

CHAPTER-VI: STATE EXCISE

6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven Zones which are headed by the Additional Excise Commissioners (AECs). District Excise Officers (DEO) and Excise Inspectors working under the control of the AECs of the respective Zones are deputed to oversee and regulate levy/collection of excise duties and other levies.

6.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit is as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2010-11	70	40	110	83	27	25
2011-12	27	40	67	60	7	10
2012-13	7	41	48	41	7	15
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	0	-

During 2014-15, all the units due for audit by Internal Audit Wing had been covered.

It was also noticed that 627 paragraphs were outstanding at the end of 2014-15 of which 133 paragraphs were outstanding for more than five years. Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	upto 2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	Total
Paras	133	51	70	111	262	*	627

* Information awaited.

The pendency of paragraphs for a long period defeated the very purpose of internal audit. The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit

Test check of the records of 21 units of the State Excise Department conducted during the year 2014-15 disclosed non/short recovery of Excise Duty and Licence Fee, interest on security deposit, loss of Excise Duty on account of excess wastages of liquor and other irregularities involving ₹ 62.29 crore in 3,870 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	A paragraph on 'Arrear of State Excise Department'	1	38.69
2.	Non/short realisation of Excise Duty and Licence Fee	403	17.79
3.	Loss of Excise Duty on account of Excess Wastages of Liquor	678	0.89
4.	Non-Recovery of Interest on Security Deposits	610	0.17
5.	Other irregularities	2,178	4.75
Total		3,870	62.29

The Department accepted deficiencies in 3,844 cases involving ₹ 10.62 crore, of which 1,797 cases involving ₹ 1.64 crore had been pointed out in audit during 2014-15 and the rest in earlier years. The Department recovered ₹ 2.71 crore in 2,700 cases, of which 668 cases involving ₹ 0.51 crore had been pointed out in audit during the year 2014-15 and the rest in earlier years.

A paragraph on 'Arrear of State Excise Department' involving revenue of ₹ 38.69 crore and few illustrative cases involving ₹ 9.59 crore are discussed in the paragraphs from 6.4 to 6.8.

6.4 Arrear of State Excise Department

6.4.1 Introduction

State Excise revenue consists of duty, tax, fine, fee or composite fee and includes exclusive privilege amount leviable on liquor, spirit, hemp (*bhang*), lanced poppy heads (LPH) and other such articles on which the State Government is empowered to impose such levy. Whenever such amount is not paid despite demand of departmental authority, it becomes arrear of the Department. As on 31 March 2015, arrears amounting to ₹ 198.73 crore were outstanding in 201 cases pertaining to the period from 1967-68 to 2014-15.

Section 40 of the Rajasthan Excise (RE) Act, 1950 and Section 256 of Rajasthan Land Revenue Act, 1956 provide that all excise revenue, including all amounts due to the State Government by any person on account of excise revenue, may be recovered from the person primarily liable to pay the same or from his surety as arrears of land revenue. The DEOs are empowered to recover the due amount under the provisions mentioned in the above sections.

A performance audit on 'Recovery of arrears under the Land Revenue Act, 1956' by various Departments including Excise Department was included in CAG's Audit Report on Revenue Receipts for the year 2002-03. The Audit Report has been discussed in Public Accounts Committee (PAC) and recommendations have been received.

6.4.2 Organisational set-up

The Excise Commissioner (EC) is the administrative head of the State Excise Department. He is assisted by seven Additional Excise Commissioners at Zonal Headquarters (Jaipur, Ajmer, Jodhpur, Udaipur, Bikaner, Kota and Bharatpur) and 36 DEOs in 33 Districts besides two DEOs (Prosecution) at Jaipur and Jodhpur to oversee the matters of recovery pending with High Courts.

6.4.3 Audit Objective and Scope

The audit was conducted to ascertain whether prompt and appropriate steps were undertaken to recover the arrears and to ascertain the action taken on recommendations made by the PAC.

All 53 cases pertaining to the selected eight DEOs¹ were selected for scrutiny. Besides, the records at the two DEOs (Prosecution) and EC office were examined. The arrears amount involved in these cases was ₹ 90.63 crore.

6.4.4 Position of Arrears

As per the information furnished by the Department, arrears aggregating to ₹ 198.73 crore were outstanding as on 31 March 2015. Major share of arrear accumulated in the years 1999-2001 which was attributed to flaws in Excise policy applicable at that point of time. The year wise position of arrears for the period from 2010-11 to 2014-15 is given in the following table:

¹ Ajmer, Bundi, Churu, Jalore, Jodhpur, Kota, Pali and Sirohi.

