

CHAPTER IV: State Excise Duty

4.1 Results of Audit

Test-check of records of various offices of State Excise Department conducted during the year 2001-2002, revealed non/short recovery of excise duty amounting to Rs.56.52 crore in 74 cases, which broadly falls under the following categories:

Sl. No.	Nature of irregularities	Number of cases	Amount (Rupees in crore)
1.	Review- "Receipts of Excise Duty from auction of vends"	1	21.51
2.	Short levy of excise duty on excess lifting of additional quota of IMFL	1	0.03
3.	Loss due to short lifting of quota of country liquor	2	1.16
4.	Non/short recovery of licence fee and interest on belated payment of instalments	12	0.18
5.	Non/short recovery of excise duty and surcharge	1	0.35
6.	Late deposit of security	8	20.63
7.	Miscellaneous irregularities	49	12.66
	Total	74	56.52

During the year 2001-2002, the department accepted short recovery of Rs.10.24 crore in one case pointed out during the year 2001-2002 of which Rs.0.79 crore had been recovered. Besides, Rs.0.35 crore recovered in 7 cases related to earlier years.

A few illustrative cases involving Rs.1.19 crore and a review relating to "Receipts of excise duty from auction of vends" involving Rs.11.02 crore highlighting important cases are mentioned in the following paragraphs:

4.2 Receipts of excise duty from auction of vends

4.2.1 Introductory

Excise duty on Alcoholic Liquors for human consumption and on medicinal and toilet preparations containing alcohol or opium, Indian hemp and narcotics in Haryana is levied and collected under the following Acts/Rules made thereunder:-

The Punjab Excise Act, 1914 and rules made thereunder, namely; the Punjab Excise Fiscal Orders, 1932, the Haryana Liquor licence Rules, 1970, the Punjab Liquor Permit and Pass Rules, 1932, the Punjab Distillery Rules, 1932, the Punjab Brewery Rules, 1956 and the Punjab Excise Bonded Warehouse Rules, 1957.

The revenue is mainly derived from fixed, assessed and auction fees for the grant of licenses of various vends under the Haryana Liquor licence Rules, 1970 and 'excise duties' levied on spirit and beer removed from distilleries and breweries and on that imported/exported to and from any other State under the Punjab Excise Fiscal Orders, 1932. Fees and duties are levied and accounted for in the offices of the concerned Deputy Excise and Taxation Commissioners (Excise).

4.2.2 Scope of audit

Out of 19 Deputy Excise and Taxation Commissioners (DETCs) offices (Excise), records (excluding records pertaining to distilleries and breweries) of 10* offices for the years 1995-96 to 2000-2001 were test-checked during October 2001 to March 2002 with a view to ascertain the extent of compliance of various rules and orders regarding levy and collection of excise duties. In addition, points noticed in regular audit for the years 1995-96** to 2000-2001 were also included.

4.2.3 Organisational set-up

The Excise Department in Haryana functions under the administrative control of Prohibition, Excise and Taxation Commissioner who is assisted by the Collector (Excise) at the Headquarters and DETCs (Excise), Excise and Taxation Officers (ETOs), Assistant Excise and Taxation Officers (AETOs), Inspectors and other allied staff in the proper administration of the department in the field.

* DETCs: Ambala, Faridabad, Fatehabad, Gurgaon, Hisar, Kaithal, Karnal, Kurukshetra, Rohtak, and Sonipat.

** There was Prohibition in the State during the period from July 1996 to March 1998, so, period of six years has been taken.

4.2.4 Highlights

An amount of Rs.22.86 crore had been pending collection as on 31 March 2001, of which Rs.10.64 crore was outstanding for more than 5 years.

(Paragraph 4.2.6)

Revenue of Rs.1.86 crore (licence fee: Rs.0.67 crore and interest: Rs.1.19 crore) was short recovered from licencees by 12 Deputy Excise and Taxation Commissioners.

{Paragraph 4.2.7 (i) and (ii)}

Loss of revenue of Rs.8.73 crore due to re-auction of vends remained unrecovered.

