REVENUE SECTOR

CHAPTER IV
REVENUE SECTOR

4.1 Trend of revenue receipts

4.1.1 The tax and non-tax revenue raised by Government of Sikkim, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from the Government of India (GoI) during the year and the corresponding figures for the preceding four years are mentioned in **Table 4.1.1**:

Table 4.1.1

Trend of revenue receipts

(₹ in crore)

Sl.		2011-12	2012-13	2013-14	2014-15	2015-16
I	**Revenue raised by the State Government**					
	• Tax revenue	293.92	435.48	524.92	527.54	566.82
	• Non-tax revenue	1,044.57	806.96	794.49	698.08	412.99
	Total	1,338.49	1,242.44	1,319.41	1,225.62	979.81
II	**Receipts from the GoI**					
	• State's share of net proceeds of divisible Union taxes	611.65	698.48	762.62	809.33	1,870.28
	• Grants-in-aid	1,722.50	1,852.40	2,244.41	2,427.00	934.20
	Total	2,334.15	2,550.88	3,007.03	3,236.33	2,804.48
III	**Total receipts of State Government (I + II)**	3,672.64	3793.32	4,326.44	4,461.95	3,784.29
IV	**Percentage of I to III**	**36**	**33**	**31**	**27**	**26**

The above table indicates that during the year 2015-16, the revenue raised by the State Government (₹ 979.81 crore) was 26 *per cent* of the total revenue receipts. The balance 74 *per cent* of the receipts during 2015-16 was from GoI. Non-tax revenue and total receipts of the State on 2015-16 shown in the table above include net receipts under State Lotteries.

4.1.2 The details of the tax revenue raised during the period from 2011-12 to 2015-16 are given in **Table 4.1.2**:

Table 4.1.2

Details of Tax Revenue realised

(₹ in crore)

Sl. No.	Head of revenue	2011-12		2012-13		2013-14		2014-15		2015-16		% of increase (+) or decrease (-) in 2015-16 over 2014-15	
		BE*	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	Sales Tax/Value Added Tax (VAT)	160.11	124.19	187.14	227.08	225.00	286.33	259.45	282.10	300	325.72	15.63	15.46
2	Taxes on Income and expenditure other than Corporation Tax	2.01	4.86	5.62	6.73	7.01	8.68	8.01	7.93	8.51	7.92	6.24	-0.13
3	State Excise	67.44	96.26	95.00	111.12	109.00	120.64	120.93	131.36	135.00	142.08	11.63	8.16
4	Stamps and Registration Fees	3.26	8.27	7.47	5.35	7.91	6.46	7.70	6.77	7.64	8.51	-0.78	25.70
5	Taxes on Vehicles	10.00	16.56	15.00	16.38	16.80	18.52	18.82	19.42	21.07	22.36	11.96	15.14
6	Other Taxes and Duties on Commodities and Services	22.47	39.17	37.63	63.16	53.40	80.90	75.60	73.81	81.26	58.38	7.49	-20.91
7	Land Revenue	3.82	4.61	5.48	5.66	6.56	3.39	6.89	6.15	6.89	1.85	0.00	-69.92
	Total	**269.11**	**293.92**	**353.34**	**435.48**	**425.68**	**524.92**	**497.40**	**527.54**	**560.37**	**566.82**	**12.66**	**7.45**

** BE: Budget Estimates*

The respective departments reported the following reasons for variations:

Increase:

Sales Tax/VAT: Increase was due to increase in Petroleum, Oils & Lubricants (POL) and liquor sales and increase in TDS.

State Excise: Increase was due to revision of Excise Duty.

Stamp and Registration: Increase was due to increase in receipts on sale of Judicial Stamps and fees for registering documents.

Taxes on Vehicles: Increase was due to increase in number of vehicles.

Decrease:

Other Taxes and Duties on Commodities and Services: Decrease was due to decrease in receipts of cesses under other Acts.

Land Revenue: Decrease was mainly due to less receipts of taxes and other receipts besides delay in implementation of "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013".

In respect of 'Taxes on income and expenditure other than Corporation Tax', no reason was furnished by the concerned Department.

4.1.3 The details of the non-tax revenue raised during the period 2011-12 to 2015-16 are given in **Table 4.1.3**:

Table 4.1.3

Details of Non-Tax Revenue realised

(₹ in crore)

Sl. No.	Head of revenue		2011-12		2012-13		2013-14		2014-15		2015-16		Percentage of increase (+) or decrease (-) in 2015-16 over 2014-15	
			BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual
1	Power		150.00	79.70	100.05	82.90	110.10	98.93	121.10	113.56	125.10	147.68	3	30
2	Interest receipts		13.91	29.39	21.15	46.00	28.85	67.02	31.05	66.44	31.21	72.52	1	9
3	Police		39.29	12.89	44.88	49.23	50.29	41.14	55.32	17.60	55.35	61.68	0	250
4	Road Transport		23.75	30.89	29.05	29.01	36.04	34.10	43.00	27.63	39.35	41.55	(-)8	50
5	Forestry and Wild Life		11.00	12.53	13.48	12.28	15.35	14.27	15.35	11.45	12.06	12.79	(-)21	12
6	Other Administrative Services		2.84	6.68	3.03	9.64	4.29	11.06	10.25	13.59	10.40	7.30	1	(-)46
7	Public Works		3.80	5.38	4.56	4.70	4.46	4.68	5.68	3.66	6.83	4.25	20	16
8	Plantations		2.80	2.59	3.20	3.98	3.50	3.62	5.00	2.31	5.18	3.86	4	67
9	Water Supply and Sanitation		3.49	2.90	3.40	2.74	3.87	3.17	3.91	3.25	3.99	3.80	2	17
10	Tourism		5.00	1.84	5.00	2.13	5.60	2.65	2.80	2.64	3.14	3.96	12	50
11	Medical and Public Health		0.56	1.27	1.27	1.50	1.27	2.19	2.50	1.97	2.50	2.15	0	9
12	Other Rural Development Programmes		2.32	1.25	2.32	1.46	1.50	2.13	1.50	1.65	1.50	0.94	0	(-)43
13	Stationery and Printing		1.51	1.92	1.51	2.08	1.81	2.05	1.90	1.75	2.03	1.83	7	5
14	Crop Husbandry		0.42	0.46	0.07	0.71	0.53	1.45	0.91	0.56	0.91	0.70	0	25
15	Education, Sports, Art and Culture		1.40	1.35	1.40	1.37	1.69	1.38	1.34	1.22	1.17	1.16	(-)13	(-)5
16	State Lotteries (SL)	*Gross*	1,010.78	844.15	780.99	546.39	776.03	474.37	787.23	418.64	--*	--*	--*	--*
		Net	70.00	43.62	50.00	41.43	40.00	41.47	36.00	44.33	37.40	20.02	4	(-)55
17	Others		8.67	9.38	10.14	10.84	9.35	30.28	10.08	10.16	12.24	26.80	21	164
	Total (with gross figures of SL)		1,281.54	1,044.57	1,025.50	806.96	1,054.53	794.49	1,098.92	698.08	350.36	412.99	--**	--**
	Total (with net figures of SL)		**340.76**	**244.04**	**294.51**	**302.00**	**318.50**	**361.59**	**347.69**	**323.77**	**350.36**	**412.99**	**0.77**	**27.56**

*Source: Finance Accounts and Estimates of Receipts. * Gross figures of State Lotteries have not been furnished by the Department for the year 2015-16. ** Since gross figures of State Lotteries have not been reflected for the year 2015-16, percentage increase/decrease has not been calculated.*

The respective departments reported the following reasons for variations:

Increase:

Power: Increase was due to massive mobilisation of revenue and collection of dues.

Police: Increase was due to receipt of reimbursement of expenditure on Indian Reserve Battalion and auctions of number of old vehicles, realisation from parking charges, Identity Card fees, etc.

Road Transport: Increase was due to increase in number of buses.

Forestry and Wildlife: Increase was due to receipt of revenue from Territorial Circle where Budget Estimate was nil.

Public Works: Increase over previous year is attributed to the sale of tender form, realisation of five *per cent* storage charges from contractors and renewal of contractors' licence during the year.

Water Supply and Sanitation: Increase was mainly due to increase in receipt from urban water supply schemes.

Crop Husbandry: Increase was due to timely implementation of programmes under Centrally Sponsored Schemes.

Decrease:

Other Administrative Services: Decrease was mainly due to decrease in reimbursement of election expenditure from the Election Commission of India.

Other Rural Development Programme: Decrease was due to the fact that no fresh work was sanctioned during the year 2015-16. Hence, receipts from sale of tender forms and storage charges were less than anticipated.

Education, Sports, Art and Culture: Decrease was due to less receipt under the Head Sports and Youth Services.

State Lotteries: Decrease was due to the fact that offline lottery (paper) was not conducted in the year 2015-16.

In respect of other heads of revenue, no reason was furnished by the departments concerned despite being requested (April 2016 and August 2016).

4.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 in respect of some Heads of Revenue as reported by the departments amounted to ₹ 237.66 crore of which ₹ 101.86 crore was outstanding for more than five years (as detailed in the **Table 4.2**) and adequate efforts were not being made to recover them.

Table 4.2
Arrears of Revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2016	Amount outstanding for more than five years	Replies of Department
1	Food Storage & Warehousing	0.14	-	House rent of Food Corporation of India Jorethang is yet to be received.
2	Public Works	2.00	1.19	The realisation of the old outstanding dues are being taken up earnestly.
3	Power	233.08	100.36	System of depositing electrical consumption charges was manual (done offline) through bank receipts and therefore many consumers failed to deposit their bills.
4	Water Supply and Sanitation	2.29	0.16	Some of the old lines are damaged partially and un-repairable. Such cases with disturbed water supply are remaining without up-to-date payment.
5	Animal Husbandry	0.15	0.15	Non-receipt of revenue from Uttara Food & Feed Pvt. Ltd.
	Total	**237.66**	**101.86**	

Source: Information received from departments

4.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Commercial Taxes Division {Finance, Revenue and Expenditure Department (FRED)} in respect of VAT is given below:

Table 4.3

Arrears in assessments (number of cases)

Head of revenue	Opening balance	New cases due for assessment during 2015-16	Total assessments due	Cases disposed of during 2015-16	Balance at the end of the year	Percentage of disposal *(col. 5 to 4)*
1	2	3	4	5	6	7
VAT	3,654	133	3,787	13	3,774	0.34

As can be seen from the preceding table, the performance regarding disposal of cases of Commercial Taxes Division was very poor. The Department may take steps to increase the disposal of cases of assessment.

