

**CHAPTER-III**  
**STATE EXCISE**



## CHAPTER-III: STATE EXCISE

### 3.1 Tax Administration

The Additional Chief Secretary to the Government of Meghalaya, 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 (DCEs/ACEs). 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 earlier in audit, no action has been taken by the Department to create an IAW to monitor the working of the Department.

**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 six units during 2015-16 revealed non-realisation of duties, fees, etc. involving ₹ 10.13 crore in 35 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.	20	5.88
2.	Loss of revenue	10	4.24
3.	Other irregularities	05	0.01
<b>Total</b>		<b>35</b>	<b>10.13</b>

During the course of the year, the Department accepted under assessments and other deficiencies of ₹ 4.53 crore in 21 cases. An amount of ₹ 0.60 crore was realised in four cases during the year 2015-16.

A few illustrative cases having financial impact of ₹ 2.93 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 Short payment of excise duty due to excess claim of transit breakage

#### Four Bonded Warehouses were irregularly allowed excess transit breakage claim on 2073 cases of liquor resulting in short payment of excise duty of ₹ 0.11 crore.

[SE, Tura; March 2016]

In Meghalaya, excise duty on General Brand of liquor is ₹ 551 per case of Indian made Foreign Liquor (IMFL) upto 07 January 2015 and ₹ 663 per case thereafter. Rule 141 of the Meghalaya Excise (Amendment) Rules, 1997 provides that allowance shall be made for the loss in transit by leakage or evaporation of spirit when transported depending on the duration of the transit from the date of issue from the distillery to the date of arrival at the receiving warehouse as under:

	Duration of the journey	Maximum wastage allowance
(a)	For a journey duration not more than two days	1 per cent
(b)	For a journey duration not less than two days but not exceeding ten days	1 ½ per cent
(c)	For a journey duration not less than ten days but not exceeding twenty days	2 per cent
(d)	For a journey of duration exceeding twenty days	2 ½ per cent

Four bonded warehouses<sup>1</sup> procured 3,81,515 cases of IMFL from distilleries/bottling plants<sup>2</sup> within the State between April 2013 and March 2015 for which the maximum allowable wastage was 3,815 cases being one per cent<sup>3</sup> of the total quantity procured. However, the bonded warehouses claimed wastage of 5,888 cases<sup>4</sup>, resulting in excess claim of transit wastage of 2,073 cases of IMFL and undue benefit by way of short payment of excise duty of ₹ 0.11 crore<sup>5</sup>. Despite having full information<sup>6</sup> relating to procurement of IMFL by bonded warehouses, no action was taken by the SE to limit the transit breakage claim under the provisions of the Excise Rules. Inaction of the SE to regulate the transit breakage claim under the provisions of the Meghalaya Excise Rules thus resulted in short payment of excise duty amounting to ₹ 0.11 crore.

<sup>1</sup> (i) Megha Bonded Warehouse, (ii) Gloria Bonded Warehouse, (iii) Tura Bonded Warehouse and (iv) Sweety Bonded Warehouse

<sup>2</sup> Located in Jorabat,, Ri Bhoi District, Meghalaya.

<sup>3</sup> One per cent was allowable as the distance between the four bonded warehouses and the two distilleries/bottling plants was less than 250 kms which would not take more than two days of transit.

<sup>4</sup> On the basis of monthly returns submitted to the Excise Department.

<sup>5</sup> 2073 cases X ₹ 551 per case = ₹ 11,42,223 (Taken at the lower rate of ₹ 551 per case for the entire period since month wise breakup was not available).

<sup>6</sup> Whenever IMFL is entered into a bonded warehouse, the SE or his subordinate has to record the same in the excise register maintained at the bonded warehouse.

The case was reported to the Excise Department, Government of Meghalaya in May 2016; their reply had not been received (December 2016).

### 3.5 Evasion of excise duty

#### Two bottling plants concealed 0.66 lakh Bulk Litres of Extra Neutral Alcohol and evaded excise duty payment of ₹ 0.98 crore.

