



CHAPTER - III
EXCISE DEPARTMENT

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3.1 Administration

The State Excise Department is responsible for collection of revenue under Assam Excise Act and enforcement of Excise laws on prohibition of illicitly distilled liquor, *Ganja*, *Bhang* and Opium. In addition, the Department is also responsible for enforcing the provisions of Narcotic Drugs and Psychotropic Substances Act and the Medicinal and Toilet Preparation Act. The Commissioner of Excise (CE), Assam is the head of the Department. He is primarily responsible for administration and execution of Excise policies and programmes of the State Government. He is assisted by an Additional Commissioner of Excise, a Joint Commissioner of Excise and two Deputy Commissioners of Excise, one at Headquarters' and another for Bodoland Territorial Area.

Source of excise revenue comes from *ad-valorem* levy, establishment charges, various kinds of licence fees on foreign liquor/beer, country spirit, rectified spirit, etc. Further, import pass fee, export pass fee, transport pass fee, underbond pass fee, brand and label registration/renewal fee also generate revenue for the Government exchequer.

During 2016-17, the Department restructured *ad-valorem* levy, revised licence fee of various excise licences, increased different kinds of fees in respect of label registration/renewal and profile fee and replaced the Assam Excise Act, 1910 and the Assam Excise Rules, 1945 by the Assam Excise Act, 2000 and the Assam Excise Rules, 2016 *w.e.f* 1 September 2016 respectively. The point of levy of Excise Duty was shifted to the level of first point of transaction made within the State ensuring that only duty paid liquor comes out from the manufactories. This change has helped in curbing leakage of excise revenue.

3.2 Working of internal audit wing

Internal audit, a vital component of internal control mechanism, functions as the 'eyes and ears' of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

The Department stated that there is no internal audit wing but that the officers of the department conduct periodical inspections of different establishments at different levels. The Department did not furnish any inspection reports despite request (February 2018).

3.3 Results of audit

In 2016-17, test check of the records of 15 offices (out of total 30 offices) relating to excise duty, license fee receipts, etc., detected 65 cases of non/short realisation of excise duty/license fee/renewal fee and other irregularities involving ₹ 16.77 crore, as shown in **Table 3.1**.

Table 3.1
Results of Audit

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non-payment of annual licence fee	07	1.15
2.	Evasion of <i>ad-valorem</i> levy and VAT	01	0.12
3.	Loss of Excise duty and VAT	03	3.97
4.	Non realisation of revenue on wastage beyond permissible limit	02	0.19
5.	Short realisation of revenue on transit loss beyond permissible limit	03	0.12
6.	Short realisation of transport/import fee	02	0.07
7.	Non realisation of Establishment Charges	02	0.14
8.	Loss of revenue due to warehouse going dry	01	1.13
9.	Other Irregularities	44	9.88
Total		65	16.77

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹ 1.85 crore in 55 cases which were pointed out in earlier years and during 2016-17. An amount of ₹ 0.25 crore was recovered in 15 cases during the year 2016-17.

A few cases involving revenue of ₹ 4.79 crore are discussed in the succeeding paragraphs.

Audit observations

3.4 Excess allowance of godown wastage over permissible limit

Excess allowance of godown wastage over the permissible limit led to non-realisation of revenue of ₹ 1.98 crore

[*Superintendent of Excise (SE), Kamrup, Guwahati; October - December 2015*]

Rule 37 of the Assam Bonded Warehouse (ABW) Rules, 1965 (Amended⁵²) provides that the SE or the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of the quarter and the licensee shall pay duty at prescribed rates on all spirits on account of wastage in excess of an allowance of one *per cent*. Further, as per Assam Gazette (Extraordinary) notification of June 2015⁵³, minimum levy of excise duty on beer was ₹ 300 per case.

Audit noticed that during the quarter ended June 2015, M/s Master (India) Brewing Company claimed godown wastage of 67,494 cases of beer against the admissible wastage of 1,543 cases⁵⁴. The fact that the licensee claimed excess and inadmissible wastage of 65,951 cases of beer escaped the notice of the SE and led to non-realisation of revenue of ₹ 1.98 crore⁵⁵ (calculated at the minimum rate of excise duty on beer).

