



**MANUAL ON AUDIT**

**OF**

**(STATE EXCISE DUTY)**

**For use in Indian Audit and Accounts Department only**

**OFFICE OF THE ACCOUNTANT GENERAL (AUDIT) BIHAR,  
PATNA**

**MANUAL OF RECEIPT AUDIT**

**(STATE EXCISE DUTY)**

**ISSUED BY AUTHORITY OF THE ACCOUNTANT GENERAL (AUDIT)**

**BIHAR, PATNA**

## **PREFACE**

This Manual has been prepared on INTOSAI/ ASOSAI pattern for the guidance of the officers and staff entrusted with the audit of State Excise Duty Receipts and Refunds. In this Manual, the relevant provisions of the law and the procedure for assessment and collection of State Excise Duty have been set out. In the course of audit, reference has to be made to the Act or the Rules framed there under, such a reference should be made to the Sections of the said Acts and Rules framed there under.

2. The instructions contained in this Manual are supplementary to those laid down in the various Acts and Rules according to which audit should be conducted and they do not over ride the provisions of the latter. This Manual should not be quoted as authority in any correspondence outside this office.

3. The material contained in this Manual would require constant modifications in the light of further experience gained in the course of audit and instructions issued by the Central/ State government.

4. The Revenue Sector Wing will be responsible for keeping the manual up to date by issuing correction slip at regular intervals.

5. Any errors and omissions which may be detected in the manual and any useful suggestions for its improvement may be brought to the notice of the Accountant General.

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# **CHAPTER –1**

## **(INTRODUCTION)**

### **General basis of the levy of Excise duty**

#### **(A) CONSTITUTIONAL PROVISION**

The State Legislature derives its power to levy excise duties on excisable article under the Constitution from Article 246(3) read with entry 51 of the State list in the Seventh Schedule to the Constitution. Entry 51 runs as follows:-

“Duties of Excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India”-

- (a) Alcoholic liquors for human consumption;
- (b) Opium Indian hemp and other narcotics drugs and narcotics; but not including medicinal and toilet preparations containing alcohol or any substance included in Sub-paragraph (b) of this entry”.

Entry 84 of list 1 of the Seventh Schedule to the Constitution empowers the Union Government to levy excise duty on the medicinal and toilet preparations containing alcohol or opium Indian hemp or narcotic drugs and narcotics; but under 268, the duty so levied shall be assigned to that State.

#### **(B) CENTRAL AND STATE ENACTMENTS**

The levy and collection of excise duty in this State is regulated by the following Acts:-

- a) The Medicinal and Toilet preparation (Excise Duty) Act, 1955 and the rules made thereunder (herein after referred to as the M&T.P. Act) providing for the levy and collection of duties of excise in medicinal and toilet preparations containing alcohol or opium, Indian hemp or narcotic drugs and narcotics.

The Act is however, admissible by the State Government through the Excise Commissioner and the duties realised under this Act are levied, collected and appropriated by the Government of Bihar.

- b) The Dangerous Drugs Act 1930 and the rules made thereunder, seeking to control contraband traffic and abuse of dangerous drugs, especially those derived from opium, Indian hemp and coco leaf.
- (c) The Bihar and Orissa Excise Act, 1915 and the rules made thereunder (hereinafter referred to as the Excise Act).
- (d) The Bihar Molasses (Control) Act, 1947 and the rules made thereunder (hereinafter referred to as the Molasses Act)
- (e) The Opium Act 1878 and the rules made thereunder seeking to control the cultivation of poppy and manufacture of opium therefrom.
- (f) The Bihar and Orissa Opium Smoking Act, 1928.

#### **(C) HISTORICAL AND LEGISLATIVE BACKGROUND:**

Before the constitution of the province of Bihar in 1912 and till the enactment of the Bihar and Orissa Excise Act, 1915 ( Act II of 1915), the law relating to the import, export, transport, manufacture, possession and sale of certain kinds of liquor and intoxicating drug in the State of Bihar and Orissa were regulated by:-

1. The Bengal Excise and Licensing Act, 1878, as amended by:-
  - a) Act IX of 1885;
  - b) Act XIII of 1890;
  - c) Bengal Act IV of 1881;
  - d) Bengal Act I of 1903 and
  - e) Bengal Act II of 1903.
2. The Excise Act, 1896 (XII of 1896) as amended by Act VII of 1906.

The Selection Committee of 1904, and the Indian Excise Committee of 1905-06 observed in their respective reports that there were many matter in the Bengal Excise and Licensing Act of 1878 and the amending Acts, which were either defective or obscure. To deal with them, the Bengal Excise Act (Act V of 1909) was enacted in the year 1909. The Act was a consolidating measure which took the place of the principal Act, passed thirty one years ago, and of the amending Acts.

Early in 1912, the Government of India remarked on the increase in the number of excise prosecutions reported from the United Provinces in 1911 and in the number of convictions for offences relating to cocaine in Bengal which included Bihar and Orissa. They drew the attention of the Government of the United Provinces and Bengal to the inadequacies of the penalties provided by the local Acts in force in the two provinces and suggested a revision of the scale of penalties which would be more in accordance with the higher scales provided in the Excise laws of certain other provinces in India. After the constitution of the State of Bihar in April 1912, a copy of the above correspondence was forwarded to the Government of Bihar with the suggestion that legislation on the similar lines should be undertaken for Bihar and Orissa.

Where the Bengal Excise Act of 1909 was in force, it was however felt by the then Government of Bihar that it would be more convenient to have an Excise Act of its own only. But difficulties were experienced in the working of the Act in its application to this province. It was therefore decided to substitute the Bengal Act V of 1909 by an enactment applicable to Bihar only. Accordingly, the Bihar and Orissa Excise Bill 1915, was enacted on 19<sup>th</sup> January 1916 (Bihar and Orissa Act II of 1915). The Bengal Act V 1909 was re-enacted with such additions, modifications and omissions as were necessary to adopt it to the conditions of Bihar and Orissa.

#### **(D) PRESENT POSITION**

**The State Government by Notifications No. 258 dated 31.3.2016 imposes absolute ban on the manufacture, bottling, distribution, sale, purchase, possession and consumption of Country liquor by any manufactory, Bottling Plant, license holder or any person in the whole of the State of Bihar with effect from 01 April, 2016 and further by Notifications No. 274 dated 05.04.2016 imposes ban on wholesale or retail trade and consumption of foreign liquor by any license holder or any person in the whole of the State of Bihar with immediate effect.**

**BIHAR PROHIBITION AND EXCISE ACT, 2016 was enacted to enforce, implement and promote complete Prohibition of liquor and intoxicants in the territory of the State of Bihar and for matters connected therewith or incidental thereto. Whereas it is expedient to provide for a uniform law relating to Prohibition and regulation of liquor and intoxicants, the levy of duties thereon and punishment for the violation of law in the State of Bihar;**

## **1.2 SCOPE OF AUDIT**

The audit of State Excise was taken up from February 1973. The main purpose of the audit of State Excise receipts and refunds will be to assist the administration by exercising a test check on the accuracy of the levy and collection of various excise duties and fees in accordance with the provisions of the Act/Rules/Orders and their credit to the Consolidated fund of the State and how far the prohibition policy of the Government is enforced by the Department.

(ii) A check of refund with the original credits to see whether the computation is correct and is prima-facie in accordance with the law or the orders of higher authorities.

(iii) An examination of the registers of outstanding demands to see whether proper action is being taken against defaulters and

(iii) An examination of the case register.

**1.3** In general, the audit has to be conducted with due regard to the basic principles of Receipt audit as laid down in Chapter-4 of the Comptroller and Auditor General's Manual of Standing Orders (Technical). The detailed checks to be exercised in the course of audit as discussed in the ensuing Chapters of this Manual follow the above mentioned basic principles as well as the instructions issued by the Comptroller and Auditor General of India from time to time.

# CHAPTER - 2

## ORGANISATIONAL SET-UP

**2.1** An idea of the organizational and administrative set up of the Department, assessing collecting and accounting of State Excise Revenue, is as much essential for the proper conduct of audit as knowledge of the relevant Act and Rules. The functions of the different branches may help audit to determine the extent and scope of scrutiny it should exercise. With this in view, the following paragraphs detail the set up of the State Excise Department according to **BIHAR PROHIBITION AND EXCISE ACT, 2016**.

**2.2** The State Excise Department functions under the overall charge of the Board of Revenue which is responsible to the Government through the Commissioner of Excise and Secretary to the Prohibition and Excise Department.

### **2.3 ESTABLISHMENT AND CONTROL**

**2.3.1 Appointment of Excise Commissioner.**—The State Government may, by notification, appoint an Excise Commissioner who shall be responsible for administration of this Act.

**2.3.2 Appointment of Excise Officers.**—The State Government may confer the powers of excise officer to Excise Commissioner, Additional Commissioners, Joint commissioners, Deputy Commissioners, Assistant Commissioners, Excise Superintendents, Excise Deputy Superintendents, Inspectors and such other officers and staff as it may deem fit for the purpose of performing the functions under this Act.

#### **2.3.3 Delegation and withdrawal of powers.**—

(a) The State Government may delegate its powers to the Board or Excise Commissioner or Collector subject to such limitations and conditions as may be specified in the order of delegation.