(Paragraph 4.2.8)

4.2.5 Trend of revenue receipts

The position of revenue realised from State Excise duty during the last six years from 1995-96 to 2000-2001 was as under:-

Year	Budget estimates	Revenue realized	Shortfall (-)/ increase(+) over budget estimates	Percentage of variation
	(Rupees in crore)			
1995-96	530.00	552.96	(+) 22.96	(+) 4.33
1996-97	68.11	64.14	(-) 3.97	(-) 5.83
1997-98	12.00	49.62	(+) 37.62	(+) 313.50
1998-99	850.00	774.63	(-) 75.37	(-) 8.87
1999-00	894.70	765.36	(-) 129.34	(-) 14.45
2000-01	840.00	840.56	(+) 0.56	(+) 0.06

Low estimation and realisation in excise duty during 1996-97 and 1997-98 was due to prohibition enforced in the State from 1 July 1996 to 31 March 1998. As regards shortfall in revenue during 1998-99, the department stated that after lifting of prohibition, expected buoyancy in sale did not last throughout the year. The shortfall during the year 1999-2000 was due to loss in re-auction of vends in Fatehabad district and less sale of liquor than the estimation.

The percentage of revenue realised from auction of vends during 1995-96 to 2000-01 to the total revenue realised from State excise duty ranged between 46.63 and 99.95 *per cent* as detailed below:

Year	Total revenue of State excise duty	Revenue received from auction of vends and sale of liquor	Percentage to total revenue realised
	(Rupees in crore)		
1995-96	552.96	389.04	70.36
1996-97	64.14	35.35	55.11
1997-98	49.62	23.14	46.63
1998-99	774.63	732.45	94.55
1999-2000	765.36	764.98	99.95
2000-2001	840.56	713.60	84.90

4.2.6 Uncollected Excise Revenue

As on 31 March 2001, uncollected excise revenue pending collection at the following stages was Rs.22.86 crore as under:

	Stages of action	Amount (Rupees in crore)
(i)	Property attached	1.01
(ii)	Under stay by Courts and other authorities	6.84
(iii)	Inter district arrears	2.27
(iv)	Inter-State arrears	0.47
(v)	Moved for writing off	0.47
(vi)	Under instalments	0.12
(vii)	Other stages	11.68
	Total	22.86

The year-wise break-up of the arrears was as under:-

Year	Amount (Rupees in crore)
Upto 1995-96	10.64
1998-1999	2.13
1999-2000	9.62
2000-2001	0.47
Total	22.86

Of the above, Rs.85.72 lakh remained unrecovered for more than 30 years, Rs.59.87 lakh for more than 20 years and Rs.1.45 crore for more than 10 years. The oldest amount pertained to the year 1967-68. One case

involving Rs.1.23 crore remained outstanding since 1998-99. However, number of cases involved for the remaining amounts were not made available.

4.2.7 Short recovery of licence fee and interest

As per provisions contained in Rule 36(26) of the Haryana Liquor Licence Rules, 1970 read with auction condition No. 6(iii) of the Excise Announcement made at the time of auction for the years 1995-96 and 1996-97 to 2000-2001, the successful bidder when granted a licence shall pay the license fee by the 15th of the month for 1995-96 and by 20th of the month thereafter in which he begins his business in monthly equal instalments. In case of default, the DETC may authorise the licensee to deposit amount of instalment or part thereof upto the last date of month in which the instalment is due alongwith interest at the rate of 18 *per cent* per annum for the period of delay. Further, the department is required to obtain and verify the genuineness of the particulars regarding name, residential and business addresses, financial position (bank accounts) of the bidder, partners and sureties before the licence is actually granted.

(i) In Fatehabad district, 15 and 20 vends for 1998-99 and 1999-2000 respectively were auctioned in favour of 2 licensees for Rs.7.65 crore and Rs.2.20 crore. Of this, the licensees deposited licence fee of Rs.7.61 crore and Rs.1.57 crore respectively till the end of licence period resulting in less deposit of Rs. 67.17 lakh.

On the omission being pointed out (June 1999 and May 2000), the DETC, Fatehabad stated (March 2002) that in one case, the amount could not be recovered as the main licensee was not a resident of the district and had no movable or immovable property. The contention of the department was not acceptable as the department was required to verify the particulars regarding name, residential and business addresses, details of unencumbered immovable property and bank accounts in the name of the bidder and affidavit of each partner submitted by them before the licence was actually granted. Moreover, the recovery could be effected as arrears of land revenue either from the bidder or from the partners and/or sureties for which no efforts were made by the department. In the second case the department stated that the action was being taken to recover the amount.

