

CHAPTER-VI OTHER TAX RECEIPTS

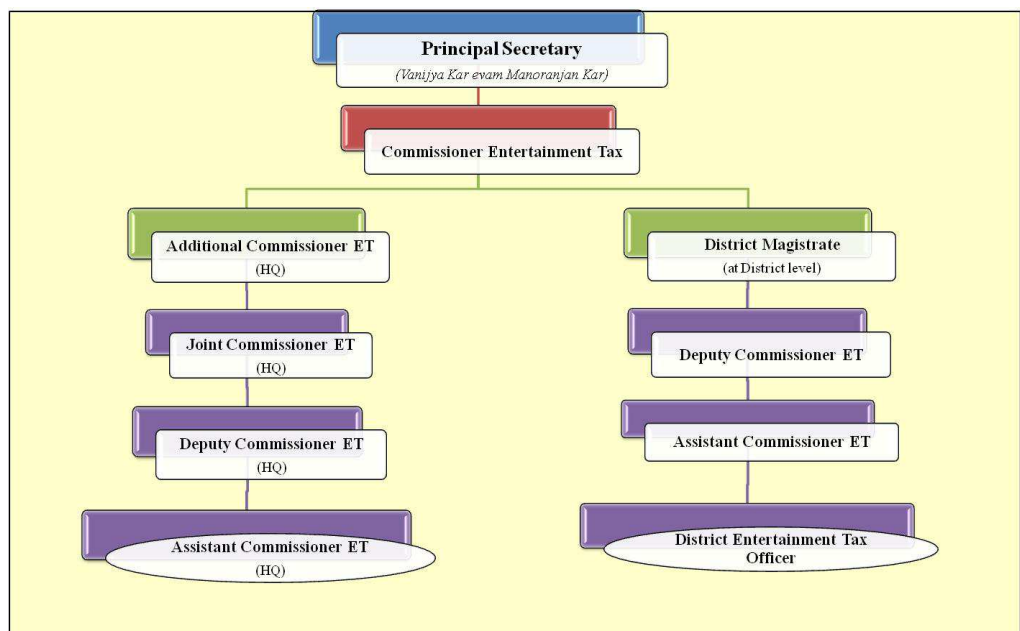
(A) ENTERTAINMENT TAX DEPARTMENT

6.1 Tax administration

Entertainment Tax is levied and collected under the provisions of the U.P. Entertainments and Betting Tax Act, 1979 and Rules framed thereunder. It is levied on all payments for admission to any entertainment at the rate specified from time to time.

The determination of policy, monitoring and control of Entertainment tax Department (Department) at the Government level is done by the Principal Secretary, *Vanijya Kar Evam Manoranjan Kar* Uttar Pradesh. The overall control and responsibility for levy and collection of entertainment tax rests with the Commissioner Entertainment Tax Uttar Pradesh, who is assisted by an Additional Commissioner, Joint Commissioner (1), Deputy Commissioners (3) and Assistant Commissioner (1). At district level, the District Magistrate is the controlling officer who exercises control over operation of entertainment, levy and collection of entertainment tax through three Deputy Commissioners Entertainment Tax, 13 Assistant Commissioners Entertainment Tax and 59 District Entertainment Tax Officers assisted by Entertainment Tax Inspectors in the State.

Chart 6.1 Organisational setup



6.2 Internal Audit Wing

Internal Audit Wing (IAW) of an organization of a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organization to assure itself that the prescribed systems are functioning reasonably well and it is controlled by Finance Controller. Internal Audit Wing was established in the Department in 1974.

In IAW, one Finance Controller and two Sr. Auditors have been posted against the sanction post of one Finance Controller, one Sr. Auditor and one Auditor. The details of internal audit planning such as number of units planned for audit, number of units audited and shortfall are mentioned in **Table 6.1**:

Table 6.1

Audit planning by internal audit wing

| Year | Total number of units available for IA | Number of units planned for IA | Number of units audited during the year | Shortfall | Percentage of shortfall |
|---------|--|--------------------------------|---|-----------|-------------------------|
| 2011-12 | 73 | 35 | 32 | 3 | 8.57 |
| 2012-13 | 76 | 36 | 27 | 9 | 25.00 |
| 2013-14 | 76 | 32 | 20 | 12 | 37.50 |
| 2014-15 | 76 | 34 | 19 | 15 | 44.12 |
| 2015-16 | 76 | 36 | 23 | 13 | 36.11 |

Source: information provided by the Department

Despite having full staff strength the Audit planning of the IAW was not realistic and the shortfall in unit audited ranged from 8.57 to 44.12 *per cent* during the years. Due to insufficient audit coverage IAW could not achieve their objectives of enforcing better internal control and accountability.