4.4 Response of the departments/Government towards Audit

The Accountant General (AG), Sikkim conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the Rules and procedures. Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot are issued to the heads of the offices inspected with copies to the next higher authorities for prompt corrective actions. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

It was seen that 284 paragraphs involving ₹ 578.42 crore relating to 95 IRs remained outstanding at the end of June 2016. The details along with the corresponding figures for the preceding two years are mentioned in the following table:

Table 4.4.1
Details of pending Inspection Reports

	June 2014	June 2015	June 2016
Number of outstanding IRs	97	95	95
Number of outstanding audit observations	292	267	284
Amount involved (*₹ in crore*)	598.29	561.78	578.42

4.4.1 The department-wise details of the IRs, the audit observations outstanding as on 30 June 2016 and the amounts involved are mentioned in the following table:

Table 4.4.2
Department-wise details of IRs

Sl. No.	Name of Department	Nature of Receipts	No. of outstanding IRs	No. of outstanding Audit observations	Money value involved (*₹ in crore*)
1	Finance, Revenue and Expenditure (Commercial Taxes Division)	VAT/Taxes on Sales, Trade, etc.	13	48	57.00
2	Finance, Revenue and Expenditure (Income Tax Division)	Income Tax	14	60	32.95
3	Excise (Abkari)	State Excise	10	23	25.18
4	Land Revenue and Disaster Management	Land Revenue	20	22	0.81
5	Transport	Taxes on Vehicles	7	34	9.07
6	Mines, Minerals and Geology	Non-ferrous Mining and Metallurgical Industries	3	3	3.30
7	Forest, Environment and Wildlife Management	Forestry and Wildlife	4	9	0.14
8	Finance, Revenue and Expenditure (Directorate of Sikkim State Lotteries)	Lotteries	2	5	24.10
9	Urban Development and Housing	Urban Development	11	32	10.27
10	Energy and Power	Power	11	48	415.60
Total			**95**	**284**	**578.42**

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs for 10 IRs (issued during 2015-16) up to June 2016. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that heads of offices and heads of the departments did not initiate adequate action to rectify the defects, omissions and irregularities pointed out by the AG through IRs.

The Government may consider to have an effective system for prompt and appropriate response to audit observations.

4.4.2 Departmental Audit Committee Meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. During 2015-16, no departmental Audit Committee meeting was held.

The overall progress of settlement of paragraphs needs to be improved in view of the huge pendency of the IRs and paragraphs.

4.4.3 Non-production of records to audit for scrutiny

The programme of local audit of tax revenue/non-tax revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

Non-production of records for audit scrutiny was observed in relating seven cases as mentioned in the following table:

Table 4.4.3

Non-production of records

<table>
<tr><th>Name of the Office/Department</th><th>Year of audit</th><th>Number of cases for which records were not produced</th><th>Tax amount</th></tr>
<tr><td>Transport (Motor Vehicle Division)</td><td rowspan="2">2015-16</td><td>03</td><td rowspan="2">Not known</td></tr>
<tr><td>Forest, Environment & Wildlife Management</td><td>04</td></tr>
</table>

4.4.4 Response of the departments to the draft audit paragraphs

The draft Audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the AG to the Principal Secretaries/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non- receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Two draft paragraphs proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2016 were forwarded (May and July 2016) to the heads of the respective departments through demi-official letters. The reply in respect of one draft paragraph has been received.

4.4.5 Follow up on Audit Reports - summarised position

The Rules of Procedures of the Committee on Public Accounts of the Sikkim Legislative Assembly (internal working) laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report for consideration of the Committee. Inspite of these provisions, the explanatory notes on the audit paragraphs of the Reports were being delayed inordinately.

Reports of the Comptroller and Auditor General of India of the Government of Sikkim for the years ended 31 March 2011, 2012, 2013, 2014 and 2015 containing 25 paragraphs {including Performance Audits (PAs)} under Revenue Sector were placed before the State Legislative Assembly between June 2012 and March 2016. Action taken explanatory notes in respect of 11 paragraphs from four departments (FRED; Excise; Transport and Labour) had not been received for Audit Reports for the years ending 31 March 2012, 2014 and 2015.

During 2015-16, the PAC discussed Audit Report for the year 2009-10.

4.5 Analysis of the mechanism for dealing with issues raised by Audit

To analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the departments/Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years in respect of FRED (Commercial Taxes Division) is evaluated and included in this Report.

The succeeding paragraphs 4.7.1 to 4.7.2 discuss the performance of the FRED (Commercial Taxes Division) in dealing with the cases detected in course of local audit conducted during the last ten years and also the cases included in the Audit Reports for last ten years.

4.5.1 Position of IRs

The summarised position of IRs issued during the last ten years, paragraphs included in these Reports and their status as on 30 June 2016 are given in the following table:

Table 4.5.1
Position of Inspection Reports

(*₹ in crore*)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2006-07	10	51	27.49	1	6	1.81	0	3	0.24	11	54	29.06
2007-08	11	54	29.06	1	13	87.11	2	8	3.42	10	59	112.75
2008-09	10	59	112.75	1	8	6.29	0	5	3.65	11	62	115.39
2009-10	11	62	115.39	1	15	6.83	0	12	2.70	12	65	119.52
2010-11	12	65	119.52	1	32	9.10	2	18	5.25	11	79	123.37
2011-12	11	79	123.37	1	16	8.07	0	5	1.87	12	90	129.57
2012-13	12	90	129.57	1	12	9.77	0	2	0.12	13	100	139.22
2013-14	13	100	139.22	1	13	10.27	0	31	43.06	14	82	106.43
2014-15	14	82	106.43	1	7	15.90	1	10	60.02	14	79	62.31
2015-16	14	79	62.31	1	5	0.05	2	36	5.36	13	48	57.00

The Government did not arrange any Audit Committee meeting between the Department and AG's office to settle the old paragraphs during 2015-16.

4.5.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years accepted by the Department and the amounts recovered there against are mentioned in the following table:

Table 4.5.2

Year of Audit Report	No. of paragraphs included	Money value of the paragraphs (₹ in crore)	Number of paragraphs accepted	Money value of accepted paragraphs (₹ in crore)	Amount recovered during the year (₹ in crore)	Cumulative position of recovery of accepted cases (₹ in crore)
2005-06	2	5.41	2	5.41	0.48	0.48
2006-07	2	0.49	2	0.00	-	0.48
2007-08	0	NA	-	-	-	0.48
2008-09	3	5.97	3	4.95	1.47	1.95
2009-10	1	6.83	0	0.00	-	1.95
2010-11	5	76.85	0	0.00	-	1.95
2011-12	1	0.65	1	0.65	-	1.95
2012-13	3	30.03	2	28.94	0.33	2.28
2013-14	0	NA			-	2.28
2014-15	2	2.59	1	0.00	-	2.28

It is evident from the preceding table that the progress of recovery even in accepted cases was very slow during the entire period of last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

4.6 Action taken on the recommendations accepted by the departments/ Government

The draft reports on PAs conducted by the AG are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These PAs are also discussed in the exit conference and the Department's/Government's views are included while finalising the PAs for the Audit Reports.

The following PAs on the Commercial Taxes Division (FRED) had featured in the last 10 years' Audit Report. The details of recommendations and their status are given in the following table:

Table 4.6

Year of AR	Name of the PA	Details of the recommendation	Status
2008-09	PA on transition from Sales tax to VAT (*No. of recommendations: 8*)	Implement computerisation of VAT system completely and effectively in all areas.	Computerisation of VAT implemented under MMPCT[1].
		Establish effective mechanism to review database at periodic interval and to prepare database of dubious/risky dealers.	Such mechanism has been established under the eSEVA[2].

[1] *Mission Mode Project for Computerisation & Commercial Taxes Administration.*
[2] *Commercial Taxes Division's tax administration system for online payment, e-return filing, way bill endorsement, etc.*

Year of AR	Name of the PA	Details of the recommendation	Status
		Establish effective mechanism to ensure submission of regular and timely returns by the dealers.	Returns have to be submitted on time, else the TIN of the dealer gets blocked by the system. Hence, effective mechanism established.
		Establish effective mechanism for scrutiny of every returns submitted by the dealers, assessment of dealers and VAT audit of selected dealers.	Scrutiny of returns is mandatory and is being done before acceptance.
		Fix responsibility at various levels in the Department for strict compliance of codal provisions to avoid tax evasion by any dealer.	All the penal provisions are implemented before and after assessment.
		Ensure fixing the quantum of minimum penalty for each kind of offences and to continue VAT Fraud Task Force.	Minimum penalty is provided in the VAT Act/Rules.
		Strengthen internal control mechanism including Internal Audit.	Internal Audit section established with the Joint Commissioner/Audit as Head of the Section.
		Review and rectify various loopholes/deficiencies of VAT Act and Rules.	VAT Act/Rules have been amended to rectify various loopholes.
2010-11	PA on Utilisation of Declaration Forms in Inter State Trade and Commerce (*No. of recommendations: 8*)	Maintain data bank of dealer involved in Inter State Trade and Commerce.	Such provision exists in the eSEVA.
		Print Declaration form assessing its requirements taking into account pace of issue of declaration forms.	All the declaration forms are issued online.
		Maintain proper records of declaration forms printed, issued and closing stock.	Such records are maintained in the system since the forms are issued online.
		Ensure issue of declaration forms to the dealers only after receipt of details of utilisation of declaration forms issued earlier.	Issue of declaration forms are done after verification and acceptance of the request.
		Issue declaration forms chronologically and not randomly to have a track of declaration forms.	Declaration forms are being issued online and records are available in the system.
		Install a system of verification of each and every declaration form submitted by the dealers with the database available in the TINXSYS website before allowing exemption/concession of tax.	Such system has been established.
		Install a system for picking up a sample of declaration forms and taking them up for further verification with the concerned States and also a system of uploading the details of utilisation of declaration forms in the TINXSYS website.	
		Ensure submission of CST returns by every dealer and assess all dealers involved in Inter State trade and commerce.	CST returns are to be filed online. Assessments of the dealers are on the basis of the assignment by the Commissioner.

NB: Status as in the table is based on departmental replies.

4.7 Audit Planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration, i.e. budget speech, White Paper on State Finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during five years, etc.

During the year 2015-16, there were 19 auditable units, of which 11 units were planned and audited which is 58 *per cent* of the total auditable units.

4.8 Results of audit

Test check of the records of 11 units under Revenue departments {Mines, Minerals and Geology; Finance, Revenue and Expenditure (Commercial Taxes Division); Transport (Motor Vehicles Division), Land Revenue and Disaster Management; Forest, Environment and Wildlife Management and Energy and Power} conducted during the year 2015-16 revealed irregularities involving revenue aggregating ₹ 83.66 crore in 56 cases. During the course of the year, the departments concerned accepted 43 cases which were pointed out in audit during 2015-16.

