

## Chapter-III State Excise

### 3.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. The administration of the Punjab Excise Act, 1914, is carried out by Additional Excise and Taxation Commissioner at Patiala and six Deputy Excise and Taxation Commissioners (DETCs) at Amritsar, Faridkot, Ferozepur, Jalandhar, Ludhiana and Patiala. 26 Assistant Excise and Taxation Commissioners (AETCs), assisted by Excise and Taxation Officers (ETOs) and other allied staff monitor the work at the district level.

### 3.2 Results of audit

Test check of the records of 25 units relating to State Excise receipts during 2016-17 revealed irregularities involving ₹ 69.94 crore in 425 cases as depicted below.

**Table 3.1: Results of audit**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non/Short levy of License fee	387	10.19
2.	Irregular retention of Import fee & Export fee out of Government account	22	2.21
3.	Other irregularities	15	0.05
4.	<i>Performance Audit titled "Levy and collection of excise duty"</i>	1	57.49
	<b>Total</b>	<b>425</b>	<b>69.94</b>

In 2016-17, the Department accepted the observations of ₹ 7.51 lakh in 24 cases and recovered an amount of ₹ 4.26 lakh in 11 cases.

### 3.3 Performance Audit on "Levy and Collection of Excise Duty"

A performance audit of the Levy and Collection of Excise Duty for the period 2011-16 brought out both systemic and compliance deficiencies that led to loss and leakage of revenues amounting to ₹ 57.45 crore. Some of the significant findings are as follows: -

- **There were no timeline or penal provision to ensure payment of license fee within reasonable time by the restaurants holding license L-52. Similarly, there was absence of penal provision for delay in payment of overtime fee.**

(Para 3.3.9.1 and 3.3.9.2)

- **There was lack of norms for recovery of alcohol from molasses. Norms for recovery of alcohol from grains, though prescribed, were not implemented.**

(Para 3.3.9.3 and 3.3.9.4)

- **Rules to levy duty on quantity of beer produced and norms for allowing wastage over the produced quantity were not prescribed by the Department despite having such intention.**

(Para 3.3.9.5)

- **Deficiency in system of obtaining surety bond put government revenue of ₹ 46.01 crore at stake.**

(Para 3.3.10)

- **Cow cess of ₹ 9.72 crore was not recovered despite issue of notification by Department of Local Government Punjab.**

(Para 3.3.11)

- **License fee of ₹ 1.10 crore was short realized from one licensee as the sale of the beer was not taken into account for arriving at license fee of L-1A license**

(Para 3.3.14)

