

CHAPTER-4: PRICING OF LIQUOR

4.1 Discretionary determination of Ex-Distillery Price (EDP)/ Ex-Brewery Price (EBP) of Indian Made Foreign Liquor (IMFL) and Beer

The Excise Policy from 2008-18 left determination of EDP/ EBP at the discretion of the distilleries and the breweries leading to excess fixation of EDP/ EBP of IMFL/ beer by the distilleries/ breweries in Uttar Pradesh. Comparison of EDP/ EBP of identical and similar brands of IMFL/ Beer in the test checked distilleries/ breweries of Uttar Pradesh with neighbouring states revealed that due to excess fixation of EDP/ EBP, undue benefit of ₹ 7,168.63 crore was allowed to distilleries/ breweries, wholesalers and retailers during the years 2008-18 at the cost of the consumers and the State Exchequer.

Determination of EDP/ EBP is an important responsibility of the Excise Department for ensuring both the availability of liquor at reasonable prices and adequate revenue collection from liquor sale. The key elements of pricing of liquor (MRP calculation) are as depicted in the **Table - 4.1**:

Table - 4.1

Sl. No.	Elements	Basis of calculation
1	Ex-distillery price/ Ex-brewery price (EDP/ EBP)	EDP and EBP is the price at which the manufacturers supply IMFL ¹ and Beer ² respectively to wholesalers before adding excise duty, profit margins of wholesalers and retailers. EDP/ EBP is offered by the distilleries/ breweries and approved by the Excise Commissioner.
2	Excise duty	This is periodically fixed by the State Government as a percentage of EDP/ EBP on different categories ³ of IMFL/ Beer.
3	Wholesalers' margin	Wholesalers' margin is periodically fixed by the State Government as a percentage of EDP on different categories of IMFL. In case of Beer, the margin is fixed for different categories.
4	Maximum whole sale price	EDP/ EBP + excise duty +wholesalers' margin
5	Retailers' margin	Retailers' margin is periodically fixed by the State Government as a percentage of EDP on different categories of IMFL. In case of Beer, the margin is fixed for different categories.
6	Maximum Selling Price (MSP)	Maximum whole sale price + Retailers' margin
7	Maximum Retail Price (MRP)	EDP/ EBP + excise duty + wholesalers' margin + retailers' margin + AED which is rounded off to next five rupees.
8	Additional Excise Duty (AED)	MRP - MSP

Source: Excise policy, Government of Uttar Pradesh.

¹ IMFL includes Spirit or liquors made in India, and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India and includes Malt Spirit, Whisky, Rum, Brandy, Gin, Vodka and Liquors.

² Beer includes ale, stout, porter, cider and all other fermented liquors made from malt having alcoholic strength from three *per cent* volume by volume up to eight *per cent* volume by volume.

³ On the basis of EDP of IMFL and EBP and strength in case of Beer.

Audit compared the excise policies of the UP Government with those of the excise policies and internal procedures of the neighbouring states viz., Uttarakhand, Rajasthan, Punjab, Delhi, Haryana and Madhya Pradesh as well as of states such as Karnataka, Tamil Nadu and Telangana. A comparative picture of the key provisions and parameters of excise policies of some of the states vi-a-vis the provisions in UP excise policies is depicted in **Table - 4.2** below:

Table - 4.2

Comparative Analysis of Excise Policies in UP and other states				
Details of system	Uttarakhand	Rajasthan	Telangana	Uttar Pradesh
Mode of proposing EDP/ EBP by the distillery/ brewery.	Proposed directly by the distilleries/ breweries to the Excise Commissioner.	Proposed directly by the distilleries/ breweries to the Rajasthan State Beverages Corporation Limited, (RSBCL) a state owned company.	Proposed directly by the distilleries/ breweries to the Telangana State Beverages Corporation Limited, a state owned company.	Proposed by the distilleries/ breweries to the Excise Commissioner through the Excise Officer-in-charge posted in the distillery/ brewery.
Provision regarding EDP/ EBP being offered.	Should not be more than that in the neighbouring states.	Should not be more than that in the neighbouring states.	Rates are finalized by a high level three member committee consisting of a Retired Judge of the State High Court as Chairman, a Chartered Accountant and a senior Retired IAS officer as members ⁴ .	No such provision existed till 2017-18.
Checking of the detailed cost sheets ⁵ in support of EDP/ EBP being offered.	No detailed cost sheet is required to be submitted.	Detailed cost sheet is sought in case of any doubt regarding basis of EDP/ EBP being offered.	Basic price includes Ex-factory price, Cost of Bottles, cost of packing material, freight, insurance, handling charges and import fee, if any.	Such analysis of costing behind fixing of EDP/ EBP is not in existence.
Penal Provisions in Excise Policies if EDP/ EBP are found to be erroneous.	The security deposited by the distillery/ brewery would be forfeited, the excess amount of EDP/ EBP being charged would be recovered and legal action would be taken for each violation (Para No. 22 of the Excise Policy 2016-17).	EDP/ EBP are submitted on ₹ 500 non-judicial stamp paper. However, penal provisions have not been prescribed.	No penal provision has been prescribed.	No such provision existed till 2017-18.

⁴ The Committee holds series of negotiations with the suppliers and recommends basic prices for acceptance by the Board of Directors. The Board of Directors, after careful examination of the Committee recommendations, sends a detailed report to the Government along with remarks/modifications, if necessary, for its approval by the Government.

⁵ Cost sheet includes cost of raw material, blending material, packing material, etc.

The above table clearly indicates that the other states, including the neighbouring ones, strove to ensure reasonable EDP/ EBP through policy interventions (as in Uttarakhand and Rajasthan⁶) by incorporating suitable penal clauses⁷ in their respective excise policies. Other states such as Delhi and Punjab put in place reasonable procedural checks to keep the EDP/ EBP at reasonable levels despite not having specific penal clauses in their respective excise policies.

With specific respect to the neighbouring states, the results of a comparison of relevant provisions regarding determination of EDP/ EBP are depicted in **Table - 4.3** below:

Table - 4.3

State	EDP/ EBP
Uttarakhand	EDP/ EBP of the same brand will not be more than that of brands supplied in Delhi/ other states.
Delhi	EDP/ EBP of the same brand will not be more than that of brands supplied in rest of India, if the EDP/ EBP is less than a certain limit. If the EDP/ EBP is more than that limit, distilleries/ breweries are free to fix the EDP/ EBP. Despite this, Delhi has managed to keep the EDP/ EBP prices lower in comparison to Uttar Pradesh.
Rajasthan	The RSBCL has, in its policy, provided for a specific provision to ensure that the EDP/ EBP of the same brand will not be more than that of brands supplied in other states. Details of cost sheets underlying EDP/ EBP were also required to be submitted along with the proposals of the EDP/ EBP of IMFL/ Beer in case of doubt.
Punjab	Without any specific provision in the excise policy, Punjab has managed to keep the EDP/ EBP prices at a lower level compared to Uttar Pradesh.

Audit scrutiny of UP Excise Department's Manuals, Circulars, and Excise Policies in light of the above comparison revealed that:

1. During 2008-18, the Excise Department did not seek costing details from the distilleries and breweries on a single occasion while determining the EDP/ EBP of IMFL and Beer unlike in Rajasthan where, in case of any doubt, the Rajasthan Beverages Corporation Ltd. (PSU) sought for its examination, submission of details of costing of production of IMFL/ Beer by the concerned distillery/ brewery.
2. Further, the State Excise Department did not prescribe any reasonable checks to ascertain reasonability of costing of the liquor production unlike Rajasthan where the Rajasthan State Beverages Corporation Ltd (RSBCL) had the authority to obtain and examine the detailed costing underlying EDP/ EBP proposed by distillery/ brewery.
3. Since April 2018, the State Excise Department has incorporated a requirement in its Excise Policy that mandatorily requires the distilleries/ breweries to submit a certificate regarding correctness of the EDP/ EBP

⁶ Policy framed by the Rajasthan State Brewery Corporation Ltd., the state PSU in charge of wholesale of liquor in the State.

