EXCISE DEPARTMENT

4.1 Loss of ₹ 75.07 crore towards Special Covid Fee

Due to manipulation of manually maintained Sales Registers by retail shops of alcoholic beverages, Government suffered loss amounting to ₹ 75.07 crore.

The Excise Commissioner, Odisha, issued (November 1998) instructions that Excise Officers-in-Charge (OIC) should ensure maintenance of sales registers, containing the liquor type-wise (Whisky, Rum, Beer, *etc*.), brand-wise and size-wise details, in regard to each retailer.

The Excise Department notified (May 2020) levy of Special Covid Fee (SCF), at the rate of 50 *per cent* of the Maximum Retail Price, on all Foreign Made Foreign Liquor, Indian Made Foreign Liquor, Beer, Wine and Ready to Drink beverages, sold in the State. This notification was issued in view of the expected loss of excise revenue, on account of the two months' shutdown[97], as a response to the Covid-19 pandemic. The SCF was applicable on the alcoholic beverages, to be traded with effect from 24 March 2020, including the unsold stock lying with the retailers. To enforce this provision, Excise field officials were instructed to verify the stock of the liquor shops.

To examine (April and October 2022) the process of levy of SCF, Audit intended to scrutinise 1,378 Sales Registers of 1,378 retail liquor shops functioning under 21 District Excise Offices. Out of these 1,378 Sales Registers, 108 (7.84 *per cent*) were not furnished to Audit (the list of 108 retailers, who did not furnish Sales Registers, is at ***Appendix 4.1***). In this regard, Audit noticed the following:

1. Brand-wise and size-wise sale registers had not been maintained by the retail shops. The Excise officers-in-charge of the retail shops had not enforced maintenance of such data. The price of the liquor products depends upon the brand and size (in ml) of the bottle. Hence, without maintaining the brand-wise and size-wise registers, it was not possible to levy the exact amount of SCF applicable to each retailer, based on the closing stock, as on 24 March 2020.

2. In 716 out of the 1,025 Sales Registers (69.85 *per cent*), there were significant corrections, over-writing and changes made to the entries, or where entire pages had been replaced with fresh pages (***Appendix 4.2***). Of the 716 Sales Registers, in 28 Sales Registers, there were instances of wholescale replacement/ insertion of fresh pages, or presumably heavily over-written/ corrected pages having been replaced entirely (***Appendix 4.3***). The impact of such corrections, over-writing and replacement of pages, was that the closing balances, recorded as of 24 March 2020, were negligible, in these cases.

3. Physical verification of stock at the retail shops was stated to have been carried out on 25 May 2020 and SCF was realised on the basis of the physical stock available on that date. The closing balances, from the manually maintained Sale Registers, as on 24 March 2020 had,

[97] 24 March 2020 to 24 May 2020

however, not been collected, prior to the reopening of the retailers. Thus, the Sales Registers, had not been thoroughly examined and verified by the Excise OIC, prior to levy of SCF.

4. Audit computed excess sales (in terms of number of bottles), recorded in the Sales Registers, in the following two ways:

   i. In cases of Sales Registers, where the pages for the month of March 2020 had been fully replaced or had overwriting/ erasure due to use of whitener/ other signs of manipulation, from 1 March 2020 itself, the average daily sales during February 2020, were taken as the criterion for computing the excess sales (sales figure recorded for each date minus the average sales figure for February 2020), during March 2020.

   ii. In cases of Sales Registers, where the pages for the month of March 2020 had overwriting/ erasure due to use of whitener/ other signs of manipulation, beginning from a date after 01 March 2020, the average daily sales from 01 March 2020 to one day previous to that date, was taken as the criterion to compute excess sales (sales figure recorded for each date minus the average sales figure for March 2020, until the date of first manipulation noticed), during March 2020.

5. Top five retailers, in terms of loss of SCF, who manipulated the Sales Registers, are shown in **Table 4.1.1**.

Table 4.1.1: Top five retailers in terms of loss of SCF

DEO	Retail Shop	Excess sales recorded in the manipulated Sales Registers *(number of bottles)*	Estimated loss of revenue towards SCF[98] *(₹ in lakh)*
Mayurbhanj	Baripada No.3 OFF Shop	2,51,369	152.72
Cuttack	Khapuria OFF Shop	1,94,605	108.46
Angul	Bantala No. I Off shop	1,55,467	88.46
Cuttack	Meria Bazar OFF Shop	1,77,571	87.46
Cuttack	Kathagola OFF Shop	1,40,188	82.11
Total		**9,19,200**	**519.21**

(Source: Records of the respective DEOs)

6. Retailers had even recorded the sale of liquor, on the date of the Janata Curfew imposed on 22 March 2020, in response to Covid-19, as well on the dates when the shops had been directed to remain shut.

