

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of the records in the offices of the Excise Commissioner, Deputy Commissioner of Excise and Superintendents of Excise conducted during the year revealed non/short realisation, loss of revenue etc., amounting to Rs. 9.66 crore in 531 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short realisation of excise duty/ transport fee	370	7.31
2.	Loss of revenue due to non-settlement/delay in settlement/renewal/non-renewal of excise shops	78	2.10
3.	Other irregularities	83	0.25
Total		531	9.66

During the year 2007-08, the department accepted non/short realisation, loss of revenue etc., of duty/fee amounting to Rs. 3.42 crore in 232 cases pointed out in 2007-08 and recovered Rs. 27 lakh in 174 cases pointed out in 2007-08 and earlier years.

A few illustrative cases highlighting important audit observations involving Rs. 3.85 crore are discussed in the following paragraphs.

5.2 Evasion of excise revenue on methanol

As per the Excise Policy of 2006-07 read with the Government of Orissa, Excise Department letter of March 2006, licence fee and duty prescribed for the denatured spirit {(DS) III (industrial use)} at the rate of Rs. 10,000 per annum and Rs. 2 per bulk litre (BL) respectively shall be applicable for methyl alcohol (methanol) also. Besides, import and transport fee of Rs. 3 per BL is also leviable.

Scrutiny of the records of the Superintendent of Excise (SE), Nabarangpur in December 2007 revealed that an industrial unit imported 62.04 lakh BL of methanol during February 2006 to March 2007 without obtaining any licence. Excise revenue in the form of licence fee, import and transport fee and excise duty (ED) payable on the above excisable goods had neither been paid by the industry nor demanded by the SE. This resulted in evasion of excise revenue of Rs. 3.10 crore.

After the case was pointed out, the SE stated in January 2008 that the demand would be raised. A report on recovery has not been received (November 2008).

The matter was reported to the Government/Excise Commissioner (EC) in March 2008; their reply has not been received (November 2008).

5.3 Short levy of additional dues towards operation of distillery beyond the prescribed time limit

The Government of Orissa, Excise Department instructed (June 2005) that permission may be accorded for running a second shift of eight hours to the distilleries/ breweries/bottling units subject to the condition that such units will pay Rs. 1,000 per hour of operation beyond the prescribed time limit of a single shift. Subsequently, in October 2006, the Government issued a notification amending the corresponding provisions of the Board's Excise Rules, 1965.

Scrutiny of the records of the SE, Ganjam in May 2007 revealed that two distillery units were permitted to operate for 4,286 extra hours during 2005-06 and 2006-07 for which they were liable to pay an additional amount of Rs. 42.86 lakh. The department, however, considered the period from the date of Government notification i.e. October 2006 and issued a demand of Rs. 12.80 lakh only. This resulted in short realisation of dues of Rs. 30.06 lakh.

After the case was pointed out, the Government stated in February 2008 that without statutory rule/notification, no dues or fees can be imposed or collected and the industries were liable to make payment from the date of issue of notification in October 2006 amending the Board's Excise Rules. The contention is not tenable as the distilleries were granted permission for operation of extra hours before October 2006 for which Rs. 1,000 per hour of extra operation as mentioned in the Government instruction of June 2005 was realisable.

5.4 Short realisation of revenue due to non-affixture of excise adhesive labels

As per the Excise Policy for the year 2006-07, excise adhesive label (EAL) will be affixed on the top of the case/carton containing beer with a fee at the rate of Rs. 3 per case/carton. Besides, penalty upto Rs. 10,000 per case/carton is leviable for non-affixing EAL.

Scrutiny of the records of the SE, Cuttack in June 2007 revealed that Orissa State Beverages Corporation Ltd. (OSBC) imported 9.07 lakh cases of beer during the year 2006-07 without affixing the EAL. The department also did not levy and realise the required fees. Non-affixture of the EALs led to short realisation of revenue of Rs. 27.22 lakh. Besides, penalty upto Rs. 907.45 crore was also leviable.

The matter was brought to the notice of the EC/Government in March 2008; their reply has not been received (November 2008).

5.5 Non-realisation of excise duty due to non-fixation of minimum guaranteed quantity for molasses

As per the Orissa Excise (Exclusive Privilege) Rules, 1970 and Excise Policy for the years 2005-06 and 2006-07, the minimum guaranteed quantity (MGQ) for lifting and utilisation of molasses by the distilleries shall be fixed by the Collector of the district on the basis of the highest quantity of molasses lifted and utilised in the last three years.

Scrutiny of the records of the SE, Koraput in January 2008 revealed that the MGQ for lifting of molasses by a distillery for the years 2005-06 and 2006-07 was to be fixed as 7,034.554 MT and 5,950.237 MT respectively on the basis of the highest quantity lifted and utilised during the preceding three years. It was, however, seen that no MGQ was fixed by the department. While there was no utilisation of molasses by the distillery during 2005-06, only 4,739.245 MT of molasses was utilised during 2006-07. Thus, there was short utilisation of 8,245.546 MT of molasses during the above years. For such short utilisation, excise revenue in the form of utilisation fee and import fee amounting to Rs. 13.19 lakh was payable. Due to non-fixation of MGQ, the said dues could not be demanded and realised.

After the case was pointed out, the SE stated in January 2008 that the proposal for fixation of MGQ of molasses was sent to the EC but no confirmation was received. However, the fact remains that the proposal should have been sent to the Collector, who is the authority responsible for fixing of the MGQ of molasses and not to the EC.

The matter was reported to the Government/EC in February 2008; their reply has not been received (November 2008).

5.6 Short realisation of excise duty on medicinal and toilet preparations

Under the Medicinal and Toilet Preparation (Excise Duties) Act, 1955 as amended in March 2003 and letter dated 10 March 2004 of the EC, Orissa, ED on products of medicinal and toilet preparation units is to be charged at the rate of 16 *per cent* of the retail sale price.

Test check of the records of a medicinal and toilet preparation unit under the SE, Cuttack in June 2007 revealed that the ED for the year 2006-07 was calculated at the rate of 16 *per cent* of the billing price instead of the retail sale price resulting in short realisation of ED amounting to Rs. 4.36 lakh.

After the case was pointed out, the SE issued an additional demand notice in June 2007. A report on realisation has not been received (November 2008).

The matter was reported to the EC and the Government in January 2008; their reply has not been received (November 2008).