

CHAPTER III

STATE EXCISE

3.1 Tax Administration

The Principal Secretary, Excise Department is the administrative head at Government level. The Department was headed by the Excise Commissioner (EC). The Department had been divided into three Divisions¹ namely Central Division, Northern Division and Southern Division which were headed by Deputy Commissioners of Excise. Besides, 69 Inspectors of Excise, 211 Sub-inspectors and 137 Assistant Sub-inspectors of Excise under the control of 31 Superintendents of Excise were deployed in respective districts to oversee and regulate levy / collection of excise duties and allied levies.

3.2 Internal Audit

Internal Audit Wing (IAW) was functioning since June 2010 for regular internal audit check of field offices as well as entire organisation. It is to ensure correct assessment, prompt collection of excise revenue and timely deposit of revenue to Government Account. During 2016-17, the IAW covered 6 units out of 14 units planned for audit. The shortfall was attributed by the Department to shortage of manpower. Audit observed that 519 paragraphs of Internal Audit Reports having money value of ₹ 124 crore issued during 2011-12 to 2016-17 were pending for want of disposal as on 31 March 2017.

3.3 Results of Audit

Test check of the records of 29 units of State Excise Department showed non-realisation / short realisation of excise duty / licence fee / interest / penalty and other irregularities involving ₹ 377.49 crore in 1,194 cases in 2016-17 as indicated in the **Table 3.1** as follows.

Table 3.1

Category of Audit observations on revenue receipts

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Audit of "Offences and Penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants"	1	0
2.	Non-realisation / short realisation of excise duty Non/short recovery of license fee/interest penalty	230	34.38
3.	Other irregularities	963	343.11
Total		1,194	377.49

The Department accepted under assessment and other deficiencies of ₹ 35.58 crore in 502 cases pointed out during 2016-17. An amount of ₹ 10.44 crore was realised during 2016-17 in 319 cases pointed out in earlier years.

¹ Central Division (Balasore, Bhadrak, Cuttack, Jagatsinghpur, Jajpur, Kendrapara, Khordha, Mayurbhanj, Nayagarh and Puri), Northern Division (Angul, Bargarh, Balangir, Deogarh, Dhenkanal, Jharsuguda, Keonjhar, Sambalpur, Subarnapur and Sundargarh) and Southern Division (Berhampur, Boudh, Gajapati, Ganjam, Kalahandi, Kandhamal, Koraput, Malkangiri, Nabarangpur, Nuapada and Rayagada).

3.4 Audit of “Offences and Penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants”

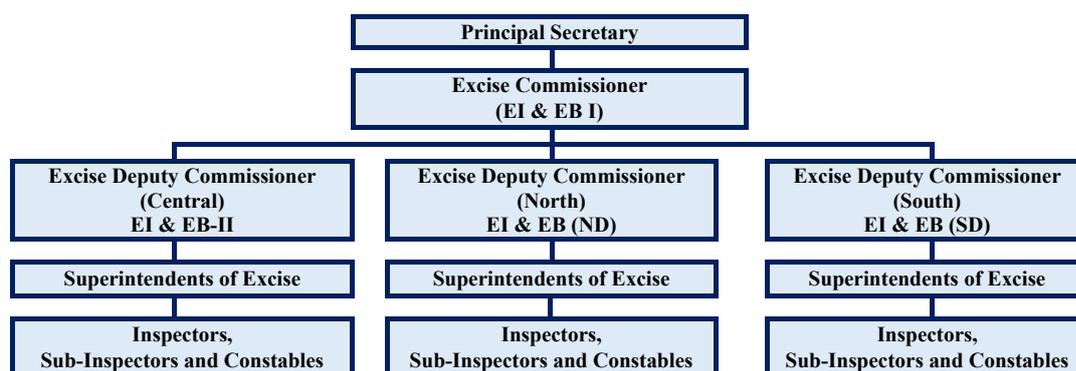
3.4.1 Introduction

The main function of Excise Department was collection of excise revenue on import, export, transport, manufacture, possession and sale of excisable products. It also ensured supply of legitimate quality alcoholic drinks, beverages and other narcotic substances like opium for human consumption. The Department was empowered to arrest, seize and forward an accused to the Court for any offence committed under the Bihar and Orissa Excise (B&OE) Act, 1915. They were also empowered for trial, levy of penalty and imprisonment on conviction of the accused by a Court. The other functions included control and check of various excise offences such as illicit manufacture and illegal possession, transport and sale of any intoxicants.

