

## CHAPTER III: STATE EXCISE

### 3.1 Tax administration

The Additional Chief Secretary to the Government of Haryana, Excise and Taxation Department, is the administrative head at Government level and the Excise and Taxation Commissioner (ETC) is the head of the Department. The ETC is assisted by the Collector (Excise) at headquarters and Deputy Excise and Taxation Commissioners (Excise) {DETCs (Excise)}, Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff for proper administration of State Excise Acts/Rules in the field.

Excise revenue is mainly derived from fee for grant of licenses of various vends, excise duties levied on spirit/beer produced in distilleries/breweries and on their import/export to and from any other State.

The allotment of zone of vends is made by inviting e-tenders through a Department portal. The detailed procedure for e-tendering is finalised by the ETC and uploaded on the website of the Department.

Section officer is posted at the district headquarters. His main function is to carry out the internal audit of income and expenditure of the Department.

### 3.2 Results of audit

Test check of the records of 24 out of 106 units of the State Excise Department conducted during 2021-22 highlighted non/short realisation of excise duty/license fee/interest/penalty and other irregularities involving ₹ 35.45 crore (0.52 per cent of receipts of ₹ 6,864.42 crore for 2020-21) in 666 cases which fall under the categories depicted in **Table 3.1**.

**Table 3.1 – Results of audit**

Sr. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Non/short deposit of license fee and loss of interest	122	14.72
2.	Non-levy of penalty for short lifting of quarterly quota allotted to vends	179	15.07
3.	Non-allotment of zones at risk and cost of original allottee	2	3.93
4.	Short recovery of stock transfer fee	1	0.13
5.	Miscellaneous irregularities	362	1.60
	<b>Total</b>	<b>666</b>	<b>35.45</b>

(Source: Data compiled by office)

The Department accepted under assessment and other deficiencies amounting to ₹ 34 crore involved in 473 cases pointed out during the year. The Department recovered/adjusted ₹ 3.00 crore involved in 15 cases pertaining to earlier years during 2021-22.

Significant cases involving ₹ 7.46 crore are discussed in the following paragraphs.

### **3.3 Non/short recovery of breach case penalties, interest on delayed payment of license fee and pending license fee**

**The Department had not initiated steps to recover penalty from the offenders for illicit liquor and to recover the license fee and interest from the allottees resulting in short-realisation of Government revenue of ₹ 7.46 crore.**

#### **(i) Non/short recovery of breach cases penalties of L-1 and L-13 licenses**

Section 36 (c) of the Punjab Excise Act, 1914, as applicable to Haryana provides that the authority granting any license, permit or pass under this Act may cancel or suspend it, in the event of any breach by the holder of such license. As per Excise Rules/ Policy, instances of breach include short/excess of stock of liquor, selling liquor at a price lower than minimum sale price, less strength of liquor than prescribed on the label, selling a brand of liquor which is not permitted, opening of liquor vend on dry day, violating the prescribed time of opening of vends etc. Further, Rule 37 (36) of Haryana Liquor License Rules (HLL) Rules 1970, provides that if a licensee becomes liable to cancellation under any law for the time being in force, the competent authority may either (i) cancel the license and make such arrangements as he may think fit for carrying on the business for which the license was granted and any fee paid or deposit made in respect thereof shall be forfeited to Government, or (ii) permit the licensee to retain the license on payment of such further fee as he may deem fit to accept.

During examination of the records of the office of DETC (Excise), Ambala pertaining to refund/ adjustment of security deposit (three *per cent* of total license fee) of the licensees at the end of the financial year 2020-21, it was noticed that as per Refund Adjustment Order<sup>1</sup> (RAO) dated 16 November 2021, breach case penalties amounting to ₹ 5.99 crore was imposed on M/s Shokeen Wines by Excise and Taxation Collector in respect of L-1 and

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<sup>1</sup> Refund Adjustment Order (RAO) is a document prepared by the DETC concerned (Excise) indicating details of total available security deposit, total outstanding dues of a licensee and adjustment of dues against security deposit. It also shows balance dues recoverable/ security deposit to be refunded/ adjusted against future instalments of license fee as the case may be.