(₹ in crore)

Year	Arrear at the beginning of the year	Additions during the year	Total	Recoveries/ adjustments during the year	Percentage of recoveries [Column (5) to (4)]	Arrears of revenue at the end of the year
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010-11	218.34	0.44	218.78	1.38	0.63	217.40
2011-12	217.40	31.70	249.10	17.60	7.07	231.50
2012-13	231.50	4.58	236.08	16.36	6.93	219.72
2013-14	219.72	4.53	224.25	4.42	1.97	219.83
2014-15	219.83	3.90	223.73	25.00	11.17	198.73

The recovery of arrears was only in the range of 0.63 to 11.17 per cent of the total recoverable arrears.

6.4.4.1 Age-wise Analysis: The age wise details of pendency of arrears are as given below:

(₹ in crore)

Pendency of arrears	No. of cases	Amount	Percentage of arrears
Less than 5 years old	27	4.07	2.05
Between 5 and 10 years old	72	18.74	9.43
Between 10 and 15 years old	37	136.28	68.58
Between 15 and 20 years old	32	21.28	10.70
Over 20 years old	33	18.36	9.24
Total	201	198.73	100.00

As could be seen, out of total arrears, ₹ 194.66 crore i.e. 97.95 percent were pending for more than five years. The main reasons behind such accumulation of arrears were acceptance of fraudulent solvency certificates² and inaction/lack of timely action by the Department to recover amount of 'risk and cost' payable by the defaulting bidders. Since the Department had not laid down any norms/targets for clearance of arrears, recovery of such arrears may become difficult with the passage of time.

6.4.4.2 The stages at which the arrears are pending are as follows:

(₹ in crore)

Categories	31 March 2014		31 March 2015	
	Number of cases	Amount involved	Number of cases	Amount involved
Recoveries under LR Act	109	98.65	104	97.75
Under write off	66	35.52	64	35.32
Stay under various courts	40	85.66	33	65.66
Total	215	219.83	201	198.73

² Certificate showing the value of properties owned by licensees/guarantors duly certified by the revenue authorities.

The arrears locked up under the category of 'Recoveries under LR Act' amounting to ₹ 97.75 crore or 49 *per cent* of arrears as on 31 March 2015 were yet to be recovered despite the fact that such arrears were against such defaulter licensees whose whereabouts and property details had been identified by the Department. Scrutiny of such 27 cases amounting to ₹ 44.20 crore in selected units disclosed that the Department failed to auction/dispose of such properties in time despite issuing repeated notices to auction the properties. A few of such cases are discussed in succeeding paragraphs.

Audit also observed that the Excise Commissioner had identified 64 cases involving ₹ 35.32 crore pertaining to the period 1967-68 to 2006-07 for write-off. Out of these 64 cases, 55 files were provided to audit. Scrutiny disclosed that in these cases, either the defaulters had no property or their whereabouts were not known. No decision for write off was taken in these cases despite elapse of 21 to 315 months as of 31 March 2015. The Department had forwarded 24 cases to the Finance Department for write off. Out of these, 19 cases were returned with remarks that efforts may be remade for recovering the arrear by the Department. The remaining five cases were still pending with the Government for decision (July 2015).

Further, the department informed (July 2015) that 33 cases of recovery from defaulter licensees/guarantors were pending in Courts. Scrutiny of such 13 cases pending with courts³ in selected offices disclosed that the licensees/guarantors had obtained stay against auction of their attached properties. The Department had not made efforts to get the stay orders vacated despite elapse of 1 to 17 years. Some of the cases are discussed in detail in succeeding paragraphs.

6.4.5 Follow-up action on PAC's Recommendations

Mention regarding arrears of State Excise Department was made in CAG's Audit Reports (Revenue Receipts) for the years 2001-02 and 2002-03. The PAC, in its recommendation reports (number 98, 168, *etc.*) had recommended that arrears should be recovered expeditiously. It was also recommended that suitable action against departmental officials who were responsible for accumulation of arrears may be taken.

