

**Chapter-III**  
**Excise Department**



## CHAPTER – III: EXCISE DEPARTMENT

### 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. The CE is assisted by an Additional Commissioner of Excise, a Joint Commissioner of Excise and two Deputy Commissioners of Excise, one at Headquarters and another at BTAD, Kokrajhar.

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, brand and label registration/renewal fee also generate revenue for the Government. 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.

### 3.2 Results of Audit

Test check of records of 23 unit offices (out of total 52 unit offices) of the Excise Department noticed deficiencies in 163 cases. The details are given in **Table 3.1**.

**Table 3.1: Results of Audit**

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1	Non/ Short payment of annual license fee	4	0.47
2	Non-realisation of penalty for delayed payment of annual licence renewal fee	28	4.15
3	Non-realisation of Establishment Charges	11	2.96
4	Short/non realisation of security deposit	23	12.33
5	Arrear of revenue on transitional stock	10	86.79
6	Other irregularities <sup>86</sup>	87	1.69
<b>Total</b>		<b>163</b>	<b>108.39</b>

<sup>86</sup> Non compounding of offence cases, non-issue of destruction orders, short realisation of profile registration fee, etc.

## Compliance Audit Observations

### 3.3 Non-realisation of Establishment charges

**Superintendents of Excise (SsE) failed to realise establishment charges amounting to ₹ 89.57 lakh from Six Wholesale Warehouses (erstwhile Bonded Warehouses).**

**[Superintendents of Excise (SsE), Nagaon, Silchar, Jorhat and Karimganj; May 2019-December 2019]**

Rule 7 of Assam Bonded Warehouse (ABW) Rules, 1965 provides that the Commissioner of Excise (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. The cost of establishment shall include pay and allowances, if any, as well as leave salary and pension contribution.

The Assam Excise Rules, 2016 came into force from 01 September 2016 whereby establishment charges were withdrawn since wholesale warehouse licensees should store and sell such liquor on which Excise duty and State VAT has already been paid. The Excise Department vide Notification dated 29 August 2016<sup>87</sup> instructed that the excise establishment posted at the erstwhile bonded warehouses (now wholesale warehouse licensees) shall not be withdrawn till the entire amount of arrear *Ad-valorem* levy and VAT on the transitional taxable under-bond stock of liquor including the stock in transit are deposited and the licensee concerned shall be liable to reimburse to the Government, the salary etc. of such excise establishment till they are withdrawn by the Government on a no-dues certificate issued by the concerned SE or Deputy Superintendent of Excise (DSE) and the concerned Superintendent of Taxes.

As per Rule 342 (b) of the Assam Excise (AE) Rules, 2016, if any person or any licence holder fails to pay duty, fee or any other levy due to the Government, he is liable to pay penalty which may extend to three hundred *per cent* of the duty, fee or other levies due from him.

During FY 2019-20, out of total 49 SsE/DSsE offices in Assam, audit test checked records of 14 SsE/DSsE Offices<sup>88</sup>. Audit noticed that at six erstwhile bonded warehouses (out of 28 existing erstwhile bonded warehouses) under the jurisdiction of four SsE Offices<sup>89</sup>, excise personnel remained posted and licensees of these bonded warehouses owed establishment charges of ₹ 89.57 lakh (**Appendix XXXI**). Even after lapse of four years from introduction of the Assam Excise Rules, 2016, these erstwhile bonded warehouses did not deposit entire amount of arrear *Ad-valorem* levy and VAT compelling placement of excise officials in the Wholesale Warehouses (erstwhile bonded warehouses). Audit also noticed that though demand notices were issued, these

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<sup>87</sup> As per Serial No. 9 of Notification No. EX.107/2016/19 dated 29 August 2016

<sup>88</sup> SsE/DSsE, Silchar, Nagaon, Kaliabor, Hojai, Jorhat, Titabor, Dibrugarh, Goalpara, Chirang, Tezpur, Biswanath Chariali, Gohpur, Gossaigaon and Haflong.

<sup>89</sup> SsE, Nagaon, Silchar, Jorhat and Karimganj

were not pursued by the SsE which resulted in non-realisation of establishment charges amounting to ₹ 89.57 lakh.

The matter was reported to the Government/Department in December 2021; reply is awaited (March 2022).

