

CHAPTER-VI : STATE EXCISE

6.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head of the State Excise Department (Department) at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven zones which are headed by the Additional Excise Commissioners (AECs). District Excise Officers (DEOs) and Excise Inspectors working under the control of the AECs of the respective zones are deputed to monitor and regulate levy/collection of excise duties and other levies.

6.2 Internal audit

The Department has an Internal Audit Wing under the charge of Financial Advisor. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit is as under:

Year	Pending units	Units added during the year	Total units	Units audited during the year	Units remained unaudited	Percentage of units remaining unaudited
2013-14	7	41	48	42	6	13
2014-15	6	41	47	47	0	0
2015-16	0	41	41	37	4	10
2016-17	4	41	45	40	5	12
2017-18	5	44	49	12	37	75

Source: Furnished by the concerned Department.

It would be seen from the above that 37 units selected for internal audit had remained unaudited during 2017-18.

Year-wise break up of outstanding paragraphs of internal audit reports is as under:

Year	1994-95 to 2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
Paragraphs	102	78	85	175	212	20	672

Source: Furnished by the concerned Department.

It was noticed that 672 paragraphs were outstanding at the end of 2017-18 of which 102 paragraphs were outstanding for more than five years. The huge pendency of paragraphs defeated the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

6.3 Results of audit

There are 110 auditable units in the State Excise Department out of these audit selected 30 units for audit during the year 2017-18. Scrutiny of the records of these units including those of retail licensees (3,357 licensees) disclosed 4,828 cases of non/short realisation of excise duty and license fee, special vend fee, interest on delayed payment and loss of excise duty on account of excess wastages of spirit/liquor/beer and other irregularities involving ₹ 14.38 crore (2,823 licensees approximate 84 per cent of the licensees audited). These cases are illustrative only, based on audit of the records of these selected units. Audit pointed out some of the similar omissions in earlier years, not only these irregularities persist but also remain undetected till next audit is conducted. The substantial proportion of errors, omissions and other related issues (approximate 84 per cent of sampled cases) noticed in audit indicated that the Government needed to improve the internal control system including strengthening of internal audit so that occurrences/recurrence of the lapses can be avoided. Irregularities noticed are broadly fall under the following categories:

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non/short realisation of excise duty and licence fees.	3,654	12.15
2	Non/short realisation of special vends fees on IMFL/beer.	479	1.52
3	Loss of excise duty on account of excess wastage of spirit/liquor/beer.	313	0.36
4	Non-recovery of interest on delayed payment.	37	0.21
5	Other irregularities		
	(i) Revenue	343	0.14
	(ii) Expenditure	02	0.00
Total		4,828	14.38

The Department accepted deficiencies in 3,859 cases involving ₹ 13.43 crore, of which 3,189 cases involving ₹ 11.62 crore had been pointed out in audit during 2017-18 and the rest in earlier years. The Department recovered ₹ 2.37 crore in 742 cases of which 75 cases involving ₹ 0.66 crore had been pointed out in audit during the year 2017-18 and the rest in earlier years.

The Department recovered an amount of ₹ 1.95 crore in three cases after issue of draft paragraphs by Audit. These paragraphs have not been discussed in the Report.

Few illustrative cases involving ₹ 4.80 crore are discussed in the succeeding paragraphs.

6.4 Non-levy of difference amount of excise duty on closing stock of Liquor and Beer

Excise duty on Indian Made Foreign Liquor (IMFL) and Beer is to be levied according to the provisions of Section 28 of the Rajasthan Excise (RE) Act, 1950. The State Government notified (1 April 2014) rates of excise duty on liquor and beer. Thereafter, the rates were revised with effect from 1 April 2016. EC directed (24 February 2016) the DEOs to recover difference amount of excise duty and fees for the closing stock of liquor and beer as on 31 March 2016 in view of the impending revision in April 2016.

Scrutiny of the data collected from the Department revealed that 737 retail-on licensees under the jurisdiction of 32 DEOs had closing balance of liquor/beer as on 31 March 2016. Difference of excise duty amounting to ₹ 2.98 crore should have been levied on the closing stock. However, the difference amount was neither demanded by the concerned DEOs nor the licensees deposited it suo-moto. We also observed that there was no follow up on the directions issued by the Additional EC regarding submission of compliance report. This resulted in non-levy of difference of excise duty amounting to ₹ 2.98 crore.

The matter was reported to the Government (December 2017 and May 2018). The Government replied (July 2018) that amount of ₹ 0.33 crore has been recovered and directions have been issued to all DEOs for recovery of the remaining amount. Further, progress is awaited (February 2019).