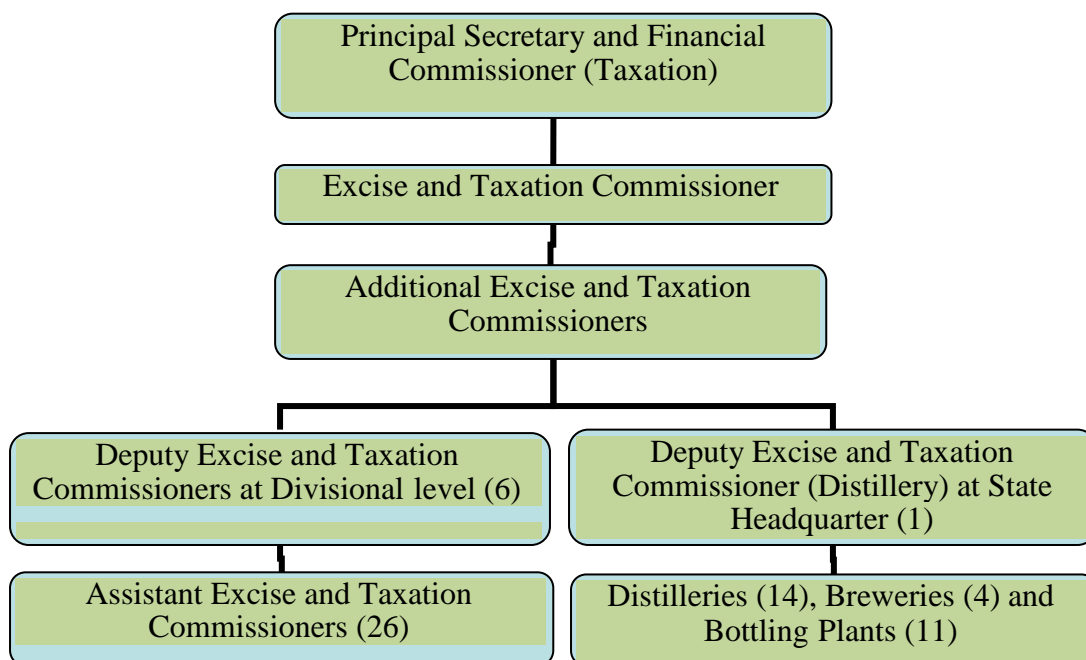
### **3.3.1 Introduction**

State Excise Duty is one of the important sources of tax revenue of the Government of Punjab which is levied and collected on manufacture, storage, sale, import and export of liquor. Excise Duty is levied in shape of license fee which is recovered at various stages from Distilleries, Breweries and Bonded Warehouses (BWH) on production and bottling of Indian Made Foreign Liquor (IMFL), Punjab Made Liquor (PML) and Beer, and from wholesale and retail vends on sale, import and export of liquor. Retail vends are allotted as licensing unit/group/zone through a system of draw of lots. License fee for retail vends is worked out on the basis of quota of liquor allotted in respect of a licensing unit/group/zone. Apart from that, licenses at fixed rate of fee are issued to hotels, clubs, marriage palaces etc. for sale and consumption of liquor. Cess levied by State Government or Local Government is recovered in shape of additional license fee. The levy and collection of excise duty in Punjab is governed by the Punjab Excise Act 1914, the Rules framed there under and the Punjab Excise Fiscal Orders, 1932.

### **3.3.2 Organisational set up**

The Principal Secretary to Government of Punjab, Department of Excise and Taxation (Department) is the administrative head who has also been vested with the power of the Financial Commissioner (Taxation). The Excise and Taxation Commissioner (ETC) is the Head of the Department and is assisted by Additional ETCs, Deputy Excise and Taxation Commissioners (DETCs) and Assistant Excise and Taxation Commissioners (AETCs).

### Organogram of the Excise and Taxation Department



#### 3.3.3 Audit Objectives

The Performance Audit was conducted to assess whether:

- the provisions of the Acts, Rules framed thereunder and the prescribed procedure were enforced scrupulously to realize the duties and fee on manufacture and sale of liquor;
- adequate norms existed to govern the production and sale of liquor and these were enforced effectively;
- there were any lacunae in the Acts, Rules and instructions affecting prompt and effective realization of excise duty; and
- internal control mechanism in the Department was adequate and effective to safeguard collection and accountal of excise receipts.

#### 3.3.4 Scope and methodology of audit

The performance audit (PA) was conducted through test check of the records relating to the levy and collection of duty, fees and penalties in the office of ETC Patiala, nine<sup>1</sup> out of 26 AETCs, four out of 14 distilleries, two out of four breweries and four out of 11 bottling plants between January and May 2017 covering the period from 2011-12 to 2015-16. However, findings for subsequent period have also been added wherever found necessary. The units were selected on the basis of probability proportion to

<sup>1</sup> Amritsar-I, Faridkot, Hoshiarpur, Jalandhar-II, Ludhiana-II, Ludhiana-III, Patiala, SAS Nagar and SBS Nagar.

size method of sampling, whereas, distilleries, breweries and bottling plants were selected on the basis of revenue.

An entry conference was held on 10 January 2017 with Joint Excise and Taxation Commissioner in which the scope, methodology and timelines were discussed, besides seeking concerns, if any, of the Department requiring examination by Audit.

The draft Performance audit report was forwarded to the Department/Government on 19 June 2017. An exit conference was held with the Department on 22 June 2017 to discuss the audit findings and recommendations. The replies of the Department and views expressed during exit conference have been incorporated in the report.

### 3.3.5 Audit Criteria

The audit criteria were derived from the following sources:

- Punjab Excise Act, 1914 and relevant rules framed thereunder;
- Punjab Excise Fiscal Orders, 1932;
- State Excise Policies;
- Punjab Financial Rules; and
- Departmental instructions issued from time to time

### 3.3.6 Trends of Revenue

Actual receipts *vis-à-vis* budget estimates for receipt of State excise duty and its contribution to the total tax revenue of Punjab during the period 2011-12 to 2016-17 is depicted below.