Audit was conducted between April 2017 and June 2017 in nine District Excise Offices (DEOs),² out of 31, selected on the basis of stratified random sampling. Further, two Excise Intelligence and Enforcement Bureaus (EI&EBs)³ out of four were also selected. Audit also analysed the compiled data on excise offences and enforcement activities available at the Excise Commissioner (EC’s) office. Audit test checked the records to assess:

- Whether appropriate action on excise offences as laid down under B&OE Act, 1915 and Rules framed thereunder were taken on a timely basis.
- Penalties were imposed and realised on conviction of the offenders.
- Seized and confiscated goods were disposed off promptly after the finalisation of prosecution process.

3.4.2 Organisational setup



Four EI&EBs were in operation for gathering intelligence on excise offences. The intelligence inputs are passed on to the DEOs for enforcement activities. Also, Multi-Disciplinary Squads (MDS) consisting of officials from Excise, Police, Forest, Health and Revenue were formed at each District and Sub-

² Balasore, Cuttack, Gajapati, Jagatsinghpur, Jajpur, Koraput, Mayurbhanj, Rayagada and Sundargarh.
³ EI & EB, Berhampur and EI & EB-I, Cuttack.

Divisional level. They were responsible to counter the growing menace of excise offence in a more concerted and organised way. Mobile Units also operated at each District office level.

Audit findings

Audit test checked the records on offences and penalties for unlawful import, export, transport, manufacture, possession and sale of intoxicants. Audit observed the following deficiencies which are discussed in the succeeding paragraphs:

3.4.3 Detection and disposal of offence cases

Detection, disposal and accumulation of offence cases under the nine⁴ selected DEOs and two⁵ EI&EBs during the years 2014-15 to 2016-17 are as follows:

Years	Cases pending in Courts at the beginning of the year	Cases detected during the year	Cases forwarded for prosecution (Excluding un-claimed cases)	Total cases pending in Courts	Cases disposed by Courts					Balance cases with Courts
					Total	Conviction	Acquittal	Percentage of Conviction	Percentage of Acquittal	
2014-15	59,998	8,076	5,867	65,865	7,515	294	7,221	3.91	96.09	58,350
2015-16	46,863	8,730	6,348	53,211	7,456	47	7,409	0.63	99.37	45,755
2016-17	46,247	9,396	7,527	53,774	5,138	159	4,979	3.09	96.91	48,636
Total		26,202	19,742		20,109	500	19,609	2.49	97.51	

Source: Information obtained from EC and DEOs

In this regard, Audit observed that:

- The number of pending cases in Courts was very high at 53,774 cases;
- The average percentage of conviction for last three years was very low (2.49 per cent) which is suggestive of poor handling of cases; and
- There was a huge difference between the cases detected by the Department and cases forwarded to Courts for prosecution. This indicated that the offenders could not be apprehended in all cases.

Detailed comments were as followed:

3.4.4 Increasing trend with low disposal of Offence Cases

Excise offence cases showed increasing trend from 2014-15 to 2016-17.

Excise Act and Policies primarily aimed at zero tolerance in any kind of excise offences. As such, the B&OE Act, 1915 provided for imposition of mandatory penalties in terms of fines and imprisonment for each category of offence. The department has been well equipped with adequate infrastructure to deal effectively with the menace of excise offences.

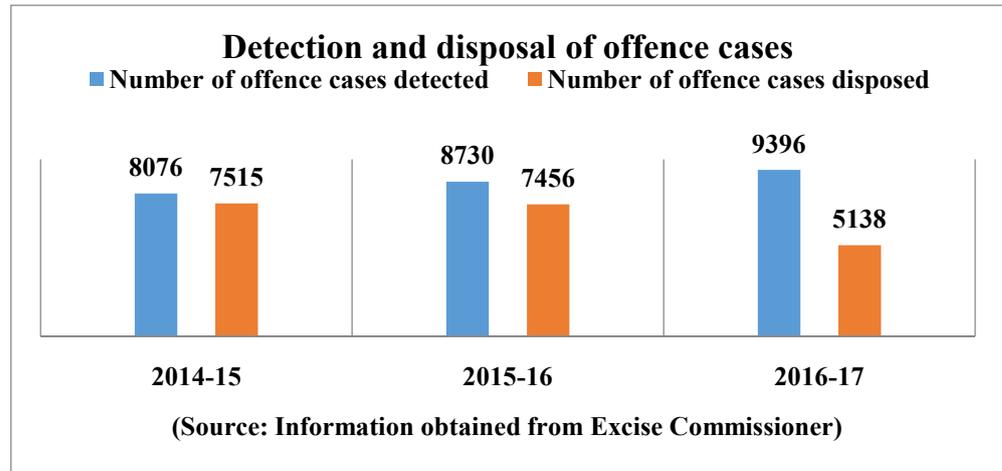
Audit observed that excise offence cases including Narcotic Drugs and Psychotropic Substances (NDPS)⁶ cases had witnessed an increasing trend. It increased from 8,076 in 2014-15 to 9,396 in 2016-17, an increase of 16.34 per cent. However, the disposal of the offence cases by the Courts showed a

