

4.1 Tax Administration

The Additional Chief Secretary to the Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS) Department is in overall charge of the State Excise Department at the Government level. The Commissioner of Excise (CE) is the administrative head of the Department. He is assisted by a Joint Commissioner of Excise and Deputy/Assistant Commissioners of Excise. At the district level, the Superintendents of Excise (SEs) have been entrusted with the work of levy of excise duties and other dues from the licencees such bonded warehouses, bottling plants, distilleries and retailer shops. The collection of tax is governed by the provisions of the Assam Excise Act, 1910 (as adapted by Meghalaya), the Assam Excise Rules, 1945 (as adapted), the Assam Distillery Rules, 1945 (as adapted) and the Assam Bonded Warehouses Rules, 1965 (as adapted).

4.2 Internal audit

The Excise Department has no separate Internal Audit Wing (IAW). Despite the same being pointed out in the PAs carried out from time to time, no action has been taken by the Department to create an IAW to monitor the working of the Department. In the absence of a separate IAW, the Department solely relies upon the audit carried out by the Accountant General.

Recommendation: *The Department may look into the possibility of creating an Internal Audit Wing to effectively monitor the functioning of the Department.*

4.3 Results of Audit

Test check of the records of seven units during 2013-14 revealed non-realisation of duties, fees, etc. involving ₹ 7.81 crore in 42 cases which fall under the following categories:

Table 4.1

Sl. No.	Category	Number of cases	(₹ in crore)
			Amount
1.	Non/Short realisation of duties etc.	29	5.86
2.	Loss of revenue	08	1.67
3.	Other irregularities	05	0.28
Total		42	7.81

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 2.78 crore in 16 cases. No recovery was intimated in any of the cases during the year 2013-14.

A few illustrative cases having financial impact of ₹ 43.65 crore in terms of underassessment/short levy/non-levy of tax and other provisions of the Acts are discussed in the succeeding paragraphs.

4.4 PERFORMANCE AUDIT ON “WORKING OF BONDED WAREHOUSES AND DISTILLERIES/BREWERY (INCLUDING BOTTLING PLANTS)”

Highlights

➤ The Excise Department does not have data on installed capacity of the bottling plants. It was observed that three distilleries were producing IMFL beyond their installed capacities.

(Para 4.4.8.1)

➤ Non-adherence to the prescribed norms for production of IMFL resulted in shortfall in production of IMFL and consequent loss of revenue of ₹ 10.15 crore.

(Para 4.4.8.5)

➤ Non-prescribing of production norms by the Excise Department resulted in short production by a brewery involving revenue of ₹ 3.01 crore.

(Para 4.4.9.1)

➤ Undue benefit of ₹ 0.90 crore was extended to a brewery due to non-realisation of excise duty on spoilt beer.

(Para 4.4.9.3)

➤ Quarterly breakage claims involving revenue of ₹ 6.67 crore was allowed without any physical verification reports and records.

(Para 4.4.10.4)

➤ Allotment of rum at concessional rate was made to State police in excess of the monthly quota. Import pass fee of ₹ 3.91 crore was not realised on import of IMFL/beer from outside the State by defence and para-military forces.

(Para 4.4.11)

➤ The Department did not set up an excise laboratory to ascertain the quality of IMFL/beer manufactured in the State as a result of which, 10 out of 11 samples tested by audit failed to meet the standard proof norms.

(Para 4.4.12.2)

➤ The internal control mechanism in the Excise Department to monitor the functioning of the bonded warehouses, bottling plants and breweries was far from adequate. The Department did not have any Internal Audit Wing.

(Para 4.4.14)

4.4.1 Introduction

State Excise duty is levied by the State Government under entry 51 of the List II -State List of VII Schedule to the Constitution of India, which empowers State Government to levy excise duty on alcoholic liquors for human consumption. 'Liquor' means intoxicating liquid which includes wine, India Made Foreign Liquor (IMFL), Country Spirit (CS), Beer and all liquids consisting of or containing alcohol or any substance which the State Government may by notification declare to be liquor. The State Excise is one of the major source of revenue in Meghalaya after Taxation and Mining & Geology department. The demand for liquor is met through bottling units established in the State as well as imported from outside the State by the bonded warehouses. The bottling and sale of liquor is controlled by the Excise Department under the provisions of Assam Excise Act, 1910 (Act) the Assam Excise Rules, 1945, the Assam Bonded Warehouse Rules, 1965 and the Assam Distillery Rules, 1945 (as adapted by the State of Meghalaya). Various administrative and executive orders based on the said Acts and Rules also regulates the functioning of these units and collection of revenue there-from.

Excise duty (import pass fee) is realised on import of liquors from distilleries/bottling plants. Further, advalorem excise duty and value added tax are realised on sale of liquors from bonded warehouses which form the major part of the excise revenue. Apart from the above, licence fees, label registration fees also form part of excise revenue.

As per the existing system in place, Indian Made Foreign liquor (IMFL)/Beer is allowed to be imported from outside the State or transported from the bottling units within the State by the bonded warehouses on payment of import pass fee. The excise duty and the Value Added Tax payable thereon are paid by the retailers at the point of lifting of these excisable goods from the bonded warehouses.

4.4.2 Organisational set up

The Excise Department is headed at the Government level by the Principal Secretary, Excise, Registration, Taxation and Stamps (ERTS). The Commissioner of Excise (CE) is the head of the Excise Department, entrusted with the responsibility of supervision and control over working of distilleries, breweries and bonded warehouses. The CE is assisted by a Joint Commissioner, a Deputy Commissioner and one Assistant Commissioner at the Commissioner rate and by an Assistant Commissioner, Superintendents of Excise (SEs), Inspectors of Excise and support staff at the district level.

4.4.3 Audit objectives

The Performance Audit (PA) was carried out based on the following broad audit objectives:

- Whether provisions/system for regulating the levy and collection of excise duty, fees, fines, *etc.* under various Act and Rules were being complied with and implemented effectively by the State Excise Department;
- Whether the system in place was effective and adequate for the purpose of grant and issue of permits and licences for distillation, manufacture, storage, transfer, import and sale of IMFL and Beer;
- Whether the Internal Control Mechanism was adequate and effective in preventing leakage of revenue for ensuring compliance with all rules and regulations.

4.4.4 Audit scope

The PA covering the period from April 2008 to March 2013 was conducted between January 2014 to July 2014 through test check of records of the Commissioner of Excise (CE), all the nine district offices, four out of six distilleries (bottling plants), one brewery and 32 functional bonded warehouses out of 34 bonded warehouses in the State.

4.4.5 Audit criteria

The Audit findings were bench marked against the criteria from the following Acts/Rules *etc.*:

- Assam Excise Act, 1910 (as adapted by Meghalaya)
- Assam Excise Rules, 1945 (as adapted)
- Assam Distillery Rules, 1945 (as adapted)
- Assam Bonded Warehouses Rules, 1965 (as adapted)
- Meghalaya Excise (Amendment) Act, 1974
- Notifications issued by the Government from time to time.

4.4.6 Acknowledgment

Indian Audit and Accounts Department acknowledges the co-operation of the State Excise Department in providing necessary information and records for audit. The audit methodology and scope of audit scrutiny was discussed with the CE, Meghalaya in an Entry Conference held on 06 December 2013. The draft PA was forwarded to the Department in September 2014 following which, an Exit Conference¹ was held on 10 October 2014. In the Conference, all the audit observations were discussed with the CE, Meghalaya. The replies of the Department have been incorporated at appropriate places.

¹ Both the Entry and Exit Conferences were attended by the CE and his subordinate staff.

Audit findings

4.4.7 Trend of revenue and financial analysis

4.4.7.1 Budget estimates vis-à-vis actual

According to the Assam Budget Manual (as adopted by Meghalaya), the actuals of previous years and the revised estimates ordinarily form the best guide in framing the budget estimates. The estimates prepared by a Government may be further revised by the Finance Department. The revenue target fixed by the Department and the revenue actually collected during the years 2008-09 to 2012-13 are shown below:

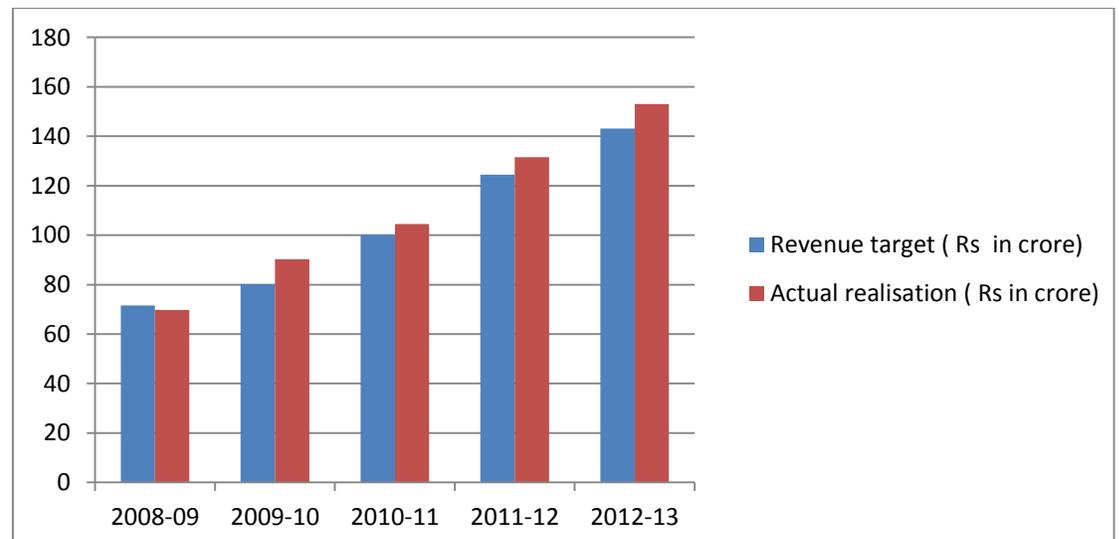
Table 4.4.1 (Revenue target vis-à-vis actual realisation)

Year	Revenue target (₹in crore)	Actual realisation (₹in crore)	Variation Increase (+), Decrease (-)	Percentage of variation
2008-09	71.57	69.79	(-) 1.78	2
2009-10	80.15	90.29	(+) 10.14	13
2010-11	100.14	104.50	(+) 4.36	4
2011-12	124.44	131.50	(+) 7.06	6
2012-13	143.08	153.01	(+) 9.93	7

Source: Budget Documents and Finance Accounts

It would be seen that the Department was able to achieve the target set in four out of the five years period. The percentage variation ranges between 2 per cent to 13 per cent in the first two years and subsequently was between 4 per cent to 7 per cent in the next three years. The percentage of variation indicates that the revenue target was more or less realistic.