7. One retailer *i.e.* Link Road-3 OFF Shop, Cuttack, had recorded sale of 1,923 liquor bottles with non-existent dates, such as 30 and 31 February 2020, which had also been accepted by the Excise OIC.

8. Nine retailers had recorded severely abnormal high liquor sales of more than 20,000 bottles in one day, in order to avoid levy of SCF, as detailed in **Table 4.1.2**.

[98] The estimated loss of SCF, arising from the excess sales recorded, has been computed on the basis of the minimum amount of SCF applicable per bottle, fixed by the Government for different categories and bottle sizes of liquor

Table 4.1.2: Severely abnormal high liquor sales in one day

Sl. No.	DEO	Retail Shop	Category of liquor	Date of sale	Quantity recorded as sold *(in bottles)*
1	Kalahandi	Baroda OFF Shop	Whisky-180	24 March 2020	42,310
2	Keonjhar	Joda No.3 OFF Shop	Beer-650	24 March 2020	31,555
3	Cuttack	Kathagola OFF Shop	Whisky-180	21 March 2020	28,691
4	Jajpur	Hotel Dostana ON Shop	Rum-180	20 March 2020	23,532
5	Cuttack	Kathagola OFF Shop	Whisky-180	20 March 2020	22,735
6	Cuttack	Kathagola OFF Shop	Rum-180	20 March 2020	20,997
7	Cuttack	Meria Bazar OFF Shop	Rum-180	18 March 2020	20,768
8	Kalahandi	Bhawanipatna-6 OFF Shop	Whisky-180	24 March 2020	20,371
9	Dhenkanal	Hindol town OFF Shop	Rum-180	22 March 2020	25,000

(Source: Records of the respective DEOs)

9. In case of 61 retail shops, even the entries made in the Sales Registers had not been properly taken into account, for calculation of SCF ***(Appendix 4.4)***. The top five retailers, in terms of loss due to incorrect recording of figures from the Sales Registers, by the Excise OICs, for the purpose of collection of SCF, are shown in **Table 4.1.3.**

Table 4.1.3: Top five retailers in terms of loss due to incorrect recording of figures

DEO	Shop	Estimated loss *(in ₹)*
Kendrapara	Rajkanika OFF Shop	49,18,490
Keonjhar	Salania OFF Shop	35,25,293
Angul	Kumand OFF Shop	34,22,003
Kendrapara	Gobindpur OFF Shop	25,33,528
Angul	Karatapata OFF Shop	24,09,665

(Source: Records of the respective DEOs)

Audit calculated the SCF that ought to have been levied in compliance with the executive instructions, based on the trends of sales in the Sales Registers, prior to the appearance of over-writing/ corrections/ abnormal increase (in case of replacement of pages) and estimated that 1,27,21,915 liquor bottles (Whisky, Rum, Vodka, Brandy and Beer) had been reported as having been sold in excess of the normal sales trends, by 716 licensed retailers. Due to this irregular reporting of excess sales, through manipulation of the Sales Registers, there had been an estimated loss of ₹ 75.07 crore, towards levy and collection of SCF (detailed in ***Appendix 4.2***).

The errors of omission by the Excise OICs were broadly in the nature of:

- Not reporting the fact of significant over-writing/ heavy corrections, which resulted in recording of abnormally low closing balance, to the Excise Commissioner.

- Permitting the use of replacement of pages (presumably to replace heavily over-written/ corrected pages), with the page seal and logo of the Excise Department, by the licensed retailers.
- Not reporting even the manipulated closing balances from the Sales Registers correctly to the Odisha State Beverages Corporation Limited website, resulting in shortfall in levy and collection of SCF.

In view of the above, Audit was unable to rule out the possibility of collusion between the licensed retailers and the concerned Excise OsIC. Audit is of the view that the acts of omission and commission, which resulted in loss of Government revenue, were sufficiently egregious, as to warrant initiation of disciplinary action against the concerned Excise OsIC.

