

**CHAPTER – III
STATE EXCISE
DEPARTMENT**



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3.1 Tax Administration

The State Excise Department is responsible for collection of revenue under Assam Excise Act, 1910 (as adapted by Meghalaya), the Assam Excise Rules, 1945 (as adapted), the Assam Distillery Rules, 1945 (as adapted) and the Assam Bonded Warehouses Rules, 1965 (as adapted) and enforcement of Excise laws. 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, under bond pass fee, brand and label registration/renewal fee generate revenue for the Government exchequer.

The Principal Secretary/Commissioner and Secretary to the Government of Meghalaya, Excise, Registration, Taxation & Stamps (ERTS) Department is in overall charge of the State Excise Department at the Government level. The Commissioner of Excise (CoE) is the administrative head of the Department. He is assisted by a Joint Commissioner of Excise and Deputy/ Assistant Commissioners of Excise (DCEs/ ACEs). At the district level, the Superintendents of Excise (SsE) have been entrusted with the work of levy of excise duties and other dues from the licensees such as bonded warehouses, bottling plants, distilleries and retailer shops.

3.2 Results of Audit

Test check of the records of seven units during 2018-19 revealed non-realisation of duties, fees, *etc.* involving ₹41.42 crore in 52 cases, which fall under the following categories:

Table 3.1

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/Short realisation of duties <i>etc.</i>	24	6.35
2.	Loss of revenue	12	28.76
3.	Other irregularities	16	6.31
Total		52	41.42

During the year 2018-19, the Department accepted under assessments and other deficiencies of ₹3.69 crore in 19 cases. Reply in 22 cases was not furnished and in 11 cases, the Department did not accept the audit contention. The Department realised recoveries of ₹3.55 crore in six cases during the year.

A few illustrative cases having financial impact of ₹5.71 crore on under-non-realisation of licence fees, registration fees, non-realisation of Excise duty on import permits, etc., are discussed in the paragraphs 3.3 to 3.7.

3.3 Non-renewal of IMFL retail, bar and canteen licensees

Failure to renew licenses of 93 Indian Made Foreign Liquor (IMFL) retail, bars and canteen licensees resulted in non-recovery of ₹1.84 crore of revenue.

[Assistant Commissioner of Excise (ACE), Shillong, Superintendents of Excise (SsE), Jowai, Khliehriat, Williamnagar & Nongpoh; November 2017 – March 2019]

Assam Excise Rules, 1945 (as adapted by Meghalaya) (Rules 243, 244 and 252) provide for payment of annual licence fee for bonded warehouse, retail licensees and bottling plants in advance, at the rates prescribed from time to time for renewal of licenses. The validity period is from April of a year to March of the next year. The Excise Department, Government of Meghalaya in March 2017⁵⁰ had fixed the annual fee for renewal of retail licences and bars as under:

Table 3.2

Sl. No.	Type of Licence	Licence renewal fee (₹)
I	Retail 'OFF' licence ⁵¹	150000
II	Retail 'ON' licence (Bar Licence) Starred Hotel	150000
III	Retail 'ON' licence (Bar Licence) Non-starred Hotel	75000
IV	Canteen licence	75000

Further, Section 29 read with Section 35 of the Assam Excise Act, 1910 (as adapted) stipulates that if any fee or duty payable by the licence holder has not been paid, the licence granted may be cancelled and any dues to the Government may be recovered from the defaulters from their surety, if any, by distress and sale of their movable property or as arrears of land revenue.

There were 684 IMFL retail, bar and canteen licensees registered in the State. Audit test checked the ACE⁵² and four SsE⁵³ (November 2017 – March 2019) and noticed that out of 390 IMFL retail, bar and canteen licensees registered with ACE/ SsE, 118 IMFL retail, bar and canteen licensees failed to get their licenses renewed in advance for the period ranging between one year and two years (2017-18 to 2018-19) (*Appendix VIII*). The ACE/ SsE however, had not taken any action to direct the defaulting licensees to get their licenses renewed and subsequent payment of dues. The ACE/ SsE also did not recommend cancellation of the licences to the Commissioner of Excise (CoE) in order to prevent unauthorised operation of these retail licences in the State. Inaction on the part of the ACE/ SsE has, therefore,

⁵⁰ Vide Notification No. ERTS(E)24/2008/94 dated 15 March 2017

⁵¹ 'OFF' licence is a term for a shop licenced to sell alcoholic beverages for consumption off the premises.