The internal audit conducted by the IAW and number and amount of objection raised and settled during the year is mentioned in **Table 6.2**.

Table 6.2

Details of outstanding paras and amount

| Year | (₹ in crore) | | | | | | | |
|---------|-----------------|-----------------|--------------------------|-----------------|---------------------------|-----------------|-----------------|-----------------|
| | Opening balance | | Addition during the year | | Clearance during the year | | Closing balance | |
| | No. of cases | Amount involved | No. of cases | Amount involved | No. of cases | Amount involved | No. of cases | Amount involved |
| 2011-12 | 507 | 8.41 | 104 | 0.92 | 62 | 0.18 | 549 | 9.15 |
| 2012-13 | 549 | 9.15 | 104 | 0.50 | 61 | 0.58 | 592 | 9.07 |
| 2013-14 | 592 | 9.07 | 62 | 1.06 | 21 | 0.18 | 633 | 9.95 |
| 2014-15 | 633 | 9.95 | 63 | 11.87 | 289 | 0.65 | 407 | 21.16 |
| 2015-16 | 407 | 21.16 | 109 | 9.80 | 52 | 1.51 | 464 | 29.46 |

Source: Information provided by the Department.

It is clear from the above table that the compliance made by the Department against the cases raised by the IAW is very low in all the years except 2014-15.

6.3 Results of audit

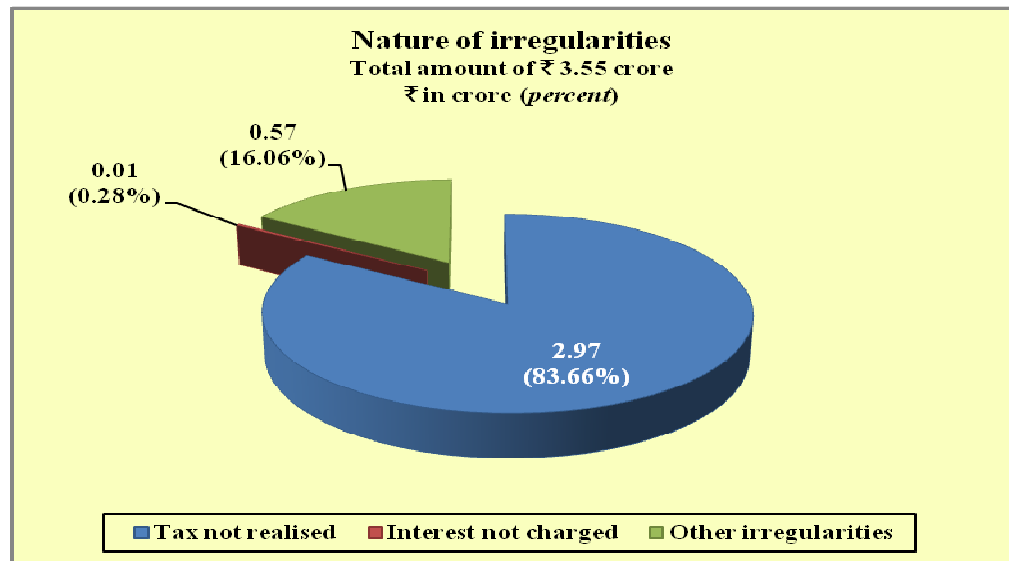
In 2015-16, the Department realised revenue of ₹ 622.23 crore. We planned six annual units, one biennial units and 10 triennial units out of the total 75 units of Entertainment Tax Department during 2015-16 and test checked 16 planned units which showed irregularities of tax, interest etc. amounting to ₹ 3.55 crore in 56 cases, which fall under the following categories as mentioned in **Table 6.3**.

Table 6.3
Results of audit

| (₹ in crore) | | | |
|--------------|----------------------|-----------------|-------------|
| Sl. No. | Category | Number of cases | Amount |
| 1. | Tax not realised | 13 | 2.97 |
| 2. | Interest not charged | 3 | 0.01 |
| 3. | Other irregularities | 40 | 0.57 |
| Total | | 56 | 3.55 |

Source: Information available in the Audit office.

