

CHAPTER – III

State Excise

3.1 Results of audit

Test check of records of State Excise Offices conducted in Audit during the year 2002-03 revealed non-levy of interest, non-realisation of licence fees, Non-realisation of stamp duty, low recovery of alcohol from molasses, loss of duty on account of redistillation of rectified spirit, irrational fixation of minimum guaranteed quota (MGQ), excess transit/storage wastage and other irregularities amounting to Rs. 221.78 crore in 132 cases which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	Number of cases	Amount
1	Non-levy of interest	6	0.32
2	Non-realisation of licence fees	33	5.70
3	Non-realisation of stamp duty	16	3.49
4	Low recovery of Alcohol from Molasses	17	2.84
5	Loss of duty on account of redistillation of rectified spirit	1	0.55
6	Irrational fixation of M.G. Q.	14	1.79
7	Excess transit /storage wastage	2	0.0068
8	Other irregularities	41	5.90
9	Loss of Excise duty due to non-lifting of monthly M.G.Q. of country liquor	01	0.41
10	Review on “Working of Distilleries”	01	200.77
	Total	132	221.78

During 2002-03 the department recovered under-assessment etc. of Rs.1.90 lakh involved in three cases.

A few illustrative cases and one review, **Working of Distilleries** involving financial effect of Rs. 201.18 crore are given in the succeeding paragraphs:

3.2 Review on Working of Distilleries

Highlights

- Due to low yield of alcohol Government had to forego revenue of Rs. 112.93 crore

(Paragraph 3.2.5)

- Due to loss of total reducing sugar (TRS) in transit, government suffered loss of Rs.56.64 crore

(Paragraph 3.2.6)

- In spite of failure to produce certificate from Excise Authorities of importing state in time, compounding fee of Rs.1.19 crore was not levied.

(Paragraph 3.2.8)

- Excise duty of Rs.6.37 crore on wastage of hologram was not realized.

(Paragraph 3.2.10)

- Licence fee Rs.1.30 crore was not realized

(Paragraph 3.2.11)

- Short levy of excise duty due to non-adoption of actual strength of country liquor resulted in loss of revenue amounting to Rs.0.55 crore

(Paragraph 3.2.12)

3.2.1 Introduction

State Excise duty is levied by the State Government under entry 51 of the List –II of State List VII the Schedule to the Constitution, which empowers State Government to levy excise duty on alcoholic liquors for human consumption. The manufacture as well as the distribution of liquor is controlled by the U.P. Excise Department under the provisions of U.P. Excise Act, 1910 (Act) and Rules framed thereunder.

Alcohol is produced in distilleries mainly from molasses obtained as a byproduct during manufacture of sugar. Various kinds of liquors, such as country spirit, Indian Made Foreign Liquor (IMFL) like whisky, brandy, rum and gin are manufactured from alcohol. Excise duty on the production in distilleries form the major part of the excise revenue.

The excisable articles are issued from distilleries either under bond without excise fee or on pre-payment thereof at the prescribed rates. Apart from export duty, licence fee also forms part of excise revenue.

3.2.2 Organisational Set up

The Excise Commissioner (E.C.) is the head of the Excise Department, entrusted with the responsibility of supervision and control over working of distilleries and breweries. He is assisted by two Addl. Excise Commissioners, three Joint Excise Commissioners, ten Dy. Excise Commissioners and six Asstt. Excise Commissioners at headquarters. In financial matters, the E.C. is assisted by finance controller and chief Account Officer who is responsible for keeping watch over these unit through internal audit wing for the purpose of effective administration, the state is divided into four zones and 17 charges (Circles) each under the charge of a Joint Excise Commissioner and a Dy. Excise Commissioner respectively, who are assisted by an Asstt. Excise Commissioner in each district. There are 41 distilleries in Uttar Pradesh.

3.2.3 Audit Objectives

Detailed scrutiny of records of 32 out of 41 distilleries for the period 1997-98 to 2001-02 was conducted between April 2002 and March 2003 to ascertain:

- That duties, fees and penalties were realized as per provisions of Act/Rules and executive instructions issued by Department.
- Whether a suitable and effective Internal Control Mechanism was in place.

3.2.4 Trend of revenue

The trend of revenue during the last five years ending 31 March 2002 was as under:

(Rupees in crore)

Year	Budget estimate	Actuals	Variation Increase (+)/ Decrease (-)	Percentage of variation
1997-98	1,521.30	1,404.09	(-) 107.21	7.05
1998-99	1,697.42	1,631.34	(-) 66.08	3.89
1999-2000	2,260.00	2,128.67	(-) 131.33	5.81
2000-01	2,500.00	2,238.53	(-) 261.47	10.46
2001-02	2,300.23	1,963.89	(-) 336.34	14.62

It would be seen that shortfall in actual receipt compared with budget estimates was 10.46 per cent during the year 2000-01 which increased to 14.62 per cent during 2001-02.