(b) The State Government may, by an order, also withdraw from any officer or person any or all the powers so delegated.

#### **2.3.4 Role of the Collector.**—

(a) The Collector of the district shall be responsible for the complete prohibition in accordance with the provisions of this Act and shall also ensure the administration of this Act in the area of his jurisdiction.

(b) The Collector shall also be responsible for all matters connected with the effective prosecution of cases filed under the Act.

(c) The Collector shall also be competent to exercise the powers of the Excise Officer under the Act.

(d) The State Government may, by notification, confer the powers of the Collector to any officer, not below the rank of Inspector, of the excise department or any officer, not below the rank of Deputy Collector, of the revenue department, with such designations, powers and duties as the State Government may think fit.

#### **2.3.5 Role of the Superintendent of Police.**—The Superintendent of Police shall –

(a) assist the Collector in ensuring complete prohibition in accordance with the provisions of the Act.

(b) work under direct control and superintendence of the Collector.

(c) enforce and implement such lawful directions of the Collector or Excise Commissioner as issued under the Act.

(d) submit such reports and in such manner as the Collector or the Excise Commissioner may desire.



**2.3.6 Powers and functions of the Excise Commissioner—**The Excise Commissioner shall-

- (a) enforce complete prohibition in the State in accordance with the provisions of this Act.
- (b) promote culture of non drinking and make Prohibition a voluntary effort through social awareness.
- (c) regulate, control and monitor the manufacture, possession, import, export, and transport of intoxicants.
- (d) curb illegal trade in liquor and illicit distillation; (e) protect excise revenue and ensure prompt recovery.
- (f) submit returns and information as required under this Act or the rules framed thereunder, to the State Government upon all matters concerning excise
- (g) perform such functions and to exercise such other powers as may, from time to time, be entrusted or delegated to him.

**2.3.7 Excise Intelligence Bureau.—**

- (a) There shall be an Excise Intelligence Bureau, headed by the Excise Commissioner, consisting of such number of excise officers and staff as may be appointed by the State Government and such other officers and staff as may be appointed by the Excise Commissioner with the prior approval of the State Government.
- (b) The Excise Intelligence Bureau shall -
  - (i) work towards the success of complete Prohibition of liquor and Intoxicants.
  - (ii) collect intelligence, keep surveillance and maintain details of excise offences.
  - (iii) collect and disseminate information regarding habitual or notorious excise offenders.
  - (iv) monitor the detection, investigation and trial of offences under this Act.

**2.3.8 Persons with special powers.—**The State Government may, by notification, and in order to further strengthen the regime of Prohibition, empower in any Government functionary not being an excise officer, with powers to perform all or any of the functions of any excise officer under this Act, and such person shall, in exercise of these functions, be deemed to be an excise officer.

**2.4 Internal Audit Organisation:**

There is at present no internal audit organisation in the Department of Excise.

# CHAPTER – 3

## BASIC FEATURES OF THE NEW STATE EXCISE ACT

### 3.1 PROHIBITION etc. OF INTOXICANTS.

#### 3.2 Intoxicant means –

- (i) liquor, or
- (ii) Spirit including silent spirit or ENA, or
- (iii) Methyl Alcohol, or
- (iv) Ethanol, whether denatured or not; or
- (v) any substance from which the liquor may be distilled and which is declared by the State Government by notification in the official Gazette to be an intoxicant for the purpose of this Act, or
- (vi) intoxicating drug, or
- (vii) medicinal preparation as defined under Medicinal and Toilet Preparations (Excise Duties) Acts, 1955 or
- (viii) any preparation or ingredient, either medicinal or otherwise, whether solid, semi solid, liquid, semi liquid or gaseous, either made locally or otherwise, that may serve as an alcohol or a substitute for alcohol and is used or consumed for the purposes of getting intoxicated.

#### 3.3 Intoxicating drug means –

- (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa L*) including all forms known as bhang, siddhi or ganja
- (ii) charas, that is, the resin obtained from the hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;
- (iii) any mixture, with or without neutral materials, of any of the above forms of intoxicating drug, or any drink prepared there from; and
- (iv) any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug, such substance not being opium, cocoaleaf or a manufactured drug, as defined in section 2 of the Narcotic drugs and Psychotropic substances Act, 1985 (61 of 1985);

#### 3.4 Prohibition of liquor or intoxicants.—

No person shall manufacture, bottle, distribute, transport, collect, store, possess, purchase, sell or consume any intoxicant or liquor; Provided that the State Government may, by notification, allow renewal of the existing licensees for manufacturing, blending, compounding, bottling, storage, import and export of any liquor or intoxicant subject to the provisions of this Act; Provided also that the State Government may, by notification, allow any state owned company to undertake such activities as may be required under the Act. Explanation – The words “Existing Licensee” mean persons, firms etc who are holding a valid license on the day of this Act coming into force.

### **3.5 Movement of Intoxicants etc.—**

(i) No liquor, intoxicant or final product shall be imported, exported or transported or transited within or from outside or through the State except with a valid permit and subject to such duty (if any) payable.

(ii) If any consignment of liquor or intoxicants is being transported by road from a place outside the State of Bihar to another such place and the vehicle carrying the consignment passes through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission in the prescribed manner from the authority of the first check post falling enroute after entry into the State and shall surrender the same transit permission to the authority of the last check-post before leaving the State and in the event of failure to do so within the stipulated hours of leaving the first check-post falling enroute, it shall be deemed that liquor or intoxicants so transported have been sold or disposed off by the owner or the person-in-charge of the vehicle within the State of Bihar.

### **3.6 Restrictions on Vehicles carrying intoxicants etc.—**

The State Government may lay down reasonable restrictions on the vehicles transporting any excisable articles or final products and may require them to adhere to certain specifications. Provided further that the State Government may require the transport vehicles to install such devices as it may require as a pre condition for registration under the Motor Vehicles Act and give such directions to the State Transport Authority as it deems fit.

### **3.7 Power to Regulate Transport of Intoxicants.—**

Notwithstanding anything contained in the Act or any Act for the time being in force, the State Government may, by notification, regulate the movement or import or export of any or all liquor or intoxicant into or from or through the State or any specified part or area of the State.

# CHAPTER – 4

## RENEWAL OF LICENSE AND PERMIT TO THE EXISTING LICENSEES

**4.1 Renewal of Licenses for Distilleries, breweries, etc.**— (i) No new licenses shall be issued to any manufactory, distillery, molasses manufactory, brewery, bottling plant etc; Provided that the Collector may issue a license or permit, as the case may be, only for intoxicants that may be declared as such by the State Government under Section 3 of the Act.

(ii) The Collector may renew the license or issue the permit, as the case may be, for the existing licensee of any manufactory, distillery, molasses manufactory, brewery, bottling plant etc, subject to the provisions of this Act.

(iii) The State Government may make rules governing the licensing regime.

(iv) The licensing authority may require the licensee to give security for the observance of the terms and conditions of the license and to execute an agreement thereon. Explanation – The words “Existing Licensee” means persons, firms etc who are holding a valid license on the day of the Act coming into force.

**4.2 Non Transferability of Licenses & permits.**—All Licenses renewed and permits issued under this Act shall be non transferable.

**4.3 Powers of the Board.**—The Board of Revenue shall have the power to exercise such authority as may be delegated to it by the State Government.

**4.4 Qualifications for grant of license.**—The applicant for a renewal of license or issuance of permit, as the case may be –

(a) must be a citizen of India or a company registered in India;

(b) should not be a defaulter or blacklisted or debarred from holding an excise license or in arrears of any government dues;

(c) should be solvent and bear good moral character and should not have been convicted of any offence under this Act or any other Act;

(d) should not hire or employ persons who are below twenty one years of age or who have criminal background.

**4.5 Holograms.**—(i) The State Government may require any molasses manufactory, distillery, license-holder, distributors, sellers, importers, exporters, bottling plant or such other establishments operating under this Act to place holograms on their products as per specifications prescribed by the Excise Commissioner.

(ii) The State Government may make detailed rules in this regard.

**4.6 Power to suspend or cancel license and permit.**— (1) Subject to such restrictions as the State Government may prescribe, the Authority renewing any license or granting any permit under this Act may suspend or cancel it in the following circumstances after giving reasonable opportunity of being heard - (a) if the license or permit is transferred or sublet by the holder thereof without the permission of the licensing authority; (b) if any excise revenue payable by the holder thereof is not duly paid; (c) in the event of any breach by the holder of such license or permit or by his servant or agent, or by any one acting on his behalf,

with his express or implied permission, of any of the terms and conditions of such license or permit; (d) if the holder of license or permit or his agent or employee is convicted of an offence punishable under the Act or any other law for the time being in force, relevant and connected with excise matters relating to excise revenue or of any cognizable and non-bailable offence under any other relevant law; (e) if the purpose for which the license or permit was granted ceases to exist; (f) if the license or permit has been obtained through misrepresentation or fraud. (g) if, for any other reason, the Licensing Authority is prima facie satisfied, that the license is fit to be cancelled.

(2) For any action taken under Sub-Section (1), the Licensee shall not be eligible for any compensation or refund of fee or deposit whatsoever.

