

**CHAPTER-4**  
**State Excise**  
**(Revenue Sector)**

## CHAPTER-4: STATE EXCISE

### 4.1 Tax administration

Various kinds of liquor, such as Country Liquor (CL) and Indian Made Foreign Liquor (IMFL) are manufactured from alcohol. Excise duty on production of alcohol and liquor in distilleries forms a major part of the State's excise revenue<sup>1</sup>. Apart from the excise duty, license fee<sup>2</sup> also forms a part of excise revenue. The Uttar Pradesh Excise Act, 1910 and Rules<sup>3</sup> govern the levy and collection of excise duty on liquor for human consumption and applicable license fee.

The Principal Secretary (State Excise) is the administrative head of the State Excise Department (Department) at the Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided into Agra, Gorakhpur, Lucknow, Meerut and Varanasi zones, each headed by a Joint Excise Commissioner. Besides, Excise Inspectors under the control of Assistant Excise Commissioners of the respective districts are deputed to oversee and regulate levy/ collection of excise duties and allied levies.

### 4.2 Results of audit

During 2016-17, Audit test checked the records of 77<sup>4</sup> units out of 236 auditable units (33 *per cent*) of the Department. The Department generated ₹ 14,083.54 crore revenue during 2015-16 of which the audited units collected ₹ 4,521.34 crore (32 *per cent*).

Besides the above, 14 District Excise Offices which generated revenue of ₹ 4,910.02 crore during 2012-13 to 2016-17 were also test checked between October 2016 and June 2017.

Audit scrutiny revealed short realisation of excise duty, non-realisation of license fee/ interest etc. amounting to ₹ 1,490.43 crore in 202 paragraphs as shown in **Table - 4.1**. Most of the observations are of a nature that may reflect similar errors/ omissions in other units, but not covered in test audit. Department may therefore like to internally examine all the other units to ensure that they comply with the requirement and rules.

<sup>1</sup> CL formed 51 *per cent*, IMFL 33 *per cent*, Beer 13 *per cent* and others three *per cent* of total excise revenue of 2016-17.

<sup>2</sup> License fee is applicable on licensees of CL, IMFL, Beer, Bars, Distilleries, Breweries, Pharmacies, etc. and on other manufacturing units using alcohol as raw material.

<sup>3</sup> Uttar Pradesh Excise (settlement of licenses for retail sale of foreign liquor) (excluding Beer and wine) Rules 2001.

UP Excise (settlement of licenses for retail sale of foreign liquor) (excluding Beer and wines) (Third Amendment) Rules 2002.

UP Excise (Wholesale and retail vend of foreign liquor) (Thirteenth Amendment) Rules 2002.

UP Excise (Settlement of licenses for retail sale of country liquor) Rules 2002.

UP Excise (Settlement of licenses for Country Liquor Bonded Warehouse) Rules 2003.

UP Excise (Settlement of retail licenses for model shop of foreign liquor) Rules 2003.

<sup>4</sup> District Excise Offices (36), Distilleries (31) and Sugar Mills (10).

**Table - 4.1**

Sl. No.	Categories	Number of paragraphs	Amount (₹ in crore)	Share in per cent to the total objected amount
1.	Short realisation of excise duty	44	110.58	7.42
2.	License fee/ interest not realised	65	87.15	5.85
3.	Other irregularities	93	1,292.70	86.73
<b>Total</b>		<b>202</b>	<b>1,490.43</b>	

(Source: Information available in the Audit office)

The Department accepted underassessment and other deficiencies of ₹ 68.79 lakh in 39 cases out of 2,712 such cases pointed out in 1999-2000 and between 2007-08 and 2016-17, and realised the related outstanding revenue.

This chapter discusses five paragraphs<sup>5</sup> worth ₹ 1,404.25 crore. Out of these, some irregularities have been repeatedly reported during the last five years as detailed in **Table - 4.2**.

**Table - 4.2**

Nature of observation	(₹ in crore)											
	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Failure to cancel the selection of shops and forfeiture of basic license fee and security deposit	-	-	639	53.68	-	-	32	3.66	1,007	37.43	1,678	94.77
Sale of Beer without Beer bar license	-	-	1,370	16.80	87	1.31	-	-	364	6.70	1,821	24.81
Short levy of license fee on model shops	27	1.54	393	7.51	-	-	2	0.36	-	-	422	9.41

**Recommendation:**

**The Department should initiate systemic measures to ensure that the persistent irregularities that are routinely found during audit do not recur.**