3.2.5 Low yield of alcohol from molasses

Under the U.P. Excise Working of Distilleries (Amendment) Rules, 1978, every quintal of fermentable sugar content present in molasses shall yield alcohol of 52.5 alcoholic litre (A.L). For this purpose, composite samples of molasses are required to be drawn by the officer-in-charge of the distillery and sent for examination to the Alcohol Technologist. Failure to maintain the minimum yield of alcohol from molasses consumed entails cancellation of licence and forfeiture of security deposit besides other penalties.

During the test check of records of 25 distilleries* it was noticed that 1306 composite samples of molasses were sent to the Alcohol Technologist during the year 1997-98 to 2001-02. Based on the reports of Alcohol Technologist, out of 68.22 lakh quintal of fermentable sugar content present in molasses, 35.82 crore A.L. of alcohol should have been produced, against which actual production of alcohol was 33.56 crore A.L. This resulted in loss of excise revenue of Rs. 99.87 crore. Besides, neither the licence of the distilleries was cancelled nor the security deposit of Rs.13.06 crore forfeited for low production of alcohol.

3.2.6 Loss of revenue due to transit loss of total reducing sugar (TRS)

U.P. Excise Rules do not provide for any loss of total reducing sugar (TRS) present molasses during transit. However, as per the Excise Commissioners circular dated 24 May 1995, a maximum 12 per cent non-fermentable sugar is present in TRS and as such 46.20 A.L. of spirit can be produced from 1 quintal of TRS.

Test check of records of 26 distilleries*, revealed that during the period from 1997-98 to 2000-01, while transporting molasses there was a loss of a TRS which ranged between 1 to 5 per cent as compared to the TRS shown in the transport passes issued by the sugar factories. As such, the distilleries received 2.66 lakh quintal of TRS less, from which 122.75 lakh AL could have been produced. Thus, the Government was deprived of excise duty of Rs.56.64 crore as detailed given on the next page :

* Balrampur (1), Bareilly (1), Bijnore (1), Bulandshahar (1), Faizabad (1), Ghaziabad (2), Ghazipur (1), Gonda (1), Gorakhpur (1), J.P. Nagar (1), Kushinagar (1), Lakhimpur Kheri (1), Lucknow (1), Meerut (2) Moradabad (1), Muzaffarnagar (2), Pilibhit (1), Rampur (1), Saharanpur (2) Shahjahanpur (1) and Unnao (1).

* Balrampur (1), Bareilly (1), , Bijnore (1), Bulandshahar (1), Faizabad (1), Ghaziabad (3), Ghazipur (1), Gonda (1), Gorakhpur (1), J.P. Nagar (1), Kushinagar (1), Lakhimpur Kheri (1), Lucknow (1), Meerut (2) Moradabad (1), Muzaffarnagar (2), Pilibhit (1), Rampur (1), Saharanpur (2) Shahjahanpur (1) and Unnao (1).

Year	Quantity of TRS despatched	Quantity of TRS received	Quantity of TRS loss in transit	Quantity of Fermentable sugar Loss in transit	Alcohol which could be produced as per norms	Excise duty (Rupees in crore)
1997-98	3,04,732.55	2,83,758.25	20,974.30	18,457.38	9,69,012.66	3.87
1998-99	6,39,499.29	5,98,858.27	40,641.02	35,764.09	18,77,615.12	7.51
1999-2000	6,73,309.53	6,32,516.31	40,793.22	35,898.03	18,84,646.70	9.05
2000-01	9,95,269.77	9,39,587.77	55,682.00	48,998.40	25,72,416.00	12.35
2001-02	17,91,845.62	16,84,236.78	1,07,608.84	94,695.77	49,71,528.30	23.86
Total	44,04,656.76	40,38,957.38	2,65,699.38	2,33,813.67	1,22,75,218.78	56.64

3.2.7 Non imposition of compounding fees

Under the provision of U.P. Sheera Niyamtran Niyamawali 1974, transit loss upto one per cent of molasses transported from sugar factories to distilleries is admissible in each case. In case the transit loss is more than one per cent, the distillery is liable to pay compounding fees not exceeding Rs.5000 in each case.