- In compliance of the recommendations of PAC dated 26 August 2010, the Excise Commissioner identified 46 cases involving ₹ 183.65 crore and directed (November 2010) Additional Excise Commissioners⁴ for speedy recovery. It was noticed that ₹ 8.98 crore had been recovered up to 31 March 2015 in 15 cases. In 31 cases, no recovery was made.
- Disciplinary actions were initiated against 53 officials of Excise and Revenue Departments, involved in 20 cases having arrear of ₹ 82.82 crore, who had either verified incorrect value of properties or had not obtained required security deposits or failed to cancel the licences on non-fulfillment of terms and conditions of licences. The matter was closed against 16 persons. It was stated while concluding the cases that charges could not be established against 14 officials and two officials retired. Four officials were penalised and

³ Nine in High Court, one in SDM Court, two in District Consumer Protection Forum and one in Rajasthan Tax Board.

⁴ Jaipur, Ajmer, Kota, Bikaner, Udaipur and Jodhpur.

action against remaining 33 officials was pending at the Department or the State Government level.

6.4.6 Non-attachment of identified property of defaulter

Under the provisions of Section 228 to 257 of the Rajasthan Land Revenue Act, 1956, the DEO can attach and sell movable and immovable property of the defaulter if he fails to deposit the amount due. It was noticed that identified properties of defaulters were not attached in the following cases:

6.4.6.1 Demand of ₹ 28.82 crore was pending against a defaulter licensee (Shri Parasram) of liquor group Kota during 1999-01. During the period 2000-01, the DEO Kota attached 13 properties shown in the solvency certificate of the licensee. Against this, the co-owner of a property (M/s K.K. Industries Bottling Plant, Kota) approached the Rajasthan High Court. The Court directed (20 March 2002) to release the property from attachment against bank guarantee of ₹ 50 lakh. The co-owner submitted (27 March 2002) bank guarantee of ₹ 50 lakh to the Department and accordingly the property was released (31 March 2002) from attachment. It was noticed that the bank guarantee expired on 27 March 2006 and the Department had made no efforts for its renewal or to obtain fresh bank guarantee. The Rajasthan High Court directed (9 December 2011) the DEO Kota to decide the representation of the petitioner within two weeks from the date of order or within one week from the date of receipt of order and till then the recovery against petitioner was stayed.

The petitioner submitted his representation on 13 January 2012. The DEO Kota decided (12 June 2014) the case and fixed the liability of the petitioner but in absence of the bank guarantee, the amount could not be recovered. Further, no action was taken to reattach and auction the property.

6.4.6.2 Demands of ₹ 3.15 lakh and ₹ 5.02 lakh were pending against two defaulter licensees (Shri Shambhu Lal Mali and Shri Mishri Lal) of liquor group Andheri Devari, Ajmer during 2007-09 and 2009-11. The DEO, Ajmer issued attachment warrants for properties on 2 July and 28 November 2014. It was noticed that the DEO kept issuing reminders to Circle Inspectors (CIs) for attachment of the properties but no action was taken by the concerned CIs to execute the warrant and attach the properties (August 2015).

6.4.7 Delay in auction of attached property

Section 40 of Rajasthan Excise Act, 1950 provides that all excise revenue due to the State Government by any person on account of any contract may, without prejudice to any other mode of recovery, be recovered from the person primarily liable to pay the same or from his surety as arrears of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force.

As per Section 239 of the Rajasthan Land Revenue Act 1956, action for sale of the attached properties through public auction is to be taken within 30 days or period mentioned in the proclamation of sale. For sale of property, wide publicity is to be given to attract the bidders.

Scrutiny of records of 53 default cases disclosed that the defaulters owned properties in 30 cases involving arrear of ₹ 84.22 crore. Out of this, ₹ 12.60 crore was recovered as a result of auction and by other means. This comprised ₹ 8.90 crore towards auction of properties of defaulters in 23 cases. In the remaining cases, property could not be auctioned even after lapse of 4 to 14 years. A few cases are discussed in detail:

6.4.7.1 One of the licensees (Shri Hajari Ram S/o Sahi Ram) of LPH group Hanumangarh in 1999-01 presented the solvency certificate of ₹ 42.30 lakh on the basis of an agriculture land and a house in Jaipur. The licensee defaulted in payment of exclusive privilege amount which resulted in accumulation of arrears of ₹ 12.18 crore at the end of the licence period. As per the undertaking given by the licensee, he was not allowed to alienate or encumber the property before payment of arrears. However, the licensee sold the property and the purchaser got the land converted under Section 90 (B) of RLR Act, 1956 *vide* Deputy Commissioner, JDA's order dated 16 January 2006. The Department belatedly filed an appeal (2008) in the Court of Divisional Commissioner, Jaipur which was rejected (December 2009) on the ground that the Department was aware of the sale of property since beginning as the conversion order was passed after inviting public objections through two newspapers. The Department had filed an appeal (2011) against the decision of Divisional Commissioner, Jaipur in the Rajasthan High Court, whose decision was awaited.