Chart 6.2



During the course of the year 2015-16, the Department accepted our observation of ₹ 17.21 lakh in eight cases of which three cases involving ₹ 15.07 lakh were pointed out in 2015-16 and rest in earlier years. An amount of ₹ 9.47 lakh was realised in eight cases of which three cases involving ₹ 7.33 lakh was pointed out in 2015-16 and rest pertains to earlier years.

A few illustrative cases of compliance deficiency involving ₹ 15.07 lakh are discussed in the following paragraphs.

6.4 Audit observations

Our scrutiny of records of the Entertainment Tax Commissioner's office and 15 District Entertainment Tax Offices of the Entertainment Tax Department showed cases of short realisation of entertainment tax, which is mentioned in the succeeding paragraph of this chapter. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

6.5 Short realisation of entertainment tax from cable operators

Entertainment tax of ₹ 24.83 lakh was due on cable operators but only ₹ 9.76 lakh was deposited and ₹ 15.07 lakh is still unrealised.

As per Rule 11 of Uttar Pradesh Cable Television Network (Exhibition) Rules, 1997, the proprietors of cable TV shall deposit the amount of entertainment

tax collected from their consumers into Government account within one week from the last day of every month.

We examined between November 2014 and March 2016 the Appendix-II register pertaining to details of collection, of three DETOs and observed that entertainment tax of ₹ 24.83 lakh was due from 27 cable operators out of total 285 between April 2010 and February 2016. Against this only ₹ 9.76 lakh was deposited by the cable operators. This resulted in short realisation of entertainment tax of ₹ 15.07 lakh. In all these cases, no effective steps were taken for the realisation of the balance dues of ₹ 15.07 lakh from the defaulters even after a lapse of one month to 55 months (**Appendix-XXXIX**).

We reported the matter to the Government/ Department (December 2014 to April 2016). During exit conference the Department accepted our observation and stated that ₹ 7.33 lakh was recovered from the three concerned districts and for the recovery of the remaining amount of ₹ 7.74 lakh action is under process (August 2016).

(B) STATE EXCISE

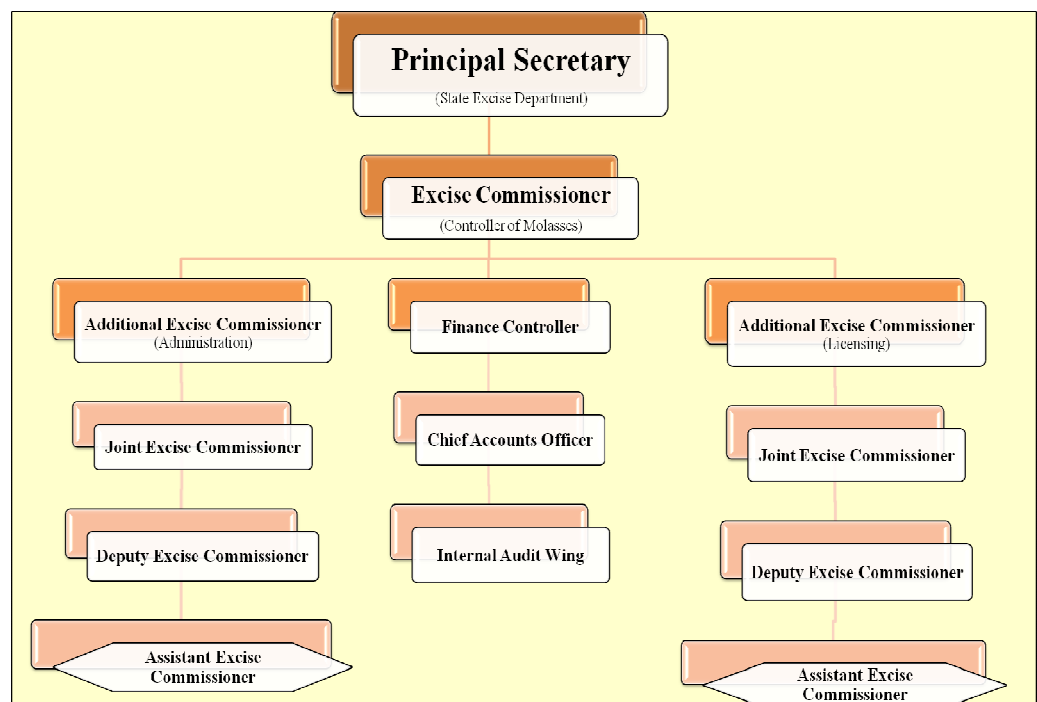
6.6 Tax administration

Excise duty on liquor for human consumption and license fee is levied under the UP Excise Act, 1910 and Rules made thereunder. Various kinds of liquor, such as country liquor and Indian Made Foreign liquor are manufactured from alcohol. Excise duty on production of alcohol and liquor in distilleries forms a major part of excise revenue. Apart from excise duty, license fee also forms part of excise revenue.