⁷ Penal provisions include forfeiture of the security deposited by the distillery/ brewery, recovery of the excess amount of EDP/EBP being charged, legal action for each violation, blacklisting of the brand, etc. in case of Uttarakhand.

from a Cost Accountant, appointed and paid for by the distilleries/ breweries, while offering EDP/ EBP to the Department. The Department, based on the certificate of Cost Accountant, approves the EDP/ EBP, and thereafter determines the excise duty, the additional excise duty, and the wholesalers' and retailers' margin.

In other words, the Department is still fully dependent on the certificate of the Cost Accountant without having any commensurate independent checks to verify/ determine the EDP/ EBP either by itself or through an independent agency. Thus, the system is still open to abuse by the distilleries and the breweries.

Thus compared to other states, the State excise policies over the years gave the distilleries and breweries, a *carte blanche* in determining the EDP/ EBP without putting in place, adequate safeguards, both at the policy as well as at the procedural levels, thereby benefitting the private players viz. the distilleries/ breweries, the wholesalers and the retailers at the cost of both the consumers and the State Exchequer.

This became evident when the State Government, in April 2018, introduced a rider (similar to Uttarakhand) in its policy whereby the distilleries and the breweries were required to offer EDP/ EBP not above that offered in its neighbouring states. The policy intervention led to a sharp increase in the excise revenue by 47.84 *per cent* (from ₹ 12,652.87 crore to ₹ 18,705.61 crore) during April 2018 to January 2019 compared to the same period in the previous year.

If the increase of ₹ 6,052.74 crore achieved in the ten months (April 2018 to January 2019) period is extrapolated⁸, the state had allowed the private distilleries/ breweries to potentially earn undue profits in excess of ₹ 7,263.28 crore in 2017-18 alone, and significantly more during the period 2001-18.⁹

The actual loss to the State Exchequer on account of lack of adequate checking of EDP/ EBP being offered by the distilleries/ breweries during 2008-18 is established in the following illustrative cases:

4.1.1 Fixation of EDP of IMFL

Audit compared the MRP of one case of quarts¹⁰ (12 no. of 750 ML packs) of McDowell's No. 1 Celebration XXX Rum sold in both UP and Rajasthan during 2016-17 as detailed **Table - 4.4** below:

⁸ Also considering that EDP/EBP price of IMFL/Beer in Uttar Pradesh was 46 *per cent*/135 *per cent* higher than in Delhi, Rajasthan and Uttarakhand in 2008-18 alone.

⁹ Any difference between the extrapolation of ₹ 7,263.28 crore for 2017-18 given here and that arrived at in the succeeding paragraphs can be attributed to the possibility that more IMFL/Beer would have been consumed in UP during 2001-18 had the EDP/EBP of IMFL/Beer, and consequently the MRP, been lower.

¹⁰ IMFL Bottle/pack of 750 ml capacity.

Table - 4.4

Components	Amount levied (per bottle of 750 ml) (in ₹)		Difference of amount (in ₹)
	In Rajasthan	In Uttar Pradesh	
EDP	49.98	111.57	61.59
Wholesalers' margin	0.68	6.54	5.86
Retailers' margin	41.33	76.16	34.83
Total	91.99	194.27	102.28

Thus, for one bottle (750 ml) of IMFL, the distillery, Wholesaler and retailers in UP got ₹ 102.28 more than in Rajasthan. During 2016-17, M/s USL Distillery, Meerut sold 20,457 cases (2,45,484 bottles) and realised an additional profit of ₹ 1.51 crore due to excess EDP. Further, the consumers had to bear additional burden of ₹ one crore on account of Wholesalers' and Retailers' margins as compared to Rajasthan. Had the EDP of UP been fixed at the same level per bottle as that in Rajasthan, the differential amount of ₹ 102.28 per bottle (2016-17) could have been recovered by the government by increasing the excise duty itself.

If we extrapolate the above difference of ₹ 102.28 per bottle (750 ml) assuming that all IMFL brands had been sold in the bottle size of 750 ml, the potential revenue loss for selling 108.25 crore 750 ml bottles, was to the tune of ₹ 11,071.81 crore during 2008-18 due to excess EDP, Wholesalers' and Retailers' margin compared to Rajasthan. Considering that the State Government would not have incentivised the consumption of liquor, being a social evil, by lowering the MRP, this difference of ₹ 11,071.81 crore could have accrued to the State Exchequer in the form of Excise Duty.

Audit further analysed the extent to which the MRP/ EDP of given brands of IMFL was higher in UP than in a neighbouring state. Actual audit observations arising out of the examination are discussed below:

4.1.1.1 Identical brands of IMFL- Price variations between the States

Audit noted that for different bottle capacities (90 ml to 750 ml) of different 'identical' brands of IMFL sold in UP during 2008-18, the EDP ranged between ₹ 7.50 to ₹ 1,097.42 per bottle. In comparison, the EDP of the identical brand in the neighbouring States was much lower, by ₹ 0.02 to ₹ 334.62 per 'identical' IMFL bottle.

Illustrative examples showing higher MRP/EDP in respect of five identical brands of IMFL in UP in the year 2016-17 in comparison to two neighbouring States are given in **Table - 4.5**.

Table - 4.5

Name of Distillery	Name of Brand (750 ml)	Neighbouring State	Per bottle MRP/EDP (in ₹)			Difference (5-6) (in ₹)	Quantity consumed in UP (B.L. in lakh)	Total MRP/EDP for UP distillery (in ₹ crore)	Total MRP/EDP for distillery of neighbouring State (in ₹ crore)	Total excess MRP/EDP of UP realised by distillery (in ₹ crore)
			MRP/EDP	UP	Neighbouring State					
1	2	3	4	5	6	7	8	9	10	11
M/s United Spirits Ltd. Meerut	McDowell's No. 1 Celebration XXX Rum	Rajasthan	MRP	490.00	301.00	189.00	1.84	12.02	7.38	4.64
			EDP	111.57	49.98	61.59		2.74	1.23	1.51
M/s Pernod Ricard India Pvt. Ltd. FL 3A Daurala Distilleries Meerut	Seagram's 100 Pipers Deluxe Blended Scotch Whisky	Uttarakhand	MRP	1,570.00	1,310.00	260.00	1.94	40.61	33.89	6.72
			EDP	696.02	462.25	233.77		18.01	11.96	6.05
M/s United Spirits Ltd. Meerut	Bagpiper Superior Whisky	Uttarakhand	MRP	410.00	340.00	70.00	4.93	26.95	22.35	4.60
			EDP	91.38	51.25	40.13		6.01	3.37	2.64
M/s United Spirits Ltd. Meerut	Royal Challenge Classic Premium Whisky	Rajasthan	MRP	595.00	490.00	105.00	12.39	98.29	80.95	17.34
			EDP	165.31	125.00	40.31		27.31	20.65	6.66
M/s United Spirits Ltd. Meerut	McDowell's Green Label The Rich Blend Whisky	Rajasthan	MRP	420.00	305.00	115.00	4.52	25.31	18.38	6.93
			EDP	99.95	51.16	48.79		6.02	3.08	2.94
Total						MRP	25.62	203.18	162.95	40.23
						EDP		60.09	40.29	19.80

Source: Records of the State Excise Department.

The difference in EDP led to a MRP difference ranging between ₹ 70 and ₹ 260 in the five identical brands of IMFL, as illustrated in **Table - 4.5**.

Audit obtained details of various brands of IMFL sold by test-checked distilleries and compared the same with EDPs of identical brands of IMFL being sold in neighbouring states¹¹. We noted that the EDPs of different brands of IMFL of different capacities (90 ml to 750 ml) were being determined at a much higher rate in UP as compared to the EDPs of the identical brands approved in the neighbouring states during the period from 2008-09 to 2017-18. In this way an undue profit of ₹ 851.63 crore accrued to test-checked distilleries in respect of identical brands of IMFL alone as detailed in **Table - 4.6**:

¹¹ EDP of a particular brand was compared with the EDP of the same brand found lowest amongst all the neighbouring states.

