

CHAPTER 3: STATE EXCISE

3.1. Results of audit

Test check of records relating to State Excise, conducted in audit during the year 2002-2003, revealed non-realisation of permit fee/license fee/excise duty and other irregularities involving revenue amounting to Rs.7.99 crore in 53 cases, which broadly fall under the following categories:-

(Rupees in crore)			
		Number of cases	Amount
1.	Non-realisation of permit/license fee	21	6.35
2.	Non-realisation of excise duty/ interest	25	1.43
3.	Other irregularities	7	0.21
	Total	53	7.99

During 2002-2003, the Department accepted under-assessments etc., of Rs.0.39 crore involved in 38 cases, of which 3 cases involving Rs.0.15 crore had been pointed out in audit during the year and rest in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs.5.07 crore are given in the following paragraphs.

3.2. Receipts from State Excise Duty- Deficiencies thereof

3.2.1. Introduction

Levy and collection of State Excise Duty is governed by the Punjab Excise Act, 1914 and the rules made thereunder as applicable to the State of Himachal Pradesh. The Act empowers the Government to levy excise duty on all liquors permitted to be imported into or exported from, manufactured in or sold in any part of the State. The major items of revenue accruing to the State under this head are license fee and excise duties/fees. License fee is the revenue derived by the State from the highest of the bids received either in the annual open auction or from tenders invited for annual auction of vends during the month of March every year. To regulate terms and conditions of the excise licenses, the State Government issues Excise Auction Announcements annually in the month of March. Excise duty is levied on rectified spirit, Indian Made Foreign Spirit (IMFS) including beer, country liquor and country fermented liquor. Other collections made under the Excise Act, are fixed license fee from breweries, distilleries, bonded ware houses, fee for serving liquor in hotels, restaurants, and bars, composition fees, fines and penalties imposed under the Act/rules.

To ascertain efficacy in implementation of the Excise Act/ rules, a test check of records was conducted between May 2002 and February 2003. The following shortcomings were noticed in audit:-

3.2.2. Undue fiscal and financial favours to the licensee

Under the Himachal Pradesh State Excise Announcements for 2001-02, no person/licensee shall be allowed to run his business without furnishing the requisite security, solvency and surety. In case the licensee defaults in payment, he is liable to pay interest at the rate of 18 *per cent* per annum for delay upto one month and thereafter at the rate of 24 *per cent* per annum from the initial date of default in payment till the default continues.

For the grant of license to a licensee of Shimla Unit-I for the year 2001-2002 by Collector, the following irregularities were noticed:

- 1 *per cent* of the bid money of Rs 13.78 crore amounting to Rs 13.78 lakh was required to be deposited on the date of auction i.e. 27th March 2001. Instead, it was deposited late between 28th March 2001 and 28th April 2001.
- Security of Rs.1.86 crore (13½ *per cent* of the bid money) required to be deposited before the commencement of license was deposited in November 2001 i.e. late by seven months.

For non-compliance with the above conditions, the Department should not have granted license to the licensee.

- Thereafter, monthly equated instalments were also not paid on due dates till November 2001. Further, no instalment was paid by the licensee from December 2001 onwards. For failure to pay monthly instalment, the license was liable to be cancelled. However, the Department allowed him to run the business upto 31st March 2002. The amount outstanding on account of license fee was Rs.2.73 crore. Besides, the licensee was liable to pay interest of Rs 1.16 crore upto February 2003.
- The license was granted by the Collector (Excise) without obtaining valuation of declared assets (Form A) duly certified by the Sub Divisional Magistrate. Consequently, the assets/properties of nine partners were found fictitious. The property of one partner was also found transferred in January 2002 during the currency of license. Thus, due to failure of the Department to observe the prescribed conditions, the scope for recovery became very remote.

3.2.3. Non recovery of license fee in respect of Bottling Plants

Under Rule 5AA of the Punjab Distillery Rules 1932, as applicable to Himachal Pradesh, the license fee for a license in form D-2A* shall be payable on units of country liquor at the rate of Rs.0.70 paise per unit of 750 mls subject to a minimum of Rs.75,000 per annum recoverable at the time of grant/renewal of the license.

* Bottling plant of country liquor

During the course of audit, it was revealed that three firms were liable to pay a license fee of Rs. 85.27 lakh on production of country liquor of 1,21,81,691 units. Against this the licensees paid only Rs. 2.25 lakh, resulting in short realisation of Rs. 83.02 lakh.

On this being pointed out, the Department accepted the audit observations and stated in September 2002 that the matter had been referred to the headquarter office.

3.2.4. Non invoking of provisions of bond

The Punjab Liquor Permit and Pass Rules, 1932, as applicable to Himachal Pradesh provides that in case of transport of beer in bond to other states, the manager of the brewery of the warehouse, within a reasonable time not exceeding two months, shall produce before the Collector of the district of issue, a certificate in form L-38. If the certificate is not produced within the specified period, the Collector shall, unless the omission is satisfactorily explained, call upon the manager concerned to deposit the amount specified in the bond executed by him in respect of the consignment.

During test check of records of AETC, Nahan, it was noticed that the manufacturer of one brewery had been allowed to despatch consignments of 2,33,944 Bls of beer between April 2001 and March 2002 under bond executed in form L-37. The Department neither obtained the required certificates ensuring that the consignments had reached the destination nor recovered duty of Rs.16.26 lakh as specified in the bond from the consignor. This resulted in non-realisation of Rs. 16.26 lakh.

On this being pointed out, the Department accepted the audit observation in May 2003. However, progress of recovery had not been received (August 2003).

3.2.5. Non realisation of duty on excess wastage

Rule 90(16) of the Punjab Distillery Rules, 1932, as applicable to Himachal Pradesh provides for prescribing the scale of wastage of spirit allowable in the maturation room of a distillery. Through notification dated 20 September 1965, issued under the Punjab Distillery Rules, 1932 as applicable to Himachal Pradesh, the Excise and Taxation Commissioner, Himachal Pradesh prescribed the allowable scales of wastage in the spirit maturation warehouse/warehouses during the period of storage in Kasauli distillery/ spirit bottling section in Solan Brewery.

During test check of records of Kasauli distillery in Solan district, it was noticed that against admissible maturation wastage of 13,511.42 proof litres of spirit, the actual wastage was 21,198.72 proof litres. This resulted in excess wastage of 7,687.3 proof litres of spirit during 2001-02. Excise duty of Rs.1.84 lakh payable by the licensee was neither paid by him nor demanded by the AETC. The inaction on the part of Department resulted in non-realisation of government revenue to that extent.

On this being pointed out, the AETC stated in December 2002 that the case had been referred to the Collector (Excise).

3.2.6. *Non recovery of interest on late deposit of license fee*

The Excise Announcements for 2001-02 provided that the monthly quota of country liquor shall be issued to the licensee proportionately and in no case, advance quota shall be issued without payment of the instalment of license fee for the corresponding month. On failure to pay the instalment of license fee, interest at the prescribed rates is to be charged.

During audit of records of five[#] districts it was revealed that monthly quota was lifted by the licensees in excess of the proportionate monthly quota of that month. However, the advance quota was supplied without payment of the instalment of license fee for the corresponding month. The licensees were liable to pay license fee alongwith interest amounting to Rs.17.03 lakh which was neither demanded by the department nor paid by the licensee. This resulted in non-realisation of government revenue of Rs. 17.03 lakh.

The cases were reported to the Department and to the Government between August 2002 and March 2003. Except Una, all others accepted between May 2003 to August 2003 the audit observation and stated that the matter was under consideration.

[#] Solan, Una, Kullu, Bilaspur and Hamirpur