The Principal Secretary (State Excise) is the administrative head of State Excise Department (Department) at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in Agra, Gorakhpur, Lucknow, Meerut and Varanasi zones which are headed by the Joint Excise Commissioner. Besides, Excise Inspectors under the control of Assistant Excise Commissioner of the respective districts are deputed to oversee and regulate levy/ collection of excise duties and allied levies.

The organizational chart of the Department is as under:

Chart 6.3 Organisational setup



6.7 Internal audit

Internal Audit of an organisation is a vital component of the internal control mechanism and is generally defined as the control of all controls. It enables the organisation to assure itself that the prescribed systems are functioning reasonably well. The position of sanctioned strength and men-in-position is given in **Table 6.4**.

Table 6.4

Staff position of Internal Audit wing

| Sl.No. | Designation | Sanctioned post | Men-in-position | Shortfall | Percentage of shortfall |
|--------|---------------------------------|-----------------|-----------------|-----------|-------------------------|
| 1. | Finance Controller | 1 | 1 | 0 | 0 |
| 2. | Sr. Finance and Account Officer | 1 | 1 | 0 | 0 |
| 3. | Finance and Account Officer | 1 | 1 | 0 | 0 |
| 4. | Assistant Account Officer | 2 | 1 | 1 | 50.00 |
| 5. | Sr. Auditor | 9 | 0 | 9 | 100.00 |
| 6. | Accountant | 4 | 3 | 1 | 25.00 |
| 7. | Auditor | 3 | 4 | 0 | 0 |
| 8. | Assistant Accountant | 1 | 1 | 0 | 0 |

Source: Information provided by the Department

The details of Internal Audit (IA) planning such as number of units planned for audit, number of units audited and shortfall are shown in **Table 6.5**.

Table 6.5

Audit planning of Internal Audit wing

| Year | Total no. of Units | No. of Units planned | No. of units Audited | Shortfall |
|---------|--------------------|----------------------|----------------------|-----------|
| 2011-12 | 350 | 138 | 123 | -15 |
| 2012-13 | 352 | 140 | 119 | -21 |
| 2013-14 | 365 | 140 | 109 | -31 |
| 2014-15 | 365 | 140 | 113 | -27 |
| 2015-16 | 365 | 62 | 55 | -07 |

Source: Information provided by the Department

The internal audit conducted by the IAW and number and amount of objection raised and settled during the year is shown in **Table 6.6**.