4.9 Coverage of this Report

This Chapter contains two paragraphs involving financial effect of ₹ 27.95 crore and findings of audit based on ‘Collection of Revenue from State Excise’ involving financial implication of ₹ 597.85 crore. The departments have accepted audit observations involving ₹ 582.53 crore out of which ₹ 0.13 crore has been recovered. These are discussed in succeeding paragraphs.

EXCISE (ABKARI) DEPARTMENT

4.10 Audit on Collection of Revenue from State Excise

4.10.1 Introduction

The Sikkim Excise Act, 1992 and various Rules framed and notifications issued there under provide for levy of Excise Duty, import fee, export fee, bottling fee, license fee, etc. The Secretary to the Government of Sikkim, assisted by the Commissioner of Excise, enforces various Acts/Rules and also regulates the activities of distilleries/breweries and production, storage, distribution, import, export, sale of Indian Made Foreign Liquor (IMFL) and beer in the State besides collection of revenue.

As per Gazette Notification dated 18 July 1994, issued by Chief Secretary, the Excise (Abkari) Department was mandated Allocation of Business which *inter-alia* contained:

(i) Matters relating to production and/or sale of all alcoholic drinks in Sikkim.

(ii) Detection and prevention of illicit distillation and sale.

(iii) Detection and trial of cases departmentally for adulteration of unauthorised quality products.
(iv) Fixation of duty and selling rates of all alcoholic drinks, *ganja* and opium.
(v) Realisation of revenue in the form of Excise Duty, etc.
(vi) Licensing and control of distilleries, breweries and bonded ware-houses.
(vii) Issue of import and export permits, etc.

The Department has the vision "To strive towards control and monitoring of all excisable articles and to maximise revenue collection for the State of Sikkim".
In the State, there are five[3] distilleries, three[4] breweries, one[5] Extra Neutral Alcohol (ENA) manufacturing industry, one[6] bonded warehouse and six[7] pharmaceutical industries under the ambit of State Excise (Abkari) Department as on 31 March 2016.

4.10.2 Audit framework

Audit on "Collection of Revenue from State Excise" commenced with an entry conference held on 12 April 2016 wherein audit objectives, scope of audit, audit methodology and audit criteria were explained to the Department. The audit covering the period from 2011-12 to 2015-16 was conducted during April-June 2016 through test check of records in Head Office of State Excise (Abkari) Department and in Excise offices at five distilleries, three breweries, one Extra Neutral Alcohol (ENA) manufacturing industry, six pharmaceutical industries and one bonded warehouse thereby covering 100 *per cent* of units.

The Audit was conducted with the objective of assessing whether:

- the trend of realisation of revenue vis-à-vis cost of collection was justified;
- provisions/systems for regulating the levy and collection of Excise Duty, fees, fines, etc. and for issue of licences and permits under various Acts and Rules were being complied with and implemented effectively by the State Excise Department; and
- the Internal Control Mechanism was adequate and effective in preventing leakage of revenue for ensuring compliance with all Rules and Regulations.

The audit findings were discussed in an exit conference (6 September 2016) with the Secretary of the Department and the report was finalised duly considering the views of the Department. The audit findings were benchmarked against the criteria stipulated in:

- The Sikkim Excise Act, 1992;
- The Sikkim Foreign Liquor (Import, Export & Transport) Rules, 1993;

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[3] *Sikkim Distilleries Ltd (SDL), Rangpo; Mount Distilleries Ltd. (MDL), Majhitar; Mayal & Frezer (M&F) Bagheykhola; Khanchanjanga Distilleries Ltd. (KDL), Manpur and Himalaya Distilleries Ltd. (HDL), Majhitar.*

[4] *Yuksom Breweries Ltd.(YBL), Melli; Denzong Albrew Ltd.(DAL), Mulukey and Sikkim Breweries Ltd (SBL), Bagheykhola.*

[5] *Esveegee Breweries, Manpur.*

[6] *Overall Traders (OT), Gangtok.*

[7] *Cipla, Zydus Health Care, Zydus Wellness, Golden Cross, STP Pharmaceuticals and Swiss Garnier.*

- The Sikkim Excise (Brewery) Rules, 2000;
- The Sikkim Excise (Distillery for Manufacture of Spirit and Foreign Liquor) Rules, 2000;
- The Sikkim Excise (Indian Made Foreign Liquor Manufactured in Sikkim) Licensing of Warehouse Rules, 2005;
- The Sikkim Excise (Indian Made Foreign Liquor imported from other States) Licensing of Warehouse Rules, 2005;
- Notifications and orders issued by the Government from time to time;
- Directives from GoI and Government of Sikkim.

4.10.3 Audit findings

Audit findings relating to the 'Collection of Revenue from State Excise' are discussed in the succeeding paragraphs:

4.10.3.1 Budget estimates vis-à-vis actual realisation of revenue

Budget estimates and actual receipts from State Excise (Abkari) during the years 2011-12 to 2015-16 along with the total tax receipts during the same period are shown in the following table:

Table 4.10.1

(₹ in crore)

Year	BE	Actual realisation of State Excise revenue	Variation: Increase (+)/Decrease (-) in realisation of revenue	Percentage of variation over BE	Percentage of variation over previous year receipts	Total tax receipts of the State	Percentage of actual receipts *vis-à-vis* total tax receipts
2011-12	67.44	96.26	(+) 28.82	(+) 42.73	(+) 36.27[8]	293.92	32.75
2012-13	95.00	111.12	(+) 16.12	(+) 16.97	(+) 15.44	435.48	25.52
2013-14	109.00	120.64	(+) 11.64	(+) 10.68	(+) 8.57	524.92	22.98
2014-15	120.93	131.36	(+) 10.43	(+) 8.62	(+) 8.89	527.54	24.90
2015-16	135.00	142.08	(+) 7.08	(+) 5.24	(+) 8.16	566.82	25.07

Source: Finance Accounts

It can be seen from the above table that the Excise receipts showed an increasing trend and there was consistent decrease in variation between the actual revenue receipts and the BE from 42.73 *per cent* in 2011-12 to 5.24 *per cent* in 2015-16. Hence, it appeared that the budget estimates during the later years were more realistic.

The Excise receipts ranged between 23 to 33 *per cent* of the State's own tax receipts during last five years. While the total tax receipts of the State have increased by 92.85 *per cent* during the last five years, increase in the receipts from State Excise (Abkari) was recorded at 47.60 *per cent* only. This was as a result of considerable increase in tax receipts under 'Taxes on Sales, Trade, etc.' where the increase was around 127 *per cent* and 'Other taxes' increased by around 88 *per cent*.

[8] *Receipt during 2010-11 was ₹ 70.64 crore.*

While accepting the facts, the Department stated (24 May 2016 and 6 October 2016) that the targets for realisation were fixed by the Finance, Revenue and Expenditure Department (FRED) and added that there have been increase in realisation of revenue.

4.10.3.2 Comparison between revenue realised and cost of collection

The expenditure incurred on collection of Excise revenue and the percentage of such expenditure to collection during the years 2011-12 to 2015-16, along with the corresponding all India averages of cost of collection are shown in the following table and bar graphs:

Table 4.10.2

(₹ in crore)

Year	Revenue collected	Expenditure of the Department	Percentage of expenditure on collection	All India average cost of collection
2011-12	96.26	5.32	5.53	3.05
2012-13	111.12	6.03	5.43	2.98
2013-14	120.64	6.41	5.31	1.81
2014-15	131.36	6.83	5.20	2.09
2015-16	141.22	7.17	5.08	Not available

Source: Finance and Appropriation Accounts

Comparison between revenue realised and cost of collection

Chart 4.10.1

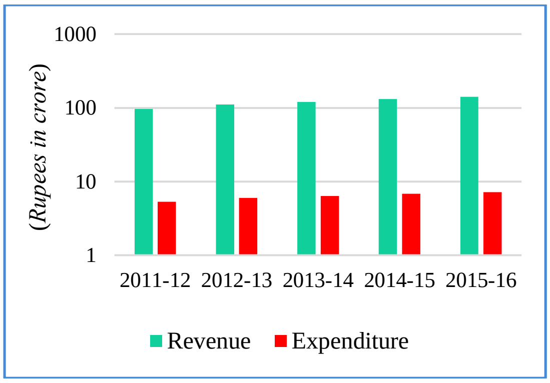
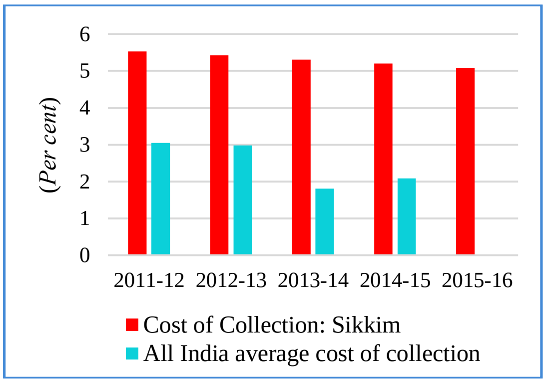


Chart 4.10.2



From the above table, it can be seen that though the percentage of cost of collection to actual collection had decreased from 5.53 in 2011-12 to 5.08 in 2015-16, but it was still quite high as all India average of cost of collection decreased from 3.05 in 2011-12 to 2.09 in 2014-15.

The Department stated (May 2016 and October 2016) that due to hike in salaries and other establishment costs, the Department could not reduce the cost of collection. The Department should reduce its establishment cost further to bring it at par with all India average.

4.10.3.3 Loss of revenue on bottling fees of beer ₹6.27 crore

As per Rule 53A of Sikkim Excise (Brewery) Rules, 2000, bottling fee on beer bottled in Sikkim on behalf of companies located outside Sikkim is to be charged and the Department issued notification (9 March 2011) prescribing a bottling fee of ₹ 15 per case for such beer bottled in Sikkim. Further, under Rule *ibid*, "The Licensee shall pay bottling fee as may be notified by the State Government on the volume of production manufactured in the brand name owned by the collaborator" vide notification dated 25 September 2013. However, though the Department intended to charge bottling fee on beer bottled in Sikkim on behalf of companies located outside Sikkim, it wrongly mentioned the same as "beer bottled from outside Sikkim" instead of mentioning "beer bottled in Sikkim for company/firm located outside Sikkim" in the notification. However, in pursuance of earlier audit observation, the phrase "beer bottled from outside Sikkim" was replaced by "beer bottled in Sikkim for company/firm located outside Sikkim" in the notification of August 2014.

