

CHAPTER-V: STATE EXCISE

5.1 Results of audit

Test check of the records of the State excise offices, conducted during the year 2006-07 revealed non/short recovery of excise revenue amounting to Rs. 51.67 crore in 171 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of excise duty and licence fee	84	45.13
2.	Loss of excise duty on account of excess wastage of liquor	14	0.12
3.	Other irregularities	73	6.42
Total		171	51.67

During the year 2006-07, the department accepted short realisation and other deficiencies in 187 cases involving Rs. 21.04 crore of which 74 cases involving Rs. 12.90 crore had been pointed out in audit during 2006-07 and the rest in earlier years. The department recovered Rs. 77 lakh in 56 cases of which nine cases involving Rs. 27 lakh had been pointed out in audit during the year 2006-07 and the rest in earlier years.

Some important cases involving Rs. 19.88 crore noticed during audit are mentioned in the succeeding paragraphs.

5.2 Short recovery of excise duty on beer

Under the Rajasthan Excise Act, 1950 (RE Act), the State Government notified that excise duty on beer would be levied at the rate of 140 *per cent advalorem* for the year 2005-06.

Scrutiny of the records of 24 district excise offices (DEOs)¹ revealed that in four² breweries, excise duty on beer was either levied on sale value which was less than the sale value charged or the elements like differential cost³ was not included in the sale value. This resulted in short recovery of excise duty of Rs. 18.38 crore.

After the case was pointed out, the Government stated (June/July 2007) that excise duty was not to be levied on actual cost reimbursed. The reply is not tenable as notification provided for levy of excise duty *advalorem* and does not exempt any elements from the levy of excise duty.

5.3 Short levy of excise duty on IMFL

As per the Excise Policy 2005-06, the rate of excise duty on India made foreign liquor (IMFL) was to be charged on the quality and selling price. The Government notified the rates of excise duty as mentioned under:

Sl. No.	Maximum selling price per carton of quart bottles as declared by the manufacturer	Rate of excise duty (Rupees per LPL)
1.	Upto Rs. 400	170
2.	Above Rs. 400 upto Rs. 600	210
3.	Above Rs. 600 upto Rs. 900	250

The Government did not notify the excise duty leviable on the maximum selling price of pints and nips^{\$}. Accordingly, the department obtained declaration of selling price of quart[#] bottles only.

Verification of details of duty paid on liquor vis-à-vis invoices issued by the manufacturers revealed that 4,35,636 cartons of pints and nips were sold at higher rates than the declared price. Due to non-declaration of rates of excise duty on pints and nips in the notification, the department charged excise duty

¹ DEO Ajmer, Alwar, Baran, Banswara, Barmer, Bhilwara, Bikaner, Bundi, Chittorgarh, Churu, Hanumangarh, Jaipur, Jalore, Jhalawar, Jhunjhunu, Jodhpur, Kota, Nagaur, Pali, Sawaimadhapur, Sikar, Sirohi, Tonk and Udaipur.

² Mount Shivalik, Rochees brewery, Winsome brewery and Devans brewery.

³ Differential cost includes reimbursement of handling, insurance and breakage charges.

^{\$} Pouches / bottles in which liquor is sold. Pint: 375 ml, nips: 180 ml.

[#] A unit of liquor equal to a quarter of a gallon or two pints.

on pints and nips on the basis of declared price of quart bottles, which resulted in short levy of excise duty of Rs. 11.46 crore as mentioned below:

Range of declared price of IMFL cartons of pints and nips	No. of cartons of pints and nips	Total LPL involved	Excise duty leviable per LPL (Rs.)	Excise duty charged per LPL (Rs.)	Difference of excise duty per LPL (Rs.)	Short levy of excise duty (Rs. in crore)
Above Rs. 400 but upto Rs. 600	3,83,726	25,25,492.25	210	170	40	10.10
Above Rs. 600 but upto Rs. 900	51,910	3,39,213.96	250	210	40	1.36
Total	4,35,636	28,64,706.21	-	-	-	11.46

After the cases were pointed out, the Government stated (July 2007) that word quart bottle has been mentioned in the notification and different rate of duty cannot be levied on the same brand. The reply is not tenable as the excise policy provided for charging of excise duty on quality and selling price of liquor.

5.4 Non-levy of fee on self produced RS/ENA utilised for manufacture of country liquor

As per Rule 69-B of Rajasthan Excise Rules, 1956 (RE Rules), a distillery utilising rectified spirit (RS)/extra neutral alcohol (ENA) produced by it for the manufacture of country liquor shall have to pay a fee of Rs. 2.50 per bulk litre (BL).

In four district excise offices⁴, it was noticed that five distillers utilised 45,66,909.46 BL of self produced RS/ENA for manufacture of country liquor during the period 2005-06. However, fee of Rs. 1.14 crore was neither paid nor demanded by the department.

The matter was brought to the notice of the department between November 2006 and February 2007 and reported to the Government between February 2007 and April 2007; their replies have not been received (September 2007).

5.5 Short recovery of fee from IMFL/beer retail shops

As per the RE Act read with conditions of licence for retail sale of IMFL/beer, the annual licence fee of Rs. 3 lakh and application fee at the rate of Rs. 3,000 per shop for shops situated in municipal/urban agglomeration area and licence fee of Rs. 25,000 and application fee of Rs. 250 per shop for shops situated in

⁴ DEO, Alwar, Jaipur, Sikar and Sriganganagar.

rural area were to be levied from 1 April 2005. The Government of Rajasthan, Urban Development Department vide notification dated 8 November 2001 had, *inter alia*, included 86 villages in Jodhpur urban area.

In Jodhpur, it was noticed that 11 shops were licensed to a group in eight⁵ villages during 2005-06. These villages were included in Jodhpur urban area vide notification dated 8 November 2001. The department charged licence fee and application fee of Rs. 2.78 lakh as per rural rates instead of Rs. 33.33 lakh at municipal rates. This resulted in short levy of Rs. 30.55 lakh.

The matter was brought to the notice of the department in January 2007 and reported to the Government in April 2007; their replies have not been received (September 2007).

5.6 Short imposition of penalty

The RE Act read with terms and conditions of a retail licence of IMFL/beer/CL stipulates that if a licensee or his representative is found unauthorisedly transporting liquor, a minimum penalty of Rs. 5 lakh is to be imposed separately for each offence committed.

Test check of the records of Excise Commissioner (Udaipur) revealed that two offence cases were registered against country liquor licensee of Baran for illegal transportation of country liquor in the area of Kota group. The department treated the two offences as a single case and imposed a penalty of Rs. 5 lakh instead of Rs. 10 lakh based on the number of offences committed. This resulted in short levy of penalty of Rs. 5 lakh.

The case was brought to the notice of the department in September 2006 and reported to the Government in February 2007; their replies have not been received (September 2007).

⁵ Daizer including Dhani, Banar, Binaykiya, Jhalamand, Paal, Mogda Khurd, Boranada and Tanawara.