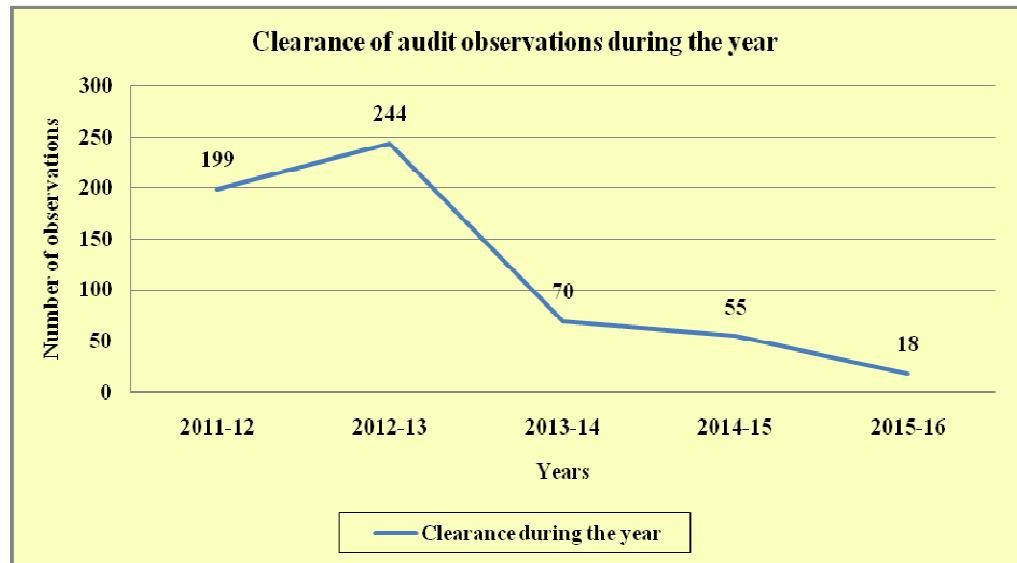
Table 6.6

Objection raised by Internal Audit Wing

| Year | (₹ in lakh) | | | | | | | |
|---------|-----------------|-----------------|--------------------------|-----------------|---------------------------|-----------------|-----------------|-----------------|
| | Opening balance | | Addition during the year | | Clearance during the year | | Closing balance | |
| | No. of cases | Amount involved | No. of cases | Amount involved | No. of cases | Amount involved | No. of cases | Amount involved |
| 2011-12 | 360 | 2,110.63 | 136 | 70.22 | 199 | 352.35 | 297 | 1,828.50 |
| 2012-13 | 297 | 1,828.50 | 140 | 58.75 | 244 | 266.75 | 193 | 1,620.50 |
| 2013-14 | 193 | 1,620.50 | 101 | 46.13 | 70 | 37.52 | 224 | 1,629.11 |
| 2014-15 | 224 | 1,629.11 | 108 | 101.73 | 55 | 41.77 | 277 | 1,689.07 |
| 2015-16 | 277 | 1,689.07 | 78 | 201.32 | 18 | 4.34 | 337 | 1,886.05 |

Source: Information provided by the Department.

Chart 6.4



This shows that the compliance made by the Department against the cases raised by the IAW is very low. The reason stated by the Department for downfall in clearance of both numbers and amounts was shortage of staff. The reply of the Department does not seem to be based on facts because during this period although the cases and amount were increasing but there was no corresponding increase in clearance.

We recommend that the IAW may be strengthened and a realistic annual audit plan be prepared. The Department should take appropriate steps for speedy recoveries in cases raised by the IAW.

6.8 Results of audit

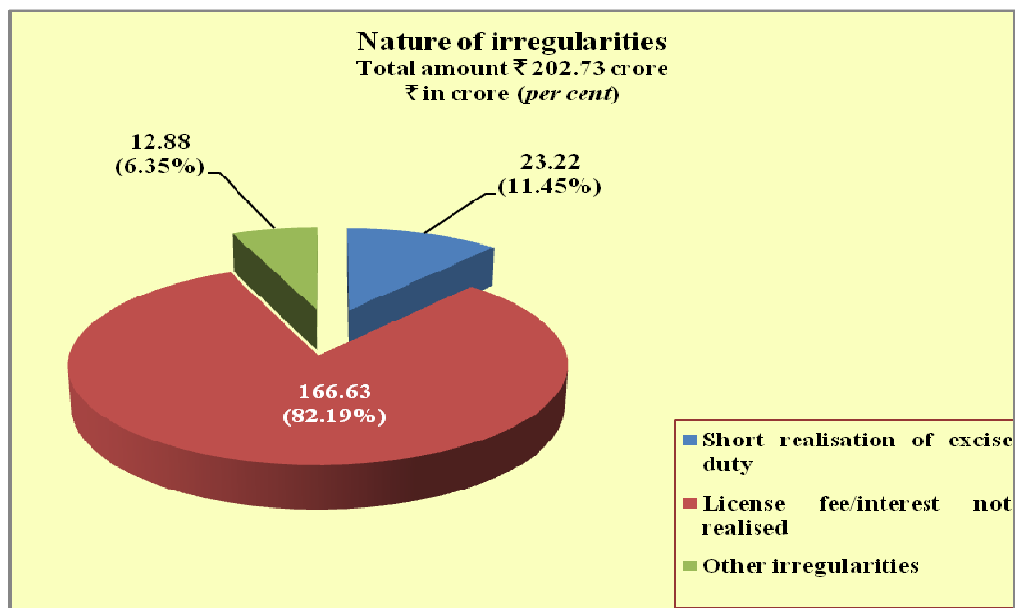
In 2015-16, the Department realised revenue of ₹ 14,083.54 crore. We planned 67 annual units, one biennial units and 18 triennial units out of the total 236 units of State Excise Department during 2015-16 and test checked 82 out of 86 planned units which showed short realisation of excise duty, license fee/interest and other irregularities involving ₹ 202.72 crore in 202 cases, which fall under the following categories as mentioned in **Table 6.7**.

