

## CHAPTER- III: State Excise

### 3.1 Results of audit

Test check of records of State Excise Department, conducted during 2005-06, revealed cases of under assessments and losses of revenue etc. amounting to Rs 55.09 crore in 479 cases, which broadly fall under the following categories:

*(Rupees in crore)*

Sl. No.	Category	No. of cases	Amount
1	Non/delayed settlement of excise shops	100	19.44
2	Non realisation of licence fee	51	3.43
3	Undue financial benefit due to unauthorised concession	3	1.32
4	Other cases	325	30.90
<b>Total</b>		<b>479</b>	<b>55.09</b>

During 2005-06, the department accepted under assessments etc. of Rs 22.46 crore involved in 228 cases which were pointed out in audit during 2005-06.

A few illustrative cases involving tax effect of Rs. 18.42 crore are given in the following paragraphs:

### **3.2 Irregularities in grant of exclusive privilege for wholesale supply of country spirit**

Under the provisions of the Bihar Excise Act (BE Act) 1915 (adopted by Government of Jharkhand), Government of Jharkhand issued a tender notice in January 2002 for grant of exclusive privilege for wholesale supply of country spirit (CS) in sachets/ bottles in the State during the period from April 2002 to March 2005. For this purpose, the State was divided into three zones i.e. Hazaribag, Dhanbad and Ranchi. As per tender notice, each willing bidder was required to deposit Rs. 5 lakh as security money for each zone with the tender either through treasury challan or in shape of national saving certificate (NSC) drawn in favour of Excise Commissioner. The security money was refundable to unsuccessful bidders. Every successful bidder of each zone was required to apply for licence to Deputy Commissioner of the respective district within 15 days from the date of issue of letter of grant. The licensee had to pay a licence fee, in advance, in lumpsum at the rate of Re 1 per london proof litre (LPL) of minimum guaranteed quota (MGQ) fixed for that year. An additional licence fee at the same rate was also payable by licensee if the total wholesale supply of CS exceeded the annual MGQ.

The licensees of exclusive privilege were required to make necessary arrangements for supply of CS in sachets/ bottles within two months from the date of grant of privilege by Commissioner failing which their tender was to be cancelled and security money forfeited.

Under the above policy, five contractors<sup>Y</sup> were granted exclusive privilege for wholesale supply of CS in sachets/ bottles in three zones (one for Hazaribag zone and two each for Ranchi and Dhanbad zones) for the period between April 2002 and March 2005.

Scrutiny of records of 10 excise districts\* and information furnished by the Excise Commissioner, Jharkhand, revealed that due to non observation of the terms and conditions of the tender notice and letter of grant by the grantees and non initiation of corrective measures by the department, Government sustained loss of revenue as discussed in the following paragraphs:

#### **3.2.1 Loss of revenue due to reduction of MGQ**

Scrutiny of records of Excise Commissioner revealed in April 2006 that as per instructions issued by Commissioner on 19 March 2001, MGQ of CS for the year 2001-02 for all three zones was fixed as 98.42 lakh LPL after increase of five *per cent* in the MGQ of 2000-01. It was however, observed that

<sup>Y</sup> Hazaribag zone: M/s Kumar Bottlers Pvt Ltd; Dhanbad zone: M/s KD Liquor and Fertiliser Pvt Ltd and M/s Abhay Kumar; Ranchi zone: M/s Ramjee Prasad and M/s Majestic Liquor Pvt Ltd.

\* Bokaro, Dhanbad, Dumka-cum-Jamtara-cum-Godda, Deoghar, East Singhbhum (Jamshedpur), Giridih, Hazaribag-cum-Koderma-cum-Chatra, Palamu-cum-Garhwa-cum-Latehar, Ranchi and West Singhbhum (Chaibasa)- cum- Saraikela – Kharsawan.

Government issued a gazette notification on 12 January 2002 for inviting tender for the years 2002-05 in which MGQ for 2001-02 was shown as 89.23 lakh LPL. Thus, there was a difference of 9.19 lakh LPL in figures as shown in Commissioner's order dated 19 March 2001 and notification of Government dated 12 January 2002. This resulted in loss of revenue amounting to Rs. 8.68 crore in shape of licence fee and excise duty.

After this was pointed out in April 2006, the department stated in April 2006 that the matter would be examined, further reply has not been received (November 2006).