Table - 4.6

(₹ in crore)				
Year	Quantity issued from distilleries in B.L. (in crore)	EDP realised by the distilleries in UP	EDP realised for identical brands of IMFL by distilleries in neighbouring States	Undue profit to distilleries
2008-09	1.20	111.83	102.07	9.76
2009-10	1.82	186.82	159.57	27.25
2010-11	0.98	104.65	89.74	14.91
2011-12	2.57	328.78	257.36	71.42
2012-13	1.89	277.62	193.44	84.18
2013-14	0.94	201.86	150.02	51.84
2014-15	1.26	275.06	197.42	77.64
2015-16	1.30	292.65	214.37	78.28
2016-17	2.90	671.37	497.56	173.81
2017-18	4.03	894.35	631.81	262.54
Total	18.89	3,344.99	2,493.36	851.63

4.1.1.2 *Similar*' brands of IMFL- Price variations between the States

Audit noted that for different bottle capacities (90 ml to 750 ml) of different '*similar*'¹² brands of IMFL sold in UP during 2008-18, the EDP ranged between ₹ 8.75 to ₹ 966.08 *per* bottle. In comparison, the EDP of neighbouring States was much lower, by ₹ 0.36 and ₹ 276.43 *per* '*similar*' IMFL bottle.

Illustrative examples showing higher MRP/EDP in respect of five similar brands of IMFL in UP in the year 2016-17 in comparison to two neighbouring States are given in **Table - 4.7**.

¹² Audit has used the term '*similar*' for brands having slight difference in name but being essentially identical (the composition of IMFL/ Beer brands was not available with the State Excise Department). For instance, Bagpiper **Superior** Whisky brand is sold in Uttar Pradesh and Bagpiper **Classic** Whisky is sold in Rajasthan; similarly, Kingfisher Strong Premium Beer brand is sold in Uttar Pradesh and Kingfisher **Super** Strong Premium Beer is sold in Rajasthan. The Excise Policies of Uttarakhand from 2014-15 onwards stipulated by example that if any brand was sold in the name of XXX Classic Whisky, the name would be considered as only "XXX" for identifying the brands as the same.

Table – 4.7

Name of Distillery	Name of Brand		Neighbouring State	MRP/EDP per bottle (in ₹) (750 ml)			Difference (in ₹) (6-7)	Quantity consumed (B.L. in lakh)	Total MRP/EDP for UP distillery (₹in crore)	Total MRP/EDP for distillery of neighbouring State (₹in crore)	Total excess MRP/EDP realised by the UP distillery (₹in crore)
	in Uttar Pradesh	in neighbouring State		MRP EDP	in Uttar Pradesh	in neighbouring State					
1	2	3	4	5	6	7	8	9	10	11	12
M/s Radico Khaitan Ltd. Rampur	Magic Moments Premium Vodka	Magic Moments Smooth Grain Vodka	Rajasthan	MRP	530.00	400.00	130.00	2.93	20.71	15.63	5.08
				EDP	132.27	83.75	48.52		5.17	3.27	1.90
M/s Pernod Ricard India Pvt. Ltd Meerut	Seagram's Royal Stag Reserve Whisky	Royal Stag Deluxe Whisky	Rajasthan	MRP	595.00	483.00	112.00	19.62	155.65	126.35	29.30
				EDP	165.30	120.92	44.38		43.24	31.63	11.61
M/s Radico Khaitan Ltd. Rampur	8PM Special Rare Blend of Indian Whisky & Scotch	8 PM Classic Whisky	Rajasthan	MRP	410.00	287.00	123.00	12.83	70.14	49.10	21.04
				EDP	91.38	46.58	44.80		15.63	7.97	7.66
M/s USL Roja Shahjahanpur	McDowell's No 1 Select Whisky	McDowell's No.1 Deluxe Whisky	Rajasthan	MRP	530.00	391.00	139.00	10.54	74.48	54.95	19.53
				EDP	132.27	80.00	52.27		18.59	11.24	7.35
M/s Pernod Ricard India Pvt. Ltd Meerut	Seagram's Imperial Blue Blended Grain Whisky	Imperial Blue Superior Grain Whisky	Uttarakhand	MRP	545.00	415.00	130.00	8.98	65.25	49.69	15.56
				EDP	139.93	77.83	62.10		16.75	9.32	7.43
Total							MRP	54.90	386.23	295.72	90.51
							EDP		99.38	63.43	35.95

Source: Records of the State Excise Department.

The difference in EDP led to a MRP difference ranging between ₹ 112 and ₹ 139 in the five similar brands of IMFL, as illustrated in **Table - 4.7**.

Audit obtained details of various brands of IMFL sold by test-checked distilleries and compared the same with EDPs of similar brands of IMFL being sold in neighbouring states¹³. We noted that EDPs of different brands of IMFL of different capacities (90 ml to 750 ml) were being determined at a much higher rate in UP as compared to the EDPs of the similar brands approved in the neighbouring states during the period from 2008-09 to 2017-18. In this way an undue profit of ₹ 1,968.86 crore accrued to test-checked distilleries in respect of similar brands of IMFL alone as detailed in **Table - 4.8**:

¹³ EDP of a particular brand was compared with the EDP of the same brand found lowest amongst all the neighbouring states.

Table – 4.8

Year	Quantity issued from distilleries in BL (in crore)	EDP realised by the distilleries in UP	EDP realised for similar brands of IMFL by distilleries in neighbouring States	(₹ in crore)
				Undue profit to distilleries
2008-09	0.44	38.38	31.86	6.52
2009-10	0.63	69.71	56.11	13.60
2010-11	2.94	275.42	202.86	72.56
2011-12	3.13	332.46	248.52	83.94
2012-13	4.88	660.47	456.91	203.57
2013-14	5.58	849.13	537.61	311.51
2014-15	4.31	733.81	461.07	272.74
2015-16	3.20	589.09	367.44	221.65
2016-17	5.47	1,010.39	612.83	397.56
2017-18	5.91	1,065.12	679.91	385.21
Total	36.49	5,623.98	3,655.12	1,968.86

Thus, the Excise Department allowed the private distilleries to earn undue profits amounting to ₹ 2,820.49 crore (*'identical'* brands: ₹ 851.63 crore + *'similar'* brands: ₹ 1,968.86 crore) between 2008-09 and 2017-18. The overall EDP of IMFL in the State was 46 *per cent* higher as compared to the EDP being paid in the neighbouring states like Rajasthan and Uttarakhand.

The following illustration indicates how the policy intervention in 2018-19 allowed a reduction in the liquor prices (due to reduction in EDP) in UP with corresponding increase in revenue:

Audit noticed in cases of five selected popular brands of IMFL that the EDPs of these brands had continuously increased up to 2016-17, remained constant in 2017-18 and dropped by ₹ 16.17 to ₹ 37.10 *per quart* of these brands in 2018-19 in comparison to their respective EDPs in 2017-18, a sharp decline of 18 *per cent*. The details are shown in the **Table – 4.9**:

Table – 4.9

(In ₹)												
Year	Bagpiper Superior whisky		Raffles Matured Rum		M2 Magic Moments Orange Vodka		Seagram Blenders Pride Rare Premium Whisky		Antiquity Blue Ultra-Premium Whisky		Total EDP	Increase over previous year (in per cent)
	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)		
2008-09	43.50		52.08		84.00		163.12		255.67		598.37	
2009-10	48.25	10.92	48.25	-7.35	130.00	54.76	170.00	4.22	252.08	-1.40	648.58	8.39
2010-11	48.25	0.00	48.25	0.00	105.80	-18.62	170.00	0.00	257.08	1.98	629.38	-2.96
2011-12	61.90	28.29	61.90	28.29	110.97	4.89	213.39	25.52	259.75	1.04	707.91	12.48
2012-13	80.11	29.42	80.11	29.42	127.24	14.66	224.11	5.02	264.29	1.75	775.86	9.60
2013-14	82.74	3.28	89.42	11.62	136.91	7.60	228.18	1.82	268.69	1.66	805.94	3.88
2014-15	88.86	7.40	88.88	-0.60	148.40	8.39	233.54	2.35	275.00	2.35	834.68	3.57
2015-16	90.95	2.35	90.94	2.32	152.02	2.44	249.50	6.83	286.74	4.27	870.15	4.25
2016-17	91.38	0.47	91.38	0.48	152.62	0.39	249.50	0.00	286.98	0.08	871.86	0.20
2017-18	91.38	0.00	91.38	0.00	152.62	0.00	249.50	0.00	286.98	0.00	871.86	0.00
2018-19	54.28	-40.60	54.28	-40.60	122.50	-19.74	233.33	-6.48	250.00	-12.89	714.39	-18.06

Source: Records of the State Excise Department.