Test check of records of two distilleries* revealed that during the period 1997-98 to 2001-02 there was transit loss of molasses over and above the one per cent prescribed in 394 consignments. As the transit loss was not within the prescribed limits compounding fees Rs.19.70 lakh was recoverable, but the department failed to recover the same. This resulted in loss of revenue of Rs.19.70 lakh.

3.2.8 Non-realisation of compounding fee/excise duty

As per Uttar Pradesh Bottling of Foreign Liquor Rules, 1969, the licensee is required to execute a bond undertaking to deliver the liquor/spirit at the destination and furnish a certificate from excise authorities of the district of the importing state within 90 days from the date of despatch. If the licensee fails to furnish the required certificate of delivery within the specified period, he shall pay excise duty at the prescribed rate. Further if the certificate of delivery (Pass) is received after 90 days a compounding fee up to Rs.5000 is to be imposed in each case.

- Test check of records of 16 distilleries[⊗], revealed that 2382 passes (under bond), on which spirit was exported out of the state during the period 1997-98 and 2001-02, were received after the expiry of the prescribed period of 90 days, with a delay of up to 550 days. The Department had realized the

* Faizabad (1) and Pilibhit (1)

⊗ Balrampur(1), Bulandshahar (1), Faizabad (1), Ghaziabad (2), Ghazipur (1), Lucknow (1), Meerut (3) Moradabad (1), Rampur (2), Saharanpur (1), Shahjahanpur (1), Unnao (1)

bonds without recovery of compounding fee. This resulted in loss of Rs.1.19 crore.

- Further, in two distilleries[♦], it was noticed that in six cases, 80,241.2 AL of spirit was exported in bond out of the state during the period from 1997-98 to 2000-01. The licensee had not furnished, the required certificate of delivery of spirit at the destination till date (November 2003). The department had not taken any action to recover the excise duty of Rs. 36.06 lakh.

3.2.9 Non/Short levy of excise duty on transit wastage of alcohol

Under the provisions of U.P. Excise Rules, if spirit is exported under bond in wooden cask or metal vessels, wastage is allowed up to 0.5 per cent. No such allowance is permissible, if it is transported in sealed pouches/bottles, and excise duty is chargeable on transit wastage, if any, at the highest rate of duty applicable in U.P.

- Test check of records of a distillery of Unnao, revealed that 60.82 lakh AL of country liquor were issued from distillery in pouches, out of which 60.11 lakh AL of country liquor were received in bonded ware houses during April 1997 to March 2001. The department did not realize excise duty on the short receipt of 0.71 lakh AL of country liquor. This resulted in loss of excise revenue amounting to Rs.23.33 lakh.
- Scrutiny of the records of six distilleries[⊗], revealed that wastage of 0.40 lakh AL was allowed on account of transportation of IMFL in bottles during the period from 1997-98 to 2001-02, which was not admissible, on which excise duty of Rs. 40.52 lakh was recoverable. The department had recovered only Rs. 12.04 lakh. This resulted in short recovery of Rs.28.48 lakh.

3.2.10 Short realisation of excise duty on wastage of holograms

Under the provision of new excise policy 2001 and Rules made thereunder, potable liquor can only be issued from distilleries after affixing the security hologram for use in Uttar Pradesh. As per Excise Commissioners letter dated 24 March 2001, the fixing of hologram is proof that the liquor manufactured is as per the standard prescribed and the necessary excise duty has been paid on it. The distillery is responsible for the safe custody and proper use of holograms. In the case of wastage, loss or misuse of holograms, it would amount to loss of duty and it shall be made good by the distillery.

[♦] Balrampur (1) and Meerut (1)

[⊗] Lucknow (1), Moradabad (1), Meerut (1), Muzaffarnagar (1), Rampur (1), Saharanpur (1)

Scrutiny of records of 14 distilleries[#], revealed that 51.89 lakh holograms of different kinds, which were required to be affixed on bottles and pouches of country liquor and IMFL, were found waste on which excise duty of Rs.6.92 crore was recoverable. But the department had recovered excise duty of Rs.54.80 lakh only on account of wastage of 4.71 lakh holograms from six distilleries. This resulted in short realisation of excise duty of Rs.6.37 crore.

3.2.11 Non-recovery of licence fees

Under the provision of the U.P. Excise Act, 1910 and Rules made thereunder, licence fee @ Rs.0.15 per Bulk Litre (BL) is to be realized from a distillery, producing denatured spirit.

During the scrutiny of the records of a distillery of Jyotiba Phule Nagar, it was noticed that the distillery produced 8.65 crore BL of denatured spirit during 1999-2000 on which licence fees of Rs.1.30 crore was recoverable but had not recovered so far by the department.