It was noticed that the Department could not realise the prescribed fee despite issue of notification of March 2011 due to error in its language. Due to this mistake, the Officers-in-charge at M/s Denzong Albrew Ltd., Mulukey and M/s Sikkim Breweries Ltd., Bagheykhola were unable to realise bottling fee on the basis of notification of March 2011.

The Department started realisation of bottling fee from concerned breweries only on local sale and not on exported beer of such brands from 5 September 2014 onwards after amendment (August 2014). In this connection, it was also pertinent to mention that as per Rules *ibid* in cases of manufacture of beer, bottling fee as prescribed by the Department was to be charged to the licensee on the volume of production, irrespective of whether it was sold within the State or exported outside the State. The notification envisaged charging of bottling fee of ₹ 15 per case which was revised to ₹ 18 per case from 11 February 2016.

Thus, bottling fee (on outside brand beer) was not realised which were sold locally till amendment of notification (i.e. August 2014) and bottling fee was also not realised on beer exported outside the State either before or after amendment of the notification. During the period 1 April 2011 to 4 September 2014, a local sale of 3,17,984 cases of outside State brands of beer was made; similarly an export of 38,55,230 cases of outside State brands of beer was made during 2011-12 to 2015-16, on which bottling fee of ₹ 6.27 crore was not realised as detailed in the following table:

Table 4.10.3

Details of non-realisation of bottling fee on dispatch[9] of outside brands of beer

Name of the brewery	Year	Outside brands locally sold *(In cases)*	Outside brands exported *(In cases)*	Total cases of outside brands on which bottling fee was to be realised	Amount of bottling fee not realised *(In ₹)*
Denzong Albrew Ltd., Mulukey	2011-12	32,152	5,42,350	5,74,502	86,17,530
	2012-13	66,513	8,23,800	8,90,313	1,33,54,695
	2013-14	1,37,514	12,03,600	13,41,114	2,01,16,710
	2014-15(01/04/14 - 04/09/14)	62,925	4,70,400	5,33,325	79,99,875
	2014-15(05/09/14 - 31/03/15)	73,275	3,72,600	3,72,600	55,89,000
	2015-16(01/04/15 - 10/02/16)	1,78,175	4,03,800	4,03,800	60,57,000
	2015-16(11/02/15 - 31/03/16)		24,000	24,000	4,32,000
	Total	**5,50,554**	**38,40,550**	**41,39,654**	**6,21,66,810**
Sikkim Breweries Ltd., Bagheykhola	2011-12	0	11,180	11,180	1,67,700
	2012-13	13,700	2,100	15,800	2,37,000
	2013-14	5,180	1,400	6,580	98,700
	2014-16	0	0	0	0
	Total	**18,880**	**14,680**	**33,560**	**5,03,400**
	Grand total	**5,69,434**	**38,55,230**	**41,73,214**	**6,26,70,210**

Source: Departmental figures and audit analysis

[9] *The loss was calculated on the dispatch, as all duties or levies are charged only when dispatched from the warehouse.*

Thus, due to non-realisation of bottling fee on beer, the Department sustained a revenue loss of ₹ 6.27 crore.

The Department stated (May 2016) that the intention of the Department was not to charge bottling fee on outside brands of beer exported to other States and now they were in the process of making necessary amendments. In a further reply, the Department stated (October 2016) that it had amended Rules vide notifications dated 2 September 2016 imposing the bottling fee only on volume of local sale instead of total production. However, the fact remained that the Department could not realise bottling fee on outside brands of liquor on local sale prior to amendment of 5 September 2014. Further, it did not charge any bottling fee on export to other States though the Rule did not give any exemption in this regard.

4.10.3.4 Loss of revenue on bottling fees on export of IMFL ₹2.75 crore

Under the provisions of Rules 33 and 34 of Sikkim Excise (Distillery for manufacture of Spirit and Foreign Liquor) Rules, 2000, the Department, in order to introduce bottling fee, issued notification (9 March 2011) prescribing a fee of ₹ 101.25 per case for IMFL bottled in Sikkim on behalf of manufacturers from outside the State, which was subsequently revised to ₹ 101 per case from 14 August 2014 and ₹ 116 per case from 11 February 2016 onwards. In this connection, it is also pertinent to mention that as per Rules *ibid* in cases of manufacture of foreign liquor, bottling fee as prescribed by the Department was to be charged to the licensee on the volume of production. Thus, bottling fee was to be charged on total production irrespective of whether it was sold within the State or exported outside the State.

Scrutiny revealed that the distilleries which were involved in production of outside brands of IMFL were charged bottling fee but only on local sale of such brands. Bottling fee was not charged on outside brands of IMFL exported to other States as detailed in the following table:

Table 4.10.4

Details of non-realisation of bottling fee on production of outside brands of IMFL

Year	No of cases of outside brand of liquor exported to other States			Total cases of outside brand of liquor exported to other States	Amount of bottling fee not realised *(In ₹)*
	Himalaya Distilleries Ltd., Majhitar	Mayal & Frezer, Bagheykhola	Mount Distilleries Ltd., Majhitar		
2011-12	25,840	15,396	850	42,086	42,61,208
2012-13	27,503	38,788	0	66,291	67,11,964
2013-14	15,960	47,103	0	63,063	63,85,129
2014-15 (up to 13th August)	4,859	5,255	0	10,114	10,24,043
2014-15 (14th August to 31st March)	21,348	14,915	0	36,263	36,62,563
2015-16 (up to 10th February)	39,650	7,646	0	47,296	47,76,896
2015-16 (11th February to 31st March)	4,225	1,930	0	6,155	7,13,980
Total	**1,39,385**	**1,31,033**	**850**	**2,71,268**	**2,75,35,783**

Source: Departmental figures and audit analysis

From the above table, it can be seen that three distilleries involved in production of outside brands of IMFL had exported 2,71,268 cases of IMFL to the other States in which bottling fee of ₹ 2.75 crore was not realised by the Department during the period under report.

The Department stated (May 2016) that the intention of the Department was not to charge bottling fee on outside brands of liquor exported to other States and now they were in the process of making necessary amendments. In a further reply, the Department stated (October 2016) that it had amended Rules vide notifications dated 2 September 2016 imposing the bottling fee only on volume of local sale instead of production. Reply was not acceptable as amendment notification dated 2 September 2016 was against Sikkim Excise (Brewery) Rules, 2000 and the fact remained that the Department could not realise bottling fee on outside brands of liquor exported to other States till date.

4.10.3.5 Short production of IMFL

The Sikkim Excise Act and Rules made there under do not provide any norm for production of IMFL from ENA. The Rule 28 of the Sikkim Excise (Distillery for Manufacture of Spirit and Foreign Liquor) Rules, 2000 provides for a maximum permissible wastage/loss of six *per cent* of ENA in the process of blending, reduction, filtration, bottling and storage within the bonded area of the distillery.

In the absence of any norm, Audit adopted the norms prevailing in the distilleries/bottling plants for the purpose of calculation of requirement of volume of ENA. As per the prevailing norms[10], 4 Bulk Litre (BL) and 3.86 BL of ENA are required for production of one case of 750 ml/375 ml and 180 ml IMFL respectively which means an average of 3.93 BL of ENA per case of IMFL.

From the records of distilleries and data collected from Excise offices at various distilleries, details of ENA utilised after allowing maximum permissible wastage/loss, IMFL produced, shortfall in production and potential revenue loss was calculated and are given in the following table:

Table 4.10.5

Details of ENA used and IMFL produced by the distilleries during 2011-12 to 2015-16

Name of the distillery	Year	ENA used *(In BL)*	Net ENA used after allowing 6% wastage *(In BL)*	No of cases of IMFL required to be produced	No of cases of IMFL actually produced	Short production of IMFL *(In cases)*	Loss of minimum Excise Duty *(In ₹)*[11]
Sikkim Distilleries Ltd.	2011-12, 2014-15 & 2015-16	60,97,390	57,31,547	14,58,409	13,00,536	1,57,873	7,04,42,385
Mount Distilleries Ltd.	2011-12 to 2015-16	1,64,54,797.77	1,54,67,510	39,42,035	23,54,114	15,87,921	71,51,13,570
Himalaya Distilleries Ltd.	2012-13 & 2014-15	3,94,031.88	3,70,390	94,247	84,117	10,130	45,07,850
Mayel & Fraser	2011-12, 2014-15 & 2015-16	461,911	4,34,196	1,10,925	92,730	18,195	82,44,250
Kanchanjangha Distilleries Ltd.	2012-13 to 2015-16	19,19,580.65	18,04,406	4,60,211	4,21,232	38,979	1,77,07,880
Total		**2,53,27,711.30**	**2,38,08,049**	**60,65,827**	**42,52,729**	**18,13,098**	**81,60,15,935**

Source: Departmental figures and audit analysis

In these five distilleries, after allowing maximum permissible wastage/loss, 2,38,08,049 BL of ENA was utilised for production of IMFL from which against the required 60,65,827

[10] *Normally ENA is received with an average purity of 96 per cent and IMFL is produced with a strength of 42.8 per cent volume/volume (v/v). Taking into account one case IMFL of 750 ml (one case is having 12 bottles, means a quantity of 9 BL), 4 BL of ENA is required (9 BL X 42.8/96).*

[11] *Minimum rate of Excise Duty was ₹ 445 during 2011-12 to 2014-15 and ₹ 470 during 2015-16.*

cases of IMFL production, only 42,52,729 cases of IMFL were produced leading to a short production of 18,13,098 cases of IMFL. In this connection, it is also pertinent to mention that distilleries had been submitting monthly statement of utilisation of ENA and actual production of IMFL during a month to the Excise Authorities. Despite this fact, the Department had never made any exercise to calculate the reasonability of quantum of production of IMFL from the ENA consumed. This short production had resulted in a loss of potential minimum Excise revenue of ₹ 81.60 crore as detailed in **Appendix 4.10.1**.

The Department stated (May 2016) that the factual position would be verified and final outcome would be intimated later on and added (October 2016) that it was in process of examining the Rules of other states for production of IMFL from ENA.

4.10.3.6 Short production of beer

The Sikkim Excise Act and Rules made there under do not provide any norm for production of beer from wort (*liquor obtained by the exhaustion of malt or grain by the solution of sugar in the process of brewing*) brewed. The Rule 45 of the Sikkim Excise (Brewery) Rules, 2000 provides a maximum permissible wastage/loss of 10 *per cent* in the process of reduction, filtration, bottling and storage within the bonded area of the brewery. As one case of beer has 12 bottles of 650 ml. each, 7.8 BL (12 bottles X 650 ml. = 7800 ml., i.e. 7.8 BL) of wort[12] is required for production of one case of beer.