**Table 1: Revenue realised vis-à-vis Budget Estimates**

(₹ in crore)						
Year	Budget Estimates	Actual Receipt	Variation Excess (+) Shortfall (-)	Percentage of variation	Total tax revenue of Punjab	Percentage of actual receipt to total tax revenue
2011-12	3,250.00	2,754.60	(-) 495.40	(-) 15.24	18,841.01	14.62
2012-13	3,800.00	3,331.96	(-) 468.04	(-) 12.32	22,587.56	14.75
2013-14	4,180.00	3,764.72	(-) 415.28	(-) 9.93	24,079.19	15.63
2014-15	4,600.00	4,246.11	(-) 353.89	(-) 7.69	25,570.20	16.61
2015-16	5,100.00	4,796.45	(-) 303.55	(-) 5.95	26,690.49	17.97
2016-17	5,610.00	4,406.00	(-) 1204.00	(-) 21.46	27,746.66	15.88

Source: Annual Financial Statement and Finance Accounts of the Government of Punjab

Excise receipts increased from ₹ 2,754.60 crore in 2011-12 to ₹ 4,796.45 crore in 2015-16 showing an annual average growth of 14.82 per cent. However,

the revenue decreased from ₹ 4,796.45 crore in 2015-16 to ₹ 4,406.00 crore in 2016-17. The Department of Excise and Taxation Commissioner, Punjab attributed this shortfall of 8.14 *per cent* to allotment of vends at lesser rates than the reserve price, less receipt of application money and non-receipt of complete license fee from some of the contractors. The share of actual excise receipts to the total tax revenue increased from 14.62 *per cent* in 2011-12 to 17.97 *per cent* in 2015-16 but decreased to 15.88 *per cent* in 2016-17. However, the actual receipts for all the years remained less than the budget estimates. The shortfall ranged between 5.95 and 21.46 *per cent*. Reasons for this shortfall were not furnished by the Department (June 2017).

### 3.3.7 Cost of collection

The gross collection of the State Excise receipts, expenditure incurred on its collection and the percentage of such expenditure to the gross collection during the years 2011-12 to 2015-16 are shown in **Table-2** below.

**Table 2: Cost of Collection of State Excise receipts**

(₹ in crore)				
Year	Gross collection (₹ in crore)	Cost of collection (₹ in crore)	Percentage of cost of collection to gross collection	All-India average cost of collection (Percent of gross collection)
2011-12	2,754.60	30.16	1.09	2.98
2012-13	3,331.96	35.72	1.07	2.96
2013-14	3,764.72	34.67	0.92	1.81
2014-15	4,246.11	35.05	0.83	2.09
2015-16	4,796.45	34.55 <sup>2</sup>	0.72	3.21

Source: Finance Accounts of the Government of Punjab

The cost of collection in Punjab, which ranged between 0.72 and 1.09 *per cent*, was lower than All-India average cost of collection.

### 3.3.8 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2016 was ₹ 17.93 crore out of which ₹ 4.91 crore was analysed in audit in six<sup>3</sup> AETCs. Out of this, arrears of ₹ 1.88 crore were more than four decades old and arrears of ₹ 3.03 crore were between seven and 30 years old. However, no significant recoveries were made during previous five years as only ₹ two lakh were recovered.

<sup>2</sup> Transfer of ₹ 50 crore to Punjab Development Fund (established in January 2015) to meet expenditure on welfare schemes, de-addiction programmes, creation of community assets, and maintenance and development of Punjab's cultural heritage has not been included in calculation of cost of collection.

<sup>3</sup> Amritsar-I, Jalandhar-II, Ludhiana-II, Ludhiana-III, Patiala and SAS Nagar

The Department stated (June 2017) that it would initiate the write off process for irrecoverable arrears in consultation with the Finance Department and put in best efforts to recover the arrears which were still recoverable. However, audit noticed that even though arrears of ₹ 44.73 lakh had been declared irrecoverable as long as four decades ago as the defaulters were either not surviving or not traceable, the Department initiated action to write off ₹ 11.73 lakh only.

### ***Audit Findings***

### ***Systemic Deficiencies***

#### **3.3.9 Gaps/lacunae in Act and Rules**

During performance audit it was noticed that there was potential loss of revenue of ₹ 60.98 crore due to gaps and lacunae in the provisions in the Excise Act and Rules made thereunder regarding overtime fee, norms for production of alcohol, norms for wastages and payment of license fee for restaurant. These gaps and lacunae are discussed in the succeeding paragraphs.

##### **3.3.9.1 Absence of penal provisions for delay in payment of overtime fee**

Rule 32 A of the Punjab Distillery Rules, 1932, provides that overtime fee for every month shall be payable within seven days of the closure of the month concerned. The Rule applies mutatis mutandis to Breweries and Excise Bonded Warehouses. However, there is no penal provision in the Punjab Distillery Rules providing for levy of interest/penalty in case of delay in deposit of the fee.

Scrutiny of the records in the selected units of distilleries, breweries and bottling plants for the period 2011-12 to 2015-16 revealed that only two distilleries in Mohali and Hoshiarpur districts deposited overtime fees within the prescribed time. The other units deposited the overtime fee of ₹ 67.66 lakh with delays ranging between two and 20 days. However, in the absence of the penal provision for delay in deposit of fee, the Department was not in a position to take any penal action on these delayed deposits.

