

CHAPTER III

STATE EXCISE DUTY

3.1 Tax Administration

The Prohibition and Excise (P&E) Department is governed by the Telangana Excise Act, 1968, Telangana Prohibition Act, 1995⁵⁸ and the Narcotic Drugs and Psychotropic Substances Act, 1985. The Principal Secretary to Government, Revenue Department is the controlling authority at Government level. The Commissioner is the Head of the Department in all matters connected with administration of these Acts. He is assisted by Director of Enforcement for implementation of these Acts. The 10 districts of the State, each headed by a Deputy Commissioner (DC), are classified under 24 excise districts. Each excise district is under the charge of a Prohibition and Excise Superintendent (P&ES) who is assisted by the Assistant Excise Superintendent and other staff. Prohibition and Excise Inspectors are in charge of excise stations and checkpoints, while 10 DCs and 12 Assistant Commissioners supervise the overall functioning of the offices of P&ESs.

3.2 Internal Audit

Internal audit is an important mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. It is the responsibility of the Accounts Branch of the Head of the Department to conduct internal audit of the regional offices, district offices, unit offices etc., periodically (at least once in a year) and furnish reports to the Commissioner.

No internal audit was conducted in the Department for the year 2015-16.

⁵⁸ Government of Telangana through G.O.Ms.No.45, Law (F) Department, dated 1 June 2016 adapted the said Acts of combined State of Andhra Pradesh.

3.3 Results of Audit

Test check of records of 24 offices of Prohibition and Excise Department conducted during the year 2015-16 showed non-levy / short realisation of fees and other irregularities involving ₹ 2.30 crore in 33 cases, which broadly fell under the following categories:

Table 3.1: Results of Audit

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non-levy of additional licence fee	8	2.03
2.	Non-levy / short levy of interest on belated payment of licence fee	9	0.03
3.	Non-levy and collection of permit room licence fee	2	0.10
4.	Non-levy or short levy of toddy rentals	7	0.09
5.	Other irregularities	7	0.05
Total		33	2.30

During the year 2015-16, the Department accepted under-assessments and other deficiencies of ₹ 5.26 lakh in three cases, of which two cases involving ₹ 3.81 lakh were pointed out during the year 2015-16 and one case was pointed out in 2014-15. An amount of ₹ 2.16 lakh was realised in these cases during the year 2015-16.

A few illustrative cases of non-levy / short levy of licence fees, toddy rentals etc. amounting to ₹ 1.25 crore, are discussed in the succeeding paragraphs.

3.4 Short Levy of Licence Fee in a distillery

As per Rule 10 of AP Distillery (Manufacture of Spirits) Rules, 2006⁵⁹, annual licence fee is payable by a distillery at ₹ four lakh for manufacture of spirits upto the production capacity of 20 lakh bulk litres (BLs) and ₹ one lakh for every additional 10 lakh BLs or part thereof. Further, as per Rule 11A, a person holding D2(RM) licence⁶⁰ need not obtain a separate licence for manufacture of Extra Neutral Alcohol (ENA).

Audit scrutiny (March 2016) of records relating to spirit manufacture licences in the office of Assistant Commissioner (Distilleries), Hyderabad-I (AC) for the licence period from 2008-09 to 2014-15, showed that a distillery had been licensed (2007-08) to manufacture 13,500 kilolitres (KL) of Rectified Spirit (RS), 12,000 KL of Extra Neutral Alcohol (ENA) and 12,000 KL of Ethanol from molasses as raw material. The licence was renewed from time to time up to 2014-15. Though Rule 11 A is applicable for manufacture of ENA only, the Department did not levy licence fee for manufacture of 12,000 KL of 'Ethanol' for the licence period from 2008-09 to 2014-15. The amount of licence fee short levied worked out to ₹ 98 lakh.

⁵⁹ As adapted by the State of Telangana through G.O.Ms.No.204, Revenue (Excise-II) Department, dated 13 November 2015.