**4.7 Bar to the right of renewal and to compensation.**—No person to whom a license or permit has been granted earlier shall be entitled to claim any renewal thereof as a matter of right, and no claim shall lie for damages or otherwise in consequence of any refusal to renew a license or permit on the expiry of the period for which the same remains in force.

**4.8 Power of the State Government to withdraw or not to renew a license.**— (i) The State Government may at any time decide either to withdraw or not to renew a license issued to any manufactory, distillery, molasses manufactory, brewery, bottling plant etc in the entire State of Bihar or any part thereof.

(ii) For any action taken under Sub-Section (1), nothing shall be paid in consequence thereof, except any license fee or deposit paid in advance after deducting any amount recoverable by the Government.

**4.9 Power of the Collector to take over the Management.**—If any holder of a license renewed under this Act contravenes any provision of the Act or any rules made there under or defaults in complying with any condition imposed upon him or upon refusal to abide by such reasonable directions as the Collector may issue under this Act, or upon expiry of the license or withdrawal of the license, the Collector, may at any time, with or without cancellation of such license or privilege –

- (a) take over the management of such establishment at the risk and loss of the owner of that establishment; or
- (b) transfer the establishment, for the unexpired period of the License or the privilege, at the risk and loss of the owner, to any other person.

## **License for Medicinal and Toilet preparations**

**4.10** No licenses shall be issued for Medical and Toilet preparations.

# CHAPTER – 5

## OFFENCES AND PENALTIES

**5.1 Penalty for consumption of liquor.**—Whoever, in contravention of the Act or the rules, notification or order made there under –

- (a) consumes liquor or intoxicant in any place; or
- (b) is found drunk or in a state of drunkenness at any place; or
- (c) drinks and creates nuisance or violence at any place including in his own house or premises; or
- (d) permits or facilitates drunkenness or allows assembly of drunkelements in his own house or premises; shall be punishable,

(1) in case of an offence falling under clause (a) and (b), with a term which shall not be less than five years but which may extend to seven years and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees.

(2) In case of an offence falling under clause (c) and (d), with a term which shall not be less than ten years but which may extend to imprisonment for life and with fine, which shall not be less than one lakh rupees which may extend to ten lakh rupees.

Explanation (a)– “Consuming intoxicant” includes consumption of any medicine or any ingredient of a medicine or medicinal preparation that may have an intoxicating effect. Explanation (b)- “drunkenness” includes drunkenness due to any medicine or medicinal preparation.

**5.2 Penalty for unlawful import, export, transport, manufacture, possession, sale, etc.**— Whoever, in contravention of provision of this Act or of any rule or order made or notification issued under this Act or in contravention of any condition of any license or permit or pass, renewed under this Act or without a valid license, permit or pass issued under this Act -

- (a) manufactures, possesses, buys, sells, distributes, collects, bottles, imports, exports, transports or removes any intoxicant or liquor; or
- (b) cultivates any hemp plant; or
- (c) constructs or establishes or works any manufactory, distillery, brewery or warehouse; or
- (d) uses, keeps or has in his possession any material, still, utensil, implement or apparatus, or premises, whatsoever, for the purpose of manufacturing any intoxicant or liquor ;or

Explanation – The word “material” means any material, and includes any food or non food item, that may be used for preparing any liquor or intoxicant.

(e) possesses any material or film either with or without the State Government logo or logo of any State or wrapper or any other thing in which liquor or intoxicant can be packed or any apparatus or implement or machine for the purpose of packing any liquor or intoxicant; or

(f) removes any liquor or intoxicant from any distillery, brewery, warehouse, other place of storage licensed, established, authorized or continued under this Act; or

(g) manufactures, possesses, sells, distributes, bottles, imports, exports, transports or removes, any preparation or ingredient made with or without the use of any intoxicant or liquor , which can serve as an

alcohol or a substitute for alcohol and is used or likely to be used or consumed for the purposes of getting intoxicated, shall be punishable with imprisonment for a term not less than ten years but which may extend to imprisonment for life and with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees.

Explanation: -“Possession” here means the possession by any family or member of that family and includes the knowledge of possession where any member of a family or the family itself know that such possession is illegal, whether it is in his or her own possession or with some other member of the family.

**5.3 Commission of offence by companies—** (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of and responsible to, the company for the conduct of its business at the time of commission of the offence, shall be deemed to be guilty of offence, and shall be liable to be proceeded against and punished accordingly. Provided that where a company has different establishment or branches or different units in any establishment or branch, the concerned Chief Executive and the person in charge of such establishment, branch, unit nominated by the company as responsible for the conduct of business shall be liable for contravention in respect of such establishment, branch or unit: Provided further that nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under the Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

(3) This section shall not apply to such companies where the majority shareholding is held by Central or any State Government or such companies as the Board may exempt.

Explanation— For the purpose of this section -“company” means any body corporate and includes a firm or other association of individuals; and “director”, in relation to the firm, means a partner in the firm.

**5.4 Presumption as to commission of offence in certain cases—** (1) In prosecution under any relevant provision of this Act, it shall be presumed, until the contrary is proved, that the accused person has committed the offence punishable under that section in respect of any liquor, intoxicant, material, still, utensil, implement or apparatus, for the possession of which he is unable to account satisfactorily.

(2) Where any equipment, machinery, animal, vessel, cart, vehicle, conveyance or any premises is used in the commission of an offence under this Act, and is liable to confiscation and/or liable to be sealed, the owner or occupier thereof shall be deemed to be guilty of such offence and such owner or occupier shall be liable to be proceeded against and punished accordingly, unless he satisfies the court that the offence was committed without his knowledge or that he had exercised due care in the prevention of the commission of such an offence.

(3) Where an offence is said to have been committed, -at a place or inside any premises where any toxicant or liquor is found, consumed, manufactured, sold or distributed, or -inside any house occupied by a family where any intoxicant or liquor is found or consumed, it shall be presumed that all the adults above the age of eighteen occupying or working at the place or in the premises or the members of the family above eighteen years of age occupying the house are having the knowledge of commission of such an offence, unless proved otherwise.

*All the Offences and Penalties clause are detailed under section 30 to 65 of the new excise Act.*

## **APPEALS AND REVISION**

### **APPEALS**

5.5 All final orders passed by any Excise Officer other than the Excise Commissioner or Collector under this Act, shall be appealable to the Collector within sixty days from the date of the order.

5.6 All final orders passed by the Collector and Excise Commissioner shall be appealable to the Excise Commissioner and the State Government respectively within ninety days from the date of the order complained of. Provided that no second appeal shall lie against an order passed by the Excise Commissioner on appeal. (3)The State Government may make rules in this behalf.

### **REVISION**

5.7 The State Government may, on its own motion or on an application made to it, call for and examine the records of any proceeding before any Excise Officer or any document, including that relating to renewal or refusal of license or grant of permit, pass etc. under this Act, for the purpose of satisfying itself as to the correctness and legality of any order passed in, and as to regularity of, any such proceeding and may, when calling for such record, direct that the order be not given effect till the pendency of the examination of the record, so called for. After examining the record, the State Government may annul, reverse, modify or confirm such order, or pass such other order as it may deem fit.



# CHAPTER – 6

## SOURCES OF EXCISE REVENUE

**6.1 Nature and components of excise revenue.**—Excise revenue shall be levied and recovered under the following heads, namely:

- (a) duty
- (b) license fee
- (c) label registration fee, import or export or transportation or movement fee
- (d) Accruals through privilege fee, fines, penalties and other sundry receipts etc and
- (e) Any other duty, cess, fee or surcharge as the State Government may, by notification, impose.

**6.2. Fees for terms, conditions, and form of, and duration of, licenses, permits and passes.**—

6.2.1 Every license renewed or permit/ pass granted under this Act –

- (a) shall be renewed or granted –
- (i) On payment of such fees (if any) (ii) Subject to such restrictions and on such conditions.
- (b) shall be in such form and contain such particulars, as the Rules may provide.

6.2.2 Every license renewed or permit or pass granted under this Act shall be for such period (if any) as prescribed by rule made by the State Government under this Act.

**6.3 Excise revenue to be paid irrespective of pendency of any writ petition, suit, etc.**—

Notwithstanding that a writ petition has been preferred or a suit or other proceeding has been instituted in any court or any appeal has been filed before any Tribunal or the Excise Commissioner or a revision has been filed before the State Government, any sum due to the State Government under this Act as a result of demand or order made or passed by any officer or authority empowered in this behalf by or under this Act, shall be payable in accordance with such demand or order unless and until such payment has been stayed by the competent authority or the Court.

**6.4 Power to impose duty on import, export, transport and manufacture.**—

6.4.1 An excise duty or a countervailing duty or any other duty or fee, as the case may be, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area on –

- (a) any excisable article imported, or (b) any excisable article exported, or
- (c) any excisable article transported, or (d) any excisable article manufactured under any license issued or renewed under this Act, or (e) any excisable article manufactured in any distillery or brewery licensed, established, authorized or continued under this Act.

6.4.2 A duty, at such rate or rates as the State Government may direct, may be imposed, either generally or for any specified local area, on any intoxicant under the provisions of this Act.

