

CHAPTER-III

***STATE EXCISE
DUTIES***

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3.1 Tax administration

The Prohibition and Excise Department is governed by the Telangana Excise Act, 1968¹⁰⁷. 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 the Act. He is assisted by Director of Enforcement for implementation of the Act. The ten districts of the State, each headed by a Deputy Commissioner (DC), are classified under 24 excise districts. Each of the excise district 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 10 Deputy Commissioners and 12 Assistant Commissioners supervise the overall functioning of the offices of Excise Superintendents.

3.2 Internal audit

Internal audit is an important mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. 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 (10)/ Assistant Commissioners (12)/Prohibition and Excise Superintendents (24).

3.3 Results of audit

Test check of records of 30 offices of Prohibition and Excise Department conducted during the year 2014-15 revealed non-levy/short realisation of fees and other irregularities involving ₹ 3.41 crore in 70 cases which fall under the following categories:

Table 3.1 : Results of audit

| (₹ in crore) | | | |
|--------------|--|--------------|-------------|
| Sl.No. | Category | No. of cases | Amount |
| 1. | Non-levy of Additional Licence Fee | 17 | 1.92 |
| 2. | Non-disposal of A4 shops | 6 | 0.36 |
| 3. | Non-levy and collection of permit room licence fee | 12 | 0.53 |
| 4. | Short levy and collection of toddy rentals | 11 | 0.46 |
| 5. | Other irregularities | 24 | 0.14 |
| Total | | 70 | 3.41 |

¹⁰⁷ Previously known as “Andhra Pradesh Excise Act, 1968”, “Andhra Pradesh” substituted by “Telangana” vide G.O.MS No. 162 dated 10 September 2015 issued by Revenue (Excise-II) Department, Government of Telangana.

During the year 2014-15, Department accepted under-assessments and other deficiencies in 59 cases involving ₹ 1.76 crore. An amount of ₹ 1.64 crore in 53 cases was realised during the year 2014-15.

A few illustrative cases involving ₹ 89.11 lakh are mentioned in the succeeding paragraphs.

3.4 Short levy of Toddy rentals

As per Rule 5(5) of The Telangana¹⁰⁸ Excise (Grant of Licence to sell Toddy, conditions of licence and Tapping of Excise trees) Rules 2007, read with Government orders¹⁰⁹, the rent per toddy tree is ₹ 25 in rural areas and ₹ 50 in urban areas with effect from 01 October 2007.

Audit noticed (between September 2014 and February 2015) during test check of the records of seven offices¹¹⁰ of the Prohibition and Excise Superintendents (P&ESs) that toddy rentals for 41 TCSs¹¹¹ and TFTs¹¹² in some areas were collected at the rates applicable in rural areas. Based on the classification of area as per Census-2011 by the Directorate of Census Operations, in 40 out of the 41 cases, the areas were to be classified as urban areas and rates applicable in urban areas were to be applied. In one case relating to an earlier period¹¹³, rentals were collected at rates applicable to rural areas though the area had been upgraded as Nagar Panchayat for which rates for urban areas are applicable. Application of incorrect rates in these cases resulted in short levy of toddy rentals of ₹ 26.52 lakh.

After Audit pointed out these cases, P&ES, Karimnagar replied (September 2014) that as per Excise Gazette 2011-12, TCSs Arepally, Rekurthy and Chinthakunta were in rural areas and therefore higher rates were not collected. However, the difference amount would be collected in respect of TCS, Huzurabad and TFTs, Husnabad and Jammikunta. The reply is not tenable as Commissioner (Prohibition & Excise) Andhra Pradesh had ordered¹¹⁴ to collect the rentals in conformity with the Census-2011. Arepally and Chinthakunta were shown as urban areas under outer growth of Karimnagar Municipal Corporation and Rekurthy was declared as Census Town (CT) as per Census-2011.

P&ESs, Adilabad and Mancherial replied (between January 2015 and February 2015) that action would be taken to collect the balance amount from TCS/TFT and progress intimated to Audit in due course. Remaining P&ESs

¹⁰⁸ Previously known as “Andhra Pradesh (Grant of Licence to sell Toddy, conditions of licence and Tapping of Excise Trees) Rules, 2007”, “Andhra Pradesh” substituted by “Telangana” vide G.O.MS No. 24 dated 4 September 2014 issued by Revenue (Excise-II) Department, Government of Telangana.

