

CHAPTER- III: State Excise

3.1 Results of audit

Test check of the records of the State Excise Department, conducted during 2006-07, revealed cases of underassessments and loss of revenue etc. amounting to Rs. 21.85 crore in 144 cases, which broadly fall under the following categories:

| (Rupees in crore) | | | |
|-------------------|--|--------------|--------------|
| Sl. No. | Category | No. of cases | Amount |
| 1 | Non-realisation of licence fee | 31 | 11.86 |
| 2 | Short lifting against fixed minimum guaranteed quota (MGQ) | 34 | 4.77 |
| 3 | Non-supply of spice country spirit (SpCS) | 41 | 2.16 |
| 4 | Non-realisation of import pass fee | 11 | 1.18 |
| 5 | Other cases | 27 | 1.88 |
| Total | | 144 | 21.85 |

During 2006-07, the concerned department accepted underassessment and other deficiencies of Rs. 17.58 crore involved in 106 cases of which 89 cases involving Rs. 16.23 crore has been pointed out in audit during 2006-07 and the rest in the earlier years.

A few illustrative cases involving Rs. 11.52 crore are mentioned in the following paragraphs.

3.2 Non-settlement of excise shops

Under the provisions of the Bihar Excise Act (BE Act), 1915 (adopted by the Government of Jharkhand) and Rules made/notification issued thereunder, the licencees of Group-I[∞] and Group-II[•] shops are required to deposit monthly licence fee by the 20th of the month in which it was due and lift fixed annual minimum guaranteed quota (MGQ) of liquor, failing which their tender would be cancelled and security deposit forfeited. The Government issued instructions in June 1995 to operate excise shops departmentally in the absence of bidders.

In Bokaro excise district, scrutiny of the records in July 2006 revealed that licence for 56 excise shops of Group-I of the district was granted to a contractor for a period from 31 July 2004 to March 2007 on annual renewal basis. The licensee did not pay the monthly licence fee from June 2005 to March 2006 and did not lift even the MGQ of 6.85 lakh london proof litre (LPL[§]) of country spirit (CS) and 1.03 lakh LPL of spiced country spirit (SpCS) from August 2005 to March 2006. For breach of conditions, the contract was required to be terminated and the department was required to cancel the licence, forfeit security deposit of Rs. 96 lakh and settle the shops with other bidders or to run the shops departmentally. However, this was not done resulting in non-realisation of excise revenue amounting to Rs. 6.64 crore.

After the cases were pointed out in July 2006, the Assistant Commissioner of Excise (ACE), Bokaro stated in May 2007 that Rs. 2.41 crore had been recovered from the contractor in September 2006 and a certificate case had been instituted against him in the same month for the balance amount. Further reply has not been received (November 2007).

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.3 Non-settlement of shops below reserve fee

Under the provision of the BE Act and Rules made thereunder and sale notification of April 2005 for settlement of Group-I excise shops, every bidder was required to deposit double the reserve fee as security deposit and three month's licence fee in advance. Further, the excise rules stipulate[¶] that if any excise shops notified by the Government to be operated during the year was not settled through auction at the notified reserve price, the reserve price could

[∞] Country spirit/spiced country spirit

[•] India made foreign liquor

[§] Strength of alcohol is measured in terms of 'degree proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Apparent volume of a given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

[¶] Para 92 of appendix 14 under the BE Act.

be lowered by the Collector of the district (DC) with the approval of the Commissioner.

In Hazaribag excise district, it was noticed in June 2006 that for resettlement of excise shops^N for the period from April 2005 to March 2007, a sale notification was issued in April 2005, but no bidder responded till July 2005. In August 2005, a contractor applied for the grant of a licence at reduced rate of monthly licence fee of Rs. 25.87 lakh per month being equivalent to 70 per cent of the original reserve fee. Though the Collector was competent to settle the shops at reduced amount of reserve price with the approval of the Commissioner yet he did not settle the shops and instead forwarded the application to the Government in August 2005. No approval was received till March 2006 and consequently the excise shops remained unsettled during October 2005 to March 2006. Failure on the part of the Collector to settle the shops below the reserve fee in time resulted in loss of licence fee of Rs. 1.81 crore.

