

CHAPTER IV: STATE EXCISE

4.1 Tax administration

The Additional Chief Secretary, Excise, Registration, Taxation and Stamps (ERTS) Department is the head of the Excise Department at the Government level. At the Department level, the Commissioner of Excise (CE) monitors the functioning of the Department. The implementing authority at the district level is the Superintendent of Excise (SE), who is responsible for the collection of all excise duties and fees as also for the proper functioning of the bonded warehouses and distilleries. The Assam Excise Act and Rules, the Assam Distillery Rules and the Assam Bonded Warehouse Rules (adopted by Meghalaya) regulate all excise related activities including revenue collection in the State. The Excise Department is one of the highest revenue earning departments in the State, after Taxation and Mining & Geology departments.

4.2 Trend of receipts

Actual receipts from excise during the years 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the following table and graph.

Table 1

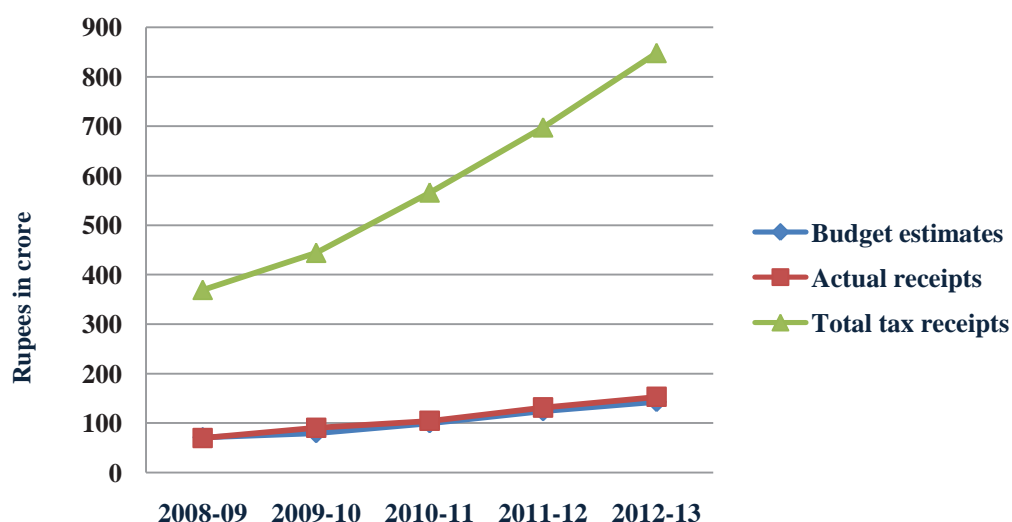
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	71.57	69.79	(-) 1.78	2	369.44	19
2009-10	80.15	90.29	(+) 10.14	13	444.29	20
2010-11	100.14	104.50	(+) 4.31	4	566.07	18
2011-12	124.44	131.50	(+) 7.06	6	697.54	19
2012-13	143.08	153.01	(+) 9.93	7	847.72	18

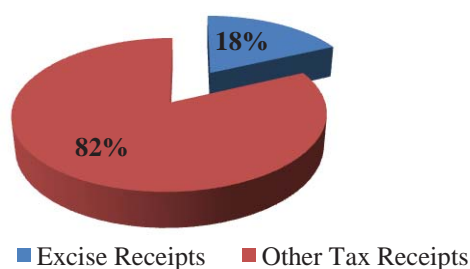
Thus, the percentage variation which was 2 per cent in 2008-09 increased to 13 per cent in 2009-10. However, it had shown correction and had gone down to 6 per cent in 2011-12 and 7 per cent in 2012-13. The variation is within limit and shows that the budget estimates were properly framed.

Excise receipts have consistently been in the range of 18-20 per cent of the total tax receipts of the State for the last five years.

