

## CHAPTER-III: STATE EXCISE

### 3.1 Results of audit

Test check of the records of the excise offices, conducted during the year 2005-06, revealed under assessments and losses of revenue of Rs 149.90 crore in 2,659 cases, which broadly fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1	Non/delayed settlement of excise shop	729	34.31
2	Non realisation of license fee	135	0.76
3	Undue financial benefit due to unauthorised concession	2	0.04
4	Other cases	1,793	114.79
	<b>Total</b>	<b>2,659</b>	<b>149.90</b>

During the year 2005-06, the department concerned accepted under assessment etc. of Rs 1.08 crore involved in 83 cases out of which six cases involving Rs 55.92 lakh was pointed out during 2005-06 and rest in earlier years.

A few illustrative cases involving tax effect of Rs 26.91 crore are discussed in the following paragraphs:

### 3.2 Loss of revenue due to non settlement of excise shops

Under the Bihar Excise Act, 1915 (BE Act) and Rules framed thereunder, excise shops for retail vends of country spirit (CS), spiced country spirit (SCS) and India made foreign liquor (IMFL) are put to auction subject to a licence fee. When the upset fee is not obtained, the Collector of the district may accept a lower fee subject to the approval of the Excise Commissioner (EC). EC issued instructions in June 1995 for departmental operation of shops remaining unsettled.

**3.2.1** In seven excise districts<sup>1</sup> it was noticed between March and August 2005 that 75 excise shops (37 CS shops, 26 SCS shops, 12 IMFL shops) remained unsettled and were not operated departmentally during the year 2003-04. This resulted in loss of revenue of Rs 4.81 crore in the shape of license fee and excise duty as worked out on the basis of minimum guaranteed quota (MGQ) and licence fee fixed for the concerned excise shops for the year 2003-04.

After this was pointed out between March and August 2005 the Superintendent (SEs)/Assistant Commissioner of Excise (ACEs) replied between April 2005 and March 2006 that inspite of all efforts, the shops remained unsettled due to non availability of bidders. The reply of the department was not tenable as no efforts were made to settle the shops either by lowering the reserve fee or operating the shops departmentally in the interest of revenue.

The matter was referred to Government between September 2005 and April 2006; reply has not been received (October 2006).

**3.2.2** By an instruction issued in October 2003, EC withdrew the instructions of June 1995 regarding departmental operation of unsettled shops and directed all Collectors to review the position of non profit bearing shops at the beginning of settlement and club them with profit bearing shops for settlement in a group.

In 18 excise districts<sup>2</sup>, it was noticed between April 2005 and March 2006 that 300 excise shops (143 CS shops, 104 SCS shops, 53 IMFL) remained unsettled during the year 2004-05. Test check of records did not reveal any review of non profit bearing shops and efforts to settle them by clubbing with profit bearing shops. This resulted in loss of revenue of Rs 19.65 crore in shape of license fee and excise duty as worked out on the basis of MGQ and reserve fee fixed for the concerned excise shops respectively.

After this was pointed out between April 2005 and March 2006, it was stated by the SEs/ACEs that all efforts were made to settle the shops. The reply is not tenable as per instructions of October 2003 efforts for settling shops by clubbing non profit bearing shops with profit bearing shops were not made.

The matter was reported to Government between March and May 2006; reply has not been received (October 2006).

<sup>1</sup> Araria cum Kishanganj, Gopalganj, Katihar; Madhepura, Samastipur, Saran and Siwan.

<sup>2</sup> Araria-cum-Kishanganj, Bhagalpur-cum-Banka, Bhojpur-cum-Buxar, East Champaran (Motihari), Gaya, Gopalganj, Katihar, Khagaria, Jahanabad-cum-Arwal, Munger-cum-Jamui-cum-Sheikhpura-cum-Lakhisarai, Muzaffarpur, Nalanda, Patna, Rohtas-cum-Kaimur, Saran, Sitamarhi, Siwan and West Champaran.

### **3.3 Loss of revenue due to non settlement of excise shops after cancellation**

Under condition no. 14(b) of the sale notification issued by the department in June 2004 for settlement of excise shops, successful bidder is required to deposit six months license fee immediately after the bid. The balance amount of license fee is to be deposited in equal monthly instalments between July and December by 10<sup>th</sup> of each month failing which the license shall be cancelled and security money forfeited. Further, each licensee is required to lift the approved MGQ of CS, SCS, IMFL and beer by last day of the month failing which the licence is liable to be cancelled/suspended and shops resettled. The loss, if any, is to be recovered from the defaulters as arrears of land revenue.

In five excise districts<sup>3</sup> it was noticed between April and December 2005 that licenses of 38 excise shops (20 CS, 15 SCS and 3 IMFL) were cancelled between July 2004 and January 2005 due to non payment of license fee and short lifting of MGQ by retail licensees. The shops remained unsettled after cancellation throughout the year. This resulted in loss of revenue of Rs 1.50 crore in shape of license fee and excise duty as worked out on the basis of MGQ and license fee fixed for the concerned excise shops.

After this was pointed out, the department stated between April and December 2005 that inspite of efforts the shops could not be settled. The reply is not tenable as records produced to audit show that no efforts were made by department to run the shops through reauction or by reducing the reserve fee to resettle in the area covered by cancelled excise shops to safeguard the interest of revenue.

The matter was reported to Government between February and April 2006; reply has not been received(October 2006).

### **3.4 Loss of revenue due to default in payment of advance license fee**

BE Act and Rules framed thereunder provide that a person whose bid has been accepted by the presiding officer at the auction, must pay six months' advance license fee immediately failing which the licence shall be cancelled and security money forfeited and any loss that may accrue to Government in case it becomes necessary to resell the shop for a lower sum or to keep it unsettled is to be recovered from defaulter. Further, the notification also provides for deposit of security money equal to the reserved fee of the shop by the bidder.

In five excise districts<sup>4</sup> it was noticed between May 2005 and February 2006 that bidders for 31 excise shops (21 CS, 4 SCS and 6 IMFL) failed to deposit six months' advance license fee for the settlement years 2003-04 and 2004-05. Out of 31 excise shops, 25 excise shops were cancelled by the SEs Katihar, Munger-cum-Jamui-cum-Lakhisarai-cum-Sheikhpura and Saran between June and November 2004 and balance shops were not cancelled by SE Araria-cum-Kishanganj and Gaya. Of the above stated cancelled shops, only one shop was resettled on 6 November 2004 by ACE, Gaya. This resulted in loss of revenue

<sup>3</sup> *East Champaran (Motihari), Gopalganj, Purnia, Samastipur and Siwan.*

<sup>4</sup> *Araria-cum-Kishanganj, Gaya, Katihar, Munger- cum- Jamui- cum- Lakhisarai- cum- Sheikhpura and Saran.*

of Rs 94.95 lakh as worked out on the basis of monthly license fee and MGQ fixed for the concerned excise shops.

After this was pointed out, the SE Katihar stated in February 2006 that shops could not be settled due to their non profitability, Reply from other SEs/ACE is awaited (October 2006).

The matter was reported to Government between March and May 2006; reply has not been received (October 2006).