

CHAPTER-V
STATE EXCISE

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5.1 Tax administration

The Secretary, Finance (Revenue) is the administrative head of the State Excise Department (Department) at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided in seven zones which are headed by the Additional Excise Commissioners (AECs). District Excise Officers (DEOs) and Excise Inspectors working under the AECs of the respective zones are deputed to monitor and regulate levy/collection of excise duties and other levies.

5.2 Internal audit

The Department has an Internal Audit Wing under the charge of Financial Advisor. This wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of last five years of internal audit is as given in **Table 5.1** below:

Table 5.1

Year	Units pending	Units added during the year	Total units	Units audited during the year	Units remaining unaudited	Percentage of units remaining unaudited
2015-16	0	41	41	37	4	10
2016-17	4	41	45	40	5	12
2017-18	5	44	49	28	21	43
2018-19	21	44	65	19	46	71
2019-20	46	44	90	17	73	81

Source: Information provided by the State Excise Department.

Thus, it can be seen that the percentage of units remaining unaudited has increased significantly.

Year-wise break up of outstanding paragraphs of internal audit reports is as given in **Table 5.2** below:

Table 5.2

Year	1995-96 to 2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	Total
Paragraphs	176	92	123	178	192	-	761

Source: Information provided by the State Excise Department.

Thus, 761 paragraphs were outstanding at the end of 2019-20 of which 176 paragraphs were outstanding for more than five years. Lack of action by the

Department and resultant huge pendency of paragraphs defeats the very purpose of internal audit.

The Government may consider strengthening the functioning of the Internal Audit Wing, ensure audit of pending units and take appropriate measures on outstanding paragraphs for plugging the leakage of revenue and for ensuring compliance with the provisions of the Act/Rules.

5.3 Results of audit

There are 108 auditable units (including 54 implementing units) in the State Excise Department, out of which audit selected 40 units (including 18 implementing units) for audit. However, due to COVID-19 epidemic, 39 units (including 18 implementing units) could be audited during the year 2019-20. The records of these units including 4173 retail licensees (out of total 7195 licensees) were analysed along with scrutiny of 10,900 cases. It disclosed 2881 cases (approximate 26 per cent of sampled cases) of non/short realization of excise duty, license fee, special vend fee, interest on delayed payment, loss of excise duty on account of excess wastages of spirit/liquor/beer and other irregularities involving ₹ 28.89 crore. These cases are illustrative only, based on the audit of the records of these selected units. Audit pointed out similar omissions in previous years, however, not only these irregularities persist but also remain undetected till the conduct of the subsequent Audit. Irregularities noticed broadly fall under the following categories as given in **Table 5.3** below:

Table 5.3

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
1	Non/short realization of excise duty and license fees	506	25.19
2	Non/short realization of Special Vend Fees on IMFL/Beer	366	2.96
3	Loss of excise duty on account of excess wastage of spirit/liquor/beer	207	0.15
4	Non-recovery of interest on delayed payment	36	0.16
5	Other irregularities		
	Revenue	369	0.42
	Expenditure	1397	0.01
	Total	2881	28.89

The Department accepted deficiencies in 604 cases involving ₹ 19.59 crore, of which 318 cases involving ₹ 18.38 crore had been pointed out in audit during 2019-20 and the rest in earlier years. The Department recovered ₹ 2.26 crore in 332 cases of which 46 cases involving ₹ 1.05 crore had been pointed out in audit during the year 2019-20 and the rest in earlier years.

The State Government accepted and recovered the entire amount of ₹ 37.50 lakh in two cases (pertaining to Office of the DEO Sikar) of short realisation of additional fees for renewal of distillery license after it was pointed out by the Audit. Further, the State Government accepted and adjusted ₹ 50.04 lakh out of Security deposit in 19 cases (pertaining to Office of the DEO, Jaipur

City) of non-realisation of difference amount due to short lifted quantity of country liquor after they were pointed out by the Audit (May 2020), while ₹ 1.83 lakh remained unrecovered in one case. These paragraphs have not been discussed in the Report.

Few illustrative cases involving ₹ 26.21 crores in the audited units of the Department are discussed in the succeeding paragraphs. It is pertinent to mention that most of these issues have been raised earlier and published in the CAG's Audit Report (Revenue Sector) of previous years wherein the Government accepted the observations and initiated action/recoveries. However, it is seen that the Department took action only in cases which were pointed out by audit and failure to strengthen the Internal Control system led to recurrence of same issues in subsequent years.