A line graph of budget estimates, vis-à-vis the actual receipts and total tax receipts of the State may be seen below:



Also a pie chart showing the position of actual excise receipts *vis-à-vis* the total tax receipts during the year 2012-13 may be seen below:



4.3 Cost of collection

The following table shows the cost of collection of the Excise Department for the year 2012-13 and the preceding two years:

Table 2

Year	Actual revenue (₹ in crore)	Cost of collection (in crore) ¹	Percentage of expenditure on collection	All India average percentage of preceding years
2010-11	104.50	9.95	9.52	3.64
2011-12	131.50	10.99	8.36	3.05
2012-13	153.01	10.80	7.06	2.98

From the table, it is seen that the cost of collection (expenditure incurred on collection) of the Excise Department during the year and the preceding two years is way above the all India average cost of collection. No reason for the high cost of collection was furnished (December 2013).

The Department needs to take urgent measures to bring down the cost of collection at least to the level of all India average.

¹ Departmental figures

4.4 Impact of audit reports

4.4.1 Revenue impact

During the last five years (including the current year's report), we have pointed out non/short levy, non/short realisation *etc.*, with revenue implication of ₹ 78.83 crore in 23 paragraphs. Of these, the Department/Government had accepted audit observations in seven paragraphs involving ₹ 69.88 crore and had since recovered ₹ 0.55 crore. The details are shown in the following table:

Table 3

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	No.	Amount	No.	Amount	No.	Amount
2008-09	1	68.66	1	68.59	1	0.16
2009-10	8	4.82	2	0.39	2	0.12
2010-11	4	0.99	-	-	-	-
2011-12	4	0.90	4	0.90	2	0.27
2012-13	6	3.46	-	-	-	-
Total	23	78.83	7	69.88	5	0.55

Thus, against the accepted cases involving ₹ 69.88 crore, the Department/Government has recovered an amount of ₹ 0.55 crore which is 0.79 *per cent* of accepted amount.

The Department needs to revamp its revenue recovery mechanism to ensure that they could at least recover the amount involved in the accepted cases.

4.5 Results of Audit

Test-check of the assessment cases and other records of seven units relating to the Excise Department during the year 2012-13 revealed non-realisation of duties, fees *etc.*, amounting to ₹ 4.83 crore in 23 cases, which can be categorised as under:

Table 4

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Short/Non-realisation of fees/duties <i>etc.</i>	19	3.31
2.	Loss of revenue	2	1.52
3.	Other irregularities	2	-- ²
Total		23	4.83

During the year, the Department failed to respond to any of the irregularities brought to their notice.

A few illustrative audit observations involving ₹ 3.46 crore are mentioned in the paragraphs 4.6 to 4.11.

² Non money value paragraphs

4.6 Evasion of excise duty – SE³, Nongpoh

Three bottling plants concealed 117151 BL of ENA and evaded excise duty payment of ₹ 1.51 crore.

In a bottling plant, Extra Neutral Alcohol (ENA) is reduced to 75 per cent proof by adding water. Colour and flavour is then added to the product to get the liquor. The standard norm⁴ of conversion of ENA per case of liquor is as under:

Table 5

Size (in millilitres)	Requirement of ENA in Bulk Litres (BL)
180 ml	3.84 (BL)
375 ml	4.00 (BL)
750 ml	

In Meghalaya excise duty on General Brand of liquor is ₹ 514 per case of 12 bottles of 750 ml or equivalent quantity.

Three bottling plants⁵ received 46,49,221 BL of ENA from outside the State between April 2011 and March 2012. The bottling plants utilised⁶ 46,77,051 BL of ENA for production of 7,44,452 cases of liquor containing 750 ml/375 ml. and 4,12,003 cases of liquor containing 180 ml bottles during the aforesaid period. As per standard norms, 45,59,900 BL of liquor instead of 46,77,051 BL was required to produce the above quantity of liquor. Thus, the bottling plants concealed 1,17,151 BL of ENA from which 29,288 cases of liquor of 375 ml/750 ml bottles⁷ can be manufactured. Thus, failure of the SE⁸ to properly monitor the functioning of the bottling plants led to evasion of excise duty of ₹ 1.51 crore.

The case was reported to the ERTS Department, GOM in November 2012; reply was awaited (December 2013).