⁵² ACE, Shillong.

⁵³ Superintendents of Excise, Nongpoh, Williamnagar, Khliehriat and Jowai.

resulted in non-renewal of licences and non-payment of licence fees amounting to ₹2.33 crore.

The cases were reported to the Excise Department, between March 2018 and May 2019. The Department in its reply (January 2020) intimated that licence fee amounting to ₹48.00 lakh was recovered from 20 IMFL retail licensees and five bar licensees. Further, it was stated that recovery of licence fee amounting to ₹24 lakh from 8 IMFL retail licensees under SE, Williamnagar was referred to the Certificate Officer (*Bakijai* Officer). However, further development has not been intimated (September 2020). In respect of one bar licensee⁵⁴, the ACE, Shillong accepted ₹75000 as renewal licence fee instead of ₹150000 which resulted in short realisation of licence fee of ₹75000.

Thus, renewal licence fee amounting to ₹1.84 crore still remains to be recovered by the ACE/ SsE from 93 IMFL retail, bar and canteen licensees and there was no assurance that the licensees were not carrying on business on invalid licences.

Recommendation: *The Department may verify the remaining IMFL retail, bar and canteen licensees to check the validity of their licences. Further, the Government may digitise operations of Excise Department and information relating to bonded warehouses, liquor shops, bars, canteens licenses should be kept in digital form to facilitate timely renewal of the licences.*

3.4 Non-recovery of licence fee from Bonded Warehouses

The Commissioner of Excise (CoE) failed to realise advance licence fee of ₹2.24 crore from 38 bonded warehouses for the year 2019-20. The Department has recovered the entire amount at the instance of Audit.

[Commissioner of Excise (CoE), Shillong; May 2019]

Assam Excise Rules, 1945 (as adapted by Meghalaya) (Rule 243) provides for payment of annual license fee in advance, at the rates prescribed from time to time for renewal of licences. The validity period of the licensees is from April of a year to March of the next year. The Excise Department in December 2018⁵⁵ revised the rate of renewal of licence fee for bonded warehouse as under:

Table 3.3

Sl. No.	Category	Criteria	Licence renewal fee (₹)
I	A	Turnover of more than ₹20 crore per annum	1500000
II	B	Turnover between ₹10 crore and ₹20 crore per annum	1200000
III	C	Turnover of less than ₹10 crore per annum	350000

Further, Section 29 read with Section 35 of the Assam Excise Act, 1910 (as adapted) stipulates that if any fee or duty payable by a licence holder has not been paid, the licence may be cancelled and any amount payable to the Government may be

⁵⁴ M/s Orchid Hotel (being a starred hotel)

⁵⁵ Vide notification dated ERTS(E)24/2008/183 dated 19 December 2018

recovered from the defaulters by sale of their immovable property or as arrears of land revenue.

Audit of records⁵⁶ of the CoE (May 2019) revealed that all the 38 bonded warehouses in the State, whose turnover ranged between ₹nil and ₹27.73 crore per annum, failed to get their licences renewed in advance for the year 2019-20. No action was taken by the CoE to either direct the defaulters to get their licenses renewed or to cancel their licences. Instead, import permits were issued to these bonded warehouses. Thus, CoE failed to recover licence fee amounting to ₹2.24 crore (May 2019) (*Appendix IX*)

On the cases being reported to the Excise Department (July 2019) the CoE recovered (January 2020) total fees of ₹2.24 crore as renewal licence fee from 38 bonded warehouses.

Recommendation: The Department may digitise all information relating to bonded warehouses so that the renewal of licences and payment of licence fee is monitored effectively. Before issuing import permits to the licensees, the Department Officials need to invariably verify the validity of the dealer's license.