L-13 licenses<sup>2</sup> for the year 2020-21. Out of this, an amount of ₹ 1.02 crore was recovered/ adjusted against the security deposit of ₹ 1.24 crore of the licensee for the year 2020-21. Balance amount of security deposit was adjusted against – i) additional license fee for retails vend of zone-ZAMB47 and ZAMB37 ii) pending license fee for L-2BF<sup>3</sup> and iii) interest on late deposit of license fee of L-2BF for the year 2020-21. Thus, balance amount of ₹ 4.97 crore of breach cases penalty was not recovered.

Similarly, breach cases penalties amounting to ₹ 3.85 crore was imposed on M/s Sushil Kumar, in respect of L-1 and L-13 licenses for the year 2020-21. Out of this, an amount of ₹ 2.12 crore (recovery ₹ 0.84 crore + adjusted from security ₹ 1.28 crore) was recovered/ adjusted and balance amount of penalty of ₹ 1.73 crore (₹ 3.85 crore – ₹ 2.12 crore) remained outstanding.

Thus, a total amount of ₹ 6.70 crore (₹ 4.97 crore + ₹ 1.73 crore) as breach case penalties was not recovered from the above two licensees.

During the exit conference held in June 2023, the Department admitted the audit observations.

**(ii) Non/ short recovery of interest on delayed payment of license fee of retail outlets**

Para 6.4 of the State Excise policy for the years 2020-21 stipulated that every licensee holding a license for retail outlets of IMFL and Country Liquor (CL) licensees, shall make payment of monthly installment of license fee by 15<sup>th</sup> of each month. As per amendment in the State Excise Policy for the year 2020-21, for the month of June, 5 *per cent* and 3.3 *per cent* of the instalments were to be paid on 5 June and 15 June respectively and for the remaining months, the instalments were to be paid by 15<sup>th</sup> of every month. Failure to do so renders the licensee liable to pay interest at the rate of 18 *per cent* per annum for the period from the first of the month in which the license fee was due to the date of payment of the instalment or any part thereof. Further, as per Para 6.5 of the State Excise policy, if the licensee failed to deposit the monthly instalment in full along with interest by the end of the month, the zone of the vends were to be sealed on the first day of the following month by DETC (Excise) of the respective district and his license would be cancelled.

<sup>2</sup> L-1 license is for wholesale and retail vend of foreign liquor and L-13 license is for wholesale vend of country spirit.

<sup>3</sup> L-2BF license is for retail sale of Imported Foreign Liquor (IFL) Bottled in Origin (BIO) by the retail outlets of IMFL and Bar Licensees.

Scrutiny of records in August 2021 and July 2022 of the office of DETCs (Excise), Ambala for the year 2020-21 revealed that 42 out of a total of 58 Zone of vends<sup>4</sup> had paid monthly instalments of license fee of ₹ 53.04 crore after the prescribed due date with delays ranging between 16 and 86 days (average delay of 36.25 days). Interest amounting ₹ 97.22 lakh on the delayed payment of license fee was required to be recovered from the licensees. Audit observed that the DETCs (Excise) did not initiate any action to seal the vends or recover interest for delayed payment of the license fee. After being pointed out by audit, the Department recovered the due amount in respect of 19 zones amounting to ₹ 21.51 lakh, whereas the recovery of the balance amount of ₹ 75.71 lakh in respect of the remaining 23 zones was pending.

The matter was pointed out by audit in August 2021 and July 2022. The Department stated (July 2022) that interest on delayed payment of monthly instalment of license fees was deposited by the licensees in the Government Treasury through Government Reference Number (GRN) and the pending interest was recovered from the licensees through the mode of Refund Adjustment Order. The reply is not acceptable as only an amount of ₹ 21.51 lakh was recovered through all the GRNs and as adjustment against available amount of security deposit whereas the outstanding amount of interest due was ₹ 97.22 lakh. Thus, even after taking into consideration the total amount of GRNs and amount adjusted against security deposit, the interest amounting to ₹ 75.71 lakh was still (September 2022) pending recovery.

During the exit conference held in June 2023, the Department admitted the audit observations.

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<sup>4</sup> Vends in urban and rural areas, for the purpose of allotment are grouped in zones. The command area of a zone is the geographical area specified for the zone in the excise arrangement under Excise Policy. One license is granted for each zone.