## **CHAPTER – 7**

### **MOLASSES PRODUCTIONS, STORAGE AND CONTROL**

**7.1** The base material for the manufacture of spirit in Bihar is molasses. While the production of molasses is done by the sugar factories, their storage and supply to the various distilleries are regulated by the Controller of Molasses, Bihar, under the provision of the Bihar Molasses (Control) Act, 1947 and the Rules framed thereunder.

**7.2** Before the commencement of the crushing season, every sugar factory furnish to the Controller of Molasses by the 31 October, a statement in Form MF2 its estimated production of molasses during the next crushing season. Simultaneously, the distilleries working in the State submit to the Controller of Molasses by the 31 October an indent in Form MF1 of their estimated requirements of Molasses during the twelve months commencing from the 1<sup>st</sup> January following. Thereafter, on receipt of the above two statements, the Controller makes a provisional allotment of molasses to each distillery. After the close of the cane crushing season, every sugar factory furnishes a report in form MF3 showing the total production of molasses. The Controller may also call for revised requirements of molasses of the distilleries in form MF4. The final allotment of Molasses is made by the Controller after receiving the above reports.

**7.3** On receipt of the allotment order from the Controller, every sugar factory make prompt arrangements for the haulage and loading of molasses and where the sugar factory fails to make such arrangements without sufficient reason, the Excise Officer has the power on his behalf, to enter upon the premises, make arrangements for the haulage and loading of molasses by manual labour, if necessary, and recover the cost incurred thereby from the sugar factory. The ownership of all molasses allotted to a distillery continues to vest in the sugar factory until it is actually delivered at the distillery or at any other place where it is directed to be delivered and all losses occurring from any cause other than willful omission on the part of the allottees shall be born by the sugar factory.

**7.4** The Controller specifies from time to time the grade under which molasses shall be classified. Molasses issued for sale from the sugar factory shall conform to such grades. No person can engage in the business of sale or resale of molasses and hold stocks except under the terms and conditions of a licence granted by the Controller in Form MF 9. No licence is, however, required for holding stock of molasses upto five quintals. The sugar factory maintains in Form MF5 an accurate account of all molasses produced, issued or stored in the sugar factory. The sugar factory has to keep covered storage tanks for the safe storage of the entire quantity of molasses to be produced. For this purpose the factory is required to keep in the account in any Bank duly hypothecated in favour of the Controller of Molasses, Bihar a part or certain percentage of the cost price received by it by way of sale of molasses. The sugar factory is to provide necessary safeguards against leakage or any other accident likely to affect the quality of molasses stored in the tank. The contents of any tank or pit intended for the storage of molasses at a sugar factory of a distillery not being molasses shall, if the Controller by any order in writing, so directs, be disposed of as waste, in such manner as may be prescribed by the Controller. No molasses can be moved from the premises of a sugar factory except under a pass in Form MF6. When a consignment of molasses from the sugar factory reaches the distillery, the Excise Officer posted there verifies the quantity received and notes it in the accompanying two movement passes in Form MF6, thereafter he returns a copy there of to the issuing Excise Officer and retains the other copy in his guard file.

**7.5** No person shall move molasses from the premises of any sugar factory or distillery or otherwise dispose of such molasses except under a movement order in Form MF7. The State Government shall fix from time to time by notified orders, the permit fee per quintal of molasses for issue of movement order.

No owner, manager or occupier of a factory or stockist shall sell molasses at price exceeding those prescribed in Schedule A and B to the Act during the period respectively specified therein. The State Government may, from time to time, amend Schedule B by notification.

**7.6** No distillery can refuse molasses supplied by the sugar factory under the order of the Controller, without the prior approval of the Controller. In case of the unauthorized refusal by the distillery, the cost of molasses, freight and other incidental charge as fixed by the Controller may be recovered from the distillery as an arrear of land revenue and paid to the sugar factory concerned. If in the opinion of the Controller, the molasses dispatched to a distillery is not of the specified grade, the same may be returned to the sugar factory concerned and the freight and other incidental charges as fixed by the Controller may be recovered from the sugar factory as an arrear of land revenue.

**7.7** The Government shall fix from time to time the rate of administrative charge per maund or quintal of molasses released for sale. Such administrative charge shall be inclusive of the price payable to sugar factory.

## **SPIRIT AND ITS DERIVATIVES**

### **Manufacture and storage of spirit at distilleries and issue therefrom**

**7.8** The existing licenses of production of ENA from Grain based distilleries, IMFL manufactory or Bottling Plant and Brewery or their bottling plant shall not be renewed by the State Government from the financial year 2017-18. Any claim of compensation shall not be admissible under section-23 of the Act.

**7.9** The molasses based distilleries may produce cent percent ethanol only for compounding with petrol.

**7.10** The Grain based distilleries, IMFL manufactory/Bottling Plant and Brewery/Bottling Plant shall be permitted to manufacture non alcoholic (zero percent alcohol) Drinks/Beverage in their existing premises on their requisition

# CHAPTER – 8

## NEERA

**8.1 Bihar Neera (Unfermented Juice of Palms) Rule, 2017 introduced to regulate the tapping of coconut, palmyra, date or any other kind of palm trees and sale of NEERA.**

**"Neera" means unfermented juice drawn from any coconut, palmyra, dates or any other kind of palm trees ;**

**8.2 Tapping of tree-** Any tapper desiring to tap a tree and draw neera therefrom for the manufacture of 'Gur' or any other product which is not an intoxicant; or for the supply of Neera to persons authorized to manufacture Gur or any other article which is not an intoxicant; or to supply neera to the Government authorized agency for further processing and consumption on specified premises; shall have to execute :-

(i) An agreement of annual/monthly/seasonal rent for tapping tree situated on personal land between the owner or his authorized agent and the tapper.

(ii) An agreement of tapping tree situated on the government land between the Circle Officer of that area and the tapper as per sairat settlement procedure of the Revenue Department. Such settlements shall only be made with the tappers.

**8.3 Period of agreement-** The tapping agreement may be annual/seasonal or monthly for the following period :-

(i) An annual agreement executed under rule-3 of these Rules shall remain effective for a period of one year from the 1st day of April, to the 31st day of March, following (both days inclusive) or

(ii) A seasonal agreement for tapping tree shall remain effective from the months of April to August/September (Sahi season) or October/November to March (Basanti season). or

(iii) A monthly agreement shall remain effective for a specific month of a year or any other period which deems fit for the owner and the tapper.

**8.4 Determination of fair rent of tree and purchase price of unfinished and finished produce-**

The fair rent of the tree, purchase price of unfinished and finished produce of palm like neera, gur etc shall be determined by a Committee constituted by the State Government.

**8.5 Application for license: -**

(i) Any tapper desiring to tap a tree and draw neera therefrom, may make an application for license to the licensing authority to be notified by the State Government at least fifteen days before the date of tapping a tree in the form-I.

(ii) The licensing authority may either grant or refuse a license but the reasons for refusal shall be recorded by him. The licensing authority shall have to issue the license in form-II within fifteen days from the date of receipt of application, but he may issue the same after the expiry of the said period after recording special reasons but within total time limit of 30 days. In case the licensing authority fails to take a decision within 30 days the license would be deemed to be granted.

- (iii) The period of validity of license shall be as per the period of tapping agreement.
- (iv) No license fee shall be chargeable for the tapping of tree and drawing neera.

### **8.6 Inspection –**

- (i) Any excise officer not below the rank of Sub-inspector may inspect tapping of tree and other places where neera product is manufactured, stored or sold.
- (ii) The Inspecting officer shall also inspect the palm tree product for the presence of intoxicants and alcohol content and any adulteration.
- (iii) The officer shall record his observations in the inspection book maintained and forward the report to higher authority for necessary action and also take necessary action as per rules.

### **8.7 Redressal of grievances-**

- (i) On any complaint arising between the owner and tapper of the tree situated on private land regarding rent, period and other term and condition of the agreement, it shall be filed before the Excise Superintendent, Assistant Commissioner of Excise of the district concerned in form-III.
- (ii) The Excise Superintendent, Assistant Commissioner of Excise of the district concerned may, after giving due notice to the parties and after giving them reasonable opportunity, hear the case.
- (iii) While deciding on issues related to rent disputes the Excise Superintendent, Assistant Commissioner of Excise of the district concerned shall have due regard to the fair rent fixed as per rule 5 and a reasoned order shall be passed.

### **8.8 Appeal –**

- (i) Any person aggrieved by an order passed by the Excise Superintendent, Assistant Commissioner of Excise of the district concerned may, Within thirty days from the date of receipt of such order by him, prefer an appeal in writing to the Deputy Commissioner of Excise of the division concerned, the appellate authority.
- (ii) On such appeal being preferred, the appellate authority, may--
  - (a) after perusing the memorandum of appeal and hearing all the parties cbncerned if necessary, summarily dismiss the appeal, or
  - (b) call for the records of the case from the Excise Superintendent, Assistant Commissioner of Excise of the district concerned and after examining such records and, if necessary, making such further enquiry, as he thinks fit, decide the appeal.