¹⁰⁹ G.O.Ms.No.1433, Revenue (Ex-III), dated 13 November 2007.

¹¹⁰ Godavarikhani, Karimnagar, Khammam, Nalgonda, Miryalguda, Mancherial and Adilabad.

¹¹¹ Toddy Co-operative Societies.

¹¹² Tree for Tappers Scheme.

¹¹³ October 2009.

¹¹⁴ Circular no. 11565/2012/CPE/E1 dated 9 October 2012.

replied (between September 2014 and January 2015) that matter would be examined and Audit intimated.

The matter was referred to the Department in April 2015. Their reply has not been received (January 2016).

3.5 Non-levy of Additional Licence Fee (ALF) on non-contiguous additional enclosures

As per Section 28 of the Telangana Excise Act, 1968, read with Rule 10 of Telangana¹¹⁵ Excise (Grant of licence of selling by bar and conditions of licence) Rules, 2005, any additional enclosures 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.

Audit noticed (between August 2014 and February 2015) during test check of the records of four offices¹¹⁶ of P&ESs for the years 2011-12 to 2013-14 that the P&ESs did not levy 10 *per cent* additional licence fee of ₹ 23.60 lakh on five bar and restaurants having non-contiguous consumption enclosures like consumption halls situated in different places under different roofs of bar premises, different floors of bars connected externally by steps, rooms situated in different areas in which liquor was served and in open areas outside bars etc.

After Audit pointed out these cases, P&ES, Warangal, in one case, replied (September 2014) that the roof of the two RCC buildings were interconnected with fibre sheets under which the liquor serving area was located and hence there was contiguity. The reply is not tenable as the location of the bar premises as per the approved plan was in two different buildings with separate consumption enclosures and therefore to be treated as non-contiguous consumption enclosures. P&ES, Adilabad in one case, replied (February 2015) that Dy. Commissioner of P&E, Adilabad had verified the bar premises and found that consumption enclosures in the bars were contiguous. The reply is not acceptable as the layout plan submitted by the licensee showed that a consumer could enter into the bar consumption areas in upper floor through external staircase without entering the bar consumption area in ground floor and hence both the floors were non-contiguous.

¹¹⁵ As per G.O.Ms No.9 Revenue (Excise-II) Department dated 27 January 2015 issued by Government of Telangana, provisions of Andhra Pradesh Excise (Grant of licence of selling by bar and conditions of licence) Rules, 2005 as applicable to the Andhra Pradesh State on 1 June 2014 were adapted to State of Telangana.

¹¹⁶ Adilabad, Saroornagar, Secunderabad and Warangal.

P&ESs, Saroornagar and Secunderabad in three cases, replied (August and November 2014) that the matter would be examined and reply furnished to Audit in due course.

The matter was referred to the Department between September 2014 and April 2015. Their replies have not been received (January 2016).

3.6 Non/short levy of permit room¹¹⁷ licence fee

As per Section 28 of the Telangana Excise Act, 1968, read with Rules 25 and 26 of Telangana¹¹⁸ Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012, upto the year 2012-13, the holder of Licence (in Form A-4) in places other than municipalities and municipal corporations where population exceeds 5000 shall also be licensed in Form A-4(B) to have a Permit Room on payment of licence fee of ₹ one lakh for a year or part thereof. However, from the year 2013-14 onwards, all A4 licencees in all places where population exceeds 5,000 shall also be licenced in Form A-4(B) to have a permit room on payment of ₹ two lakh for a year or part thereof.

Audit noticed (between September and November 2014) during the scrutiny of A4 shop files of five offices¹¹⁹ of the P&ESs, that licence fee for permit rooms amounting to ₹ 17.83 lakh for the licence period 2012-13 and 2013-14 in respect of 18 shops was either not levied or levied short, in spite of the fact that the population of the villages, in which these shops were situated, exceeded 5000 as per Census-2011.

After Audit pointed out these cases, P&ES, Sangareddy in three cases, replied that licence fee was collected proportionately as the allotment of shops was made in the third and fourth round notification. The action of the Department was not in accordance with the relevant Rules as full licence fee was leviable even for part of year.

P&ES, Medak in nine cases, replied that Gajwel Nagar Panchayat was considered as a third grade municipality and therefore permit room licence was not given. The reply is not tenable as Nagar Panchayats were not to be classified as municipalities as per Government Order¹²⁰ dated 23 January 2001 and hence permit room fee was to be levied.