**4.3 Failure to cancel the selection of shops and forfeiture of basic license fee/ license fee and security deposit**

**The Department failed to act on the directions of the Public Accounts Committee to ensure compliance to the Rules relating to timely deposit of Basic License Fee and License Fee on settlement of shops. The Department did not initiate any action for cancellation of settlement, and forfeiture of basic license fee /license fee (₹ 843.16 crore) and security (₹ 453.91 crore) totaling to ₹ 1,297.07 crore, in contravention to the rules.**

The various Uttar Pradesh Excise (settlement of licenses of retail sale) Rules<sup>6</sup>

<sup>5</sup> The five paras cover 15,579 cases

<sup>6</sup> UP Excise (settlement of licenses for retail sale of foreign liquor) (excluding Beer and wine) Rules 2001.  
UP Excise (settlement of licenses for retail sale of Beer) Rules 2001.  
UP Excise (settlement of licenses for retail sale of country liquor) Rules 2002.  
UP Excise (settlement of retail licenses for model shop of foreign liquor) Rules 2003.

stipulate that the amount of Basic License Fee<sup>7</sup> (BLF)/ License Fee<sup>8</sup> (LF) shall be deposited in full within three working days, half of the security<sup>9</sup> amount within 10 working days and the remaining amount within 20 working days of the receipt of information of the selection of shop. In case of default, the selection of shop would be cancelled, and the amount of BLF/ LF and security deposits is required to be forfeited and these shops need to be resettled.

Previous Audit Reports had highlighted persistent losses amounting to ₹ 94.77 crore due to failure in cancellation of shops and forfeiture of basic license fee and security deposit in 1,678 cases during 2012-13 and 2014-15 to 2015-16.

To evaluate the corrective measures by the Department in this regard, Audit test checked the records of 26<sup>10</sup> out of 50 District Excise Offices. Audit noticed that 14,334 out of 27,562 liquor shops (52 *per cent*) which settled or renewed during the years 2012-13 to 2016-17, did not deposit the entire amount of security deposit within the prescribed time frame. The average delay was 138 days. No action was, however, initiated by the concerned District Excise Officers (DEOs) as envisaged in the Rules. As no relaxation is allowed under the provisions/ rules, inaction on delay resulted in non-forfeiture of amount of ₹ 1,297.07 crore (BLF/ LF ₹ 843.16 crore and security deposit ₹ 453.91 crore). On similar issue highlighted in para 3.8.8.1 of Audit Report (Revenue Sector) 2012-13, the Public Accounts Committee directed (May 2015) the Principal Secretary, Excise to take action against defaulting licensees and ensure that similar irregularity is not repeated in future.

In the exit conference (October 2017), the Department accepted the audit observations, but expressed practical difficulties in resettlement of shops in the middle of the year. The reply is not tenable as the Department was neither making any efforts at ensuring timely recoveries from license holders nor forfeiting the deposits of the defaulters as per the existing Rules. Moreover, the Department did not suggest any alternative method such as amendments to rules or procedures to the Government in this regard in order to safeguard the financial interests of the State.

#### **Recommendation:**

**The Department should ensure adherence to provisions of Act/ Rules and to the directions of the Public Accounts Committee, to safeguard the financial interests of the State.**

<sup>7</sup> BLF- ₹ 22 per BL (2012-13), ₹ 23 per BL (2013-14), ₹ 24 per BL (2014-15) and ₹ 25 per BL (2015-16 and 2016-17).

<sup>8</sup> LF- ₹ 159 per BL (2012-13), ₹ 184 per BL (2013-14), ₹ 204 per BL (2014-15), ₹ 227 per BL (2015-16) and ₹ 226 per BL (2016-17).

<sup>9</sup> 10 *per cent* of the license fees fixed for the shop.

<sup>10</sup> DEO: Agra, Aligarh, Bahraich, Ballia, Balrampur, Barabanki, Bareilly, Bijnor, Bulandshahr, Chandauli, Etah, Etawah, Fatehpur Gazipur, Gorakhpur, Hardoi, Kanpur Nagar, Kaushambi, Lucknow, Meerut, Moradabad, Rae Bareilly, Saharanpur, Shahjahanpur, Unnao and Varanasi.

#### **4.4 Sale of Beer without Beer bar license**

**Non-issue of Beer bar license for retail sale of bottled Beer led to loss of revenue of ₹ 13.59 crore in respect of 720 licensees during 2012-13 to 2016-17.**

Foreign liquor, as defined in UP Excise (settlement of licenses for retail sale of foreign liquor) (excluding Beer and wines) (Third Amendment) Rules, 2002, includes Malt Spirit, Whiskey, etc., but does not include Beer. As per the United Provinces Excise Act, 1910, and the UP Excise (wholesale and retail vend of foreign liquor) (Thirteenth Amendment) Rules, 2002, a Beer Bar license, in form FL 7B, is required for retail sale of Beer in the premises of hotels, *dak bungalows* or restaurants. FL 6A composite and FL 7 license cover sale of only draught Beer.