[SE, Nongpoh; October 2015]

Indian Made Foreign Liquor (IMFL) is manufactured from Extra Neutral Alcohol (ENA) by adding water, colour and flavour to the ENA. The standard norm<sup>7</sup> of conversion of ENA per case of liquor is as under:

Size (in millilitres)	Requirement of ENA in Bulk Litres (BL) per case
180 ml	3.85 (BL)
375 ml	4.00 (BL)
750 ml	
1000 ml	5.35 (BL)

In Meghalaya, excise duty on General Brand of liquor is ₹ 551 per case of 12 bottles of 750 ml or equivalent upto 07 January 2015 and thereafter at ₹ 663 per case.

Two bottling plants<sup>8</sup> imported 55.97 lakh BL of ENA from outside the State between April 2014 and March 2015; of which, 48.71 lakh BL of ENA was shown as utilised for production of 0.14 lakh cases of liquor containing 1000 ml bottles, 7.02 lakh cases of liquor containing 750 ml/375 ml bottles and 4.99 lakh cases of liquor containing 180 ml bottles during the aforesaid period. As per standard norms, for production of the aforesaid quantity of liquor, 48.05 lakh BL (**Annexure I**) of ENA should have been actually utilised. The bottling plants, thus, fraudulently overstated the quantity of ENA utilised, resulting in concealment of 0.66 lakh BL of ENA from which 0.16 lakh cases of IMFL liquor<sup>9</sup> 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 the 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 ₹ 0.98 crore<sup>10</sup>.

The case was reported to the Excise Department, Government of Meghalaya in November 2015; their reply had not been received (December 2016).

<sup>7</sup> Normally ENA is received with an average purity of 96 per cent and IMFL is produced with strength of 42.8 per cent volume/volume.

One case of IMFL of 750 ml has 12 bottles = 12 x 750 ml = 9000 ml or 9 BL

Hence 9 BL x 42.8/96 = 4 BL. Therefore, 4 BL of ENA is required.

<sup>8</sup> (i) M/s North East Bottling and (ii) CMJ Bottling Unit.

<sup>9</sup> Loss worked out for 375 ml/750 ml bottles only as they have the same excise duty.

<sup>10</sup> 9313 cases x 551 = ₹ 0.51 crore  
 7060 cases x 663 = ₹ 0.47 crore  
**Total = ₹ 0.98 crore**

### 3.6 Loss of revenue due to destruction of seized stock

**Destruction of 1384 cases of seized stock of IMFL/beer without auctioning the same resulted in loss of revenue amounting to ₹ 0.12 crore.**

[ACE, Shillong; June 2015]

Section 38 read with Section 41 of the Assam Excise Act, 1910 (as adapted by Meghalaya) provides that the Deputy Commissioner/Excise officers can seize all excisable articles which are imported/sold without permits granted under the Act. Further Section 69 of the Act *ibid* provides that if the seized articles are liable to speedy and natural decay, then the Deputy Commissioner can direct the same to be sold.

Audit of the records revealed that between May 2013 and July 2013, the ACE auctioned 174 cases of IMFL and 100 cases of beer which were seized under the Excise Act upto March 2011 and realised ₹ 2.49 lakh as revenue. The lowest price offered during the auctions was ₹ 950 per case of IMFL and ₹ 295 per case of beer.

However, in respect of the 1135 cases of IMFL and 249 cases of Beer seized between April 2011 and March 2014, the Excise Department instead of auctioning the same, destroyed (January 2014) the seized goods as the Excise *Malkhana*<sup>11</sup> was in urgent need of cleaning and sought permission (February 2014) from the Chief Executive Officer, Municipal Board, Shillong to dump the destroyed stock in the dumping yard of the Municipal Board. After a lapse of eight months, the Department again sought permission from the Municipal Board for dumping the destroyed goods as the previous letter elicited no response.

Thus, action of the Department in destroying the seized stock instead of auctioning them resulted in loss of revenue amounting to ₹ 0.12 crore<sup>12</sup> calculated at the lowest bid offered during the previous auctions. Further, the delay in disposing the destroyed stock by eight months defeated the purpose of urgent destruction of stock.

