported 56 brands of IMFL/beer and 102 brands of wine/BIO for its various depots from other States during the year 2011-12. The

Department did not charge the brand fee of ₹ 28.00 lakh on IMFL/beer and ₹ 10.20 lakh on wine/BIO.

When it was pointed out (between January and November 2013), the Government stated (February 2014) that the brand fee was being recovered as per provisions under Rule 69(3) of the Rajasthan Excise Rules, 1956. The reply further stated that confusion had arisen because Rule 3(2) of Rajasthan Foreign Liquor Rules, 1982 was not deleted so far and that the deletion of the said Rule is under consideration of the Government.

The fact, however, remains that Rule 3(2) of the Rajasthan Foreign Liquor (Grant of Wholesale Trade and Retail off Licences) Rules, 1982 was in force during the period and as such brand fee of ₹ 38.20 lakh was leviable and recoverable.

### 6.10.2 Non-levy of special vend fee

As per sub-rule (6) (inserted with effect from 1 April 2011) of Rule 69 of the Rajasthan Excise (Amendment) Rules, 2011 retail off sale of Indian made foreign liquor (IMFL) and Indian made beer attract levy of special vend fee (SVF) at the rates of ₹ 10 and ₹ 5 per bulk litre (BL) respectively.

During test check of records of District Excise Officers (DEO), Jaipur City and Bikaner, it was noticed (between August and December 2012) that wholesale depots of Canteen Store Department (CSD) located at Jaipur and Bikaner sold 67.98 lakh BL IMFL and

6.88 lakh BL beer to its retail off licensees (unit run canteens) in the State during the year 2011-12. However, SVF of ₹ 6.80 crore on IMFL and

₹ 0.34 crore on beer was neither deposited by the CSD nor demanded by the Department. This resulted in non-levy of SVF amounting to ₹ 7.14 crore.

The matter was brought to notice of the Department and the Government (between September 2012 and October 2013). The Department stated (October 2013) that recovery was being made regularly since 5 November 2012 and the matter relating to recovery of previous period was under examination. Further development was awaited (February 2014).

### **6.10.3 Non-levy of excise duty on beer not delivered at the destination**

Rule 41 of the Rajasthan Brewery Rules, 1972 provides that no beer shall be removed from a brewery until the duty imposed under Section 28 of the Rajasthan Excise Act, 1950 has been paid or until a bond under Section 18 of the Act has been executed by the brewer for export of beer outside the State. Condition no. (2) of the bond provides that if the quantity of beer mentioned in the bond has not been delivered at the destination, the brewer is liable to pay for any loss of duty which the Government may suffer by reason of such non-delivery or short delivery and will have to pay on demand the duty at the rate in force.

During scrutiny of records of five breweries<sup>9</sup> for the period 2010-11 and 2011-12 under DEOs Alwar and Behror, it was noticed that during export of beer outside the State under bond, 1.32 lakh BL (16,233 cartons) beer involving excise duty of ₹ 55.27 lakh were not delivered at the destination. Neither was the duty paid by the brewers nor was it demanded by the Department. This resulted in non-levy of state excise duty of ₹ 55.27 lakh.

After it was pointed out (between October 2012 and October 2013), the Department stated (December 2013) that ₹ 22.30 lakh had been recovered and action had been initiated for recovery of the remaining amount.

<sup>9</sup> M/s Carlsberg India Pvt. Ltd. Alwar, M/s United Breweries Ltd. Bhiwadi, M/s Rochees Breweries Ltd. Neemrana, M/s Mount Shivalik India Pvt. Ltd. Behror and M/s Deewan Modern Breweries Ltd. Behror.