# CHAPTER – 9

## AUDIT PROCEDURE AND CHECK

### AUDIT CHECKS

**9.1** After implementation and promote complete Prohibition of liquor and intoxicants the following records and registers are required to be verified by audit:-

### **9.2 EXCISE COMMISSIONER'S OFFICE**

The office of the Commissioner of Excise, Bihar comprises of the following:

Section and their functional distribution is noted against each –

Section-1-> dealing with the Budget and audit report

Section-3-> dealing with Accounts

Section-5-> dealing with the Gazetted establishment

Section-7-> dealing with the Non-gazetted establishment

Section-8-> dealing with disciplinary action

Section-11-> dealing with R.T.I

Section-13-> dealing with the E.I.B

Section-14-> dealing with the Molasses and Ethanol

The audit should call for the files and records maintained in the sections and review them. In addition, the following points should be generally seen.

### **WRITE OFF CASES**

- (a) Write off cases are to be examined thoroughly with a view to ascertaining that all possible steps were taken to effect recovery of Government dues and that write off of revenues was recommended only after the chances of recovery had become remote. It may also be examined whether the Government revenues were rendered irrecoverable either due to lacuna in rules or due to non-observance of rules by departmental officials.
- (b) All supply contracts and auction cases are to be examined fully.
- (c) All orders of destruction of molasses rendered unfit for distillation are to be examined to see that adequate steps for safe storage of molasses were taken by the sugar factories and that dilution of molasses was not caused due to negligence of the occupier of the sugar factory. Reports of the management and by the Superintendent of Excise of the concerned district are to be cross checked.

### **9.3 DISTRICT EXCISE OFFICE**

In a district excise office, the following records and registers are required to be verified by audit:-

- (a) Cash Book
- (b) Bill Book
- (c) Money Receipts
- (d) Challan Register
- (e) Case Register
- (f) Register IX and X

- (f) Register of confiscated item
- (g) Paybill Registers
- (h) Service Books etc.

#### **9.4 DISTILLERIES**

**As per Notification of State Government of Bihar all molasses based distilleries may produce cent percent ethanol only for compounding with petrol.**

**9.5** The following registers and records need to be seen –

- |        |             |  |
|--------|-------------|--|
| (i)    | From No.65  | Register of spirit issued to warehouses  |
| (ii)   | From No.82  | Register of materials used, wash set up and spirits produced.                            |
| (iii)  | From No.83  | Register of spirit received into each vat or store cask                                  |
| (iv)   | From No.84  | Register of spirit issued from each vat or store casks.                                  |
| (v)    | From No.87  | Register of cask gauging.  |
| (vi)   | From No.88  | Register of balance account of spirits in hand and summary of transactions.              |
| (vii)  | From No.88A | Register of monthly abstract of accounts of spirits manufactured, issued, wastages, etc. |
| (viii) |             | Inspection book  |
| (ix)   |             | Molasses account register for quantity of molasses received, consumed and balance.       |

While conducting the audit of distilleries, the following points should receive attention:

- (a) It is to be verified whether the distillery has submitted indent in Form M.F.1 (Para 5.2 of this manual) to the Controller of Molasses specifying estimated requirements of molasses for distillation.
- (b) The requirement of molasses of the distillery should be co-related with the allotment made by the Controller and account of receipt of molasses with a view to see that the quantity allotted has been received in full by the distillery and that there is no pilferage. In the composite sugar factory cum- distillery, the distiller is required to lift the molasses allotted from other sugar factories before the distillery starts consuming its own molasses obtained from the composite sugar factory. Audit should see that non-observance of the above procedure did not cause any deterioration of molasses in the sugar factory.
- (c) The quantity of molasses received in a distillery should be verified with reference to the quantity dispatched from the sugar factory under the cover of a pass in Form M.F.6 granted by the supplying officer. As there is no provision in Molasses Act and Rules for allowance of any wastage of molasses in transit, unless transportation is done by the distiller, which actually occur as noticed during the course of audit of accounts of molasses maintained in the distilleries, the responsibility for such loss shall vest in the sugar factory.
- (d) Molasses account maintained in a distillery should be co-related with the register in Form 82 with a view to seeing that the molasses received were actually utilized for distillation and in the absence of any orders of the Controller of Molasses to the contrary, all wastages of molasses whether in storage or in racking should be charged with the duty at the rate applicable on spirit producible from the quantity of molasses wasted.
- (e) Register 82 should be verified to see whether the spirit out turn is commensurate with the materials used and is not below the minimum yield as prescribed by the Controller of Molasses in his allotment order. The

grade of molasses as certified by the dispatching sugar factory and the grade of molasses as determined by the distiller on receipt is to be examined to see that there widening and strengthening no inconsistency in the percentage of the sugar contents between the to gradation reports. Variations in sugar contents vary the yield of spirit per quintal of molasses.

(f) Cross reference should be made to the entries in Registers in Form 82, 83 and 84 to see whether the spirit produced has been transferred to received (Register 83) and then to the vats (Register 84). Daily transactions are noted in Register 84 and consolidated transactions in Register 88. Monthly transactions are entered in Register 88A. When issue of spirit is made for any purpose, the entry is made in Register 65/89 as well as in Register 84. While scrutinizing these registers, it is to be seen whether all the transactions have been accounted for correctly, issues have been made under proper authority and the balance has been arrived at accurately.

(g) Register 88A should be co-related with the statement of stock taking conducted by the Superintendent of Excise, Distillery at the close of the year.

(i) The terms and conditions embodied in the licence for distillation should also be scrutinized carefully to see whether they were adhered to by the distiller. It should also be seen whether the bonds executed in Form 159 have been duly stamped and promissory notes etc. tendered in lieu of such bonds have been properly hypothecated.

(ii) Export of spirit (ethanol) has been made according to the passes issued.



# CHAPTER – 10

## RAISING AND PURSUANCE OF OBJECTION

**10.1** The general instructions regarding the conduct of local audit, drafting discussion, issue and disposal of local audit report of the outside audit department (O.A.D) hold good in the case of State Excise Duties local audit as well. The instructions contained in the O.A.D. Manual should be followed here *mutatis mutandis*.

**10.2** When any irregularity or mistake is noticed during local audit, the same should immediately be brought to the notice of head of office by issuing “Audit Memo” with a request to offer his comments on the Memos and return them within a day or two. The audit Memos and the Draft Inspection Report should be in language polite and impersonal. Wordings should not be indicative of any directions to the departmental officer. It should only bring out the omissions that appeared to have occurred and request the departmental officers to verify that audit observation and to take action as deemed necessary under intimation to audit.

**10.3** The local audit report should be drafted on the last day of the local audit by the Assistant Audit Officer from the material available from the Audit Memos containing the observations of the head of the office and the draft report should be discussed with the head of the office. The local audit report should be in three parts as indicated below:-

Part-I Introductory para and the position of outstanding audit reports.

Part-II Major irregularities and important points

Part-III Minor objections and points

Part-II is again divided into sections ‘A’ & ‘B’ Section ‘A’ should consist of points of irregularities likely to be develop into material for Audit Report. Other major irregularities should be taken to section ‘B’

The Draft inspection report should be accompanied by the following:

- (A) Review sheet of outstanding inspection reports.
- (B) Title sheet
- (C) Main draft inspection report
- (D) Discussion sheet
- (E) Exit conference
- (F) Annexures and appendices
- (G) Duty distribution list
- (H) Original requisition
- (I) Entry conference
- (J) Code of ethics
- (K) Objections memos with replies
- (L) Statements, returns etc.
- (M) Copies of Government order (Office order No. SR-I-Gel. 33 dated 19.05.1976).

**10.4** Draft inspection report edited by the Inspection Officer should reach the head quarters section within five days of the completion of the local audit. The report should be finally edited by the headquarter section and the report when duly approved by the Deputy Accountant General (Revenue Sector) is sent to the office audited within one month of the close of audit. Copies of the reports are also sent to the Commissioner of Excise, Bihar. The Officer to whom the report is sent should be requested to send the replies within one month of the receipt of the report. Any interesting points, serious irregularities of heavy under assessments or loss of

revenue should be brought to the notice of the Accountant General and also to the Government through special letter.

**10.5** Replies to part-II of the report should be closely watched by the Headquarter section. No reply to part - III of the report is required, as the compliance thereto is to be seen by the next audit party.

**10.6** On approval of the report by the Deputy Accountant General (Revenue Sector), the objections should be noted in the Objection Book before the report is issued. On acceptance of the reply, the objection shall be removed by making necessary entries in the Objection Book, Adjustment Register and Recovery Register.

**10.7** Revenue Sector, Headquarters should watch the replies for important individual irregularities which are likely to result in draft paragraphs in the Audit Report. For this purpose, a Potential Draft para Register should be maintained in the headquarters. All such items should be noted in the register at the time of issue of the inspection report after obtaining orders of the Deputy Accountant General (Revenue Sector). These paras should be taken up directly with Government. The headquarters section should send a "Brief" giving the background material and full facts of the case to the Comptroller and Auditor General along with draft paras for inclusion in the Audit Report (Revenue Sector).