Scrutiny of records for the period from 2011-12 to 2015-16 of breweries and data collected from Excise office at various breweries revealed that even after allowing the permissible wastage/loss of wort used, there was shortfall in production of beer during 2012-14 in case of Sikkim Breweries Ltd., Bagheykhola. The loss of revenue as the result of shortfall in production is given in the following table:

Table 4.10.6

Details of wort used and beer produced by the brewery during 2012-13 and 2013-14

Name of the distillery	Year	Wort used *(In BL)*	Net Wort used after allowing 10% wastage *(In BL)*	No. of cases of beer required to be produced (Col. 4/7.8)	No. of cases of beer actually produced	Short production of beer *(In cases)*	Minimum rate of Excise Duty *(In ₹ per case)*	Loss of Excise Duty *(In ₹)*
1	2	3	4	5	6	7	8	9
Sikkim Breweries Ltd., Bagheykhola	2012-13	6,01,400	5,41,260	69,392	63,713	5,679	118.15	6,70,973.85
	2013-14	3,68,600	3,31,740	42,531	38,511	4,020	118.15	474963
	Total	**9,70,000**	**8,73,000**	**1,11,923**	**1,02,224**	**9,699**	**118.15**	**11,45,936.9**

Source: Departmental figures and audit analysis

From the above details, it could be seen that after allowing maximum permissible wastage/loss, 8,73,000 BL of wort was utilised for production of beer from which against the required 1,11,923 cases of beer production, only 1,02,224 cases of beer were produced leading to a short production of 9,699 cases of beer. In this connection, it may be mentioned that breweries had been submitting monthly statement of wort brewed, utilised and actual production of beer during a month to the Excise Authorities. Despite this, the Department

[12] *Wort (liquor obtained by the exhaustion of malt or grain by the solution of sugar in the process of brewing) is a kind of raw beer and after putting essence in that wort, various brands of beer are made.*

never made any exercise to calculate the reasonability of quantum of production of beer from the wort consumed/utilised. This short production resulted in a loss of potential minimum Excise revenue of ₹ 11.46 lakh during 2012-14.

The Department stated (May 2016) that the factual position would be verified and final outcome would be intimated later on. In a further reply, the Department stated (October 2016) that it would not be in a position to levy Excise Duty on raw materials/wort in view of Supreme Court judgement (Mohan Meakin Ltd. Vs Excise & Taxation Commissioner, H.P. and others - Civil Appeal No. 2457 of 1980, decided on 27 November 1996) according to which Excise Duty was to be levied only on final product. Reply was not relevant as the observation was loss of potential Excise revenue due to short production and not due to non-levying of Excise Duty on wort.

4.10.3.7 Non-existence of brand approval/renewal system

Some States like the State of Tamil Nadu under Rule 13 of the Tamil Nadu Wine (Manufacturing) Rules, 2006, had provisions of imposing/realising brand approval/renewal fee of ₹ 2 lakh per annum for each and every brand of IMFL/beer manufactured by any distillery/brewery. However, the State of Sikkim had neither any such provision under its Excise Act and Rules nor had it notified/amended the Act *ibid* for such brand approval/renewal fee in line with the provisions of other States. The State had practice of only getting the approval of labels of IMFL/beer and a label fee of ₹ 2,000 was charged per label per annum.

Scrutiny of records revealed that eight distilleries/breweries which were under operation during the period under report were manufacturing 160 brands of various kinds of IMFL/beer. If they had taken brand approval/renewal fee @ ₹ 2 lakh per annum per brand, an additional revenue of ₹ 16 crore could have been realised from the distilleries/breweries for the State exchequer during the period under report as detailed in the following table:

Table 4.10.7

(₹ in lakh)

Name of the distillery/brewery	No of brands being manufactured	Yearly amount of brand approval/ renewal fee @ ₹ 2 lakh per annum	Total revenue to be realised as brand approval/renewal fee during 2011-12 to 2015-16
Sikkim Distilleries Ltd., Rangpo	62	124.00	620.00
Yuksom Breweries Ltd., Melli	5	10.00	50.00
Sikkim Breweries Ltd., Bagheykhola	10	20.00	100.00
Mount Distilleries Ltd., Majhitar	28	56.00	280.00
Mayel & Fraser (P) Ltd., Bagheykhola	24	48.00	240.00
Kanchanjanga Distilleries Ltd., Manpur (Started from March 2013)	16	32.00	160.00
Himalaya Distilleries Ltd., Majhitar	9	18.00	90.00
Denzong Albrew Ltd., Mulukey	6	12.00	60.00
Total	**160**	**320.00**	**1,600.00**

Source: Departmental figures and audit analysis

The Department stated (May 2016) that this was a positive observation and beneficial for raising revenue if it could be made applicable in Sikkim. However, the Department also stated that each State has its own policies and any other State need not be driven by their norms. In a further reply, Department stated (October 2016) that as per the Excise policy of the State, the system of brand approval/renewal was not feasible in a small State like Sikkim. The Department's reply was not pertinent to the extent that it did not explain any possible relation between brand approval/renewal system and size of a State and there were no apparent reasons with the Department for not enforcing the said system.

4.10.3.8 Loss of Excise Duty of ₹45.47 lakh due to reduction of Ex-Factory Price of beer made by M/s Yuksom Breweries Ltd.

Prior to 9 March 2011, rate of Excise Duty on all types of products of distilleries and breweries was to be calculated on case basis taking into account the London Proof Litre (LPL)[13] involved in that product. However, on and after notification dated 9 March 2011, the Department decided to impose Excise Duty on percentage basis based on the ex-factory price of a particular product. However, ex-factory price of all products of any distillery/brewery was to be approved by the Department for calculation of Excise Duty on those products. Further, after imposition of Excise Duty on percentage basis based on the ex-factory price of a particular product, the Department made a policy/system of not entertaining any request by any distillery/brewery for reduction of ex-factory price of any product because it would affect/decrease the amount of Excise Duty on that particular product.

However, it was seen that M/s Yuksom Breweries Ltd, Melli, involved in production of beer, applied (July 2013) for approval for reduction in ex-factory price of their two products, viz. ‘Hit Super Strong beer and Dansberg Blue Premium Lager beer’ from earlier ex-factory price of ₹ 267.25 per case (Excise Duty ₹ 120.26 per case) to ₹ 260.25 per case (Excise Duty ₹ 117.11 per case) which was approved by the Department and was intimated to the Brewery vide letter dated 2 August 2013. This led to reduction in Excise Duty by ₹ 3.15 per case.

Scrutiny of records revealed that on this reduced rate of Excise Duty, during the period September 2013 to April 2014, 14,43,417 cases of said brands of beer were locally sold/dispatched from the brewery on which the Department sustained a loss of Excise Duty of ₹ 45,46,764[14].

The Department stated (May 2016) that though its intention was not to reduce ex-factory price, the case was considered based on their market strategy and it was ensured that due to this reduction, revenue realisation from the unit was not reduced. The Department further stated (October 2016) that reduction was granted on the ground that breweries’ sale had decreased by 5.7 *per cent* as compared to the sale of 2012-13 and 2013-14. The Department's reply is not acceptable as the revenue realisation from the unit had increased

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[13] *Strength of alcohol is measured in terms of 'Degree Proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 Degree F. is assigned 100 Degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 Degree is called LPL.*

[14] *₹45,46,764 = ₹3.15 per case X 14,43,417 cases.*

very negligibly (3.56 *per cent*) during the year 2013-14 and in the case of other units, the Department had not considered such requests.

4.10.3.9 Excise Duty of ₹ 2.10 crore against non-receipt of Excise Verification Certificates for export of liquor/beer not recovered

Rule 17(3) of Sikkim Foreign Liquor (Import, Export and Transport) Rules, 1993 provides that the exporter shall, on the consignment of the foreign liquor reaching its destination, obtain a certificate in Form VI annexed to Part IV of the pass from the Excise Officer at the importing place and deliver it immediately to the Officer-in-charge of the distillery/brewery/ bonded warehouse or shop from which the IMFL was exported but in no case shall he fail to produce such certificate before the latter officer within three months from the date of issue of the export pass in Form IV.

Rule17 (Sub-rules 4, 5 and 6), further provides that when the exporter fails to produce the Excise Verification Certificate (EVC) from the Excise Officer of the importing place as required under Rule 17(3) within the stipulated time of three months, the Excise Officer-in-charge of the exporting distillery levy on such consignment the full duty and fees at the rates in force in the State at the time the export pass was issued and the amount of duty and fees shall be recovered from the exporter irrespective of the fact that a similar amount may have been collected in the importing place.

Further, applying the provisions of Rules *ibid*, the Department had also been imposing late fee at the rate of 12 *per cent* per annum on the total Excise Duty on the consignment of the EVCs which were received after the stipulated period of three months.

Scrutiny of records at various distilleries/breweries, involved in export of beer, IMFL and ENA revealed that in 49 consignments of export of beer/IMFL/ENA made during the period April 2011 to March 2016, EVCs had not been received till May 2016. However, despite non-receipt of EVCs, the Excise Authorities had not done any exercise to calculate the amount of Excise Duty and late fee payable by the exporting unit and did not raise any demand. Moreover, the exporting units had not paid any amount of Excise Duty on account of failing to produce the EVCs within three months as detailed in the following table:

Table 4.10.8

Details of non-receipt of EVCs against export of liquor/beer

(Amount in ₹)

Name of distillery/ brewery	No of consignments involved	Name of brand	Destination to which exported	Quantity (In cases)	Amount of Excise Duty not demanded	Amount of late fee not charged[15]
Yuksom Breweries Ltd., Melli	1	beer	Bhutan	700	1,44,900	0
Denzong Albrew, Mulukey	22	beer	Meghalaya and Arunachal Pradesh	19,800	28,57,836	1,51,120
Kanchenjanga Distilleries Ltd, Manpur	2	IMFL	Arunachal Pradesh	2,000	13,21,930	2,607
Himalaya Distilleries, Majhitar	23	IMFL	Arunachal Pradesh, Manipur, Assam, Bihar, Haryana, Tripura and Mizoram	19,250	1,26,23,081	5,55,469
Esveegee Breweries, Manpur	1	ENA	Assam	20,000 BL	23,07,600	9,64,261
Total	**49**				**1,92,55,347**	**16,73,457**

Source: Departmental figures and audit analysis

[15] *Formula for calculation of penal interest: (amount of Excise Duty X number of days X 12 per cent)/365 days.*

Thus, not raising of demand on 49 consignments for which EVCs were not received led to non-realisation of Excise Duty of ₹ 1.93 crore and late fee of ₹ 0.17 crore.

The Department stated (May 2016) that they would verify the cases, where EVCs had not come and would take action as per provisions and added (October 2016) that it was in the process of issuing demand notices.

