

## Chapter IV: State Excise Duties

### 4.1. Results of audit

Test check of records of State Excise Department during the year 2006-07, revealed irregularities amounting to Rs 79.78 crore in 29 cases which broadly fall under the following categories:

(In crore of rupees)

Sr. No.	Category	Number of cases	Amount
1.	Loss of excise duty due to sub normal yield of spirit from molasses	6	6.03
2.	Outstanding recovery of excise duty	3	5.03
3.	Other irregularities	19	4.97
4.	Review on " <b>Auction of vends and sale of liquor</b> ".	1	63.75
<b>Total</b>		<b>29</b>	<b>79.78</b>

During the year 2006-07, the department accepted audit observations involving Rs. 9.89 crore in 18 cases and recovered Rs.44.94 lakh in five cases pertaining to audit findings of earlier years.

The results of review "**Auction of vends and sale of liquor**" and a few illustrative cases highlighting irregularities involving financial effect of Rs. 64.21crore are given in the following paragraphs:-

## **4.2 Auction of vends and sale of liquor**

### **Highlights**

Short fall in licence fee of Rs.54.72 crore despite the fact that quota of country liquor had increased in 122 vends during the years 2001-02 to 2004-05 .

*(Paragraph 4.2.9)*

Short lifting of 7.86 lakh proof/bulk litres of quota of Punjab medium liquor/Indian made foreign liquor/beer resulted in non recovery of additional licence fee of Rs. 1.37 crore.

*(Paragraph 4.2.10)*

Acceptance of security deposit after 10 April in contravention of the provisions of the Act, resulted in non forfeiture of security deposit of Rs. 7 crore.

*(Paragraph 4.2.11)*

### **4.2.1 Recommendations**

Government may consider the following suggestions for effective realisation of revenue:-

- prescribe procedure in excise policy for forfeiture of security deposit in case of delay in payment of security after 10 April,
- ensure compliance of Financial Rules regarding remittance of Government receipts, and
- strengthen internal control mechanism to ensure regular monitoring of determination and collection of demand of excise duty.

#### **4.2.2 Introduction**

The auction of vends and sale of liquor in Punjab State is governed under the Punjab Excise Act, 1914 (Act) and the Rules framed thereunder and the Punjab Excise Fiscal Orders, 1932. The auction is controlled by Excise and Taxation Department who frame and implement the excise policy. Auction of vends is held in the month of March every year for allotment of vends for the succeeding financial year. Issue of licence for wholesale and retail sale of Punjab medium liquor (PML) and Indian made foreign liquor (IMFL) are regulated under Punjab Liquor Licence Rules, 1956 (PLL Rules). For sale of PML, licence (form L-13) is issued to a wholesaler on payment of fixed fee, whereas for retail sale, vends are auctioned every year for a fixed quota of liquor (PML). The successful bidder is allotted the vend and is also issued a licence in form L-14A.

For the sale of IMFL, supply to retail vends is arranged through wholesale licence (form L-I), on payment of fixed amount of fee. The retail vends (form L-2) are auctioned together with vends (form L-14A) in mixed groups for a combined licence fee.

As per instructions contained in the excise policy framed by State Government every year, licenses of vends for PML are granted by auction. A successful bidder is required to deposit by way of security 15 *per cent* of the amount of licence fee, of which 10 *per cent* is to be deposited at the fall of hammer and five *per cent* by 27/28 March for the years 2001-02 to 2003-04. Five *per cent* security is required to be deposited at the fall of hammer and five *per cent* upto 25 March and the remaining five *per cent* amount by 31 March for the years 2004-05 and 2005-06. The balance 85 *per cent* licence fee is payable in nine equal monthly instalments by last working day of each month starting from the month of April.

#### **4.2.3 Organisational set up**

Subject to overall control and superintendence of the Excise and Taxation Commissioner (ETC) Patiala, the administration of the State Excise Act is carried out by Additional Excise and Taxation Commissioner at Patiala and five Deputy Excise and Taxation Commissioners (DETCs) at Faridkot, Ferozepur, Jalandhar, Ludhiana and Patiala who arrange auction/reaction of vends in their respective areas and exercise the powers of collectors for recovery of excise revenue. Twenty one Assistant Excise and Taxation Commissioners (AETCs) monitor the work at the district level who are assisted by Excise and Taxation Officers (ETOs) and other allied staff.