During exit conference, the Department agreed (June 2017) to incorporate suitable penal provisions in the relevant rules.

##### **3.3.9.2 Absence of timeline for payment of license fee by the proprietors of restaurants for consumption of liquor**

Rule 5 of the Punjab Restaurant (Consumption of Liquor) Rules, 1955 provide for payment of fixed license fee by a proprietor of a restaurant or ihata<sup>4</sup> licensed (in form L-52) for consumption of liquor. However, the rules do not prescribe any timeline for payment of the fee.

---

<sup>4</sup> Ihata is a place attached to a retail country liquor and foreign liquor vend where public is admitted for consumption of food or drink for consideration.

Scrutiny of the records of nine<sup>5</sup> AETCs for the period from 2011-12 to 2015-16 revealed that though 4,102 restaurants deposited license fee of ₹ 11.82 crore within the financial year in which license was issued, the instances of deposit of fee were scattered throughout the year and 91 licensees deposited the license fees of ₹ 0.27 crore after the close of the financial year. In the absence of any time limit for deposit of fee and penal provision for delay in deposit of fee, the Department was not in a position to take any penal action on the delayed deposits.

During exit conference, the Department agreed (June 2017) to incorporate suitable provisions in the Rules.

### **3.3.9.3 Absence of norms for production of alcohol from molasses**

The Government of Punjab substituted (18 March 2011) Rules 35 and 37 of the Punjab Distillery Rules, 1932 with revised rules and introduced norms for production of alcohol from grains. Due to this substitution, the then existing norms for production of alcohol from molasses which provided that one quintal of molasses should yield 36.61 proof litres of spirit stood deleted. One proof litre alcohol had implication of minimum excise duty of ₹ 35.00 in 2015-16.

Audit scrutiny of data of three distilleries in Hoshiarpur, Kapurthala and Mohali districts regarding production of alcohol from molasses during 2011-12 to 2015-16 revealed that there were differences in the yield (production of alcohol in proof litre per quintal of molasses) of alcohol among the distilleries. The minimum and maximum yields in these three distilleries during the period were 32.66-36.71, 34.31-36.40 and 36.62-40.68 proof litres. The average yields of the three distilleries during 2015-16 were 34.72, 35.70 and 38.15 proof litres and the distilleries consumed 1.48, 3.89 and 1.83 lakh quintal of molasses during that period. If the lower yields are compared with the previous existing norm of 36.61 proof litre, there is an implication of excise duty of ₹ 2.14 crore. Hence, it is prudent on the part of the Department to introduce norms for production of alcohol from molasses.

During exit conference, the Department stated (June 2017) that they were considering to address this issue in a scientific manner by installing instruments, such as flow meter, in the distilleries for real-time monitoring of actual production of alcohol. The rules might be amended accordingly after such system was devised.

### **3.3.9.4 Norms for production of alcohol from grains**

The revised rules substituted (18 March 2011) for Rules 35 and 37 of the Punjab Distillery Rules, 1932 prescribed norms for recovery of outturn of a

<sup>5</sup> Amritsar-I, Faridkot, Hoshiarpur, Jalandhar-II, Ludhiana-II, Ludhiana-III, Patiala, SAS Nagar and SBS Nagar

distillery. Minimum recovery of alcohol is prescribed as 52.47 litres of 100 *per cent* alcohol per quintal of fermentable sugar present in the grains, consumed for production of alcohol.

**(a) Non implementation of norms:** Scrutiny of the records in three distilleries in Hoshiarpur, Kapurthala and Mohali districts revealed that the Department had not developed any mechanism to monitor the outturn of alcohol as per the prescribed norm. Instead the outturn report was being prepared by the distilleries and the Department was accepting the same without checking its veracity. To implement the norm in letter and spirit, the Department was required to ascertain independently, the quantity of fermentable sugar present in the grains to be used by the distilleries for production of alcohol. For this, the Department was required to draw sample of raw material and get it tested in an independent laboratory approved by Government to determine the presence of fermentable sugar and cross check it with the fermentable sugar declared by the distilleries. Audit observed that in Uttar Pradesh, such testing of samples to check the level of fermentable sugar has been provided for in the rules itself. However, no samples were drawn and tested by the Department in Punjab. Thus, the objective of prescribing the norm was defeated.

During exit conference, the Department stated (June 2017) that there was no laboratory in the State to check the presence of fermentable sugar in the grains. Therefore, the norms could not be implemented.