A bar graph showing the targets set by the department and the actual receipts is depicted below:



4.4.7.2 Comparison between revenue realised and cost of collection

Table 4.4.2

(₹ in crore)

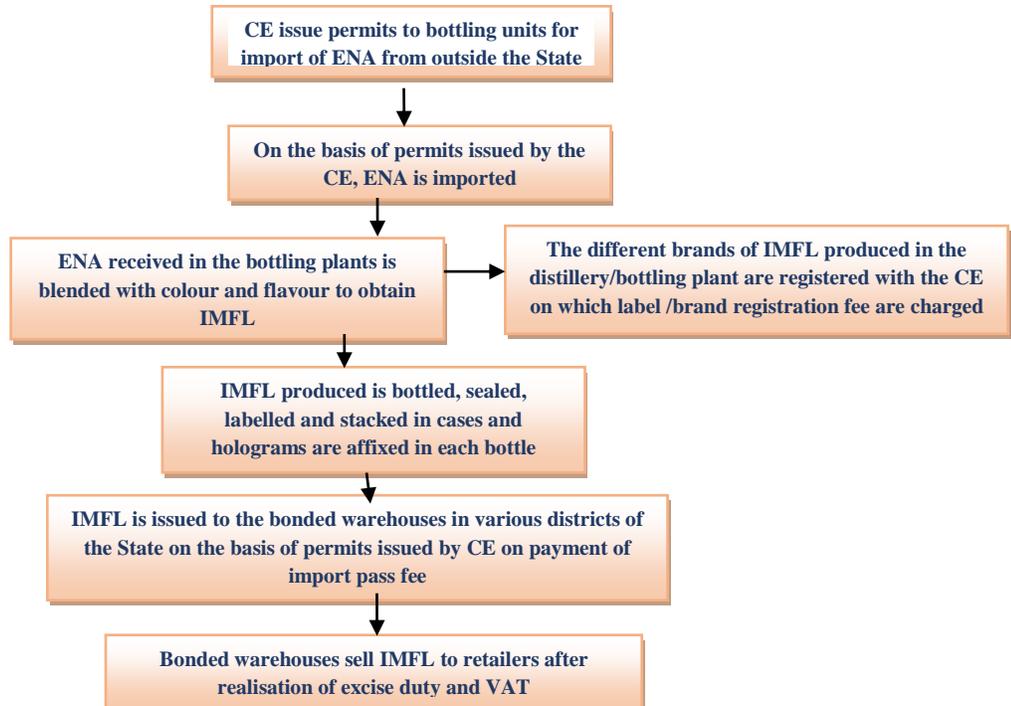
Year	Revenue contributed	Non-Plan expenditure	Percentage of expenditure on collection	All India average percentage of preceding years
2008-09	69.79	6.21	8.90	3.27
2009-10	90.29	7.23	8.01	3.66
2010-11	104.50	9.95	9.52	3.64
2011-12	131.50	10.99	8.36	3.05
2012-13	153.01	10.80	7.06	2.98

Source: Finance Accounts

As can be seen from the above, the cost of collection was between 7.06 per cent and 9.52 per cent during the five year period (2008-2013). Though the cost of collection of the State Excise Department has shown marginal improvement during 2012-13, overall it was quite high in comparison with the all India average cost of collection. The main reason for high rate of cost of collection in comparison to all India average was due to high establishment expenditure under the Non-Plan head.

4.4.8 Working of distilleries/bottling plants

There is no production of Rectified Spirit (RS)/Extra Neutral Alcohol (ENA) in the State for manufacture of IMFL as no distilleries were set up in the State during the period of review. ENA is imported from other States and utilised by the distilleries/bottling plants for production of IMFL. The procedure involved in import of ENA by bottling units, production of IMFL, transport to bonded warehouses and sale to consumers is indicated in the work flow chart below:



4.4.8.1 Under-utilisation/excess utilisation of production capacity

As per records of the CE, six distilleries/ bottling plants and one brewery have been registered out of which only three distilleries/ bottling plants and one brewery were operational for the period upto 2010-11 and four distilleries/bottling plants were operational from 2011-12 onwards Examination of records of the CE revealed that no data on licensed /installed capacity of the distilleries/bottling units and actual production of IMFL by these units was maintained. Based on information furnished by the bottling units/ distilleries, information collected by audit from Director of Industries, Shillong and compilation of production made by these units, the production capacity and actual production of IMFL during the period of review was as under:

Table 4.4.3

Year	Name of the distillery/bottling plant	Total production capacity (in BL ²) per annum	Actual production (in BL)	Utilisation capacity in percentage
2008-09	North East Bottling	3000000 ³	2718746.64	90.62
	MDH Beverages	2700000	1528442.28	56.61
	Milestone Beverages	3000000	4251751.20	141.73
2009-10	North East Bottling	3000000	3467037.60	115.57
	MDH Beverages	2700000	2170337.76	80.38
	Milestone Beverages	3000000	3324603.24	110.82
2010-11	North East Bottling	3000000	5164937.28	172.16
	MDH Beverages	2700000	1586853.08	58.77
	Milestone Beverages	3000000	3446823.96	114.89
2011-12	North East Bottling	3000000	7103333.52	236.78
	MDH Beverages	2700000	3116817.36	115.44
	Milestone Beverages	3000000	3040735.32	101.36
2012-13	North East Bottling	3000000	9472818.96	315.76
	MDH Beverages	2700000	3078978.12	114.04
	Milestone Beverages	3000000	2698155.00	89.94

(Source: Information furnished by the units⁴ and production reports)

As can be seen from the above table, there was under-utilisation (10 to 43 per cent) and over utilisation of annual production capacity (one per cent to 216 per cent) during the last five years period. Though data on actual production was available to the Department, they did not analyse the decline in actual production and capacity utilisation for possible remedial action. In respect of units producing IMFL more than its production capacity, no permission for carrying out additional production was taken from the Government by the

² Bulk Litre.

³ Equated by taking the installed capacity of the blending tanks as one month capacity X No. of months+15 per cent excess.

⁴ Annual production capacity report furnished to the Director of Industries, Shillong and information furnished to audit on installed capacity.

distilleries/bottling plants nor were any such conditions imposed at the time of issue of licence. The CE in his reply (November 2014) stated that licenses issued to bottling plants do not specify the production capacity of the bottling plants nor were any penalty clause for under-production and over production included in the conditions of the license.

Recommendation: *Provision for levying additional license fee and penalty for production beyond the installed capacity and penalty in case of under-production by the distillery/bottling plant/ brewery may be incorporated by the GOM in the conditions of license as is being done in States like Uttar Pradesh and Andhra Pradesh to ensure that the licensees do not carry out any unauthorised production.*

4.4.8.2 Non-commencement of production by bottling units

As per Assam Distillery Rules (as adapted by Meghalaya) before license is granted to a distillery, it should deposit such amount as security for the due observance of the conditions of license and execute a bond pledging for due discharge of all payments which may become due to the Government by way of duty, fees, rents, fines, penalties or otherwise as per the bond entered between the distiller and the Government. The said Rules, however, do not prescribe any penal provisions for non-observance of the conditions to carry out manufacture of IMFL by bottling units. This is fraught with the risk of loss of revenue to the State. Moreover, licenses issued to bottling plants by the Government of Meghalaya do not contain any binding clause imposing liability for non-commencement of production by licensees and non-payment of duty and penalty for failure to carry out production. Audit observed that two bottling plants⁵ which had failed to carry out production were allowed to renew their licenses without any production of IMFL. The CE in his reply (November 2014) stated that no rules have been framed to penalise bottling plants for non-production.

Recommendation: *Provision should be introduced in the State Excise Rules for penalising licensed bottling plants/distilleries & brewery for failure to carry out production in time as is being followed in Andhra Pradesh where the licensee forfeits his right on the license for failure to commence manufacture within the stipulated time.*

4.4.8.3 Deficiency in reporting system

The bottling units are required to submit monthly returns in the format prescribed by the State Excise Department to the CE through the SEs of the concerned districts mentioning therein the receipt of ENA and resultant production of IMFL during the period reported upon. It was, however,

⁵ Reliance Bottling Plant and Oaken Gold Bottling Plant.

observed that the format does not have the provision for noting the total volume of ENA permitted to be imported during the month. This could have enabled the Department to monitor the actual import of ENA *vis-à-vis* the permits granted to pre-empt any scope of evasion of revenue.

Recommendation: *The Department may consider revising the format suitably for monthly reports of bottling units to provide columns for the volume of ENA permitted during the month and corresponding remarks column for incorporating the reasons for variation.*

4.4.8.4 Delay in utilisation of permits for import of ENA

As per Section 10 of Assam Excise Act, spirits can be imported for manufacture of IMFL from the rectified spirits /Extra Neutral Alcohol (ENA) on pre-payment of duty or execution of a bond. Audit observed that permits were used by the bottling plants for import of rectified spirits from distilleries outside the State without execution of any bond. Import permit for ENA are issued with a validity of 45 days. Since the CE could provide records only for 2011-12 and 2012-13, analysis was done in respect of four bottling plants for only these two years. Audit analysis reveals delay in utilisation of these permits by three out of four bottling plants as detailed below:

Table 4.4.4

Name of the bottling plant/ brewery	Delay ⁶ in utilisation of permits beyond the validity period			
	2011-12		2012-13	
	No of permits	Period of delay	No of permits	Period of delay
North East Bottling	40	2 days to 202 days	46	3 days to 310 days
MDH Beverages	6	45 days to 573 days	10	7 days to 593 days
Milestone	NA		6	8 days to 29 days

It is evident from the above that the bottling plants were allowed to utilise the permits even after expiry of the validity period of 45 days ranging from 2 days to 593 days. In the absence of any bond, excise duty that would have accrued to the Government could not be realised from the lapsed permits due to absence of binding contract agreement/ under bond agreement.

Recommendation: *Bond should be executed at the time of issue of permits to ensure that in case of delay in utilisation of the permits by the bottling units within the validity period, the excise revenue due to the State is not lost*

⁶ Permit validity of maximum 45 days from date of issue had been taken for calculation of delay.

as is being followed in a number of States including Assam and West Bengal.

4.4.8.5 Short production of IMFL

The Assam Distillery Rules (as adopted by the Government of Meghalaya) do not provide any norms for production of Indian Made Foreign Liquor (IMFL) from ENA. The State Government is yet to prepare a technical manual of its own and prescribe norms for production of IMFL from ENA (November 2014). This is fraught with the risk of evasion of Excise Duty as duty is payable on IMFL which is produced from ENA and any shortfall in production due to the absence of any norms would result in loss of revenue. In the absence of any prescribed norms, Audit has adopted the norms prevailing in the bottling plants⁷ for the purpose of calculation. As per the prevailing norms, 4 BL and 3.86 BL of ENA is required for production of one case of 750 ml/375 ml and 180 ml IMFL respectively⁸ which translates into an average of 3.93 BL per case of IMFL.