5.4 Non-recovery of additional amount from retail-off licensees

DEOs did not issue notices to licensees for short lifted quantity of IMFL and Beer and failed to recover the additional amount

According to para 3.10 and 4.6 of the Rajasthan State Excise and Temperance Policy (Policy) 2016-17, an additional amount was to be charged quarterly at the rate of ₹ 10 per Bulk Litre (BL) on short lifted quantity of Indian Made Foreign Liquor (IMFL) and Beer during 2016-17 by retail-off licensees¹ who did not increase lifting of IMFL and Beer upto minimum 10 *per cent* during each quarter of current year in comparison to the same quantity lifted in the corresponding quarters in the previous year. Shop-wise calculation of such short lifted quantity was to be done at the end of each quarter. According to para 3.20 and 4.6 of the Policy 2017-19, rates of the additional amount were revised to ₹ 20 per BL of IMFL and ₹ 10 per BL of Beer on short lifted quantity during 2017-19.

Further, as per directions issued (27 June 2016) by the Excise Commissioner (EC), recovery of additional amount as per prescribed rate on short lifted quantity was to be ensured at the level of concerned District Excise Officer (DEO).

During test check (between July 2019 and January 2020) of the records of seven Offices of DEO² for the year 2015-19, it was noticed that 295 licensees did not enhance lifting of IMFL and Beer upto minimum 10 *per cent* during 2016-19 in comparison to the previous year and were thus liable to pay, the additional amount of ₹ 2.65 crore. In compliance with the directions, *ibid*, the DEOs should have calculated the additional amount for each retail-off licensee and issued notice to the concerned licensee within seven days of completion of quarter. The DEOs concerned were also responsible to ensure that the additional amount had been deposited within seven days of the issue of notice. However, the concerned DEOs neither issued notices to the licensees nor realised the

1 Retail-off means retail sale of liquor in sealed pack containers and not to be consumed in the premises of the retailer.

2 DEOs: Banswara, Jaipur City, Udaipur, Ajmer, Jodhpur, Pali and Sikar.

additional amount. On being pointed out, the Office of the DEO, Jaipur City recovered (between August 2019 and October 2019) an amount of ₹ 5.72 lakh. Therefore, additional amount of ₹ 2.59 crore remained unrecovered.

The matter was reported to the State Government (July 2020). The Government replied (July and August 2020) that an amount of ₹ 0.89 crore has been recovered against the objected amount and instructions have been issued to the concerned DEOs for the recovery of remaining amount. Further progress is awaited (March 2021).

5.5 Short realisation of composite fees

Incorrect calculation of composite fee for shops of peripheral area resulted in short realisation of revenue

According to the Rajasthan Excise and Temperance Policy (Policy) 2016-17, 2017-18 and 2018-19 and Rule 67-I and 67-kkk of the Rajasthan Excise (RE) Rules 1956, settlement of country liquor (CL) shops/groups is done on exclusive privilege amount (EPA)³ by inviting applications. A notice for invitation of applications for grant of CL licenses is issued by the Excise Commissioner prescribing the number of proposed country liquor shops/groups in the district with its EPA, composite fees, and earnest money and application fees.

According to the policy *ibid*, CL shops of rural area are classified in different categories. The CL shops of villages located within five kilometers radius of the municipal area are categorised as 'composite shops of peripheral area'. The villages of such peripheral area are further categorised as 'A' and 'B' with the composite fee for respective categories prescribed in the policy. Composite fee for shops of category 'A' for the years 2016-17, 2017-18 and 2018-19 was fixed as equal to 6 per cent of annualised billing amount of Rajasthan State Beverage Corporation Limited (RSBCL) during previous year or annual license fee prescribed for IMFL/Beer shop situated in concerned municipal area, whichever was higher. The composite fee for category 'B' shops for the years 2016-17, 2017-18 and 2018-19 was fixed as equal to 6 per cent of annualised billing amount of RSBCL during previous year or 50 per cent of annual license fee prescribed for IMFL/Beer shop of concerned municipal area or ₹ 50,000, whichever was higher.

During test check (between July 2019 and February 2020) of records of six⁴ Offices of the DEO, for the years from 2015-16 to 2018-19, it was noticed that 16 CL shops of eleven groups, were categorised as shops of peripheral area. Scrutiny of the relevant records disclosed that composite fees prescribed in the notices for invitation of applications for such groups/shops was less than the amount for their respective categories as per policy. This resulted in short realisation of revenue amounting to ₹ 1.23 crore

3 EPA: The amount to be charged by the Excise Department from country liquor groups/shops for exclusive right to trade in liquor in the specified area is called EPA.

4 DEOs Jaipur City (one group-one shop), Chittorgarh (one group-one shop), Udaipur (three groups- four shops), Ajmer (two groups-four shops), Bharatpur (one group-two shops) and Sikar (three groups – four shops).

The matter was reported to the State Government (July 2020). The Government replied (July and August 2020) that efforts are being made to recover the objected amount by the concerned DEOs. Further progress is awaited (March 2021).