In all the instances, Audit noticed, on the basis of scrutiny of the relevant files in the Department, that the EDPs, as determined by the respective distilleries and forwarded to the Excise Department of the state for approval, were approved by the Department without any checking or verification of their reasonability at any stage¹⁴.

4.1.2 Fixation of EBP of Beer

Like in case of IMFL, Audit compared Ex-brewery price for the production, pricing and sale of a can (500 ml) of Tuborg Strong Beer sold in UP and Rajasthan during 2016-17 which is detailed in **Table – 4.10** below:

Table – 4.10

Components	Amount levied (per can of 500 ml) (in ₹)		Difference of amount (in ₹)
	In Rajasthan	In Uttar Pradesh	
1	2	3	4
EBP	16.80	44.91	28.11
Wholesalers' margin	0.18	1.35	1.17
Retailers' margin	11.94	12.31	0.37
Total	28.92	58.57	29.65

The above table indicates that had the EBP of UP been fixed at the same level as Rajasthan per can, the differential amount of ₹ 29.65 per can could have been recovered by the government in 2016-17 by increasing the excise duty

¹⁴ Before approving the MRP, its details are required to be checked by the License Section in the Excise Department, subsequently checked by the Joint Excise Commissioner, Headquarters and finally approved by the Excise Commissioner.

itself. The breweries in UP got ₹ 28.11 more for one can (500 ml) of Beer than in Rajasthan. During 2016-17, M/s Mohan Goldwater Breweries Ltd, Unnao sold 24,74,777 cases¹⁵(500 ml cans) of Tuborg Strong Beer and realised additional profit of ₹ 166.96 crore due to excess EBP. Further, consumers had to share additional burden of ₹ 9.15 crore on account of Wholesalers' and Retailers' margin compared to Rajasthan.

Based on the above, if we extrapolate the potential loss of excise revenue during 2013-18, from actual total sales of 11.92 crore cases of beer relating to all brands, the same would work out to ₹ 5,513.42 crore for 650 ML bottles (difference of ₹ 38.55 between UP and Rajasthan).

This extra benefit accrued to the breweries, wholesalers and retailers at the cost of both the consumers as well as the State Exchequer.

Audit further analysed the extent to which the EBP of a given brand of Beer was higher in UP than in a neighbouring state. Observations arising out of the examination are discussed below:

4.1.2.1 Identical brands of Beer- Price variations between UP and the neighbouring states

Audit noted that for different bottle capacities (325 ml to 650 ml) of different 'identical' brands of Beer sold in UP during 2013-18, the EBP ranged between ₹ 27.08 to ₹ 72.62 per bottle/ can. In comparison, the EBP of neighbouring States was much lower, by ₹ 16.01 to ₹ 52.12 per 'identical' bottle/ can.

Illustrative examples showing higher MPR/EBP in respect of five identical brands of Beer in UP in the year 2016-17 in comparison to two neighbouring States are given in **Table - 4.11**:

¹⁵ 24 cans in a case.

Table – 4.11

Name of Brewery	Name of Brand	Neighbouring State	MRP/EBP per bottle/ can (in ₹)			Difference (5-6) (in ₹)	Quantity (B.L.in lakh)	MRP/EBP realised by the breweries (₹ in crore)	MRP/EBP of Beer issued as per neighbouring State EBP (₹ in crore)	Excess MRP/EBP realised by the Breweries (₹ in crore)
			MRP	In Uttar Pradesh	In neighbouring State					
1	2	3	4	5	6	7	8	9	10	11
M/s United Breweries Ltd. FL 3 A Wave Distilleries & Breweries	Kingfisher Premium Lager Beer (650 ml)	Rajasthan	MRP	130.00	89.00	41.00	7.77	15.54	10.64	4.90
			EBP	52.69	20.82	31.87		6.30	2.49	3.81
M/s United Breweries Ltd. FL 3 A Wave Distilleries & Breweries	Kingfisher Premium Lager Beer (500 ml)	Rajasthan	MRP	105.00	78.00	27.00	11.56	24.28	18.03	6.25
			EBP	45.53	18.51	27.02		10.53	4.28	6.25
Wave Distillery and Brewery Ltd.	Wave Premium Beer Strong (650 ml)	Uttarakhand	MRP	135.00	120.00	15.00	16.51	34.29	30.48	3.81
			EBP	51.88	23.00	28.88		13.18	5.84	7.34
M/s United Breweries Ltd. FL 3 A Wave Distilleries & Breweries	Kingfisher Strong Premium Beer (650 ml)	Rajasthan	MRP	140.00	94.00	46.00	244.19	525.95	353.14	172.81
			EBP	52.54	22.12	30.42		197.38	83.10	114.28
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Tuborg Strong Premium Beer (500 ml)	Rajasthan	MRP	110.00	83.00	27.00	296.97	653.33	492.97	160.36
			EBP	44.91	16.80	28.11		266.74	99.78	166.96
Total						MRP	577.00	1,253.39	905.26	348.13
						EBP		494.13	195.49	298.64

Source: Records of the State Excise Department.

The difference in EBP led to a MRP difference ranging between ₹ 15 and ₹ 46 in the five identical brands of Beer, as illustrated in **Table No. 4.11**.

Audit obtained details of various brands of Beer sold by test-checked breweries and compared the same with EBP of identical brands of Beer being sold in neighbouring states¹⁶. We noted found that EBPs of different brands of Beer of different capacities (325 ml to 650 ml) were being determined at a much higher rate in UP as compared to the EBPs of the identical brands approved in the neighbouring states during the period from 2013-14 to 2017-18. In this way an undue profit of ₹ 1,500.48 crore accrued to test-checked breweries in respect of identical brands of Beer alone, which is detailed in **Table - 4.12**:

¹⁶ EBP of a particular brand was compared with the EBP of the same brand found lowest amongst all the neighbouring states.

Table – 4.12

(₹ in crore)				
Year	Quantity issued from breweries in crore bulk litres	EBP realised by breweries in UP	EBP realised for identical brands of Beer by breweries in neighbouring States	Undue profit to breweries
2013-14	3.84	292.89	111.74	181.15
2014-15	6.37	507.94	222.03	285.91
2015-16	4.44	366.20	151.28	214.92
2016-17	6.09	523.05	208.61	314.44
2017-18	10.03	919.11	415.05	504.06
Total	30.76	2,609.19	1,108.71	1,500.48

4.1.2.2 ‘Similar’ brands of Beer- Price variations between the States

Audit noted that for different bottle capacities (325 ml to 650 ml) of different ‘similar’ brands of Beer sold in UP during 2013-18, the EBP ranged between ₹ 42.95 to ₹ 89.40 per bottle/ cans. In comparison, the EBP of the similar brands of Rajasthan was much lower, by ₹ 24.46 to ₹ 59.50 per ‘similar’ bottles/ can.

