

CHAPTER - III
STATE EXCISE



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3.1 Administration

The State Excise Department is responsible for collection of revenue under Assam Excise Act and enforcement of Excise laws on prohibition of illicitly distilled liquor, *Ganja*, *Bhang* and Opium. In addition, the Department is given the responsibility of enforcing the provisions of Narcotic Drugs and Psychotropic Substances Act and the Medicinal & Toilet Preparation Act. The Commissioner of Excise (CE), Assam is the head of the Department. He is primarily responsible for administration and execution of Excise policies and programmes of the State Government. He is assisted by an Additional Commissioner of Excise, a Joint Commissioner of Excise and two Deputy Commissioners of Excise, one at headquarters and another for Bodoland Territorial Area.

3.2 Trend of receipts

Position of budget estimates and actual receipts under State Excise for the years from 2010-11 to 2014-15 is exhibited in following table:

Table 3.1
Trend of Receipts

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation Excess (+)/ Shortfall(-)	Percentage variation
2010-11	259.46	323.12	63.66	25
2011-12	400.00	503.35	103.35	26
2012-13	530.00	568.11	38.11	7
2013-14	609.04	610.26	1.22	0.2
2014-15	732.31	664.99	(-) 67.32	(-) 9

Thus, though the actual receipts of the Department registered an increasing trend, there were fluctuations in actual receipts when seen against the budget estimates which the Department needs to look into.

3.3 Working of internal audit wing

Internal audit, a vital component of internal control mechanism, functions as 'eyes and ears' of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

The Department stated that the Finance Department has not put in place any separate internal audit system for Excise Department. However, inspections of different establishments under Excise Department are conducted by officers of the Department at different levels. Thus, had there been an effective internal audit system in the Department, the deficiencies could have been rectified through internal evaluation and the system would be functioning better.

Recommendation 1: As the Finance Department has not arranged for internal audit of the State Excise units till now, the Department may in coordination with Finance Department, arrange to conduct internal audit of its records/unit Offices.

3.4 Results of audit

In 2014-15, test check of the records of 21 units relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/ renewal fee and other irregularities involving ₹ 198.29 crore in 102 cases, as mentioned in **Table 3.2.**

Table 3.2
Results of Audit

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Loss due to warehouse going dry	01	0.92
2.	Non/ Short realisation of Establishment charges.	03	0.57
3.	Non/Short payment of licence fee	07	0.50
4.	Loss due to non-levy of excise duty	01	--
5.	Other irregularities	90	196.30
Total		102	198.29

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 180.15 crore in 12 cases which were pointed out in earlier years. An amount of ₹ 8 lakh was recovered in two cases during the year 2014-15.

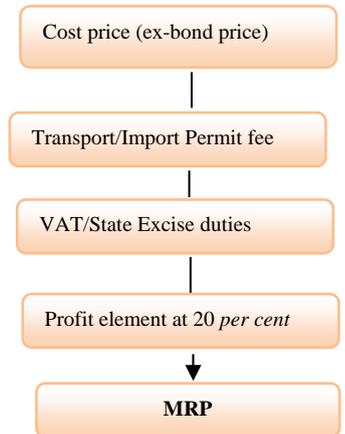
A few illustrative cases involving ₹ 176.56 crore are discussed in the following paragraphs.