4.10.3.10 Short realisation of Excise Duty ₹23.51 lakh

The Department revised (11 August 2014) its rates of Excise Duty to be charged on various excisable products and published the revised rates in the Gazette on 14 August 2014. The revised rates were made effective from the date of publication of the notification in the Gazette. Immediate communication of Government notifications on raising of duty have great importance to avoid any loss of Government revenue. Hence, Government notifications on revision of duty should invariably be communicated to revenue realising points immediately.

However, it was seen that there was delay ranging from 2 to 10 days in sending the aforesaid notification to the Officers-in-charge of various distilleries/breweries. It was only after receipt of the said notification that the revised rates were made effective. Consequently there was short realisation of Excise Duty of ₹ 23.51 lakh from five[16] distilleries/breweries.

While accepting the audit observation, the Department stated (May 2016 and October 2016) that they would ensure that notification(s) reached in time to all Excise revenue realising units.

4.10.3.11 Observations relating to implementation of holograms

As per notifications issued (29 March 2010) by the Department, all bottles containing IMFL and beer should have the prescribed hologram. For regulation of hologram, the Department indents printed holograms from security printers and issues these to the distilleries/breweries/bonded warehouses. The printing cost of holograms is borne by the distilleries/breweries/bonded warehouse. However, the Department realises ₹ 0.10 per hologram issued to the distilleries/breweries/bonded warehouse as administrative charges.

Audit scrutiny pertaining to the holograms during 2011-12 to 2015-16 revealed the following:

- Two[17] distilleries and one[18] brewery had accounted for less holograms against the holograms actually issued to them by the Department. Against the 24,91,00,000 holograms issued, these distilleries/brewery had accounted for 23,27,00,253 holograms only. This led to short accounting of 1,63,99,747 holograms by the above distilleries/brewery. The short realisation of Excise Duty of ₹ 52.76 crore could not be ruled out as there was possibility of holograms being used for unaccounted production and sale of IMFL/beer.

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[16] *SDL, Rangpo; DAL, Mulukey; MDL, Majhitar; KDL, Manpur and YBL, Melli.*
[17] *SDL, MDL.*
[18] *YBL, Melli.*

- One[19] distillery, two[20] breweries and one[21] bonded warehouse had received/accounted for excess number of holograms. Against 3,63,00,000 holograms actually issued, these distillery/breweries/bonded warehouse showed receipt of 3,78,20,000 holograms. This resulted into excess receipt/accounting of 15,20,000 holograms which led to a possibility of issue of 15,20,000 holograms to these distillery/breweries/bonded warehouse without payment of administrative charge of ₹ 1.52 lakh.

- Two[22] distilleries, one[23] brewery and one[24] bonded warehouse utilised holograms more than what they were supposed to utilise in respect of actual production of IMFL, beer and imported liquors[25]. The actual utilisation of holograms per bottle as taken from the actual production/import of various kinds of liquors was supposed to be 7,34,58,405; however, these units had shown utilisation of 7,66,79,344 holograms, resulting in excess utilisation of 32,20,939 holograms. This led to a possibility of utilisation of excess holograms in unaccounted production/import of liquors by the said distilleries/ brewery/bonded warehouse resulting in possible evasion of Excise revenue of ₹ 9.17 crore by them. Details are given in **Appendix 4.10.2**.

- Three[26] distilleries and two[27] breweries utilised holograms less than what they were supposed to utilise. As per the records of actual production of various kinds of liquors they should have used 25,31,33,584 holograms. However, as per the actual production of IMFL/beer, 19,76,77,930 holograms were used, resulting in less utilisation of 5,54,55,654 holograms. This led to a possibility of dispatch/sale of 5,54,55,654 bottles of various kinds of liquors without affixing holograms raising questions on their authenticity.

- The Sikkim Excise Act and Rules did not have any provision for wastage/loss of holograms. Despite this, some of the distilleries/breweries had shown wastage/loss of holograms but the Department never took any action against these distilleries/breweries for such spoil/loss of holograms. Further, these spoilt/lost holograms were neither incorporated in the records of the Department nor was any action taken by the Department to take possession of spoilt holograms to rule out any misuse.

- In this connection, it is also pertinent to mention that all distilleries/breweries had been submitting monthly statements of receipt and utilisation of holograms but the Department had never reconciled the account of holograms.

While accepting audit observations, the Department stated (May 2016) that they would ensure maintenance of proper records relating to holograms and would make Rules for

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19 *M & F, Bagheykhola.*
20 *DA, Mulukey and SBL, Bagheykhola.*
21 *OT, Gangtok.*
22 *MDL, Majhitar and KDL, Manpur.*
23 *SBL, Bagheykhola.*
24 *OT, Gangtok.*
25 *Imported liquor means IMFL imported from other States by the bonded warehouse for sale in Sikkim.*
26 *SDL, Rangpo; HDL, Majhitar and M & F, Bagheykhola.*
27 *YBL, Melli and DAL, Mulukey.*

provision of their wastage and would ensure that all wasted holograms were taken back by the Department. The Department further stated (October 2016) that it had constituted a Committee to monitor the wastage and proper accounting of holograms.

4.10.3.12 Under-utilisation/excess utilisation of production capacity

Five distilleries/bottling plants of IMFL, three breweries and one ENA producing unit were in operation during the period of audit. It was seen that at the time of applying licenses, distilleries/breweries mentioned the details of the project reports which *inter-alia* contained information on the installed plants production capacity and their market strategies. Accordingly, the Department issued licenses to these units.

The production capacity vis-à-vis actual production and possible loss of minimum Excise revenue due to short production of IMFL/beer/ENA during the period under report were as given in the following table:

Table 4.10.9

Details of installed/ production capacity and actual production of each distillery/brewery during 2011-12 to 2015-16

Year	Name of distillery/ brewery	Total production capacity *(In cases)*	Actual production *(In cases)*	Utilisation capacity in percentage	Quantity short produced *(In cases)*	Average minimum rate of Excise Duty applicable during the year *(In ₹ per case)*	Amount of minimum Excise Duty as possible loss of revenue due to short production of IMFL/beer/ ENA *(In ₹)*
2011-12 to 2015-16	Sikkim Distilleries Ltd, Rangpo	25,55,555	21,69,081	85	3,86,474	450	17,39,13,300
	Mount Distilleries Ltd, Majhitar	20,00,000	23,54,114	118	-	-	-
	Himalaya Distilleries, Majhitar	30,00,000	2,21,124	7	27,78,876	450	1,25,04,94,200
	Mayal & Frezer, Bagheykhola	15,00,000	2,11,730	14	12,88,270	450	57,97,21,500
	Kanchanjangha Distilleries Ltd, Manpur	9,25,000	4,21,232	46	5,03,768	450	22,66,95,600
	Yuksom Breweries Ltd, Melli	1,92,30,770	1,23,33,527	64	68,97,243	112	77,13,87,657
	Denzong Albrew, Mulukey	96,15,000	45,00,666	47	44,09,770	112	49,31,88,677
	Sikkim Breweries Ltd, Bagheykhola	64,10,255	1,98,278	3	62,11,977	112	69,47,47,508
	Esveegee Breweries, Manpur	9,00,00,000 BL	1,67,95,886 BL	19	7,32,04,114 BL	1 per BL	7,32,04,114
						Total	**4,26,33,52,556**

Source: Departmental figures and audit analysis

Against nine distilleries/breweries, four[28] distilleries/breweries had utilisation below 20 *per cent* of their installed/production capacity. This led to under-utilisation of their installed/production capacity ranging from 96.91 *per cent* to 81.34 *per cent*. Though the records on installed/production capacity and actual production were available with the Department, it had not analysed the under-utilisation/decline in actual production for

[28] *i. Himalaya Distilleries, Majhitar (7.37 per cent), ii. Mayal & Frezer, Bagheykhola (14.12 per cent), iii. Sikkim Breweries Ltd, Bagheykhola (3.09 per cent) & iv. Esveegee Breweries, Manpur (18.66 per cent)*

possible remedial action. In respect of one unit producing IMFL (Mount Distilleries Ltd, Majhitar), the actual production was more than its production capacity; however, neither the permission for carrying out additional production for this unit was taken nor was any such condition imposed at the time of issue of license. Further, any penalty clause for under-production and over-production was not included in the conditions of the licenses.

While accepting audit observation, the Department stated (May 2016) that they would press upon the distilleries/breweries for making market strategy in such a way that they ensure maximum production. The Department further stated (October 2016) that it was under the process of examination of the matter and if necessary, it would make amendment in the existing Rules. However, the fact remained that the distilleries/breweries could not utilise their maximum production/installed capacity on which the State Exchequer could have earned a minimum Excise revenue of ₹ 426.34 crore.

4.10.3.13 Short realisation of annual license fee of ₹5.23 lakh

The Department revised (12 November 2014) its rates of license fees to be charged from various hotels, bars, retail shops, etc. The revised rates were made effective from 17 November 2014 (date of publication in the Gazette).

As per the prevailing system in the Department, the Excise trade licenses are renewed in advance on financial year basis. However, it was seen that while renewing licenses during March/April 2015, though license fees for the year 2015-16 were realised at enhanced rates but arrear proportionate to license fees at revised rates for the period 17 November 2014 to 31 March 2015 were not realised from any of the licensees. This resulted in short realisation of annual license fee of ₹ 4.89 lakh.

Further, it was also seen that the Department revised (11 February 2016) the rate of the annual license fees of some categories of hotel-cum-bar shops. The revised rates were enforced with immediate effect. However, it was seen that while renewing licenses during March 2016 for the year 2016-17, though license fees for the year 2016-17 were realised at enhanced rates but the proportionate arrear of the license fees at revised rates for the period 11 February 2016 to 31 March 2016 were not realised from seven licensees. This resulted in short realisation of annual license fee of ₹ 0.34 lakh.

While accepting audit observation, the Department stated (May 2016 and October 2016) that specific effective date would be ensured while issuing notification in the said regard.

4.10.3.14 Non-compliance of directives of GoI to close existing liquor shops and issue of license along National Highway

The Country had been witnessing many road accidents in the past and many of these accidents were attributed to drunken driving; moreover, the hilly terrain of many States of the country makes drunken driving more risky and prone to accidents. Our country accounts for the highest number of fatalities in road accidents in the world. The gravity of the concern can be estimated from the fact that the accidents caused 2.80 lakh deaths in 9.8 lakh road accidents in the years 2011 and 2012. Out of the total road accidents, 48,634 road accidents were caused due to drunken driving resulting in 18,388 deaths and injuries to 44,551 persons.