On test check of records of four distilleries/bottling plants⁹ in operation during the period of PA, it was observed that these units utilised 2,63,96,510 BL¹⁰ of ENA and produced 64,89,385 cases (750 ml- 20,04,667 cases¹¹; 375 ml – 19,47,889 cases¹²; 180 ml – 25,36,829 cases¹³). As per the norms, these distilleries should have produced 67,16,669 cases instead of 64,89,385 cases shown. This resulted in shortfall in yield of 2,27,284 cases during production involving minimum loss of revenue of ₹ 10.15 crore¹⁴ in the form of excise duty and VAT.

The above shortfall was calculated by Audit without considering malt spirit imported by the distilleries and utilised for production of IMFL. The loss of revenue would be more if malt spirit utilisation is also taken into account. It was also observed that though the State Excise Department has devised a monthly report showing production of IMFL from use of

⁷ M/s Milestone Beverages, M/s MDH Beverages, M/s Marwet Bottling Industries and M/s NEB.

⁸ 1 case of 750ml, 375 ml and 180ml IMFL contains 12 bottles, 24 bottles and 48 bottles respectively.

⁹ M/s Milestone Beverages, M/s MDH Beverages, M/s Marwet Bottling Industries and M/s NEB.

¹⁰ M/s Milestone Beverages (7899796 BL), M/s MDH Beverages (5685560 BL), M/s Marwet Bottling Industries (150533 BL) and M/s NEB (12660612 BL).

¹¹ M/s Milestone Beverages (532693 cases), M/s MDH Beverages (360701 cases), M/s Marwet Bottling Industries (23305 cases) and M/s NEB (1087968 cases).

¹² M/s Milestone Beverages (575417 cases), M/s MDH Beverages (404486 cases), M/s Marwet Bottling Industries (2968 cases) and M/s NEB (965018 cases).

¹³ M/s Milestone Beverages (785773 cases), M/s MDH Beverages (647540 cases), M/s Marwet Bottling Industries (9766 cases) and M/s NEB (1093750 cases).

¹⁴ Excise duty involved: 227284 cases x ₹ 314 = ₹ 71367176; VAT involved: 227284 cases x ₹ 132.60 = ₹ 30137858. Minimum excise duty of General brand and VAT during the review period (2008-09 to 2012-13) taken for calculation.

ENA to be furnished by all bottling units to the CE, it is yet to prescribe the norms for such production.

Recommendation: *Immediate steps should be taken by the Government to notify the norms for production to be utilised as a benchmark by all distilleries/bottling plants to prevent such cases of avoidable short production leading to loss of revenue to the State.*

4.4.8.6 *Non-recording of actual loss of spirits in transit*

Rule 141 of Assam Excise Rules as amended by Government of Meghalaya provides for an allowance for the actual loss in transit due to leakage or evaporation of spirits transported in metal vessels at the rate of one *per cent* to 2.5 *per cent* as per duration of journey. The loss would be determined by deducting from the quantity of spirit dispatched from the distillery, the quantity received at the place of destination, both quantities being stated in term of bond proof. The allowance will be calculated on the quantity contained in each vessel after actual gauging and proving.

Test check of records of four bottling plants under SE, Ri-Bhoi revealed that between April 2008 and March 2013 against dispatch of 1,78,48,000 BL of ENA, 17,57,866 BL of ENA was shown as received at destination and 2,72,134 BL (1.52 *per cent*) was shown as wastage by the bottling units. Audit scrutiny however revealed that the wastage was taken without considering the actual loss, preparing report and recording reasons for the loss. The wastage recorded was also doubtful as the Excise Verification Certificates furnished by the bond officer-in-charge duly countersigned by an authorised officer indicated full receipt of the consignments. The wastage of 2,72,134 BL which had the capacity for production of 68,034 cases¹⁵ of IMFL and would have yielded minimum revenue of ₹ 3.04 crore¹⁶ was doubtful.

Recommendation: *Effective system of verification should be introduced to regulate claim as per actual loss.*

4.4.8.7 *Observations relating to implementation of holograms*

As per the notification issued by the State Government (April 2009), application of printed security holograms issued by the Government on bottles, pouches and cans containing alcoholic liquor for human consumption was made compulsory on its issue from distilleries/breweries/bonds/licensees with the twin objectives of collecting the excise duty at the point of issue of

¹⁵ As per accepted norms, 4BL is required for production of 1 case of 750 ML IMFL. Therefore 272134 BL/4 BL= 68034 cases

¹⁶ Excise duty involved: 68034 cases x ₹ 314 = ₹ 21362676; VAT involved: 68034 cases x ₹ 132.60 = ₹ 90213084

such liquor and safeguarding the public health and safety by certifying the genuineness of the alcohol as fit for human consumption.

For implementation of holograms in the State, an agreement was entered into with M/s Uflex Limited, Noida in June 2009 for supply of holograms at an agreed cost of ₹ 1.42 per hologram to be affixed on each. The cost of the hologram was included in cost price declared by the manufacturer/bottling plants. The cost of hologram included ₹ 1.30 as the contractor's share and ₹ 0.12 as the share of the State Government.

Audit analysis of the efficiency and effectiveness of introduction of holograms in the State revealed the following:

- The State has no chemical laboratory, as a result of which IMFL produced locally were not getting tested by the Excise Department to ensure that IMFL manufactured in the bottling units was fit for human consumption and that the strength of the spirit was in the prescribed level, *i.e.*, 75 degree proof as indicated in the brand approved by the Excise Department.
- During 2012-13, 96995 cases IMFL and 70509 cases Beer on which holograms were affixed were allowed as go-down breakage and transit breakage for which no records were available. Thus, there is a possibility that IMFL are being sold in the market without payment of Excise Duty and VAT. No mandatory submission of sale statements by the retailers were enforced and neither any physical verification of retailers were conducted during the review period, which therefore leaves no scope for verification by the Excise Department.
- In three bottling plants¹⁷ and one brewery there was variance of 3.25 crore holograms issued (May 2010 to March 2013) by the CE and that shown as received and utilised by the licensees. During May 2010 to March 2013, 9,74,70,000 holograms were shown as issued to three bottling plants as per records of the CE. However, during the same period, the bottling plants showed receipt of 13,00,06,558¹⁸ holograms, utilisation of 12,76,37,602¹⁹ holograms and closing balance of 23,68,956²⁰ holograms as on 31 March 2013 as per the returns furnished to the CE. No action was taken by the CE to ascertain the discrepancy in the holograms issued and that shown as received by the bottling plants. The scope of issue of excess holograms without realisation of revenue cannot be ruled out.

¹⁷ Milestone- 24900000; MDH Beverages- 28970000; North East Bottling- 43600000

¹⁸ Milestone- 28080000; MDH Beverages- 31431240; North East Bottling- 70495318

¹⁹ Milestone- 27921279; MDH Beverages- 30614020; North East Bottling- 69102303

²⁰ Milestone- 158721; MDH Beverages- 817220; North East Bottling- 1393015

- Between May 2010 and March 2013, 13,00,06,558 holograms were received by three bottling plants out of which 12,76,25,133 holograms were utilised, leaving a balance of 23,81,425 holograms as on 31 March 2013. During this same period, the bottling plants produced 13,16,15,064 IMFL bottles as per the monthly production reports furnished by the bottling plants to the CE. Therefore, there is every possibility of sale of 39,89,931 lakh IMFL bottles without holograms.
- It was also noticed that 3,40,950²¹ holograms were reported as wasted by three bottling plants between May 2010 and March 2013. The wasted holograms were neither returned to the Excise Department by the distilleries nor was any action taken by the Department to take possession of the holograms to rule out any misuse of the Government labels.

The above audit findings indicate that implementation of holograms was not efficient and effective as implementation of holograms without setting up a testing laboratory and not carrying out any quality checks defeated the objective of introduction of holograms in the State.

Recommendation: *The Government should ensure setting up of chemical laboratory and conduct chemical examination of samples of IMFL produced in the local bottling plants on the similar lines as established in the State of Assam in order to ensure quality of the liquor bottled/manufactured.*

4.4.9 Working of brewery

4.4.9.1 Concealment of production

The State has one brewery²² which started commercial production from September 2011. Audit scrutiny of the control mechanism exercised by the CE on the functioning of the brewery indicated that similar to the bottling units, the brewery is also required to submit monthly reports on production and dispatch of consignments. The brewery unit is also required to maintain records of raw materials used for production of Beer. In the absence of such vital information, the CE has no input to cross verify the production of beer so reported by the unit. Audit scrutiny of the records of the brewery also revealed that proper maintenance of records, namely Brewery Book, raw materials stock account and other production records duly verified by the excise officials were not found maintained by the brewery till the date of audit (November 2014). No production norms of beer have been fixed in the Assam

²¹ 340950 /12= 28412.50 cases

28412.50 cases x ₹ 314 (minimum excise duty) = ₹ 8921525

28412.50 cases x ₹ 132.66 (minimum VAT) = ₹ 3769202

²² M/s CMJ Breweries

Distillery Rules. Rule 67 of Assam Distillery Rules (as adapted by GOM) states that the breweries are allowed a total of 10 *per cent* wastage of the total wort²³ brewed in a month. The wastage takes into account the minimum yield of beer wort accepted for fermentation, loss due to evaporation, and other contingencies within the brewery. The main raw materials used for production of beer are – barley malt, rice flakes, sugar and hops. In absence of any production norms, the norms as adopted by Government of Bengal have been taken into account by Audit which provides that 15.42 kilograms (kg) of malt or 14.52 kg of rice flake or 12.70 kg of sugar would produce 81.823 bulk litres (BL) of wort.

Since no records on raw materials used for production were maintained, audit has gathered the information on raw materials shown utilised by the brewery in their claims for transport subsidy. An analysis with the parameters stated above revealed that during the period from November 2011 to March 2013, the brewery consumed 443.20 tonne of rice flakes and 1501.01 tonne of malt which was capable of producing 1,04,62,312.62 BL²⁴ (13,41,322 cases) of Beer. However, the unit disclosed production of 11,83,106 cases of Beer which was short of the ideal production by 1,58,216 cases (after deducting 10 *per cent* wastage) of Beer involving revenue of ₹ 3.01 crore²⁵ as excise duty and Value Added Tax.

The CE in his reply (November 2014) accepted the audit observations and stated that the matter would be taken up with the Government.