⁴ Balasore, Cuttack, Gajapati, Jagatsinghpur, Jajpur, Koraput, Mayurbhanj, Rayagada and Sundargarh.

⁵ EI&EB under EDC(SD), Berhampur and EI&EB-I under EC, Cuttack.

⁶ Ganja and Brown sugar.

decreasing trend from 7,515 cases in 2014-15 to 5,138 cases in 2016-17, a decrease of 31.63 per cent.



During Exit meeting, Government stated that some cases were pending for disposal by the courts of law. However, reason for the increasing trend of offence cases was not clarified by the Government/Department.

3.4.5 Low conviction

Percentage of conviction was low due to non-production of seized materials, documents, etc. by the investigating officer.

Section 102 (3) of Code of Criminal Procedure, 1973 (Cr.P.C) provided that, any seizure shall be reported to the Magistrate and seized material was to be kept in custody for production before the Court as and when required till orders of the Court permitting disposal of the same. This provision was also applicable to Section 85 of Excise Act. Further, EC in his letter⁷ (November 1978) had, *inter alia*, instructed the Collectors to streamline the preventive, detective and investigative practices. It was to be ensured that the accused were not acquitted due to lack of depositions and insufficient incriminating evidences.

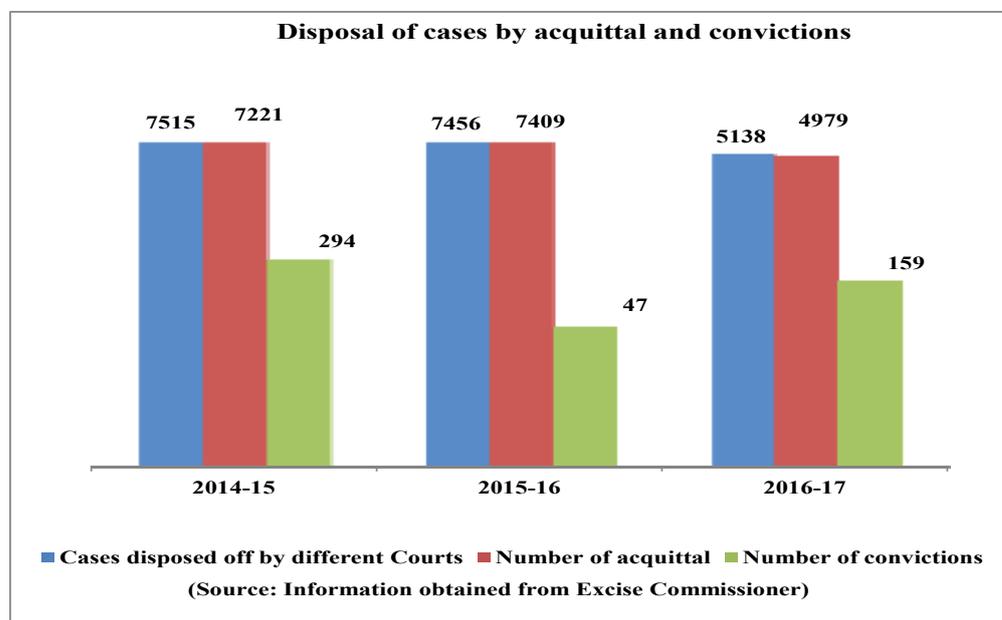
Audit observed that during the period covered under Audit, 20,109 cases were disposed off by the Courts out of 53,774 cases which included 500 convictions and 19,609 acquittal cases. The percentage of conviction ranged between 0.63 to 3.91 per cent and acquittals ranged between 96.09 to 99.37 per cent. There were high acquittals in cases such as unlawful manufacture, possession, transport and sale of Illicit Distilled Liquor (IDL), India Made Foreign Liquor (IMFL), Beer and Country Spirit (CS), etc. It was due to the following reasons:

- Seized materials were not produced by the investigating officers before the Courts for identification;
- Reasonable explanations were not furnished for non-production of the same and non-production of the copy of blue litmus⁸ paper test that proved the seized materials to be an intoxicant;

⁷ Letter No.128/78-6655 (13)/Ex dated 08.11.1978.

