

CHAPTER IV STATE EXCISE

4.1 Results of audit

Test check of the records of state excise revenue conducted during the year revealed non-realisation of excise duty and other irregularities amounting to Rs. 19.04 crore in 91 cases, which fall under the following categories:

(Rupees in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation of additional/import pass/privilege fee etc.	25	1.86
2.	Non-realisation of additional fee on excess quantity of spirit obtained due to operation	3	0.83
3.	Non/short realisation of excise duty on excess transit/handling/bottling wastage of spirit/IMFL	8	0.44
4.	Non/short realisation of establishment cost/house rent allowance	13	0.45
5.	Other irregularities	42	15.46
Total		91	19.04

During the course of the year, the department accepted underassessment and other deficiencies of Rs. 88.27 lakh involved in 37 cases, of which 26 cases involving Rs. 75.49 lakh had been pointed out by audit during the year 2007-08 and the rest in earlier years. An amount of Rs. 42.24 lakh has been realised in 19 cases at the instance of audit during the year 2007-08.

A few illustrative cases involving Rs. 11.13 crore are mentioned in the following paragraphs.

4.2 Short realisation of revenue due to low production of alcohol from molasses

Under the Bengal Excise (BE) Act, 1909 and the rules made thereunder, every distiller has to maintain specified fermentation and distillation efficiency to recover a minimum of 92 london proof litre (LPL)¹ of alcohol per quintal of fermentable sugar present in the molasses consumed for production. The Rules require that the sample of molasses used for production of spirit shall be sent to the chemical examiner (CE), Government of West Bengal (WB) or any other expert authorised by the Excise Commissioner (EC) for determination of fermentable sugar present in the molasses. The minimum yield of spirit from molasses should be calculated on the basis of the report of the CE and explanation for shortfall, if any, in production should be called for from the distiller. Further, as per the Government instruction of November 2004, the minimum yield per MT of molasses was fixed at 390 LPL of alcohol.

Scrutiny of the records of a distillery under the Superintendent of Excise (SE), South 24 Parganas in November 2007 revealed that the distiller had used 20,987.62 MT molasses during the period from April to June 2006 and reported yield of 76,14,441.10 LPL of alcohol. Though the yield was less than the minimum yield of 81,85,171.80 LPL calculated at the rate of 390 LPL of alcohol per MT of molasses as prescribed by the Government, the officer-in-charge did not take any action either to send the samples of the molasses to the CE for determining the fermentable sugar content in the molasses or to recover the excise duty considering the minimum yield prescribed by the Government. Instead, the yield reported by the chemist of the distiller was accepted by him for levy of duty. This resulted in short realisation of excise duty of atleast Rs. 10.62 crore calculated at the rate of Rs. 186 per LPL on the differential yield of 5,70,730.70 LPL of alcohol.

The matter was reported to the department and the Government in December 2007; their reply has not been received (September 2008).

4.3 Allowance of excess wastage of spirit/IMFL in transit

Under the BE Act and the rules made thereunder, the permissible loss of spirit in transit by way of leakage and evaporation during transport/import is between 0.5 and 2 *per cent* of the quantity depending upon the duration of journey upto 30 March 2005 and between 0.25 and 1 *per cent* thereafter. In case of foreign liquor (FL) transported in glass bottles or any other approved metal container, no wastage in transit is allowable. Wastage of spirit in excess of the allowable limit and any loss or deficiency of FL in transit is chargeable at the highest rate of duty applicable to India made foreign liquor (IMFL).

Scrutiny of the records in three² district excise offices between November 2006 and November 2007 revealed that in five cases 29 transport passes were issued by the excise authorities between August 2004 and April 2007 to the

¹ Strength of alcohol is measured in terms of 'degree proof'. Strength of 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.