**10.8** **Headquarters section will attend to the following items of work also:-**

All Government orders, Notifications, Departmental circulars, instructions and classifications in so far as they relate to imposition and realization of excise duty should be examined by the headquarters and copies there of circulated to the field parties and instructions wherever necessary issued to them. If any item is to be taken up with Government/Department, it should be done promptly. A perusal of the audit reports of various states in respect of State Excise Duties paragraphs should also be done in head quarters and guidance given to the parties.

# CHAPTER 11

## Internal Control Mechanism in State excise department”

Internal control structures are the plans of an organisation including management’s attitude/methods, procedures and measures intended to provide reasonable assurance of proper enforcement of Acts, rules and departmental instructions. These also help in prevention and detection of frauds and evasion of fees and duties along with other irregularities, system for efficient and effective services and for adequate safeguards against evasion of fees, duties penalties etc.

It is therefore, the responsibility of the department to ensure that a proper internal control structure is instituted, reviewed and up dated to safeguard levy and collection of excise duties, fees and penalties etc. with prevention and detection of frauds and evasion of duties, fees etc.

While examining the internal control structure of the State Excise Department we are required to evaluate –

- (i) Whether there exists an internal control structure of the department.
- (ii) All the controls instituted are adequate to safeguard the interest of the Department in achieving its objectives.
- (iii) Whether the control measures are in actual application in day to day operation of the Department.

In course of evaluating the above we should have a clear cut understanding of the objective, organisational structure and Internal Control instituted by the Department through Act/Rules and Executive instructions issued in this regard from time to time.

However, keeping in mind the activities of the Department in formulating plan and procedures of levy and collection of excise duties and fees without any leakage/evasion of revenue with minimum risk and framing policies and procedures for mobilizations of additional resources, wasteful expenditure may be assessed as following :

1. Whether internal control instituted by the Department provides reasonable assurance that the aforesaid objective of the Department will be accomplished. Reasonable assurance equates to a satisfactory level of confidence under given conditions.
2. Whether higher authorities and employees of the department maintain and demonstrate a positive and supportive attitude towards controls at all times. If top higher authority believes that internal control is important, others in the department will respond by conscientiously observing the control established.
3. Whether higher authorities and employees of the department have the personal and professional integrity and maintain a level of competence that allows them to understand the importance of developing, implementing and maintaining good internal control to accomplish the general objectives of internal controls.
  - Has the department set out a code of conduct and personnel are discharging their duties ethically under the operative code of conduct that support internal control?
  - Competence includes the level of knowledge and skill of the personnel of the department need to help ensure orderly, ethical, economical, efficient and

effective performance of their duties as well as good understanding of individual responsibilities with respect to internal control.

4. Whether the department has developed specific control objectives for each activity of the department and are appropriate, comprehensive, reasonable and integrated into the overall objective of the department.
5. Whether higher authorities are continuously maintaining the application of internal controls instituted and take prompt responsive action on all findings of irregular, uneconomical and insufficient activities-continuous monitoring the application of internal controls are achieving the desired results, if not, the department may take corrective measures promptly to achieve its objective. Monitoring also includes addressing audit findings and recommendations report by the auditors to determine what corrective measures are needed.
6. Whether the internal controls are clearly documented together with all transactions and significant events and the documentations are readily available for examination.
7. Whether all the transactions and significant events are promptly recorded and properly classified.
8. Whether key duties and responsibilities relating to transactions and events have been quantified by the department among individual authority.
9. Whether competent supervision have been provided by the higher authorities of the department to ensure their internal control objectives are achieved.
10. Whether the department has fixed accountability for resources.

Thus assessing of internal control procedures implies :

1. determining the significance and sensitivity of the risk for which controls are being assessed;
2. assessing the susceptibility to misuse resources, failure to attain objective regarding ethics, economy, efficiency and effectiveness or failure to fulfill accountability obligation and non-compliance with laws and regulations;
3. Identifying and understanding the relevant internal controls;
4. determining what is already known about control effectiveness;
5. assessing the adequacy of the control designs;
6. determining through testing, if controls are effective;
7. reporting on the internal control assessments and recommending the necessary corrective measures.

## **DEPOSIT OF EXCISE REVENUE**

Excise revenue collected on account of duty, fees and fines etc. are deposited into the treasury through challans in the concerned districts. The payment of duty and licence fee must be made by the licensee into the local treasury directly or he may deposit the amount in the Excise Office on money receipt issued from there. Before payment is made into the treasury the licensee should present a properly filled in challan to Excise head clerk

or Accountant for check and attestation of entries therein. In case of payment made by the licencees into the office of the Assistant Commissioner/ Superintendent of Excise, the Assistant Commissioner of Excise/ Superintendent of Excise will credit the sums collected by challans into the treasury.

When treasury accounts are compiled and the challans are sent to the District Excise Office by the Treasury, the Accountant and Head clerk will make necessary entries in the challan register and other relevant registers. After the close of the month, the challan register is totaled up and daily total is entered in the abstract challan register. The abstract challan register is then sent to the Treasury officer for his certificate.

- (i) Whether the amount of excise revenue deposited by the licensee directly into treasury has been correctly accounted for under head 0039 State Excise.
- (ii) Whether there is no delay in depositing the revenue collected by the Office into the treasury.

## APPENDIX – I

### GLOSSARY

#### DEFINITIONS:

- 1) **Ale -** is a beer produced by top fermentation, i.e. by yeasts floating on the surface of wort rather than working at the bottom of the tank. It is usually of higher alcoholic content, paler and more tart and possessing a higher hop concentration than beer.
- 2) **Beer -** includes ale, stout, porter and all other fermented liquor made from malt.
- 3) **Blending** means the mixing together of two or more liquors of different strengths or of different qualities
- 4) **Bottling** means transferring liquor from a cask or other vessel to a bottle or other receptacle for the purpose of sale. Whether any process of rectification is employed or not, and includes re-bottling.
- 5) **Bulk litre** means a litre with reference to the bulk or quantity of the contents.
- 6) **Compounding** means the artificial preparation of foreign liquor by the addition to imported or locally made spirit, of flavouring or recolouring matter or both.
- 7) **Denaturant** means any substance prescribed by the excise rule for admixture with spirit in order to render the mixture unfit for human consumption, whether as beverage or internally as medicine or in any other way whatsoever.
- 8) **To “denature”** means to mix spirit with one or more denaturants in such manner as may be prescribed by rule and “denatured spirit” means to be mixed.
- 9) **Distillery** means the premises where under a licence issued under the provisions of the Excise Act, potable or industrial alcohol is manufactured.
- 10) **Excisable article means-**
  - (a) Any alcoholic liquor for human consumption ; or
  - (b) Any intoxicating drug
- 11) **Excise duty and countervailing duty** means any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of list II in the

Seventh Schedule to the Constitution.

- 12) **Export** means to take out of the State otherwise than across a customs frontier as defined by the Central Government
- 13) **Feints** means that portion of the distillate from the low wines which is considered unfit for reason of its impurities
- 14) **To gauge** means to determine the quantity of spirit contained in or taken from any cask or other receptacle or to determine the capacity of a cask or other receptacle.
- 15) **Import** means to bring into the State otherwise than across customs frontier as defined by the Central Government.
- 16) **London Proof (L.P)** means the strength of proof as ascertained by means of sykes hydrometer and denotes that spirit which at the temperature 51° F weigh exactly 12/13<sup>th</sup> parts of an equal measure of the distilled water.
- 17) **Obscuration** means the difference caused by matter solution between the true strength of spirit and that indicated by the hydrometer
- 18) **Pachwai** means fermented rice, miller or other grain whether mixed with any liquid or not and any liquid obtained therefrom whether diluted or undiluted but does not include beer.
- 19) **Plain spirit** means spirit to which no flavor has been communicated and to which no flavoring or colouring matter or other material or ingredient has been added.
- 20) **To prove** means to test the strength of spirit by a hydrometer or other instrument prescribed by the Excise Commissioner. Proof means the strength so tested.
- 21) **Rectified spirit** means plain spirit of strength of not less than fifty degrees over proof.
- 22) **Reducing** means the reduction of liquor from a higher to a lower alcoholic strength by the addition of water.
- 23) **Still** means includes any part of a still and any apparatus whatever for distilling or manufacturing spirit.
- 24) **to tap** means to prepare any part of tari producing tree, or to use any means for the purpose of causing juice to extract from the tree.
- 25) **Tari** means fermented or unfermented juice drawn from any cocoanut, Palmyra, date or other kind of palm tree.
- 26) **Transport** means to remove from one place to another within the State

- 27) **Vat** means any fixed vessel used for storage of spirit, alcohol or liquor in a distillery warehouse, or excise depot, it includes tanks made of metals.
- 28) **Wash** means materials for distillation which is under or has undergone, fermentation by natural or artificial means.
- 29) **Worts** means the liquor obtained by the exhaustion of malt or grain or by the solution of saccharine matter in the process of brewing.
- 30) **Special spirit** means spirit redistilled after addition of flavours and spices to plain spirit
- 31) **Sachetting plant** means the machine and equipments approved by the Board of Revenue for sachetting country spirit in warehouse.
- 32) **Sachets** means L.D.P.S. film of 100 microne which will be of I.S.I specification of I.S. 9845/81 and I.S.-10146/82 approved by the Board of Revenue from time to time
- 33) **Sachetting workshop** means a room in the warehouse premises where country spirit is packed in sachets through machine.
- 34) **Sachete warehouse** means the premises approved by the Excise Commissioner, within the premises of the warehouse for the storage and supply of country spirit in sachets.