Previous Audit Reports had highlighted persistent losses amounting to ₹ 24.81 crore in 1,821 cases during 2012-13 to 2013-14 and 2015-16.

To evaluate the corrective measures adopted by the Department in this regard, Audit test checked the records of 29<sup>11</sup> out of 50 District Excise Offices. Audit noticed that consumption records in 720 out of 797 licenses of the hotels/restaurant bars settled or renewed during the years 2012-13 to 2016-17 under FL 6, FL 6A (composite) and FL 7 category showed that the licensees sold bottled Beer in addition to IMFL which was not covered under the license issued. The concerned DEOs did not force licensees to get FL 7B license to sell bottled Beer. As a result, the Government was deprived of license fee of ₹ 13.59 crore.

In the exit conference (October 2017), the Department replied that in terms of the notification<sup>12</sup> dated 20 December 1980, Beer is included in the definition of foreign liquor. The reply is not acceptable. The notification which was issued before the Rules cannot supersede the Rules which constitute subordinate legislation.

#### **Recommendation:**

**The Department should amend the concerned notification to ensure that is in tune with the Rules so that the financial interests of the State are protected. In the event it is felt that the present provisions of the excise policy are unviable, the Department may consider reviewing the policy.**

---

<sup>11</sup> DEO: Agra, Aligarh, Allahabad, Ambedkar Nagar, Badaun, Ballia, Bareilly, Bijnor, Bulandshahr, Chandauli, Deoria, Faizabad, G.B. Nagar, Ghaziabad, Gonda, Gorakhpur, Jalaun, Jhansi, Kanpur Nagar, Lucknow, Meerut, Mirzapur, Moradabad, Muzaffarnagar, Rampur, Saharanpur, Sonebhadra, Unnao and Varanasi.

<sup>12</sup> No. 8272-E/XIII-656-79 dated 20 December 1980.

#### 4.5 Short levy of license fee on model shops

**The license fee of model shops was not fixed as per norms prescribed in the excise policy resulting in short levy of license fee of ₹ 2.49 crore.**

As per the State excise policy, the license fee for a model shop<sup>13</sup> was to be fixed at the amount of accumulated highest license fee of settled retail shops of both foreign liquor and Beer in the town for the same year. But it could not be less/ more than the minimum/ maximum prescribed limit provided in the excise policy as detailed in **Table - 4.3**

**Table - 4.3**

( ₹ in lakh )

Year	Date of notification	Minimum license fee	Maximum license fee
2014-15	29 January 2014	12.65	34.50
2015-16	12 January 2015	14.55	39.70
2016-17	17 February 2016	14.55	39.70

(Source: Information from excise policy issued by the Government)

Previous Audit Reports had highlighted persistent losses amounting to ₹ 9.41 crore in 422 cases during 2011-12 to 2012-13 and 2014-15.

To evaluate the corrective measures adopted by the Department in this regard, Audit test checked the records of eight<sup>14</sup> out of 50 District Excise Offices and noticed that in 44 out of 73 model shops settled during 2014-15 to 2016-17, accumulated highest license fee from the retail shops of both foreign liquor and Beer settled in the town worked out to ₹ 10.93 crore. The Department fixed and realised a total license fee of ₹ 8.44 crore from these model shops without assigning any reason. While assessing the license fee, the concerned DEOs overlooked the amount of highest realised license fee from the retail shops of both foreign liquor and Beer in the town, as provided in the excise policy. This resulted in short levy of license fee of ₹ 2.49 crore.

In the exit conference (October 2017), the Department replied that the levy and recovery of license fee from these model shops had been made as per the excise policy. The reply of the Department is not tenable because the concerned DEOs, while fixing the license fee of these model shops, overlooked the condition for accumulation of amount of highest realised license fee from the retail shops of both foreign liquor and Beer in the town, as provided in the excise policy.

#### **Recommendation:**

**The Department should ensure due diligence in adherence to the provisions of the excise policy while fixing the license fee of the liquor shops.**

<sup>13</sup> Model shop is a licensed liquor shop having at least 600 sq. ft. carpet area and consumption facility.