² Darjeeling, Hooghly and South 24 Parganas.

licensees of one distillery, one FL manufactory, two country spirit bottling plants and two FL bonded warehouses for a total quantity of 4,46,743.45 LPL of rectified spirit and IMFL. Of this, 17,811.23 LPL was shown as lost in transit. As per the Excise Rules, a maximum of only 2,331.88 LPL of rectified spirit/IMFL was allowable as transit wastage. Thus, excess wastage of spirit/IMFL of 15,479.35 LPL was allowed on which excise duty of Rs. 27.63 lakh was realisable from the licensees. In one case, an amount of Rs. 80,000 only had been levied and realised as against Rs. 3.84 lakh and in the remaining cases no duty had been levied and realised by the district excise officers. This resulted in non/short realisation of excise duty of Rs. 26.83 lakh.

The Government to whom the cases were reported between February and December 2007 stated in July 2008 that in two cases Rs. 23.37 lakh had been realised between April 2007 and May 2008. In two cases involving Rs. 3.07 lakh, it was stated that West Bengal Taxation Tribunal had directed both the licensees to appeal before the EC within 30 July 2008 and the cases would be disposed of as soon as the licensees were heard by the Excise Commissioner. Report on further progress has not been received (September 2008).

In the remaining one case involving Rs. 39,554, it was stated that total wastage was not exceeding the allowable limit for journey between two and nine days. The reply was not tenable as the journey involved in this case was two days for which maximum transit loss at the rate of 0.5 *per cent* was admissible as per the West Bengal Excise (Foreign Liquor) (WBEFL) Rules, 1998.

4.4 Non-realisation of fee for import of spirit

Under the West Bengal Excise (Manufacture of Country Spirit in Labelled and Capsuled Bottles) Rules, 1979, a country spirit manufacturer shall pay a fee of 60 paise, in case the bottling plant is situated outside the metropolitan area of Kolkata, for each bulk litre (BL) of spirit imported by him from outside the State for the purpose of use as country spirit for sale by wholesale, provided that such manufacturer does not distill the spirit in a distillery licenced for the purpose, at the time of receipt of such spirit at his warehouse on the quantity so received.

Scrutiny of the records of the SE, North 24 Parganas between October and November 2007 revealed that two³ manufacturers of country spirit imported 29,10,000 BL of rectified spirit from the States outside West Bengal against 56 import permits issued by the EC, West Bengal between 2004-05 and 2006-07, for the purpose of use as country spirit for sale by wholesale. The manufacturers, however, did not pay the requisite fee at the rate of 60 paise per BL nor was any demand raised by the excise authorities to realise it. This resulted in non-realisation of fee of Rs. 17.46 lakh.

The Government to whom the matter was reported in December 2007 stated in July 2008 that abolition of the fee for spirit imported from outside the State for the purpose of manufacturing bottled country spirit had been agreed in principle from 7 March 1987 subject to fulfillment of certain conditions and an order to that effect had been issued by the EC in March 1995. The reply is not

³ M/s Bhattacharya Bottling Plant and M/s Sengupta and Sengupta Bottling Plant.

tenable as the import pass fee was imposed through Act/Rule passed by the Legislature and the executive order of the EC cannot override it.

4.5 Non-realisation of establishment cost

Under the WBEFL Rules, the licensee of a bonded FL warehouse is to pay to the Government, a monthly fee equivalent to the monthly cost comprising average pay, compensatory allowances and contribution towards leave salary and pension in respect of the excise personnel deployed in a warehouse. The monthly fee is to be paid in cash within seven days after the expiry of the month to which the fee relates.

Scrutiny of the records of the Collector of Excise, Kolkata (North) between July and August 2007 revealed that the establishment cost had not been realised from the licensees of two⁴ FL bonded warehouses in respect of four excise personnel deployed therein for various periods ranging between April 2006 and July 2007. This resulted in non-realisation of establishment cost of Rs. 6.72 lakh.

The Government to whom the cases were reported in September 2007 stated in July 2008 that in one case involving Rs. 3.77 lakh the matter had been forwarded to the Collector, South 24 Parganas for initiation of certificate case and in the other case involving Rs. 2.95 lakh, the licensee had applied for surrender of licence in December 2005 which was under examination of EC. Report on further development has not been received (September 2008).

⁴ M/s Karan Chand Thapper & Co. Ltd. and M/s White Field Beverages (P) Ltd.