## **FORMULA FOR CONVERSION OF BULK LITRES INTO LONDON PROOF (L.P.) LITERS**

The following is the formulae for conversion of B. L. to L. P. liters.

$$\text{L.P. liters} : \frac{\text{Bulk liters} \times \text{proof strength}}{100}$$

To take an example, 50 bulk litres of 70° under proof strength of liquor will be 15 L.P. litres, proof strength being 30° (100 – 70).



**ANNEXURE – I**

**NOTIFICATION**

No. 11/Nai Utpad Niti-01-03/2016-1391—In exercise of the powers conferred under Section 19(4) of the Bihar Excise Act 1915 (as amended by Bihar Excise (Amendment) Act 2016), the State Government hereby imposes absolute ban on the manufacture, bottling, distribution, sale, purchase, possession and consumption of Country liquor by any manufactory, Bottling Plant, license holder or any person in the whole of the State of Bihar with effect from 01 April, 2016.

**By order of Government of Bihar**

(Notification No.258 dated 31.3.2016).

**ANNEXURE – II**

**NOTIFICATION**

No. 11/Nai Utpad Niti-01-03/2016-1485—In exercise of the powers conferred under Section-19(4) of the Bihar Excise Act, 1915 (as amended by Bihar Excise (Amendment) Act, 2016), the State Government hereby imposes ban on wholesale or retail trade and consumption of foreign liquor by any license holder or any person in the whole of the State of Bihar with immediate effect.

**By order of Government of Bihar**

(Notification No.274 dated 05.04.2016).

## **ANNEXURE – III**

### **NOTIFICATION**

No.11/Adhi, Karya-01-06/2016-235- In exercise of the powers conferred under Section 24(1) Bihar Prohibition & Excise Act, 2016, the State Government of Bihar has decided that-

(i) The existing licenses of production of ENA from Grain based distilleries, IMFL manufactory or Bottling Plant and Brewery or their bottling plant shall not be renewed by the State Government from the financial year 2017-18. Any claim of compensation shall not be admissible under section-23 of the Act.

(ii) The molasses based distilleries may produce cent percent ethanol only for compounding with petrol.

(iii) The Grain based distilleries, IMFL manufactory/Bottling Plant and Brewery/Bottling Plant shall be permitted to manufacture non alcoholic (zero percent alcohol) Drinks/Beverage in their existing premises on their requisition

(Notification No.60 dated 24.01.2017)

## ANNEXURE-IV

### NOTIFICATION

#### (Bihar Act 8, 2018) Bihar Prohibition and Excise (Amendment) Act, 2018

**AN ACT TO AMEND THE BIHAR PROHIBITION AND EXCISE ACT, 2016 [Bihar Act 20, 2016] Be it enacted by the Legislature of the State of Bihar in the Sixty Ninth year of the Republic of India as follows:-1. *Short title, extent and commencement.*—(1) This Act may be called the Bihar Prohibition and Excise (Amendment) Act, 2018.**

- (2) It shall extend to the whole of the State of Bihar.
- (3) It shall come in to force at once and the provisions of the Amendment Act shall apply to all pending cases.

**2. *Amendment of Section-2 of Bihar Prohibition and Excise Act, 2016.*—** Sub-section (58) of section-2 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:-

"(58) - "Premises" means and includes land and such construction by way of a building, store, shop, hotel, restaurant, bar, booth or any other structure and movable structures including vessel, raft, vehicle and any other movable structure."

**3. *Substitution of section -30 of Bihar Prohibition and Excise Act, 2016.*—** Section-30 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following :-

**"30- Penalty for unlawful manufacture, import, export, transport, possession, sale, purchase, distribution, etc. of any intoxicant or liquor.-** Whoever, in contravention of any provision of this Act or of any rule, regulation, order made, notification issued thereunder, or without a valid license, permit or pass issued under this Act, or in breach of any condition of any license, permit or pass renewed or authorisation granted thereunder –

- (a) Manufactures, possesses, buys, sells, distributes, collects, stores, bottles, imports, exports, transports, removes or cultivates any intoxicant, liquor, hemp; or
- (b) Constructs or establishes or works in any manufactory, distillery, brewery or warehouse; or
- (c) Manufactures, uses, keeps or has in his possession any material, utensil, implement or apparatus, or uses any premises, whatsoever, for the purpose of manufacturing any intoxicant or liquor; or
- (d) Manufactures any material or film either with or without the State Government logo or logo of any State or wrapper or any other thing in which liquor or intoxicant can be packed or any apparatus or implement or machine, for the purpose of packing any liquor or intoxicant; or
- (e) Removes any liquor or intoxicant from any distillery, brewery, warehouse, other place of storage licensed, established, authorized or continued under this Act; or
- (f) Manufactures, possesses, sells, distributes, bottles, imports, exports, transports or removes, any preparation made with or without the use of any intoxicant or liquor, which can serve as an alcohol or a substitute for alcohol and is used or likely to be used or consumed for the purposes of getting intoxicated;

shall be punishable with imprisonment for the term which may extend to life and with fine which may extend to ten lakh rupees. Provided that the punishment:

- (a) For the first offence shall not be less than five years imprisonment and fine of not less than one lakh rupees, and
- (b) For the second and subsequent offences shall not be less than ten years rigorous imprisonment and fine of not less than five lakh rupees."

**4. *Substitution of section -32 of Bihar Prohibition and Excise Act, 2016.*—** Section- 32 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:-

**"32- Presumption as to commission of offence in certain cases.-**

(1) In prosecution of an offence under this Act, the accused person would have to account for the possession of any liquor, intoxicant, material, utensil, implement or apparatus involved in manufacture or storage of such liquor.

(2) In the event of a failure to offer a satisfactory explanation, there shall be a presumption that the accused person is guilty of the commission of such offence, unless proved otherwise.

(3) Where any equipment, machinery, animal, vessel, cart, vehicle, conveyance or any premises are used in the commission of an offence under this Act, and are liable to confiscation and/or liable to be sealed, the owner or occupier thereof would need to account satisfactorily, and in the absence of a satisfactory explanation the presumption that accused person committed the offence shall arise, unless proved otherwise."

5. ***Substitution of section -33 of Bihar Prohibition and Excise Act, 2016.***— Section- 33 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:-

**"33- Penalty for rendering denatured spirit fit for human consumption.-**

Whoever alters or attempts to alter any denatured spirit with the intention to make it fit for human consumption, whether as a beverage or as a medicine, or in any other way and by any other method or knowingly possesses any altered denatured spirit, shall be punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine which shall not be less than one lakh rupees but which may extend to ten lakh rupees

6. ***Substitution of section -34 of Bihar Prohibition and Excise Act, 2016.***— Section- 34 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:-

**"34-Penalty for mixing noxious substance with liquor.-** Whoever, (a) mixes or

permits to be mixed with any liquor sold or manufactured or possessed by him, any noxious drug or any poisonous ingredient; or

(b) makes, sells or possesses any preparation, whether solid, semi solid, liquid, semi liquid or gaseous, either made locally or otherwise, that may serve as an alcohol or a substitute for alcohol and is used or consumed for the purposes of getting intoxicated which is likely to cause disability or grievous hurt or death to human beings, shall be punishable:-(i) if as a result of such an act, death is caused, with death or imprisonment for life and shall also be liable to fine, which shall not be less than five lakh rupees but which may extend to ten lakh rupees; (ii) if as a result of such an act, disability or grievous hurt is caused to any person, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine which shall not be less than two lakh rupees but which may extend to ten lakh rupees; (iii) if as a result of such an act, any other consequential injury is caused to any person, with imprisonment for a term which shall not be less than eight years but which may extend to life imprisonment and with fine, which shall not be less than one lakh rupees but which may extend to ten lakh rupees; (iv) if as a result of such an act, no injury is caused, with imprisonment which shall not be less than eight years but which may extend to ten years and fine which shall not be less than one lakh rupees but may extend to five lakh rupees; Explanation :- For the purpose of this section the expression "grievous hurt" shall have the same meaning as in section-320 of the Indian Penal Code, 1860 (XLV of 1860)."

7. ***Deletion of section- 35 of Bihar Prohibition and Excise Act, 2016.***— The section- 35 (**Penalty for committing fraud**) of the Bihar Prohibition and Excise Act, 2016, shall be deleted.

8. ***Substitution of section -36 of Bihar Prohibition and Excise Act, 2016.***— Section-36 of the

Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:—"**36- Penalty for dealing in spurious liquor.**— Whoever, manufactures, possesses, sells, stores, distributes, bottles, imports, exports, or transports any spurious liquor, shall be punishable with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and with fine, which shall not be less than one lakh rupees but which may extend to ten lakh rupees."