3.5 Non realisation of registration fees for registration of brand names.

Commissioner of Excise (CoE) registered 39 brands of eight distilleries/ companies/ bonded warehouses without realising registration fee amounting to ₹19.90 lakh.

[Commissioner of Excise (CoE), Shillong; May 2019]

Assam Excise Rules 1945 (as adopted), (Rules 363 (1), 364 and 365) provide that no person can manufacture or sell any brand of alcoholic liquor in the State unless the brand name and the label of that product are registered with the CoE. The registration is valid up to 31 March of the next year after which it may be renewed on payment of prescribed fee. The manufacturer is required to submit applications for renewal of the certificate of registration for any year along with renewal fee, at least one month prior to the start of the year of registration *i.e.* before the last day of February of the preceding year. The Excise Department, Government of Meghalaya had fixed the fee for brand name registration fees at ₹60000 and ₹35000 for IMFL and beer brands respectively and at ₹50000 for those imported brands⁵⁷ bottled in the place of origin (BIO).

Audit of records(May 2019) of the CoE revealed that registrations of 54 brands manufactured by 12 distilleries/ companies out of a total 417 brands manufactured by 46 distilleries/ companies were renewed for the year 2017-18 and 2018-19, without recovery of brands registration fees amounting to ₹28 lakh (*Appendix X*). Though the CoE directed the dealers to pay the registration fee within 15 days from the date of issue of the approval letters, 12 distilleries/ companies did not pay the registration fee.

⁵⁶ May 2019

⁵⁷ Vide notification NO.ERTS(E) 06/2004/Pt/37 dated 20 March 2005

The registration of brands without realisation of the stipulated fees has not only resulted in non-realisation of revenue, but also the possibility of these products being sold in the State without payment of registration fee cannot be ruled out.

The cases were reported to the Excise Department in July 2019. The Department recovered ₹8.10 lakh from four companies as registration fee for 15 brands. It was further stated that two companies/ distilleries⁵⁸ out of the remaining eight companies/ distilleries did not register the brands. On examination it was seen that the two companies/ distilleries had applied for registration, which was allowed by the CoE, and as such, the reply stating that the two companies/ distilleries did not register is factually incorrect. The status of recovery of registration fees of the remaining 39 brands of eight companies amounting to ₹19.90 lakh had not been intimated (September 2020).

Recommendation: *The CoE may reiterate instructions to ensure that the applicable registration fees are duly realised by the Departmental officials at the time of granting registration of brands. Further, the Department may not issue permits for import and sale of unregistered brands.*

3.6 Non-renewal of security deposits

Security deposits of ₹43.10 lakh were not obtained from 75 IMFL and 14 Bar licensees.

[Assistant Commissioner of Excise (ACE), Shillong, Superintendents of Excise (SsE), Williamnagar, Tura, Nongpoh & Khliehriat; July 2018 – March 2019]

Meghalaya Excise Rules (Rule 246), provides for a security in the form of ‘Call Deposit’ or ‘Fixed Deposit’ valid for five years (to be pledged in favour of the Commissioner of Excise (CoE) by IMFL/ Bar licensees as a guarantee for due observance of the terms and conditions of the licence and prompt payment of licence fees. The Excise Department had fixed the security deposit at ₹300000 for a bonded warehouse, ₹50000 for an IMFL retailer licence and ₹40000 for a Bar licence (October 2010).

Audit of records (July 2018-March 2019) revealed that the “call deposits” pledged as security by two bonded warehouses, 114 IMFL licensees and 15 Bar licensees out of 29 bonded warehouses, 406 IMFL licensees and 55 Bar licensees (*Appendix XI*) in the State had expired for a period ranging between 34 days and 3069 days⁵⁹ and were not renewed. Despite non-renewal of security deposits over such a long period of time, no action was taken by the ACE/ SsE to direct the IMFL/ Bar licensees to get their licences renewed, resulting in non-realisation of security deposit amounting to ₹69 lakh in these cases.

It was further noticed that 11 IMFL licensees under SE, Khliehriat whose security deposit certificates were not produced to Audit had also defaulted payment of licence

⁵⁸ i) Mangallam Distilleries & Bottling Industries and ii) Klassic Business Advisory Pvt Ltd

⁵⁹ Period of delay reckoned up to 31 March 2019.

fees amounting to ₹37.50 lakh for a period ranging from one year to three years (*Appendix - XII*).