The matter was reported to the Department in January 2016 and followed up in April 2017; reply was awaited (February 2018).

⁵² Assam Gazette (Extraordinary) Notification no. EX.340/2001/Pt.III/104 dated 18 March 2005.

⁵³ Assam Gazette (Extraordinary) Notification no. EX. 178/2014/353 dated 1 June 2015.

⁵⁴ Calculated at one *per cent* of the closing stock of 1,54,332 cases.

⁵⁵

Name of the licensee	Closing stock of Beer as on 30 June 2015 (in cases)	Godown wastage permissible at one <i>per cent</i> of closing stock (in cases)	Godown wastage claimed (in cases)	Excess Godown wastage claimed (in cases)	Minimum rate of excise duty leviable per case (in ₹)	Total excise duty leviable (in ₹)
(1)	(2)	(3)	(4)	(5) = (4) – (3)	(6)	(7)
M/s Master (India) Brewing Company	1,54,332	1,543	67,494	65,951	300	1,97,85,300

3.5 Failure to maintain minimum stock of spirit in Warehouse

Non-initiation of action by the SE against a contractor resulted in potential loss of revenue of ₹ 91.58 lakh

[SE, Cachar, Silchar; November - December 2014]

Rule 106 of the Assam Excise (AE) Rules, 1945 provides that the contractor shall maintain at each warehouse such minimum stock of spirit as may, from time to time, be fixed by the CE and notified by him in writing to the contractor. The contractor shall be liable to compensate any loss to government revenue which may be incurred owing to his failure to maintain adequate stock and the amount of such compensation shall be fixed by the CE.

Audit noticed that closing balance of the Silchar Excise Warehouse became zero for 183 days during the period between 9 January 2014 and 22 November 2014. This resulted in potential loss of government revenue (i.e. excise duty, vend fee⁵⁶ and VAT) to the tune of ₹ 91.58 lakh⁵⁷ calculated by officer-in-charge of Silchar Excise Warehouse, Silchar based on the revenue collection of corresponding period of previous year. Further, the officer-in-charge of Silchar Excise Warehouse intimated about the 'nil' stock of spirit to the SE on 12 May 2014, 4 June 2014 and 22 November 2014. The SE did not initiate any action against the contractor M/s Barkha Traders and failed to recover the revenue of ₹ 91.58 lakh from him.

The Department stated (October 2017) that the CE, Assam cancelled the licence of the contractor M/s Barkha Traders on 6 August 2014 and debarred it from taking part in any future tenders in the Department. The CE, Assam also informed that revenue due to the government would be recovered from the bills due to the contractor and security deposit. The status of recovery was awaited (February 2018).

⁵⁶ 'Vend fee' means the fee per case of excisable goods which a licenced vendor pays for the privilege of selling the goods by retail in the case of those shops which are settled on the vend fee system.

⁵⁷

Dry Period (days)	No. of days Date of intimation sent to SE	Excise duty	Vend fee	VAT	Total
9 January to 12 January 2014 (4)	72 12 May 2014	19,00,800	6,34,118	13,88,529	39,23,447
6 February to 12 February 2014 (7)					
13 March to 31 March 2014 (19)					
1 April to 30 April 2014 (30)					
1 May to 12 May 14 (12)					
13 May to 24 May 2014 (12)	12 4 June 2014	3,16,800	1,05,686	2,31,421	6,53,907
16 August to 31 August 2014 (16)	99 22 November 2014	24,50,000	10,73,944	10,57,182	45,81,126
1 September to 30 September 2014 (30)					
1 October to 31 October 2014 (31)					
1 November to 22 November 2014 (22)					
Total	183				91,58,480

3.6 Establishment charges not realised

Failure of the SE to realise establishment charges of ₹ 63.55 lakh from three licensees

Rule 7 of ABW Rules, 1965, provides that the CE shall appoint such Excise Officers and establishment as he thinks fit to the charge of the bonded warehouse. The licensee shall pay to the State Government at the end of each calendar month, such establishment charges as may be determined from time to time by the CE. Further, the CE in December 2009⁵⁸ instructed all SsE to realise the establishment charges of the officers and staff posted in bonded warehouse, bottling plants and breweries etc.

