

CHAPTER-IV: State Excise Duty

4.1 Results of Audit

Test check of records in departmental offices relating to revenues received from State Excise Duty, Electricity duty, Passengers and Goods Tax and Purchase Tax (Agriculture) conducted in audit during the year 2004-05 revealed under assessment of taxes and duties and loss of revenue amounting to Rs.12.82 crore in 5,457 cases as depicted below:

Sl. No.	Heads of revenue	Number of cases	Amount (Rupees in crore)
1.	State Excise Duty	39	3.91
2.	Electricity Duty	4,928	4.06
3.	Passengers and Goods Tax	472	1.10
4.	Purchase Tax (Agriculture)	18	3.75
	Total	5,457	12.82

In the cases of Electricity Duty, Passengers and Goods Tax and Purchase Tax (Agriculture), the Department accepted under assessment of Rs.3.34 crore in 171 cases which were pointed out during the year 2004-05 and recovered an amount of Rs.7.34 crore in 15 cases which pertain to earlier years.

A few illustrative cases involving Rs.2.90 crore are mentioned in this chapter.

State Excise Duty

4.2 Short realisation due to short lifting of quota of Country Liquor/IMFL

4.2.1 The Haryana Liquor Licence (HLL) Rules, 1970 read with the State Excise Policy announced for the year 2003-04 provide that the total annual quota in proof litres shall be announced for each district before each district is put to auction. The licensee shall lift the quota fixed for the year failing which his licence fee would increase by five *per cent* and he would be liable to pay 105 *per cent* of the licence fee. As per clause 27 of the Excise Policy, if proportionate quota is not lifted till January 2004, his security amount to the extent of five *per cent* of the licence fee would not be adjusted towards the licence fee for February and March 2004, till he lifts his prescribed quota for the year.

During test check of records of the Dy. Excise and Taxation Commissioner (DETC), Kurukshetra, it was noticed that the licensee was required to lift 27.67 lakh proof litres of country liquor /Indian Made Foreign Liquor (IMFL) for the year 2003-04. However, the licensee short lifted the quota by 0.23 lakh proof litres for which he was liable to pay a licence fee of Rs.1.57 crore. This was neither demanded by the Department nor was the same paid by the licensee.

Further, the Department while adjusting the security amount of Rs.5.27 crore in the month of February and March 2004 did not keep the balance of five *per cent* security amount which amounted to Rs.1.57 crore as required under clause 27 unadjusted. This resulted in short realisation of revenue of Rs.1.57 crore.

After this was pointed out in November 2004, the DETC/ETC, intimated between December 2004 and January 2005 that the facts/figures were being verified. Final reply had not been received (August 2005).

The matter was referred to the Government in December 2004; reply had not been received (August 2005).

4.2.2 Non recovery of additional licence fee

The HLL Rules, read with the State Excise Policy announced for the year 2003-04, provide that the total annual quota in proof litres shall be announced for each district before each district is put to auction and lifting of quota shall be obligatory. Additional quota will be allowed to the licensee up to 25 *per cent* of the annual allotted quota on payment of 25 *per cent* licence fee of the State Incidence Duty* for the year 2003-04.

During test check of records of the DETC Panipat, for the year 2003-04, it was noticed in September 2004 that against the allotted quota of 30.39 lakh proof litres of country liquor and IMFL, the licensee lifted 30.52 lakh proof litres of country liquor/IMFL without making payment of licence fee for lifting of additional quota of 13,409.80 proof litres. This resulted in non recovery of additional licence fee of Rs.3.89 lakh.

* State Incidence Duty= Revenue realised by auction of liquor vends
Combined quota (CL/IMFL)

After this was pointed out in September 2004, the Department intimated in November 2004 that the case regarding recovery of licence fee for additional quota lifted by the licensee was sent to the ETC in October 2004 for taking necessary action in the matter. Further progress has not been received (August 2005).

The matter was referred to the Government in October 2004; reply had not been received (August 2005).

4.3 Non recovery of penalty

As per the provisions of Punjab Excise Act, 1914, penalty is leviable on the offender. If the same is not paid within time, the Collector or DETC shall pass speaking order for confiscation of the means of transport carrying illicit liquor which shall be put to auction within 30 days of the order of the confiscation. The auction amount shall be adjusted towards the payment of penalty. The unrecovered amount of penalty, if any, shall be recoverable as arrears of land revenue.

