

CHAPTER-III
STATE EXCISE

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3.1 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 as 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).

3.2 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 its functioning.*

3.3 Results of Audit

Test check of the records of seven units during 2014-15 revealed non-realisation of duties, fees, etc. involving ₹ 24.00 crore in 54 cases which fall under the following categories:

Table 4.1

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/Short realisation of duties etc.	24	8.41
2.	Loss of revenue	14	5.09
3.	Other irregularities	16	10.50
Total		54	24.00

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 0.40 crore in five cases. An amount of ₹ 0.60 crore was realised in 10 cases during the year 2014-15.

A few illustrative cases having financial impact of ₹ 4.58 crore in terms of underassessment/short levy/non-levy of tax and other provisions of the Acts are discussed in the paragraphs 3.4 to 3.9.

3.4 Evasion of excise duty

Three bottling plants fraudulently concealed 2.44 lakh BL of ENA and evaded excise duty of ₹ 3.14 crore.

[SE, Nongpoh; April 2014]

For manufacture of IMFL in a bottling plant, Extra Neutral Alcohol (ENA) is reduced to 75 per cent proof by adding water. Colour and flavour are then added to the product to get the liquor. The standard norm¹ of conversion of ENA per case of liquor is as under:

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

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

Audit of records of the Superintendent of Excise (SE) revealed that three bottling plants² utilised 57.28 lakh BL of ENA between April 2013 and March 2014 for production of 8.66 lakh cases of liquor containing 750 ml/375 ml and 5.26 lakh cases of liquor containing 180 ml bottles. As per standard norms, for production of the above quantity of liquor, 54.84 lakh³ BL of ENA should have been actually utilised. The bottling plants, thus, fraudulently overstated the quantity of ENA actually utilised, resulting in concealment of 2.44 lakh BL of ENA from which 0.61 lakh cases of liquor of 375 ml/750 ml bottles⁴ could be manufactured.

Despite the monthly figures pertaining to consumption of ENA and production of IMFL therefrom being available with the SE, no steps were taken by the SE to reconcile the difference and ascertain reasons for overconsumption of ENA by the bottling plants. Failure of the SE to properly monitor the functioning of the bottling plants thereby resulted in evasion of excise duty amounting to ₹ 3.14 crore⁵.

¹ Based on information provided by three bottling plants in the State in response to an Audit query.

² (i) M/s North East Bottling Plant (ii) M/s Marwet Bottling Plant (iii) M/s MDH Beverages

³ (8.66 lakh cases X 4 BL) + (5.26 lakh cases X 3.84 BL) = 54.84 lakh BL

⁴ Loss worked out for 375 ml/750 ml bottles only as they have the same excise duty as explained below:

750 ml case = 750 X 12 bottles = 9000 ml = 9 BL

375 ml case = 375 X 24 bottles = 9000 ml = 9 BL.

⁵ 0.61 lakh cases X ₹ 514 = ₹ 3.14 crore.

The case was reported to the Excise Department, Government of Meghalaya in July 2014; their reply has not been received (November 2015).

3.5 Short realisation of excise duty

Short levy of *ad-valorem* duty on cost price resulted in short-realisation of excise duty amounting to ₹ 0.15 crore.

[SEs, Jowai & Williamnagar; November 2014 & February 2015]

Under Section 21 of the Assam Excise Act, 1910 (as adapted by the Government of Meghalaya) the State Government can levy duty on consumption of liquor. The Excise Department, Government of Meghalaya in April 2011 imposed excise duty on Rum⁶ procured and sold under canteen licence at *ad-valorem* rate of 40 *per cent* of the cost price subject to a minimum of ₹ 257 per case of 12 bottles of 750 ml size or equivalent quantity. In Meghalaya, the minimum cost price of Rum was fixed at ₹ 784 per case⁷ with effect from 09 May 2012.