**9. Substitution of section -37 of Bihar Prohibition and Excise Act, 2016.**— Section- 37 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:—"**37- Penalty for consumption of liquor.**— Whoever, in contravention of this Act or the rules, notification or order made there under –

- (a) consumes liquor or intoxicant in any place; or
- (b) is found drunk or in a state of drunkenness at any place; or
- (c) drinks and creates nuisance or violence at any place including in his own house or premises; or
- (d) permits or facilitates drunkenness or allows assembly of drunken elements in his own house or premises;

**shall be punishable,**

(1) in case of an offence falling under clause (a) and (b), for the first offence only with fine which shall not be less than Fifty thousand rupees or in lieu thereof sentence for a period of three months imprisonment but for subsequent offence falling under clause (a) and (b), shall be punishable with a term which shall not be less than one year but may extend to five years and with fine, which may extend to one lakh rupees.

(2) In case of an offence falling under clause (c) and (d), with a term which shall not be less than five years but which may extend to ten years and with fine, which shall not be less than one lakh rupees which may extend to five lakh rupees."

**10. Deletion of section- 38 of Bihar Prohibition and Excise Act, 2016.**— Section- 38 (**Penalty for possession or knowledge of possession of intoxicant**) of the Bihar Prohibition and Excise Act, 2016, shall be deleted.

**11. Deletion of section- 53 of Bihar Prohibition and Excise Act, 2016.**—Section- 53 (**Enhanced punishment after previous conviction**) of the Bihar Prohibition and Excise Act, 2016, shall be deleted.

**12. Substitution of section- 54 of Bihar Prohibition and Excise Act, 2016.**— Section- 54 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following:—

**" 54- Failure of occupier to disclose information of unlicensed manufacture or cultivation or consumption of liquor or intoxicant—**

(1) Whenever any liquor or intoxicant or other excisable item is manufactured, sold, stored, bottled, possessed, consumed or any excisable plant is cultivated in contravention of this Act, occupier of that land or building or his agents, shall give information to the nearest excise official, police official or the Collector as soon as the fact comes to their knowledge.

(2) Whenever occupier(s) of that land or building or his agents fail to disclose information as per subsection (1), such person or persons shall be liable to be punished for imprisonment up to two years."

**13. Substitution of section -56 of Bihar Prohibition and Excise Act, 2016.**— Section-56 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following :-

**"56- Things liable for confiscation.—Whenever an offence has been committed, which is punishable under this Act.-**

- (a) any intoxicant or liquor unlawfully imported, transported, manufactured, sold, stored, possessed, material, utensil, implement, apparatus, package or covering and or the other contents, if any, of such receptacle, package or covering for the purposes of storing, manufacturing or labelling such intoxicant or liquor;

- (b) any animal, vehicle, vessel or other conveyance used for carrying any intoxicant or liquor; or
- (c) any premises or part thereof that may have been used for storing or manufacturing any liquor or intoxicant or for committing any other offence under this Act;  
shall be liable to be confiscated in a manner prescribed under the provisions of the Act,
- (d) The State Government, if deem necessary, may issue necessary directions, guidelines, Regulations and instructions with respect to mode and manner of search, seizure and confiscation."

**14. Substitution of Section -62 of Bihar Prohibition and Excise Act, 2016.**— Section-62 of the Bihar Prohibition and Excise Act, 2016, shall be substituted by the following :-  
**"62- Premises liable to be sealed.**—If it comes to the notice of any excise officer or

any police officer, not below the rank of a Sub Inspector, that any liquor or intoxicant has been found at a particular premises or a particular premises or a part thereof is or has been used for committing any offence under this Act, he may immediately seal the premises and send a report to the Collector for the confiscation of the same.

Provided that if the said premises are temporary structures which cannot be effectively sealed , then the excise officer or the police officer, with the order of the Collector, may demolish such temporary structures.

**15. Deletion of section- 64 of Bihar Prohibition and Excise Act, 2016.**— Section-64 (**Collective fine**) of the Bihar Prohibition and Excise Act, 2016, shall be deleted.

**16. Deletion of section- 66 of Bihar Prohibition and Excise Act, 2016.**— Section-66 (**Externment etc of notorious or habitual offenders**) of the Bihar Prohibition and Excise Act, 2016, shall be deleted.

**17. Insertion of proviso after sub-section (1) of section-76 of Bihar Prohibition and Excise Act, 2016.**—After sub-section (1) of section-76 of Bihar Prohibition and Excise Act, 2016, the following proviso shall be inserted:-

"Provided that offence committed for the first time under sub section (1) of section-37 and offence under section- 54 of the Act shall be bailable."

By Order of the Governor of Bihar,  
AKHILESH KUMAR JAIN,  
*Secretary to the Government.*

## **Check List for the Audit of Excise Units after complete prohibition of liquor.**

### **(1) In District excise office:**

The following records and registers are required to be verified by audit:-

- (a) Cash Book.
- (b) Bill Book.
- (c) Money Receipts.
- (d) Challan Register.
- (e) Verification of Excise revenue.
- (e) Case Register.
- (f) Register IX and X.
- (f) Register of confiscated item.
- (g) Paybill Registers.
- (h) Service Books.
- (i) Vouchers etc.

### **(2) In Distilleries:**

**As per Notification of State Government of Bihar all molasses based distilleries may produce cent percent ethanol only for compounding with petrol.**

The following registers and records need to be verified during audit –

- (i) Form No.65 Register of spirit issued to warehouses
- (ii) Form No.82 Register of materials used, wash set up and spirits produced.
- (iii) Form No.83 Register of spirit received into each vat or store cask
- (iv) Form No.84 Register of spirit issued from each vat or store casks.
- (v) Form No.87 Register of cask gauging.
- (vi) Form No.88 Register of balance account of spirits in hand and summary of transactions.
- (vii) Form No.88A Register of monthly abstract of accounts of spirits manufactured, issued, wastages, etc.
- (viii) Inspection book

- (ix) Molasses account register for quantity of molasses received, consumed and balance etc.

### **(3.) In EXCISE COMMISSIONER'S OFFICE**

The office of the Commissioner of Excise, Bihar comprises of the following:

Section and their functional distribution is noted against each –

- Section-1-> dealing with the Budget and audit report
- Section-3-> dealing with Accounts
- Section-5-> dealing with the Gazetted establishment
- Section-7-> dealing with the Non-gazetted establishment
- Section-8-> dealing with disciplinary action
- Section-11-> dealing with R.T.I
- Section-13-> dealing with the E.I.B
- Section-14-> dealing with the Molasses and Ethanol

The audit should requisitioned the files and records maintained in the sections and review them. In addition, the following points should be generally seen.

- a.** Write off cases are to be examined thoroughly with a view to ascertain that all possible steps have been taken to effect recovery of Government dues and that write off of revenues was recommended by competent authority only after the chances of recovery had become remote and after being followed proper procedure of write off. It may also be examined whether the Government revenues were rendered irrecoverable either due to lacuna in rules or due to non-observance of rules by departmental officials.

- b.** All supply contracts and auction cases are to be examined fully.
- c.** All orders of destruction of molasses rendered unfit for distillation are to be examined to see that adequate steps for safe storage of molasses were taken by the Sugar factories and that dilution of molasses was not caused due to negligence of the occupier of the sugar factory. Reports of the management and by the Superintendent of Excise of the concerned district are to be cross checked.
- d.** Arrears of Revenue and recovery thereof.



## Audit Design Matrix for compliance Audit of Prohibition, Excise and Registration (Excise) Department

Sl.No.	Audit objectives/Sub objectives	Audit Questions on selected matters	Audit Criteria	Data collection and analysis method	Audit evidence
1	A system for prohibition of liquor	<ol style="list-style-type: none"> <li>1. Whether liquor was prohibited in accordance with Bihar Prohibition and Excise Act, 2016.</li> <li>2. Whether the proper monitoring system for prohibition of liquor was developed by Government</li> </ol>	<ol style="list-style-type: none"> <li>1. Bihar Excise Act, 1915.</li> <li>2. Bihar Prohibition and Excise Act, 2016.</li> <li>3. Bihar Neera (Unfermented Juice of Palms) Rules, 2017.</li> <li>4. Notification and circulars, executive and departmental orders and instructions issued by the Department from time to time.</li> </ol>	<ol style="list-style-type: none"> <li>1. Scrutiny of records/files related to policy, orders and Notifications</li> <li>2. records and cases regarding prohibition of liquor</li> <li>3. Reports and returns</li> </ol>	<ol style="list-style-type: none"> <li>1. Records/files related to policy, orders and Notifications</li> <li>2. Reports and returns</li> </ol>
2	The outstanding of revenue arrear	<ol style="list-style-type: none"> <li>1. What action taken for realisation of outstanding revenue arrear.</li> <li>2. Whether the outstanding of revenue arrear was recovered.</li> </ol>	<ol style="list-style-type: none"> <li>1. Bihar Excise Act, 1915.</li> <li>2. Notifications circulars, executive &amp; departmental orders and instructions issued by the Department from time to time.</li> </ol>	<ol style="list-style-type: none"> <li>1. Scrutiny of Demand and Collection Register, Irregularity Register, Permit Register, Challans, Certificate case Register, Arrear Register and relevant file.</li> </ol>	<ol style="list-style-type: none"> <li>1. Demand and Collection Register, Irregularity Register, Permit Register, Challans, Certificate case Register, Arrear Register and relevant file.</li> </ol>