

CHAPTER-5 MINIMUM GUARANTEED QUANTITY (MGQ)

MGQ is the quantity of the liquor as fixed by the licensing authority in accordance with general or specific instructions issued by the Excise Commissioner and guaranteed by the licensee to be lifted by him for his retail shop during an excise year for the purpose of retail sale. If the licensee fails to lift the MGQ in a particular year, he is liable to deposit the consideration fee due on short lifted MGQ after completion of the year.

Audit findings relating to MGQ are given below:

5.1 Short fixation of MGQ of Country Liquor

Due to short fixation of MGQ of Country Liquor for the year 2011-12, the Government was deprived of excise duty of ₹ 3,674.80 crore.

Details of rate of annual enhancement of MGQ of Country Liquor during 2004-19 are given in **Table - 5.1** below:

Table - 5.1

Details of rate of enhancement of MGQ of Country Liquor over previous years MGQ

Percentage of increase of MGQ	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	15	8.25	7	5	7	7	3	1	6	6	6	8	4	4	8

Source: Excise Policy issued by the Government.

Audit noticed that the MGQ of Country Liquor for the year 2011-12 was increased by only one *per cent*, which was the lowest increase in MGQ over the entire period.

Scrutiny of policy files for the year 2011-12 in the Department as well as the Commissionerate revealed that a draft excise policy had been submitted by the Excise Commissioner to the Principal Secretary (3 March 2011) which stated that the most popular sizes of bottles for Country Liquor were 180 ml (91 *per cent* consumption) and 200 ml (6.5 *per cent* consumption). The approved excise policy for the year 2011-12 dispensed with the 180 ml bottles. Consequently, all consumers of 180 ml bottles would have automatically migrated to the 200 ml bottles of country liquor.

Audit observed that by replacing the 180 ml bottle with 200 ml bottle, the overall sale of country liquor should have increased by 2.14 crore bulk litres¹ (from the base of 23.44 crore bulk litres sold in 2010-11). However, the Department increased the MGQ only by 0.23 crore bulk litre (one *per cent* increase in MGQ in 2011-12 over 2010-11). Wrong fixation of MGQ for

¹ As the overall consumption of 180 ml packs constituted 91 *per cent* of the overall consumption of different packs of Country Liquor in 2011-12, its replacement by a 200 ml pack would have led to an increase in the overall consumption of Country Liquor by 10.11 *per cent* [derived by dividing 20 ml (200 – 180) by 180 ml x100 i.e., 11.11 *per cent*, and multiplying this result with 91 *per cent*].

2011-12 not only impacted upon the consumption as well as revenue for the year 2011-12 but also for the subsequent years i.e., 2012-13 to 2017-18 as calculation of MGQ for these years was worked out on the base consumption of 2011-12.

Had the MGQ been enhanced at the rate of 10.11 *per cent* in the year 2011-12, additional excise duty of ₹ 3,674.80 crore would have accrued to the State Exchequer during the period 2011-12 to 2017-18 as depicted in **Table - 5.2**:

Table - 5.2

Year	Rate of enhancement of MGQ	Base of MGQ (in crores of bulk litre)	MGQ fixed for the year (in crore of bulk litre)	Percentage of MGQ required to be enhanced	MGQ required to be fixed in crore of bulk litre	MGQ short fixed in crore of bulk litre	Rate of basic license fee and license fee (in ₹)	Amount involved (₹ in crore)
2011-12	1	23.44	23.67	10.11	25.81	2.14	178	380.92
2012-13	6	23.67	25.09	6	27.36	2.27	181	410.87
2013-14	6	25.29	26.81	6	29.00	2.19	207	453.33
2014-15	6	26.84	28.45	6	30.74	2.29	228	522.12
2015-16	8	28.45	30.73	8	33.20	2.47	252	622.44
2016-17	4	30.79	32.02	4	34.53	2.51	251	630.01
2017-18	4	32.02	33.30	4	35.91	2.61	251	655.11
Total								3,674.80

Source: Records of the State Excise Department.

In the exit conference, the Department stated (July 2018) that this irregularity has been rectified in the Excise Policy of 2018-19. No explanation was forthcoming on the observed irregularity in the year 2011-12.

Recommendation:

Since Audit has observed that the files relating to the annual excise policy provide no justification for the decisions taken, it is recommended that all policy files should contain detailed justification.

5.2 No provision of Minimum Guaranteed Quantity (MGQ) for IMFL and Beer

The Government was deprived of excise duty of ₹ 13,246.97 crore due to non-fixation of MGQ of IMFL and Beer.

Unlike the State excise policies of the states of Haryana, Panjab, Rajasthan and Uttarakhand which prescribe MGQs for Country Liquor as well as for IMFL and Beer, the excise policies of UP do not prescribe MGQs for IMFL and Beer.