Recommendation: *The GOM may establish norms for usage of raw materials for production of beer and enforce mandatory maintenance of brewery book & accounting of raw materials to prevent any scope for concealment of actual production by the brewery resulting in loss of revenue to the State as is followed in West Bengal.*

4.4.9.2 Undue benefit for allowing wastage beyond the permissible limit

As per Rule 67 of Assam Distillery Rules, the breweries are allowed a total of 10 *per cent* wastage of the total wort brewed in a month. The wastage takes into account the minimum yield of beer wort accepted for fermentation, loss due to evaporation, and other contingencies within the brewery.

²³Wort means the liquid obtained by the mashing of grain or malt or by dissolving saccharin matter intended for fermentation but in which fermentation has not visibly begun.

²⁴ 90 per cent of total worts brewed taken for calculation. (**Rice flakes:** 443.20t x 1000kg= 443200 x 81.823/14.52=2497517.47 BL ; **Malt :** 1501.01 t x 1000kg = 1501010 x 81.823/15.42 BL =7964795.15 BL) **Total :**10462312.62 BL /7.8 BL per case = 1341322 cases

²⁵ 158216 cases (Excise Duty: 158216 cases x ₹ 95 = ₹ 15030520; VAT: 158216 cases x ₹ 95.24= ₹ 15068492)

During December 2011 to March 2013, CMJ Brewery claimed go-down breakage of 9761 cases in addition to the 10 per cent wastage already claimed which was allowed by the excise department. Since wastage of 10 per cent had already been taken into account for computation of production of Beer as discussed in paragraph 4.7.4.1, go-down wastage allowed to the brewery was irregular resulting in loss of revenue of ₹ 0.19 crore²⁶.

Recommendation: *The godown wastage claims should be restricted to the permissible limit. The revenue loss due to excess claim allowed should be recovered from the brewery.*

4.4.9.3 Loss of revenue on spoilt beer

As per Rule 24 of the Assam Distillery Rules, the distiller shall be responsible for the safe custody of the stock of spirit in his distillery and shall be liable to make good any loss to the Government due to his negligence.

Audit of records of CMJ Breweries under SE, Nongpoh revealed that the brewery failed to despatch stock of 10,417 cases of Magpie, 5,110 cases of Nutcracker and 7,785 cases of Savage which were produced during the months of May 2012 & June 2012 and thereafter requested (October 2012) for draining of the spoilt beer as the shelf life of beer is usually six months. Reasons for non-dispatch of the stock were not on record. In addition, 7,771 cases of Magpie, 5,367 cases of Nutcracker, 8,120 cases of Savage, 7,064 cases of Royal lager and, 7376 cases of Royal Strong Beers produced during September 2012 and October 2012 also lost their shelf life. The SE submitted the proposal for draining of these beers in March 2013 to the CE for taking necessary approval of the competent authority. However, while forwarding the proposal, neither chemical examination reports of the beer samples nor approval for issue of show-cause for revenue realisable from the spoilt beer was put up for Government's consent. In June 2013, the Government accorded approval for draining of the spoilt beer in presence of a magistrate. In November 2013, CMJ Brewery requested the SE for destruction of the beer in presence of excise officials on the pretext that draining of the spoilt beer would take time and presence of the magistrate would not be feasible. The SE forwarded the case to the CE for necessary approval for destruction of the spoilt beer. Till date of audit (October 2014), further orders of the competent authority in response to SE's recommendation was not given.

On further examination of records of CE, it was observed that production of the brewery was not regulated as per demand as permits taken by the brewery for import and export of beer produced were not fully utilised. As a result of

²⁶ 9761 cases (excise duty: 9761 cases x ₹ 95 = ₹ 927295; VAT: 9761 cases x ₹ 95.24= ₹ 929638)

this unplanned action of the brewery, there was backlog of stock of beer which was spoilt resulting in loss of revenue of ₹ 0.90 crore²⁷ to the State. In spite of the loss, no demand notice was issued by the CE to realise the loss of revenue to the State.

Recommendation: *The Department should raise demand notice to realise the Government revenue due to negligence of the brewery as is being done in the State of Assam.*

4.4.10 Bonded Warehouses

4.4.10.1 Lack of control on fixation of bond margin

As per the system of fixation of price of IMFL adopted by the State, Government notifies the categorization of IMFL brands excluding Beer and Bottled in Origin (BIO) which shown as separate brands including fixing of rate of excise duty from time to time.

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 furnishing full details of the brand, its ex-bond price, Maximum Retail Price (MRP) etc. to the CE. On the basis of ex-bond/cost price and MRP declared by the licensees (distiller/bottling plants) after adding the profit, taxes and duties with the ex-bond price, the CE, Meghalaya classifies the brands under respective categories and accordingly issues label registration and approves the MRP of a particular brand. The profit margin included in the MRP was only for retailer which was fixed by the State Government in 1996, but no profit margin for the bonded warehouse before arriving at the cost price (ex-bond price) has been fixed by the Government till date (November 2014). Further, the basis of fixation of the ex-bond price as declared by the manufacturing unit was neither submitted by the manufacturer to the CE nor was any such details called for by the Department.

Recommendation: *The Excise Department may initiate process for fixation of ex-bond prices for different brands of liquor including prescribing bond margin profit on similar lines as Andhra Pradesh and Tamil Nadu which have a mechanism and overall control on fixation of price.*

²⁷ Magpie: 18188 cases x { ₹ 96 (excise duty) + ₹ 1.47 (VAT) } = ₹ 17,72,784
Nutcracker 10477 cases x { ₹ 85.20 (excise duty) + ₹ 1.31 (VAT) } = ₹ 9,06,365
Savage 15905 cases x { ₹ 80 (excise duty) + ₹ 1.19 (VAT) } = ₹ 12,91,327
Royal Lager 7064 cases x { ₹ 31.20 (IPF) + ₹ 108.75 (excise duty) + ₹ 172.99 (VAT) } = ₹ 22,10,608
Royal Strong 7376 cases x { ₹ 31.20 (IPF) + ₹ 175 (excise duty) + ₹ 181.24 (VAT) } = ₹ 28,57,757

4.4.10.2 *Irregular allowance of double transit breakage claim*

As per the notification issued by the Government of Meghalaya (October 1997), Rule 141 of Assam Excise Rules, 1945 was amended. As per the amendment, an allowance (ranging from 1 *per cent* to 2.5 *per cent*) calculated on the basis of duration of journey are allowed for loss that may occur in transit due to breakage, leakage or evaporation of spirit including beer/IMFL when transported, exported or imported under bond. Removal of intoxicant are made from a distillery or warehouse to another distillery or warehouse only under bond or on payment of duty. No provisions for bond to bond transfer of intoxicant are provided in the existing Excise Act/Rules.

Audit examination revealed that bond to bond transfer of IMFL to some bonded warehouses in the State was allowed by CE as a special case from time to time without taking concurrence of the Government. Bond to bond transfer in respect of a beer was analysed by Audit to assess the impact of transit claim being allowed on such transfer of stock. Examination of records revealed that a bonded warehouse²⁸ imported 29,65,837 cases of Asia 72 Beer and claimed transit breakage of 48,189 cases (one *per cent* to two *per cent*) on the consignments received during 2008-2013 which was allowed by the Department. Subsequently, the bonded warehouse transferred the consignments to other bonded warehouses on which further transit claims (ranging from 1 *per cent* to 2 *per cent*) on the basis of duration of journey were claimed by the bonded warehouses of different districts and was allowed by the Department. Audit observed that there was no approval of the State Government for allowing such bond to bond transfer by the bonded warehouse (M/s Mohan Meakins) to other bonded warehouses. Further, the issue on regulation of double transit claims which would arise in course of bond to bond transfer of stock was neither taken up by the Department with the Government nor was the consent of the Government obtained.

This practice of allowing further transfer of the stock to other bonded warehouses has therefore resulted in double transit claims for the same consignment by the bonded warehouses. Thus, there was potential loss of revenue due to allowing of double transit claims on the same stock by the Department.

The CE while accepting the audit observation (October 2014) stated that transit breakage allowance claim had been disallowed to M/s Mohan Meakins Ltd. with immediate effect. The reply, however, was silent regarding recovery of revenue which was foregone due to previously allowing transit breakage claims to the bonded warehouse.

²⁸ M/s Mohan Meakins

4.4.10.3 *Lacunae in transit breakage allowance rules*

As per Rule 141 of the Assam Excise Rules, transit wastage allowance is provided on leakage and evaporation of spirit transported or exported under bond by wooden vessels or metal vessel only up to a maximum limit based on duration of the journey.

In October 1997, the Government of Meghalaya notified introduction of new Rule 141 under Meghalaya Excise (Amendment) Rules, 1997 on transit wastage allowance. As per the new Rule, transit breakage allowance was allowed on IMFL/Beer in addition to leakage or evaporation of spirit when transported, exported or imported under bond by wooden vessels, metal vessels and glass vessels/pearl pots. Based on duration of the journey, the wastage allowance permitted for transport in wooden vessels, metal vessels and glass vessels/pearl pot vessels range between 2-3.5 *per cent*, 1-1.5 *per cent* and 1-2.5 *per cent* respectively.

Audit of records of the bonded warehouses (January 2014 to July 2014) for the period of review revealed the following:

- Transit claims were allowed without considering the actual loss, preparing report by the officers in charge of the bonded warehouses and recording reasons of the actual loss;
- Details of breakage of bottles broken during transit including holograms fixed on these bottles were not maintained by the bonded warehouses and verified by the bond officer in charge;
- The Excise Verification Certificate furnished by the Department certified full receipt of consignment of IMFL/Beer/BIO in the bonded warehouses yet the transit claims (ranging from 1 *per cent* to 2.5 *per cent*) were allowed.

It can be seen from above that there was no mechanism and records ensuring that transit claims allowed were on actual basis. Moreover, allowing transit claims to bonded warehouse on loss during transit for consignment which is the liability of the distillery for delivery to the bond premises does not appear to be logical. The potential minimum revenue leakage due to such irregular allowance was analysed by Audit for the year 2012-13. The examination revealed that during the year, 25 test checked bonded warehouses²⁹ claimed

²⁹ East Khasi Hills :8 bonded warehouses; East Jaintia Hills : 4 bonded warehouses; Ri-Bhoi: 5 bonded warehouses; West Garo Hills: 3 bonded warehouses; West Jaintia Hills: 2 bonded warehouses; South Garo Hills: 3 bonded warehouses

transit breakage on 25,929 cases of IMFL and 22,132 cases of Beer involving a possible revenue loss of ₹ 2.52 crore³⁰.