6.4.7.2 The Excise Commissioner issued (October 1988) instructions that after attachment, the property could not be kept under the possession of the original owner. In case of any income generated from the property, the same was required to be deposited into the Government account.

Two properties⁵ of the defaulter licensee (Shri Parasram) of liquor group Kota for the year 1999-2001 having solvency amount of ₹ 1.60 crore were attached during the period 2000-01 by DEO Kota. It was noticed that the properties were still in the possession of the defaulters even after lapse of 14 years in contravention to departmental instructions to keep the attached property under possession of Excise Department. Scrutiny of the records also disclosed that the concerned DEO had issued more than 20 auction notices for sale of attached properties. However, efforts to auction the properties did not fructify.

6.4.7.3 The DEO Bundi had attached the properties of the two guarantors (Shri Bhagwan Singh and Smt. Rajni Dogra) of a defaulter licensee (Shri Parasram) of liquor group Bundi for the year 1999-2001. The guarantors had given the guarantees of ₹ 25 lakh and ₹ 60 lakh respectively in October 2000. Scrutiny of the records disclosed that the DEO failed to auction the property in time though almost 100 notices to auction the properties were issued during the period 2001 to 2013. The guarantors approached the Rajasthan High Court, Jaipur (in the year 2009 and 2013 respectively) whereupon the court directed (23 November 2013) that the properties of the guarantors may not be auctioned till the finalisation of liability of the defaulter licensee by the department as per decision of Supreme Court in similar nature of case pertaining to DEO, Kota. It was noticed that the State Government had already finalised (27 October 2010) the liability of the licensee in pursuance of

⁵ (1) Mayur Hotel, Near Nayapura Bus Stand, Kota. (2) Commercial Plot (No.8, 9 and 10), Motor Market, Kota.

the orders passed by the Supreme Court. The Government had fixed the liability of ₹ 28.83 crore against the defaulter. The DEO Bundi also did not make efforts to find out the status about finalisation of liability of the defaulter licensee from DEO Kota and kept the auction pending by treating the orders of High Court as stay order on the disposal of properties.

6.4.7.4 In another case of DEO Bundi, properties of a guarantor (Shri Balbeer Singh) who had given the guarantees of ₹ 40 lakh in the form of two pieces of agricultural land at *Dabi* village, Kota and a residential house at Kota were attached in October 2000. Scrutiny of the records disclosed that two properties were auctioned (2003 and 2007) but auction notices for sale of the remaining piece of agriculture land were not issued after March 2009.

6.4.8 Auction at prices below the amount shown in Solvency Certificates

As per condition number 14.1 of tender notice for grant of licences of liquor groups for the year 1999-2001, the licensees were required to furnish the sound financial position certificate and surety bond/certificate equivalent to 30 per cent of the accepted Unified Privilege Money before start of the shops.

The whereabouts of properties mentioned in the solvency certificates of the licensees and their sureties were required to be verified by concerned DEOs at the time of granting licences as per circular issued (27 May 1997) by Excise Commissioner so that the sale proceeds received in auction of such properties may commensurate with the value of property declared in solvency certificates.

Scrutiny of auction of 11 properties out of 34 properties revealed that the DEOs had not carried out any exercise to ascertain the value of the properties before initiating the process of auction. Further, the properties were auctioned without wide publication in print and electronic media and no reserve price was fixed. As a result, they were auctioned at prices (₹ 72.59 lakh) lower than the value of properties (₹ 197.72 lakh) declared in solvency certificates. Out of 11 properties, eight properties were auctioned at prices (₹ 57.46 lakh) even lower than the prevalent District Level Committee rates (₹ 83.15 lakh) as notified by the District Collector for that area. Review of records of five DEOs⁶ disclosed that the auction amount of ₹ 1.90 crore realised by the Department in auction of 34 properties was much less than ₹ 4.19 crore which was the value of these properties declared in solvency certificates.