On this being pointed out (July 2015), the CE stated (February 2016) that the seized stock had to be destroyed as the brand labels in all the bottles had been ‘*completely destroyed*’ and hence the same could not be auctioned. The reply is not acceptable as the rationale given by the Excise Department in all its file notings and correspondences at various levels for destruction of the stock was that the Excise *Malkhana* was in urgent need of cleaning and in none of the correspondences was spoilage of the brand labels cited as a reason for destruction of the stock. Moreover, no damage report of the seized stock was available on record.

<sup>11</sup> A Government warehouse where seized goods are stored.

<sup>12</sup> 1135 cases X ₹ 950 per case = ₹ 1078250  
 249 cases X ₹ 295 per case = ₹ 73455  
**Total = ₹ 1151705**

No further reply had been received from the Excise Department, Government of Meghalaya (December 2016).

### **3.7 Licence fees from outstills not realised**

**The Excise Department failed to realise licence fee amounting to ₹ 0.11 crore from 143 outstills under four local chiefs.**

**[ACE, Shillong; June 2015]**

The Excise Department, Government of Meghalaya empowered (July 1975) the local chiefs to issue licences to outstills<sup>13</sup> and realise annual licence fee from them on behalf of the Department. For their services, the local chiefs were allowed to retain 50 per cent of the licence fee realised while the balance amount was to be paid to the Government. In Meghalaya, the annual licence fee of outstills was fixed at ₹ 4000 per annum with effect from 14 June 2012.

It was observed from the records that four local chiefs issued licences to 143 outstills (**Annexure II**) under their jurisdiction between 2012-13 and 2015-16 on which licence fee amounting to ₹ 0.21 crore was payable. The local chiefs, however, failed to deposit the Government's share of licence fee realised from outstills amounting to ₹ 0.11 crore being 50 per cent of the licence fee.

Despite not depositing of licence fees by the local chiefs for periods ranging between two years and four years, no action was taken by the ACE to direct the local chiefs to deposit the licence fee payable. No records were also available with the Department to indicate that these outstills had discontinued their operations. Thus, failure of the ACE to initiate action resulted in revenue amounting to ₹ 0.11 crore not being realised. In respect of another four<sup>14</sup> local chiefs, even records pertaining to the number of outstills were not available with the ACE. Consequently, the Department was unaware of the licence fee to be paid by these local chiefs.

On this being pointed out (July 2015), the CE (February 2016) stated that the matter had been taken up with the Government in June 2012 for revoking the powers of the local chiefs for failing to deposit the Government's share of the licence fee and that no communication had been received from the Government in this regard. The reply was, however, silent regarding the action to be taken for realisation of the licence fee from the local chiefs.

No further reply had been received from the Excise Department, Government of Meghalaya (December 2016).

---

<sup>13</sup> An establishment where country liquor is manufactured and sold.

<sup>14</sup> (1) Syiem of Nongspung (2) Sirdar of Mawlong (3) Lyngdoh of Mawphlang (4) Syiem of Myllem

### 3.8 Revenue not realised due to non-renewal of licences

#### Licence fee amounting to ₹ 1.01 crore could not be realised from 66 bottling plants/bonded warehouses/retail licencees.

[CE, Meghalaya, SEs, Tura & Khliehriat; June 2015-March 2016]

Rules 243, 244 and 252 of the Assam Excise Rules, 1945 provide for payment of annual licence fee for bonded warehouses, retail licencees and bottling plants in advance, at the rates prescribed from time to time for renewal of licences. The validity period of licences is from April of a year to March of the next year. The Excise Department, Government of Meghalaya revised (June 2012) the annual fee for renewal of licence of bonded warehouses, bottling plants and retail licencees as under:

Table 1

Sl. No.	Type of licence	Existing fee (₹)	Revised fee (₹)
I	Bonded Warehouse	150000	200000
II	Bottling Plant	410000	540000
III	Retail 'OFF' <sup>15</sup> licence	50000	60000
III	Retail 'ON' licence (Bar Licence)	35000	45000

Further, Section 29 read with Section 35 of the Assam Excise Act, 1910 stipulates that if any fee or duty payable by the licence holder has not been paid, the licence granted may be cancelled and any amount payable to the Government may be recovered from the defaulters by sale of their movable property or as arrears of land revenue.