⁶⁰ Licence for manufacture of spirits utilising molasses as fermentative base for industrial purpose wholly or partly.

After Audit pointed out (March 2016) the case, the Commissioner of Distilleries & Breweries stated (July 2016) that Rectified Spirit (RS) and Ethanol were the same and a separate licence for manufacture of Ethanol was not necessary. The reply was not acceptable as the licence fee was leviable on the production capacity of the distillery. It may be seen from the D2 (RM) licence that the licence was issued for production of 13,500 KL of RS and 12,000 KL of Ethanol separately. According to Rule 11 A, separate licence need not be obtained for manufacture of ENA only. Hence, licence fee was leviable on production of Ethanol.

The matter was referred to the Government in July 2016; reply has not been received (December 2016).

3.5 Non-levy / Short Levy of Licence Fee

As per Rule 25 of AP Excise (Grant of Licence of Selling by Shop and conditions of Licence) Rules, 2012⁶¹, the holder of licence in Form A-4, in places where population is 5,000 and above, shall be licensed in Form A-4(B) to have a permit room. Further, as per Rule 26 as amended by a Government order⁶², the licence fee for a permit room shall be ₹ two lakh for the licence period 2014-15 or part thereof, and is payable in lump sum, at the time of completion of formalities under Rule 16.

As per Rule 16 read with Government order⁶³ dated 14 June 2014, the privilege of selling liquor through retail shops (A-4 shop) shall be granted by collecting fixed licence fee based on population as per 2011 Census of the places (Corporation/Municipality / Town / Village) for the year 2014-15.

Audit scrutiny (November and December 2015) of shop licence files in two offices⁶⁴ of P&ESs for the year 2014-15 showed that the Department did not levy and collect permit room licence fee of ₹ 10 lakh from five A-4 shops for the year 2014-15 although the population of the villages, where these shops were located, exceeded 5,000 as per 2011 Census. In respect of another shop⁶⁵ located in a village, whose population was more than 10,000, licence fee of only ₹ 32.50 lakh was collected instead of ₹ 34 lakh, fixed for population of above 10,000 up to 50,000.

Thus, non-adoption of village population of 2011 Census resulted in non-levy of permit room licence fee and short levy of annual licence fee amounting to ₹ 11.50 lakh.

After Audit pointed out (November and December 2015) these cases, P&ESs replied (November and December 2015) that the matter would be examined and reply furnished to Audit in due course.

⁶¹ As adapted by the State of Telangana through G.O.Ms.No.85, Revenue (Excise-II) Department, dated 29 June 2015.

⁶² G.O.Ms.No.357, Revenue (Excise-II) Department, dated 22 June 2013.

⁶³ G.O.Ms.No.2, Revenue (Ex-II) Department, dated 14 June 2014.

⁶⁴ Godavarikhani and Miryalaguda.

⁶⁵ Miryalaguda.

The cases were referred to the Department in June 2016 and to the Government in July 2016; replies have not been received (December 2016).

3.6 Non-levy / Short Levy of Fee towards transfer of licence

As per Rules 17(1) and 17 (2) of AP Excise (Grant of Licence of Selling by Bar and Conditions of Licence) Rules, 2005⁶⁶, no licensee shall, except with the sanction of the Commissioner of Prohibition and Excise, transfer his licence to any other person. The Commissioner may allow such transfer after collecting 10 *per cent* of the licence fee. As per Rule 17(4), when there are only two partners in the firm holding the licence and one of them withdraws or expires, the entity of the firm is changed from partnership to proprietary which amounts to transfer of licence. Further, Rule 17(5) stipulates that conversion of a proprietary concern into a firm or a company or a firm into a company and *vice versa* shall amount to transfer of licence.