### **3.2.2 Loss of revenue due to delay in finalisation of tender**

**3.2.2.1** Under the provisions of the BE Act, for settlement of a new contract, the Commissioner has to publish notice three months before the expiry of the term of existing contract, specifying the area, quantity, nature, quality of the CS required to be supplied, and the warehouse at which delivery is to be made together with any conditions that may be considered necessary. Government can extend the existing exclusive privilege for any period on the same terms and conditions.

It was noticed between September 2004 and April 2006 from the records of the Commissioner of Excise, that tender notice for new contract for exclusive privilege to be effective from 1 April 2002, was issued on 12 January 2002 and the date of submission of tender was 16 February 2002. The new contracts were finalised and letters of grant of privilege to new grantees were issued on 8 April 2002. As a result, supply of CS could not be started on due date. Thus due to delay in finalising new contract and issuing letter of grant, 16 districts remained dry during April 2002. In addition, two districts remained dry during May 2002 and one district in June 2002. This resulted in loss of revenue amounting to Rs. 1.65 crore in shape of excise duty.

**3.2.2.2** BE Act provides that every grantee of exclusive privilege has to apply for licence for wholesale supply to District Collector within 15 days from the date of issue of letter of grant failing which tender shall be cancelled and security forfeited. Any loss on this account is recoverable from him as an arrear of revenue.

In Godda district of Dhanbad zone, one of the two grantees who were granted exclusive privilege for the year 2002-05 for wholesale supply of CS in sachets failed to obtain licence for supply of CS and the other grantee who obtained licence for supply of CS in the district did not supply CS between 1 April 2002 and 30 November 2004. No action was taken to forfeit security for non supply of CS by department. This resulted in loss of duty amounting to Rs 23.03 lakh.

After this was pointed out in April 2006, the department stated in April 2006 that the matter would be examined; further reply has not been received (November 2006).

### 3.2.3 Loss of licence fee due to non renewal of licence

Under the provisions of the BE Act and Rules framed thereunder, licence for wholesale or retail vend of excisable articles may be granted for one year.

In course of scrutiny of records it was noticed between July 2005 and April 2006 that in 17 districts of three zones in the State, three grantees of exclusive privilege failed to obtain licence for the period from 2002-03 to 2004-05. This resulted in loss of annual licence fee amounting to Rs 1.23 crore as detailed in table below:

*(Rupees in lakh)*

Sl. No	Name of Zone	Number of Districts <sup>o</sup>	Year	LF to be realized on the basis of MGQ of the year <sup>Σ</sup>	LF realised	Difference
1	Ranchi	7	2004-05	38.85	Nil	38.85
2	Hazaribag	5	2004-05	25.29	8.49 <sup>3</sup>	16.80
3	Dhanbad	5	Between 2002-03 and 2004-05	67.74	Nil	67.74
<b>Total</b>		<b>17</b>		<b>131.88</b>	<b>8.49</b>	<b>123.39</b>

After this was pointed out in April 2006, the department stated in April 2006 that the matter would be examined; further reply has not been received (November 2006).

### 3.2.4 Short levy of licence fee

Excise Commissioner vide circular issued in March 2001 and March 2003 stated that MGQ of next financial year is to be fixed by increasing five *per cent* of the MGQ of preceding year. The licensee is required to pay annual licence fee in lump sum at the rate of Re 1 per LPL of MGQ fixed for that year in advance.

Scrutiny of records revealed that during 2001-02, Government fixed MGQ of 85, 22,593 LPL in all the three zones. It was however, observed that MGQ for the years 2002-03, 2003-04 and 2004-05 was not increased by five *per cent* every year as per instructions issued by Excise Commissioner. This resulted in loss of revenue in shape of licence fee amounting to Rs 27.73 lakh<sup>#</sup> as shown under:

<sup>o</sup> Bokaro, Chatra, Deoghar, Dhanbad, Dumka, East Singhbhum (Jamshedpur), Garhwa, Giridih, Godda, Hazaribag, Jamtara, Koderma, Latehar, Palamau, Ranchi, Saraikela-Kharsawan and West Singhbhum (Chaibasa).

<sup>Σ</sup> MGQ of the year calculated on the basis of MGQ for 2001-02 given in tender notice by increasing five *per cent* in each year (2002-03 to 2004-05).

<sup>3</sup> Amount shown realised in Hazaribag zone is given as the grantee was accorded grant for wholesale supply in Bokaro, Giridih and Hazaribag districts.