Audit observations

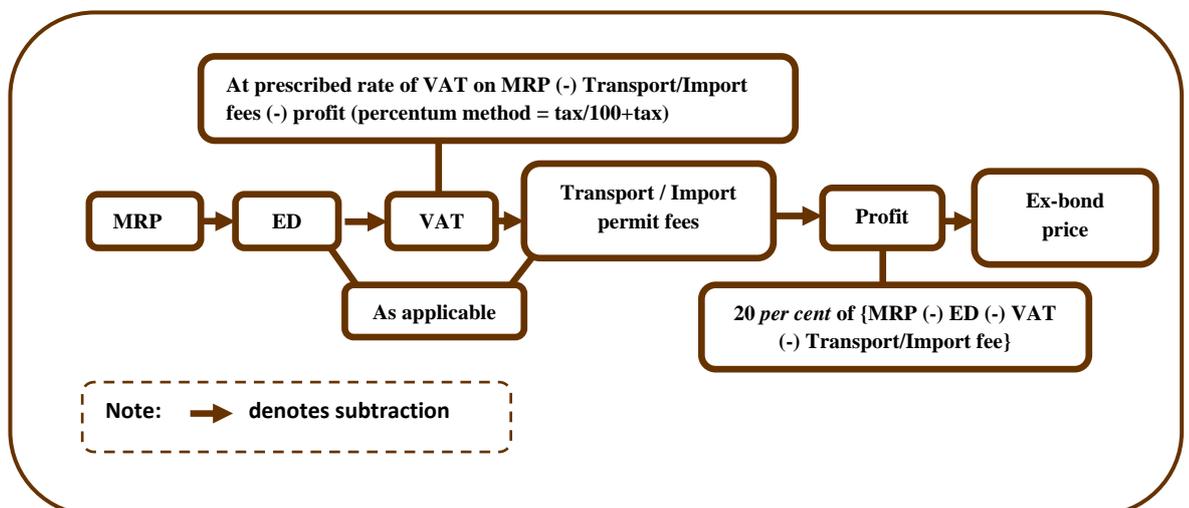
3.5 Mis-classification of brands of IMFL resulted in loss of revenue of ₹ 172.08 crore

[*Superintendent of Excise (SE); Kamrup; Guwahati, August - October 2014*]

As per the provisions of the AE Act and Rules, excise duty is leviable on the ‘cost price’ of India Made Foreign Liquor (IMFL). ‘Cost price’ in this case means the ‘ex-bond price’ *i.e.* the price at which the IMFL consignments are issued by the bonded warehouses to the retailers. At the beginning of the year, the bottling units producing IMFL or the bonded warehouses importing IMFL from outside the State are required to apply for label registration to the CE, Assam furnishing full details of the brand, its ex-bond price, maximum retail price (MRP) etc. The process involved in the registration of labels is shown through the block diagram alongside.



Mention was made in para 5.8.4.1 of the Performance Audit on ‘Receipts under State Excise’ incorporated in the Report of the Comptroller and Auditor General of India for the year 2012-13, Revenue Sector, Government of Assam regarding absence of a system in the Office of the Superintendents of Excise/CE, Assam to devise a system of re-verifying whether the classification of the brands as applied by the bottling units/companies and ordered by CE, Assam holds good in view of the MRP printed on the labels furnished by the licensees. During the exit conference of the aforesaid performance audit, the CE while accepting the audit recommendation stated (October 2013) that similar analysis would be carried out during registration of labels in future. The formula adopted by Audit for arriving at the ex-bond price through backward calculation from the MRP is as follows:



During scrutiny of the records of five bottling units¹ under the above SE, it was observed that three brands of IMFL namely 'Mc Dowell's No. 1 Reserve Whisky', 'Officers Choice Blue Pure Grain Whisky' and 'AC Black Whisky' were registered as 'Luxury' brand (attracting excise duty of ₹ 598.90 per case) on the basis of the ex-bond price (below ₹ 1,199 per case) declared by the licensees at the time of application for label registration. The MRP of the products were fixed as ₹ 240 per bottle of 750 ml or equivalent and approved by the CE, Assam for affixing on the body of the bottles. Analysis of the cost price in view of the MRP on the lines as depicted in block diagram above revealed that the ex-bond price after deducting the prescribed elements worked out to ₹ 1,291.98 per case and thus, the brands were to be classified under next higher category *i.e.* 'Premium' attracting higher rates of excise duty at ₹ 942.50 per case and value added tax (VAT) on the same. Had the Department devised a system of re-verifying the classification after receipt of the printed labels on the basis of the MRP printed therein, such mis-classification could have possibly got detected. Considering the volume of sale of the above brands during the years 2013-14 and 2014-15², there was loss of revenue of ₹ 172.08 crore on account of excise duty and VAT.