6.5 Short recovery of fee for composite shops of peripheral area

According to the Rajasthan Excise and Temperance Policy (Policy) 2014-15, 2015-16 and 2016-17, settlement of country liquor shops was made on exclusive privilege amount (EPA¹) by inviting applications. For inviting district wise applications for grant of licenses of country liquor shops during 2015-16 and 2016-17, the notices incorporating number of proposed country liquor shops/groups in the district with its EPA, composite fees, earnest money and application fees were circulated by the concerned DEOs. This information was also made available on the Department's website. Licences for shops were granted through the lottery system. The selected applicants were liable to pay the EPA and composite fees as per the category of shop for which they had applied. In the rural areas, each shop was known by the name of *Gram Panchayat*.

According to the Policy *ibid*, country liquor shops of rural area were classified in different categories. The country liquor shops of villages located within five kilometre radius from the municipal area were categorised as '*composite shops of peripheral area*'. The villages of such peripheral areas were further categorised as 'A' and 'B'. The villages, in which country liquor shops had been operated as composite shops from 2005-06 to the previous year of allotment of the shop or villages situated on State/National Highways or villages whose peripheries were adjoining the periphery of concerned municipality, were classified in category 'A' and the rest in category 'B'. Composite fee for shops of category 'A' for the year 2015-16 and 2016-17

¹ EPA: The amount to be charged by the Excise Department from country liquor groups/shops for exclusive right to trade in liquor in the specified area is called EPA.

was to be fixed as equal to five *per cent* and six *per cent*, respectively of annualised billing amount of Rajasthan State Beverage Corporation Limited (RSBCL) during previous year or annual license fee prescribed for an IMFL shop situated in concerned municipal area, whichever was higher. The composite fee for category 'B' shops for the year 2015-16 and 2016-17 was to be fixed as equal to five *per cent* and six *per cent*, respectively of annualised billing amount of RSBCL during previous year or 50 *per cent* of annual licence fee prescribed for an IMFL shop of concerned municipal area or ₹ 50,000, whichever was higher.

During test check of records of seven DEOs² for the years 2015-16 and 2016-17, it was noticed that 18 country liquor shops/groups were categorised as shops of peripheral area by the Department. Scrutiny of licence fee files and relevant records disclosed that while issuing notices for inviting applications for allotment of 12 country liquor shops/groups³ of peripheral area, the concerned DEOs proposed lesser amount of composite fees than the correct amount of composite fee to be levied. For the rest of the six country liquor shops/groups⁴, the concerned DEOs disclosed correct composite fee but later recovered lesser amount. The DEO Kota categorised three⁵ of these shops in category 'B' of the peripheral area instead of category 'A' despite the fact that the villages under which these categorised shops fell, were situated on the State/National Highways.

Thus, the concerned DEOs recovered only ₹ 0.96 crore as composite fees for 18 composite shops/groups of peripheral areas from the licensees instead of the correct amount of ₹ 2.29 crore. This resulted in short realisation of revenue amounting to ₹ 1.33 crore.

The matter was reported to the Government (August 2017 and May 2018). The Government replied (August 2018) that ₹ 3.20 lakh had been recovered and directions have been issued to the concerned DEOs for recovery of the remaining amount. Further, progress is awaited (February 2019).

6.6 Loss of revenue due to delay in sanction of bar licences

According to Rule 3(2) and 3(3) of the Rajasthan Excise (Grant of Restaurant Bar Licences) Rules, 2004, every application for a Restaurant Bar licence shall be properly signed and shall be accompanied by the initial and minimum special vend fee due for the year or part thereof. Further, as per Rule 3(5) of the Rules *ibid*, before forwarding the application to the EC through Additional Commissioner concerned for final orders, case shall be put up before a Committee, constituted by the State Government in this behalf. The EC will grant licence on recommendations of the Committee. The EC issued circulars (9 April 2010 and 29 April 2015) for the applicants prescribing check-lists to be submitted along with application forms. The EC also directed the DEOs that the application for bar licences should be disposed of within 30 days. In case complete information as required in the check-list was not furnished by

² DEOs: Ajmer, Alwar, Jaipur city, Kota, Sikar, Sriganganagar and Udaipur.

³ Bubani, Bujhada, Changedi, Dewas, Dumada, Mataur, Nai, Nandla, Raisinghnagar, Shrikaranpur, Shyosinghpura and Takhalsar.

⁴ Godlyahedi, Hiriyakhedi, Khimach, Manasgaon, Manda and Budhkhan.

⁵ Budhkhan, Godlyahedi and Hiriyakhedi.

any applicant, his application was liable to be rejected at initial stage by the concerned DEO.