Recommendation: *The policy of allowing transit claims for exemption from duty and tax to bonded warehouses should be reviewed by the Government to avoid loss of revenue to the State.*

The following irregularities were further noticed by audit on transit claims as discussed in succeeding paragraphs:

➤ *Excess transit claim beyond permissible limit*

Audit analysis revealed that during the review period, higher transit claims were claimed by all the 32 bonded warehouses³¹ than the admissible limit resulting in excess transit claims. The bond officers in charge failed to bring the discrepancies to the notice of higher officials resulting in loss of revenue of ₹ 0.57 crore to the State on excess transit claims of 10,179 IMFL cases and 4208 cases of Beer³² during April 2009 to March 2013.

➤ *Irregular transit claim allowed to a bonded warehouse*

Test check of records of M/s Nico Bonded warehouse under SE, Nongpoh revealed that the Bonded Warehouse claimed transit breakage of 1 per cent to 2 per cent during April 2011 to March 2013 on import/purchase of 11,215 cases of Officer's Choice and 1480 cases of J&D Whisky from M/s North East Bottling Plant which was allowed by the Excise Department. It was further seen that the godown of the bonded warehouse was located within the premises of the bottling plant. Thus, the transit breakage claims allowed to the bonded warehouse on 126.95 cases involving revenue of ₹ 0.01 crore³³ was irregular as it provided undue benefit to the licensee and consequent loss of revenue to the State.

³⁰ IMFL: 25,929 cases (excise duty: 25,929 cases x ₹ 551 = ₹ 14286879; VAT: 25929 cases x ₹ 257.80= ₹ 6684496); Beer : 22132 cases (excise duty: 22132 cases x ₹ 95= ₹ 2102540; VAT: 22132 cases x ₹ 95.24 = ₹ 2107852)

³¹ East Khasi Hills: OS, SK, Valentine, Mohan Meakins, BA, RAM, BM,VW, Reliance Bonded Warehouses; West Khasi Hills: Western bonded warehouse; Ri-Bhoi: TD, Nico, Purbanchal, OS, Jorabat bonded warehouses; East Jaintia Hills: DS, JPD, LBS, SS, Vanicia bonded warehouses; West Jaintia Hills: OK,VFR bonded warehouses; West Garo Hills: Megha, Gloria, Tura, Hill View bonded warehouses; North & South Garo Hills: Norombi, Planet, Wasa bonded warehouses; East Garo Hills: DMB, MM Bonded Warehouses; South West Garo Hills: Sweety bonded warehouse.

³² 6507 cases of General Brand, 3427 cases of Deluxe Brand, 245 cases of Premium Brand & 4208 cases of Beer

³³ 1 per cent of 12695 cases = 126.95 cases
excise duty=126.95 cases x ₹ 556 = ₹ 70584; VAT = 126.95 x ₹ 278.80= ₹ 35394; import pass fee = 126.95 cases x ₹ 54 = ₹ 6855).

Recommendation: *Necessary steps should be taken by the Excise Department to regulate the transit breakage claims in an effective manner to prevent undue benefit to the warehouses.*

4.4.10.4 Quarterly godown breakage claims

Rule 37 of the Assam Bonded Warehouse Rule, 1965 (as adapted by the Government of Meghalaya) provides that the Superintendent of Excise or in his absence, the Officer-in-Charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of March, June, September and December in each year and the licensee shall pay to the State Government duty at the rates imposed on all spirits in excess of 1 *per cent* which shall be made to him for wastage. The Government of Meghalaya vide notification (October 1997) increased the godown wastage from 1 *per cent* to 2 *per cent*.

➤ ***Absence of records/checks on claims of quarterly breakage***

The quarterly godown breakage allowance was required to be extended to the bonded warehouses only after carrying out stock taking of all spirits including IMFL in the warehouse on quarterly basis. If upon stock taking, shortage of spirits including IMFL is found, the difference of stock will be restricted to the maximum permissible wastage of two *per cent* given as godown wastage and the licensee is required to pay the required duty for shortage in excess of two *per cent*.

On the basis of the Government notification, the State Excise department was required to lay down the procedure to be followed by the designated officers for carrying out the stock verification, vouching of the report and submission of the report to the district officers in charge and to the CE to ensure transparency and correctness in the verification conducted.

Examination of stock registers of IMFL maintained by the bonded warehouses of all districts in the State revealed that the godown breakage was allowed to bonded warehouses every quarter on the maximum permissible wastage of 2 *per cent* without carrying out any stock verification. Audit observed that no quarterly stock verification reports were being submitted by the bond officer in charge and other designated higher officials for further submission to the SEs of different districts and to the CE during the period of review. A surprise stock verification conducted (January 2012) by the SE in two bonded warehouse of West Jaintia Hills district revealed discrepancies in stock which indicates that the godown breakage claimed and allowed was not correct. Furthermore, the following short-comings were also observed by Audit:

- No reports on any accidents in the godown leading to breakage of IMFL bottles were ever submitted by the bond officers in charge to the SEs of different districts of the State or to the CE.
- With the implementation of holograms in the State, the Department had the tool to check pilferage in actual stock of IMFL through proper accounting and linkage of holograms. However, details of holograms were not accounted for stock on which godown breakage was claimed.

Since the Department had not formulated a mechanism for carrying out the quarterly stock verification and conditions before allowing the godown breakage claims limited to two *per cent* based on actual handling loss in the godown, there was every possible scope to misuse the notification for providing undue benefit to the licencees. The minimum revenue impact to the State on account of allowing godown breakage to bonded warehouses was ₹ 6.67 crore³⁴ which cannot be ruled out as short realisation of Government revenue in the absence of any effective mechanism and records to substantiate the breakage claims.

Recommendation: *Proper system should be evolved to ensure that the quarterly go-down breakage allowance are based on actual handling losses in the go-down which should be allowed after proper verification of facts to avoid loss of revenue to the State.*

- *Quarterly breakage claim on stock received at the end of the quarter*

The impact of non-review of the policy of the State Government even after 17 years of issue of notification on go-down breakage was examined by audit. During the period from 2008-09 to 2012-13, 9,78,302 cases of IMFL³⁵ were received by the bonded warehouses at the end of each quarters during 2012-13. Out of which, 19,377.2 cases of IMFL were allowed as godown breakage which had excise duty impact of ₹ 0.63 crore to the State as detailed below:

³⁴ Calculated for one year (2012-13) of 25 out of 32 bonded warehouses in the State IMFL: 71066 cases (excise duty: 71066 cases x ₹ 551 = Rs39157366 ; VAT: 71066 cases x ₹ 257.80= ₹ 18320815); Beer: 48377 cases (excise duty: 48377 cases x ₹ 95 = ₹ 4595815; VAT: 48377 cases x ₹ 95.24=₹ 4607426)

³⁴ Minimum excise duty and VAT of General Brand and minimum excise duty and VAT of Asia 72 Beer taken for calculation as per Memo No MEG/CE-67/2010/909-A dated 23.03.12

³⁵ General Brand(219428 cases), deluxe Brand (279175 cases), premium brand (24226 cases), super premium brand (2220 cases), wine(3510 cases), BIO (918 cases), Beer (448825 cases)

Table 4.4.5

Sl No	Category	Total quantity received (in cases) at the fag end of each quarters during 2012-13	Total godown wastage allowed (in cases)	Minimum Excise duty involved ³⁶ (₹)
1	General Brand	219428	4387.0	2250531
2	Deluxe Brand	279175	5582.0	2975206
3	Premium Brand	24226	483.0	423108
4	Super Premium Brand	2220	42.0	51744
5	BIO	918	17.5	7875
6	Wine	3510	69.7	9549
7	Beer	448825	8796.0	571740

In the absence of any benchmark, stock received at the end of quarters (26th day onwards) were allowed for quarterly breakage claims at the maximum permissible limit of 2 per cent without any reports of consignment damage in the godowns.

Recommendation: *The State Government should take necessary steps to examine the checks exercised by the Department for quarterly godown breakage allowance and prescribe effective mechanism to ensure claims on actual basis.*

4.4.10.5 Irregular issue of fresh permits against lapsed permits

As per the Excise Rules prevalent in the State, import of any excisable article imported to the State should be supported by an import permit, issued by the CE after payment of import fees by the importers at the rates notified by the Government from time to time. The import permit granted is valid for such period as specified in the permit unless it is cancelled or suspended.

Test check of import permits of eight bonded warehouses³⁷ in East Khasi Hills for two years (2011-12 and 2012-13) revealed that 109 permits had been issued to these licensees for import of IMFL on payment of prescribed import pass fees. The licensees could not utilise these permits within the validity period of 45 days. The Department, however, issued new permits to these bonded warehouses by adjusting the import pass fee of the lapsed permits against the new permits.

The CE in his reply (November 2014) stated that some permits lapse as they are not utilised within the allowed time period since permits are usually applied on anticipated future sales. Hence, the fees paid for lapsed permits are allowed to be adjusted to ensure that bonded warehouses are not discouraged from importing IMFL in the interest of availability of IMFL in the market and

³⁶ Minimum excise duty calculated as per the Order of the Commissioner of Excise No. MEG/CE-67/2010/51 dated 28.5.2010: ₹ 513 for General Brand, ₹ 533 for Deluxe Brand, ₹ 876 for Premium Brand, ₹ 1232 for Super Premium Brand, ₹ 450 for BIO, ₹ 137 for Wine and ₹ 65 for Beer.

³⁷ VW, OS, Reliance, BA, SK, Mohan Meakins, RAM and Valentine bonded warehouses

revenue generation. The reply is not tenable as there was no provision in the Excise Act for adjustment of permit fee beyond its validity period.

Recommendation: *Permits should not be allowed to be revalidated beyond the validity period. Revalidation of permits if required should be done before the same lapses.*

4.4.11 Allotment of rum to police, army and para military forces

As per the system adopted in the State, the CE accords approval for allotment of rum to police, army and para-military forces on quarterly basis. On examination of records of the ACE, Shillong and SE, Nongpoh it was observed that police, army and para-military forces were allowed to lift rum from CSD, Narangi and bonded warehouses under canteen license in the district offices even after lapse of validity of the allotment order for the particular quarter.

In addition to the above, the following irregularities were also noticed which are discussed in the succeeding paragraphs:

4.4.11.1 Irregular allotment of rum to police

The Government of Meghalaya imposed (April 2011) advalorem excise duty on rum drawn by canteen license in the State at the rate of 40 *per cent* advalorem levy on cost price subject to minimum of ₹ 257 per case of 750 ml.

Audit of records of four district offices³⁸ revealed that 1,62,766 cases of Rum was allowed to be lifted by the police on payment of concessional excise duty for festivals/functions in addition to the monthly quota of Rum allotted to the police in these districts. The monthly allocation of Rum to the Police Department by the Excise Department were also made without assessment of entitlement of the police personnel, actual requirement based on the approved strength of the police and quota approved for personnel in the districts.