<sup>14</sup> DEO: Bahraich, Banda, Barabanki, Etah, Gazipur, Gonda, Rampur and Unnao.

**4.6 Lower fixation of Minimum Guaranteed Quantity (MGQ) of country liquor shops than previous year's MGQ**

**The Department fixed short MGQ of 37.33 lakh BL for the year 2012-13 to 2016-17. Thus, the Government was deprived of basic license fee of ₹ 9.08 crore and license fee of ₹ 78.85 crore.**

As per the Excise policies for the years 2012-13 to 2016-17, the Minimum Guaranteed Quantity<sup>15</sup> (MGQ) of retail shops of country liquor in the district was to be fixed by enhancing the MGQ of the corresponding previous year by six *per cent* in 2012-13 to 2014-15, eight *per cent* in 2015-16 and four *per cent* in 2016-17. The shops were to be settled by effecting the above enhancements in the MGQs, and the Basic License Fee<sup>16</sup> was to be realised as per the MGQ fixed for them. License fee<sup>17</sup> is adjusted in the shape of excise duty already paid at the distillery level. As per the excise policy notified from year to year, the MGQ for Country Liquor shops should not be less than the MGQ of the previous year.

Audit test checked the records of 50 District Excise Offices and found that out of 6,522 country liquor shops settled in these districts during the years 2012-13 to 2016-17, MGQs in respect of 391 shops in eight<sup>18</sup> districts were actually reduced from the level of MGQ determined for the previous year though the extant instructions provided for enhancing the same. Thus, instead of previous year's MGQ of 179.03 lakh BL, the DEOs settled the shops with MGQ of 141.70 lakh BL without assigning any reason. This resulted in short fixation of MGQ by 37.33 lakh BL during the period from 2012-13 to 2016-17. The Government was thus deprived of basic license fee of ₹ 9.08 crore and license fee of ₹ 78.85 crore.

In the exit conference (October 2017), the Department replied that MGQ of country liquor was assessed according to the provisions of the extant excise policy. The reply is not correct. The concerned DEOs settled the country liquor shops at MGQ less than that of the previous year which was not in consonance with the excise policy.

**Recommendation:**

**The Department should ensure that DEOs do not fix the MGQ of Country Liquor shops lower than that of the previous year in violation of the excise policy.**

<sup>15</sup> The minimum quantity of country liquor as fixed by the Collector of the district guaranteed by the purchaser to be lifted by him, for the purpose of being sold by retail in his country liquor shop or group of shops during the Excise year or part of the Excise year for which he has obtained the license.

<sup>16</sup> Basic License Fee means that part of consideration for the grant of license for exclusive privilege of retail sale of country liquor payable by the person selected as licensee before grant of license to him.

<sup>17</sup> License fee means the remaining part of consideration for grant of license for exclusive privilege of retail sale of country liquor payable by the licensee in addition to the basic license fee.

<sup>18</sup> Agra, Aligarh, Gorakhpur, Hardoi, Kanpur Nagar, Kaushambi, Lucknow and Varanasi.

#### 4.7 Fixation of license fee on settlement of retail license shops of IMFL less than from previous year

**License fee of retail shops of IMFL was reduced from previous year's license fee. Thus Government was deprived of license fee of ₹ 3.17 crore.**

As per the Excise Policy for the years 2014-15 and 2015-16, the license fee for IMFL retail shops was to be fixed by increasing the license fee of the previous year by 15 *per cent*. It was also provided that the license fee for retail shops of IMFL should not be less than previous year's license fee. In 2016-17 the license fee for IMFL retail shops was same as fixed during 2015-16.

Audit test checked the records of five<sup>19</sup> District Excise Offices and found that during the years 2014-15 to 2016-17, license fee in respect of 90 shops was reduced from that of the previous year. Thus, instead of previous year's license fee of ₹ 19.71 crore, DEOs settled the shops at license fee of ₹ 16.54 crore without assigning any reason. This resulted in short fixation of license fee of ₹ 3.17 crore.

In the exit conference (October 2017), the Department replied that License Fee of IMFL shops was assessed according to the provisions of the Excise Policy. The reply is not tenable as the concerned DEOs decreased the License Fee of IMFL shops from that of previous year's level whereas the license fee was to be fixed according to the Excise Policy of the concerned year.

#### **Recommendation:**

**The Department should ensure that DEOs invariably fix the License Fee of IMFL shops as provided for in the excise policy. In the event it is felt that the present provisions of the excise policy are unviable, the Department may consider reviewing the policy.**

<sup>19</sup> Agra, Aligarh, Hardoi, Kanpur Nagar and Lucknow.