After the case was pointed out in June 2006, the ACE, Hazaribag stated in June 2006 that approval of the proposal for settlement of shops at reduced reserve fee by the Government was not received and, therefore the shops remained unsettled. The reply is not tenable as the shops could have been settled by the Collector himself. Also, the department had not pursued the matter with the Government for getting its approval early.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.4 Short realisation of licence fee

Under the provisions of the BE Act, the Government of Jharkhand, by issue of a notification in July 2004, revised the annual licence fees for the sale of India made foreign liquor (IMFL) in a hotel, bar, restaurant, club with effect from 31 July 2004. By another notification in April 2005, the Government revised the licence fees for wholesale distribution, bonded warehouse[#], compounding and blending and bottling of IMFL with effect from 12 April 2005.

In five excise districts^{*}, it was noticed between May and November 2006 that instead of recovering Rs. 1.91 crore as licence fee in accordance with the prevalent rate, only Rs. 57.85 lakh was realised at the pre-revised rate from 58 different licencees during 2004-05 and 2005-06. This resulted in short realisation of revenue of Rs. 1.33 crore.

After the cases were pointed out between May and November 2006, ACE, Jamshedpur recovered Rs. 2 lakh in September 2006. Further action taken for realisation of the remaining cases has not been intimated.

^N Group-I (51 CS shops and 25 SpCS)

[#] A bonded warehouse is that part of a distillery in which spirits in a fit state for consumption or intended for redistillation are kept.

^{*} Bokaro, Deoghar, Dhanbad, Jamshedpur and Ranchi.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.5 Non/delayed operation of bottling plant

Under the provisions of the BE Act and Rules made thereunder, for settlement of a new contract, the Commissioner has to publish a notice three months before the expiry of the term of existing contract, specifying the area, quantity, nature and quality of spirit required to be supplied, and the warehouse at which the delivery is to be made together with the conditions that may be considered necessary. Further, as per the tender notification, the contractors are required to arrange the supply of CS in bottles within two months after the grant of tender. In the event of failure to supply CS in bottles, the grant of tender may be cancelled and the amount of security may be forfeited.

3.5.1 In three excise districts[^], it was noticed between May and September 2006 that extension for wholesale supply of CS was given to three contractors beyond their contract period 2002-05 upto September 2005. Thereafter, the licence was granted to four contractors. Out of these, two contractors did not operate till the close of the year while the other two contractors operated from February 2006. Non/delayed operation of bottling plant in these districts resulted in non-supply of MGQ of 12.69 lakh LPL of CS. Consequently excise duty of Rs. 63.43 lakh could not be recovered.

For breach of condition, security deposit of Rs. 20 lakh paid by the contractor was also liable to be forfeited. However, no action was taken to forfeit it.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.5.2 In Hazaribag excise district, it was noticed in June 2006 that the contract for wholesale supply of CS expired in March 2005. Thereafter, it was granted for the period 2005-08 in October 2005. For the intervening period i.e. from April to September 2005 though the contract of the old licensee had been extended, yet he did not renew his licence to supply. Besides, the new contractor also did not make any supply for the remaining period viz. October 2005 to March 2006. Consequently, no supply was made during the entire year. This resulted in non-supply of MGQ of 11.20 lakh LPL of CS involving excise duty of Rs. 40.83 lakh including licence fee of Rs. 10.12 lakh from April to September 2005.

For breach of condition, security deposit of Rs. 10 lakh was liable to be forfeited. However, no action was taken to forfeit it.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

[^] Dhanbad, East Singhbhum (Jamshedpur) and West Singhbhum (Chaibasa) cum Sarikela-Kharsawan.

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

Under the provisions of the BE Act and the Rules made thereunder, rectified spirit (RS) can be imported 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 of foreign liquor, hospital and dispensaries and for defence services requirements. Besides, in absolutely necessary cases other than above, passes for import of RS can be issued under specific order of the Excise Commissioner (EC). No import fee is leviable on RS but it is leviable on the import of CS.

