

CHAPTER-III
STATE EXCISE

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3.1 Tax administration

The assessment, levy and collection of excise revenue in the State is governed by the provisions of the Bihar Excise (BE) Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor, Foreign liquor, Beer and Composite liquor Shop) Rules, 2007. It is administered by the Secretary, Department of Registration, Excise and Prohibition (Excise) at the Government level and by the Commissioner of Excise (CE) at the apex level of the Department of Excise and Prohibition. The CE is also the ex-officio Controller of Molasses for the administration and execution of the Bihar Molasses Control Act and Rules. The CE is assisted by one Joint Commissioner of Excise (JCE), one Deputy Commissioner of Excise (DCE) and one Assistant Commissioner of Excise (ACE) at the headquarters level. Further, there is one DCE at each of the four¹ divisional headquarters. At the district level, the Collector of the district is in-charge of the excise administration, assisted by an ACE or by a Superintendent of Excise (SE).

For supply of all types of liquor to retailers of excise shops in the State, the Bihar State Beverage Corporation Limited (BSBCL) headed by a Managing Director was formed in October 2006, to function as an exclusive wholesale depot.

3.2 Results of audit

In course of audit of records of 39 units, out of 51 auditable units, relating to State Excise revenue during the year 2014-15, we found non/short realisation, loss of revenue and other irregularities involving ₹ 44.09 crore in 270 cases which fall under the following categories as detailed in **Table 3.1**.

Table- 3.1

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/delayed settlement of excise shop	47	13.37
2.	Non-realisation of license fee	40	5.65
3.	Loss due to non/short lifting of MGQ	5	0.28
4.	Other cases	178	24.79
Total		270	44.09

During the period April 2014 to October 2015, the Department accepted underassessment and other deficiencies *etc.* involving ₹ 52.16 crore in 70 cases, of which two cases involving ₹ 9.57 crore were pointed out during 2014-15 and the rest in earlier years. Further, the Department reported recovery of ₹ 1.37 crore in 20 cases which were pointed out during the period between 2010-11 and 2013-14.

¹ Bhagalpur-cum-Munger, Darbhanga-cum-Kosi-cum-Purnea, Patna-cum-Magadh and Tirhut-cum-Saran.

A few illustrative cases involving tax effect of ₹ 9.60 crore are mentioned in the following paragraphs.

3.3 Non-compliance of the provisions of the Acts/Rules

The provisions of the Bihar Excise Act, 1915 and Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007 require:

- *settlement of excise shops through lottery;*
- *payment of licence fee at the prescribed rates as determined by the Government for respective excise shop ;*
- *payment of licence fee within the prescribed period and*
- *cancellation of licence or levy of penalty/fine for breach of any condition of the sale notification of excise shops.*

Non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 3.4 to 3.7 resulted in non/short levy, non/short realisation of licence fee etc. of ₹ 9.60 crore. There is need for the Government to improve the internal control system so that such omission can be prevented.

3.4 Short realisation of licence fee of excise shops after cancellation

The excise authorities did not initiate action for realisation of Government dues of ₹ 9.47 crore in respect of cancelled licences of excise shops.

We scrutinised the Settlement files, Demands, Collections and Balances Registers and Security Deposit Registers in 18 districts excise offices² and observed (between February 2014 and January 2015) that the licences of 144 groups of excise shops were cancelled during the period between December 2010 and March 2014 due to non-payment of monthly licence fee. The excise authorities did not initiate action for realisation of outstanding licence fee of ₹ 9.47 crore. Further, we also observed that the shops were cancelled after a delay of one to eight months, though it was required to be cancelled after the 20th day of the same month of default as per Rule 17 (2) of the Bihar Excise (Settlement of licences for retail sale of country/spiced country liquor/Foreign liquor/beer and composite liquor shop) Rules, 2007. This resulted in short realisation of ₹ 9.47 crore.

After this was pointed out, the Department stated (September 2015) that in case of Samastipur, notices of demand had been issued for realisation of dues of ₹ 9.23 lakh, in case of Munger, revenue recovery certificates had been instituted against both licensees, in case of Madhepura, a sum of ₹ 2.33 lakh was recovered, ₹ 4.20 lakh was adjusted and revenue recovery certificates were instituted for ₹ 7.69 lakh while in case of Nalanda notices of demand had been issued for recovery of outstanding dues and security deposit and advance licence fee had been forfeited. We await replies in remaining cases (October 2015).