⁸ It is an acid based indicator. It becomes red on contact with acid.

- Documents in support of technical training⁹ and experience of the investigating officer for the conduct of chemical examination of the seized intoxicant were not produced in the Court;
- Veracity of documents regarding ownership of the house where the illegal material was seized, etc.



Further, no acquittal case was challenged by the authorities in appeal even in cases related to NDPS. Audit noted that these shortcomings were very grave in nature. It also pointed towards lack of basic professional competence and application on part of the Department. Further, the low conviction rate would greatly embolden offenders.

The Government had accepted the Audit observation and assured to rectify the deficiencies pointed out.

3.4.6 Confiscated goods not disposed off

Goods confiscated after orders of the Court were not disposed off.

Section 66 (1) of the B&OE Act, 1915 provided that whenever an offence has been committed which is punishable under this Act, the intoxicants, materials, still, utensil, implement and apparatus in respect of or by means of which such offence has been committed shall be liable to confiscation. Further, Rule 137 of Board's Excise Rules, 1965 provided that the sale or disposal of things confiscated under the Act shall be deferred till the period of appeal against the order of confiscation had expired, or if an appeal be made against such order till the appeal was disposed off. However, if things ordered to be confiscated were of a perishable nature they may be sold immediately. The NDPS goods were to be disposed off only by way of destruction by a Drug Disposal Committee (DDC) consisting of members as decided by the Government.

⁹ As per Excise Manual, Inspecting Officers should possess training Certificate / Experience Certificate on 'blue litmus' paper test.

Audit observed that 20,109 cases, which involved 500 conviction cases and 19,609 acquittal cases, were disposed off by the Court. Court ordered for the disposal of the confiscated goods within four months of the expiry of appeal period¹⁰. The concerned SEs failed to dispose off the confiscated goods within the prescribed time limit in all the 20,109 cases.

Non-disposal of the confiscated goods despite Court orders was fraught with the risk of the misuse and misappropriation of the confiscated goods. This poses a serious lapse as the NDPS goods were vulnerable to theft and substitution. This further resulted in blockage of excise revenue to the extent of sale proceeds receivable from auctionable items such as stills, utensils, etc. This indicated lack of internal control.

However, the Government accepted the Audit observation and stated that the department was taking steps to provide infrastructure like malkhana, hazat and storage facility for seized goods.

3.4.7 Goods seized in unclaimed cases not disposed off

Goods seized as unclaimed were not disposed off after expiry of prescribed period.

Under Section 67 (2) of the B&OE Act, 1915, whenever anything is liable to confiscation under Section 66, and the offender or the person entitled to possession is not known or cannot be found, the case shall be inquired into and determined by the Collector who may order for confiscation. Provided that, no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing any person who may claim any right thereto and the evidence (if any) which he produces in support of his claim.

Audit scrutinised the records of all selected DEOs and EI&EBs. Audit observed that out of 26,202 offence cases, 5,678 cases involving stills, utensils, conveyances, IDL, IMFL, Beer, CS, etc. remained unclaimed. There was no bar on the department to dispose off the unclaimed cases as they were not subject to any legal process. However, department did not dispose off the confiscated goods even after the expiry of the stipulated period of one month from the date of confiscation. Non-disposal of the items seized in unclaimed cases may result in misappropriation of goods as well as loss of revenue. This indicated lack of internal control.

The audit observation was accepted by the Government and stated that action would be taken to dispose off the unclaimed cases.

3.4.8 Creation of Special Courts to clear heavy pendency of offence cases

Special Courts were not created to clear heavy pendency of offence cases.

A law providing for deterrence through punishment for offences was of no use if the trial of the cases was delayed. The Justice P.K. Patra Commission formed in the aftermath of the hooch tragedy of Ganjam in the year 2006 had, among others, categorically recommended to the Government for establishment of Special Courts in each district to deal with the excise offence cases. This was required for facilitating the trial of any offence case for early disposal.