Audit observed that the risk of revenue loss towards SCF, would have been mitigated, had the Excise Department implemented a software application, making it mandatory for the licensed retailers to install and update their stock positions on a daily basis, along with departmentally issued Point of Sale machines to licensed retailers, to mandatorily record retail sales, as implemented by other State Governments, such as Punjab[99] and Uttar Pradesh[100]. Since Audit was only conducted at 21 District Excise Offices, a thorough review is required to be conducted by the Department, to identify instances of wilful non-compliance and to fix responsibility on the concerned Excise OsIC for such lapses. This would hold good especially in case of those 108 retailers who did not even furnish their Sales Registers for examination by Audit (list at ***Appendix 4.1***), since they presumably failed to do so, due to the high extent and pervasive nature of manipulation carried out in those Sales Registers.

The Excise Commissioner, while accepting the above observations stated (April 2023) that:

i. All Superintendents of Excise and field functionaries had once again been issued instruction (April 2023) to ensure strict maintenance of brand-wise and size-wise liquor stock/ sale registers in all retail centres without fail.

ii. As suggested by Audit, software application to monitor sales by licensed retailers would be implemented, along with track and trace system for liquor products.

iii. Non-furnishing of Sales Registers to Audit was a serious matter and the concerned Superintendents of Excise had been instructed to issue show cause not only to the licensees but also to the concerned Excise OsICs for such non-submission.

iv. Tampering and replacement of pages is a serious matter and hence Superintendents of Excise had been issued (April 2023) instruction to issue show cause not only to the licensees but also to the concerned Excise OICs for negligence, lack of supervision and dereliction of duty in not checking the registers properly which led to such leakage of Government revenue in shape of SCF.

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99 https://tinyurl.com/wn4z695v
100 https://tinyurl.com/ysutp9nj

v. Follow up action would be taken against the licensees and erring officers following due process and all possible steps would be taken for realisation of Government revenue, as pointed out by Audit.

4.2 Loss due to non-imposition of Excise Duty on excess bottling- ₹ 3.91 crore

Non-imposition of Excise Duty on the quantity of blended spirit reported as bottling wastage, in excess of the permissible wastage quantity, resulted in loss of revenue, amounting to ₹ 3.91 crore.

Rule 97 (4) and (5) of the Odisha Excise Rules, 2017, provide that the whole of the contents of a cask, where casks are used, shall be bottled in one operation and, as soon as the bottling is over, the officer-in-charge (OIC) shall ascertain the quantity bottled and record in the concerned register, the ullage and wastage. The grant of rebate or refund of duty, which shall have been previously allowed on account of deficiencies in the operations mentioned above, up to a maximum limit of two *per* cent will be considered by the Commissioner of Excise, on application, made by the licensee, through the Collector, at the end of each quarter.

Audit examined the Blending & Reduction Registers and the Annual Stock Taking Reports of a manufacturer of India Made Foreign Liquor (IMFL), namely, M/s United Spirits Limited (USL), Gopalpur, at the office of the Superintendent of Excise, Berhampur. Audit noticed that the blended spirit was stored in different Reduction Blending Vats, from which bottling of the finished products (*i.e.* IMFL) was done on day-to-day basis. After the end of day's production, the OIC would record entries, such as date of production, name of the product, batch number, quantity of spirit taken for blending, reduction/ wastage, IMFL produced in London Proof Litre (LPL), bottling wastage, *etc*., in the Production Register. During the bottling operations of IMFL, for the period from FY 2017-18 to FY 2020-21, the manufacturing unit had reported, on 392 days, use of 26,24,912.65 LPL of blended spirit, for bottling into 24,88,340.73 LPL of IMFL, registering a wastage of 1,36,571.92 LPL (5.20 *per cent*), during bottling. Thus, the bottling wastage was in excess of the permissible wastage of 52,498.25 LPL (2 *per cent*) by 84,073.67 LPL. The excess wastage per operation ranged from 0.02 to 98.0 *per cent*. On one occasion (03 April 2019), the entire issued blended sprit of 1,514.25 LPL was shown as bottling wastage.

Audit observed that the OIC had neither enquired about the recurring bottling wastage above the permissible limit nor had he levied Excise Duty (ED) on the quantity of blended spirit, reported as bottling wastage, beyond the norm. As rate of ED on bottled IMFL varied, depending upon the type of IMFL, *i.e.* Rum or Whisky, as well as on the volume of the bottles, Audit adopted lowest rate of ED, which had prevailed during the corresponding years, to assess the amount of ED recoverable from the manufacturer. Accordingly, the amount of ED, on the bottling wastage quantity of 84,073.67 LPL, worked out to ₹ 3.91 crore.