The practice of allowing additional allotment of Rum by the para-military and other forces on concessional excise duty over the monthly allotted quota was irregular.

The CE in his reply (November 2014) accepted the audit observation and stated that henceforth, the additional allotment will be limited and allowed only in special cases.

4.4.11.2 Non-realisation of Import Pass Fee

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1995 empowers the State Government to levy import pass fee for import of IMFL/Beer *etc.* The

³⁸ ACE, Shillong; SE, Williamnagar, SE, Jowai and SE, Nongpoh

Government in March 2007 introduced two slabs of import pass fee – ₹ 54 per case for import of IMFL bottled within the State and ₹108 per case for import from outside the State. The import fee for beer ranges between ₹ 31.20 to ₹ 132.96 per case.

Audit of records (May 2014) of the ACE, Shillong and SE, Nongpoh revealed that during 2008-2013, defence and para-military organizations imported 1,89,153 cases of Rum, 68,895.5 cases of IMFL and 40,235 cases of beer from outside the State for which import pass fee was not realised by the Department. Since there was no relief of import pass fee on import of IMFL / Beer, *etc.* by the defence/para-military forces, the irregular action of the Department resulted in non-realisation of revenue of ₹ 2.91 crore³⁹ to the State.

The CE in his reply (November 2014) stated that clarification on the issue for imposition of import pass fee had been taken up with the Government. Further reply was awaited.

4.4.11.3 Non-realisation of Excise Duty

In exercising the powers conferred under Section 21 of the Assam Excise Act 1910 (as adapted by Government of Meghalaya), the Government in April 2011 notified 40 *per cent* Ad-valorem levy on cost price of IMFL/Rum subject to a minimum of ₹ 257 per case of 12 bottles of 750 ml size or equivalent quantity on Rum drawn by canteen license as Excise Duty. The Cost Price of Rum was fixed at ₹ 784 per case by the State Government as per their notification dated March 2012.

Test check (May 2014) of records of the ACE, Shillong relating to import of Rum by the Central Defence and State Police Canteens revealed that during the period from April 2012 to November 2012, a total of 51,592 cases of Rum was imported by the Central Defence and State Police canteens from CSD Narangi, Assam and different bonded warehouses within the State. As per the cost price notified by the Government the ad-valorem excise duty on rum worked out to ₹ 313.60 per case. Against which, excise duty was realised at a rate of ₹ 257 and ₹ 273 per case. This short realisation has therefore, resulted in loss of excise duty amounting to ₹ 0.23 crore on Rum imported by Central defence and state police canteens.

4.4.11.4.1 Non-fixation of holograms

A new Rule (Rule 373) was inserted in the Meghalaya Excise Rule in April 2009 requiring all liquor and beer bottles sold in the State to have holograms to be supplied by the Excise Department to manufacturers/bottlers/bonded

³⁹ 258048.50 cases X ₹ 108 = ₹ 27869238 and 40235 cases x ₹ 31.20= ₹ 1255332

warehouses, who would affix them to the bottles before effecting sales. The cost of each hologram was fixed by the Department as below:

1. Cost of hologram	₹ 1.25
2. Central Sales Tax	₹ 0.05
3. Government Share	₹ 0.12

The CE issued holograms to distilleries for affixing the same in the bottles before effecting sales. However, no efforts were made to supply holograms to the Defence and Para-military forces (while importing IMFL/Beer from CSD, Narangi, Assam).

Audit of records (May 2014) of the ACE, Shillong relating to import of IMFL/Rum/Beer by the defence/para-military forces revealed that during 2012-13, 78,058 cases of IMFL/Rum/Beer was imported by the defence/para-military organisations from CSD, Narangi on which no holograms was affixed. The ACE while granting permits failed to detect the lapse. Moreover, the Government did not allow any exemption while framing the rule. As a result, there was loss of revenue of ₹ 0.01 crore (78058 cases x 12 = 936696 bottles) calculated on the basis of Government's share of ₹ 0.12 per hologram.

Recommendation: *Import fee and excise duty on sale to army and para-military forces should be realised as per the duty fixed by the Government. Affixation of holograms on sale of Rum/IMFL by army and para-military canteens should be made mandatory.*

4.4.12 Other issues

4.4.12.1 Short realisation of import pass fee

As per Rule 370 of Meghalaya Excise Rules, import pass fee on spirits shall be realised on the basis of per bulk litres. However, the Government vide notification dated March 2007 had fixed the rate of import pass fee as under:

- (I) ₹ 54 per case of IMFL bottled within the state.
- (II) ₹ 108 per case of IMFL brought from outside the state.

Audit of records of the CE and the district offices revealed that the Department levied and recovered import pass fee on import made from inside and outside the state on bulk litres instead of per case. One case of 750 ml & 375 ml of IMFL contains 9 BL whereas one case of 180 ml contains 8.64 BL of IMFL. There was no short realisation of transport fee for bottles containing 750 ml and 375 ml of IMFL as there was no difference in quantity of IMFL per bulk litre when converted to case. But on cases containing 180 ml of IMFL, there is a difference of 0.36 bulk⁴⁰ litre of IMFL in one case. Thus, instead of realising import pass fee at ₹ 54/108 per case, the Department

⁴⁰ 1 case of 180 ml contains 8.64 BL whereas 1 case of 750ml/375 ml contains 9 BL

actually collected ₹ 51.84/₹ 103.68 per case respectively on bulk litre basis in case of 180 ml case.

Between April 2008 and March 2013, 21 bonded warehouses under ACE⁴¹, Shillong and SEs, Khliehriat, Williamnagar and Ribhoi imported 15,75,391 cases of IMFL bottled within the State and 8,54,509 cases of IMFL bottled outside the State on which ₹ 17.74 crore was actually leviable at ₹ 54/ ₹ 108 per case as per the notification of 2007. Realisation of excise duty by the district officers at ₹ 51.84/₹ 103.68 (on bulk litre basis) per case led to realisation of ₹ 17.03 crore as import pass fee thereby resulting in short realisation of import pass fee of ₹ 0.71 crore.

4.4.12.2 Chemical examination of IMFL

As per the standard procedure adopted by all States including Assam, IMFL consignments after production should be examined by the Chemical Examiner. Since no chemical laboratory had been established in the State of Meghalaya, no checks were being conducted and the standard procedure adopted by other states to ascertain that IMFL manufactured in the bottling units was fit for human consumption and that the strength of the spirit was in the prescribed level, *i.e.*, 75 degree proof as indicated in the brand.

In order to examine the strength of spirit content in IMFL bottles bottled in various bottling units of Meghalaya, chemical analysis of a few sample of bottles produced by the major units located in Meghalaya was tested at the laboratories of the bottling units at the instance of Audit. The findings are given in the following table:

Table 4.4.6

Brand name	Name of manufacturer	Batch No & date	Standard proof/v/v ⁴² as printed in the label	Proof/v/v found during physical verification
Old Monk Deluxe Rum	M/s Marwet Bottling Industries, Khanapara	1 dated 01.06.12	75/42.8	78.8/45
Royal Champion Premium Whisky	-----do-----	2 dated February 14	75/42.8	122.1/70
Director's Special Prestige Whisky	M/s MDH Beverages Pvt Ltd	02 dated 31.05.14	75/42.8	75.1/42.9
Mc Dowell Celebration Rum	-----do-----	82 dated 28.3.14	75/42.8	75.1/42.9
Director Special Black Whisky	-----do-----	08 of November 2009	75/42.8	74.4/42.5
Officer's Choice Blue Grain Whisky	M/s North East bottling, Baridua	08 of June 2014	75/42.8	74/42.2
Class 21 Grain Vodka	-----do-----	02 of October 2013	75/42.8	72.5/41.4
Officer's Choice Prestige Whisky	-----do-----	45 of June 2014	75/42.8	75/42.8
Jolly Roger	-----do-----	03 of January	75/42.8	73.5/41.9

⁴¹ Assistant Commissioner of Excise

⁴² V/V or volume/volume is the percentage of spirit in water.

Premium XXX Rum		2012		
White Mischief Vodka	M/s Milestone Beverages Pvt Ltd	07 dated 22.03.14	75/42.8	74.2/42.3
Bagpiper Deluxe Whisky	-----do-----	39 of January 2014	75/42.8	74.2/42.3
Romanov Vodka	-----do-----	09 dated 28.03.14	75/42.8	74.2/42.3
Honey Bee Premium Brandy	-----do-----	03 of January 2014	75/42.8	74.6/42.6

As can be seen from the above, except one sample, other samples have failed to meet the standard proof as indicated. In 10 out of 11 samples tested, the quantity of spirits contained was lower than that indicated while in two samples the quantity of spirits contained was much higher which indicates that the alcohol content was higher than the standard proof norm. Lower v/v percentage indicates that there was short utilisation of ENA against the prescribed percentage to attain 75 degree proof and the possibility of use of the balance ENA for production of IMFL cannot be ruled out.

Recommendation: *The Government should set up a chemical laboratory and conduct regular testing of samples produced in the bottling plants to ensure that the liquor produced in these units meets the prescribed standard norms as is being followed in Assam. Surprise inspections should be conducted on a random basis to examine the strength of IMFL.*

4.4.12.3 *Doubtful retention of stock in bonded warehouses*

Audit of records of the CE and the SEs of different districts revealed that details of godowns in possession of bonded warehouses were neither declared by the licencees nor was it sought by the district excise offices or the CE.

Audit team therefore conducted a physical inspection of bonded warehouses in Ri-Bhoi district along with the bond officers-in-charge and authorised representatives of the bonded warehouses to ascertain the godown capacity. In respect of other districts, information was sought by audit (June 2014), however only eight out of nine bonded warehouses of East Khasi Hills have submitted the area/ capacity of their go-down without countersignature of the bond officers-in-charge. Bonded warehouses in other districts were yet (September 2014) to submit the status of capacity of their godowns.

Test check of the five bonded warehouses physically inspected at Ri-Bhoi revealed that one bonded warehouse⁴³ having storage capacity of 31598 cu. ft. from the date of inception (1 August 2010) increased the capacity to 103670 cu. ft. from March 2011 with the addition of a new godown for which permission was obtained. From December 2013, the capacity of the godowns

⁴³M/s TD Bonded Warehouse.

was further enhanced to 155915.44 cu. ft. with the addition of another additional godown. However, permission for the new godown was not obtained from the Government. In such a scenario, the Department cannot monitor the stock of IMFL kept by bonded warehouses in unapproved premises which may lead to unauthorised sale of IMFL without payment of Government dues.