In Ranchi excise district, scrutiny of the records in November 2006 revealed that during 2005-06, RS instead of CS was imported by two grantees of exclusive privileges for converting RS into CS on the passes issued by the department. Though the power granted under the Act/Rules was to be applied only in exceptional cases, it was applied in all the cases. Importantly, the entire quantity of 8.20 lakh LPL of RS imported was being used for producing CS. Thus, the irregular action of the department deprived the Government of import fee of Rs. 32.78 lakh leviable on CS as per the provisions of the Act.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.7 Non-finalisation of tender of SpCS

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

In four excise districts[♦], it was noticed between May and November 2006 that the Government of Jharkhand issued a tender notification in February 2005 for manufacture and wholesale supply of SpCS for April 2005 to March 2008 and the date of submission of tender was 5 March 2005. In three excise districts[∞], tenders were not finalised till March 2006. Of these, in one district, the old licensee was allowed to continue his supply till September 2005. Thereafter, he also stopped the supply and the district remained dry^{*}. Similarly in Ranchi,

[♦] Hazaribag cum Chatra cum Koderma, East Singhbhum (Jamshedpur), Dumka cum Jamtara and Ranchi.

[∞] Hazaribag cum Chatra cum Koderma, East Singhbhum (Jamshedpur) and Dumka cum Jamtara

^{*} Non-supply of liquor

the tender was finalised in May 2005 and licence was issued to the grantee in October 2005, but the contractor was not permitted to import the spirit for manufacture of SpCS. Thus, due to non-finalisation of tender during 2005-06 and non-grant of permission for import of spirit, all the districts went dry during 2005-06. This resulted in non-supply of MGQ of 3.85 lakh LPL of SpCS and consequent loss of revenue of Rs. 23.10 lakh in the shape of excise duty.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.7.2 In accordance with the terms and conditions of the tender notice issued in February 2005, if any loss was caused to the Government by the tenderer, his security deposit is required to be forfeited and the loss caused is required to be recovered under the PDR Act, 1914.

In Dhanbad excise district, it was noticed in June 2006 that the letter of grant was issued to a successful bidder in May 2005 for the manufacture and wholesale supply of SpCS for the period from April 2005 to March 2008. However, the bidder did not apply for licence though he was asked through a letter to do so within seven days. Thereafter, no action was taken by the department to conduct reauction for the above activity. Consequently, no supply could be made during October 2005 to March 2006, resulting in the loss of Rs. 8.18 lakh on account of excise duty on MGQ of 1.36 lakh of LPL of SpCS and Rs. 37,000 on account of licence fee. The loss was required to be recovered from the defaulter under the PDR Act, but no action was taken by the department. Besides, for breach of the conditions security of Rs. 3 lakh was not forfeited by the department.

The matter was reported to the Government in March 2007; their reply has not been received (November 2007).

3.8 Loss of revenue due to non-lifting of CS by retail vendors

In accordance with the terms and conditions of tender notice for settlement of Group I excise shops issued in May 2004, any loss caused to the Government by the licensee was required to be recovered under the PDR Act.

In Ranchi excise district, it was noticed from the records in November 2006 that during 2005-06 licence was issued to a retail vendor for lifting MGQ of 4.74 lakh LPL of CS from the wholesale licensee of the district from October 2005 to March 2006. However, it was noticed that the retailer did not lift any liquor from the wholesaler. This resulted in a loss of Rs. 23.69 lakh on account of excise duty due on CS that was not lifted. The department made no effort to recover the same from the retailer as arrears of land revenue. Besides, security deposit of Rs. 1.05 crore was also not forfeited for breach of conditions.

The matter was reported to the Government in March 2007. The Government accepted in September 2007 that CS could not be lifted due to implementation of new policy of supply of CS in bottles.

3.9 Irregular allowance of operational wastage of RS

Under the BE Act and the Rules made thereunder, allowance of wastage on account of destruction, loss or damage by fire, theft or any other cause whatsoever, is not admissible in the case of a manufacturer of IMFL who has his own distillery.

In Ranchi excise district, it was noticed in November 2006 that a manufacturer of IMFL, holding a licence for his own distillery had claimed and was allowed operational wastage of 46,889.1 LPL and 93,731 LPL of RS during 2004-05 and 2005-06 respectively in violation of rules. This resulted in non-realisation of excise duty amounting to Rs. 14.06 lakh leviable on the total quantity of wastage allowed.

The matter was reported to the Government in March 2007. The Government stated in September 2007 that in absence of any rule, claim for operational wastage could not be disallowed. The reply is not tenable in view of the provisions of the Act that do not allow such wastage to those who have their own distilleries.