[SE, Kamrup, Guwahati; August - October 2014]

3.6.1 Audit observed that seven excise personnel were posted at two distilleries⁵⁹ during the period between June 2011 and September 2014 against which licensees owed ₹ 50.43 lakh⁶⁰ as establishment charges. Further, Audit noticed that demand notices were not issued regularly to the concerned licensees for making payment of establishment charges.

The matter was reported to the Department in December 2014 and followed up in April 2017; reply was awaited (February 2018).

⁵⁸ Letter No. III-15/2006-07/Pt/148 dated 10 December 2009.

⁵⁹ M/s N.V Distilleries and Breweries (North East) Pvt. Ltd. and M/s Himalayan Distillery.

⁶⁰

Name of the distillery/ Bonded Warehouse	Period (Months)	No. of Excise officers and staffs posted	Date on which demand notice issued	Amount of establishment charges realisable per month (in ₹)	Total amount of establishment charges realisable (in ₹)
M/s N.V Distilleries and Breweries (North East) Pvt. Ltd., Kamrup, Guwahati	June 2011 to May 2012 (12 months)	4	Not available	76,921	9,23,052
	June 2012 to September 2014 (28 months)		20 July 2012 (issued for June 2012 only)	1,32,236	37,02,608
M/s Himalayan Distillery, Guwahati	March 2014 (one month)	3	10 April 2014	78,266	4,16,953
	April 2014 (one month)		12 May 2014	81,908	
	May 2014 (one month)		5 June 2014	92,877	
	June 2014 and July 2014 (2 months)		7 July 2014 (issued for June 2014 only)	81,951	
Total					50,42,613

[SE, Dima Hasao, Haflong; February 2016]

3.6.2 Audit observed that seven excise personnel were posted at M/s M. K. Bonded Warehouse during the period between November 2007 and February 2013 against which the licensee owed ₹ 13.12 lakh as establishment charges as evident from a letter of the SE (1 April 2013⁶¹) to the concerned licensee. Thereafter, SE did not issue any demand notice to realise ₹ 13.12 lakh till the date of audit (February 2016).

The Department while accepting (October 2017) the audit observation stated that steps had been taken to realise the outstanding establishment charge; further development was awaited (February 2018).

3.7 Annual renewal of licence fee not realised

Non-realisation of annual renewal licence fees amounting to ₹ 56.50 lakh from seven licensees

[SE, North Lakhimpur; May - June 2015]

Rule 244 of the AE Rules, 1945 provides that a retail 'OFF' licensee⁶⁴ is required to pay annual licence fees in advance, before the commencement of the financial year at the rate prescribed by the government time to time.

Amount of annual licence of a retail 'OFF' licence (₹ in lakh)	Effective date of notification
1.00	1 April 2011 ⁶²
3.00	1 April 2015 ⁶³

Rule 243 of the AE Rules, 1945 provides that a wholesale licensee⁶⁸ is required to pay annual licence fees in advance, before the commencement of the financial year at the rate prescribed by the government time to time.

Amount of annual licence of a wholesale licence (₹ in lakh)	Effective date of notification
1.00	8 February 2002 ⁶⁵
2.00	1 April 2011 ⁶⁶
5.00	1 April 2015 ⁶⁷

Further, Rule 6 of ABW Rules, 1965 provides that the licence of a bonded warehouse⁷² may be renewed annually at the discretion of the Government.