During test check of files of bar licences issued during 2015-16 and 2016-17 in EC office, Udaipur, it was noticed that licences were issued after the prescribed time limit of 30 days. It was also noticed that the Department failed to issue the restaurant bar licences within the same year in three cases of 2014-15 and two applications for 2015-16. The reasons for such delay were not found on record. Due to the delay, the Department issued licenses in these cases in the next year and hence could not collect the prescribed fees in the previous year. Thus the delay resulted in loss of revenue of ₹ 33.50 lakh as detailed below:

S. No.	Name of licensee	Category of Hotel	Licence Number	Date of application Year for which applied	Date of licence sanctioned Year for which sanctioned	Time taken (in days)	Revenue loss (₹ in lakh)
1	Hotel Sanchal Fort and Resort, Barmer.	General Category Other District Headquarter	07/2015-16	26.11.2014 2014-15	25.6.2015 2015-16	211	6.00
2	Hotel Sai Laxmi Palace, Transport Nagar, Sirohi.	General Category Other District Headquarter	31/2015-16	18.6.2014 2014-15	15.1.2016 2015-16	576	6.00
3	Chaudhary Restaurant, Chidawa	Other Municipality of Jhunjhunu	41/2016-17	18.4.2014 2014-15	15.3.2017 2016-17	1,060	8.50
4	Matsya Foods & Beverages, Alwar	Other District Headquarter, Alwar	09/2016-17	20.6.2015 2015-16	20.5.2016 2016-17	333	5.00
5	Punjab Da Puttar, Jaipur	Jaipur Headquarter	13/2016-17	2.7.2015 2015-16	15.7.2016 2016-17	377	8.00
Total							33.50

The matter was reported to the Government (July 2017 and May 2018). The Government replied (August 2018) that in one case⁶, District Collector, Barmer did not nominate his representative and in another case⁷ inspection could not be done due to vacant post of AEC, Jodhpur Zone. Regarding remaining cases⁸ the Department accepted facts and stated that applications were forwarded to higher authorities without fulfilling the essential requirements as per check list at initial stage.

The reply reflects lack of monitoring in these cases as the first case was required to be finalised in accordance with the instruction of the circular issued (April 2010) by the EC which clearly stipulates that if the committee members do not appear for inspection even after being invited twice, their consent would be deemed to be accepted. In the second case, inspection should have been conducted by the officer holding the charge of AEC, Jodhpur zone at any given point of time. To avoid such situations in future a proper system of monitoring, receipt and disposal of applications submitted in Excise offices should be instituted. The system should enable the authorities to observe timeliness in issue of licenses so as to protect leakage of potential revenue.

⁶ Hotel Sanchal Fort and Resort Private Limited, Mahabar Barmer.

⁷ Hotel Sai Laxmi Place, Sirohi.

⁸ Chaudhary Restaurnat, Chidawa, Matsya Foods and Beverages, Alwar, Punjab Da Puttar, Jaipur.

6.7 Non-levy of fee for retail licence

According to sub rule (1) of Rule 69 of the Rajasthan Excise Rules, 1956, fee for retail licence (fee) at the rate of ₹ 2.00 per BL⁹ is leviable on sale of Beer to retail licensees.

Audit had noticed that the fee on Beer was neither deposited by the retailers of *M/s Canteen Store Departments (CSD)* nor demanded by the Department. The audit observations on the issue for the period 2011-12 to 2014-15 were printed as paragraph 6.5 of the Audit Report No. 7 (Government of Rajasthan) for the year ended 31 March 2016. The Department in response (August 2016) stated that the action for recovery from CSD was being initiated. The Department was aware of the issue in August 2016 and therefore as a prudent measure it should have directed the DEOs to initiate action for levy and collection of fee from the CSD for the period after March 2015 also.

However, during latest test check of records (between September 2017 and January 2018) it was observed that the Department initiated action for levy and collection of fee from CSD, only for the period upto March 2015. It did not make efforts for levy and collection of fee for the period after March 2015. During test check of records (between September 2017 and January 2018) pertaining to CSD under the jurisdiction of DEO, Bikaner and Jaipur City, it was noticed that CSD sold 7.73 lakh BL¹⁰ of Beer to its retail-off licensees (unit run canteens) in the State during April 2015 to February 2017. However, the prescribed fee was neither deposited by the retailers of CSD nor demanded by the Department. This resulted in non-levy/realisation of fee amounting to ₹ 15.46 lakh.

The matter was reported to the Government (October 2017 and June 2018). The Government replied (July 2018) that recovery of ₹ 0.93 lakh has been made and directions have been issued to concerned DEOs for recovery of remaining amount. Further, progress is awaited (February 2019).

⁹ BL means Bulk Litre, a litre with reference to the bulk or quantity of the contents equivalent to 0.219 gallons.

¹⁰ 7.73 lakh BL: DEO Bikaner: 4.58 lakh BL and DEO Jaipur City: 3.15 lakh BL.