#### **4.2.4 Scope of audit**

With a view to examine the correctness of implementation of excise policies, provisions of Punjab Excise Act, Rules and executive instructions issued from time to time for collection of excise revenue, the records relating to auction of vends and sale of liquor for the years 2001-02 to 2005-06 of ETC, three

DETCs (Jalandhar, Ludhiana and Patiala) and 11 AETCs\* were test checked between July and December 2006.

#### **4.2.5 Audit objectives**

Test check of the records of Commissioner/DETCs/AETCs was conducted with a view to ascertain :

- Lacunae in the provisions of Act/Rules/instructions for the purpose of prompt recovery of excise duty;
- compliance of the prescribed rules and procedure with consequent revenue loss in the event of deviation thereof; and
- existence of internal control mechanism to avoid leakage of revenue.

#### **4.2.6 Trend of revenue**

The budget estimates and actuals under state excise duty during 2001-02 to 2005-06 were as under:

(In crores of rupees)

Year	Budget estimates	Actuals	Variations excess (+) shortfall (-)	Percentage of variation
2001-02	1,400	1,350.06	(-) 49.94	(-) 4
2002-03	1,440	1,428.91	(-) 11.09	(-) 1
2003-04	1,500	1,462.79	(-) 37.21	(-) 2
2004-05	1,525	1,486.62	(-) 38.38	(-) 3
2005-06	1,525	1,568.16	(+) 43.16	(+) 3

#### **4.2.7 Internal control**

The Excise Act and Rules made thereunder provide for submission of periodical returns (monthly, quarterly) to facilitate monitoring of receipt and collection of excise duty/licence fee, stock register, account of receipts and sales (L-22). The competent authority is required to review the returns and initiate proceedings within the prescribed period against the defaulting licencees for delay in submission of returns.

Scrutiny of records maintained by the 11 AETCs test checked revealed that prescribed records/registers were not maintained to monitor various receipts under the Act. In the absence of these basic records, correctness of the levy/recovery of excise duty and additional licence fee etc. could not be verified in audit.

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\* Amritsar I, Faridkot, Ferozepur, Hoshiarpur, Jalandhar II, Kapurthala, Ludhiana III, Moga, Nawanshahr, Patiala and Sangrur.

#### 4.2.8 Internal audit system

An internal audit organisation (IAO) was set up in October 1981 as an independent organisation under the State Finance Department and was entrusted *inter alia* with the internal audit of receipts to safeguard against any loss or leakage of revenue arising under the various revenue heads including excise duty. By a notification of November 1991, the focus of audit was shifted from revenue to expenditure audit. However, Government in December 2004 again introduced internal audit of excise duty.

Scrutiny of records disclosed that 63 audit notes containing 158 paragraphs involving Rs.8.93 crore, pertaining to the period prior to December 2004, were pending as on 31 March 2006.

#### 4.2.9 Shortfall in licence fee

As per the PLL Rules, the collector shall determine minimum annual licence fee/reserve bid for each group of vends or vend, having regard to estimated sale and other incidental factors pertaining to each vend or group of vends, as the case may be, and the minimum licence fee calculated keeping in view the licence fee of the preceeding year and other relevant factors such as location, sale and population etc. No specific provisions have been made in the excise policy for fixing the annual licence fee/reserve bid.