Amount of annual licence of a bonded warehouse licence (₹ in lakh)	Effective date of notification
1.00	8 February 2002 ⁶⁹
2.50	1 April 2011 ⁷⁰
7.50	1 April 2015 ⁷¹

⁶¹ Letter No. NCH/EX-85/2012-13/1-3 dated 1 April 2013

⁶² No. EX.340/2001/Pt-III/331 dated 29 September 2010

⁶³ No. EX.178/2014/365 dated 13 August 2015

⁶⁴ Retail 'OFF' licence – where IMFL/beer can be sold but cannot be consumed in the premises of the licensee

⁶⁵ No. EX.133/92/152 dated 8 February 2002

⁶⁶ No. EX.340/2001/Pt-III/331 dated 29 September 2010

⁶⁷ No. EX.178/2014/365 dated 13 August 2015

⁶⁸ Wholesale licence – the holder of a licence can sale foreign liquor to retailers

⁶⁹ No. EX.133/92/153 dated 8 February 2002

⁷⁰ No. EX.340/2001/Pt-III/329 dated 29 September 2010

⁷¹ No. EX.178/2014/348 dated 1 June 2015

⁷² Bonded warehouse – the premises approved and licensed for deposit or storage of spirits on which excise duty has not been paid

Audit examined the records of SE, North Lakhimpur and found that six retail ‘OFF’ licensees and M/s R.N. Bonded Warehouse (a wholesale and a bonded warehouse licence holder) did not pay their annual renewal licence fees. This resulted in non-realisation of annual renewal licence fees of ₹ 56.50 lakh for the years between 2010-11 and 2015-16 as shown in *Appendix-III*. All the licensees neither paid the licence fees nor any demand raised by the SE for recovery of revenue till the date of audit (June 2015).

The Department stated (October 2017) that four⁷³ retail ‘OFF’ licensees paid ₹ 6 lakh instead of outstanding dues of ₹ 14 lakh. The Department also stated (October 2017) that steps would be taken to cancel both the licences of M/s R. N. Bonded Warehouse as it failed to pay outstanding dues. Report on cancellation of licence/recovery of balance licence fees of ₹ 50.50 lakh was awaited (February 2018).

3.8 Irregular remission of government revenue

Loss of revenue of ₹ 33.53 lakh due to failure of officers to realise the duty coupled with wrong interpretation of Executive Instruction

[SE, Kamrup, Guwahati; October-December 2015]

Rule 43 of the ABW Rules, 1965 provides that if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they may be rejected or destroyed or otherwise dealt with under the orders of the CE. However, Rule 32 of the ABW Rules specifically mentions that the State Government shall not be held responsible for the destruction, loss or damage of any spirits stored in warehouse by fire or by any other cause whatever. Further, as per Executive Instruction No. 229 under the Assam Excise Act, 1910, the CE is authorised to sanction the remission of irrecoverable excise revenue.

Audit observed that the CE on 3 July 2012 ordered the disposal/destruction of sedimented/unsuitable unfit quantity of 3,773 cases Old Tavern Whisky and 18,585 Bulk Litre (BL) Blended Alcohol in Vat⁷⁴ of M/s Spey Bottlers Pvt. Ltd. as well as to realise ₹ 33.53 lakh⁷⁵ as chargeable excise duty. Accordingly, the officer-in-charge of M/s Spey Bottlers Pvt. Ltd. on 24 February 2014 informed the CE that his ordered to destroy the aforesaid quantity of Whisky and Blended Alcohol had been carried out. The SE as well as Officer-in-charge however, did not realise the excise duty despite orders/reminders of the CE between 26 September 2012 and 9 January 2014.

⁷³ M/s Kiranjyoti Chutia, M/s Hiralal Saikia, M/s Dipen Dutta and M/s Lalit Saikia

⁷⁴ ‘Vat’ means any vessel used for blending, reducing or storage of spirit

⁷⁵ As per CE’s letter no. III-201/2011-12/23 dated 3 July 2012

Further, the CE remitted (6 August 2014) the excise duty amounting to ₹ 33.53 lakh against the destroyed quantities citing Executive Instruction No. 229 which was incorrect as the remission of revenue may be sanctioned only in case of an irrecoverable situation. Thus, due to wrong interpretation of ABW Rules and Executive instruction, there was loss of ₹ 33.53 lakh.