4.7 Short-realisation of import pass fee – ACE⁹, Shillong and SEs, Khliehriat and Tura

Violation of a Government order led to short realisation of import pass fee of ₹ 24.01 lakh.

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1995 provides for imposition of import pass fee at prescribed rate¹⁰ per BL. However, on 16

³ Superintendent of Excise

⁴ Based on information provided by three bottling plants in the State in response to an Audit query.

⁵ (i) M/s Milestone Beverages (ii) M/s Marwet Bottling Plant (iii) M/s North Eastern Bottling

⁶ ENA utilised = O/s + receipt – C/s
= 281638 BL + 4649221 BL – 253808 BL = 4677051 BL

⁷ Loss worked out for 375 ml/750 ml bottles only as they have the same excise duty.

⁸ Shri W.B. Syiem held the charge of the SE during the period.

⁹ Assistant Commissioner of Excise.

March 2007, the ERTS Department, GOM notified imposition of import pass fee on 'per case' basis instead of 'per BL' basis as under:

- (i) ₹ 54 per case of India Made Foreign Liquor (IMFL) bottled within the State.
- (ii) ₹ 108 per case of IMFL brought from outside the State.

Scrutiny of records revealed that the ACE, Shillong and the SEs, Khliehriat and Tura ignored the aforesaid Government notification and realised import pass fee on BL basis instead of per case basis. For cases containing 750 ml and 375 ml bottles there was no short realisation¹¹ as each case of IMFL contained 9 BL. But in respect of cases containing 180 ml bottles, each case contains 8.64 BL. As such, levy of import pass fee on per BL basis resulted in short realisation of import pass fee on 0.36 BL amounting to ₹ 2.16 per case of 180 ml bottles bottled within the State and ₹ 4.32 per case brought outside the State. Between April 2009 and March 2013, fourteen bonded warehouses imported 13,55,478 cases of IMFL bottled within the State and 6,16,734 cases of IMFL bottled outside the State on which ₹ 13.98 crore was actually leviable in the wake of the Government notification of 2007. But violation of the notification by the ACE¹² and the SEs¹³ led to realisation of ₹ 13.74 crore as import pass fee thereby resulting in short realisation of import pass fee ₹ 24.01 lakh.

The cases were reported to the ERTS Department, GOM between January and May 2013; reply was awaited (December 2013).

4.8 Short-realisation of licence fee – CE, Meghalaya

There was short-realisation of licence fees amounting to ₹ 12.70 lakh from 4 bottling plants and 12 bonded warehouses

Rule 243, 244 and 252 of the Meghalaya Excise Rules provides for payment of annual licence fee for bottling plants and bonded warehouses in advance at the rates prescribed from time to time for renewal of licences. The validity period of licences is from April of a year to March of the next year. The bottling plants are required to renew their licences on advance payment of bottling fee, compounding and blending fee and bonded warehouse fee. The ERTS Department, GOM with effect from 15

¹⁰ ₹ 6 per case for IMFL bottled within the State and ₹ 12 per case for IMFL bottled outside the State.

¹¹ 1 case of 750 ml bottles = 12 X 750 ml = 9000 ml = 9 BL. Import pass fee payable is ₹54/₹108 per case. Import pass fee collected is ₹6 X 9/₹12 X 9 = ₹54/₹108. Similarly for case containing 375 ml bottles

¹² Shri R.K. Rai and Shri W.B. Syiem held the charge of the ACE during the period

¹³ Shri R.K. Rabha held the charge of SE, Khliehriat and Shri A.G. Marak held the charge of SE, Tura during the period.