<sup>#</sup> Licence fee to be levied at the rate of Re 1 per LPL on 27,72,815 LPL = Rs 27,72,815.

Sl. No	Zone Number of districts	MGQ fixed by the Govt for 2001-02 (in LPL)	Period involved	MGQ after adding five per cent (in LPL)	MGQ fixed (in LPL)	Difference (in LPL)	Remarks
1	<u>Ranchi</u> 7	33,53,670	2002-03	35,21,354	33,53,670	1,67,684	Excluding MGQ of Gumla, Simdega and Lohardaga
			2003-04	36,97,421	36,13,816	83,605	
			2004-05	38,82,292	36,13,816	2,68,476	
			<b>Total</b>	<b>1,11,01,067</b>	<b>1,05,81,302</b>	<b>5,19,765</b>	
2	<u>Dhanbad</u> 5	29,84,331	2002-03	31,33,547	29,84,331	1,49,216	Excluding MGQ of Sahebganj and Pakur
			2003-04	32,90,224	32,69,753	20,471	
			2004-05	34,54,736	32,69,753	1,84,983	
			<b>Total</b>	<b>98,78,507</b>	<b>95,23,837</b>	<b>3,54,670</b>	
3	<u>Hazaribag</u> 5	21,84,592	2002-03	22,93,821	21,84,592	1,09,229	-
			2003-04	24,08,512	22,99,271	1,09,241	-
			2004-05	25,28,938	8,49,029	16,79,910	-
			<b>Total</b>	<b>72,31,271</b>	<b>53,32,891</b>	<b>18,98,380</b>	-
<b>Grand Total</b>		<b>85,22,593</b>		<b>2,82,10,845</b>	<b>2,54,38,030</b>	<b>27,72,815</b>	-

After this was pointed out in April 2006, the department stated in April 2006 that the matter would be examined; further reply has not been received (November 2006).

### 3.2.5 Non forfeiture of security money

As per terms and conditions of tender notice, each licensee was required to complete all the formalities for wholesale supply of CS in sachets/ bottles within two months from the date of issue of letter of grant and was also required to open godown/sale centre in each district. In case of failure, the security money was to be forfeited, licences cancelled and any loss of Government revenue recovered from the licensee as public demand.

Scrutiny of records of 10 excise districts<sup>91</sup> between December 2005 and April 2006 revealed that three licensees failed to supply CS to retail vendors and to open sale centres in any of the concerned districts during the period between April 2002 and March 2005. No action was taken by the department to forfeit security of Rs 15 lakh deposited by the licensees for the block year 2002 to 2005.

After this was pointed out in April 2006, the department stated in April 2006 that the matter would be examined; further reply has not been received (November 2006).

<sup>91</sup> Bokaro, Deoghar, Dhanbad, Dumka cum Jamtara cum Godda, Giridih, East Singhbhum (Jamshedpur), Hazaribag cum Koderma cum Chatra, Palamu cum Latehar cum Garhwa, Ranchi and West Singhbhum (Chaibasa) Cum Saraikela Kharsawan .

### ***3.2.6 Undue financial aid to grantees of exclusive privilege for wholesale supply of CS in sachets/ bottles***

Under provisions of the BE Act and Rules made/ notification issued thereunder, import of rectified spirit shall be made on prepayment of duty in the district of import by a person holding a licence for medical or surgical purpose, manufacture of perfumes and toilet preparations, medicines and chemicals, compounding and blending foreign liquor, hospital and dispensaries and for defence services requirements. Besides, in absolutely necessary cases, other than above, passes for import of rectified spirit shall be issued under the specific order of the Excise Commissioner. The Excise Commissioner is empowered to permit for import of CS from distilleries. No import fee is leviable on rectified spirit but this fee is leviable on import of CS.

In seven excise districts<sup>^</sup>, scrutiny of records revealed that between July 2005 and April 2006, rectified spirit instead of CS was imported by the grantees of exclusive privileges for wholesale supply of CS in sachets/bottles under the specific order of the Excise Commissioner for converting rectified spirit into CS. Though the power granted under the Act/ Rules is to be applied only in exceptional cases, it was applied in all cases. Importantly, the entire amount of rectified spirit imported was being used for producing CS. Thus, this action of the department deprived Government of revenue of import fee leviable on CS and resulted in undue financial aid to the grantees of Rs 4.56 crore calculated as per provisions of the Act.