Illustrative examples showing higher MRP/EBP in respect of five similar brands of Beer in UP in the year 2016-17 in comparison to Rajasthan are given in **Table - 4.13**:

Table – 4.13

Name of Brewery	Name of Brand		Name of Neighbouring State	MRP/EBP per bottle/ can (in ₹)			Difference (6-7) (in ₹)	Quantity (B.L.in lakh)	MRP/ EBP realised by the breweries(₹ in crore)	MRP/EBP of Beer issued as per neighbouring State EBP (₹ in crore)	Excess MRP/ EBP realised by the brewery (₹ in crore)
	In Uttar Pradesh	In neighbouring State		MRP EBP	In Uttar Pradesh	In neighbouring State					
1	2	3	4	5	6	7	8	9	10	11	12
M/s Sab Miller India Ltd. Unit Central Distillery & Breweries Meerut	Hayward’s 5000 Extra Super Strong Beer (650 ml)	Hayward’s 5000 Super Strong Beer	Rajasthan	MRP	135.00	94.00	41.00	54.60	113.40	78.96	34.44
				EBP	51.85	22.12	29.73		43.56	18.58	24.98
M/s United Breweries Ltd. FL 3 A M/s Wave Distilleries and Breweries Ltd.	Kingfisher Strong Premium Beer (500 ml)	Kingfisher Super Strong Premium Beer	Rajasthan	MRP	110.00	84.00	26.00	618.76	1,361.27	1,039.52	321.75
				EBP	45.42	19.81	25.61		562.08	245.15	316.93
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Tuborg Strong Export Premium Beer (650 ml)	Tuborg Strong Premium Beer	Rajasthan	MRP	135.00	94.00	41.00	87.82	182.40	127.00	55.40
				EBP	51.88	22.12	29.76		70.09	29.88	40.21

Name of Brewery	Name of Brand		Name of Neighbouring State	MRP/EBP per bottle/ can (in ₹)			Difference (6-7) (in ₹)	Quantity (B.L.in lakh)	MRP/ EBP realised by the breweries(₹ in crore)	MRP/EBP of Beer issued as per neighbouring State EBP (₹ in crore)	Excess MRP/ EBP realised by the brewery (₹ in crore)
	In Uttar Pradesh	In neighbouring State		MRP EBP	In Uttar Pradesh	In neighbouring State					
1	2	3	4	5	6	7	8	9	10	11	12
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Carlsberg Elephant Strong Super Premium Beer (650 ml)	Carlsberg Elephant Classic Strong Super Premium Beer	Rajasthan	MRP	185.00	129.00	56.00	4.99	14.20	9.90	4.30
				EBP	70.55	30.93	39.62		5.41	2.37	3.04
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Tuborg Green Beer (650 ml)	Tuborg Premium Beer	Rajasthan	MRP	130.00	89.00	41.00	3.63	7.26	4.97	2.29
				EBP	52.69	20.82	31.87		2.94	1.16	1.78
Total				MRP				769.80	1,678.53	1,260.35	418.18
				EBP					684.08	297.14	386.94

Source: Records of the State Excise Department.

The difference in EBP led to a MRP difference ranging between ₹ 26 and ₹ 56 in the five similar brands of Beer, as illustrated in **Table - 4.13**.

Audit obtained details of various brands of Beer sold by test-checked breweries and compared the same with EBPs of similar brands of Beer being sold in neighbouring states¹⁷. We noted that EBPs of different brands of Beer of different capacities (325 ml to 650 ml) were being determined at a much higher rate in UP as compared to the EBPs of the similar brands approved in the neighbouring states during the period from 2013-14 to 2017-18. In this way, an undue profit of ₹ 1,204.05 crore accrued to test-checked breweries in respect of similar brands of Beer, which is detailed in **Table - 4.14**:

Table – 4.14

Year	Quantity issued from breweries in bulk litre (In crore)	EBP realised by the breweries in UP	EBP realised for similar brands of Beer by breweries in neighbouring States		Undue profit to breweries
			(₹ in crore)		
2013-14	4.79	393.14	156.52	236.62	236.62
2014-15	2.67	236.39	105.76	130.63	130.63
2015-16	4.66	404.42	176.93	227.49	227.49
2016-17	7.72	686.88	297.99	388.89	388.89
2017-18	4.73	386.97	166.55	220.42	220.42
Total	24.57	2,107.80	903.75	1,204.05	1,204.05

Thus, the Excise Department allowed test-checked breweries to earn undue profits amounting to ₹ 2,704.53 crore ('Identical' brands: ₹ 1,500.48 crore +

¹⁷ EBP of a particular brand was compared with the EBP of the same brand found lowest amongst all the neighbouring states.

'similar' brands: ₹ 1,204.05 crore) between 2013-14 and 2017-18 at the cost of its own revenue and consumers.

The overall EBP of Beer in the State was 135 per cent higher as compared to the EBP being paid in the neighbouring states like Delhi, Rajasthan and Uttarakhand.

As in the case of IMFL, EBP of beer continued to increase from 2013-14 to 2016-17, remained constant in 2017-18, and on introduction of new Excise Policy in 2018-19, fell sharply by 43.62 per cent in 2018-19, as illustrated in the **Table – 4.15**:

Table – 4.15

(In ₹)												
Year	Kingfisher Extra Strong Premium Beer		Carlsberg Elephant Strong Super Premium Beer		Tuborg Strong Export Premium Beer		Foster's Classic Premium Lager Beer		Tuborg Green Beer		Total EBP	Percentage of increase
	EBP	Percentage of increase	EBP	Percentage of increase	EBP	Percentage of increase	EBP	Percentage of increase	EBP	Percentage of increase		
2013-14	49.34		70.11		49.34		61.75		67.16		297.70	
2014-15	51.05	3.47	70.39	0.40	51.06	3.49	62.24	0.79	51.95	-22.65	286.69	-3.70
2015-16	51.85	1.57	70.09	-0.43	51.85	1.55	64.43	3.52	52.69	1.42	290.91	1.47
2016-17	51.88	0.06	70.55	0.66	51.88	0.06	64.43	0.00	52.69	0.00	291.43	0.18
2017-18	51.88	0.00	70.55	0.00	51.88	0.00	64.43	0.00	52.69	0.00	291.43	0.00
2018-19	30.84	-40.56	43.89	-37.79	30.84	-40.56	30.13	-53.24	28.61	-45.70	164.31	-43.62

Source: Records of the State Excise Department.

In all the instances, audit also noticed, on the basis of scrutiny of the relevant files in the Department, that the EBPs, as determined by the respective breweries and forwarded to the Excise Department for approval, were approved by the Department without any checking or verification of their reasonability by the departmental authorities at any stage¹⁸.

4.1.3 Suspected enrichment of wholesalers through discounts

Undue benefit to distilleries/breweries due to inflated EDP/EBP to the tune of ₹ 5,525.02 crore has been mentioned in Para No. 4.1.1 and 4.1.2. It was further ascertained from the Balance Sheets of one of the distillers – Radico Khaitan Ltd., Rampur, a distillery which produces and sells country liquor/IMFL in the State, that the distiller had paid ₹ 426.45 crore in the form of rebates, discount and allowances during the period 2008-09 to 2017-18. As the distilleries sell IMFL to the wholesalers, the possibility that not only the distilleries/breweries but also the wholesalers benefited from the inflated EDP/EBP through discounts, cannot be ruled out. The case merits an investigation from vigilance angle by the State Government as the wholesalers were already getting wholesalers' margin based on the inflated EDP/EBP.

¹⁸ Before approving the MRP, its details are required to be checked by the License Section in the Excise Department, subsequently checked by the Joint Excise Commissioner, Headquarters and finally approved by the Excise Commissioner.

4.1.4 Benefit to the Wholesalers and the Retailers

As per the Excise Policies of 2008-18, in the case of IMFL, Wholesalers' and Retailers' margins are calculated separately as a percentage of the EDP. As a result, the higher EDPs as explained in Paragraphs 4.1.1 and 4.1.2 translated into higher margins to both the wholesalers and retailers at the expense of the State Exchequer and consumers.