It was observed from the records of the Superintendents of Excise (SEs) pertaining to import of Rum by the Police Canteens that during the period between March 2012 and March 2014, a total of 36810 cases of Rum were imported by the State Police Canteens from different bonded warehouses within the State on which, excise duty amounting to ₹ 1.15 crore was realisable at ₹ 313.60 per case⁸, against which, the SEs realised ₹ 1 crore by charging *ad-valorem* duty at the rate of ₹ 273 per case thereby resulting in short realisation of excise duty amounting to ₹ 0.15 crore. No reasons could be shown by the SEs for charging *ad-valorem* duty at a lower rate despite clear instructions from the State Government as per the notification of April 2011.

Thus, failure of the SEs to conform to Government instructions and realise the prescribed excise duty resulted in short realisation of revenue to the said extent.

The cases were reported to the Excise Department, Government of Meghalaya between December 2014 and March 2015; their replies have not been received (November 2015).

⁶ Rum is a distilled alcoholic beverage made from sugarcane by products, such as molasses, or directly from sugarcane juice, by a process of fermentation and distillation. The distillate, a clear liquid, is then usually aged in oak barrels.

⁷ In respect of all three sizes – 750 ml (12 bottles), 375 ml (24 bottles) and 180 ml (48 bottles)

⁸ 40 *per cent* of ₹ 784 = ₹ 313.60

3.6 Revenue not realised due to retail licences not getting renewed

Forty-four IMFL retail licencees failed to renew their licences resulting in revenue amounting to ₹ 0.36 crore not being realised.

[SEs, Tura and Williamnagar; February 2015]

Section 273 of the Assam Excise Act, 1910 (as adopted by Meghalaya) provides that all foreign liquor licences shall be renewed annually by the Commissioner of Excise (CE) on payment of prescribed renewal fee⁹. Further, Section 29 of the Act *ibid* stipulates that if any fee or duty payable by the holder has not been paid, the licence granted may be cancelled.

Audit of records of the SEs revealed that 44 IMFL retail licencees¹⁰ did not renew their licences for different periods between 2011-12 and 2014-15. Despite non-renewal of licences and non-payment of licence fees amounting to ₹ 0.36 crore, no action was taken by the SE to issue demand notices to the licencees for payment of the dues. The SE also failed to take timely action to cancel the licences in order to prevent unauthorised operation of these licencees in the State.

No records were available with the SE to prove that the licences had ceased operations and closed their businesses in the State. Thus, failure of the SE to regulate the operations of the licencees within his jurisdiction and take action for violation of the provisions of the Excise Act resulted in non-realisation of revenue of ₹ 0.36 crore.

The cases were reported to the Excise Department, Government of Meghalaya in March 2015; their replies have not been received (November 2015).

3.7 Loss of revenue due to cancellation of licences without realising the outstanding licence fee

Cancellation of six IMFL/Bar licences without realisation of licence fees led to loss of revenue amounting to ₹ 0.07 crore.

[SEs, Khliehriat and Baghmara; November 2014 & March 2015]

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 fee¹¹ 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);

⁹ ₹ 50000 per annum upto March 2012 and ₹ 60000 per annum thereafter.

¹⁰ Details in [Annexure-III](#).

¹¹ ₹ 50000 per annum upto March 2012 and ₹ 60000 per annum thereafter.

- 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 SEs revealed that five IMFL licencees and one Bar licencee did not renew their licences and pay the renewal fee amounting to ₹ 0.07 crore¹² for various periods between 2005-06 and 2012-2013. Despite, non-payment of licence fee, no action was taken by the SE and the CE for recovery of Government dues as arrears of land revenue. The CE, instead, forwarded the cases to the Government for cancellation of licences and the ERTS Department accordingly cancelled the licences of all the six defaulters between April 2009 and September 2012.

Thus, failure of the SE and the CE to take timely action to realise the licence fee or recover Government dues as arrears of land revenue resulted in cancellation of licences without realisation of licence fees of ₹ 0.07 crore and consequent loss of revenue to that extent.

The cases were reported to the Excise Department, Government of Meghalaya between March 2014 and March 2015; their replies have not been received (November 2015).