4.4.12.4 *Furnishing of incorrect returns by bonded warehouses*

Rules 71, 85 & 329 of the Assam Excise Rules 1945 (as adapted by Government of Meghalaya) stipulate that correct accounts of all liquors in the warehouse or godown shall be maintained by the licensee in such forms as may be prescribed by the CE. The accounts shall remain in the custody of the Excise Officer in-charge who shall check them at the end of each day's work. Rule 32 of the Assam Bonded Warehouse Rules provides that the State Government shall not be held responsible for any loss of spirits stored in a godown by any cause whatever. This implies that in case of any shortage of stock found by the Excise Department, the bonded warehouse was liable to compensate for any loss to the State.

➤ A physical verification of stock of two bonded warehouses was conducted by the SE, Jowai in January 2012 which revealed that one bonded warehouse⁴⁴ had less IMFL in stock than that disclosed in the stock register. resulting in evasion of excise duty amounting to ₹ 0.33 crore⁴⁵

➤ In another case, a bonded warehouse⁴⁶ had more⁴⁷ IMFL in stock than what was actually disclosed which indicates that the returns furnished by the officer-in-charge to the CE was incorrect.

The above findings indicate that the stock registers of the bonded warehouses were not maintained correctly which was made possible due to lack of verification of the returns furnished to the CE leaving ample scope for bonded warehouses to conceal their stock or claim higher breakage claims by overstating their stock and evading revenue to the State.

Recommendation: *Surprise physical verification of stock should be conducted on regular basis to curb cases of concealment of stock by licensees. The CE should take immediate stock of all the bonded warehouses to assess the correctness of returns furnished as is done in Assam.*

⁴⁴M/s OK Bonded Warehouse.

⁴⁵ Super Premium Brand (SPB) minimum duty @ 1232 x 36.11= ₹ 44488 + Wine minimum duty @ 180 x 273.6= ₹ 49248 , North East Bottling Brand (NEB) (33.8 X 328.30), General Brand (GB) (4502.2x513), Deluxe Brand (DB) (559.3x533), Beer(6770.2 x 80/148.7x80/656.6x118.20)

⁴⁶M/s VFR Bonded Warehouse.

⁴⁷ GB (1678 cases), DB (547 cases), PB (7 cases) and Beer (4545 cases)

4.4.12.5 *Destruction of stock*

As per Rule 43 of Assam Bonded Warehouse Rules (as adapted by Government of Meghalaya), 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. However, Rule 32 of the Rules specifically mentions that the State Government shall not be held responsible for the destruction, loss or damage of any spirits stored in warehouse by fire or by gauging⁴⁸ or by any other cause, whatsoever.

Audit scrutiny of the system of allowing destruction of IMFL/Beer stored in the bonded warehouses revealed the following:

- In seven bonded warehouses, there were cases of IMFL/Beer getting sedimented/rejected due to prolonged storage. It was observed that 9237 cases IMFL, 1115 cases Wine and 1612 cases Beer involving excise duty of ₹ 0.36 crore were proposed between February 2011 to July 2011 to the Government for its destruction and excise duty remission. However, no action was taken by the Government to allow the destruction of the sedimented stock on realisation of excise duty due to the State till date (October 2014). Delay in issue of Government approval resulted in blockade of revenue due to the State exchequer. Audit scrutiny of report returns also revealed that the licensees were not following the FIFO method⁴⁹ leading to a portion of the stock becoming sedimented/ rejected.
- Five bonded warehouses were allowed between December 2011 to January 2014 to destroy 148 cases IMFL and 3626 cases Beer involving excise duty of ₹ 0.04 crore which got sedimented without realisation of excise duty which was in contravention of Rule 32.

Audit examination of records relating to the above further revealed that in none of the above cases, reasons for stock getting sedimented/rejected were called for from the licensees.

4.4.13 *Lacuna in grant of licence*

As per the Assam Bonded Warehouse Rules, 1965 (as adapted by Government of Meghalaya) after approval is granted to a bonded warehouse, the licensee is required to furnish security of ₹ 5,000 or more according to the volume of business and observe due performance of the conditions on which a license is granted. Before operation of the bonded warehouse, the licensee is (i) required to pay license fee and execute a hypothecation deed pledging the warehouse

⁴⁸ 'to gauge' means to determine the quantity of liquid that, or can be, contained in or taken from any cask or receptacle or to determine the capacity of any cask or receptacle.

⁴⁹ FIFO (First In First Out) method

with the stock of foreign liquor, vats, all apparatus and utensils for due discharge of all payments which may become due to the State Government by way of duty, fees, rents, fines, penalties or otherwise and (ii) sign a bond with the condition that the licensee shall not at any time import/transport or store any quantity of foreign liquor above the sum at which hypothecation is pledged. The amount given in the bond is termed as ‘bond limit’ and the hypothecation deed of an equal amount is to be executed.

Audit scrutiny of the system of granting licenses for operating bonded warehouse and distilleries revealed the following deficiencies:

4.4.13.1 Licence fees

As per Rule 6 of the Assam Bonded Warehouse Rules, 1965, the license granted to a bonded warehouse is to be renewed annually before lapse of the license after payment of annual license fee of ₹ 5 lakh. Audit scrutiny revealed that all the licensees of bonded warehouses in the State were allowed to run their business inspite of non-renewal of their licenses in time. The extent of delay in non-renewal of their licenses for the review period are indicated in table below:

Table 4.4.7

Sl. No	District	No of bonded warehouses	No of bonded warehouses who have defaulted in renewal of license	No of years for which defaulted in renewal of license in time	Delay in renewal of license (in days)
1	East Khasi Hills	9	9	3 to 4	6 to 372
2	Ri-Bhoi	6	6	1 to 4	4 to 332
3	West Khasi Hills	1	1	1	25
4	Jaintia Hills	7	7	2 to 4	26 to 348
5	West Garo Hills	5	5	1 to 4	70 to 465
6	South Garo Hills	3	3	2 to 4	47 to 330
7	North Garo Hills	3	3	1 to 4	98 to 332

The above data indicates that inspite of delay in non-renewal of licenses by the bonded warehouses persistently, no action was taken to cancel or suspend the license of the defaulting bonded warehouses as per Section 29 of the Act *ibid*. Audit scrutiny further revealed that the State Government was yet to insert a penalty clause in the terms and conditions of the new licenses or renewal of licenses which are issued to the bonded warehouses.

Further, though 17 bonded warehouses have failed to pay outstanding license fees of ₹ 5 lakh towards short payment of license fee, no demand notices were issued by the Excise Department to realise the amount due to the State.

4.4.13.2 Security deposit

It was observed that the rate of security was enhanced from ₹ 5,000 to ₹ 3,00,000 in respect of bonded warehouses and bottling plants from October 2010, however, the rate of security was not fixed as per the volume of

business and neither any bond limits⁵⁰ have been prescribed for the bonded warehouses operational in the State. Analysis of 12 out of 32 bonded warehouses in the State was done for 2012-13 to assess the bond limits enjoyed by the bonded warehouses, and the security being realised from them. The position of the test checked bonded warehouses was as under:

Table 4.4.8

Name of the BW	Bond limit fixed	Duty ⁵¹ payable on stock held by the bonded warehouse during the year (₹ in crore)
Reliance	No limit fixed	13.50 to 16.73
VW		0.55 to 1.30
Gloria		5.97 to 7.31
OS		2.18 to 3.32
SK		0.85 to 1.46
Valentine		0.64 to 1.15
Megha		0.57 to 1.12
Planet		0.70 to 1.07
DMB		0.88 to 1.71
TD		3.20 to 5.32
Jorabat		0.24 to 0.43
DS		6.23 to 9.23

Audit observed that the test checked bonded warehouses enjoyed bond limits of ₹ 0.24 crore to ₹ 16.73 crore whereas security deposit of only ₹ 0.03 crore had been realised which would not be sufficient to recover the dues in the event of any default by the bonded warehouses.

4.4.13.3 Hypothecation deed

Audit scrutiny of the system of obtaining hypothecation deed revealed that the terms and conditions of the license issued to bonded warehouses do not have a clause prohibiting further hypothecation of stock to other agencies like banks, etc. No hypothecation deed agreement was entered by the Government with the licensees of the bonded warehouses at the time of issue/ renewal of license. Therefore, the possibility that the licensees have hypothecated the stock to the banks or other financial institutions to obtain loans for their business cannot be ruled out. In the absence of any hypothecation deed, the Government cannot legally take hold of the stock in case of default by the licensees.

Thus, the above audit findings reveal that the State Government has neither any adequate security norms nor any legal document to protect its financial interests in the event of any default by these bonded warehouses which is a matter of concern.

⁵⁰The minimum/maximum quantity of stock to be maintained at the warehouse.

⁵¹ Excise duty excluding VAT had only been taken into consideration for calculation of the bond limit. The excise duty involved is calculated at the minimum excise duty of ₹ 551 per case for General Brand and ₹ 95 per case for Beer.

4.4.14 Internal Control Mechanism

Audit findings on the various internal controls prevalent in the Excise department revealed lack of adequate internal control mechanism which are discussed in the succeeding paragraphs:

4.4.14.1 Manpower Management

To ensure efficient and effective control of the activities of the bonded warehouses, bottling plants and brewery, independent excise officers/inspectors should be posted in these establishments. Position of excise inspectors posted in distilleries/bottling plants, brewery and bonded warehouses as on 31 March 2013 are detailed below:

Table 4.4.9

District	Bonded Warehouses	Distilleries/bottling plants	Brewery	Total	Approved sanctioned strength of Inspector	No of inspectors posted
Ri-Bhoi	5	4	1	10	3	2
East Khasi Hills	9	0	0	9	1	2
West Jaintia Hills	2	0	0	2	1	1
East Jaintia Hills	5	0	0	5	NIL	1
West Khasi Hills	1	0	0	1	NIL	1
West Garo Hills	4	0	0	4	1	1
East Garo Hills	2	0	0	2	1	1
South Garo Hills	2	0	0	2	NIL	1
North Garo Hills	1	0	0	1	NIL	1
South West Garo Hills	1	0	0	1	NIL	1
Total	32	4	1	37	7	10

From the table above, the following are observed

- Against 37 excise licensed establishments (32 bonded warehouses, 4 bottling plants and 1 brewery) in the State, only 10 Inspectors had been posted. The sanctioned strength was even lower at seven;
- Against 10 bonded warehouses in five districts, no post of inspectors had been sanctioned by the Government
- In addition to their own duties, the SEs in charge of the districts held the charge of all the bonded warehouses, bottling plants and brewery other than the establishments for which excise inspector posts were sanctioned.

The above status indicate poor state of manpower management and proper control of affairs of the licensed establishments in the State besides lackadaisical attitude of the Government towards providing optimum manpower for efficient revenue generation.

4.4.14.2 Inspection of Bottling plants/brewery and bonded warehouses

Inspection is an important part of internal control mechanism for ensuring proper and effective functioning of a Department and for timely detection of loopholes and to stop their recurrence.

