

EXECUTIVE SUMMARY

This Audit Report brings out points emerging from the audit of implementation of excise policy in the State of Uttar Pradesh over the last decade (2008-09 to 2017-18). The Report brings out that the Excise Department allowed the distilleries and breweries to fix arbitrarily high Ex-Distillery and Ex-Brewery Prices of Indian Made Foreign Liquor (IMFL) and Beer being sold in the State during the period, when compared to the EDPs/ EBPs of identical/similar brands being offered in the neighbouring states. This had two impacts:

(i) Such high EDPs/ EBPs led to a situation where high margins were accruing to the distilleries/breweries, wholesalers and retailers, at the cost of the State exchequer as the consumers were paying a much higher price than the consumers in the neighbouring states. If indeed the consumers had to pay much higher prices, then these margins could have been levied and collected as excise revenue, by increasing the excise duty, benefitting the state rather than private distillers/brewers;

and

(ii) The much higher Maximum Retail Prices in all likelihood acted as incentive for liquor getting smuggled from neighbouring states where the prices were much lower. Thus, while the State Government claimed to create a special zone to prevent smuggling of liquor from other states into Uttar Pradesh, this actually led to a situation which encouraged smuggling into state because of the high price differential. Nothing else would seem to explain the decline in liquor in the state.

The State Government did not make any efforts to arrest the decline in the sales of IMFL and investigate the root cause for such decline with a view to safeguard the revenue interests of the state. It was only in 2018-19 that the State Government introduced a provision in the policy that capped the EDP/ EBP being offered by the distilleries and breweries not above that offered in the 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 the period from April 2018 to January 2019 compared to the same period in the previous year, clearly establishing that the policies in the earlier years had resulted in extending a huge financial benefit to the Distilleries, Breweries, Wholesalers and Retailers at the expense of both the consumers and the state exchequer.

Audit also noted other irregularities in levy and collection of excise revenue. The total financial implication of this Audit based on a test check of 13 distilleries/breweries and nine bonds in Uttar Pradesh is ₹ 24,805.96 crore. Some of the major findings are detailed below:

Irregular creation of Special Zone	As per the Excise policy 2009-10, a special zone (Meerut) was created to check smuggling of liquor into the state from the neighbouring states. However, two border districts (Aligarh and Mathura) were not included and seven districts which did not share borders with any of the neighbouring states were included in the special zone. Therefore, creation of the special zone was not based on any clear criteria.
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Moreover, creation of special zone did not have desired impact, yet it continued over next nine years.

(Paragraph 2.2)

Licensing of retail shops Licenses for retail shops in all the four zones were renewed continuously for nine years (2009-18) without resorting to any form of open tendering on annual basis eliminating any possibility of competition in production and sale of liquor at reasonable rates.

(Paragraph 2.2)

Excess fixation of EDP/EBP The State Excise Policies (2008-18) allowed unchecked discretion to the distilleries/ breweries in determining the *ex-distillery* and *ex-brewery price* of IMFL and Beer, allowing them to inflate the *ex-distillery* and *ex-brewery price* of both the *identical* and the *similar* brands of liquor (IMFL and Beer) much higher (46 and 135 *per cent*) as compared to the neighbouring states leading to accrual of undue gains to them to the tune of ₹ 5,525.02 crore during 2008-18 at the cost of the State Exchequer/consumers. Undue advantage also accrued to the wholesalers and the retailers (in case of IMFL) to the tune of ₹ 1,643.61 crore due to higher EDP.

(Paragraphs 4.1.1, 4.1.2 and 4.1.4)

Undue benefit to distillers During 2008-18, the distilleries wrongly calculated the EDP of IMFL bottle sizes of 180 ml and 90 ml at 187.5 ml and 93.75 ml respectively. The Excise Duty was however calculated by the Excise Commissioner at the rates for 180 ml and 90 ml only. The Excise Department could not detect this malpractice for 10 years and lost Additional Excise Duty worth ₹ 227.98 crore during 2008-18.