The case was reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.6 Evasion of excise duty of ₹ 1.54 crore due to overstatement of closing stock/ deficiency in actual stock of ENA.

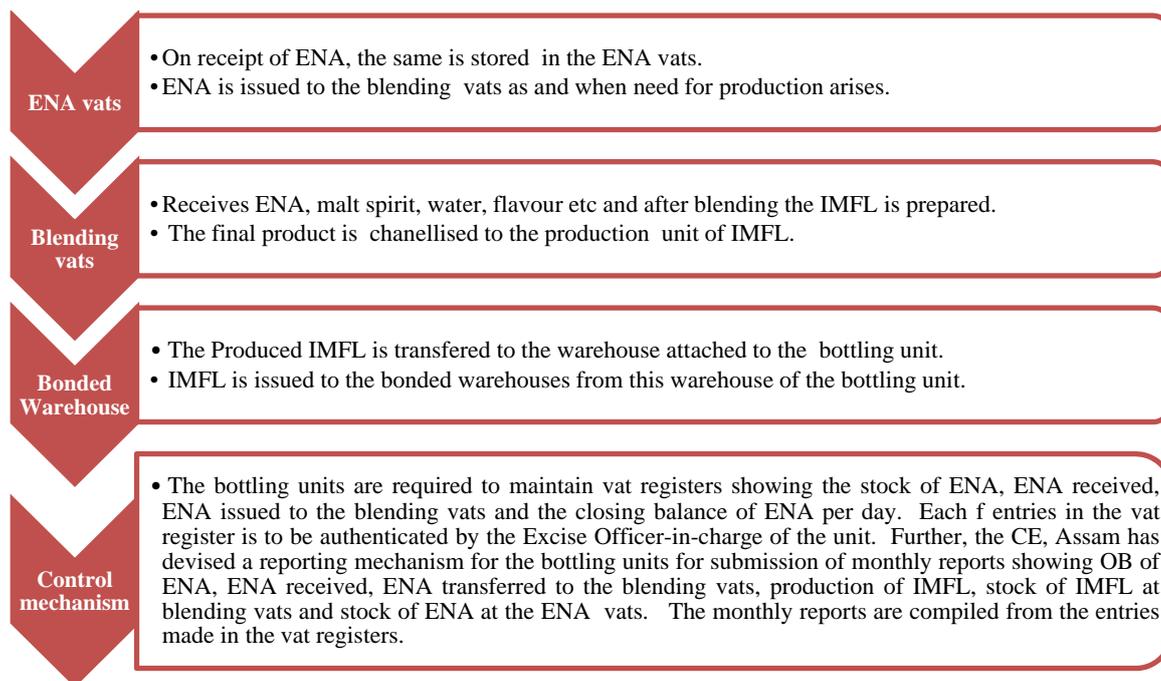
[SE; Kamrup; Guwahati, August - October 2014]

As per the system prevalent in the Bottling units, the base material for manufacture of IMFL is extra neutral alcohol (ENA), malt spirit, other flavours etc. These materials are stored in separate vats³ and issued to the blending vats as per the need. The infogram below explains the production mechanism.

¹ M/s Spey Bottlers Pvt Ltd, M/s Karnak Distillery Pvt Ltd, M/s Manglam Distillers and Bottling Industries, M/s Saaran Industries and M/s Indo Assam Distillery and Bottling Pvt Ltd.

² M/s Spey Bottlers Pvt Ltd, M/s Karnak Distillery Pvt Ltd, M/s Manglam Distillers and Bottling Industries, M/s Saaran Industries up to August 2014 and M/s Indo Assam Distillery and Bottling Pvt Ltd up to July 2014.