**(b) Unrealistic norm:** Audit worked out production of alcohol against the fermentable sugar present in the grains from the material consumption statements of the three distilleries and found that recovery of alcohol per quintal of fermented sugar was considerably higher than the prescribed norms of 52.47 PL. The recovery of alcohol in these distilleries during the years 2011-12 to 2015-16 ranged between 89.40 PL to 104.83 PL per quintal of fermentable sugar present in the grains as per report prepared by the distilleries. The huge difference between the prescribed norms and actual recovery of alcohol indicates that the data of actual recovery was not analysed by the Department before notifying the norms. Thus, there was need to review and revise the norms for production of alcohol from grains because unrealistically low norm carries the risk of suppression of actual production and consequently evasion of excise duty which the Department may not be able to notice.

During exit conference, the Department stated (June 2017) that they were considering addressing this issue in a scientific manner by installing instruments, such as flow meter, in the distilleries for real-time monitoring of actual production of alcohol. The rules might be amended accordingly after such system was devised. However, the reasons for fixing unrealistic norms



were not explained. Further, timeline for putting in place such system for real-time monitoring and amendment of relevant rules was not intimated.

### 3.3.9.5 Lack of norms for wastage for breweries

Section 32 of the Punjab Excise Act 1914 provides that duty can be levied on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse. Further, Section 32 (b) of the Act provides that duty can also be levied on spirit or beer manufactured in any distillery established or any distillery or brewery licensed, under this Act in accordance with such scale or equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the State Government may prescribe.

Audit noticed that neither the Punjab Breweries Rules nor the Punjab Liquor License Rules makes it clear as to whether the duty on beer is leviable under Section 32 or Section 32(b) *ibid*. However, as per Rules 25 and 31 of the Punjab Liquor License Rules, excise duty from breweries is recovered as fixed annual license fee and assessed fee. The annual license fee is recovered from breweries whereas the assessed fee is recovered from wholesale vendors (L-1) at the time of granting permit in form L-32 for lifting the quota of beer from breweries. This indicates that the present system of levy of excise duty on beer is on the quantity of beer issued from breweries.

Scrutiny of the records of two sampled breweries of Ludhiana and Mohali districts for the years 2011-12 to 2015-16 revealed that the Department had been collecting duty from breweries on quantity of beer arrived at by deducting wastage at the rate of eight *per cent* from the quantity of beer produced. The basis for application of the wastage of eight *per cent* was not shown to Audit and hence this system of allowing wastage did not have a statutory grounding. It was observed that the amount of duty involved in wastage allowed by the Department (4.68 to 8.00 *per cent*) in the case of two breweries during the period 2011-12 to 2015-16 was ₹ 58.84 crore. Supreme Court in the case of M/s. Mohan Meakin Ltd. Vs. Excise and Taxation Commissioner and Ors. held that excise duty upon alcoholic liquor arises when excisable article is brought to the stage of human consumption with the requisite alcoholic strength thereof.

There is a provision of wastage of seven *per cent* in the Brewery Rules of the Haryana State, beyond which the licensee is liable to pay duty at the prescribed rates. If the intention of the Department is to levy duty on quantity of beer produced or ought to be produced subject to allowance of prescribed wastage, the Department needs to notify for such levy of duty on beer under Section 32 or 32(b) of the Act and incorporate norm of wastage in the relevant rules.

During exit conference, the Department agreed (June 2017) with the audit observation and assured to incorporate norms for wastage in the Rules.

### Compliance Deficiencies

#### 3.3.10 Non recovery of excise dues

The Comptroller and Auditor General of India during its earlier performance audit on 'Working of the State Excise Department' which was conducted in 2010-11 noticed instances<sup>6</sup> of short recovery of licence fee from vend licensees and made a recommendation to put in place a system to recover license fee in lump sum in advance like Maharashtra. In a meeting of the Public Accounts Committee (17 December 2013), the Department assured to examine the system of recovery of license fee in lump sum in advance, and if feasible, put the same in the next excise policy. It was, however, noticed that the Department had not put in place the system for making recovery of license fee in lump sum in advance with the result that the cases of short payment of licence fee were persisting. A significant case involving ₹ 46.01 crore is discussed in the succeeding paragraph.

As per Rule 25(3) of the Punjab Liquor License Rules 1956 a liquor vend licensee is required to lift his entire quota, after paying all excise dues, by 10 March of the following year in which license was granted. In case of failure to lift any part of his quota, he is required to deposit the license fee and all other excise dues. Further, in order to safeguard revenue of the Government, Rule 36 (32) of the Punjab Liquor Licence Rules, 1956 provides for furnishing of surety bond in form M-75 by successful allottees of liquor vends before the commencement of the business.