3.2.12 Short levy of excise duty due to non-adoption of actual strength of country liquor

Under the provision of the U.P. Excise Act, 1910 and Rules made thereunder, the apparent strength of spirit as indicated by the hydrometer after addition of colour and flavour materials, is to be mentioned on the level affixed on the sealed bottles and pouches. The Government vide notification had prescribed rate of excise duty on country liquor as Rs.36 per BL for 25 per cent volume by volume and Rs.60 per BL for 36 per cent v/v.

During the scrutiny of records of four distilleries⁼, it was noticed that 94.21 lakh AL of spiced country liquor and 14.40 lakh AL of plain country liquor were manufactured and issued for bottling and pouching during the year 2001-02. The levels affixed on the bottles/pouches indicated the alcoholic contents of spiced country liquor as 36 per cent v/v and of plain country liquor as 25 percent v/v and excise duty was levied accordingly. As per hydrometer, the actual strength of liquor after addition of colour and flavour materials was 36.1 per cent v/v in the case of spiced country liquor and 25.1 per cent v/v in the case of plain country liquor. In both the cases the actual strength was higher by 0.1 per cent v/v. As such, non-levy of excise duty on the basis of actual content of alcohol as indicated by the hydrometer resulted in loss of Rs.55.45 lakh.

[#] Balrampur (1), Bareilly (1), Ghaziabad (1), Ghazipur (1), Gonda (1), Gorakhpur (1), Meerut (1), Moradabad (1), Muzaffarnagar (2), Pilibhit (1), Rampur (1), Saharanpur (1), Shahjahanpur (1)

⁼ Lucknow (1), Meerut (1), Muzaffarnagar (1), Saharanpur (1)

3.2.13 Non-levy of excise duty on re-distillation of wastage

Under the provision of the U.P. Excise Act, 1910, no wastage is allowed in case of production of Extra Neutral Alcohol (ENA) from rectified spirit.

During the scrutiny of records of 16 distilleries[♦], it was noticed that 24.21 crore alcoholic litre was re-distilled, from which 23.75 crore alcoholic litre of ENA was obtained during the period 1997-98 to 2001-02. The balance of 0.46 crore alcoholic litre was allowed as wastage which was not provided under the Act. This resulted in non-levy of excise duty of Rs. 20.58 crore.

3.2.14 Short realisation of interest

Under the provisions of the U.P. Excise Act, 1910 as amended from 29th March 1985, where any excise revenue is not paid within three months from the date on which it becomes due, interest @ 18 per cent per annum is recoverable from the date from while it became due.

Scrutiny of records of three distilleries[□], revealed that the distilleries paid excise revenue of Rs.19.73 lakh, with delays ranging from 5 to 197 months on which interest amounting to Rs.22.76 lakh was recoverable. Out of this, the Department recovered Rs.9.89 lakh only. This resulted in short realisation of interest of Rs.13.27 lakh.

3.2.15 Other topics of interest

(i) Improper supply of excise locks

Under the provisions of U.P. Excise Act, 1910, excise locks are supplied by the department for lacking all spirit pipes and vessels etc. to prevent any misuse, or leakage of spirit in the distillery.

During test check of records of 32 distilleries[•], it was noticed that the required number of excise locks were not provided by the department for the period from April 1997 to March 2002 as detailed below:

Year	Locks required	Locks provided by the department	Shortage
1997-98	331	239	92
1998-99	303	235	68

[♦] Balrampur(1) Bareilly (1), Bulandshahar (1), Faizabad (1), Ghaziabad (1), Gonda (1), Gorakhpur (1), Meerut (2), Moradabad (1), Muzaffarnagar (2), Rampur (1), Shahzahanpur (1), Saharanpur (1), Unnao (1)

[□] Ghaziabad (1), Moradabad (1), Pilibhit (1)

[•] Bareilly (1), Balrampur (1), Bijnore (1), Bulandshahar (2), Faizabad (1), Gorakhpur (1), Gonda (2), Ghazipur (1), Ghaziabad (4), J.P. Nagar (1), Kushinagar (1), Lucknow (3), Lakhimpur Kheri (1), Meerut (2), Mooradabad (1), Muzaffarnagar (2), Pilibhit (1), Rampur (2), Saharanpur (2), Shahjahanpur (1) and Unnao (1)

1999-2000	303	229	74
2000-01	297	227	70
2001-02	350	293	57

Due to shortage of excise locks, misuse and leakage of spirit could not be ruled out.