³ Container in which ENA/malt etc are stored in bottling units.



During scrutiny of records of two bottling units namely M/s Manglam Distilleries and Bottling Industries and M/s Seven Sisters Trade and Distilleries Pvt. Ltd under the above SE, a detailed verification of the stock of ENA was carried out. In M/s Manglam Distilleries it was observed that as per the ENA stock register maintained by the Officer-in-charge of the bottling unit, the closing stock of ENA as on 31 August 2014 was shown as 7,62,827.12 LPL⁴. Between 1 – 15 September 2014 1,65,967.983 LPL ENA was received in the ENA vats while 3,24,221.356 LPL ENA was shown to have been issued to the blending vats during the same period. Thus, the stock of ENA as on 15 September 2014 was shown as 6,04,573.75 LPL. Subsequently, a joint physical verification was carried out the same day *i.e.* 15 September 2014 in coordination with the Excise personnel and representatives of the bottling unit. It was seen that the actual stock of ENA was 4,30,669.25 LPL, thus revealing a difference of 1,73,904.5 LPL.

Similarly, in M/s Seven Sisters Trade and Distilleries Pvt. Ltd it was observed that as per the ENA stock register maintained by the Officer-in-charge of the bottling unit, the closing stock of ENA as on 2 September 2014 was shown as 1,34,964 BL⁵. Subsequently, a joint physical verification was carried out the same day (after the closure of issue of ENA for blending from ENA vats) in coordination with the Excise personnel and representatives of the bottling unit. It was seen in the

⁴ London Proof Litre – Strength of alcohol is measured in terms of ‘degree proof’. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Any given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

⁵ Bulk litre.

verification that the actual stock of ENA was 1,04,475 BL, thus revealing a difference of 30,489 BL or 50,962 LPL⁶ ENA.

The differential stock of ENA was capable of producing 26,349 cases and 7,722 cases⁷ of IMFL in the aforesaid two bottling units respectively involving minimum excise duty of ₹ 1.54 crore⁸ which was evaded by the licensees.

The cases were reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.7 Revenue of ₹ 1.18 crore not realised against damaged stock allowed for destruction

[SsE, Cachar and Kamrup; November – December 2014 and August – October 2014]

As per the Assam Bonded Warehouse (ABW) Rules, 1965, if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they might be rejected or destroyed or otherwise dealt with under the orders of the CE. Further, Rule 32 of the ABW Rules mentions that the State Government shall not be responsible for the destruction, loss or damage of any spirit stored in warehouse by fire or by gauging or by any other cause, whatsoever.

During scrutiny of records of four bonded warehouses⁹ in the above SE Offices, it was observed that the CE, Assam allowed (between May 2011 and May 2014) destruction of IMFL and Beer involving excise duty of ₹ 1.18 crore¹⁰ which were found to be unfit for human consumption due to prolonged storage. Accordingly the stock of IMFL/Beer was destroyed under supervision of the concerned SsE between June 2011 and June 2014. It was, however noticed that though the Rule 32 of ABW Rules specifically states that the State Government shall not be responsible for any damage/destruction of IMFL/Beer, neither did the licensees pay the excise duty involved nor was any demand raised by the CE/SE for recovery of the same. This resulted in revenue of ₹ 1.18 crore not being realised.

⁶ Considering the average strength of ENA available as on 02.09.2014 i.e. 67.15 degree over proof.

⁷ Calculated at 6.6 LPL per case (750 ml/375 ml cases contain 6.75 LPL while 180 ml cases contain 6.48 LPL – hence calculated at median of the two as production of 180 ml is more than the other two).

⁸ Considering the minimum rate of excise duty i.e. ₹ 452.79 per case applicable to General brands.

⁹ M/s S.B Bonded warehouse, Cachar, M/s Nanak Singh Sujana Singh Sadana Pvt Ltd, M/s Abhijeet International and M/s Carlsberg India Pvt Ltd., Kamrup.