Excessive margins of ₹ 1,643.61 crore were allowed to the wholesalers and the retailers on identical and similar brands of IMFL in the test-checked distilleries during 2008-18, as detailed in **Table - 4.16**:

Table – 4.16

(₹ in crore)				
Year	Quantity of IMFL in bulk litre (crore)	Excess Wholesalers' Margin allowed	Excess Retailers' Margin allowed	Total Financial Implication (3+4)
1	2	3	4	5
2008-09	1.64	0.86	14.16	15.01
2009-10	2.45	1.54	25.58	27.13
2010-11	3.93	4.34	68.29	72.63
2011-12	5.70	6.58	102.90	109.48
2012-13	6.78	13.09	190.76	203.85
2013-14	6.52	8.49	70.58	79.07
2014-15	5.56	8.28	59.55	67.84
2015-16	4.49	4.92	42.90	47.82
2016-17	8.37	12.49	53.66	66.15
2017-18	9.94	39.12	915.51	954.63
Total	55.38	99.71	1,543.90	1,643.61

Audit compared the wholesale liquor sale scenario of UP with that of the other states and noticed that states like Rajasthan and Telangana have entrusted wholesale liquor trade to state owned beverages corporations, which enabled them to earn additional resources on wholesaler's margin in addition to the excise duty and the additional excise duty. However, in UP, the State Government has not created any corporation on the lines of Rajasthan and Telangana, for mopping additional resources through wholesale of liquor.

Audit however noticed that in the case of beer, in total contrast to that of IMFL, the Excise Policies during 2013-18 provided for fixed Wholesalers' and Retailers' margins irrespective of the EBP. Thus, there was no adverse financial impact on the margins on account of inflated EBPs. If the State Government had incorporated a similar provision in the case of IMFL too in its successive excise policies (i.e. having fixed Wholesalers' and Retailers' margins instead of percentages of the EDP offered by the distilleries), the State Government could have earned more Excise duty without enhancing the MRP of the liquor in the state.

In conclusion, by allowing inflated EDP/ EBP not supported by any detailed justification or costing, and absence of checking at any level in the Department, the Department allowed an undue benefit of ₹ 5,525.02 to Distilleries/ Breweries and an additional ₹ 1,643.61 crore to the

Wholesalers and Retailers in the form of excessive margins on actual sales during 2008-18.

The Department announced the new Excise Policy for the year 2018-19 and 2019-20 on 25 January 2018 and 25 December 2018 respectively. The policy inter alia prescribed that the costing of the EDP/ EBP for IMFL/ Beer will have to be submitted along with a Certificate by a Cost Accountant (appointed and paid by the distilleries/ breweries) and an affidavit affirming that the EDP/ EBP is equal or less than that allowed in the neighbouring States. False affidavits would result in cancellation of the brand registration of the said IMFL/ Beer¹⁹. In the exit conference, the Department further stated that the forthcoming excise policy would contain necessary provisions on penalty. Provisions for recovery of excess EDP/ EBP and forfeiture of security of ₹ one lakh in case of IMFL will be introduced in the Excise Policy for the 2019-20.

While audit agrees that the stated policy interventions, if implemented, would improve the level of compliance in the State, better controls need to be designed by the Department after examining the best practices in use in some of the states for ensuring effective enforcement.

Recommendations:

- **Specific measures and suitable provisions may be included in the Excise policies in future to regulate ex-distillery/ex-brewery price of IMFL and Beer by comparing policies and procedures adopted in this regard by various states.**
- **Undue benefit to distilleries/breweries, wholesalers and retailers on account of higher EDP/EBP was worked out by Audit for identical/similar brands of IMFL/Beer sold by test-checked distilleries/breweries. The Department needs to assess the actual amounts through a thorough investigation and also fix the accountability of those responsible for allowing undue benefit to the distilleries/breweries, wholesalers and retailers at the cost of the state exchequer.**

4.2 Loss of additional excise duty due to wrong computation of EDP, wholesalers'/ retailers' margins, and wrong computation of the Maximum Wholesale Price of small bottles of IMFL

Maximum Retail Prices (MRP) of IMFL are determined as per the formulae provided in the excise policies issued by the Government from year to year. Irregularity at any stage of computation/ adding of different components of MRP (EDP, ED, wholesalers'/ retailers' margins, additional excise duty) leads to irregular fixation of MSP which subsequently affects the additional excise duties which may accrue to the state exchequer from rounding off the MSP to the next higher five rupees. The observations are detailed below:

¹⁹ Note 1 of Para No. 2.5 of UP Excise Policy issued by the Government dated 25 January 2018 for the year 2018-19.

4.2.1 Undue profit to the distillers

Short levy of additional excise duty ₹ 227.98 crore during the year 2008-09 to 2017-18 on the sale of 208.61 crore small bottles of IMFL by the distilleries, due to wrong computation of EDPs of smaller bottles of IMFL.

In terms of the excise policy (2008-18), EDP is to be calculated on the actual quantity of IMFL in the bottles. Audit observed that contrary to the above requirement, the distilleries proposed the EDP calculation on 187.5 ml and 93.75 ml but calculated the applicable Excise Duty on the actual bottle size of 180 ml and 90 ml respectively by misinterpreting the excise policy provisions.

This practice had long ranging effects, since it unduly increased the profits of the private distillers and deprived the State exchequer of commensurate additional excise duty.

Audit revealed that the distillers were deliberately resorting to wrong calculation of EDP on 180 ml and 90 ml bottles while fixing EDP leading to short collection of Additional Excise Duty (AED) to the tune of ₹ 227.98 crore.

Illustrative examples of such manipulation in the case of 180 ml and 90 ml bottles relating to five brands are given below in **Table – 4.17**:

Table - 4.17

(In ₹)													
Year	Name of distillery	Name of brand	Observation	Capacity in ml	EDP (per bottle)	Excise duty (per bottle)	Wholesalers' margin	Retailers' margin	Maximum retail price (without rounding)	MRP rounded to next five rupees	Additional excise duty due	Quantity dispatched in bottle (in crore)	Additional excise duty (₹ in crore)
2016-17	M/s Radico Khaitan Ltd., Rampur	8PM Special Rare Blend of Indian Whisky & Scotch	Levied	180	24.35	57.32	1.37	16.81	99.85	100.00	0.15	5.41	0.81
			Due	180	23.37	57.32	1.37	16.81	98.87	100.00	1.13	5.41	6.11
			Additional excise duty short levied									0.98	5.41
2016-17	M/s Pernod Ricard India Pvt. Ltd.	Seagram's Royal Stag Reserve Whisky	Levied	180	42.83	81.72	1.83	19.57	145.95	150.00	4.05	2.61	10.57
			Due	180	41.11	81.72	1.83	19.57	144.23	150.00	5.77	2.61	15.06
			Additional excise duty short levied									1.72	2.61
2016-17	M/s USL Meerut	Royal Challenge Classic Premium Whisky	Levied	180	42.83	81.72	1.83	19.57	145.95	150.00	4.05	1.83	7.41
			Due	180	41.11	81.72	1.83	19.57	144.23	150.00	5.77	1.83	10.56
			Additional excise duty short levied									1.72	1.83
2015-16	M/s USL Meerut	Mc Dowell's No. 1 Platinum Luxury	Levied	90	19.75	58.10	0.93	11.22	90.00	90.00	0.00	0.32	0.00
			Due	90	18.96	58.10	0.93	11.22	89.21	90.00	0.79	0.32	0.25
			Additional excise duty short levied									0.79	0.32
2015-16	M/s Radico Khaitan Ltd. Rampur	M2 Magic Moments Remix Smooth Flavoured Vodka Green Apple	Levied	90	19.75	58.10	0.93	11.22	90.00	90.00	0.00	0.18	0.00
			Due	90	18.96	58.10	0.93	11.22	89.21	90.00	0.79	0.18	0.15
			Additional excise duty short levied									0.79	0.18

Source: Records of the State Excise Department.