**4.2.9.1** Test check of records of five\* divisions revealed that the licence fee for the vend or group of vends put to auction in the same location was lesser than the licence fee realised during previous years as detailed below:

(In crore of rupees)

Name of the division	Year	No. of vends	Quota of country liquor (in lakh of proof litres)		Licence fee realised		Short realisation of licence fee
			Previous year	Current year	Previous year	Current year	
Patiala	2001-02 to 2002-03 2004-05	31	72.51	73.25	192.22	182.31	9.91
Fatehgarh Sahib	2002-03 to 2004-05	7	-	-	20.19	19.21	0.98
Ludhiana	2001-02	22	55.17	55.71	166.50	147.38	19.12
Moga	2001-02 and 2004-05	5	11.89	11.98	26.55	25.56	0.99
Doraha	2002-03	1	1.65	1.68	3.74	2.93	0.81
Jalandhar	2001-02 to 2004-05	27	52.29	54.46	163.45	153.05	10.40
Faridkot	2002-03	2	3.84	3.86	7.87	7.72	0.15
Ferozepur	2003-04 to 2004-05	6	9.88	9.95	24.70	24.00	0.70
<b>Total</b>		<b>101</b>	<b>207.23</b>	<b>210.89</b>	<b>605.22</b>	<b>562.16</b>	<b>43.06</b>

Above table shows that in five divisions, licence fee realised was lesser than that of previous years by Rs 43.06 crore due to non observance of PLL Rules

\* Faridkot, Ferozepur, Jalandhar, Ludhiana and Patiala.

at the time of auction despite the fact that quota of country liquor had increased in 101 vends during the years 2001-02 to 2004-05.

**4.2.9.2** Test check of records of two divisions (Ludhiana and Jalandhar) revealed that licence fee was short realised during 2001-02 and 2003-04 to 2004-05 as compared to the previous years. Further scrutiny in audit disclosed that decrease in licence fee in percentage (from 3.71 per cent to 27.32 per cent) was higher than the decrease in percentage in quota (from 0.10 per cent to 22.10 per cent) issued to 17 vends during these years. This resulted in shortfall of licence fee of Rs. 9.59 crore.

**4.2.9.3** During test check of records of Ludhiana division for the years 2001-02 to 2002-03 and 2004-05, it was noticed that there was increase in the PML quota (ranging from 3.76 per cent to 16.72 per cent) as compared to previous year whereas the decrease in licence fee in four vends ranged from 1.02 per cent to 8.76 per cent during this period. Though there was an increase in quota even then there was a shortfall in licence fee of Rs. 2.07 crore.

After this was pointed out, DETCs Ludhiana and Jalandhar stated that no reserve price was fixed as there was no criteria for fixing the reserve price before putting the vends to auction. The reply is not acceptable, as the licence fee was required to be determined under PLL Rules.

**4.2.10 Non recovery of additional licence fee on left over quota**

As per excise policy for the years 2004-05 and 2005-06, the licensee shall have to lift the quota of IMFL, PML and beer as fixed for his vend. Further, the entire quota is to be lifted by the licensee before specified date in March every year, failing which excise duty as additional\* licence fee was payable by the licensee between 18 and 25 March every year.

Test check of records of three districts revealed that quota of PML, IMFL and beer was short lifted as tabulated below:

District	Year	Kind of liquor	Quota fixed	Quota lifted	Quota short lifted	Additional licence fee recoverable
			(Quantity in lakhs of proof/bulk litre)			(In lakh of rupees)
Jalandhar-II	2004-05	IMFL	10.91	8.16	2.75	107.25
	-do-	PML	18.96	16.45	2.51	10.04
	-do-	Beer	0.97	0.62	0.35	3.50
	-do-	Beer	1.32	0.81	0.51	5.10
Hoshiarpur	-do-	PML	17.50	16.39	1.11	4.44
Ferozepur	-do-	Beer	2.07	1.74	0.33	3.30
	2005-06	-do-	1.71	1.41	0.30	3.00
<b>Total</b>						<b>136.63</b>

It would be seen from the above table that quota of IMFL (2.75 lakh proof litre), PML (3.62 lakh proof litre) and beer (1.49 lakh bulk litre) was short

\* IMFL – Rs. 39 per proof litre during 2004-05 and 2005-06.  
PML – Rs. 4 per proof litre during 2004-05 and 2005-06.  
Beer – Rs. 10 per bulk litre during 2004-05 and 2005-06.

lifted during the years 2004-05 and 2005-06. This resulted in non recovery of additional licence fee of 1.37 crore.