Audit scrutiny (between September 2014 and March 2016) of bar licence files for the period 2013-14 and 2014-15 of four offices⁶⁷ of P&ESs showed that initially licences were granted to proprietary concerns in respect of two Restaurant and Bars (R&Bs). However, these proprietary concerns were later converted to firms, as evidenced by the lease deeds submitted by the licensees at the time of renewal. Despite this, these licences were renewed without levy of transfer fee as per Rules 17(4) and 17(5) stated above. In two other cases⁶⁸, the Commissioner of P&E, while according permission for transfer, had levied a fee of 5 *per cent* instead of 10 *per cent*.

Thus, failure to take into account the fact of conversion of the R&Bs from proprietary concerns to firms and collection of fee at lesser rate resulted in non-levy / short levy of fee amounting to ₹ 8.53 lakh.

After Audit pointed out (between September 2014 and March 2016) these cases, P&ES, Sangareddy replied (September 2014) that five *per cent* licence fee was collected as per the orders of Commissioner of P&E and that there was no deviation from Rule 18 in collection of licence fee. The reply was not tenable as Rule 18 was applicable only in cases where the partnership nature of the business did not change. In the instant case, inclusion / exclusion of a partner resulted in change in status from proprietary to partnership and *vice versa*. P&ES, Saroornagar replied (November 2014) that action would be taken to collect the balance amount of fee. P&ES, Rajendranagar replied (August 2016) that notice was issued to the licensee concerned for payment of the differential licence fee. P&ES, Secunderabad replied (February 2016) that the matter would be examined and reply sent in due course.

The matter was referred to the Department (January 2015 and May 2016) and to the Government in July 2016; replies have not been received (December 2016).

⁶⁶ As adapted by the State of Telangana through G.O.Ms.No.9, Revenue (Excise-II) Department, dated 27 January 2015.

⁶⁷ Rajendranagar, Sangareddy, Saroornagar and Secunderabad

⁶⁸ Sangareddy and Saroornagar.

3.7 Non-levy / Short Levy of Toddy Rentals

As per Rule 5(5) of the AP Excise (Grant of Licence to sell Toddy, conditions of Licence and Tapping of Excise Trees) Rules, 2007⁶⁹, the rental for Toddy Co-operative Society (TCS) or tappers under ‘Tree for Tappers Scheme’ (TFT) shall be fixed according to the rates notified by the Government from time to time. As per Government Order⁷⁰ dated 13 November 2007, the rate of rent per tree was ₹ 25 in rural areas and ₹ 50 in urban areas with effect from 1 October 2007.

Audit scrutiny (December 2015) of records relating to toddy rentals in three offices⁷¹ of P&ESs showed that rentals of eight TCSs and three tappers under TFTs were levied at the rates applicable to rural areas, instead of urban areas for the years 2013-14 and 2014-15, resulting in short levy of toddy rentals amounting to ₹ 3.32 lakh. Further, in two other TCSs⁷², licences were cancelled (November 2013) by P&ES, Karimnagar as the licensees had indulged in adulteration of toddy. Though the cancellation orders were stayed by the Government in December 2013, the P&ES did not raise demand for toddy rentals for the subsequent period, resulting in non-levy of toddy rentals of ₹ 3.51 lakh.

Thus, incorrect application of rental rates and non-raising of demand on TCSs / Tappers under TFTs led to non-levy / short levy of toddy rentals amounting to ₹ 6.83 lakh.

After Audit pointed out (December 2015) these cases, P&ESs replied (December 2015) that the matter would be examined and detailed reply furnished in due course.

The matter was referred to the Department in May 2016 and to the Government in July 2016; replies have not been received (December 2016).

⁶⁹ As adapted by the State of Telangana through G.O.Ms.No.24, Revenue (Excise-II) Department, dated 4 September 2014.

⁷⁰ G.O.Ms.No.1433, Revenue (Ex-III) Department, dated 13 November 2007.

⁷¹ Godavarikhani, Jagtial and Karimnagar.

⁷² TCS, Bommakal-1 and 2.