¹⁰ Appeal period is of 3 months.

Test check of records in all selected DEOs and EI & EBs revealed that:

- 59,998 number of offence cases were pending as on 1 April 2014 in different Courts including the period prior to 2001-02. It reduced marginally to 48,636 as on March 2017.
- Majority of cases related to the offences for possession of intoxicants such as IDL, Tari, Wash and Pachawai, CS and IMFL in small quantities.
- The pendency could not be disposed off by the Regular Courts.
- Special Courts to speed up disposal of excise offence cases were yet to be created.

During the Exit meeting the Government stated that a new Act was enacted and it was in force from 01 April 2017. The new Act provided for creation of Special Courts to deal with Excise cases exclusively.

3.4.9 Hemp Plant cultivation

Illicit cultivating of Hemp plant were going on in eight districts due to lack of coordinated strategy.

Cultivation of Hemp Plant has been banned under Section 8 of the NDPS Act, 1985. As such, the Act provides for immediate arrest and prosecution of drug traffickers involved in this illicit cultivation. Further, Section 20 of the above Act provided for rigorous imprisonment for a term which may extend up to ten years and levy of fine which may extend to rupees one lakh for contravention of the provisions of the Act. Narcotics Control Bureau (NCB) under Ministry of Home Affairs, Government of India had devised a comprehensive action plan in 2013 to be adopted by the States to control illicit cultivation. The prime objective of this plan was to nip cannabis cultivation in the bud before it caused some serious socio-economic problems.

Audit scrutiny of the records related to annual destruction of Hemp plant cultivation in the office of EC revealed that:

- Hemp Plant cultivations continued in eight¹¹ districts during 2014-15 to 2016-17.
- Department possessed no information on the actual acreage of land under hemp cultivation in a year.

Hemp plants numbering 184.09 lakh over 9,548 Acres of land were destroyed during 2014-15 to 2016-17. Thousands of Acres of land under hemp plant cultivation were being destroyed by the Multi-Disciplinary Squads (MDS) every year. However, department could arrest only nine persons involved in such illegal cultivation in 9,548 Acres of land during last three years.

This showed lack of coordinated strategy and concerted approach by the MDS to arrest the offenders before or during the destruction drive.

Government stated that Collectors were requested to have meetings with the local people to get some fruitful results.

¹¹ Angul, Boudh, Deogarh, Gajapati, Kandhamal, Malkangiri, Rayagada and Sambalpur.

Other measures

3.4.10 Non implementation of the Mass Awareness Programme

Seminars, meetings, street theatres for public awareness on dangers of drinking could not be conducted in spite of provision of funds.

Annual Activity Reports specified for an integrated mechanism involving Non-Government Organisations, Self Help Groups (SHGs) and Panchayati Raj Institutions by conducting seminars, meetings, street theatres, etc. These were to be held to create public awareness about the dangers of drinking, particularly IDL, spurious liquor and illegal liquor trade.

Audit scrutinised the records in office of the EC related to the public awareness programmes. Audit observed that Excise Department had allocated ₹ 15 lakh (March 2015) for de-addiction programme. Public awareness about the dangers of drinking, particularly IDL and spurious liquor was to be conducted by way of seminars, meetings, street theatres, etc. However, Audit observed that the amount was drawn and kept idle without being disbursed to DEOs for conducting public awareness programme. Non-utilisation of the amount for the above purpose defeated the basic intent of the Government policy to restrict the rising trend in different excise offences by creating awareness. This indicated lack of internal control.

The Government had accepted the Audit observation and assured to conduct public awareness programme on de-addiction.

3.4.11 Inoperative Toll Free Helpline Number

Toll Free Helpline Number notified for collecting information from general public on excise offences remained defunct.

A Toll Free Helpline number was installed (August 2013) in the office of the EC, Odisha to collect information from the public on different unlawful activities. It aimed to involve the common man to be a part of the existing intelligence and enforcement wings in detecting and containing excise crimes. The helpline number was widely circulated to general public through different print media.

Audit observed that the said toll free help line number had remained defunct since 15 July 2015. Inoperative toll free number deprived the department from obtaining required information to control and check excise crimes. This number remained defunct in the back drop of growing unlawful and illegal activities, despite preventive and enforcement measures by the department. This indicated lack of internal control.

During discussions, the Government accepted the Audit observation and stated that steps would be taken for early restoration of the toll free number.