#### **4.2.11 Non forfeiture of security deposits**

As per excise policy for the year 2001-02, a successful bidder was required to deposit security equivalent to 10 *per cent* of the highest bid at the fall of hammer and remaining five *per cent* by 28 March 2001. However, date of payment, if requested by licensee could be relaxed by Excise Commissioner till 10 April with interest. Thereafter no relaxation was available and license was deemed to have been cancelled and security deposit paid was liable to be forfeited.

Test check of records of three \*AETCs for the year 2001-02 revealed that AETCs accepted the security deposit from 10 licencees after 10 April in contravention of the provisions of the excise policy. This was incorrect and resulted in non forfeiture of security deposit of Rs. 7 crore.

After this was pointed out, AETC Patiala stated that the bid was not cancelled in the interest of revenue. The reply was not tenable as it resulted in departure from the provisions of the excise policy which was incorrect.

#### **4.2.12 Short realisation of renewal fee**

Under the Punjab Excise Bonded Warehouse Rules, 1957 as amended from time to time, the license for a bonded warehouse is granted for a year and renewed on or before 31 March each year. The rate of renewal of license fee was Rs. 1 lakh upto 28 March 2003 and Rs. 2 lakh thereafter. However, the excise policy for the year 2003-04 to 2005-06 provided for renewal fee of Rs.1 lakh only against prescribed fee of Rs. 2 lakh by Government.

It was noticed that licences of 18 bonded warehouses were renewed between April 2003 and March 2006 at the rate of Rs. 1 lakh each. This resulted in short realisation of renewal fee of Rs. 54 lakh from 18 bonded warehouses.

#### **4.2.13 Retention of Government receipts out of account**

**4.2.13.1** Under the State Treasury Rules, all money received by or tendered to Government servants on account of revenue of the State Government shall, without undue delay, be paid in full into treasury or bank on the same day or by next working day. Further, all money transactions should be entered in the cash book as soon as they occur and attested by the head of the office in token of check and correctness.

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\* Ludhiana III, Patiala and Sangrur.

Test check of records of four\* AETCs for the years 2001-02 to 2004-05, revealed that 10 bank drafts of Rs.13.99 crore were received between 16 March 2001 and 20 March 2005 on account of security deposit on the spot at the time of auction. These drafts were deposited in Government account with delay ranging from 5 to 126 days. Thus, non observing the provisions of Financial Rules by the authorities, resulted in retention of receipts outside Government account and loss of interest of Rs.6.63 lakh (calculated at Government borrowing rate of interest).

After this was pointed out, AETCs Sangrur and Moga admitted the lapse, AETC Ludhiana III stated that there was no provision to charge interest on late payment of licence fee during the year 2001-02 under the excise policy. The reply of AETC Ludhiana III is not relevant as the bid money was paid by the licensee well in time, however, the delay in remittance was caused by the department while no reply was furnished by AETC Kapurthala.

**• Non reconciliation of deposits**

**4.2.13.2** Punjab Financial Rules, Vol-I provide that departmental receipts collected and remitted into treasury during the month be reconciled by officer incharge with the figures appearing in the treasury records by 15<sup>th</sup> of the next month and discrepancy, if any, reconciled.

It was noticed that AETC Ferozepur deposited an amount of Rs. 77.25 crore into treasury during the year 2005-06. Neither the daily collection register (DCR) was maintained to verify the deposit with the treasury nor the reconciliation was done by AETC. Non reconciliation may lead to embezzlement and frauds which would remain undetected.

**4.2.14 Issue of beer without levy of excise duty**

Under the Act, excise duty is leviable subject to such rules regulating the time, place and manner as the Financial Commissioner may prescribe. Such duty shall be levied rateably, on the quantity of excisable article imported, exported, transported, collected or manufactured or issued from a distillery, brewery or warehouse. As per Excise Policy for the year 2001-02, excise duty at the rate of Rs.12 per bulk litre on beer having alcoholic contents above 5.25 to 8.25 *per cent* was payable in advance by the licensee.