Scrutiny of records of three<sup>7</sup> AETCs revealed that during 2015-16 and 2016-17, 22<sup>8</sup> licensee groups did not pay excise dues of ₹ 46.12<sup>9</sup> crore which were payable on account of unlifted quota of IMFL, PML and beer. Out of these dues, the AETCs could recover only ₹ 0.11 crore as arrears of land revenue (June 2017) from the defaulters.

It was further noticed that though the Department had obtained surety bonds of ₹ 123.60 crore as per Rule 36 (32) *ibid*, solvency positions to ensure that licensees or their sureties were solvent to the extent of the bond amount were not verified. Such process for verification of solvency position of licensee or his surety is prescribed in the neighboring states of Haryana and Rajasthan.

---

<sup>6</sup> Para 4.2 of the Report on 'Working of the State Excise Department' for the year ended 31 March 2011.

<sup>7</sup> Faridkot, Ferozepur and Ludhiana-III.

<sup>8</sup> Faridkot:17, Ferozepur:2 and Ludhiana-III:3

<sup>9</sup> 2015-16: Ferozepur-₹ 4.04 crore

2016-17: Faridkot-₹ 21.26 crore and Ludhiana ₹ 20.82 crore.

Thus, non implementation of system of recovery of license fee in lump sum in advance coupled with non verification of solvency position of licensee or his surety to secure Government revenue in case of default in payment, put the Government dues of ₹ 46.01 crore at stake.

During exit conference, the Department assured (June 2017) to place the system for recovery of license fee which was best capable of safeguarding revenue and to provide for verification of the solvency position of the persons standing as sureties to the extent of bond amount in the Punjab Liquor Licence Rules, 1956. The Department further stated that it was in the process of getting the properties of defaulters red marked in land revenue records and best possible efforts would be made to recover the Government dues both from defaulter licensees and their sureties.

### **3.3.11 Non levy of cow cess on sale of IMFL/PML/Beer**

The Department of Local Government, Punjab levied<sup>10</sup> cow cess on bottles of IMFL, PML and beer to be sold in urban areas of SAS Nagar, Jalandhar and Hoshiarpur. The AETC of the concerned district was responsible for collection of cow cess on the bottles of IMFL, PML and beer sold in urban areas.

Scrutiny of records of AETC Hoshiarpur, Jalandhar-II and SAS Nagar revealed that they did not collect cow cess of ₹ 9.72 crore during the years 2015-16 and 2016-17 on the sale of IMFL, PML and beer bottles.

During exit conference, the Department stated (June 2017) that Department of Local Government had levied cow cess in selective urban areas of Punjab. Thus, collection of the cess was fraught with the risk of distorting the liquor business in the State. Therefore, they were examining the feasibility of levying this cess in a centralized manner in coordination with the Department of Local Government. The reply was not tenable as the levy should be in accordance with the notification once issued till revoked.

### **3.3.12 Short recovery of overtime fee**

Rule 32 of Punjab Distillery Rules 1932 as applicable to breweries in terms of Rule 41 of Punjab Brewery Rules, 1956 provides that the overtime fee at the rate of ₹ 5,000 per day or for part of a day is payable for working beyond normal working hours and holidays.

Audit scrutiny of records of one brewery of Ludhiana district revealed that during the years 2011-12 to 2015-16, the Department charged overtime fee at the rate of ₹ 1,000 per day for working beyond normal working hours instead

<sup>10</sup> **Hoshiarpur** - Notification No. 14/118/14-5 S.S.1/604 dated 15.6.2016, **Jalandhar** - Notification No. 14/118/14-5 S.S.1/613 dated 15.6.2016, **SAS Nagar** - Notification No. 14/118/14-5 S.S.1/512447/1 dated 17.6.2015

of applicable rate of ₹ 5,000, resulting in short recovery of overtime fee of ₹ 52.48 lakh. The irregularity continued in 2016-17 and the Department short recovered overtime fee of ₹ 9.60 lakh in this year. The omission resulted in short recovery of overtime fee of ₹ 62.08 lakh.

After the matter was reported, the Department recovered the overtime fee in the case pointed out (August 2017). The Department, may, however check similar irregularity in other breweries.

### **3.3.13 Renewal of Excise Bonded Warehouse licenses despite deficient securities**

As per provision contained below Rule 4(3) of Punjab Excise Bonded Warehouse Rules 1957, the licensee, before the grant or renewal of BWH-2 licence, is required to furnish a security equivalent to 25 *per cent* of the amount of excise duty on the maximum quantity of foreign liquor allowed to be stored at any one time. The security shall be furnished in cash, or in the shape of saving certificates or bank guarantee of a scheduled bank or by hypothecation of assets.