3.8 Security Deposit not realised

The Department failed to realise Security Deposit of ₹ 0.34 crore from 30 companies/Bonded Warehouses/distilleries/IMFL licencees.

[CE, Shillong and SE, Tura; July 2014 & January 2015]

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 warehouse, IMFL licencee and company manufacturing IMFL, Wine and Beer as a guarantee for due observance of the terms and conditions of the licence and prompt payment of licence fees. The Government of Meghalaya fixed¹³ the rate of Security Deposit (SD) as under:

Bonded Warehouses/Distilleries	₹ 300000	
IMFL retail licencees	₹ 50000	
Companies	IMFL (₹)	Beer (₹)
Companies selling more than 50,000 cases per year	500000	300000
Companies selling less than 50,000 cases per year	250000	200000
	Wine (₹)	Bottled In Origin (₹)
Companies selling above 5,000 cases per year	200000	100000
Companies selling below 5,000 cases per year	100000	50000

¹² Details in [Annexure-IV](#).

¹³ July 2009 for Bonded warehouses & retail licencees and October 2010 for companies.

3.8.1 Audit of records of the CE, Meghalaya revealed that 16 companies/bonded warehouses did not pay the SD amounting to ₹ 0.27 crore. The CE, however, did not issue any demand notice to any of the defaulters for payment of SD, which thereby resulted in non-realisation of the same to that extent.

3.8.2 Audit of records of the SE, Tura, revealed that 14 IMFL licences¹⁴ did not pay the SD amounting to ₹ 0.07 crore¹⁵. The SE, however, did not issue any demand notice to any of these defaulters for payment of SD, which thereby resulted in non-realisation of the same to that extent.

Thus, due to inaction of the CE and the SE, the companies/bonded warehouses did not pay the SD, which was 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 the companies/bonded warehouses.

The cases were reported to the Excise Department, Government of Meghalaya between March 2015 and July 2015; their replies have not been received (November 2015).

3.9 Revenue not realised due to failure to register brand names

Twenty-five distilleries/companies failed to register the brand names of 115 brands resulting in revenue amounting to ₹ 0.52 crore not being realised.

[CE, Meghalaya; July 2014]

Under Rule 363(1) of the Meghalaya Excise Rules, no person can sell IMFL, beer and Bottled-in-Origin products in the State unless the brand name and the label of that product are registered with the CE. The registration is valid upto 31 March of the next year after which it may be renewed on payment of prescribed fees. The Government of Meghalaya in June 2012 notified¹⁶ the revised fees for registration from ₹ 45,000 to ₹ 60,000 in case of IMFL brands and from ₹ 22,000 to ₹ 35,000 in case of beer.

Audit of records of the CE revealed that registration of 125 brands manufactured by 25 distilleries/companies¹⁷ were not renewed for the year

¹⁴ (1) Mose P. Sangma, (2) Mimod Rabha, (3) Debashish R. Marak, (4) Grinath M. Marak, (5) Baljeng Sangma, (6) Medina Ch. Marak, (7) Prenson D. Sangma, (8) Reuben Dk. Marak, (9) Bas Kumar Rabha, (10) Chenang K. Sangma, (11) Nidharson A Sangma, (12) Devendra Jain, (13) Badith T. Sangma and (14) Adam Kuro K. Marak.

¹⁵ 14 IMFL licenses X ₹ 50000 = ₹ 700000

¹⁶ Vide notification No. ERTS (E) 24/2008/34-36 dated 15.06.2012

¹⁷ Details of names including calculation in Annexure V.

2015-16 although the distilleries and companies were required to apply for re-registration of the brand names before the last day of the preceding year. Despite non-renewal of brand names, no action was taken by the CE to either issue demand notices to the distilleries/companies for renewal of the brand names or cancel the brand names in order to prevent their import and sale within the State. Thus, lack of timely action by the CE resulted in revenue amounting to ₹ 0.52 crore not being realised as registration fees. Besides, there was a risk of unregistered products being sold in the State in violation of the provisions of the Excise Rules.

The case was reported to the Excise Department, Government of Meghalaya in July 2014; their reply has not been received (November 2015).