P&ESs, Godavarikhani, Saroornagar and Adilabad in two cases each replied that the matter would be examined and reply furnished to Audit in due course.

The matter was referred to the Department in January 2015. Their reply has not been received (January 2016).

¹¹⁷ Consumption area adjacent to the liquor shop.

¹¹⁸ As per G.O.Ms No.85 Revenue (Excise-II) Department dated 29 June 2015 issued by Government of Telangana, provisions of Andhra Pradesh Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012 as applicable to the Andhra Pradesh State on 1 June 2014 were adapted to State of Telangana.

¹¹⁹ Adilabad, Godavarikhani, Medak, Sangareddy and Saroornagar.

¹²⁰ G.O Ms.No.25 MA&UD (J2) Department, dated 23 January 2001.

3.7 Short fixation of licence fee for liquor shops

As per Section 28 of the Telangana Excise Act, 1968, read with Rule 16 of Telangana Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012, the annual licence fee for liquor shop (A-4 shops) shall be levied on the basis of population and at the rates notified by the Government from time to time.

Government in their order¹²¹ dated 22 June 2013 notified various rates of annual licence fee applicable for liquor shops for the year 2013-14 on population basis. It was also provided therein that the fixation of licence fee for the shops situated in a village/town which are within a radius of two km from the Municipalities shall be at the rates applicable to the shops situated within the limits of such municipalities.

During the scrutiny of records of three offices¹²² of the P&ESs, Audit noticed (between September 2014 and February 2015) that population of the area had increased due to inclusion of certain Gram Panchayats and Nagar Panchayats (between March and June 2013) in nearby Municipal limits and therefore higher licence fee in accordance with population figures should have been fixed in respect of five shops for the year 2013-14. The Department fixed the demand for ₹ 1.63 crore as against ₹ 1.78 crore calculated based on revised population figures. This resulted in short fixation of annual licence fee of ₹ 15.50 lakh for the licence period 2013-14.

After Audit pointed out these cases, P&ES, Medak in two cases, replied (September 2014) that there was no loss to the Government as the dealers had to pay the privilege fee for the extra quantity of liquor lifted by them over and above seven times the licence fee collected. The reply is irrelevant as fixation of annual licence fee of liquor shops and collection of privilege fee are two different aspects and the dealers have to pay licence fee irrespective of the quantity of liquor lifted by them during the year.

P&ES, Nalgonda in one case, replied (October 2014) that due to renewal of existing licence, fresh licence was not issued and the licence fee for the year 2013-14 was at the rates applicable for the year 2012-13. The reply is not tenable as the population of the places where the A4 shop was situated, had increased as per the Census 2011 and revised rates as per the increased population should have been collected.

P&ES, Adilabad in two cases, replied (February 2015) that action would be taken to collect the differential licence fee.

The matter was referred to the Department in January 2015. Their replies have not been received (January 2016).

¹²¹ G.O.Ms.No.358 Revenue (Excise-II) Department dated 22 June 2013.

¹²² Adilabad, Medak and Nalgonda.

3.8 Non-levy of interest on belated payments of permit room licence fee

As per Section 28 of the Telangana Excise Act, 1968, read with Rule 26 of Telangana Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012, the licence fee for a Permit Room shall be ₹ one lakh for the licence period or part thereof and is payable in lumpsum at the time of completion of formalities specified under Rule-16. Government enhanced the amount of licence fee to ₹ two lakh in June¹²³ 2013.

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

Audit noticed during the scrutiny of A4 shop files for the years 2012-13 and 2013-14 in five offices¹²⁴ of the P&ES, that in 266 cases, licensees had paid permit room licence fee belatedly with delays ranging from one to 273 days. However, no penal interest was levied by the Department. Interest to be levied on belated payments amount to ₹ 5.66 lakh.

P&ES, Jagtial replied (September 2014) that the interest would be collected from the licensees and remitted to Government treasury after receipt of clarification from the Commissioner. However, no clarification was required as the provisions were clear. P&ESs, Mahabubnagar and Kamareddy replied (December 2014) that action would be taken to collect the penal interest. Remaining P&ESs replied that the matter would be examined and detailed reply furnished to Audit in due course.

The matter was referred to the Department between January and April 2015. Their replies have not been received (January 2016).

¹²³ G.O.Ms.No.357, Revenue (Excise-II) Department, dated: 22 June 2013.

¹²⁴ Jagtial, Kamareddy, Mahabubnagar, Nagarkurnool and Nizamabad.