3.4.12 Records not maintained

The following records/reports which were vital in dealing with excise offence cases were not maintained by the DEOs. These were specified under different instructions framed by the Board of Revenue:

- (i) Registers for recording first information on offence in Form C-1;
- (ii) Report showing custody of seized articles in Form C-3;
- (iii) Final report on disposal of offence cases in Form C-6; and

(iv) Conviction registers in Form C-8.

Non-maintenance of above registers deprived the controlling authorities for initiating follow-up action. This indicated lack of internal control.

The Government had accepted the Audit observation and stated that all the records would be maintained.

3.4.13 Conclusion

There was a high rate of acquittal as the prescribed procedures were not followed by the departmental officers. The seized materials were not produced by the investigating officers before the Courts and they could not prove the seized materials to be intoxicant. Low conviction rates would greatly embolden offenders. No appeals were filed in cases adjudicated against the department due to lack of evidence. Seized goods ordered to be disposed off by the Court were not disposed off and resulted in revenue blockage. The department did not constitute special courts, to expedite settlement of offence cases. Further, the department did not conduct mass awareness programmes to encourage participation of general public in eradicating excise offences.

3.5 Other Audit observations

Audit scrutinised the assessment records of State Excise Duty and associated fees in the District Excise Offices (DEOs). Audit found several cases of non-observance of the provisions of the Act / Rules / Annual Excise Policies (AEPs). This led to non-levy / short levy and realisation of excise duty, fees and fines, etc. as mentioned in the succeeding paragraphs in this chapter. These cases were illustrative and were based on a test check carried out by Audit. Such omissions on the part of the Superintendent of Excise (SE) are pointed out by Audit each year. However, the irregularities persisted and remained undetected until the next audit was conducted. There was need for the Department to improve the internal control system including strengthening of internal audit to avoid recurrence of such irregularities.

3.6 Provisions of the Acts/Rules/Annual Excise Policies and instructions of Government not observed

The Bihar and Odisha Excise (B&OE) Act, 1915 and Rules made thereunder by the Government as well as by the Board of Revenue (BOR) read with the Excise Manual, AEPs and notifications of Government provide for levy and collection of State Excise Duty (SED), fees like utilisation fee (UF), import fee (IF), bottling fee (BF), transportation fee (TF), excise adhesive label (EAL) fee, and charges like establishment cost and extra hour operation charge, etc. at the prescribed rates.

The SEs, while finalising the assessments, did not observe the above provisions in some cases as mentioned in the subsequent paragraphs which resulted in non-levy and non-realisation of SED / fees, fines and penalty, etc.

3.6.1 Fine on expired IMFL not levied

Expired IMFL stock was not destructed after chemical examination and fine of ₹ 4.45 crore not imposed.

As per Rule 39(1) of the Board's Excise Rules (BER), 1965, the licensee shall remove all bottled liquor from the approved storeroom within three months after it is bottled. As per Rule 39A (7), the Superintendent of Excise (SE) shall be careful while issuing import and transport permits with a view to avoid unnecessary piling up of huge stock which may lead to sedimentation and deterioration in quality if not disposed off in time. Further, any stock of India Made Foreign Liquor (IMFL) becomes unfit for human consumption owing to long storage or other factors, the licensee shall be liable to pay a fine equal to five times the duty payable to the Government on the stock so spoiled. The stock so found unfit for human consumption was required to be destroyed by the SE as per Rule 135 of the Rules *ibid*.

Audit scrutinised records (December 2016) including stock taking report and closing stock analysis report of two Distillery Units¹² under SE, Rayagada. Audit observed that the closing stock of IMFL as on 31 March 2016 was 4,900.33 Cases (32,261.738 LPL). These stocks were lying in the warehouse for periods ranging from more than 3 years to 29 years from their manufacturing dates without sale to Orissa State Beverages Corporation (OSBC) depot. However, expired IMFL stock was not destructed after chemical examination and fine of ₹ 4.45 crore not imposed.

Government stated (October 2017) during discussion that destroying the liquor unfit for human consumption was primary concern and penalty was the secondary objective. They also stated that penalty clause had been deleted in the new Excise Act 2017. It was further stated that since cases were very old and the amount can be demanded was to be examined. Final reply in this regard was awaited.

However, the fact remained that the IMFL stock was piled up for upto 29 years and were not destroyed. This indicated lack of concern for human health by the Department.