The inaction of the ACE/SsE in not realising the security deposits was fraught with the risk of loss of revenue in case of default in payment of licence fees or for other probable violations of the Excise Act in future by the aforesaid licensees. The Department may look into similar issues in the other three units also.

On the cases being reported to the Excise Department (April - May 2019), they intimated (March 2020) recovery of ₹25.90 lakh as security deposit from two bonded warehouses, 39 IMFL licensees and one Bar licensee. Balance dues of security deposit of ₹43.10 lakh from the remaining 75 IMFL licensees and 14 Bars licensees had not been communicated (September 2020).

Recommendation: The Department may ensure that security deposits are obtained from all the licensees, for protection of Government revenue in case of default by any of the licensee on licence conditions. The Department may use IT systems to maintain detail of security deposits. The Department may also ensure internal audit to check timely renewal of licence fees and security deposits.

3.7 Excise duty not realised for non-executed import permits

The Commissioner of Excise (CoE) failed to realise excise duty of ₹10.56 lakh from four bonded warehouses that failed to execute eight import permits.

[CoE, Shillong; May 2019]

Rule 2, 3 and 4 of the Assam Excise Rules, 1945 (as adopted by Government of Meghalaya) stipulates that no Indian Made Foreign Liquor (IMFL) in whatever quantity, can be imported by a licensed vendor, unless an application was made and a pass has been issued by the CoE. Further, Rule 370 of the Meghalaya Excise (Amendment) Rules, 1995 provide that no import permit shall be issued to any person unless an import pass fee for the privilege of such import has been paid.

The CoE (May 2014 and February 2015) advised that all import permits not executed within the validity period⁶⁰ should be returned for revalidation or cancellation within 10 days of expiry for local permits and within 15 days of expiry for permits from outside the State and the import permits whose validity had expired will be extended once and thereafter will not be considered for further extension. The CoE in his instructions *ibid* further stipulated that for import permits not executed or cancelled, the duty involved therein would have to be borne by the bonders.

Audit of records of the CoE revealed that six import permits⁶¹ issued to four bonded warehouses⁶² for import of 40 cases of IMFL and 5400 cases of beer between August

⁶⁰ Validity period for import permits is 45 days for import from within the State and 60 days for import from outside the State.

⁶¹ Import permits No. VWB/109 dated 23.08.2017; No. VWB/114 dated 24.08.2017; No. OSB/97 dated 09.07.2018; No. VRB/87 dated 06.07.2018; No. RAMB/63 dated 09.07.2018; and No. RAMB/187 dated 19.12.2018.

2017 and December 2018, were not executed (May 2019). The bonded warehouses neither furnished non-execution certificate nor revalidated or cancelled them following the expiry of the validity period (**Appendix XIII**). Further, the CoE also did not take any action to revalidate/cancel the import permits or to recover the excise duty of ₹10.56 lakh as per the existing instruction of CoE. This resulted in non-recovery of excise duty amounting to ₹10.56 lakh.

Thus the CoE's failure to monitor the activities of the bonded warehouse, resulted in non-execution of import permits and consequent non-realisation of excise duty to the tune of ₹10.56 lakh in four bonded warehouses. The Department ought to look into similar issues in the other 36 bonded warehouses as well.

The cases were reported to the Excise Department in April - May 2019. The Department stated (March 2020) that the import permits were cancelled between February 2018 to February 2020. The delays in cancellation of the permits, ranging for more than three months to one year 5 months (after the expiry of the prescribed fifteen days period required for revalidation or cancellation), clearly indicates absence of mechanism to monitor execution of import permits issued.

Recommendation: The Department may develop a mechanism to check execution of import permits issued. On failure of execution within the validity period, the applicable excise duty should immediately be realised from the bonded warehouse.

⁶² M/s VW Bonded Warehouse, M/s OS Bonded Warehouse, M/s VR Bonded Warehouse and M/s RAM Bonded Warehouse.