² Araria, Begusarai, Katihar, Madhepura, Munger, Muzaffarpur, Nalanda (Biharsarif), Nawada, Patna, Purnea, Rohtas (Sasaram), Saharsa, Samastipur, Saran (Chapra), Sitamarhi, Supaul, Vaishali (Hajipur) and West Champaran (Bettiah).

3.5 Undue favour to licensees due to incorrect adjustment of security money

The adjustment of security money against outstanding dues instead of forfeiture of security money in case of cancellation of excise shops resulted in undue favour to the licensees.

During scrutiny of settlement files and Demands, Collections and Balances Registers of the office of the Superintendent of Excise (SE), Katihar, we observed (March 2014) that licences of three groups of excise shops were cancelled due to non-payment of monthly licence fee during the period between October and November 2013. Further, we observed that the outstanding dues were adjusted from their deposited security money. The adjustment of security money of ₹ 12.79 lakh against outstanding dues was in contravention to the provision of Rule 17 (2) of the Bihar Excise Rules, 2007, which stipulates forfeiture of security money in case of cancellation of excise shops. This resulted in not only incorrect adjustment of security money of ₹ 12.79 lakh, but also undue favour to the licensees.

The matter was reported to the Government/Department in July 2014; we are yet to receive their reply (October 2015).

3.6 Non-levy of penalty for delayed deposit of licence fee

No action was initiated by the excise authorities either for cancellation of excise shops or imposition of penalty for delay payment of licence fees.

During test-check of Demands, Collections and Balances Registers in the four districts excise offices (Aurangabad, Madhubani, Purnea and Rohtas), we observed between February and October 2014 that 87 licensees of liquor shops out of 278 liquor shops had deposited their monthly licence fees of ₹ 10.31 crore for the period between December 2012 and February 2014 with delay ranging between five and 81 days in violation of the condition of the sale notification which requires that they have to deposit their monthly licence fee latest by the 20th day of each month. But the licensing authorities neither cancelled/suspended the licence nor imposed penalty on defaulting licensees as prescribed under Section 42(b) of Bihar Excise Act, 1915. Instead they accepted the amount of licence fee without realising the sums in shape of penalty. This could encourage to other licensees to make default in payments of revenue.

After this was pointed out, Superintendents of Excise (SEs), Aurangabad and Madhubani stated between February and September 2014 that penalty would be imposed against the concerned licensees, Assistant Commissioners of Excise (ACE) Rohtas stated in October 2014 that punitive action had not been taken in view of the revenue interest of the Government and SE Purnea stated in March 2014 that licence fee had already been recovered. The replies of ACE Rohtas and SE Purnea were not in consonance with the provisions of the Act as penalty for delay payment was not imposed.

The matter was reported to the Government/Department between September 2014 and February 2015; we are yet to receive their reply (October 2015).

3.7 Supply of substandard liquor

Supply of substandard country liquor before receipt of test report from laboratory defeated the purpose of testing and also involved risks to the human life.

We scrutinised the sample test report of the Chemical Examiner, Patna and stock and issue register (Proforma-II) in the office of the Superintendent of Excise (SE), Begusarai for the period 2012-13 and observed (January 2015) that two samples of country liquor chemically examined (May 2012) were not in accordance with the standard and it contained sediments. We further observed that 6.58 lakh LPL of country liquor belonging to these lots were issued (between April and June 2012) to BSBCL during the period 2012-13 for sale to retailers, though the deficiency was required to be rectified as prescribed under conditions of licence (Form 27). Thus, supply of substandard country liquor before receipt of test report from laboratory not only defeated the purpose of testing but also involved risks to the human life.

After this was pointed out, Department stated in September 2015 that there was possibility of impurities in the water due to presence of iron in the soil of Begusarai district, where oil refinery is situated. The supplier had been sternly warned and suggested to supply better quality of liquor in future. Since then no such complain had been received. The fact remains that the lot under chemical examination should not have been issued till receipt of the test report as the whole lot of country liquor, from where the samples were collected, contains sediments and required to be rectified before issue.

3.8 Internal Audit

The Internal Audit wing of any department is a special vehicle of the internal control mechanism and is generally defined as the control of all controls to enable an organization to assure itself that the prescribed systems are functioning reasonably well. There is an internal audit wing called Finance (Audit), which works under the Finance Department and internal audit of the different offices of the Government is conducted on the basis of requisitions received from the Administrative Department. The Chief Controller of Accounts can also select units for internal audit on availability of audit team.

As informed by the Finance Department (July 2015), it conducted internal audit of one unit of the Registration, Excise and Prohibition (Excise) Department during 2014-15. The Inspection Report containing three paragraphs were issued and letters/reminders were issued for its settlement.