Audit scrutiny of records of the Excise Department revealed that at the time of finalising (February 2008) the excise policy for the year 2008-09, the proposal (December 2007) of the then Excise Commissioner to fix MGQ for IMFL/ Beer on the lines of MGQ for country liquor was not acted upon, citing shortage of time. Subsequent policies for the years 2009-10 to 2017-18 also did not carry any provision for fixation of MGQ of IMFL/ Beer. The impact of this exclusion of MGQ of IMFL and Beer in the state excise policies is discussed in the following paragraphs:

5.2.1 Impact of non-fixation of MGQ for IMFL

If the initial proposal of the Excise Commissioner for fixing MGQ of IMFL shops at the rate of 15 *per cent* higher for the year 2008-09 had been accepted, and continued in the subsequent years, MGQ would have been fixed at least 15 *per cent* higher than the actual consumption of the previous year². In such a scenario, the consumption trend of IMFL in the state with effect from 2008-09 would have been as depicted in the following **Table - 5.3**:

² Fact is evident from the **Table – 5.3** in which actual consumption of IMFL in the year 2008-09 was 7.90 crore bottles of 750 ml. By enhancing it by 15 *per cent*, the same comes to 9.08 crore bottles of 750 ml.

Table - 5.3

Year	MGQ of current year calculated allowing an increase of 15 per cent over the previous year (bottle of 750 ml in crore)	Actual consumption of the year (bottle of 750 ml in crore)	Shortfall in consumption with respect to calculated MGQ (bottle of 750 ml in crore)	Minimum excise duty leviable per bottle (750ml) (in ₹)	Excise duty involved (₹in crore)
2007-08	-	6.87	-	-	-
2008-09	7.90	7.84	0.06	-	-
2009-10	9.08	9.18	-0.10	-	-
2010-11	10.44	10.91	-0.47	-	-
2011-12	12.01	12.20	-0.19	-	-
2012-13	14.03	11.36	2.67	172.50	460.58
2013-14	16.13	10.80	5.33	187.50	999.38
2014-15	18.55	9.24	9.31	216.00	2,010.96
2015-16	21.34	7.55	13.79	249.00	3,433.71
2016-17	24.54	13.00	11.54	242.50	2,798.45
2017-18	28.22	16.17	12.05	242.50	2,922.13
Total	122.81	68.12	54.69		12,625.21

Source: Records of the State Excise Department.

The above table shows that actual percentage increase in consumption of IMFL in the years 2009-10 to 2011-12 over the previous year was higher than the proposed increase of 15 per cent.

During 2012-13 to 2015-16, however, the consumption of IMFL declined from 12.20 crore bottles in 2011-12 to 7.55 crore bottles in 2015-16 which worked out to a decline at the rate of 9.54 per cent per annum. This was much below the theoretical minimum consumption for each year as arrived by applying MGQ of 15 per cent increase annually. Lack of MGQ for IMFL thus led to short consumption³ of 54.69 crore bottles during this period (even as the sale of Country Liquor consistently increased during the same period) which caused a potential revenue loss of ₹ 12,625.21 crore to the State.

5.2.2 Impact of non-fixation of MGQ for Beer

Had the initial proposal of the Excise Commissioner for fixing MGQ of Beer shops at the rate of 15 per cent increase for the year 2008-09 been accepted, and thereafter continued in the subsequent years, the consumption trend of Beer in the state with effect from 2008-09 would have been as depicted in **Table - 5.4:**

³ Lack of MGQ implied that the licensee had no incentive to sell, and this coupled with higher EDP of IMFL in the State resulted in higher MRPs which possibly led to reduced sales of IMFL.

Table - 5.4

Year	MGQ of current year calculated allowing 15 per cent increase over previous year (bottle of 650 ml in crore)	Actual consumption of the year (bottle of 650 ml in crore)	Shortfall in consumption with respect to calculated MGQ (bottle of 650 ml in crore)	Minimum excise duty leviable per bottle (650ml) (in ₹)	Excise duty involved (₹in crore)
2007-08	-	6.63	-	-	-
2008-09	7.62	7.24	0.38	-	-
2009-10	8.32	9.04	-0.72	-	-
2010-11	10.39	11.72	-1.33	-	-
2011-12	13.47	14.72	-1.25	-	-
2012-13	16.93	17.96	-1.03	-	-
2013-14	20.66	20.52	0.14	26.25	3.68
2014-15	23.60	22.64	0.96	30.30	29.08
2015-16	26.04	27.16	-1.12	-	-
2016-17	31.23	25.35	5.88	47.50	279.30
2017-18	35.92	29.40	6.52	47.50	309.70
Total	154.38	143.03	11.35	-	621.76

Source: Records of the State Excise Department.