This practice of systemic deficiencies in the calculation of EDP for smaller bottles was noticed across all the brands test checked by audit for the period 2008-09 to 2017-18 as per the details in **Table – 4.18**:

Table – 4.18

Year	Range of additional amount allowed to distillers (in ₹)	Number of small bottles (180/90 ml) sold by the distilleries (in crore of bottles)	Short realisation of additional excise duty (₹ in crore)
2008-09	0.30 to 2.61	11.19	6.05
2009-10	0.35 to 2.57	11.11	7.68
2010-11	0.30 to 1.75	13.97	9.76
2011-12	0.43 to 5.68	22.03	18.24
2012-13	0.50 to 10.54	24.24	23.94
2013-14	0.82 to 6.17	21.85	25.33
2014-15	0.34 to 9.71	20.54	24.86
2015-16	0.35 to 9.72	18.63	22.34
2016-17	0.46 to 9.72	26.96	38.25
2017-18	0.46 to 9.95	38.08	51.53
	0.30 to 10.54	208.61	227.98

Thus, by allowing additional amount of EDP²⁰ in favour of distillers instead of levying additional excise duty (AED) in all 180 ml and 90 ml bottles, the Department permitted short levy of additional excise duty resulting in undue benefit of ₹ 227.98 crore on the sale of 208.61 crore small bottles of IMFL to both distilleries and bonds.

Audit reported the matter to the Department (June 2018 and March 2019). In the exit conference, the Department assured (July 2018) that the anomaly would be removed through an amendment in the Excise Policy. But nothing was stated about the loss of additional excise duty due to this irregularity that could have otherwise accrued to the State Exchequer.

Recommendation:

The Department should take action under Section 39 of the UP Excise Act, 1910 to recover the loss of additional excise duty of ₹ 227.98 crore for the period 2008-18. The Department should also ensure that the quantity taken for calculation of EDP and for excise duty shall be the same.

4.2.2 Incorrect calculation of Wholesalers' and the Retailers' margin on account of enhanced EDPs of small bottles

Audit examined the excise policies and pricing files for the year 2008-13 in the Office of the Excise Commissioner and in the concerned distilleries and bonds of Uttar Pradesh. Audit noticed that wholesalers' and retailers' margins of 375 ml, 180 ml and 90 ml bottles of IMFL were calculated on the basis of enhanced EDPs²¹ instead of calculating the same on normal EDPs²². However, excise duties were calculated only on the basis of normal EDP. Further, Audit also noticed that the Wholesalers' and Retailers' Margins in case of small bottles of IMFL were computed by the Department in excess of the margins calculated as per the provisions of the Policy.

²⁰ Calculating EDP of 187.5 ml and 93.75 ml instead of 180 ml and 90 ml.

²¹ After allowing additional cost on EDP for small bottles.

²² Without allowing additional cost on EDP for small bottles.

This practice of incorrect calculations of systemic deficiencies was noticed in determining of MRPs of small bottles across various brands of IMFL during 2008-13. The details of incorrect calculation by the Department are provided in **Table – 4.19**:

Table – 4.19

Year	Range of additional amount allowed to wholesalers and retailers (in ₹)	Number of bottles sold by the distilleries (in crore bottles)	Short levying of additional excise duty (₹ in crore)
2008-09	0.52 to 2.18	13.88	20.29
2009-10	0.60 to 1.86	14.09	23.08
2010-11	0.82 to 1.86	17.79	28.85
2011-12	0.45 to 2.06	24.16	37.58
2012-13	0.45 to 3.06	28.42	45.20
Total	0.45 to 3.06	98.33	155.00

This resulted in the distilleries/ bonds realising an undue excess benefit on account of higher margins to the tune of ₹ 155.00 crore on sale of 98.33 crore small bottles of different brands of IMFL. Such discrepancies were not noticed by Audit from 2013-14 onwards.

Audit reported the matter to the Department (June 2018 and March 2019). In the exit conference, the Department stated (July 2018) that this irregularity had been rectified from the year 2013-14. But nothing was stated about the irregularity resulting in loss of additional excise duty that could have otherwise accrued to the State exchequer.

Recommendation:

The Department should recover the amount which was irregularly allowed to both the Wholesalers and the Retailers as margins on account of enhanced EDP of small bottles.

4.2.3 Incorrect computation of maximum wholesale price (MWP) leading to short levy of additional excise duty

4.2.3.1 Incorrect computation of MWP of IMFL

Incorrect computation of MWP of IMFL by a distiller resulted in short realisation of additional excise duty of ₹ 4.85 crore during 2013-14 on sale of 97.15 lakh bottles.

As described in the **Table – 4.20** below, M/s Wave Distilleries & Breweries Ltd., Aligarh incorrectly computed²³ the maximum wholesale price of 180 ml bottles of three brands of IMFL²⁴ for the period 2013-14 and the error was not detected by the Department. Consequently, the Department failed to levy

²³ The calculation of the maximum wholesale price is computed and furnished to the Department, and these details are required to be checked by the Senior Assistant of License Section in the Excise Department, verified by the Joint Excise Commissioner, Headquarters and finally approved by the Excise Commissioner.

²⁴ Evening Special Premium Whisky, Raffles Matured XXX Rum, Raffles Grain Vodka.

additional excise duty to the extent of ₹ 4.99 per bottle, resulting in total loss of ₹ 4.85 crore as additional excise duty (against sales of 97.15 lakh bottles).

Table – 4.20

(In ₹)		
	As worked out by the Department	As worked out by Audit
EDP	23.86	23.86
Excise Duty	67.82	67.82
Wholesalers' margin	1.47	1.47
Maximum wholesale price (EDP+ Excise duty+ Wholesalers' margin)	93.14	93.15
Add retailers' margin	16.86	16.86
Total Maximum Selling Price (1)	110.00	110.01
Maximum retail price (Rounded off to next five rupees) (2)	110.00	115.00
Additional excise duty (2) – (1)	0	4.99

Source: Records of the State Excise Department.

The Department admitted (July 2018) the audit observation, attributing it to rounding off error, and assured that measures would be undertaken to prevent such recurrences in future.

4.2.3.2 Incorrect calculation of EDP of small packs

Audit examined the excise policies and pricing files for the year 2008-09 in the Office of the Excise Commissioner and in the concerned distilleries of Uttar Pradesh. Audit noticed that EDP of 375 ml and 180 ml bottles of IMFL were incorrectly calculated by the distilleries. The same was approved by the Office of the Excise Commissioner without the error being detected and rectified by the Department. Consequently, the Department failed to levy additional excise duty to the extent of ₹ 22.85 crore (against sales of 5.62 crore bottles).

Recommendation:

The Department needs to adopt strict internal controls over the process of determination of various elements of pricing of IMFL/ Beer to prevent recurrence of calculation errors with revenue losses; action should be taken to recover the amount from the distillery for recoupment of such loss.

4.3 Undue benefit to the distilleries/breweries by fixing higher additional costs of bottles/cans, labels and PP (Pilfer Proof) Caps for small packs of Indian Made Foreign Liquor (IMFL)/ Beer

Due to allowance of undue benefit to the distilleries/ breweries by fixing higher additional costs of bottles/cans, labels and PP Caps for small packs of IMFL/Beer leading to excess realisation of ₹ 304.88 crore on sale of 325.51 crore bottles/cans.

Audit noticed, upon the scrutiny of the Excise Policies of 2008-09 - 2017-18, that the formula for fixing the EDP/EBP of small packs was changed to compensate the Distillery/Brewery/bonds respectively for the additional input costs of bottles/cans, labelling and PP caps²⁵ used in small packs. The new formula, introduced in 2008-09, required that the EDPs of the small packs of IMFL was to be fixed by adding ₹ three to ₹ five to the EDP of 750 ml, dividing the total by 750 and then multiplying the result by the capacity of the packing. The above rate was subsequently raised to ₹ four²⁶ from ₹ three and to ₹ Six²⁷ from ₹ five from the year 2013-14 onwards till 2017-18. Similarly, the EBPs of the small packings of Beer were to be fixed by adding ₹ four²⁸ to ₹ five²⁹ in the EBP of 650 ml, dividing the total by 650 and then multiplying the result by the capacity of the pack in case of small packs sold as bottles. In case of small packs sold as beer cans, EBP was fixed by dividing the EBP of 650 ml with 650 and then multiplying the result by the capacity of the pack and then by adding ₹ four and ₹ five for 330 ml pack and 500 ml pack respectively.

