

## CHAPTER-VI: STATE EXCISE

### 6.1 Results of audit

Test check of the records of State excise offices, conducted during the year 2007-08 revealed non/short recovery of excise revenue amounting to Rs. 68.58 crore in 194 cases, which 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	73	45.95
2.	Loss of excise duty on account of excess wastage of liquor	50	0.57
3.	Other irregularities	71	22.06
<b>Total</b>		<b>194</b>	<b>68.58</b>

During the year 2007-08, the department accepted short realisation and other deficiencies in 71 cases involving Rs. 18.73 crore out of which 44 cases involving Rs. 17.84 crore had been pointed out in audit during 2007-08 and the rest in the earlier years. The department recovered Rs. 67.61 lakh in 49 cases of which 12 cases involving Rs. 14.85 lakh had been pointed out in audit during the year 2007-08 and the rest in the earlier years.

After issue of a draft paragraph, the department intimated (June 2008) recovery of Rs. 12.82 lakh pertaining to a single observation pointed out during 2007-08.

Some important cases involving Rs. 29.05 crore noticed during audit are mentioned in the succeeding paragraphs.

## 6.2 Short levy of excise duty on IMFL

As per the Excise Policy 2005-06, the rate of excise duty on Indian made foreign liquor (IMFL) was to be charged on the selling price per carton declared by the manufacturers. The Government notified the rates of excise duty with effect from 1 April 2005 on the selling price of quart<sup>1</sup> bottles as declared by the manufacturers and retained the rates for the year 2006-07 also. The Government did not notify the excise duty leviable on the selling price of pints and nips<sup>2</sup>.

Scrutiny of the records of 27 district excise offices (DEOs)<sup>3</sup> viz. verification of details of duty paid on liquor vis-a-vis invoices issued by the manufacturers between May 2007 and March 2008 revealed that 10,20,302 cartons of pints and nips were sold at higher rates than the declared price of quart bottles. Due to non-declaration of rates of excise duty on pints and nips in the notification, the department charged excise duty on pints and nips on the basis of declared price of quart bottles, which resulted in short levy of excise duty of Rs. 26.71 crore as mentioned below:

Range of declared price of IMFL cartons of pints and nips	No. of cartons of pints (P) and nips(N)	Total LPL <sup>4</sup> 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	P- 1,88,118 N- 6,90,400	57,43,588.50	210	170	40	22.97
Above Rs. 600 but upto Rs. 900	P- 19,713 N- 1,17,984	8,97,599.07	250	210	40	3.59
Above Rs. 900 but upto Rs. 1500	P- NIL N- 1,543	9,998.64	280	250	30	0.03
Above Rs. 1500 but upto Rs. 3000	P- 80 N- 2464	16,506.72	350	280	70	0.12
<b>Total</b>	<b>10,20,302</b> <b>(P- 2,07,911</b> <b>N- 8,12,391)</b>	<b>66,67,692.93</b>	-	-	-	<b>26.71</b>

After the case was pointed out, the Government stated in July 2008 that quart bottle has been mentioned in the notification and different rate of duty can not be levied on the same brand. The reply is not tenable as the excise policy provided for charging of excise duty on the selling price of liquor.

<sup>1</sup> A unit of liquor equal to a quarter of a gallon or two pints.

<sup>2</sup> Pouches/bottles in which liquor is sold. Pint: 375 ml, nips: 180 ml.

<sup>3</sup> DEO Ajmer, Alwar, Baran, Banswara, Barmer, Bharatpur, Bhilwara, Bikaner, Bundi, Chittorgarh, Churu, Dausa, Hanumangarh, Jaipur, Jalore, Jhalawar, Jhunjhunu, Jodhpur, Kota, Nagaur, Pali, Sawaimadhopur, Sikar, Sirohi, Sriganganagar, Tonk and Udaipur.

<sup>4</sup> London Proof Litre.

### 6.3 Short levy of licence fee for composite shop<sup>5</sup>

As per the terms and conditions of licence for retail sale of country liquor issued under the Rajasthan Excise Act, 1950 (RE Act), the annual licence fee payable for composite shops located within 5 kilometres of municipal limit or its urban agglomeration limit was more than the composite shops located beyond such limit.

Scrutiny of the records of three DEOs<sup>6</sup> between December 2007 and March 2008 revealed that 66 composite shops were located either in urban area or within 5 kilometres of the municipal limit. The licensees of these shops were liable to pay licence fee of Rs. 1.71 crore but the department levied licence fee of Rs. 26.50 lakh at the rate applicable for shops located beyond 5 kilometres of municipal limit. This resulted in short levy of Rs. 1.45 crore.

After the case was pointed out, the Government stated in September 2008 that determination of urban agglomeration limit was done under Urban Land (Ceiling and Regulation) Act, 1976, which was repealed on 11 January 1999. As such "urban agglomeration" words had no relevance in this case. The reply is not tenable as the notification dated 22.4.1999 was issued for inclusion of these villages in urban area under the Rajasthan Urban Improvement Act, 1959, which was a different enactment.

### 6.4 Short recovery of differential excise duty and additional excise duty

Under section 28 of the RE Act, excise duty (ED) or countervailing duty may be imposed on any excisable article at such rate or rates as the State Government directs. As per the Excise policy 2005-06 (applicable for 2006-07 also), the State Government decided to charge excise duty on IMFL/beer on the basis of selling price declared by the liquor manufacturers. The Government vide notification dated 1 April 2006, further prescribed the levy of additional excise duty (AED) at the rate of five *per cent* on IMFL/beer.

Scrutiny of the records of the DEO Jaipur revealed that the department had no information about the quantity of IMFL and beer pending disposal in various depots of Rajasthan State Beverages Corporation Limited (RSBCL) as on 1 April 2006. As per the information collected by audit from RSBCL, ED and AED of Rs. 4.37 crore was recoverable from the manufacturers, out of which, Rs. 3.64 crore was paid by the manufacturers as per challans produced to audit, leaving the balance of Rs. 73 lakh unrecovered. This resulted in short recovery of Rs. 73 lakh.

After the matter was pointed out, the Government stated in August 2008 that Rs. 30.92 lakh had been recovered and balance amount shall be recovered shortly. The department, however, had earlier stated (July 2008) that Rs. 67.72 lakh had been recovered.

<sup>5</sup> Country liquor shops having licence for retail sale of IMFL and beer also.

<sup>6</sup> DEO Jaipur, Udaipur and Jhunjhunu.

### **6.5 Short levy of licence transfer fee**

Rule 72B of the RE Rules, 1956 provides that every licence shall be deemed to have been granted or renewed personally to the licensee and no licence shall be sold or transferred without obtaining prior permission in writing from the licensing authority and such permission shall not be accorded unless an amount equal to 50 *per cent* of the licence fee has been paid. The licence fee for wholesale vend by the manufacturers of liquor to wholesale vendor under Rule 68 of the RE Rules was Rs. 6 lakh for divisional headquarters and Rs. 5 lakh for other places.

Scrutiny of the records of Excise Commissioner (EC) and DEO Udaipur in May 2007 and January 2008 revealed that the EC Udaipur and DEO Udaipur granted permission for transfer of six wholesale licences during 2006-07. Transfer fee of Rs. 16 lakh though recoverable was not recovered.

After the cases were pointed out, the department stated in June 2008 that Rs. 13 lakh had been recovered from five licensees while recovery in the remaining one case was under progress.

The cases were reported to the Government in March 2008; their reply has not been received (October 2008).