In view of the above scenario, the Union Ministry of Road Transport and Highways vide letter dated 1 December 2011 and subsequent reminder dated 11 March 2013 issued advisory to Chief Secretaries of the States to ensure removal of existing wine shops along National Highways (NH) and also not to issue fresh licenses to sell liquor along NH. In response to the above letters, the Department requested (22 August 2013) the Ministry for relaxing the State from this. The Ministry without considering the request of the Department, again wrote (21 May 2014) to the State for immediate compliance of the directives of the Ministry.

Scrutiny of records revealed that the Department had not taken any action on removal of the existing liquor shops. On the contrary, the Department, in addition to the 70 existing liquor shops along NH, issued seven fresh licenses in 2012-13 and two licenses in 2013-14 in defiance of the directives issued by the Ministry.

The Department stated (May 2016) that they had already sent reply to the Ministry for relaxation of such policy in the State of Sikkim. The reply was not acceptable as departmental request dated 22 August 2013 was not acceded to and the Ministry, vide letter dated 21 May 2014, had reiterated its directions to the Department to initiate urgent action and issue necessary instructions to remove liquor shops along NH and ensure that no license was issued to liquor vendors along NH in future. In a further reply, the Department stated (October 2016) that the matter was under process and the same would be forwarded to the Government.

4.10.3.15 Genuineness of EVCs not ensured

Rule 10 of Sikkim Foreign Liquor (Import, Export and Transport) Rules, 1993 provides that any person holding a license for the possession and sale of intoxicants desiring to export the intoxicants from his licensed premises shall apply to the Excise Officer of the region where his licensed premises are situated for the grant of an export pass and the applications shall be accompanied by an import pass granted by the Excise Authority of the State to which the intoxicants have to be exported. Rule 13 *ibid* provides that (a) Part I of the pass shall be kept on the record of the Office of the Excise Officer issuing the pass, (b) Part II of the export pass shall be sent ***by post*** to the Excise Authority of the State to which the intoxicants have to be exported, (c) Part III shall be handed over to the exporter and (d) Part IV shall be sent to the Officer-in-Charge of the distilleries or breweries or bonded warehouse or to the officer within whose jurisdiction the licensed premises of the exporter is situated.

A test check of records of the Excise Offices at various distilleries and breweries revealed that even printing of export pass was not done as per the above scheme. The Part III of the export pass that was supposed to be handed over to the exporter was being sent to the Officer-in-charge of the distilleries or breweries or bonded warehouse or to the officer within whose jurisdiction the licensed premises of the exporter was situated and Part IV (instead of Part III) of the export pass were handed over to the exporter. Similarly, Part I of the export pass was being handed over to the exporter instead of keeping it for record.

Further, Part II of the export pass was not being sent by post to the Excise Authority of the State to which the intoxicants had to be exported but was being handed over to the exporting distillery/brewery for handing over to the Excise Authority of the State to which the intoxicants were being exported.

Audit observed that sending of Part II of the export pass by post to the Excise Authority of the State to which the intoxicants had to be exported would have ensured genuineness of the receipt of EVCs from the respective Excise Authorities, but handing over of the same to the exporter for getting it certified defeated the very objective of its sending by post.

While accepting audit observation, the Department stated (May 2016) that they would ensure that export permits/passes were forwarded through fax and by post and further stated (October 2016) that they had already initiated the procedure. However, fact remained that the Department could not ensure genuineness of the receipt of EVCs from the respective Excise Authorities during the period covered under Audit.

4.10.3.16 Inspection of distilleries/breweries not conducted

Rule 58(2) of the Sikkim Excise (Distillery for Manufacture of Spirit and Foreign Liquor) Rules, 2000 and Rule 41(2) of the Sikkim Excise (Brewery) Rules, 2000 provide that the Controlling Officer specially empowered in this behalf, by the Commissioner, shall inspect the distillery/brewery and shall submit the notes of his inspection to the Commissioner. He shall also be responsible for the correct maintenance of accounts and collection of duty by the Officer-in-charge of said distillery/brewery.

However, it was observed in the nine test checked distilleries/breweries that no departmental authority had ever visited/inspected any distillery/brewery during the period under report and did not maintain any register of inspection. In reply, the Department stated (May 2016) that though no register of inspection was maintained, Excise Officers had regularly been visiting the manufacturing units from time to time and reports were made only when irregularities were detected or suggestions for improvement was given. However, Department failed to produce such reports to Audit.

While accepting audit observation, the Department stated (May 2016) that henceforth, they would maintain the inspection register and added (October 2016) that they had provided inspection register to Officer-in-charge of all the manufacturing units.

4.10.3.17 Testing of samples of IMFL/beer at Central Laboratory

For the purpose of testing of samples of each and every batch of IMFL/beer produced by the distilleries/breweries with the objective to determine whether the said batch of IMFL/beer had right strength, composition and was it suitable for human consumption, the Department established one Central Laboratory at Chanatar, Rango. As per directives and system prevailing, all distilleries/breweries were required to send at least one sample bottle of each batch of IMFL/beer produced by them to the Central Laboratory, Chanatar for its testing. Details of batches produced, samples sent and tested at the Lab during the period 2011-12 to 2015-16 are given in the following table:

Table 4.10.10

Details of batches of various brands of IMFL/beer produced and tested in the Lab

Year	Name of distillery/ brewery	Total batches of various brand produced *(in Nos.)*	Samples sent/ received at the laboratory *(in Nos.)*	Batches for which samples were not sent to laboratory for testing *(in Nos.)*	Batches analysed in the laboratory *(in Nos.)*	Batches not analysed in the laboratory *(in Nos.)*
2011-12 to 2015-16	Sikkim Distilleries Ltd, Rangpo	1,273	1,273	0	1,219	54
	Mount Distilleries Ltd, Majhitar	1,453	1,453	0	1,369	84
	Himalaya Distilleries, Majhitar	279	268	11	253	15
	Mayal & Frezer, Baghey khola	249	247	2	239	8
	Yuksom Breweries Ltd, Melli	150	19	131	19	0
	Kanchanjangha Distilleries Ltd, Manpur	340	303	37	281	22
	Denzong Albrew, Mulukey	607	569	38	569	0
	Total	**4,351**	**4,132**	**219**	**3,949**	**183**

Source: Departmental figures

Against 4,351 batches of various brands produced, only 4,132 samples were sent to the laboratory for testing and only 3,949 samples were tested. Reasons for not sending 219 samples by the distilleries/breweries were not stated. Reason for not testing of 183 samples by the laboratory was stated to be shortage of testing chemicals in the laboratory. However, the fact remained that suitability of 402 batches of various kinds of liquor/beer for human consumption was not tested which was fraught with the risk of health hazard.

The Department stated (May 2016) that the test happened to be one among the standard tests prescribed by the Bureau of Indian Standard. The laboratory was set up primarily to check the percentage of alcohol when the Excise Duty was to be charged on volume of alcohol and on the date of audit, the Excise Duty was being calculated on ex-factory price. The Department's reply was not acceptable as testing of samples of each batch was done with objective to see whether the said batch of IMFL/beer had right strength, composition and was suitable for human consumption. In a further reply, the Department stated (October 2016) that it would ensure that samples of all liquor/beer were sent to Excise laboratory for testing.

4.10.3.18 Failure to collect samples of liquors imported by bonded warehouse

Rule 9(4) of Sikkim Excise (Indian Made Foreign Liquor Imported from the other States) Licensing of Warehouses (Amendment) Rules, 2010 provides that the licensee shall import the liquor as per the provisions made under Chapter II of the Sikkim Foreign (Import, Export and Transport) Rules, 1993. The licensee shall also provide sample of liquor (two bottles of 750 ml each) proposed to be imported with proper labels affixed and its seals intact as sample from every imported consignment. The objective of taking samples was to see whether said imported IMFL/beer had the right strength, composition and was suitable for human consumption.

Scrutiny of Import Permit Registers and other related records for the period 2011-12 to 2015-16 revealed that the Department had not collected samples of various brands of imported liquors from the licensee from all of his imported consignment. It was seen that Overall Traders, Gangtok having bonded warehouse, imported 1615 brands of various kinds of liquors, under 873 consignments, during the period under report against which 3230 bottles of samples were not collected by the Department from the licensee for their testing in the Central Laboratory. Thus, suitability of various kinds of liquor imported by the licensee for human consumption remained untested and were fraught with health hazard.

While accepting audit observation, the Department stated (May 2016) that the Department would direct the importer to handover two numbers of sample bottles against each and every consignment to the Commissioner of Excise for testing. The Department further replied (October 2016) that it was considering random sampling for testing liquor bottles. Department's reply was not acceptable as Rules provided that the licensee would have to provide sample of liquor (two bottles of 750 ml each) proposed to be imported with proper labels affixed and its seals intact as sample from each and every imported consignment.

4.10.3.19 Functioning of Flying Squad

Functioning of Flying Squad in the Department is an important tool to prevent/check illicit trafficking and illegal sale and storage of any intoxicant/excisable item. The Flying Squad is also supposed to visit any distillery, brewery, bonded warehouse, hotel, bar shop, retail shop of liquors, etc. it deems fit for the purpose of such prevention and inspection. It was seen that the Department had not constituted any Flying Squad.

The Department stated (May 2016 and October 2016) that though they did not have Flying Squad, Field Division headed by a Deputy Commissioner (Field) and subordinate staff were there to prevent/check illicit trafficking and illegal sale and storage of any intoxicant/excisable item. During the period under report, the Wing detected 357 illicit cases and realised an amount of ₹ 5.15 lakh from these cases as fine and confiscation.

4.10.3.20 Absence of Internal Audit Wing

Internal Audit is an important tool for appraisal of deficiencies in the activities of the Department, like proper and timely assessment and realisation of dues, implementation of Acts/Rules and issue of guidelines for proper accounting, etc., for better collection of revenue and plugging various loopholes within the organisation.

The Department did not have their own Internal Audit Wing. The Internal Audit Wing under the control of FRED, Government of Sikkim is responsible for Internal Audit of all the departments under the control of State Government. However, it was observed that the Internal Audit Wing of the FRED had not conducted any audit of the Department during the period under report.

4.10.3.21 Computerisation of the functioning of the Department

In order to systematise the collection of State Excise revenue and for the purpose of transparency in working of the Department, computerisation could have proved to be an effective solution.

However, no such system existed in the Department and functions like licensing, regulation of alcohol, tax collection, budget, staff details, etc. were not maintained in the form of data base. The Department had not taken any steps for computerisation of the said systems. Consequently, the Department did not have the previous year's records/data in complete shape for effective control and future plans.

Though the Department stated (May 2016) that they had already initiated the process of computerisation and online monitoring system, they failed to produce any documentary evidence in support of their claim. In a further reply, Department stated (October 2016) that they had provided computers to all the Excise Offices in the manufacturing units and the zonal office, Jorethatng and taken up the matter with the IT Department regarding the online monitoring system and financial implication and Detailed Project Report was in process.