3.6.2 Short / Non levy of Excise Duty on short lifting of IMFL and Beer

Excise duty and fine of ₹ 1.85 crore short levied/ demanded from five licensees and ₹ 0.15 crore not demanded from one licensee towards short lifting of IMFL and Beer against the MGQ fixed.

As per Rule 6-A of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, every successful bidder of Foreign Liquor 'OFF' shop/'ON' shop shall, before obtaining licence, guarantee the lifting of the Minimum Guaranteed Quantity (MGQ) of IMFL / Beer as fixed by the Excise Commissioner. In case of failure on the part of the licensee to lift the MGQ, action may be taken to make good the loss of Excise Duty (ED), which shall be recovered from the bank guarantee obtained by the Collector. In case of further deficit, the amount will be collected at the end of the year with 10 *per cent* fine thereon. As per Annual Excise Policy 2015-16, the minimum rate of ED on IMFL and Beer worked out to ₹ 276 and ₹ 47 per London Proof Litre (LPL) and Bulk Litre (BL) respectively taking into account the ad valorem component of ED for the lowest priced IMFL and Beer.

¹² M/s. Jeypore Sugar Company Ltd. and M/s. Sri Shakti (P) Ltd.

Audit test checked (July to October 2016) records¹³ in three SE Offices¹⁴. Audit observed that five licensees¹⁵ short lifted 76,438.96 LPL of IMFL and 2,41,089.64 BL of Beer against the MGQ fixed for their shops during the year 2015-16. As such ED and fine of ₹ 3.57 crore was leviable. The SEs had demanded / realised ₹ 1.72 crore only. This resulted in short levy and realisation of ED and fine of ₹ 1.85 crore. Similarly, under SE, Ganjam, one shop short lifted 2,730 LPL of IMFL and 13,075 BL of Beer. However, the SE had not raised demand of ₹ 0.15 crore towards ED and fine.

Government accepted (October 2017) the audit observation and assured to recover the amount.

3.6.3 Short realisation of Excise Duty due to incorrect conversion of MGQ of Beer

Non adoption of prescribed rate of ED for IMFL and Beer as per Annual Excise Policy 2015-16 resulted in short realisation of ED of ₹ 1.44 crore.

As per Rule 6-A of the Odisha Excise (Exclusive Privilege) Foreign Liquor Rules, 1989, every successful bidder of Foreign Liquor (FL) 'OFF' shop shall, before obtaining licence, guarantee the lifting of the MGQ of FL as fixed by the EC. In case of failure on the part of the licensee to lift the MGQ, action may be taken to make good the loss of ED, which shall be recovered from the bank guarantee obtained by the Collector. In case of further deficit, the amount will be collected at the end of the year with 10 *per cent* fine thereon. During 2015-16, in the context of short supply of Beer by the manufacturers/ supplying companies, Excise Department approved (May 2015) a proposal to give the option to the licensees to lift IMFL in LPL involving equal amount of ED as that of MGQ of Beer in BL fixed in respect of their shops.

Audit scrutinised MGQ statements, Licence Fee Registers and Charge Office records of seven¹⁶ SE offices. Audit observed that the licensees of 55 IMFL 'OFF' shops could not lift the fixed MGQ of Beer during 2015-16. As per the above instructions, they were allowed to lift IMFL in lieu of short lifted quantity of Beer. The shortfall of Beer in BL was converted to LPL for IMFL adopting ED as ₹ 30 and ₹ 250 respectively. As per Annual Excise Policy (AEP) for 2015-16, actual rate of ED was ₹ 47¹⁷ and ₹ 276¹⁸ respectively. The rate was arrived by adding 40 *per cent* of the *ad valorem* component calculated on the landing cost of lowest brand of Beer and IMFL. This resulted in short realisation of ED of ₹ 1.44 crore.

Government accepted (October 2017) the audit observation and assured to recover the amount during the current financial year before renewal of licences.

¹³ Annual MGQ statements, MGQ Registers, License Fee Registers and Statement obtained from M/s. Orissa State Beverage Corporation (OSBC) Ltd.

¹⁴ Balasore, Baragarh and Keonjhar.

¹⁵ Licensees of 'OFF' shops.

¹⁶ Angul, Balasore, Berhampur, Cuttack, Ganjam, Jharsuguda and Mayurbhanj.