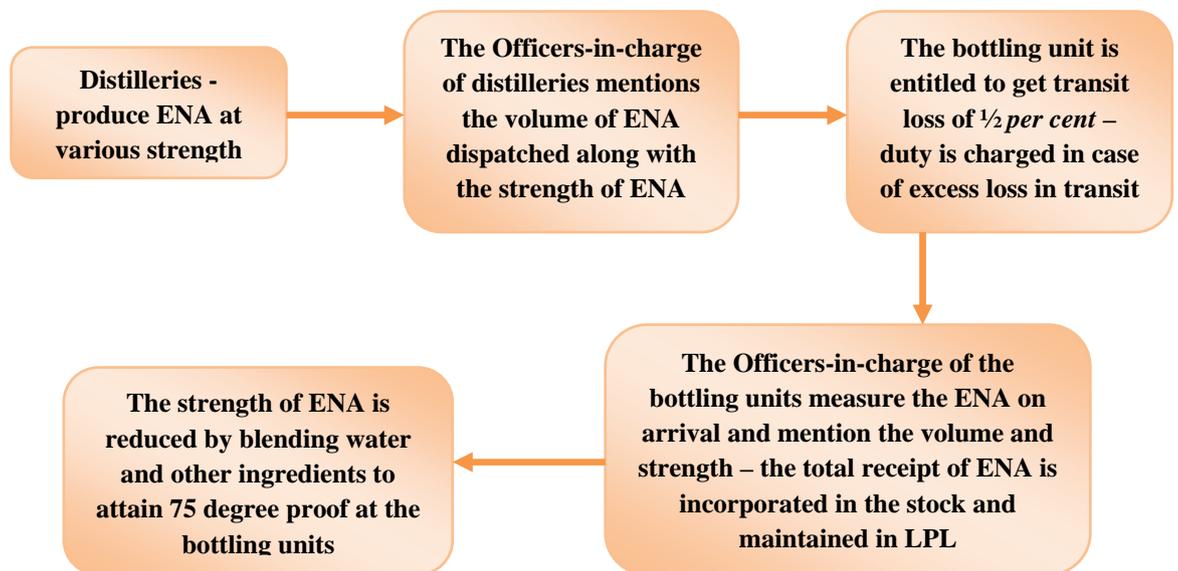
¹⁰ M/s S.B Bonded warehouse, Cachar - 9,346 cases of IMFL and 10,807 cases of Beer involving excise duty of ₹ 64.63 lakh; M/s Nanak Singh Sujana Singh Sadana Pvt Ltd, Kamrup - 51,691.84 BL of IMFL and 31,020.8 BL Beer involving excise duty of ₹ 36.96 lakh; M/s Abhijeet International, Kamrup - 711 cases of IMFL and 3,066 cases of Beer involving excise duty of ₹ 9.19 lakh and M/s Carlsberg India Pvt Ltd, Kamrup - 5,891 cases of Beer involving excise duty of ₹ 6.90 lakh.

The case was reported to the Department/Government in December 2014/January 2015 and followed up in April 2015; their replies have not been received (November 2015).

3.8 Demand on incorrect reduction of strength of ENA by the Bottling Units was not raised resulting in loss of revenue of ₹ 61.63 lakh

[SE; Kamrup; Guwahati, August - October 2014]

As per the system prevalent in the State Excise Department, proof of strength is determined by taking the hydrometer reading and the temperature of the liquor. The findings are to be read in the sykes's table book¹¹ to determine the strength of the liquor. The system of dispatch of ENA from the distilleries and accounting of the same at the bottling units is shown in the infogram below.