### 3.4 Non-realisation of *Ad-valorem* Duty and Value Added Tax (VAT)

**Superintendents of Excise, Silchar and Nagaon failed to realise ₹ 8.41 crore being *Ad-valorem* levy and VAT involved in the transitional stock of liquor/spirit from two Wholesale Warehouse (erstwhile Bonded Warehouse).**

#### [Superintendents of Excise (SsE), Silchar and Nagaon; May-July 2019]

Section 30 of the Assam Excise (AE) Act, 2000<sup>90</sup> provides for cancellation and suspension of licence, permit or pass due to failure to pay duty fee, selling of excisable articles at excess price, breach of any of the terms and conditions of the licence, permit or pass, *etc.* Further, Rule 352 (ii) of Assam Excise Rules, 2016 provided that a licensee of IMFL/Beer may, on cancellation or withdrawal of his license, with the previous sanction of the Collector, sell intoxicants to a wholesaler or to any other IMFL/Beer licensee; provided that the Collector shall have the power to sell the intoxicant to any IMFL/Beer licensee and the sale proceeds of the same shall, after deduction of the expenses and any other dues to the Government, be refunded to the licensee.

The Assam Excise Rules, 2016 allows existence of Bonded Warehouses<sup>91</sup> only in the manufactories. The Bonded Warehouse not within manufactories prior to introduction of the AE Rules, 2016 were being converted into Wholesale Warehouse<sup>92</sup>. To regularise functioning of the Wholesale Warehouse, the Government of Assam through an order<sup>93</sup> constituted a Joint team to assess *Ad-valorem* levy and VAT involved on such transitional taxable under-bond stock of liquor/spirit held by the erstwhile Bonded Warehouse licensees as on 31 August 2016 including stock in transit. Based on Joint team's report, the licensee of the Wholesale Warehouse would deposit entire amount of *Ad-valorem* levy and VAT within a period of three months from the date of introduction of Assam Excise Rules, 2016. Further, in the same order, Government instructed the Commissioner of Excise (CE), Assam, in case of failure of the erstwhile Bonded Warehouse to deposit the entire amount of arrear *Ad-valorem* levy and VAT within the period specified, the Warehouse licence shall be liable to be cancelled and stock therein shall be liable to be confiscated to the State.

During FY 2019-20, out of total 49 SsE/DSsE offices in Assam, audit test checked records of 14 SsE/DSsE Offices. On scrutiny of records of SsE, Silchar and Nagaon, it was noticed that licensee M/s John Smeal Private Limited, Wholesale Warehouse, Silchar and M/s A B Wholesale Warehouse, Nagaon (erstwhile Bonded Warehouses)

<sup>90</sup> Government notification No. LGL.172/93/Pt./46 dated 22 September 2000.

<sup>91</sup> Premises licenced for deposit or storage of spirits on which duty has not been paid.

<sup>92</sup> Premises licenced for deposit or storage of spirits on which duty has been paid.

<sup>93</sup> Order No.EX.107/2016/19 dated 29 August 2016.

failed to deposit the *Ad-valorem* levy and VAT amounting to ₹ 1.49 crore<sup>94</sup> and ₹ 6.92 crore<sup>95</sup> respectively involved in the transitional stock of liquor/spirit held by the licensees. In response to demand notices<sup>96</sup>, the M/s John Smeal Private Limited stated (January 2017) that the business operation got discontinued since July 2016 due to death of the Managing Director of the Company and requested the Commissioner of Taxes to allow them to function as bonded warehouse and to allow payment of dues in instalments. Further, The Deputy Commissioner, Silchar had also recommended (January 2018) cancellation of the licence. M/s A B Wholesale Warehouse intimated (February 2018) the CE regarding their inability to pay the dues and offered to surrender the licence.

No action was taken by the Department on the recommendation of the Deputy Commissioner, Silchar nor was any decision taken on the surrender of licence of M/s A B Wholesale Warehouse. Moreover, the Department did not initiate any action for disposal of the available stock.

Thus, inaction of the Department/CE, Assam to initiate action in terms of Rule 352 of the Assam Excise Rules, 2016 to realise the government revenue by selling the stock available in the warehouses resulted in non-realisation of revenue amounting to ₹ 8.41 crore.

The matter was reported to the Government/Department in December 2021; reply is awaited (March 2022).

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<sup>94</sup> *Ad-valorem* levy = ₹ 93.36 lakh and VAT = ₹ 55.34 lakh

<sup>95</sup> *Ad-valorem* levy = ₹ 4.71 crore and VAT = ₹ 2.21 crore

<sup>96</sup> Demand notices issued to M/s John Smeal Private Limited, Wholesale Warehouse, Silchar on 24 July 2017 and M/s A B Wholesale Warehouse, Nagaon on 20 July 2017 and 07 January 2019.