Test check of records of AETC Faridkot for the year 2001-02 revealed that 38,160 bulk litres of beer having alcoholic contents above 5.25 to 8.25 *per cent* was issued by distilleries to seven licensees between September 2001 and March 2002 without payment of excise duty in advance. Thus, issue of permits by the AETCs without advance receipt of excise duty from licensees, resulted in issue of beer without levy of excise duty of Rs.4.58 lakh .

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\* Kapurthala, Ludhiana III, Moga and Sangrur.

#### **4.2.15 Conclusion**

The lapses enumerated above indicate, loss of revenue due to improper fixation of reserve bid money, short levy/non recovery of excise revenue, delay in credit of revenue into Government account and non reconciliation of remittances with treasury books. The department should develop a strong internal control system to check the deficiencies and lapses in implementation of the various provisions of the Act/policies so that the excise revenue due to Government is collected forthwith.

#### **4.2.16 Acknowledgement**

The audit findings as a result of review were reported to department/ Government in March 2007 with a specific request to attend the meeting of Audit Review Committee (ARC). The meeting was held on 16 May 2007 and attended by the Financial Commissioner and Principal Secretary to Excise and Taxation Department, but replies thereof were awaited (August 2007).

#### **4.3 Sub normal yield of spirit from molasses**

The Punjab Distillery Rules 1932, (Distillery Rules) envisage that one quintal of molasses should yield 36.61 proof litres of spirit.

During test check of records of four\* distilleries, it was noticed between December 2005 and December 2006 that 108.54 lakh proof litres of spirit was produced during the year 2004-05 and 2005-06 from 3.13 lakh quintals of molasses as against envisaged yield of 114.40 lakh proof litres of spirit. Had the norms for yield of spirit been achieved, Government would have earned excise duty of Rs. 1.36 crore on additional yield of 5.86 lakh proof litres of spirit.

After this was pointed out in audit, Excise and Taxation Officers (ETOs), Patiala and Randhawa, (Hoshiarpur) stated that matter would be examined and reply would be given later on, ETO Hamira (Kapurthala) stated that reply would be sent after consultation with higher authorities, whereas ETO Main (Patiala) intimated that recovery of sugar from sugarcane has increased a lot thereby resulting in decrease in sugar contents in molasses and consequently decrease in production of spirit. The replies are not acceptable as Government has prescribed the norms of yield of spirit in its rules after due consideration of all these factors.

The matter was brought to the notice of department and referred to Government between January and March 2007; replies are awaited (August 2007).

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\* M/s AB Sugar Ltd Dasuya (Hoshiarpur), Hamira Distillery Hamira (Kapurthala), M/s Patiala Distillers & Manufacturer Ltd. Vill Main (Patiala ) and M/s Patran Distillery (Patiala).

**4.4 Non realisation of cost of establishment charges**

Under Distillery Rules, the licensee shall make into the Government treasury such payment as may be demanded by the Commissioner on account of the salaries of Government excise establishment posted to distillery.

During test check of records of eight distilleries\*, it was noticed between August and October 2006 that demand on account of cost of establishment charges amounting to Rs. 47.10 lakh for the year 2005-06 was not raised which resulted in non realisation of cost of establishment charges of Rs. 47.10 lakh.

After this was pointed out, ETO Main (Patiala) stated that matter regarding recovery would be taken up by concerned AETC, while ETO Khalsa (Amritsar) stated that matter would be taken up with higher authorities. Replies from other ETOs are awaited (August 2007).

The matter was brought to the notice of department and referred to Government between January and March 2007; replies are awaited (August 2007).

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\* Bottling Plants Dera Bassi Bhankarpur, Chandigarh Distillery Banur, Dasuya Distillery Dasuya, Hamira Distillery Hamira (Kapurthala), M/s Khalsa Distillery Co. Khalsa (Amritsar), M/s Patiala Distillers & Manufacturer Ltd. Vill Main (Patiala), Picadilly Distillery Patran (Patiala) and VRV Brewery Mirthal distillery Pathankot.