Table 6.7
Results of Audit

| (₹ in crore) | | | |
|--------------|-----------------------------------|-----------------|---------------|
| Sl. No. | Categories | Number of cases | Amount |
| 1. | Short realisation of excise duty | 26 | 23.22 |
| 2. | License fee/interest not realised | 95 | 166.62 |
| 3. | Other irregularities | 81 | 12.88 |
| Total | | 202 | 202.72 |

Source: Information available in the Audit office.

Chart 6.5



During the year, the Department accepted underassessment and other deficiencies of ₹ 37.45 crore in 10 cases of which four cases involving ₹ 37.43 crore were pointed out in 2015-16 and rest in earlier years. An amount of ₹ 1.68 lakh was realised in six cases pertaining to earlier years.

A few illustrative cases of compliance deficiency involving ₹ 46.77 crore are discussed in the following paragraphs.

6.9 Audit observations

Our scrutiny of records in the offices of the State Excise Department showed failure to forfeit Basic License Fee and security deposits, and Sale of beer without beer bar license as mentioned in the succeeding paragraph in this chapter. These cases are illustrative and are based on a test check carried out by us. We point out such omissions each year, but not only do the irregularities persist; these remain undetected till we conduct audit. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

6.10 Failure to cancel the selection of shops and forfeiture of Basic License Fee and security deposit

The licensees did not deposit the entire amount of security deposit within prescribed time limit. For this failure action for cancellation of settlement and forfeiture of deposited basic license fee and security money amounting to ₹ 37.43 crore, was not initiated as envisaged in the rules.

Rule 12 of the Uttar Pradesh Excise (Settlement of Licenses of Retail Sale of Country Liquor) Rules 2002 provides that amount of Basic License Fee (BLF) shall be deposited in full within three working days, half of the security amount within 10 working days and rest of the amount within 20 working days of receipt of the intimation of the selection of shop. In case of default, the

selection of shop would be cancelled and amount of BLF and security deposits, if any, would be forfeited in favour of the Government and the shops would be resettled forthwith.

We examined G-12 (details of settled shops) and Settlement files of Country Liquors of two District Excise Offices, Mainpuri and Unnao, between August 2015 and February 2016 and found that during the year 2014-15 and 2015-16 though the licenses of 1007 country liquor shops were settled or renewed, these licensees, did not deposit the entire amount of security deposit in prescribed time frame. The delay ranged from 1 to 550 days. For this default no action was initiated as envisaged in Rules. As no relaxation is allowed under the provisions/ rules, the inaction of the Department deprived the Government of entire amount of ₹ 37.43 crore of BLF and security deposit which also was required to be forfeited as shown in **Table 6.8**.

Table 6.8

Failure to forfeit the Basic License fee and Security deposits

| (Amount in crore ₹) | | | | | | | |
|---------------------|---------------|---------|-----------------|--|--|--|------------------------------------|
| Sl. No. | Name of units | Year | Number of Shops | Period of Late deposit of Security Deposit in days | Basic License Fee required to be forfeited | Security Deposit required to forfeited | Total Amount required to forfeited |
| 1 | DEO Mainpuri | 2014-15 | 117 | 48-550 | 1.59 | 0.70 | 2.29 |
| | | 2015-16 | 162 | 39-210 | 1.95 | 0.39 | 2.34 |
| 2 | DEO Unnao | 2014-15 | 383 | 1-65 | 7.49 | 6.44 | 13.93 |
| | | 2015-16 | 345 | 1-183 | 10.83 | 8.04 | 18.87 |
| TOTAL | | | 1,007 | 1-550 | 21.86 | 15.57 | 37.43 |

Source: Information available from G-6 register.

We reported the matter to the Department and the Government (November 2015 and March 2016). During exit conference the Department agreed with our observation and stated that the entire amount has now been deposited (September 2016).

6.11 Sale of beer without beer bar license

FL 7B license fee on 364 licensees was not levied which deprived the Government of revenue of ₹ 6.70 crore during the year 2013-14 to 2015-16.