5.6 Short recovery of license fee

Lack of proactive action by the Department led to short recovery of license fee from hotel bar licensees

According to Rajasthan Excise (Grant of Hotel Bar/Club Bar licenses) Rules, 1973, hotels were broadly categorised in three categories *i.e.* luxury, heritage and others. Rule 2 (aa)⁵ of the rules *ibid*, stipulates that ‘*Heritage Rajasthan Hotel*’ means any hotel so recognised by the State Government or by any other authority/committee authorised specifically for this purpose by the State Government. Heritage hotels are further classified into categories ‘A’, ‘B’ and ‘C’. Rates of basic license fee for hotel bar license for a year or part thereof were prescribed for each category of hotels *i.e.* heritage/other hotels under Rule 3 *ibid*.

Scrutiny of records (between January 2020 and March 2020) for the period 2015-19 of two Offices of the DEO⁶ disclosed short recovery of license fee of ₹ 31 lakh from hotel bar licensees in six cases as follows:

(i) Two bars (DEO, Pali) since 2012-13 and one bar (DEO, Jhunjhunu) since 2016-17 were operated in hotels which were not categorised as heritage hotels. However, the licenses of these hotel bars were renewed by the concerned authorities for the period 2016-17 to 2018-19 by recovering the license fee applicable for heritage hotels under category ‘C’ instead of license fee recoverable under the category of ‘other hotels’.

(ii) In other three cases, three bars in hotels having more than 25 rooms were situated in the municipal limits. However, the competent authorities renewed the licenses of these hotel bars for the period 2016-17 to 2018-19 after recovery of license fee applicable for hotels having upto 25 rooms.

Thus, the licensees were liable to pay license fee of ₹ 90.00 lakh but the incorrect categorization of hotel bars resulted in short recovery of license fee of ₹ 31.00 lakh.

The matter was reported to the State Government (August 2020). The Government replied (September 2020) that ₹ 8.00 lakh has been recovered from a unit under the jurisdiction of DEO, Pali and instructions have been issued to the concerned DEOs for the recovery of remaining amount. Further progress is awaited (March 2021).

⁵ Inserted *vide* notification dated 31 January 2012.

⁶ DEOs: Pali and Jhunjhunu.

5.7 Non- maintenance of minimum norms for production of beer

Short recovery of penalty on non-maintenance of minimum yield efficiency by the breweries for production of beer

According to Rule 34 (A) of the Rajasthan Brewery Rules, 1972, every brewer shall be responsible for maintaining minimum yield of 650 litres of mild beer or 490 litres of strong beer for every 100 kilograms of malt and other raw material used. Further, the EC may impose penalty of ₹ 10 per litre in case of shortage in yield of beer unless it is proved by the brewer that failure was not deliberate and due precautions were taken by him to maintain the specified scale of yield for beer. Furthermore, if brewer repeatedly fails to maintain minimum scale of yield for beer as specified, the EC may, after giving an opportunity of being heard, cancel or suspend the license of such brewer. Further, Department also directed (August 2019) all the DEOs to ensure compliance of the Rule *ibid* with effective supervision and continuous monitoring.

Test check of records (November 2019) of six breweries under the jurisdiction of Offices of the DEO Alwar and DEO (Production units), Behror, revealed that these units did not achieve the norms of minimum yield efficiency of beer. These units produced 33.12 lakh BL mild beer from 6.44 lakh kilogram of raw material used in 158 number of short yield brews out of total 389 mild brews. Similarly, 1686.54 lakh BL strong beer was produced from 373.58 lakh kilogram of raw material used in 6,465 number of short yield brews out of 8,855 strong brews. As per norms, minimum yield efficiency of beer should have been 1,872.41 lakh BL (mild beer 41.85 lakh BL and strong beer 1830.56 lakh BL) from the raw material used. Thus, the brewers failed to maintain the minimum yield efficiency of beer which resulted in short production of 152.75 lakh BL of beer. The Department recovered penalty of ₹ 7.34 crore against the total imposable penalty of ₹ 15.28 crore on short production of beer resulting in short recovery of ₹ 7.94 crore.

It is also pertinent to mention here that out of these six breweries, five were the same as commented on in the para 6.4.7.3 of CAG's Audit Report (Revenue and Economic Sectors) for the year ended 31 March 2019. However, the Department did not take action for cancellation of licenses of breweries which have repeatedly failed to maintain minimum scale of yield for beer as specified.

The matter was reported to the Government in June and September 2020. In its reply (November 2020) the Government stated that penalty of ₹ 18.12 lakh in respect of four breweries has been recovered. The remaining two breweries are producing High Gravity Beer (HGB), therefore, a committee at the departmental level has been constituted to suggest the norms for HGB as the norms for production of HGB have not been determined. One of these two breweries had filed a petition in the Hon'ble Rajasthan High Court and the court had stayed the recovery process.