6.4.9 Failure in identifying properties of defaulter licensees

Scrutiny of records of 53 cases disclosed that the Department could not identify the properties of the defaulter bidders in 12 cases involving arrear of ₹ 8.95 crore. The Department tried to enquire about the whereabouts of the defaulter bidders and their properties in some cases through the revenue officials *i.e.* *Patwari, Tehsildar* of stations concerned where the defaulters owned the property or were last residing. Revenue officials, however, reported

⁶ Bundi, Churu, Jodhpur, Kota and Pali.

that no property of the defaulter bidders could be identified in their respective areas. Thus, no recovery could be made from such defaulters and the Department submitted four cases to the Government for write off. A few of such cases are discussed in the following paragraphs:

6.4.9.1 In DEO Jodhpur, a demand of ₹ 1.61 crore was pending against a defaulter licensee (Shri Dilip Sharma) of liquor group Phalodi and Luni (Rural) for the year 1999-2001. Scrutiny of the records disclosed that the Department was having a solvency certificate of ₹ 6 lakh of a property located in Jaipur. The property could not be auctioned by DEO Jaipur as it was not demarcated and the licensee deposited ₹ 6 lakh in 2005 against the solvency certificate which was accepted by DEO. No further action was taken to recover the remaining arrear of ₹ 1.55 crore by identifying other properties of the licensee by co-ordinating with DEO Dholpur despite knowing the fact that he was the domicile of Dholpur (April 2000).

6.4.9.2 In DEO Kota, it was noticed that a demand of ₹ 20.77 crore was pending against a defaulter licensee (Shri Parasram) of liquor group Kota for the year 1999-2001 even after auctioning of nine properties for ₹ 5.84 crore out of attached 13 properties. Four properties amounting to ₹ 7.35 crore as mentioned in solvency certificate were pending for attachment/auction (July 2015). Scrutiny of records further disclosed that the DEO had not made any efforts to identify other movable and immovable properties of the defaulter licensee through pursuance with the offices of *Tehsil*, UIT, Municipality, Municipal Corporation, Income Tax Department, Rajasthan Housing Board, *etc.* in the District.

6.4.9.3 In another case in DEO Kota, a demand of ₹ 39.68 lakh was pending against a defaulter licensee (Shri Kailash Chand Kabra) of liquor group Sangod at Kota for the year 1996-97. It was noticed that no solvency certificate was obtained by the Department at the time of grant of licence. Scrutiny of the records disclosed that the DEO was informed about specific seven properties⁷ and investments of the defaulter licensee through a letter by 'Rashtriya Sikh Sangat Rajasthan (RSSR)' (December 2006). The DEO (between July 2007 and June 2009) made inquiry regarding property details of the licensee from *Tehsildar* Ladpura, UIT, Municipal Corporation and RHB Kota without mentioning the specific details of the properties as pointed out in the letter of RSSR. These agencies informed that no property existed in the name of licensee in their jurisdictions.

6.4.9.4 In DEO Bundi, a demand of ₹ 1.60 crore was pending against defaulter licensees (Shri Babu Khan and party) of liquor group Indergarh-Lakheri- Keshoraypatan at Bundi for the year 1996-97. On scrutiny of records, it was found that as per information provided by Excise Inspector, Kota, the licensees and guarantors who were relatives, had been residing at Jaipur, Chittorgarh, Churu and Nagaur districts. However, no efforts were made by the department to find out the properties of defaulters at these places either through revenue authorities, municipal authorities, other local bodies, *etc.* or guarantors residing at these places.

⁷ House (40'×60'), House (20'×60'), House (20'×90'), House (20'×50') Furniture Showroom, Seed Godown (15'×50') and plot (30'×60') in Kota.

6.4.9.5 During test check of the records of LPH group 2006-07 at Sirohi, it was noticed that an applicant (Shri Rampal) applied for licence at the exclusive privilege amount of ₹ 1.27 crore and deposited demand drafts of ₹ 5.91 lakh as earnest money. The applicant backed out and did not execute the licence. As per the Excise Policy, the backed out applicant had to pay the risk and cost amount equivalent to the amount which was short received in re-auction. Thus, a demand of ₹ 42.11 lakh was raised (9 May 2006) against the licensee. The applicant represented (24 May 2006) that he had not applied for the licence. It was noticed that the Department had not made any efforts to identify the whereabouts of impersonating persons from the Banks whose demand drafts were submitted as earnest money.