The matter was reported to the Department in January 2016 and followed up in April 2017; reply was awaited (February 2018).

3.9 Short realisation of bonded warehouse licence fee

Short realisation of licence fees of ₹ 25.35 lakh from six licensees

Rule 5 of ABW Rules, 1965 provides that an applicant of a bonded warehouse shall execute a hypothecation deed in the form prescribed in these rules pledging the warehouse with the stock of foreign liquor therein for the due discharge of all payments which may become due to the State Government by way of duty, fees, rents, fines, penalties or otherwise under the provisions of his licence or to which the applicant may be liable by law or rules or under any agreement or bond into which he may have entered. The amount given in the bond is termed as ‘bond limit’ and the hypothecation deed of an equal amount is to be executed.

Rule 6 of ABW Rules, 1965 provides that the licence for a bonded warehouse may be renewed annually at the discretion of the government. From 1 June 2015, the bonded warehouses were required to pay licence fee at enhanced rate depending upon the bond limits as shown in the inset.

Bond limit	Licence Fees
Upto ₹ 50 lakh	₹ 1.50 lakh (upto 31 May 2015) and ₹ 4.50 lakh (from 1 June 2015)
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh (upto 31 May 2015) and ₹ 7.50 lakh (from 1 June 2015)
₹ 1 crore and above	₹ 5 lakh (upto 31 May 2015) and ₹ 10 lakh (from 1 June 2015)

[SsE, Nagaon and Dhemaji; October 2015 - February 2016]

3.9.1 Audit observed that four bonded warehouses under the above SsE had paid licence fees at the lower rate for the year 2015-16. This resulted in short realisation of revenue of ₹ 16.68 lakh as shown in **Table 3.3**.

Table 3.3

(₹ in lakh)

Name of the licensees	Licence renewal fee payable as per revised rate	Licence renewal fee paid	Short realisation
M/s Dynasty Bonded Warehouse, Nagaon	9.17	5.00	4.17
M/s A.B Bonded Warehouse, Nagaon	9.17	5.00	4.17
M/s D.S Bonded Warehouse, Dhemaji	6.67	2.50	4.17
M/s Pegu Bonded Warehouse, Dhemaji	6.67	2.50	4.17
Total			16.68

The Department stated (October 2017) that the CE, Assam had initiated action regarding payment of licence fee for the year 2015-16 in respect of bonded warehouses under SE, Dhemaji. However, no reply was received in respect of the bonded warehouses under SE, Nagaon. Report on recoveries was awaited (February 2018).

[SE, Nagaon; October - November 2015]

3.9.2 Audit observed that the following two bonded warehouses paid annual licence fees at lower rate for the year 2014-15 though the stock of India Made Foreign Liquor/Beer/Wine crossed the bond limit of ₹ 50 lakh during 2014-15. Further, M/s United Enterprise Bonded Warehouse paid annual licence fee at lower rate for the year 2015-16 though the bond limit was enhanced from ₹ 1 crore to ₹ 5 crore during 2015-16. This resulted in short realisation of licence fees of ₹ 8.67 lakh as shown in **Table 3.4**.

Table 3.4

(₹ in lakh)

Name of the Bonded Warehouse	Financial year	Bond limit	Licence fee realisable	Licence fee realised	Short realisation of licence fee
M/s United Enterprise Bonded Warehouse	2014-15	50 (bond limit crossed on February 2015)	2.50	1.50	1.00
	2015-16	500	9.17 ⁷⁶	2.50	6.67
M/s Dynasty Bonded Warehouse	2014-15	50 (bond limit crossed on December 2014)	2.50	1.50	1.00
Total			14.17	5.50	8.67

The matter was reported to the Department in December 2015 and followed up in April 2017; reply was awaited (February 2018).