The reply is not acceptable as the norms regarding HGB should have been determined before grant of the permission for production of HGB. Further progress is awaited (March 2021).

5.8 Non-forfeiture of Security Deposit and advance EPA

Non-forfeiture of Security Deposit and advance Exclusive Privilege Amount from Country Liquor groups led to loss of revenue

Rule 67-I of Rajasthan Excise Rules, 1956 provides that license for the exclusive privilege of selling CL by retail within any local area may be granted by inviting applications on condition of payment of EPA as may be decided by the Excise Commissioner (EC). The Rajasthan Excise and Temperance Policy 2017-18 and 2018-19 (Policy) provided the option to CL groups licensed for the year 2017-18 of renewal of their licenses for the year 2018-19 on payment of renewal fees equal to 16 *per cent* of EPA prescribed for 2018-19 whereas the licenses for the remaining groups were to be granted by inviting applications. The successful applicants were required to deposit the Security Deposit (SD) and advance EPA in the state exchequer within the prescribed time.

Para 3.5 of the Policy provided that a licensee of CL groups had to deposit 18 *per cent* of prescribed annual amount of the group in the form of advance EPA before the commencement of license period. Further, Para 3.6 of the policy provided that 8 *per cent* of the amount in the form of SD would be deposited in cash as per the conditions of application. Accordingly, condition 9 of application stipulated that in case of default at any stage, the selection of shop would be cancelled and amount of EMD, SD and advance EPA deposited till that stage would be forfeited. As per the directions issued (January 2018) by the EC, these shops would be resettled by inviting fresh online applications.

During scrutiny (July 2019) of records at Offices of the DEO, Jaipur (City) for the period 2018-19, it was noticed that licenses of 66 CL groups were granted by inviting applications. Out of these, three licensees deposited only ₹ 4.36 lakh as the SD upto the deadline of 31 March 2018 instead of the prescribed amount of ₹ 34.65 lakh. However, the concerned DEO office, instead of cancelling the license of these shops/groups and forfeiting the SD and advance EPA, allowed the remaining SD to be carried forward to the next year in contravention of the policy provisions which caused a loss of revenue of ₹ 77.31 lakh⁷.

The matter was reported to the State Government (October 2020). The Government replied (December 2020) that clarifications are being sought from the concerned DEOs offices and instructions are being issued to all the DEOs to ensure the compliance of conditions of settlement in future. Further progress is awaited (March 2021).

⁷ ₹ 77.31 lakh: Advance EPA ₹ 72.95 lakh and security deposit ₹ 4.36 lakh

5.9 Short realisation of Monthly Guarantee Amount

Short realisation of Monthly Guarantee Amount from Country Liquor licensees led to loss of revenue

According to the Rajasthan Excise and Temperance Policy 2017-19 (Policy), settlement of CL shops/groups was to be made on the basis of EPA. The licensee of CL shop/group was liable to pay the EPA prescribed for his license period in the form of excise duty on CL. Further, as per the conditions of CL retail sale license, the licensee was to pay the annual EPA fixed for the prescribed group/shop in twelve equal monthly installments in the form of monthly guarantee amount. The monthly installment is to be paid by the last date of that month. If a licensee failed to lift the minimum monthly quota of CL, he was liable to pay the difference of excise duty in cash.

During scrutiny of the records of eight District Excise Officers (DEOs)⁸ for the period 2015-19, it was noticed (between July 2019 and March 2020) that during 2018-19, 240 out of 1736 licensees, lifted CL worth ₹ 82.43 crore against the quota of ₹ 95.53 crore fixed for the concerned months. Similarly, during 2017-18, in case of two DEOs⁹, 34 out of 407 licensees lifted CL worth ₹ 1.13 crore against the quota of ₹ 1.40 crore fixed for the concerned months. The concerned DEOs, however, did not recover the differential amount which resulted in short realisation of monthly guarantee amount of ₹ 13.37 crore.

This issue has been raised earlier also and was published as para 6.4.10.2 in the CAG's Audit Report (Revenue and Economic Sectors) for the year ended 31 March 2019 wherein the Department accepted the observations and initiated action/recoveries and had also stated that the required provision will be introduced in the Integrated Excise Management System (IEMS) which would facilitate the recovery of shortfall of monthly guarantee amount from CL retail off licensees.

The matter was reported to the State Government (October 2020). The Government replied (December 2020) that out of ₹ 13.37 crore, ₹ 3.88 crore has been recovered. Further, the government has also stated that provision to facilitate the recovery of shortfall of monthly guarantee has been introduced in the IEMS. Further progress of recovery is awaited (March 2021).

8 DEOs Ajmer, Alwar, Jaipur City, Sikar, Jodhpur, Bikaner, Bundi and Jhunjhunu.

9 DEOs Bikaner and Jodhpur.