(ii) Inadequate internal control

In order to have an effective control over the working of distilleries, the Excise Commissioner vide order dated 18 August 1990 prescribed norms for periodical inspection of distilleries by the excise staff as under:

Sl. No.	Designation	Periodicity of Inspection
1	Officer-in-charge	To inspect every section of the distillery once a month
2	Disstt. Excise Officer	To do detailed inspection of the distillery quarterly
3	Dy. Excise Commissioner	To do detailed inspection of the distillery half yearly

Test check of the records of the 29 distilleries^x, revealed that required inspections were not conducted during the period April 1997 to March 2002 as under:

Category of officer	No. of inspection due	No. of inspection carried out	Shortfall	Percentage of shortfall
Officer-in-charge	1560	753	807	51.73
Disstt. Excise Officer	520	120	400	76.92
Dy. Excise Commissioner	260	187	73	28.00
Total	2340	1060	1280	54.70

It would be seen that there was a shortfall in inspections, ranging between 28 percent to 76.92 per cent at different levels during these years. This indicated that the department had failed to exercise proper control over the distilleries.

(iii) Internal Audit

An internal audit wing functions under the control of Finance Controller and Chief Accounts Officer. The wing consists of one Finance and Audit Officer and two

^x Balrampur (1), Bareilly (1), Bijnor (1), Bulandshahar (1), Faizabad (1), Ghaziabad (4), Gazipur (1), Gonda (2), Gorakhpur (1), J.P. Nagar (1), Kushinagar (1), Lakhimpur Kheri (1), Lucknow (2), Meerut (3), Moradabad (1), Muzaffarnagar (2), Pilibhit (1), Rampur (1), Saharanpur (2), Shahjahanpur (1).

Asstt. Audit Officers, who are responsible for conduct of audit of the distilleries annually.

Test check of records of 29 distilleries[^], revealed that no internal audit of 20 distilleries was conducted during the period April 1997 to March 2002. In the case of balance nine distilleries, the Internal Audit Wing conducted 13 inspections out of 45 inspections due during these years. This was indicative of inadequate coverage by internal audit in the department.

3.2.16 Non revision of over time rate

Under the provisions of U.P. Excise Act, 1910, if Excise Staff is retained after office hours or on holidays, the distiller shall be required to pay to the Government, over time fees at prescribed rates. These rates were last revised in 1969.

It was noticed that with the passage of time the pay scales of excise staff were revised several times but rates of overtime had not been revised till date. It is noteworthy that in the case of Uttaranchal State, which was carved out of Uttar Pradesh in November 2000, rates of overtime were revised with effect from 1 April 2001.

3.2.17 Recommendations

Based on the above observations, government may consider taking steps to –

- ensure compliance with the Act/Rules.
- Strengthen the internal control mechanism and internal audit.

The matter was reported to Department and Government in July 2003; their replies had not been received (November 2003).

3.3 Loss of excise duty due to non-lifting of monthly minimum guaranteed quantity of Country Liquor

Under the provisions of The Uttar Pradesh Excise (Settlement of Licences for Retail Sale of Country Liquor) Rules 2001, the licensee is liable to lift the entire minimum month-wise guaranteed quantity during the month. In case the retail licensee fails to do so, the licensing authority shall suspend the licence and adjust the amount of duty leviable on the unlifted part of minimum month-wise guaranteed quantity from the security amount. The licensing authority shall also issue a notice to the licensee to replenish the shortfall in security amount within a week failing which the licence

[^] Bareilly (1), Balrampur (1), Bijnore (1), Bulandshahar (2), Faizabad (1), Gorakhpur (1), Gonda (2), Ghazipur (1), Ghaziabad (4), J.P. Nagar (1), Kushinagar (1), Lucknow (3), Lakhimpur Kheri (1), Meerut (2), Moradabad (1), Muzaffarnagar (2), Pilibhit (1), Rampur (2), Saharanpur (2), Shahjahanpur (1) and Unnao (1)

shall stand cancelled and the licensing authority shall take immediate action to re-settle the shop.

During test check of the records of District Excise Officers, Fatehpur and Sonebhadra, it was noticed that 64 retail licensees did not lift their minimum monthly guaranteed quotas on which excise duty of Rs.61.70 lakh were leviable. The department adjusted Rs.20.62 lakh only from the security amount of the licensees and licences were not cancelled. In the case of Sonebhadra, though the licences were cancelled, no action was taken to adjust the excise duty due from the security of the licensees. Due to non-observance of Rules, the Government was deprived of excise duty of Rs.41.08 lakh.

The Department and Government accepted the observation and state that action was being taken for recovery of dues (December 2003), Further progress is awaited (January 2004).