June 2012 revised the annual fee for renewal of licence of bottling plants¹⁴ and bonded warehouses as under:

Table 6

Sl. No.	Type of fee	Existing (₹)	Revised (₹)
I	Bottling plant fee	130000	170000
II	Compounding and blending fee	130000	170000
III	Bonded warehouse fee	150000	200000
Total		410000	540000

Out of seven bottling plants in the State, it was noticed that four bottling plants¹⁵ paid annual fee for renewal of licences for the year 2012-13 at the existing rate of ₹ 4.10 lakh instead of ₹ 5.40 lakh at the revised rate. Further, one bottling plant¹⁶ paid ₹ 0.20 lakh less than even the existing rate. Similarly, out of 34 bonded warehouses in the State, 12 bonded warehouses paid the licence fee at the existing rate of ₹ 1.50 lakh instead of ₹ 2 lakh at the revised rate for the year 2012-13. Despite the bottling plants and the bonded warehouses not paying the revised fees as fixed by the GOM, no action was taken by the CE¹⁷ to realise the balance amount thereby resulting in short realisation of renewal fee of ₹ 12.70 lakh.

The case was reported to ERTS Department, GOM in May 2013; reply was awaited (December 2013).

4.9 Non-renewal of brand names – CE, Meghalaya

Twelve distilleries failed to register the brand names of 46 brands leading to non-realisation of revenue of ₹ 64.70 lakh.

As per Rule 363 (1) of the Meghalaya Excise Rules, no person can sell IMFL, beer and Bottled-in-Origin products in the State unless the brand name and the label of that product are registered with the CE. The registration is valid upto 31 March of the next year after which it may be renewed on payment of prescribed fees. The ERTS Department, GOM on 15 June 2012 notified revised fees for registration of IMFL brands from ₹ 45,000 to ₹ 60,000 and beer from ₹ 22,000 to ₹ 35,000.

Audit observed that the registration of 46 brands of IMFL and beer manufactured by 12 distilleries¹⁸ in the State were not renewed for the period from 2012-13 to 2013-14 although the distilleries were required to

¹⁴ The bottling plants have to pay all the three types of fees

¹⁵ M/s North East Bottling Plant, M/s milestone Beverages, M/s MDH Beverages, M/s Marwett Bottling Plant

¹⁶ M/s CMJ Brewery

¹⁷ Smti R.D. Marak held the charge of the CE, Meghalaya during the period.

¹⁸ (1) Radiant Manufacturer (2) Carlsberg India Ltd., Rajasthan (3) Carlsberg India Ltd., New Delhi (4) Mohan Meakins Ltd., Shillong (5) United Spirit, Guwahati (6) Bean Global Spirit and Wine (7) Jagatjit Industries (8) Diageo India Ltd. (9) John Distilleries (10) United Brewery, Bangalore (11) Nashik Vintners, Mumbai (12) Khoday Industries.

apply for re-registration of the brand names before the last day of the preceding year. The CE also neither issued demand notice to the distilleries nor cancelled the brand names in order to prevent their import and sale within the State. Thus, lack of timely action by the CE resulted in non-realisation of revenue of ₹ 64.70 lakh as registration fees. Besides, there is a risk of unregistered products being sold in the State in violation of the provisions of the Excise rules.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

4.10 Non-realisation of security deposit – CE, Meghalaya

Ten companies failed to pay security deposit amounting to ₹ 14.50 lakh.

Under Rule 246 of the Meghalaya Excise Rules, a security in the form of ‘Call Deposit’ valid for 5 years (to be pledged in favour of the CE, Meghalaya) was to be furnished by all companies manufacturing IMFL, wine and beer as a guarantee for due observance of the terms and conditions of the licence and prompt payment of licence fees. The ERTS Department, GOM on 3 July 2009 in exercise of the powers conferred under the rule *ibid* fixed the security deposit for companies as under:

Table 7

Particulars	IMFL	Beer
Companies selling more than 50,000 cases per year	₹ 7,50,000	₹ 4,00,000
Companies selling less than 50,000 cases per year	₹ 2,50,000	₹ 2,00,000
	Wine	Bottled In Origin
Companies selling above 5,000 cases per year	₹ 2,00,000	₹ 1,00,000
Companies selling below 5,000 cases per year	₹ 1,00,000	₹ 50,000

Three companies¹⁹ manufacturing beer, six companies²⁰ manufacturing wine and one company²¹ manufacturing IMFL had not paid the security deposit amounting to ₹ 14.50 lakh²². The CE however, did not issue any demand notice to these defaulters for payment of security deposit which led to non-realisation of security deposit and was fraught with the risk of

¹⁹ (1) Privilege Industries (2) CMJ Breweries (3) Crown Beers India (P) Ltd.