It was also noticed that the first two proposals³⁰ regarding the draft Excise Policy for the year 2008-09 forwarded by the Excise Commissioner to the Principal Secretary did not include any provision for compensation of any additional input costs for small packs to the distilleries. However, the third proposal forwarded to the Principal Secretary (Excise) by the Excise Commissioner (25 February 2008) included a provision for allowing inclusion of additional input costs in the EDPs of small packs of IMFL. There was no justification for this subsequent incorporation either at the draft proposal stage or in the Cabinet Note put up for approval of the Policy.

Audit, however, noted that in the Excise Policy for 2018-19, these additional input costs of bottles, labels and PP Caps of small bottles of IMFL and Beer being allowed were reduced to ₹ two³¹ and ₹ three³² despite the fact that overall prices of all the inputs have gone up during the last five years. Further,

²⁵ Pilfer Proof Cap.

²⁶ For capacity of 375 ml.

²⁷ Small packs of capacity less than 375 ml.

²⁸ Small packs of capacity less than 500 ml.

²⁹ Small packs of capacity of 500 ml.

³⁰ G-274//Dus-License-367/Sujhav Abkari Niti/2008-09 dated 07 December 2007 and G-280/Dus-License-367(Khand-3)/Sujhav Abkari Niti/2008-09 dated 18 December 2007.

³¹ For capacity of 375 ml.

³² Small packs of capacity less than 375 ml.

these additional input costs were abolished from the Excise Policy 2019-20. This strengthens audit's opinion that the per unit values for compensating for the additional input costs were fixed arbitrarily and were presumably on the higher side during the years 2008-09 to 2017-18. This provision was also not available in the excise policies of other states³³.

The impact of this pricing on the EDP/EBP of the small packs of IMFL/Beer is brought out in the following paragraphs.

4.3.1 Impact on EDP of small packs of IMFL

Audit examined the Excise Policies and the related pricing files for the years 2008-09 to 2017-18 in the Office of the Principal Secretary Excise, Excise Commissioners and in the concerned distilleries/bonds including issue details of IMFL during 2008-09 to 2017-18.

As an illustration, the impact of provision of compensation for additional input costs for the small packs issued by one distillery viz M/s Pernod Ricard India Limited (FL 3 A licensee of Daurala Distillery, Meerut) during the year 2012-13, is brought out in the **Table – 4.21**:

Table – 4.21

Details of fixing higher additional costs of bottles, labels and PP (Pilfer Proof) Caps for small packs of Indian Made Foreign Liquor

(in ₹)									
Capacity of bottle (In ml)	No. of cases ³⁴ issued during the year (In cases)	Excess cost of label and PP cap of small bottles	Proportionate amount of excess charge added in EDP	Amount realised by the distillery on small packs	Excess cost of label and PP cap of small bottles as per policy of 2018-19	Proportionate amount of excess charge added in EDP	Amount due to be realised as per excise policy of 2018-19	Extra EDP of PP cap and labels on small bottles	Excess amount realised due to excess charging of PP cap
375	3,21,140	3.00	1.50	1,15,61,040	2.00	1.00	77,07,360	0.50	38,53,680
180	4,67,833	5.00	1.25	2,80,69,980	3.00	0.75	1,68,41,988	0.50	1,12,27,992
90	4,674	5.00	0.63 ³⁵	2,80,440	3.00	0.38 ³⁶	1,68,264	0.25	1,12,176
Total	7,93,647			3,99,11,460			2,47,17,612		1,51,93,848

Source: Information available on the basis of audit findings.

It is evident from above that in 2012-13 alone, the said distillery was benefited to the tune of ₹ 1.52 crore on account of additional input costs that were allowed as part of EDP of smaller packs of IMFL.

During 2008-09 to 2017-18, distilleries and bonds in Uttar Pradesh sold 259.26 crore small packs of IMFL in the State realising an amount of ₹ 376.50 crore as additional input costs. These costs would have been only ₹ 203.91 crore if computed on the basis of 2018-19 prices. Thus, arbitrary fixing of additional per unit input costs as part of EDP by the Department allowed the test checked distilleries/bonds to realise an additional amount of EDP to the

³³ Haryana, Punjab and Madhya Pradesh.

³⁴ One case contains 24 bottles of 375 ml or 48 bottles of 180 ml or 96 bottles of 90 ml.

³⁵ Actual amount is 0.625 and calculation is based on this.

³⁶ Actual amount is 0.375 and calculation is based on this.

tune of ₹ 172.59 crore which was akin to extending an undue benefit to the distilleries/ bonds.

4.3.2 Impact on EBP of small packs of Beer

Audit examined the Excise Policies and pricing files for the years 2013-14 to 2017-18 in the Office of the Principal Secretary Excise, Excise Commissioners and in the concerned breweries/ bonds including issue details of beer and found that during the year 2013-14 to 2017-18, breweries and bonds of Uttar Pradesh sold 66.25 crore of bottles of small packs of beer in the state. The impact of provision of compensation for additional input costs for the small packs issued by two breweries, M/s Wave Distilleries and Breweries Ltd. Aligarh and Mohan Gold Water Brewery Ltd. Unnao, during 2016-17 are summarised in the **Table – 4.22**:

Table – 4.22

Details of fixing higher additional costs of bottles/Can, labels and PP (Pilfer Proof) Caps for small packs of beer

Capacity of the pack	No of 500 ml (*24) cans in cases	Excess cost of small packs	Proportionate amount of excess charge added in EBP	Proportionate total amount of excess charge added in EBP	Excess cost of cans, small packs as per policy of 2018-19	Proportionate amount of excess charge added in EBP	Proportionate amount of excess charge added in EBP as rate provided in excise policy of 2018-19	Extra EBP of small packs	Amount excess realised due to enhanced fixing of rate of small packs
500 ml can ³⁷	55,09,558	5.00	5.00	66,11,46,960	3.00	3.00	39,66,88,176	2.00	26,44,58,784
330 ml can ³⁸	17,811	4.00	4.00	17,09,856	2.00	2.00	8,54,928	2.00	8,54,928
330 ml bottle ³⁹	10,458	4.00	2.03	5,09,514	2.00	1.02 ⁴⁰	2,54,845	1.02	2,54,845
Total	55,37,827			66,33,66,330			39,77,97,949		26,55,68,557

Source: Information available on the basis of audit findings.

It is evident from above that in 2016-17 alone, the brewery was benefited to the tune of ₹ 26.56 crore on account of additional input costs that were allowed as part of the EBP of smaller packs of Beer.

During 2013-14 to 2017-18, breweries and bonds in Uttar Pradesh sold 66.25 crore small packs of Beer in the State realising an amount of ₹ 330.37 crore as additional input costs. These costs would have been only ₹ 198.08 crore if computed on the basis of 2018-19 prices. Thus, arbitrary fixing of additional per unit input costs as part of EBP by the Department allowed the test checked breweries/ bonds to realise an additional amount of EBP to the tune of ₹ 132.29 crore which was akin to extending an undue benefit to the breweries/ bonds.

Audit reported the matter to the Department and the Government (June 2018 and March 2019). In the exit conference, the Government and the Department stated (July 2018) that this amount had been reduced to ₹ two and ₹ three respectively in the Excise Policy of 2018-19. The Government and the Department further assured that this amount would be henceforth fixed in a more logical manner in the forthcoming Excise Policy.

³⁷ Wave Distilleries and Breweries Ltd, Aligarh.

³⁸ Wave Distilleries and Breweries Ltd, Aligarh.

³⁹ Mohan Gold Water Brewery ltd., Unnao.

⁴⁰ Actual amount is 1.015 and calculation is based on this.