**3.8.1** Audit of records<sup>16</sup> of the CE, Meghalaya (June 2015) revealed that the licencees of three bottling plants and 13 bonded warehouses (**Annexure III**) failed to renew their licences in advance for the year 2015-16 resulting in licence fee amounting to ₹ 0.56 crore not being realized. Despite not renewing of advance licence fee, no action was taken by the CE to either direct the defaulters to renew their licences or cancel the licences for failure to renew the licences. Thus, inaction of the CE resulted in licence fee not being realised to that extent.

On this being pointed out (July 2015), the CE stated (September 2015) that out of three bottling plants, two bottling plants had deposited the licence fee and the licences had been renewed while in respect of bonded warehouses, ten had deposited the licence fee. In respect of the four remaining bottling plants/bonded warehouses, licence fees had not been deposited (December 2016).

**3.8.2** Audit of records of the SEs, Khliehriat and Tura (November 2015 and March 2016) revealed that 50 retail licencees (**Annexure III**) failed to renew their licences in advance for periods ranging between one year and six years resulting in licence fee amounting to ₹ 0.45 crore not being realised. Despite non-renewal of advance licence

<sup>15</sup> 'OFF' licences are given to wine shops. 'ON' licences are given to bars.

<sup>16</sup> Period from 01.04.2014 to 31.03.2015.

fee by the licencees, no action was taken by the SEs to either direct the defaulters to renew their licences or intimate the CE for cancellation of the licences. Thus, inaction of the SEs resulted in non-realisation of licence fee to that extent.

The cases were reported to the Excise Department, Government of Meghalaya between July 2016 and May 2016; their reply had not been received (December 2016).

### 3.9 Non-renewal of lapsed security deposits

**Security deposits of 21 bonded warehouses/distilleries/companies had lapsed, but were not renewed, resulting in non-realisation of security deposit amounting to ₹ 0.60 crore.**

[CE, Meghalaya; June 2015]

Under Rule 246 of the Meghalaya Excise Rules, a security in the form of 'Call Deposit' or 'Fixed Deposit' valid for 5 years (to be pledged in favour of the CE, Meghalaya) is to be furnished by all companies manufacturing IMFL, wine and beer as a guarantee for due observance of the terms and conditions of the licence and prompt payment of licence fees. The Excise Department, Government of Meghalaya, fixed<sup>17</sup> the security deposit as under:

Table 2

Type of establishment	Rate of Security Deposit	
Bonded Warehouses/Distilleries	₹ 3,00,000	
IMFL retail licences	₹ 50,000	
Companies	IMFL	Beer
Companies selling more than 50,000 cases per year	₹ 7,50,000	₹ 4,00,000
Companies selling less than 50,000 cases per year	₹ 2,50,000	₹ 2,00,000
	Wine	Bottled In Origin <sup>18</sup>
Companies selling above 5,000 cases per year	₹ 2,00,000	₹ 1,00,000
Companies selling below 5,000 cases per year	₹ 1,00,000	₹ 50,000

Audit of records revealed that the call deposits pledged as security by 21 bonded warehouses/distilleries/companies (**Annexure IV**) had expired for periods ranging between 554 days and 1059 days<sup>19</sup> but the same were not renewed. Despite non-renewal of security deposits over such a long period of time, no action was taken by the CE to direct the bonded warehouses/distilleries/ companies to renew the same, resulting in not realising of security deposit amounting to ₹ 0.60 crore. Further, not realising of security deposit was fraught with the risk of loss of revenue in case of default in payment of licence fee or for other violations of the Excise Act in future by any of these bonded warehouses/distilleries/companies.

On these being pointed out (July 2015), the CE stated (July 2015) that the call deposits pledged by bonded warehouses/distilleries/companies were released by the Department on expiry of their validity after submission of fresh call deposits. The reply is not acceptable as in none of the 21 cases pointed out by audit were fresh call

<sup>17</sup> July 2009 for Bonded warehouses & retail licencees and October 2010 for companies.

<sup>18</sup> IMFL products which are imported from outside the country.

<sup>19</sup> Period of delay reckoned upto 31 March 2016.

deposits called for even after expiry of their validity period resulting in non-realisation of security deposit to that extent.

No further reply had been received from the Excise Department, Government of Meghalaya (December 2016).