During scrutiny of records of two bottling units namely M/s Saaran Industries and M/s Karnak Distillery Pvt Ltd under the above SE, it was observed that in case of 209 consignments¹² of ENA received between September 2012 and December 2013 the strength of ENA at the point of dispatch was certified ranging between 1.67 and 1.684 degree proof. However, while receiving the same consignments the strength of ENA was reduced and mentioned to be between 1.66 and 1.68. The irregular reduction of strength of the ENA consignments led to short accounting of ENA by 67,926.794 LPL which was capable of producing 10,292 cases of IMFL. Though Officers-in-charge were posted at the bottling units, the irregular reduction in

¹¹ Sykes book of hydrometer is used for gauging the strength of liquor by taking the reading of hydrometer and temperature.

¹² M/s Saaran Industries - 121 consignments and M/s Karnak Distillery Pvt Ltd - 88 consignments.

strength of ENA escaped their notice. This resulted in loss of revenue of ₹ 61.63 lakh¹³.

The case was reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.9 Two bonded warehouses, one bottling unit, five retail ‘Off’ and one retail ‘On’ licensees did not pay the annual licence fees while two bottling units and 58 ‘Off’ licensees paid short resulting in non/short realisation of licensee fees of ₹ 61.50 lakh

[SsE, Diphu, Golaghat, Kamrup, Karimganj and North Lakhimpur; February-March 2014, November-December 2013, August – October 2014, September 2014 and December 2013]

The Assam Excise Rules provide that the licensee of wholesale bonded warehouses and retail licensees are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30 September 2010, the licence fees for retail ‘Off’ and ‘On’/Bar licensees¹⁴ are ₹ 1 lakh and ₹ 50,000 per annum respectively while the rates of licence fees for bonded warehouses depend upon the bond limits as shown in the table (inset). The bonded warehouses are also liable to pay wholesale licence fees at ₹ 2 lakh per annum. Further, the licence fee for bottling units of foreign liquor is fixed as ₹ 1.50 lakh per annum to be paid in advance upto production of a quantity of 30 lakh LPL annually.

Bond limit	Licence Fees
Upto ₹ 25 lakh	₹ 1 lakh
From ₹ 25 lakh to ₹ 50 lakh	₹ 1.50 lakh
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh
₹ 1 crore and above	₹ 5 lakh

During scrutiny of the records in the above SE Offices, it was observed that though the licence fees are to be paid in advance before the commencement of the year, two bonded warehouses, five retail ‘Off’ licensees and one ‘On’ licensee did not pay the annual licence fees, wholesale licence fees etc., for various years between 2010-11 and 2013-14. Similarly, M/s Raizel Industries did not pay the Wholesale licence fees of ₹ 2 lakh for 2014-15 while the bottling fees for the years 2013-14 and 2014-15 were paid short by ₹ 1 lakh and M/s N V Distilleries & Breweries (North East) Pvt.Ltd paid the wholesale licence fees for 2011-12 to 2014-15 at lower rates than that applicable leading to short payment of ₹ 4 lakh. Further, 58 ‘Off’

¹³ Considering excise duty applicable to ‘luxury brands’ i.e. ₹ 598.90/case – as the unit is authorised by the CE, Assam to produce luxury brands (Officers Choice and Officers Choice Blue).

¹⁴ ‘Off’ licensees – where IMFL/Beer can be sold and cannot be consumed in the premises of the licensee and ‘On’ licensees – where IMFL/Beer can be consumed in the premises of the licensee.

licensees paid licence fees at lower rates pertaining to various years between 2011-12 and 2012-13. This resulted in non/short realisation of licence fees of ₹ 61.50 lakh (**Appendix - III**). Despite non/short payment of licence fees by the licensees, no demand notice was issued by any of the SsE till the matter was pointed out by Audit.

On this being pointed out, the SsE, Karbi Anglong and North Lakhimpur stated during the exit conferences that demand notices had been issued to three and two licensees respectively. Particulars of recovery in respect of the above cases and further development in respect of the remaining cases had not been reported (November 2015).