6.4.10 Non-vacation of stay order

Scrutiny of 13 pending cases out of 33 cases of selected units disclosed that an amount of ₹ 3.50 crore was under stay for 1 to 17 years in various courts. However, no concrete efforts were made to vacate the stay orders even after lapse of many years. No time frame was fixed by the Department for filing counter affidavits/appeals in court cases. Some of the cases are discussed below:

6.4.10.1 Three partners of the liquor group Sardarshahar under DEO Churu in 1999-2001, presented solvency certificate of ₹ 83.50 lakh including that of six guarantors. The licensees defaulted in payment and an arrear of ₹ 1.31 crore accumulated at the end of the licence period. Due to non-verification of title of properties of licensees/guarantors, properties of one licensee (Shri Bhanwarlal) and two guarantors (Shri Jugal Kishor and Shri Omprakash) could not be auctioned as co-owners of the properties approached SDM Courts in Ratangarh, Ramgarh Sethan and Fatehpur respectively against the auction. The concerned SDMs granted (2001) stay in all the three cases. Though a period of 14 years had elapsed, the stay was still effective (July 2015). As such, recovery of ₹ 46.00 lakh could not be realised due to non-vacation of stay order.

6.4.10.2 A licensee (Shri Anil Kumar) of liquor group Abu Road- Pindwara of DEO Sirohi for the period 1995-97 had arrears of ₹ 23.41 lakh at the end of licence period. It was noticed that the demand of ₹ 23.41 lakh was raised (March 1999) against Shri Anil Kumar when he was the licensee of liquor group Sirohi-Revdar in 1997-99. It was stated in the notice that on failure of the licensee to deposit the demand, the recovery would be adjusted against the security deposit for the period 1997-98. The licensee obtained (26 March 1999) a stay from Rajasthan High Court, Jodhpur against recovery of arrears of ₹ 23.41 lakh by forfeiting his security deposit. Though the court had stayed the forfeiture of security deposit only, the Department did not initiate any action to get the stay order vacated and recover the amount.

6.4.11 Incorrect raising of demand

In five cases of three selected units, it was noticed that the demand was short raised which resulted in short depiction of arrears to the tune of ₹ 65.83 lakh as detailed below:

6.4.11.1 During test check of the records of LPH group 2002-03 at Churu, it was noticed that an applicant (Shri Jagannath) applied for licence at the unified privilege amount of ₹ 2.52 crore. Due to non-submission of security deposit and solvency certificates, the licence was cancelled (12 April 2002) at the risk and cost amount equivalent to the amount short received in re-auction. Against the original bid amount of ₹ 2.52 crore, the licence was awarded to subsequent bidder at ₹ 1.40 crore. Against the leviable amount of ₹ 1.12 crore, a demand of only ₹ 1.03 crore was raised against the licensee resulting in short raising of demand by ₹ 0.09 crore. Reason for short raising of demand was not found on record.

6.4.11.2 As per the Rajasthan Distillery Rules 1976, on expiry, cancellation or suspension of licence of a distiller, the distiller was bound to pay the duty on, and to remove all spirit remaining within the distillery in accordance with the rules in force. The Department destroyed (31 December 2011 and 7 June 2013) the stock of one licensee (Interlink Bottling Plant, Sirohi) whose licence was not renewed since 1 April 2005 and issued a notice (15 April 2013) to the licensee for depositing excise duty of ₹ 37.83 lakh on the closing stock of spirit and liquor. It was noticed that duty of ₹ 77.96 lakh was leviable on the stock available at the bottling plant as on 1 April 2005. This resulted in short realisation of ₹ 40.13 lakh. Meanwhile, the Rajasthan High Court stayed (6 March 2014) the recovery till the next listing date, *i.e.* 19 March 2014. No further progress in the case was available on the record.

6.4.11.3 In DEO, Ajmer, three composite shops/groups⁸ were shown outside five Km from municipal limit and composite fees was deposited accordingly by the licensees during the years 2006-07 to 2011-12. However, such shops were found within five Km in an enquiry made by the department in April 2010 and November 2011. According to excise policies, higher composite fees were recoverable from these licensees.

It was observed that though the department had recovered the differential amount of composite fee since 2009-10, the composite fee for 2006-07, 2007-08 and 2008-09 was not recovered. As such, demand of ₹ 16.70 lakh was raised short, which resulted in understatement of arrears.

6.4.12 Conclusion and Recommendations

Non-verification of title, value and location of movable and immovable properties of the licensees and their guarantors at the time of granting licences resulted in non-recovery/short recovery of arrear. The DEOs did not make adequate efforts to identify properties of defaulters through active pursuance with the offices of *Tehsil*, UIT, Municipal Corporation, Income Tax Department, Rajasthan Housing Board, *etc.* in whose jurisdiction the defaulters owned property or were last residing. The efforts made to dispose

⁸ *Tabiji* (₹ 7.90 lakh) for 2006-09, *Byawarkhas* (₹ 3.15 lakh) for 2007-09 and *Palra* (₹ 5.65 lakh) for 2007-09.

the identified properties of defaulters did not bear fruits in absence of wide publicity. No reserve price was fixed prior to initiation of auction process. As a result, sale proceeds received in auction of attached properties were not commensurate with the value of property declared in solvency certificates. The Department also did not pursue the cases diligently with various Courts to get the stay orders vacated.