²⁰ (1) John Distillers Pvt. Ltd. (2) Sonary’s Co-Brand Pvt. Ltd. (3) Vallee De Vin Pvt. Ltd. (4) Bluestar Agro and Winery (India) Pvt. Ltd. (5) Associate Wines Pvt. Ltd. (6) Terrior India Winery Pvt. Ltd.

²¹ Sikkim Distilleries

²² 3 beer companies X ₹ 200000 + 6 wine companies X ₹ 100000 + 1 IMFL company X ₹ 250000 = ₹ 1450000

In the absence of information pertaining to the number of cases sold, minimum fixed rate was taken.

loss of revenue in case of default in future payment of licence fee or violation of the other provisions of the Excise Act by any of these companies.

The case was reported to the ERTS Department, GOM in May 2013; reply was awaited (December 2013).

4.11 Irregular cancellation of IMFL retail licences

Seventeen licences were irregularly cancelled by the ERTS Department without realisation of the arrear licence fees resulting in loss of revenue amounting to ₹ 78.44 lakh.

The Meghalaya Excise Act and Rules made there under stipulate that:

- all foreign liquor licences shall be renewed annually by the Commissioner of Excise on payment of prescribed renewal fee in advance. [Rule 273]
- if any fee or duty payable by the holder has not been paid, the licence granted may be cancelled. [Section 29]
- arrears of revenue may be recovered from defaulters from their security, if any or by distress and sale of their movable property or as arrears of land revenue. [Section 35]

Eleven retail licensees²³ in West Khasi Hills and six²⁴ in East Jaintia Hills districts did not renew their licences for different periods between 1990-91 and 2011-12 and were therefore liable to pay renewal fee of ₹ 78.44 lakh. The SE, West Khasi Hills on June 2010 forwarded the list of 11 defaulters to the CE for cancellation with effect from the date of default in payment of licence fees while the SE, Khliehriat (East Jaintia Hills) neither forwarded the list of defaulting licencees to the CE for cancellation nor made any effort to recover the arrear dues by selling the movable properties of the defaulters and left the cases unattended. In respect of West Khasi Hills, the licences were irregularly cancelled by the ERTS Department on 1 December 2011 with retrospective effect, thereby exempting the defaulters from payment of arrear dues. However, in case of East Jaintia Hills, the Department while cancelling the licences on 26 March 2012 (based on the information it obtained from the Deputy Commissioner of the district) directed the CE to fix responsibility on the concerned officer(s) for allowing the retail shops to run without payment of licence fee and also realise the licence fees as arrears of land revenue. Thus, the action of the Department in these cases with regard to the

²³ (i) M. Thongni (ii) G. Hashah (iii) K. Rongrin (iv) R.R. Nongsiej (v) Pherod Lyngdoh Mawlong (vi) D. Riangshiang (vii) Pynshait Sumer (viii) A. Puwein (ix) J. Mukhim (x) Banisha Sten (xi) Silda Rashir.

²⁴ (i) Rally Tariang (ii) Charly Langstang (iii) Philip Sympli (iv) Batskhem Dkhar (v) Vicky Slong (vi) Kyrshan Sympli.

cancellation of licences lacked consistency and was illogical as it did not take action against the defaulters of West Khasi Hills while on the other side, it penalised the defaulters of East Jaintia Hills for the same offence.

However, no action was initiated by the CE either to fix responsibility for the lapse in case of SE, Khliehriat or to realise the dues as arrears of land revenue in both the cases. Thus, the irregular action of the ERTS Department coupled by the failure of the CE²⁵ and his officers in timely cancellation of defaulting licencees resulted in loss of revenue to the tune of ₹ 78.44 lakh.

The cases were reported to the ERTS Department, GOM in January and May 2013; reply was awaited (December 2013).

²⁵ Smti R.D. Marak held the charge of the CE during the period.