Foreign liquor as defined in UP Excise settlement of licenses for retail sale of foreign liquor (Excluding beer and wines) (Third Amendment) Rules 2002 includes Malt sprit, Whisky, Rum, Brandy, Gin, Vodka and Liquor. Beer is not included in the definition. As per Rules 647 and 648 of the United Provinces Excise Act, 1910 and Rules made there under the UP Excise (Wholesale and retail vend of Foreign Liquor) (Thirteenth Amendment) Rules 2002 state that Beer bar license in form FL 7B is required for retail sale of beer on premises of hotels, *dak bunglows* or restaurants. Rule 10 provides for issue of license of FL 6A composite for retail sale of foreign liquor by four and five star hotels and issue of FL 6 license for hotel other than the above.

FL 7 license is required for retail sale of foreign liquor by restaurants. FL 6A composite and FL 7 will also cover sale of draft beer only and not bottled beer.

We examined the records of bar licenses, consumption statement and revenue collection register of 23 out of 32 DEOs test checked between May 2014 and February 2016 and found that 364 licenses of the hotels/ restaurant bars under FL 6, FL 6A (composite) and FL 7 category were settled or renewed between the period April 2013 to December 2015 where consumption of beer was also shown. These hotels/restaurant bars were not issued the FL 7B license required for retail sale of beer. As a result of not issuing of FL 7B license, the Government was deprived of license fee of ₹ 6.70 crore (**Appendix-XL**).

We reported the matter to the Government and the Department (between March 2014 and February 2016). During exit conference the Department stated that beer is included in foreign liquor as mentioned in concerned Rule. The reply of the Department is not tenable on the ground that the separate FL 7B license has been prescribed for retail vends of beer (September 2016).

6.12 Failure to cancel the license and forfeit security deposit for violation of Rules

Department failed to cancel the license and forfeit the security deposit of ₹ 2.64 crore for violation of Rules by 68 retailers over MRP during 2014-15 to 2015-16.

Para 13,14 and 16 of the Uttar Pradesh Excise (Settlement of retail licenses for Model shop of foreign liquor) Rules 2003, Uttar Pradesh Excise settlement of licenses for retail sale of foreign liquor (excluding beer and wine) Rules 2001 and Uttar Pradesh (Settlement of licenses for retail sale of country liquor) Rules 2002 respectively, provide that the MRP as fixed by Excise Commissioner on sanction of the State Government, shall be printed on the label of bottles or containers of foreign liquor / beer / country liquor, and the licensee shall not charge from consumers more than MRP printed on label of bottles. The conditions of grant of license under these rules state that the retail licensees shall not charge more than printed MRP, violation of terms and conditions of retail license or conviction for any offence under the United Provinces Excise (UPE) Act, 1910 or Narcotic Drugs and Psychotropic substances Act, 1985 shall make the licensee liable for cancellation of the license and forfeiture of security deposits, in addition to any penalties imposed under the relevant laws.

We examined the breach register of District Excise Offices GB Nagar and Meerut for the year 2014-15 and 2015-16 and found that 68 cases out of 1,420 breaches were registered by the Department, where liquor was found to be sold over the MRP, and penalty at the uniform rate of ₹ 5,000 in each case was imposed on these shops. Even after violation of rules, no action as defined under the Rules and Acts such as cancellation of the license and forfeiture of security deposit of ₹ 2.64 crore in addition to penalty imposed was taken against them as shown in **Table 6.9**:

Table 6.9

Failure to cancel the license and forfeit security deposit for violation of Rules

| (Amount in ₹) | | | | | |
|---------------|--------------|---------|--------------|-------------------|--|
| Sl. No. | Name of Unit | Year | No. of cases | Amount compounded | Security deposit which should be forfeited |
| 1 | DEO GB Nagar | 2014-15 | 6 | 30,000 | 21,96,240 |
| 2 | DEO Meerut | 2014-15 | 58 | 2,90,000 | 2,26,44,636 |
| | | 2015-16 | 4 | 20,000 | 16,00,000 |
| Total | | | 68 | 3,40,000 | 2,64,40,876 |

Source: Information available from breach register

In all the cases including those of repeated violation the Department has merely imposed compounding penalty but has not taken action to cancel licence/ forfeit the security deposit as deterrence.

We reported the matter to the Government (November 2015). During exit conference the Department stated that in cases where licensees applied for compounding, action as per Rule was taken. The reply of the Department is not tenable as in case of violation of terms and conditions of retail license, in addition to penalty imposed under the relevant law license was liable to be cancelled and security deposit was to be forfeited (September 2016).

Lucknow

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The

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