The Department needs to vigorously pursue recovery of long outstanding arrears by coordinating with the offices of Tehsil. UIT, Municipal Corporation, Income Tax Department, Rajasthan Housing Board, etc. in whose jurisdiction the defaulter owned property or were last residing. It may also follow up the cases pending in courts and get the stay order vacated expeditiously.

6.5 Non-levy of excise duty on short delivered beer exported to other States

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 (Act) has been paid or until a bond under Section 18 of the Act in form R.B.11 or R.B.12 has been executed by the brewer for export of beer outside the State. Condition number (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 applicable. Further, there is no provision in the Rules regarding allowance of wastage of beer in transit and payment of duty in importing states.

During the scrutiny of the Excise Verification Certificates of beer exported by five breweries⁹ during the period 2013-14 under DEOs, Behror and Alwar, it was noticed (between September 2014 and February 2015) that during the course of export of beer outside the State under bond, 95,186.96 bulk litres (12,204 cartons) of beer were short delivered at the destination. The duty on this quantity of beer exported was neither paid by the brewers nor demanded by the Excise Department. This resulted in non-levy of excise duty amounting to ₹ 42.02 lakh.

After it was pointed out (November and February 2015), the Department stated (March 2015) that excise duty was not payable as per the condition and terms of the bond executed by the licensees.

The reply is not correct as the condition of the bond stipulated that the brewers were liable to pay excise duty on the beer short delivered at the destination. The reply of the Government is awaited (November 2015).

⁹ M/s Mount Shivalik India Pvt. Ltd. Behror, M/s Deewan Modern Breweries Ltd. Behror, M/s United Breweries Ltd. Bhiwadi and M/s Arian Breweries Ltd. Bhiwadi. M/s Carlsberg India Pvt. Ltd., Alwar.

6.6 Short recovery of hotel bar licence fee

As per rule 3 of the Rajasthan Excise (Grant of Hotel Bar/Club Bar licenses) Rules, 1973, for the purpose of hotel bar licenses, the hotels are broadly categorised in three categories *i.e.* luxury, heritage and other. Luxury hotels are further categorised as five star, four star and three star. Different rates of license fee have been prescribed for hotel bar licenses for the year or part thereof.

During scrutiny of records of hotel bar/club bar licenses at DEOs, Jaipur City and Ajmer for the year 2012-13 and 2013-14, it was noticed (between August 2014 and November 2014) that two hotels¹⁰ in jurisdiction of DEO Jaipur City were advertised as 'five star' category on their own websites. Another two hotels¹¹ in jurisdiction of DEO, Ajmer had been categorized in 'four star' and 'three star' category, as per the official website of Ministry of Tourism, Government of India. The Department however, charged hotel bar license fee of 'other' category hotel instead of 'star' category and issued/renewed hotel bar license. This resulted in short recovery of hotel bar license fee of ₹ 36.50 lakh as per details given below:

(₹ in lakh)

Sl. no.	Name of DEO	Name of Hotel Bar Licensee	Category of Hotel	Period	Licence fee due	Licence fee recovered	Short recovery
1.	Ajmer	Country Inn & Suites	Four Star	2012-13	10.50	3.50	7.00
				2013-14	10.50	3.50	7.00
2.	Ajmer	Ananta Spa & Resorts	Three Star	2012-13	8.50	7.00	1.50
				2013-14	8.50	7.00	1.50
3.	Jaipur City	Shiv Vilas Resort Kukas	Five Star	2013-14	15.50	3.50	12.00
4.	Jaipur City	Royal Orchid, Durgapura	Five Star	2013-14	15.50	8.00	7.50
Total					69.00	32.50	36.50

After it was pointed out (between September 2014 and February 2015), the Government stated (March 2015) that an amount of ₹ 17 lakh had been recovered from the two hotels under DEO, Ajmer. In case of one hotel (*Shiv Vilas Resort Pvt. Ltd.*) under DEO, Jaipur City, notice for recovery had been issued and the matter of another hotel (*Hotel Royal Orchid*) was under consideration of Hon'ble Court. The progress of recovery on remaining amount is awaited (November 2015).