¹⁷ The minimum landing cost of 7.80 BL of Beer is ₹ 329.33. The landing cost per BL of Beer is ₹ 42.22. *Ad valorem* 40 *per cent* thereon amounts to ₹ 16.80 rounded to ₹ 17. Hence, the SED on Beer is ₹ 47 per BL (₹ 30 + ₹ 17).

¹⁸ The minimum landing cost of 6.75 LPL of IMFL is ₹ 438.59. The landing cost per LPL of IMFL is ₹ 64.98. *Ad valorem* 40 *per cent* thereon amounts to ₹ 26. Hence, the SED on IMFL is ₹ 276 per LPL (₹ 250 + ₹ 26).

3.6.4 Establishment cost not realised

Establishment cost of ₹ 40.12 lakh towards pay and allowances of two Excise officials was not realised from OSBC Ltd.

As per Rule 33(3) of the Board's Excise Rules 1965, potable foreign liquor shall not be stored either in shape of bottles or bulk or compounded, blended, reduced, bottled in a warehouse or store-room in bond and issued or sold therefrom otherwise than in the presence of an Excise Officer. Further, as per Rule 34(1) and 34(2) of the Rules *ibid*, the EC shall appoint the Excise Officers for proper supervision of the operations carried out in each warehouse or storeroom mentioned in Rule 33(3). The licensee shall pay to the State Government, at the end of each calendar month, such fees which shall not exceed the whole of the cost of the excise staff employed for the purpose.

Audit scrutinised (September and December 2016) files relating to reimbursement of establishment cost in two¹⁹ SE offices. Audit observed that four excise officials of above offices were posted in two depots during the period 2011-12 to 2015-16. Establishment cost of ₹ 40.12 lakh towards pay and allowances of the staff employed in two depots were not paid by OSBC Ltd. SEs also did not raise demand for reimbursement of the establishment cost.

Government stated (October 2017) during discussion that the cases would be examined and required steps would be taken. Final reply in this regard was awaited.

3.6.5 Charges for extra hour operation not realised

Extra hour operation charges of ₹ 23.85 lakh for carrying out 2,385 extra hour operations beyond the scheduled hours during April 2015 to March 2016 were not realised from one distillery.

As per Rule 20 of Board's Excise Rules, 1965, all operations in a distillery, bottling unit and brewery which require the presence of an Excise officer shall be stopped on Sundays, other public holidays and specially declared holidays. The production unit may function for the second shift with prior permission of the EC and additional staff shall be posted as determined by the EC. The licensee shall pay, in addition to the cost of establishment of additional staff, ₹ 1,000 per each extra hour of operation of his distillery beyond the scheduled hours.

Audit scrutinised (October 2016) records relating to extra hour operations in District Excise Office, Ganjam. Audit observed that one²⁰ Distillery carried out extra hour operation of 2,385 hours beyond the schedule hours during April 2015 to March 2016. However, the Distillery did not pay the extra hour operation charges of ₹ 23.85 lakh. The District Excise Officer also did not raise demand for realisation of the above dues.

Government stated (October 2017) during discussion that the amount pointed out by audit was demanded and realised. However, there was no mechanism in place to avoid such lapses.

¹⁹ SE, Angul and Balangir.

²⁰ M/s. Aska Co-operative Sugar Industries Ltd.

3.6.6 Penalty for short supply of Country Spirit not levied

Penalty of ₹ 10 lakh was not realised from ACSIL for short supply of Country Spirit.

As per provisions contained in the Excise Policy for the year 2015-16, Aska Co-operative Sugar Industry Limited (ACSIL) shall ensure at least 300 full truck load supply of Country Spirit (CS) per month to wholesale depots for sale to retailers. In case of failure to supply the same quantity of CS, penalty of ₹ 10 lakh would be leviable.

Audit scrutinised (October 2016) records of CS supply by ACSIL in SE, Ganjam. Audit observed that the ACSIL could not supply the prescribed quantity of CS to the four depots²¹ of OSBC Ltd during 2015-16. ACSIL could only supply 3,411 truck load of CS against the required quantity of 3,600 (300 × 12) truck load. The unit was liable to pay a penalty of ₹ 10 lakh as it failed to supply the required quantity of CS. However, no demand was raised by SE, Ganjam to realise such penalty.

Government stated (October 2017) during discussion that the amount pointed out by audit was demanded and realised. However, no mechanism was in place to monitor non-supply of prescribed quantity of CS by the ACSIL.

²¹ Balasore, Chandikhol, Khurda and Nirgundi.