After this was pointed out, the department stated in April 2006 that matter would be examined, further reply has not been received (21 September 2006). During the meeting on 22 September 2006 for obtaining assurance, with Chief Secretary and Excise Commissioner, Government appreciated this issue and assured that it would be examined.

The matter was reported to Government in May 2006; reply has not been received (November 2006).

### **3.3 Loss of revenue due to non operation of excise shops departmentally**

Under the BE Act and Rules framed thereunder, if the excise shops notified by the Government are not settled through auction-cum-tender at the notified reserved fee, the fee could be lowered by the district collector with the approval of the Excise Commissioner. In absence of any bidder, shops are to be run departmentally in accordance with Government of Bihar instructions of June 1995. Further, Government vide resolution of February 2004 formulated

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<sup>^</sup> Bokaro, Dhanbad, Dumka cum Jamtara cum Godda, East Singhbhum (Jamshedpur), Hazaribag cum Chatra cum Koderma, Palamu cum Latehar cum Garhwa and Ranchi.

a new excise policy for settlement of retail excise shops with effect from 1 July 2004. The department accordingly directed all the Deputy Commissioners in March 2004 to extend the existing licence of retail excise shops for three months upto June 2004 on realisation of licence fee in one lump for the first quarter in advance with other conditions remaining the same as applicable during 2003-04.

It was noticed between March 2004 and January 2006 that in 10 excise districts\* excise shops remained inoperative for different periods between 2002-03 and 2004-05 as detailed below for reasons mentioned against each. The department, however, did not initiate any action to run the inoperative shops departmentally in contravention of the instructions issued. This resulted in loss of revenue of Rs 14.82 crore on account of licence fee and excise duty.

(Rupees in crore)

Sl No	Total no of shops <sup>f</sup>	Period lying inoperative	Total loss of revenue	Reasons for non operation
1	10	2002-03	0.16	Due to non initiation to reduce reserve fee.
2	88	1/04/04 to 30/6/04	1.49	Due to non extension of licence.
3	542	Between 1/07/04 and 14/12/04	13.17	Delay in settlement of excise shops.
<b>Total</b>	<b>640</b>		<b>14.82</b>	

After this was pointed out between March 2004 and January 2006, the Assistant Commissioner of Excise (ACE)/ Superintendent of Excise (SE), Bokaro, Godda, Gumla cum Simdega and Hazaribag stated that extension was not done due to non availability of competent bidder, SE, Sahebganj cum Pakur stated that outstanding fee was not paid by the old licensee and ACE/ SE, Dhanbad and Palamu cum Garhwa cum Latehar stated that security money of old licensee would be forfeited. The replies are not tenable as the department did not take initiative to operate the shops departmentally till finalisation of settlement.

The matter was reported to Government in April 2006; replies have not been received (November 2006).

\* Bokaro, Deoghar, Dhanbad, East Singhbhum (Jamshedpur), Godda, Gumla cum Simdega, Hazaribag cum Koderma Cum Chatra, Palamu cum Garhwa cum Latehar, Sahebganj cum Pakur and Ranchi.

<sup>f</sup> Same shops for different reasons and different period were lying inoperative.

### **3.4 Loss of revenue due to incorrect fixation of reserve fee of excise retail shops**

Government of Jharkhand vide resolution of February 2004 framed a new excise policy to settle retail excise shops in two groups, one for all the CS and spice CS and the other for IMFL/ beer shops in all districts of the State. As per the new policy, the reserve fee was required to be fixed after adding the amount of duty on the annual MGQ of excise shops with that of the auction money (reserve fee in case of unsettled shops). The willing bidders were liable to furnish bank guarantee equivalent to two months reserve fee and deposit three months advance licence fee which was to be adjusted during October to December in the last financial year of the licence period.

In Palamu cum Garhwa cum Latehar excise district, it was noticed in January 2006 that at the time of settlement of 106 excise shops reserve fee was incorrectly fixed and collected by the department. This resulted in loss of revenue of Rs. 5.63 lakh. In addition, bank guarantee furnished was also less by Rs 0.98 lakh in comparison with required security deposit.

After this was pointed out in January 2006, the SE stated in January 2006 that reply would be furnished after examination; further reply has not been received (November 2006).

The matter was reported to Government in April 2006; reply is awaited (November 2006).