(ii) Test-check of records of 12 Deputy Excise and Taxation Commissioner Offices for the years 1995-96 to 2000-2001 revealed that interest amounting to Rs.1.19 crore for delay ranging between 1 and 221 days in payment of instalments of licence fee was short levied in 33 cases as detailed below:

Sl. No.	Name of District	Year	Interest leviable	Interest levied	Interest short levied
			(Rupees in lakh)		
1.	Bhiwani	1995-96	3.39	2.59	0.80

Sl. No.	Name of District	Year	Interest leviable	Interest levied	Interest short levied
		1996-97	2.55	1.45	1.10
2.	Faridabad	2000-01	23.66	20.80	2.86
3.	Fatehabad	1998-99 1999-2000	16.52 2.77	15.39 -	1.13 2.77
4.	Gurgaon	2000-01	4.11	2.48	1.63
5.	Hisar	1995-96	16.14	5.63	10.51
6.	Jagadhari	2000-01	1.80	0.84	0.96
7.	Kurukshetra	1995-96 1999-2000 2000-01	5.84 1.82 35.73	3.57 - 18.50	2.27 1.82 17.23
8.	Kaithal	1995-96 2000-01	2.36 57.20	0.31 -	2.05 57.20
9.	Karnal	2000-01	21.15	9.28	11.87
10.	Panipat	1995-96	2.41	0.44	1.97
11.	Panchkula	2000-01	4.05	3.39	0.66
12.	Rohtak	2000-2001	11.51	9.57	1.94
		Total	213.01	94.24	118.77

On the omission being pointed out (between June 1996 and February 2002), a sum of Rs.56.29 lakh was recovered by 6* DETCs. Three** DETCs intimated (between November 2001 and April 2002) that action was being taken to recover the amounts whereas final reply had not been received (April 2002) from remaining three DETCs.

4.2.8 Loss of revenue due to re-auction of vends

Under the Haryana Liquor Licence Rules, 1970, licenses of vends for Country Liquor and Indian Made Foreign Liquor are granted by auction. A successful bidder is required to deposit, by way of security, an amount equal to 5 per cent at the fall of hammer and the remaining 11-2/3 per cent within ten days from the date of auction or before 31 March whichever is earlier. The remaining licence fee is payable in monthly instalments equal to one eleventh of total annual licence fee by the 20th of each month. In case of failure to pay any instalment alongwith interest by due date, the licence for vend is liable to be cancelled and re-auctioned at the risk and cost of the defaulting licensee. The amount is recoverable from the original vendor as arrears of land revenue.

In Fatehabad district, 42 vends of Country Liquor and Indian Made Foreign Liquor (IMFL) were auctioned (March 1999) for Rs.24.42 crore for the year 1999-2000 to two licensees. Against the amount of Rs.17.76 crore payable by

* Bhiwani, Hisar, Kurukshetra, Karnal, Kaithal and Rohtak.

** Fatehabad, Panipat and Panchkula.

the licencees upto November 1999, only Rs.9.92 crore were deposited by them and on their failure to pay Rs.7.84 crore, the department cancelled their licenses on 24 November 1999 and re-auctioned the vendis on 10 December 1999 for Rs.5.76 crore at their risk and cost. The re-auction of vendis resulted in loss of revenue of Rs.8.73 crore which was neither paid by the earlier bidders nor recovered (April 2002) by the department.

On the omission being pointed out (May 2000), the department stated notices have been issued to the parties and sureties for recovery of the amount.

4.2.9 Non-recovery due to incorrect adjustment of security

Under Haryana Liquor Licence Rules, 1970, a successful bidder is required to deposit by way of security an amount equal to 16-2/3 *per cent* of the total annual licence fee by the prescribed date. The entire amount of security or its 90 *per cent*, shall be adjusted against the last instalment of licence fee payable by him unless the same or any part thereof is forfeited or adjusted against any amount of fee or penalty due from him. In case of adjustment of ninety *per cent* amount of security, the remaining ten *per cent* of the security shall be refundable to the licencee after deducting therefrom any kind of arrears, if any, due to the Government from him after the close of the financial year.

A test-check of records of 3* Deputy Excise and Taxation Commissioners (Excise) for the years 1999-2000 to 2000-2001, revealed (between January and August 2001) that penalty and interest of Rs.27.51 lakh was outstanding against three licencees at the end of the financial year. The department adjusted the whole amount of security deposit against the last instalment instead of retaining 10 *per cent* of security deposit of Rs.1.39 crore from which the amount outstanding on account of interest, penalty etc. could have been recovered. Besides, no demand for payment of Rs.27.51 lakh was raised. Thus, contravention of the rules resulted in non-recovery of Rs.27.51 lakh.