(Paragraph 4.2.1)

Incorrect computation of Maximum Wholesale Price of IMFL Incorrect computation of MWP of IMFL by a distiller could not be detected by the Excise Department resulting in short realisation of additional excise duty of ₹ 4.85 crore during 2013-14 on sale of 97.15 lakh bottles.

(Paragraph 4.2.3.1)

Short fixation of Minimum Guaranteed Quantity (MGQ) of Country Liquor Short fixation of MGQ of country liquor during 2011-18 led to potential revenue loss of ₹ 3,674.80 crore.

(Paragraph 5.1)

Non-fixation of MGQ of IMFL and Beer Unlike country liquor, the Excise Department did not fix MGQ of lifting of IMFL and Beer leading to potential revenue loss amounting to ₹ 13,246.97 crore.

(Paragraph 5.2)

Impact of Audit Observations

During the scrutiny of Excise Policies of different years, it was found that the Department had taken action to rectify some of the irregularities pointed out by the audit during the course of audit, and also in the previous years' reports. The status is depicted in the following Table:

Chapter No.	Title of the Chapter	Para No.	Audit observation	Action taken by the Department
3	Licensing of Retail Shops	3.1	Irregular creation of Special zone	Special Zone was abolished by the department from the year 2018-19
		3.2	Non-achievement of objectives of creation of the Special Zone	-do-
4	Pricing of Liquor	4.1	Discretionary determination of EDP/ EBP for IMFL and Beer	As per Note 1 of para 2.5 and 4.5 of excise policy for the year 2018-19 EDP/ EBP of any brand should not be more than EDP/EBP of neighbouring states. As per Para 2.2.6 of Excise Policy 2019-20, if certificate of CA regarding EDP was found false, ₹ one lakh from the security should be forfeited along with cancellation of brands registration.
		4.1.1	Fixation of EDP of IMFL	-do-
		4.1.2	Fixation of EBP of Beer	As per Note 1 of para 4.5 of excise policy for the year 2018-19 EDP/ EBP of any brand should not be more than EDP/EBP of neighbouring states.
		4.1.4	Benefit to Wholesalers and Retailers	-do- As per Para 2.2.6 of Excise Policy 2019-20, if certificate of CA regarding EDP was found false, Rupees one lakh from the security should be forfeited along with cancellation of brands registration.

Chapter No.	Title of the Chapter	Para No.	Audit observation	Action taken by the Department
		4.2	Loss of additional excise duty due to wrong computation of EDP, wholesalers'/retailers' margin and wrong computation of maximum whole sale price of small bottles of IMFL	As per Note 3 of Para 2.2.6 of Excise Policy 2019-20, system of calculation of EDP of 375 ml and 180 ml were corrected as per audit observation.
		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	No additional amount was awarded for PP cap of small bottles in the excise policy of the year 2019-20 for IMFL.
5	Minimum Guaranteed Quantity (MGQ)	5.1	Short fixation of MGQ of Country Liquor	As per para 1.9 of Excise Policy of 2018-19, if MGQ of CL shops were more than six <i>per cent</i> of previous years MGQ, shops can be renewed. No rationalization of enhancement of MGQ was provided in the Excise Policy.
		5.2	No provision of Minimum Guaranteed Quantity (MGQ) for IMFL and Beer	IMFL As per para 2.4 of Excise Policy of 2018-19, if consideration fee of IMFL shops were more than 40 <i>per cent</i> of previous years' consideration fee, shops can be renewed. This shows that there is a provision of indirect fixation of minimum guaranteed quantity (MGQ). Beer As per para 4.4 of Excise Policy of 2018-19, if consideration fee of Beer shops were more than 30 <i>per cent</i> of previous years' consideration fee, shops can be renewed. This shows that there is a provision of indirect fixation of minimum guaranteed quantity (MGQ).

Summary of 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 and recover the actual amounts involved 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.
- The Department should consider fixing MGQs for IMFL and Beer in the forthcoming excise policies.
- Internal Audit and Vigilance Wings should be strengthened to ensure reasonable and effective checks as part of a more robust internal control structure.