The cases were reported to the Department/Government between January and December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.10 Excess allowance of godown wastage over and above the permissible limit led to revenue of ₹ 19.55 lakh not being realised

[SsE, Dhubri and Kamrup; March 2014 and August - October 2014]

As per Rule 37 of the Assam Bonded Warehouse (ABW) Rules and subsequent executive instructions, the SE or the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of the quarter and the licensee shall pay duty at prescribed rates on all spirits in excess of an allowance of one *per cent* on account of wastage allowance.

During test check of records in the above Offices, it was observed that during the quarter endings falling between June 2011 and March 2014, three licensees of bonded warehouses claimed godown wastage of 54,457.28 LPL against the admissible wastage of 32,398.18 LPL calculated at one *per cent* of the closing stock of 32,39,817.68 LPL. The excess and inadmissible wastage of 22,059.10 LPL of IMFL pertaining to various brands claimed by the licensees escaped notice of the Officers-in-charge. Also, though the licensees had submitted monthly statements to the CE, Assam through the SsE, excess claim of godown wastage could not be detected at any level. This resulted in excise duty of ₹ 19.66 lakh not realised as shown in the following Table.

Table 3.3

Name of the licensee/ Name of controlling SE	Quarter ended falling between	Closing balance disclosed	Godown wastage permissible (@ one per cent of the closing balance as at col 3)	Godown wastage claimed	Excess godown wastage over and above one per cent	Excise duty involved (₹ in lakh)
M/s Shivam Enterprise BW/ SE, Dhubri	June 2011 and December 2013	8,89,009.60	8,890.10	22,972.95	14,082.85	12.21
M/s KDC BW / SE, Kamrup	January 2013 and March 2014	19,77,981.45	19,779.81	24,289.57	4,509.76	4.09
M/s Eastern Enterprise BW/ SE, Kamrup	March 2013 and September 2013	3,72,826.63	3,728.27	7,194.76	3,466.49	3.36
Total		32,39,817.68	32,398.18	54,457.28	22,059.10	19.66

The cases were reported to the Department/Government between April and December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.11 Additional bottling fee of ₹ 13.68 lakh not/short realized on IMFL

[SE, Kamrup, August-October 2014]

As per the Government of Assam notification of September 2010 the licence fee for bottling units of foreign liquor is fixed as ₹ 1.50 lakh per annum to be paid in advance upto production of a quantity of 30 lakh LPL annually. For production beyond the prescribed limit of 30 lakh LPL, the licensee is required to pay an additional bottling fee of ₹ 8 per case. The additional bottling fee is to be paid within first week of the end of the financial year to which such production relates.

During scrutiny of records of two bottling units (M/S Saaran Industries, Sonapur and M/S Seven Sister Trade and Distillery Pvt Ltd, Amingaon) under the SE, Kamrup it was observed that the licensees produced 54.94 lakh LPL and 37.66 lakh LPL IMFL respectively during 2013-14. Though the production exceeded the prescribed limit of 30 lakh LPL by 24.94 lakh LPL and 7.66 lakh LPL respectively on which additional bottling fees of ₹ 29.55 lakh¹⁵ and ₹ 9.08 lakh¹⁶ was payable, M/s Saaran Industries paid only ₹ 24.95 lakh while no payment was made by the

¹⁵ 24.94 lakh LPL or 3,69,417 cases X ₹ 8 per case.

¹⁶ 7.66 lakh LPL or 1,13,477 cases X ₹ 8 per case.

other licensee. The Excise Officers-in-charge posted at the bottling units also did not raise any demand for realisation of the balance amount. Consequently, there was non/short realisation of revenue of ₹ 13.68 lakh. Further, although the licensees submitted monthly statements of production to the Office of the CE, Assam through the SE, Kamrup, non/short realisation of additional bottling fees remained unnoticed.

The case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015).

3.12 Payment of licence fees at lower rates by a Brewery was not detected which resulted in short-realisation of revenue of ₹ 10 lakh

[SE, Kamrup, August-October 2014]

As per Government notification of September 2010, a licensee operating brewery shall pay an annual licence fee of ₹ 10 lakh per annum in advance upto the production capacity of 80 lakh BL and ₹ 15 lakh per annum in case of production exceeding 80 lakh BL.