Thus, non-imposition of ED, on excess bottling wastage of blended spirit, resulted in loss of revenue, amounting to ₹ 3.91 crore.

The Excise Department stated (February 2023) that a committee had been constituted for re-examination of bottling wastage and final compliance would be submitted, after the matter was brought to a logical conclusion. The fact, however, remains that loss had been incurred, due to the negligence of the Department.

4.3 Short-realisation of registration fees from suppliers

Amount due towards application fees and Annual Composite Label Registration fees had not been collected from suppliers, as per the rates prescribed in the Annual Excise Policy, resulting short-realisation of revenue, amounting to ₹ 1.48 crore.

As per Rule 102 (1 to 8) of the Odisha Excise Rules, 2017, no foreign liquor, which is manufactured within Odisha or outside a State in India, by licensed manufacturers and allowed to be imported into the State, or any foreign liquor imported into a State from outside India, shall be stored in any warehouse or in any retail or any other licensee's premises for the purpose of sale, unless and until the brand name, under which, and the label with which it is to be sold, is approved and the permission is granted by the Excise Commissioner. All applications for approval of brand names, labels and renewals of such brand names and labels, and for the issue of permission, shall be accompanied by such fees, as may be notified by the State Government, from time to time.

The Excise Department, Government of Odisha, in exercise of powers vested under the Bihar and Orissa Excise Act, 1915, had inserted (March 1998), a new clause after Clause 4 (a) of Rule 41-A of the Orissa Excise Rules, 1965, that applications for registration of brands or labels, after the month of February, shall attract penalty at a rate of 50 *per cent* of the original fee and, after the month of March, at the double rate. The aforementioned Act was repealed and replaced with the Odisha Excise Act, 2008. Section 109 (2) of the Act of 2008, provided that all rules, orders, notification licenses, permits, passes or exclusive privileges made, issued or granted under the repealed Act, would remain in force. Thus, the belated applications for registration of brands or labels were to attract penalty, as notified in March 1998.

As per the Annual Excise Policies of the State, for the financial years 2019-20 and 2020-21, manufacturers/ suppliers of IFML, Beer, Ready-to-Drink (RTD) Beverage and Low Alcoholic Beverage (LAB), were required to pay application fees of ₹ 5,000 per label and Annual Composite Label Registration (ACLR) fees, as per the rates, shown in **Table 4.3.1.**

Table 4.3.1: Rate of ACLR fee on different varieties of liquors

Nature of liquor	Rate of ACLR fee
IMFL	Five times of the number of cases[101] supplied during January to December of the previous year.
Beer/ RTD/ LAB	Four times of the number of cases supplied during January to December of the previous year.

(Source: Annual Excise Policies of the State)

[101] One case denotes 12 bottles of 750 ml each or 24 bottles of 375 ml each or 48 bottles of 180 ml each.

Audit test-checked (March-2022) the records of the Office of the Excise Commissioner, Cuttack to assess the correctness of application and ACLR fees, collected from the manufacturers and suppliers, for the financial year 2020-21. Audit noted that three suppliers[102], out of 43 test-checked, had deposited application and ACLR fees, amounting to ₹ 1.49 crore, on different dates, during 17 March 2020 to 23 June 2020. Though the deposits had been made beyond the month of February, the fees had been deposited at the normal rates instead of the enhanced rates, as prescribed in the Annual Excise Policy, 2019-20. Audit worked out the amounts payable by the suppliers, at the enhanced rates, as being ₹ 2.97 crore. Thus, there was short realisation of fees by ₹ 1.48 crore.

The Excise Department, while accepting the audit observation, stated (February 2023) that the prayers of the three suppliers, for waiver of additional amount of fees, had been rejected and they had been reminded to deposit the amount.

Bhubaneswar
The 6 NOV 2024

(RAJ KUMAR)

Principal Accountant General (Audit-I)
Odisha

Countersigned

New Delhi
The 11 NOV 2024

(GIRISH CHANDRA MURMU)

Comptroller and Auditor General of India

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102 Bacardi India Pvt. Ltd., Radico Khaitan Ltd. and The Aska Co-operative Sugar Industries Ltd.