3.10 Short realisation of brewery and bottling licence fee

₹ 5.50 lakh short realised as brewery and bottling licence fees

[SE, Kamrup, Guwahati; October - December 2015]

As per Government notification of September 2010⁷⁷, a licensee operating a brewery and bottling plant shall pay annual licence fees depending upon the production capacity of beer as shown in the inset.

Production Capacity	Amount of Annual Licence Fee (₹)
Upto 80 lakh BL of beer per annum	Brewery licence fee ₹ 10,00,000 and Bottling licence fee of ₹ 1,50,000
More than 80 lakh BL of beer per annum	Brewery licence fee ₹ 15,00,000 and Bottling licence fee of ₹ 2,00,000

⁷⁶ Licence fees for the period April - May 2015 at old rates - ₹ 83,333 and for the rest of the period from June 2015 to March 2016 - ₹ 8,33,333 (pro-rata of ₹ 10 lakh payable as annual licence fees as revised).

⁷⁷ Notification No. EX.340/2001/Pt-III/330 dated 29 September 2010 w.e.f 1 April 2011.

Audit noticed that M/s Master (India) Brewing Company enhanced the annual production capacity of its brewery to 3 crore BL from 14 December 2012⁷⁸. The licensee paid annual brewery and bottling licence fees at lower rate during 2015-16. This resulted in short realisation of ₹ 5.50 lakh as shown in **Table 3.5**:

Table 3.5

(₹ in lakh)

Type of licence	Licence fee realisable	Licence fee realised	Short realisation of licence fee
Brewery licence	15.00	10.00	5.00
Bottling licence	2.00	1.50	0.50
Total	17.00	11.50	5.50

The matter was reported to the Department in January 2016 and followed up in April 2017; reply was awaited (February 2018).

3.11 Non-accountal of consignment in stock register

Non-accountal of consignment in stock register leading to possibility of evasion of government revenue of ₹ 5.35 lakh

[SE, Dhemaji; February 2016]

Rule 19 of ABW Rules, 1965 stipulates that on arrival of a consignment at the bonded warehouse, the officer-in-charge shall open the consignment and enter into the stock register after verifying the same with the passes (transport passes) covering the consignment.

Audit examined the records of M/s D.S Bonded Warehouse and noticed that a permit⁷⁹ of 4,194 BL of IMFL of Luxury Brand arrived on 28 June 2014. The officer-in-charge did not record/enter the same into the stock register. Due to non-recording of 4,194 BL of IMFL in the stock register the possibility of evasion of excise duty and VAT to the extent of ₹ 5.35 lakh, as given in **Table 3.6**, could not be ruled out:

Table 3.6

Quantity despatched (in BL)	Transit Loss (in BL)	Quantity received (in BL)	Quantity received (in cases)	Excise duty at rate ₹ 598.90 per case on Luxury Brand as per Notification of September 2010 ⁸⁰	VAT at rate 30 per cent (i.e. ₹ 554.37 ⁸¹ per case)	Total evasion of revenue (in ₹)
4,194	20,909	4,173.091	463,676 ⁸²	2,77,698 ⁸³	2,57,048	5,34,746

⁷⁸ As intimated (18 December 2012) by the licensee to the CE, Assam.

⁷⁹ Permit No. III-143/2011-12/Pt-I/386 dated 12 June 2014.

⁸⁰ Notification No. EX.34/2001/Pt-III/328 dated 29 September 2010.

⁸¹

(Amount in ₹)

Cost price of Luxury Brand	Transport Pass fee	Excise duty	Total	Amount of VAT at 30 per cent
(1)	(2)	(3)	(4 = 1+2+3)	(Col.4 X 30 per cent)
1,199	50	598.90	1,847.90	554.37

⁸² 4,173.091 BL/ 9 BL = 463.676 cases.

⁸³ 463.676 cases X ₹ 598.90 per case on luxury brand = ₹ 2,77,698.

The Department stated (October 2017) that the concerned SE issued demand notice and the licensee promised to pay the amount due to government. Report on recovery was awaited (February 2018).