6.7 Non-levy of licence fee for wholesale vend of country liquor

As per serial number 12(a) of table below Rule 68 of the Rajasthan Excise Rules 1956, inserted vide notification of April 2011, licence fee at the rate of ₹ 5 lakh per year is to be levied for wholesale vend of country liquor from bonded warehouse established at the place of manufacture. Further, an entry at serial number 13 of table below Rule 68 authorises levy of ₹ 5 lakh per year as

¹⁰ Shiv Vilas Resort Pvt. Ltd., Jaipur and Hotel Royal Orchid, Durgapura- Jaipur.

¹¹ Hotel Ananta Spa & Resorts, Ajmer and Country Inn & Suits, Ajmer.

annual licence fee for wholesale vend by manufacturers of liquor to wholesale vendors.

During test check of licence file of a distillery¹² under the jurisdiction of the DEO, Behror, it was noticed that the unit was manufacturing and vending Indian Made Foreign Liquor (IMFL) and country liquor in wholesale from the place of manufacture despite the provision Rule 4 of the Rajasthan Distilleries Rules, 1976 that the distiller who is licenced to manufacture IMFL shall not be allowed to manufacture potable or non-potable products of any other kind on the same premises. The Department levied licence fee of ₹ 15 lakh for the period 2011-12 to 2013-14 under Rule 68(13) for the wholesale vend of foreign liquor and beer. However, the licence fee of ₹ 15 lakh for the same period for wholesale vend of country liquor under Rule 68(12)(a) was not levied. This resulted in non-levy of licence fee of ₹ 15 lakh.

The matter was pointed out to the Department and reported to the Government (March 2015). The Government stated (April 2015) that licence fee for wholesale vend of country liquor under Rule 68(12) (a) was not payable as the licensee was a manufacturer and wholesale vendor of IMFL/Beer and country liquor and accordingly licence fee for wholesale vend of liquor was recovered under Rule 68(13).

The reply is not correct as the entry at serial number 12(a) of table below Rule 68 authorises levy of licence fee for wholesale vend of country liquor besides existing Rule 68(13). Further, licences for wholesale vend of IMFL/Beer and country liquor were issued separately to the unit and as per conditions of the licences no other liquor was to be stored in the warehouse except for which the licence was granted. Thus, licence fee for wholesale vend of country liquor under Rule 68(12)(a) was payable by the unit.

6.8 Non-levy of licence fee from wholesale and retail on vendors of foreign liquor

As per Rule 47(4) of the Rajasthan Excise Rules, 1956, licence for wholesale vend by traders or dealers of foreign liquor bottled in foreign countries to wholesale vendors may be granted by Excise Commissioner (EC) on such terms and conditions as State Government may specify. Accordingly, the EC granted such licences to two wholesale vendors *i.e.* M/s Rajasthan State Beverage Corporation Ltd. (RSBCL) and M/s Canteen Stores Department (CSD), for import of foreign liquor bottled in other country, popularly known as BIO brands. Further, Rule 5-A of the Grant of Hotel Bar/Club Bar Licences Rules, 1973 allows Hotel Bar/Club Bar licensees to import foreign liquor into Rajasthan from outside India under an import licence with the prior permission of the EC.

As per Rule 68 (13-C) of the Rajasthan Excise Rules, 1956 notified on 1 April 2012, licence fee of ₹ 6 lakh up to 10 brands and ₹ 10,000 per brand above 10 brands is to be charged for the term or part thereof, for wholesale vend by manufacturers or their authorised dealers of BIO brands for their own wholesale vend or other wholesale vendors and retail vendors.

¹² M/s Globus Spirits Limited, Behror.

During scrutiny of permits issued to the wholesale vendors and retail on vendors *i.e.* Hotel Bar/Club Bar licensees for import of foreign liquor bottled in other country by concerned DEOs, it was observed (between June 2014 and January 2015) that the two wholesale vendors imported 65 BIO brands of foreign liquor for various depots and 106 retail on vendors imported 2,841 BIO brands during the year 2013-14. However, the licence fee for import of foreign liquor had been neither paid by these wholesale and retail on vendors nor demanded by the Department. This resulted in non-levy of licence fee amounting to ₹ 8.65 crore.

After it was pointed out (between June 2014 and March 2015), the Department intimated (August 2015) that recovery of ₹ 22.30 lakh on import of BIO from Rajasthan State Beverages Corporation Limited had been made. The action taken in recovery of the remaining amount has not been received (November 2015).