The above table shows that percentage increase in consumption of Beer in the years 2009-10 to 2012-13 and in 2015-16 over the previous year was higher than the proposed MGQ calculated on the basis of an annual increase of 15 per cent.

During 2013-14 and 2014-15, however, the growth of consumption of Beer was less than 15 per cent over the previous year's consumption. Further, in the year 2016-17, consumption declined to 25.35 crore bottles from 27.16 crore bottles. This was much below the theoretical minimum consumption for each year as arrived by applying MGQ of 15 per cent increase annually. Lack of MGQ related provision thus led to short consumption of 13.50 crore bottles during this period which caused a potential revenue loss of ₹ 621.76 crore to the State.

Audit reported the matter to the Department (June 2018 and March 2019). In the exit conference, the Department assured (July 2018) that introduction of MGQ for IMFL/ Beer would be considered for incorporation in the State excise policies in future.

Audit analysis reveals that the sale of IMFL had decreased during the period from 2012-13 to 2015-16. The Excise Commissioner, in his excise policy proposal submitted to the Principal Secretary (Excise) (29 January 2016), had mentioned low MRP of IMFL in the neighbouring states as a chief contributing factor for the decreasing trend of sale of IMFL. Further, given that the MRP of IMFL in Uttar Pradesh was much higher than that in the neighbouring states, the State was also vulnerable to increased risks of smuggling of IMFL into the state from the neighbouring states.

Audit also noticed that in order to arrest the decline in sales of IMFL, the State Government had sought to reduce the MRP of IMFL and Beer by decreasing

the excise duty on IMFL and Beer during the year 2016-17. As a result, during the year 2016-17, the sale of IMFL increased by 72 *per cent* but that of the Beer decreased by 6.66 *per cent* during the same period. Thus, while the State Government did achieve the aim of increasing the physical sales of IMFL, the over all increase in revenue was only 1.35 *per cent* over the previous year as the EDP was not correspondingly revised downwards. Since the average growth of revenue in the previous years during the years from 2012-13 to 2014-15 ranged from 15.79 *per cent* to 20.19 *per cent*, the State actually ended up with a net decrease of 14.44 *per cent* (15.79-1.35) in realisable revenue as per the observable trend over the previous years.

Had MGQ been fixed as proposed by the Excise Commissioner, the Government could have earned an additional revenue of ₹ 13,246.97 crore.

Recommendation:

The Department should consider fixing MGQs for IMFL and Beer in the forthcoming excise policies.

5.3 Conclusion

Based on the audit findings detailed in the Report, it can be concluded that the Excise Department permitted the distilleries and the breweries to fix arbitrarily high Ex-Distillery and Ex-Brewery Prices of IMFL and Beer being sold in the State during 2008-09 to 2017-18, when compared to the EDPs/EBPs of identical/similar brands being offered in the neighbouring states resulting in:

- (i) a situation where high margins were accruing to the distilleries/ breweries, wholesalers and retailers, at the cost of the State exchequer as the consumers in UP were paying a much higher price than the consumers in the neighbouring states. These margins could have been levied and collected as excise revenue, by increasing the excise duty; and
- (ii) decline in the sale of liquor due to much higher MRPs in these years which perhaps also acted as an incentive for liquor getting smuggled from neighbouring states where the prices were much lower. Thus, while the State Government claimed to create a special zone to prevent smuggling of liquor from other states into Uttar Pradesh, this actually led to a situation which encouraged smuggling into state because of the high price differential.

It was only in 2018-19 that the State Government introduced a rider in its Excise Policy for the year whereby the distilleries and the breweries were now required to offer EDP/ EBP not above that offered in the neighbouring states. The policy intervention led to a sharp increase in the excise revenue by 47.84 *per cent* (from ₹ 12,652.87 crore to ₹ 18,705.61 crore) during the period from April 2018 to January 2019 compared to the same period in the previous year, clearly establishing that the policies in the earlier years had resulted in extending a huge financial benefit to the Distilleries, Breweries, Wholesalers and Retailers at the expense of both the consumer and the State Exchequer.

The State Government did not make any effort to arrest the decline in sales of IMFL and investigate the root cause for such decline with a view to safeguard the revenue interests of the state. The matter needs thorough investigation and fixing of accountability of those responsible for allowing undue benefit to the distilleries /breweries, wholesalers and retailers at the cost of the exchequer.



Lucknow
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(SAURABH NARAIN)
Accountant General
(Economic and Revenue Sector Audit),
Uttar Pradesh

Countersigned



New Delhi
The **22nd April, 2019**

(RAJIV MEHRISHI)
Comptroller and Auditor General of India