During test check of records of four* DETCs for the year 2003-04 it was noticed between August and November 2004 that 12 vehicles carrying 52,600 pouches/540 bottles/20 bags of liquor were detained and penalty of Rs.85.61 lakh was imposed. However, the vehicles were not put to auction and consequently no adjustment could be done. Besides, no action was taken to recover the dues as arrears of land revenue. This resulted in non recovery of Government revenue of Rs.85.61 lakh.

After this was pointed out between August and November 2004, DETC (Excise), Karnal stated in May 2005 that out of nine vehicles, seven vehicles were auctioned for Rs.7.02 lakh in April 2005. However, action taken to recover the balance amount of penalty was not intimated. The other three DETCs accepted the observations and stated that action would be taken to recover the amount. Further report on action taken had not been intimated (August 2005).

The matter was referred to the Government between September 2004 and November 2004; reply had not been received (August 2005).

4.4 Non imposition of fine

Under the Punjab Excise Act, as applicable to Haryana, fine not less than Rs.50 and not more than Rs.500 per bottle or part thereof is leviable on liquor manufactured otherwise than in a licensed distillery. Further, the Act provides that if the fine is not paid within the stipulated period, the Collector/ DETC shall pass speaking orders for confiscation of the means of transport which shall be put to auction within 30 days from the order of confiscation. The unrecovered amount of fine, if any, shall be recovered as arrears of land revenue.

During test check of records of the DETC, Narnaul and Rewari for the year 2003-04, it was noticed in October 2004 that in 30 cases, 36,985 bottles of

* DETCs (Excise) Bhiwani, Fatehabad, Karnal and Panipat.

illicit* liquor were confiscated alongwith the vehicles between May 2003 to March 2004 by the Department. The Department neither imposed fine nor initiated any action to recover the amount by auctioning the impounded vehicles used by the offenders. This resulted in non recovery of minimum fine of Rs.18.49 lakh.

After this was pointed out in October 2004, DETC Narnaul, stated in May 2005 that out of 16 cases pointed out by audit, in two cases fine of Rs.0.65 lakh was imposed and in four cases of impounded vehicles, whereabouts of the offenders were not known, as these vehicles had no number plates. However, the impounded vehicles would be auctioned soon. In remaining 10 cases, proceedings were in progress. Final reply of DETC Rewari had not been received (August 2005).

The matter was referred to the Government in November and December 2004; reply had not been received (August 2005).

4.5 Loss of revenue due to reauction of vend

Under the HLL Rules, read with the Excise Policy for the year 2002-03, if a licensee fails to pay any instalment alongwith interest by due date, licence for vend is liable to be cancelled and reauctioned at the risk and cost of the defaulting licensee. Further, the Department was required to obtain and verify the genuineness of the particulars regarding name, residential address, financial position (bank accounts) of the bidder, particulars and sureties before the licence is actually granted.

During test check of records of the DETC Kaithal, for the year 2002-03, it was noticed in December 2003 that a retail country liquor/foreign liquor vend of Azamgarh was auctioned in March 2002 for Rs.2.70 crore for the year 2002-03. Against the amount of Rs.67.56 lakh payable by the licensee upto June 2002, only Rs.31.09 lakh was deposited by the licensee. The Department cancelled the licence on 29 June 2002 and forfeited the entire amount of security of Rs.45.15 lakh. The vend was run on day to day contract from 29 June to 11 July 2002 and an amount of Rs.8.89 lakh was realised. The vend was reauctioned on 11 July 2002 for Rs.1.60 crore at risk and cost of original licensee. Thus, reauction of vend resulted in loss of revenue of Rs.25.22 lakh which was recoverable from original licensee. No action was taken by the Department to recover the loss incurred from the original bidder.

After this was pointed out in December 2003, the Department admitted the facts and stated in November 2004 that recovery certificate had been issued to effect the recovery in June 2004 but the same was returned back with the remarks of the postal authorities that the addressee was not residing at the given address. The fact indicates that before awarding the licence, Department did not verify the genuineness of address and other particulars of the licensee. Besides, no surety was obtained at the time of the execution of the contract as required under rules.

The matter was referred to the Government in May 2004; reply had not been received (August 2005).

* Illicit liquor means liquor manufactured otherwise than in a licensed distillery.