Scrutiny of records revealed that BWH-2 licenses of four Excise Bonded Warehouses of Mohali district were renewed by the Department during the years 2011-12 to 2015-16 without obtaining security equivalent to 25 *per cent* of the amount of excise duty on the maximum quantity of foreign liquor allowed to be stored at any one time. Securities<sup>11</sup> furnished by licensees for renewal of licenses were between two and 21 *per cent* instead of the required 25 *per cent*. The total deficient security amount worked out to ₹ 8.60 crore and in individual cases it ranged between ₹ 3.37 lakh to ₹ 2.32 crore. Moreover, it was also noticed that bank guarantees for above security were either not obtained in time or were not renewed before expiry. In one warehouse, bank guarantee amounting to ₹ 9.70 lakh had expired on 11 September 2015 and the same was renewed on 01 April 2016. Similarly, in another warehouse, bank guarantee of ₹ 1.21 crore was obtained on 20 May 2014 instead of 01 April 2014 and subsequently on 30 April 2015 instead of 01 April 2015. Non-renewal or late renewal of bank guarantee carries the risk of non-realisation of excise dues in case of non-payment of the same by the licensee. Moreover, renewal of BWH-2 license without obtaining security of prescribed amount was in contravention of rules.

During exit conference, the Department stated (June 2017) that the proviso below Rule 4(3), referred to above, provides for obtaining security in respect of the amount of excise duty whereas the Department had done away with the system of excise duty and had prescribed system of license fee. Thus, the Department had not been able to enforce the provision pertaining to obtaining

---

<sup>11</sup> Amount of Security worked out considering prevailing minimal excise duty

of security, at prescribed rates, contained in this rule. He further stated that in order to remove such discrepancies or contradictions, the Department was considering to take up legal audit of excise related acts and rules.

The reply of the Department is not tenable as mentioning the word “license fee” instead of “excise duty” in the excise policies does not undermine the intent of the Rule 4(3) *ibid*. Moreover, amount by whatever name collected is a duty under Section 32 of Punjab Excise Act 1914.

### 3.3.14 Short realization of license fee

Rule 38 (1-A) of the Punjab Liquor License Rules, 1956 stipulates that a license in form L-1A may be granted for wholesale vend of Indian Made Foreign Liquor, Imported Foreign Liquor including BIO<sup>12</sup> brands, beer, wine and ready to drink beverages. Further, Rule 25(1) provides for annual fixed license fee for grant and renewal of licenses. The Government of Punjab notified<sup>13</sup> (26 March 2015) slab based rates<sup>14</sup> for annual license fee of license L-1A on the basis of quantum of sale.

Scrutiny of records of the AETC Jalandhar-II revealed that a licensee sold 10.84 lakh cases of beer and 9,558 cases of Indian Made Foreign Liquor (IMFL) during the year 2015-16. However, license fee of ₹ 15 lakh, worked out on the basis of quantity of sale of IMFL only, was realized for this period against ₹ 1.25 crore, arrived at after taking into account sale of beer also, resulting in short realization of license fee of ₹ 1.10 crore.

During exit conference, the Department stated (June 2017) that considering wide variation in the prices of beer and IMFL, it was not the intention of the Government to include quantity of sale of beer for arriving at license fee of L-1A. The discrepancy in rules leading to the audit observation would be examined and removed.

Similar point was brought to the notice of the Department vide Para 3.3 of the Report of Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2016. However, the Department neither amended the

<sup>12</sup> Bottled in Origin

<sup>13</sup> Notification No. G.S.R.11/P.A.1/1914/S.59/Amd.(126)/2015 dated 26.3.2015

<sup>14</sup> Annual License Fee for L-1A License

L-1A license	Rate of license fee during 2015-16 (₹ in lakh)	Rate of license fee dealing exclusively BIO brand	Rate of license fee during 2015-16 (₹ in lakh)
If sale is upto 50,000 cases	15.00	Sale upto 1,000 cases	4.00
If sale is from 50,001 to 75,000 cases	25.00		
If sale is from 75,001 to 1,00,000 cases	30.00	If sale is from 1,001 to 50,000 cases	10.00
If sale is from 1,00,001 cases and above	125.00		

rule position in accordance with its intention nor recovered the deficient amount as per prevailing rule position.