During scrutiny of records of M/S Master (India) Brewing Company, Changsari (a brewery licensee) under SE, Kamrup it was observed that the licensee paid licence fees of ₹ 10 lakh per annum for the years 2011-12 and 2012-13 in advance on 15 March 2011 and 30 March 2012 respectively. Further scrutiny revealed that the licensee produced 91.20 lakh BL and 112.70 lakh BL Beer during the above years which attracted licence fees at higher rates of ₹ 15 lakh per annum. Neither did the licensee pay the balance amount of ₹ 10 lakh (at ₹ 5 lakh per annum for both years) nor was any demand raised by the Excise Officers-in-charge posted at the brewery for recovery of balance licence fees. Consequently, there was short-realisation of revenue of ₹ 10 lakh. Further, although the licensee submitted monthly statements of production to the Office of the CE, Assam through the SE, Kamrup, short realisation of licence fees remained unnoticed.

The case was reported to the Government/Department in December 2014 and followed up in April 2015; reply has not been received (November 2015).

3.13 Short realisation of licence fees of ₹ 10 lakh from two bonded warehouses

[SE, Kamrup, August-October 2014]

The Assam Excise Rules provide that the licensee of wholesale bonded warehouses are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30

September 2010, the bonded warehouses are required to pay licence fees at various rates depending upon the bond limits as shown in the table in the inset. The stock of IMFL/Beer is to be maintained in a separate register to be kept at the disposal of the Officers-in-charge of the bonded warehouses.

Bond limit	Licence Fees
Upto ₹ 25 lakh	₹ 1 lakh
From ₹ 25 lakh to ₹ 50 lakh	₹ 1.50 lakh
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh
₹ 1 crore and above	₹ 5 lakh

During scrutiny of records of two bonded warehouses under the above SE Office, it was observed that the bond limit of these licensees were fixed below ₹ 1 crore. The annual licence fees of ₹ 2.50 lakh per annum were accordingly paid by these bonded warehouses for the years falling between 2012-13 and 2014-15. However, scrutiny of the stock registers maintained by the licensees and monthly reports submitted to the CE, Assam revealed that the excise duty involvement in the stock of IMFL/Beer held by these licensees on various dates during the above years had increased above the bond limit fixed by the CE, Assam which made them liable to payment of licence fees at rates higher than that paid by them. The differential licence fees were neither paid by the licensees of the bonded warehouses nor did the concerned Officers-in-charge /SE detect the excise duty involvement in IMFL/Beer in stock crossing the bond limit fixed by the CE. Consequently, there was short-realisation of licence fees of ₹ 10 lakh. Details are shown in the following Table.

Table 3.4

Name of the licensee/ bond limit fixed by CE	Year/ Licence fees paid (₹ in lakh)	Instances of duty involved in stock crossing over the bond limit		Licence fees payable (₹ in lakh)	Licence fees short realised (col 5 – col 2) (₹ in lakh)
		Month	Excise duty involved in the stock held (₹ in lakh)		
(1)	(2)	(3)	(4)	(5)	(6)
Mangalam Distillers & Bottling Industries/ below ₹ 1 crore	2012-13/ 2.50	October 2012	195.00	5.00	2.50
		March 2013	203.00		
	2013-14/ 2.50	September 2013	191.00	5.00	2.50
		March 2014	206.00		
Star Bonded Warehouse/	2013-14/ 2.50	December 2013	118.33	5.00	2.50

below ₹ 1 crore	2014-15/ 2.50	May 2014	138.00	5.00	2.50
Total					10.00

On this being pointed out, the SE, Kamrup stated during the exit conference (November 2014) that M/s Star Bonded Warehouse had paid ₹ 2.50 lakh on 18 November 2014 and recovery of the balance amount was in process. Further developments had not been reported (November 2015).

The case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015).