4.10.4 Conclusion

The collection of revenue from State Excise had various non-compliance issues and improper regulation of duties which consequently resulted in loss of revenue such as loss of Excise revenue on bottling fees, loss of minimum Excise revenue due to short production of IMFL from the ENA and short production of beer from the wort consumed, loss of Excise Duty due to reduction of ex-factory price of beer, etc.

The system of issuance of licenses/permit were not monitored resulting in an under-utilisation of installed/production capacity by distilleries/breweries, non-realisation of proportionate arrear of the license fees at revised rates and non-compliance of directives of Ministry for removal of the existing liquor shops along NH.

There was non-accounting of holograms leading to benefits to the distilleries/breweries and inadequate assurance of authenticity of liquor.

The internal control mechanism in place was also found inadequate and ineffective as there was shortfall in testing of samples of IMFL/beer, lack of proper documentation of inspection of distillery/brewery by the departmental officers, absence of internal audit, etc.

4.10.5 Recommendations

The recommendations are:

- The Department needs to improve regulation of duties by proper compliance to applicable Acts/Rules to prevent losses from bottling fees, production of IMFL/beer from ENA/wort. The Department also needs to enforce proper accounting of holograms by the distilleries/breweries.
- The Department may check and analyse running of distilleries/breweries with respect to its production capacity and actual production with introduction of penalty provision. The Department may also ensure realisation of proportionate arrear of license fees in case of revision of license fees during the financial year.

- The Department needs to ensure receipts of EVCs in time and to ensure sending of EVCs by post to the Excise Authorities of importing States instead of handing over to the distilleries/breweries to ensure genuineness of their verifications.
- The departmental authorities may ensure receipt of samples of each and every batch of IMFL/beer and their testing in the Laboratory.

TRANSPORT DEPARTMENT
(MOTOR VEHICLES DIVISION)

4.11 Revenue not realised

Department's failure to conduct fitness inspection of vehicles and to realise token tax resulted in revenue loss of ₹ 3.34 crore.

(i) Fitness inspection not done

In terms of Sikkim Motor Vehicles Rules, 1991 (Rule 176), the registered owner of a heavy or medium vehicle which ordinarily plies for hire or reward, including maxi cab and motor cab, for the conveyance of passengers and carriage of goods in the State of Sikkim, shall cause such vehicles to be produced before the Regional Transport Officer of the respective region at an interval set out below for periodical fitness inspection:

Table 4.11.1

New vehicles	For two years
After two years till vehicle is four years old	Every one year
After four years till the vehicles is eight years old	Every six months
After eight years	Every three months

The fee chargeable for conducting test and grant or renewal of fitness certificate was ₹ 300 for light, ₹ 400 for medium and ₹ 500 for heavy vehicles.

In addition, if the vehicle owner fails to produce the vehicle for fitness inspection within due date, a penalty of ₹ 100 shall be paid by the owner as per notification dated 19 July 2010.

Scrutiny of records of the Secretary, Transport Department (Motor Vehicle Division) revealed (July-August 2015) that the number of fitness inspections conducted during 2011-15 was considerably low compared to those due to be conducted as per time interval mentioned in the table above considering the number of registered vehicles (contract/stage carriage, goods carriage and luxury tourist vehicles only) as on 31 March 2009 (13,018)[29] and subsequent addition till March 2015 as given in the following table:

[29] *Due to introduction of High Security Registration Plate (HSRP) in the State w.e.f. February 2009, all registered vehicles in the State were registered and issued HSRP form February 2009. Records of vehicles registered prior to February 2009 and the same issued with new HSRP were not linked in the*

Table 4.11.2

Year	No. of inspections due[30]	Inspection actually conducted	Shortfall
2011-12	14,916	5,968	8,948
2012-13	19,191	6,909	12,282
2013-14	29,741	8,220	21,521
2014-15	33,028	9,235	23,793
Total	**96,876**	**30,332**	**66,544**

The shortfall of 66,544 numbers of inspections indicated that vehicles were not produced for fitness inspection by the vehicle owners during 2011-15 as required under Sikkim Motor Vehicles Rules, 1991. This resulted not only in fitness fees and penalty amounting to ₹ 2.66 crore (fitness charge: ₹ 2.00 crore and penalty: ₹ 0.66 crore), taking the minimum fitness charge of ₹ 300[31] plus penalty of ₹ 100 per certificate, not being realised but also in Department's failure to ensure the safety/fitness of the vehicles engaged in carriage of passengers and goods in the State.

(ii) Token tax not realised

In terms of Section 4 (2) read with Section 14 of the Sikkim Motor Vehicles Taxation Act, 1982, amended vide notification dated 25 February 2004, token tax for all categories of vehicles shall be paid within a grace period of 15 days from the date on which payment of taxes falls due. In case of failure to pay the tax within grace period, penalty at the rate of 50 *per cent* on the total tax amount shall be imposed and after expiry of 30 days the penalty payable shall be 100 *per cent* on the total tax amount. The prevailing rates of token tax for various categories of vehicles were as notified on 7 September 2011.

Scrutiny of records in respect of 7,120 out of 68,162 vehicles (all categories) registered with four Regional Transport Offices (East, North, South and West) revealed (July-August 2015) that in 559 cases, the vehicle owners defaulted in payment of token taxes over a period ranging from 12 months to 60 months as of March 2015. The total amount of tax due along with penalty on account of late fee worked out to ₹ 0.68 crore.

The matter was reported to the Government/Department in May 2016. In reply, the Department stated (May and July 2016) that ₹ 41.52 lakh was realised on account of token tax and fitness fees and No Objection Certificates were issued to 317 vehicles.

Scrutiny of details of token tax realisation of ₹ 41.52 lakh revealed that the Department could realise ₹ 12.92 lakh only out of outstanding token tax amounting to ₹ 0.68 crore pointed out in Audit and remaining amount of ₹ 28.60 lakh (₹ 41.52 lakh – ₹ 12.92 lakh)

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software for registration of vehicles. Hence, registered vehicles available as on March 2009 have been taken into account treating that these were registered in 2008-09.

30 *The number of vehicles transferred to other States or which became inoperative, could not be deducted from this data as it was not maintained by the Department.*

31 *Due to non-availability, data for vehicle category-wise fitness inspection conducted each year by the Regional Transport Offices located in four districts, minimum fitness charge @ ₹ 300 per light motor vehicles for all vehicles has been taken into consideration for working out the total amount of revenue not realised.*

indicated by the Department as realised, pertained to realisation of token tax and penalty on P series (Private) and G series (Government) vehicles on 221 cases and not included in 559 cases mentioned above. The reply also failed to explain reason for not conducting of fitness inspection as prescribed in the Rule as well as non-realisation of balance amount of ₹ 3.21 crore.

URBAN DEVELOPMENT AND HOUSING DEPARTMENT

4.12 Short realisation of Government revenue

The Government suffered a loss of ₹ 7.63 crore due to incorrect method adopted for calculating the penalties. Besides, there was short realisation of revenue of ₹ 16.98 crore.

Sub rule (6) of Rule 3 of the Sikkim Entertainment Tax (Amendment) Rules 1998 stipulates, that "the entertainment tax in case of cable television network leviable under sub rule (5) shall be paid on monthly basis and deposited under the revenue head No.0045/Urban Development and Housing Department within 30 (thirty) days of the following month failing which a penalty of ₹ 1 per connection per day shall be levied".

Records of Urban Development and Housing Department revealed (April 2016) that Nayuma Entertainment (P) Ltd. (Nayuma), a multi system operator, had been providing cable television and related services in and around Gangtok since long but discontinued its business in the name of Nayuma from August 2014. However, the operator continued its services in the name of Sikkim Digital Network Pvt. Ltd. (SDN) under the same proprietorship with undertaking to pay outstanding dues to the Government of Sikkim. The erstwhile Nayuma was irregular in payment of tax and the Department was also not insisting on full payment including penalty from 2010 onwards. It was in December 2013 that the Department issued demand notice to the Nayuma for payment of outstanding dues of tax including penalty for the period 01 April 2010 to 31 December 2013 amounting to ₹ 1.75 crore (₹ 1.12 crore tax and ₹ 0.63 crore penalty). As against this demand, Nayuma paid ₹ 0.84 crore between February 2012 and July 2014. Later on, the SDN, as per Agreement to pay the outstanding tax of Nayuma, paid ₹ 0.28 crore during September 2014 to March 2016. Delay in payment of outstanding tax ranged from two to four years. However, Nayuma paid the current dues from January 2014 to July 2014.

Audit scrutiny revealed that the Department instead of calculating the penalty of ₹ 1 per connection per day for entire period of delayed deposits of the tax, calculated the penalty for a particular month only. Same method was adopted for all the delayed payments of the tax from April 2010 to December 2013.

As of May 2016, against the total outstanding tax including penalty of ₹ 25.71 crore as calculated by Audit, the Department raised a demand for ₹ 1.75 crore only with short demand of ₹ 23.96 crore. Against the actual amount due, Nayuma paid only ₹ 1.12 crore (₹ 49.83 lakh + ₹ 34.00 lakh + ₹ 28.19 lakh), resulting in short realisation/payment of ₹ 24.59 crore. The Department had not initiated any action to recover the outstanding dues even though there was enabling provisions in the Sikkim Entertainment Tax Act 1980 to recover the related dues as an arrear of land revenue.

Due to incorrect[32] method adopted for calculating the penalties by the Department, the Government suffered a loss of ₹ 7.61 crore (actually payable ₹ 8.73 crore *minus* ₹ 1.12 crore paid for the period till July 2011) with ₹ 16.98 crore tax and penalty for the August 2011 to December 2013 remained outstanding as of March 2016 as detailed in **Appendix 4.12.1**.

Further, three Cable Operators under North/East Division failed to pay monthly tax in Government account in time as per the prevailing Rules. The delay in payment and deposit of taxes ranged between 11 and 660 days (detailed in **Appendix 4.12.2**). The same method was adopted for calculation of the penalty for delayed payments in these cases also. Resultantly the Department suffered a loss of ₹ 2.19 lakh from these operators. The Department suffered a total loss of ₹ 7.63 crore (₹ 7.61 crore + ₹ 2.19 lakh). In addition, there was non-realisation/non-payment of Government revenue to the tune of ₹ 16.98 crore as of March 2016.

The matter was reported to the Government/Department (March 2016); their reply has not been received (September 2016).

[32] *Calculated @ ₹ one per day per connection for only one month instead of ₹ one per day per connection for entire delayed period of payment.*