

***CHAPTER III***

***STATE EXCISE  
DUTIES***

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### 3.1 Tax administration

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

### 3.2 Internal audit

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

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

### 3.3 Results of Audit

Test check of records of 20 offices of Prohibition and Excise Department conducted during the year 2013-14 revealed non levy/short realisation of fees and other irregularities involving ₹ 5.18 crore in 57 cases which fall under the following categories:

| (₹ in crore) |  |              |             |
|--------------|--|--------------|-------------|
| Sl. No.      | Category   | No. of cases | Amount      |
| 1.           | Non-levy of Additional Licence Fee                           | 8            | 1.05        |
| 2.           | Non/Short levy of interest on belated payment of licence fee | 15           | 0.30        |
| 3.           | Non disposal of A4 shops                                     | 1            | 2.60        |
| 4.           | Non-levy and collection permit room licence fee              | 7            | 0.40        |
| 5.           | Short collection of licence fee                              | 4            | 0.74        |
| 6.           | Non collection of Professions tax                            | 13           | 0.05        |
| 7.           | Other irregularities   | 9            | 0.04        |
| <b>Total</b> |  | <b>57</b>    | <b>5.18</b> |

During the year 2013-14 the department accepted under assessment and other deficiencies of ₹ 1.04 crore in 15 cases of which, five cases involving ₹ 35 lakh were pointed out during the year 2013-14 and the rest in earlier years. An amount of ₹ 64.74 lakh was recovered in four cases during the year 2013-14. A few illustrative cases involving ₹ 91.90 lakh are mentioned in the succeeding paragraphs.

### **3.4 Non-levy of Additional Licence Fee (ALF) on non-contiguous additional enclosures**

As per Section 28 of the Andhra Pradesh (AP) Excise Act, 1968, read with Rule 10 of AP Excise (Grant of licence of selling by bar and conditions of licence) Rules, 2005, any additional enclosure for consumption of liquor, which is not contiguous, shall attract ALF at 10 *per cent* of the annual licence fee.

In terms of explanation given below the Rule 10, the word 'enclosure' means an area of consumption of liquor which is contiguous in utility for consumption. If one consumption enclosure is separated from another enclosure by non-contiguity and interposition of areas of different utilities other than consumption of liquor, it attracts ALF. The Commissioner clarified<sup>100</sup> that parking area between two consumption halls also amounts to non-contiguity.

During test check of the records of six offices<sup>101</sup> of Prohibition & Excise Superintendent (P&ES), and physical verification conducted by audit and excise authorities jointly, of premises of bars and restaurants, it was noticed (between July 2013 and February 2014) that these P&ESs did not levy ALF amounting to ₹ 55.00 lakh for the years 2011-12 and 2012-13 in respect of non-contiguous consumption enclosures of eight bars and restaurants.

Commissioner replied (April 2014) in five cases<sup>102</sup> that notices were issued to licensees for payment of ALF of ₹ 35 lakh. In one case in respect of (P&ES), Tenali, Commissioner replied (November 2013) that three consumption halls in first portion were separated by consumption halls in rear portion and all of them were in contiguity. The reply was not tenable as the layout plan indicated that consumption enclosures were separated by parking area and a passage leading to a separate exit point which amounts to non-contiguity as per Commissioner's clarification. In respect of one case, P&ES Kakinada contended that the consumption halls were under one roof and hence were contiguous. Reply was not tenable since two consumption halls were separated by a lobby and a separate entrance was provided for each which made them non-contiguous. P&ES Kurnool contended (September 2014) that the three consumption enclosures including the one with ACC roof sheets are in contiguity and there was no other utility between these consumption enclosures and therefore do not attract any ALF. The reply is not tenable as the third consumption enclosure is facing separate entrance and there is a clear gap separating this from the other two consumption enclosures and therefore non-contiguous.

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<sup>100</sup> Proceedings Cr.No.10084/2009/CPE/73 dt 17 September 2013.

<sup>101</sup> Bheemavaram, Kakinada, Kurnool, Nalgonda, Ongole and Tenali.

<sup>102</sup> P&ES, Bhimavaram, Nalgonda, Ongole and Kakinada.

The matter was referred to the department in May 2014, their reply has not been received (November 2014).

### **3.5 Non-levy / Short realisation of permit room<sup>103</sup> licence fee**

As per Section 28 of the AP Excise Act, 1968, read with Rule 27-A of AP Excise (Lease of Right of Selling by Shop and conditions of licence) Rules, 2005, the holder of the licence (in form A-4) may be granted a Permit Room Licence (in form A-4 (B)) after payment of Licence Fee of ₹ two lakh which is valid for a period of two years. From the period 2012-13 onwards, the permit room licence fee for a year or part thereof shall be ₹ one lakh and is payable in lump sum.

During test check of the records of four offices<sup>104</sup> of P&ESs Audit noticed (between December 2013 and March 2014) that in respect of 21 out of 25 A-4 shops, for the year 2012-13, the P&ESs did not levy the licence fee of A-4(B) licences amounting to ₹ 21 lakh. In the other four cases, for the year 2010-12, licence fee of ₹ 3.5 lakh was short-collected resulting in short-realisation of licence fee of ₹ 24.49 lakh.

After Audit pointed out these cases, the Commissioner of P&E, in respect of P&ES Mancherial and P&ES Kothagudem replied (October 2014) in respect of seven cases of non-levy of ₹ seven lakh that licence fee would be collected. In the remaining 18 cases, P&ESs replied (between December 2013 and March 2014) that the matter would be examined and final reply sent in due course.

The matter was referred to the department in May 2014. Their reply is awaited (November 2014).

### **3.6 Non-levy of interest on belated payment of licence fee**

Rule 16(3) of the AP Excise (Grant of licence of selling by shop and conditions of licence) Rules, 2012 provides that the applicants selected for grant of A-4 licence who opt to pay the licence fee in instalments, shall pay a sum equal to 1/3rd of the balance amount as first instalment on the day of selection or the succeeding working day. However, the permit room licence (A-4 (B) licence) fee of ₹ one lakh shall be payable in one lump at the time of completing the formalities for grant of licence.

As per Rule 3 of AP Excise (Levy of Interest on Government Dues) Rules, 1982, (APELIGD Rules) the arrears of money recoverable shall bear interest at the rate of 18 per cent per annum.

Audit noticed (between November 2013 and April 2014) during test check of four P&ES offices<sup>105</sup> that though 373 licence holders paid licence fee (for A-4 and A-4(B) licences) with delays ranging from one month to seven months during the period from June 2012 to December 2012, P&ESs did not levy any

<sup>103</sup> Permit room is an authorised consumption premises allowed to the customers of A4 shop licensee.

<sup>104</sup> Kothagudem, Machilipatnam, Mancherial and Rajahmundry.

<sup>105</sup> Eluru, Machilipatnam, Narasaraopet, and Tirupati.

interest on the belated payments. This resulted in non-levy of interest amounting to ₹ 12.41 lakh.

After being pointed out, P&ES Eluru replied that it was nowhere mentioned in the Rules that penal interest should be collected for belated payment. Licence fee was collected as and when they had applied for permit room and hence the question of penal interest does not arise. However, all payments which are not made by the due date are arrears and attract interest as per Rule 3 of APELIGD Rules. Further, from 2012-13 onwards, licence fee for A-4(B) licence was also due on the date of grant of A-4 licence. Remaining offices replied that the matter would be examined and after collection of penal interest reply would be submitted.

The matter was referred to the department in June 2014. Their reply has not been received (November 2014).