### **3.3.15 Internal Control Mechanism**

Internal control mechanism in a department is meant to ensure that its activities are carried out according to the prescribed rules and regulations in an economical, efficient and effective manner. Further, inspection is an important tool for internal control in the hands of the administration for ascertaining that the rules and procedures prescribed by the department are followed to safeguard the revenue. Audit noticed that the internal control mechanisms needed strengthening as there was non-reconciliation of deposits with treasury records and shortfall in the number of departmental inspections of liquor vends.

(a) Rule 2.2 (v) of Punjab Financial Rules (Volume-I) provides that by the 15<sup>th</sup> of every month, head of office should obtain from the treasury a consolidated receipt for all remittances made during the previous month which should be compared with the postings in the cash book. Audit noticed that out of total revenue of ₹ 1,328.09 crore for the period 2011-12 to 2015-16 under State Excise in respect of five out of the 19 selected units, the revenue of ₹ 1,309.91 crore (98.63 *per cent*) were not reconciled by these units. Further, in AETC Patiala, there were differences in receipts ranging from ₹ 8.95 crore to ₹ 176.91 crore between revenue figures of statement of revenue collection (M1 statement) and Daily Cash Registers for which no reasons were furnished. Non-reconciliation with treasury could lead to misappropriation / embezzlement of government money.

The Department stated (June 2017) that concerned officers would be directed to carry out reconciliation.

(b) The Excise and Taxation Commissioner, Punjab had directed (July 2006) the field officers to conduct inspections of liquor vends in the State in order to check the sale of adulterated / spurious liquor or other irregularities. The inspection due and inspections actually conducted are depicted below:

**Table 3: Inspections of liquor vends conducted by AETC/ETO/EI<sup>15</sup>**

Year	No. of vends to be inspected	No. of vends inspected	Short fall in inspections	
			(Nos.)	(per cent)
2011-12	1,13,292	84,828	28,464	25
2012-13	1,29,331	1,19,732	9,599	7
2013-14	1,33,572	1,20,187	13,385	10
2014-15	1,37,184	1,15,372	21,812	16
2015-16	54,864	75,862	-	-

Source: Departmental figures

It is observed that there were shortfalls ranging between 7 and 25 per cent in inspections of liquor vends during the period 2011-12 to 2014-15. The Department stated (June 2017) that there was no shortfall in inspections during the year 2015-16 and assured that such efforts would be continued in future also.

### 3.3.16 Internal Audit

Internal Audit is a vital component of the internal control mechanism. Internal Audit Organisation (IAO) was set up in October 1981 as an independent organisation under the State Finance Department and was entrusted inter-alia, with the internal audit of revenue receipts to safeguard against any loss or leakage of revenue arising under the various revenue heads including excise duty.

Scrutiny of the information collected from the Deputy Director, Internal Audit (Revenue) as regards to the number of units due for audit and units audited is depicted below:

**Table 4: Position of internal audits**

Year	Number of units due for audit	Units audited during the year	Units remained unaudited	Percentage of unaudited units
2011-12	177	0	177	100
2012-13	213	0	213	100
2013-14	248	1	247	100
2014-15	285	154	131	46
2015-16	166	26	140	84
<b>Total</b>	<b>1,089</b>	<b>181</b>	<b>908</b>	<b>83</b>

Source: Internal Audit Organisation

<sup>15</sup> Excise Inspector.

It is observed that the shortfall in conducting internal audit by the Finance Department ranged between 46 and 100 *per cent* during the years 2011-12 to 2015-16.

The Deputy Director (IAO) attributed shortfall in conducting internal audit to shortage of staff. The reply is not tenable as IAO should adopt risk analysis technique and ensure audit of all planned units.

### **Conclusion**

The gaps and lacunae in Acts and Rules have resulted in potential loss of revenue. Time line and penal provisions were absent to ensure timely realisation of overtime fee and restaurant (L-52) fee. The norms to regulate production of alcohol from molasses and grain needed attention. The practice of allowing eight *per cent* wastage in production of beer in breweries was not in harmony with the existing Brewery Rules. Further, the existing procedure for levy and collection of excise duty suffered from deficiencies that resulted in non-recovery of revenue aggregating to ₹ 57.45 crore. The system of recovery of license fee from vend licensees needed strengthening.

### **Recommendations**

It is recommended that the Government may consider:

1. introducing penal provision for delay in payment of overtime fee, timeline for payment of license fee for restaurants and norm for production of alcohol from molasses;
2. incorporating rules to levy duty on quantity of beer produced and norms for allowing wastage over the produced quantity;
3. introducing a system for verification of solvency position of licensee or his surety before commencement of business like similar system prevailing in Haryana and Rajasthan; and
4. strengthening internal audit mechanism for greater effectiveness.