On this being pointed out (between January and August 2001), DETCs, Bhiwani and Jind recovered (between March and July 2001) Rs.17.79 lakh. Regarding outstanding recovery of Rs.4.59 lakh, DETC, Hisar stated (October 2001) that the adjustment of full amount of security is generally made towards the last instalment of licence fee. The reply of the DETC was contrary to the prescribed rules and resulted in non-realisation of the dues payable to the Government.

4.2.10 Loss due to late credit/realisation of demand drafts

Financial Rules provide that departmental receipts should be deposited in Government account on the same day or latest by next working day. Any delay in remittance results in loss of interest to the Government.

* Bhiwani, Jind and Hisar.

Test-check of records of four^{**} Deputy Excise and Taxation Commissioners (Excise) for the year 1995-96 to 2000-2001 revealed that 66 bank drafts amounting to Rs 6.75 crore were credited late into Government account after a delay ranging from 1 to 99 days at the level of both department and bank. Had the bank drafts been remitted in time into the Government account, the department could have saved interest of Rs.3.95 lakh (calculated at the rate of 12 *per cent* per annum applicable to borrowings of the Government).

4.2.11 Non-recovery of penalties

Under the Punjab Excise Act, 1914, as applicable to Haryana, penalty is imposed in the event of contravention of any of the provisions of the Act or of any rule, notification or order made, issued or given thereunder. The penalty amount was required to be recovered within 7 days but not later than the close of financial year.

Test-check of records of 5^{***} DETCs revealed that though penalties of Rs.11.53 lakh were imposed by the department in 196 cases during the period from 1995-96 to 2000-01, the amount was neither demanded by the department nor deposited by the licencees. This resulted in non-recovery of penalty of Rs.11.53 lakh.

On this being pointed out (between August 1996 and July 2001) the department recovered (October 2000 and July 2001) Rs.4.86 lakh. Progress in recovery of balance amount of Rs.6.67 lakh had not been received (April 2002).

4.2.12 Improper fixation of minimum licence fee/reserve bid money.

Under Rule 36 of the Haryana Liquor Licence Rules, 1970, the Collector shall determine the minimum licence fee/reserve bid money for each group of vends or vend on the recommendations of the Deputy Excise and Taxation Commissioner (Excise) incharge of the District, having regard to estimated sale and other incidental factors pertaining to each vend or group of vends, as the case may be and the minimum licence fee so determined shall be announced at the time of auction. No specific parameters/provisions have been made in the Act, Rules and Policy for fixing the reserve bid in respect of auction of country liquor.

Test-check of records of three districts revealed that the minimum licence fee/reserve bid money for the vend or group of vends put to auction for the year 2000-01 in the same location were determined/fixed lesser than that fixed for the previous year 1999-2000 as detailed below:

^{**} Ambala, Faridabad, Karnal and Rohtak.

^{***} Gurgaon, Hisar, Jind, Kaithal and Kurukshetra.

District	Year	No. of vends	Quota of Country Liquor	Reserve Bid	Final Bid	Revenue foregone
			(In proof litres)	(Rupees in lakh)		
Ambala	1999-2000	71	23,00,000	2,200.00	2,509.00	.
	2000-2001	71	25,26,000	2,150.00	2,451.00	
	Variation	Nil	(+) 2,26,000	(-) 50.00	(-) 58.00	50.00
Fatehabad	1999-2000	31	19,50,000	1,875.00	2,101.15	--
	2000-2001	37	21,65,000	1,300.00	1,452.00	
	Variation	6	(+) 2,15,000	(-) 575.00	(-) 649.15	575.00
Gurgaon	1999-2000	43	18,50,000	2,755.00	3,158.00	---
	2000-01	47	19,89,000	2,407.00	3,082.00	
	Variation	4	(+) 1,39,000	(-) 348.00	(-) 76.00	348.00
Total						973.00

Above table shows that in all the three district, the reserve bid money fixed for the year 2000-2001 was lesser than that of 1999-2000 by Rs.9.73 crore despite the fact that the number of vends had increased (two districts) and quota of country liquor had enhanced for the year 2000-01. Besides, the final bid for the year 1999-2000 was on higher side as compared to the reserve bids fixed for the year 2000-2001. In the absence of any parameters/provisions in the Act/Rules/Policy, the department failed even to conserve the reserve bid money equal to that fixed for the year 1999-2000.