Audit of records of the CE and the district excise offices revealed that the Register of Inspection was not maintained in the CE's office. Also no records of inspections were maintained in the respective district offices. Therefore, efficacy of the monitoring of inspection at CE level could not be ascertained in audit.

4.4.14.3 Non-erection of excise check gate

No excise check gates have been set up at strategic locations where vehicles movement is higher in various districts of the State. As a result, monitoring and control of excisable goods from outside and within the State was absent to check any illegal activities.

4.4.14.4 Delay in issue of Excise Verification Certificate (EVC)

As per Rule 42 of the Assam Excise Rules, 1945, the importer shall return to the Excise Officer-in-charge of the distillery or bonded warehouse from where the spirits are issued, his copy of the export pass endorsed with a certificate signed by the Collector or other authorised officer certifying the due arrival or otherwise of the spirit at its destination.

Audit scrutiny reveals that there was considerable delay in verification and issue of EVCs. In spite of pending EVCs, permits were being issued by the Commissioner of Excise which indicates poor internal control system in the State Excise Department.

4.4.14.5 Lack of co-ordination with other Departments

Since excise duty and VAT are realisable on sale of excisable goods, close co-ordination between the Excise Department and the Taxation Department of the State would ensure proper control and monitoring on the transactions involving excisable goods and prevent leakage of revenue.

Audit scrutiny revealed that the licensees are required to submit audited accounts while submitting returns to the Taxation Department which enables the assessing officers to cross verify the figures depicted in the returns with those shown in the audited accounts certified by qualified Chartered Accountants. However, no such system exists in the excise Department for cross checking. A system of obtaining the audited accounts along with an annual return would have helped the Excise Department to detect any variation in closing stock declared by the licensees.

In respect of bottling units/breweries, transport subsidies are claimed by the units. The position of stock (raw materials used for production of IMFL and production of IMFL) disclosed by these units to the Industries Department and the stock position as disclosed in the monthly stock statement furnished to the Excise Department are in variance as pointed out in **paragraph 4.7.4.1**. A system of sharing of information would therefore have helped the Excise Department to check revenue leakage.

4.4.14.6 *Non supply of excise locks*

As per Rule 113 of the Assam Excise Rules, 1945 the spirit warehouse shall be locked by two locks, one being supplied by the State Government and the other by the licensee, the keys being retained by the officer-in-charge of the warehouse and by the licensee or his authorised representative.

During test check of the records of district excise offices⁵² and the CE it was observed that no excise locks were provided by the Department. In respect of bonded warehouses, two separate locks and keys are provided by the bonders. One set of locks with keys are retained by the bonders and another set of lock and keys are handed over to the bond-in-charge.

Due to non-providing of excise locks, misuse and leakage of spirits in bottling plants, brewery and bonded warehouses cannot be ruled out. Providing of locks and keys by the bonded warehouse also indicates lack of control of the department over dispatches of liquor from bonded warehouses.

4.4.14.7 *Absence of Internal Audit Wing*

Internal audit is an important tool for appraisal of deficiencies in the activities of the department, namely, proper and timely assessment and realisation of dues and implementation of Act/rules and in issue of guidelines for proper accounting, *etc.*, for better collection of revenue and plugging various loopholes within the organisation.

The Department has not constituted an internal audit wing (October 2014) to assess, analyse and suggest suitable steps for policy implementation.

The CE in his reply (November 2014) accepted the above audit observations and stated that recommendations suggested by audit are noted for future guidance.

Recommendation: *The internal control mechanism may be strengthened to improve the monitoring and supervision of the bonded warehouses and distilleries /breweries particularly by setting up an Internal Audit Wing as is being followed in the State of Karnataka.*

⁵² Shillong, Nongpoh, Jowai, Khliehriat, Tura, Williamnagar, Resubelpara

4.4.15 Conclusion

- The Excise Department did not have the data on production capacity of bottling plants and issued license to these units without penal provisions of production capacity. No action was taken to penalise the units for production beyond annual production capacity resulting in loss of revenue to the State.
- Licenses were being issued without conditions of minimum production and sale by bottling units and bonded warehouses as a result of which no action could be taken against the sick bottling units/bonded warehouses resulting in loss of revenue to the State.
- Strict measures for penalty provisions were not fixed resulting in persistent delay in renewal of licenses by bottling plants and bonded warehouses.
- The objective of implementation of holograms was not achieved in absence of any testing laboratory to verify that IMFL produced and sold in the State conforms to the quality norms.
- No technical manual was adopted and no norms for production of IMFL and Beer prescribed by the Excise Department. Audit analysis revealed concealment of production by the bottling plants and brewery even considering the norms followed by the bottling plants/brewery.
- Lacunae in allowance of transit breakage claims was not reviewed resulting in undue claims allowed to a bonded warehouse. There was lack of documentary evidence and checks required on allowing of go-down breakage claims quarterly.
- Internal control mechanisms in the functioning of the Excise Department were far from adequate.

4.4.16 Summary of Recommendations

In order to avoid loss/leakage of revenue, the State may adopt the following recommendations:

- **Strict measures for levy of additional license fee and fines should be taken in case the bottling units carry out excess production beyond its annual production capacity as is being done in states like Uttar Pradesh and Andhra Pradesh.**
- **Steps should be taken to fix the norms of production for bottling plants and brewery to prevent concealment of actual production.**
- **Transit breakage claimed allowed to bonded warehouses should be reviewed.**
- **Proper and effective system should be put in place for ensuring that quarterly go-down breakage claims made by licensees are allowed on actual basis.**

- **Internal control mechanism may be strengthened to improve the monitoring and supervision of the bonded warehouses and distilleries/breweries to avoid loss of revenue to the State.**

TRANSACTION AUDIT

4.5 *Short/non-realisation of late closing fees– ACE, Shillong*

There was short/non realisation of fee amounting to ₹ 0.16 crore for late closing of 23 temporary bars and licenced bars.

Rules 247 and 248 of the Assam Excise Rules, 1945 (as adapted by Meghalaya) provides for imposition of fee for late closing of temporary bars and licenced bars. The Excise, Registration, Taxation & Stamps (ERTS) Department, Government of Meghalaya has fixed⁵³ the fee for late closing of temporary bars and licenced bars as under:

Licenced bar		Temporary bar	
Time	Fees	Time	Fees
Upto midnight (12.00 am)	₹ 5000 per month	Upto 11 pm	₹ 1500 per month
Upto 1.30 am	₹ 20000 per month	Upto 1 am	₹ 2500 per month

Audit of the records of the Assistant Commissioner of Excise (ACE), Shillong revealed that the ACE irregularly granted permission for late closing to temporary bars and licenced bars by realising the fees on ‘per day’ basis instead of ‘per month’ basis. Between December 2008 and January 2013, permission for late closing was granted to nine temporary bars and 14 licenced bars for which, ₹ 16.74 lakh was realisable. Against which, the ACE realised only ₹ 0.83 lakh in respect of six temporary bars and six licenced bars. In respect of the remaining 11 applicants (8 temporary bars and 3 licenced bars), permission was irregularly granted without realising any fee. Thus, violation of the provisions of the Excise Rules by the ACE led to short/non-realisation of late closing fee amounting to ₹ 15.91 lakh.

On being pointed out (July 2013), the ACE stated (November 2013) that fee had been realised on ‘per day’ basis due to non-receipt of proper instructions from the Government for the same. The reply is not acceptable as the Excise Rules as well as the Government notifications⁵⁴ clearly state that fee was to be levied on ‘per month’ basis. The same was pointed out to the ERTS Department, Government of Meghalaya in December 2013; further reply was awaited (August 2014).

⁵³ Vide notification dated December 2006 for temporary bars and notification dated December 2008 for licenced bars.

⁵⁴ Notifications dated December 2006 and 2008.

4.6 Loss of revenue due to cancellation of licences without realising outstanding licence renewal fee – ACE, Shillong

Cancellation of six IMFL licences without realisation of licence fees led to loss of revenue amounting to ₹ 0.12 crore.

The Assam Excise Act, 1910 (as adapted by Meghalaya) 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 fee⁵⁵ 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];
- any amount payable to the Government may be recovered from the defaulters by distress and sale of their movable property or as arrears of land revenue. [Section 35].

Audit of records of the ACE, Shillong in June 2014 revealed that six retail licencees did not renew their licences for different periods between 2010-11 and 2013-14 and were therefore liable to pay renewal fee of ₹11.70 lakh. Accordingly, the Deputy Commissioner (DC), East Khasi Hills District, Shillong in October 2012 forwarded a list of six retail licencees to the Commissioner of Excise for cancellation of licences. Accordingly, based on the DC's recommendation, the ERTS Department, Government of Meghalaya in August 2013 cancelled all the six retail licences. It was however seen that while cancelling the licences, the Government failed to direct the DC to realise the outstanding licence renewal fee from the licencees. Thus, cancellation of licencees without realisation of licence fees resulted in loss of revenue amounting to ₹ 11.70 lakh as detailed in **Annexure-I**.

The case was reported to the ERTS Department, Government of Meghalaya in June 2014; reply was awaited (August 2014).

4.7 Non-realisation of security deposit –SEs – Jowai, Khliehriat, Tura and Williamnagar

Fifty seven IMFL licencees and two bar licencees failed to pay security deposit amounting to ₹ 0.29 crore.

Under Rule 246 of the Meghalaya Excise Rules, a security in the form of fixed deposit valid for 5 years (to be pledged in favour of the CE, Meghalaya) was to be furnished by each bonded warehouses, IMFL licencees and Bars licencees as a guarantee for due observance of the terms and conditions of the

⁵⁵ ₹ 50000 per annum upto March 2012 and ₹ 60000 per annum thereafter.

licence and prompt payment of licence fees. The ERTS Department, GOM on 11 October 2010 fixed the security deposit at ₹ 50,000 for IMFL licenses, and ₹ 40,000 for bars.

Audit of the records of the Superintendents of Excise (SE) revealed that 57 IMFL licencees (**Annexure-II**) and two bar licencees⁵⁶ had not paid the security deposit amounting to ₹ 29.30 lakh⁵⁷. The SEs, however did not issue any demand notice to any of these defaulters for payment of security deposit which not only led to non-realisation of security deposit but was also fraught with the risk of loss of revenue in case of default in future payment of licence fee or violation of other provisions of the Excise Act by any of these licencees.

The cases were reported to the ERTS Department, Government of Meghalaya between March 2014 and April 2014; reply was awaited (August 2014).

⁵⁶ (1) M/s Kyrshanbor Swer (2) M/s Himai Bareh

⁵⁷ 57 IMFL licenses X ₹ 50000 + 2 Bars X ₹40000 = ₹ 2930000.