Further, in Fatehabad district, though the quota of country liquor had enhanced from 19.50 lakh proof litres to 21.65 lakh proof litres during 2000-2001, the final bid (Rs.14.52 crore) accepted for the year 2000-2001 was even lesser by Rs.4.23 crore than the reserve bid (Rs.18.75 crore) fixed for the year 1999-2000.

4.2.13 Non-reconciliation of departmental figures

Test-check of records of Prohibition, Excise and Taxation Commissioner (PETC) revealed that there was difference between figures of receipts of excise duty for the years 1995-96 to 2000-2001 supplied by the department as well as that appeared in the Finance Accounts of the State Government as detailed below:-

Year	Figures furnished by the Department	Figures as per Finance Accounts	Difference
	(Rupees in crore)		
1995-96	553.54	552.96	(+) 0.58
1996-97	Not furnished-	64.14	(-) 64.14
1997-98	49.63	49.62	(+) 0.01
1998-99	774.95	774.63	(+) 0.32
1999-2000	766.17	765.36	(+) 0.81
2000-2001	851.17	840.56	(+)10.61

Reasons for variations in figures were called for (February and March 2002) from the Excise and Taxation Commissioner, Haryana but reply had not been received (April 2002). The figures need reconciliation.

4.2.14 Conclusion

The lapses enumerated above indicate short levy/non-recovery of excise revenue, loss of revenue due to re-auction of vends, improper fixation of reserve bid money, non-verification of antecedents of licensees/sureties, incorrect/irregular adjustment of security, delay in credit of revenue into Government account and non-reconciliation of remittances with treasury books. The department should develop a strong internal control system to check the deficiencies and lapses in implementation of the various provisions of the Act/Scheme so that the revenue receipts due to the Government are collected forthwith.

The department should prescribe specific parameters for fixation of reserve bid money in respect of country liquor so that the system becomes transparent and does not result in any loss of revenue to Government.

The cases were referred (May 2002) to the Government; reply had not been received (November 2002).

4.3 Loss due to short lifting of quota of Country Liquor

Under the Haryana Liquor Licence Rules, 1970, for each vend, quota of country liquor, is announced before the vend is put to auction. The excise duty is charged as per excise policy announced for each year which was payable at the rate of Rs.21 per proof litre for the year 2000-2001.

Test-check of records of DETCs (Excise), Hisar and Kaithal revealed (September and November 2001) that for the year 2000-2001, the PETC Haryana allotted the Country Liquor quota of 63.46 lakh proof litres to two licencees in Hisar district and Kaithal district. Both the licencees lifted 57.92 lakh PLs country liquor resulting in short lifting of 5.54 lakh proof litres of country liquor quota. Thus short lifting of liquor not only defeated the very purpose of fixing the quota of country liquor but also resulted in a loss of Rs.1.16 crore on account of excise duty.

On this being pointed out (September and November 2001) in audit, the DETC, Kaithal intimated (March 2002) that the matter was under examination. Reply from the DETC, Hisar had not been received (November 2002).

The matter was referred (May 2002) to the Government; reply had not been received (November 2002).

4.4 Short-levy of excise duty on excess lifting of additional quota of IMFL

As per amendment made (March 2000) in Punjab Excise Fiscal Orders, 1932, (effective from 1 April 2000) the excise duty on Indian Made Foreign Liquor (IMFL) shall be leviable at the rate of Rs.41 per proof litre up to the quantum of sale of the group equal to the sale of vends falling in the same area in the previous year and shall be at Rs. 25 per proof litre thereafter upto 25 *per cent* on additional lifting over previous year on month to month basis.

Test-check (May 2001) of records of DETC (Excise), Karnal for the year 2000-2001 revealed that an L-1 licencee had lifted 73017 proof litres IMFL in the month of October 1999. Consequently, he was entitled to lift an additional quota of 18254 proof litres of IMFL (25 *per cent* of 73017 PLs) on payment of excise duty at the concessional rate of Rs.25 per proof litre for the month of October 2000 against which he lifted 34425 proof litres of IMFL. The excise duty on the excess lifted quota of 16171 proof litres was charged at the rate of Rs.25 per proof litre instead of Rs.41 per proof litre. This resulted in short-levy of excise duty of Rs.2.59 lakh.

The omission was pointed out (May 2001 and February 2002) in audit but reply had not been received (November 2002).

The matter was referred (May 2002) to the Government; reply had not been received (November 2002).