

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

**OFFICE OF THE PRINCIPAL ACCOUNTANT GENERAL (AUDIT),  
HIMACHAL PRADESH, SHIMLA-171003**

# **REVENUE AUDIT MANUAL**

**(STATE EXCISE REVENUES)**

**(Issued by the authority of the Principal Accountant General, Himachal Pradesh under approval of the Comptroller & Auditor General of India, New Delhi)**

---

## **PREFACE**

This manual deals with the procedure relating to the Audit of State Excise Revenues of the Himachal Pradesh Government and is intended mainly for the use and guidance of the staff of the Revenue Audit Wing. For State Excise Revenue rates mentioned in this manual latest Annual Excise Announcement of H.P. Government be referred to.

The Receipt Audit Section (Hqrs) will be responsible for keeping the Manual up-to-date and for seeing that all important orders and decisions are incorporated in the Manual by the issue of correction slips at regular intervals. The updation of manual has been completed upto March,2018.

**Shimla:**  
**Dated:**

**Pr. Accountant General (Audit)**  
**Himachal Pradesh**

---

## CONTENTS

|              |   | <b>Page</b> |
|--------------|---|-------------|
| Chapter I    | Introduction  | 1           |
| Chapter II   | General Principles of Audit and Auditing Standard   | 5           |
| Chapter III  | Source of Excise Revenue-Modes of levying duties and recovery thereof                         | 9           |
| Chapter IV   | Organization of the State Excise Department   | 11          |
| Chapter V    | License Fee   | 13          |
| Chapter VI   | Fixed Fee   | 16          |
| Chapter VII  | Excise Duty   | 18          |
| Chapter VIII | Assessed Fee  | 20          |
| Chapter IX   | Country Liquor-Bonded Warehouses  | 21          |
| Chapter X    | Search, Seizures, Confiscation, Fines and Penalties   | 23          |
| Chapter XI   | Distillery-Rules & Procedure  | 26          |
| Chapter XII  | Brewery-Rules & Procedure   | 31          |
| Chapter XIII | Medicinal & Toilet Preparations   | 37          |
| Chapter XIV  | Audit Procedure   | 41          |
| Appendix A   | Important decisions of the High Court concerning the Excise Act and the Rules made thereunder | 43          |
| Appendix B   | Rates of duty under the Medicinal & Toilet Preparations (Excise Duties) Act, 1955.            | 46          |

## **CHAPTER I INTRODUCTION**

### **Historical Background**

**1.1** In India consumption of intoxicating drugs (Sura Pan) was condemned as a sin both by the Hindu and Mohammedan religions. The British Government secured income out of production, sale and consumption of wine and other intoxicants. Prohibition of drinking wine was set up by the nationalists as a movement to protect the people from injury to health and at the same time to reduce the income of the Foreign Government. After independence the Prohibition Act was passed in 1948 and came into force on 16<sup>th</sup> June, 1949. In 1956 the second five Year Plan for India dealt with social welfare services and policy for Prohibition was discussed on a non-official resolution by Lok Sabha which passed the following resolution on 31<sup>st</sup> March, 1956.

“This House is of the opinion that prohibition should be regarded as an integral part of the Second Five Year Plan and recommends that the Planning Commission should formulate the necessary programme to bring about nation-wide prohibition speedily and effectively.”

This resolution was accepted on behalf of the Government of India. In Article 47 of the Constitution, prohibition has already been accepted as a directive principle of State Policy. The State shall endeavor to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medicinal purposes.

### **Object of Excise Act**

**1.2** The object of the Excise/Abkari Act is to regulate, control and direct sale, manufacture, import, stock and distribute the manufactures of the standards already approved. It also aims at preventing sale of misbranded manufactures.

The rate of duty is subject to the varying strength or quality of the article. The rate is known only when the article is gauged or proved to be of specification laid down in the Schedule. The annual Finance Acts generally amend the schedule of tax leaving rest of the machinery intact. The ingredients for consideration section/assessment of rate of duty are wholesale price, cost price, price of similar goods, the place of manufacture, the time of removal with reference to the schedule of rate of duty, abatement of trade discount, if any, on the excisable articles and rebates.

**1.3** The safeguard provided for the protection of State dues lies in the compulsory licensing and elaborate accounting procedure in accordance with which the articles move from one despatching and to other receiving end. There are restrictions on the life of licenses which subject the licensees to the objective vigilance and subjective control of Excise Authorities from the production stage to the consumption level. Combined with it is the process of penalties tagged to the infringement of the Act, rules, conditions of licensees administrative orders and notifications all having the force of law.

### **Constitutional Provisions**

**1.4** State Excise Duty is levied by the State Government by virtue of the power in Entry 51 of the List II of the Seventh Schedule of the Constitution. The State Excise duty is generally levied on any liquor, intoxicating drug, opium or other narcotic drugs.

### **Enactment**

**1.5.1** The levy of excise duties in Himachal Pradesh is governed by the Punjab Excise Act, 1914, Himachal Pradesh Excise Act, 2011 and the rules made thereunder. In addition there are other central enactments operative in Himachal Pradesh which are administered by the Himachal Pradesh Government. They are:-

1. The Opium Act, 1978 and the Rules made thereunder seeking to control the cultivation of poppy and manufacture of opium therefrom.
2. The Dangerous Drugs Act, 1930 and the Rules made thereunder seeking to suppress contraband traffic and control the abuse of dangerous drugs, especially those derived from opium, Indian hemp and coca leaf.
3. The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the Rules made thereunder providing for the levy and collection of duties of excise on medicinal and toilet preparations containing alcohol, opium, Indian hemp or other narcotic drugs or narcotics.

**1.5.2** In addition to these Acts and Rules made thereunder, the following Rules have been adopted by the Himachal Pradesh Government. Audit parties should be well conversant with these rules before taking up audit of excise revenues:-

1. The Himachal Pradesh Excise Act, 2011
2. Punjab Excise Act, 1914
3. The Punjab Distillery Rules, 1932.
4. The Himachal Pradesh Liquor Licence Rules, 1986.
5. The Punjab Brewery-Rules, 1932
6. The Punjab Liquor Permit & Rules, 1932
7. The H.P. Excise Announcements
8. Himachal Pradesh Excise Fiscal Orders. 1965
9. Himachal Pradesh Intoxicants License & Sale Orders, 1965
10. The Himachal Pradesh Bonded Warehouse Rules, 1987.
11. The Indian Powers Alcohol Act, 1948
12. The East Punjab Mollases (Control) Act, 1948.
13. The narcotic Drugs & Psychotropic Substance Act, 1985
14. The Punjab Import and Possession of Ganja Orders, 1954.
15. The Punjab Import and Possession of Charas Order, 1955

**1.5.3** The provisions of the Rules/Orders on various subjects referred to above have been duly incorporated in the Punjab Excise Manual Volume I to IV which have been adopted by the Himachal Pradesh Government till such time as the State Government frame/issue their own Act/Rules and the connected order pending enactment of the Comptroller and Auditor General's (duties, Powers and conditions of Service) Bill, 1969 the receipt audit of the State Excise Duties was taken up from 1970-71 under the provisions of Para 13(2) of the Audit and Accounts Orders, 1936. The bill has since been passed and become an Act in 1971. Now the audit is being conducted in exercise of the powers vested and in discharge of responsibility imposed by Section 16 of the Act.

## <sup>1</sup>**Definitions**

**1.6** Acknowledge of various terms often used in the administration of the State Excise Duties is absolutely essential for the proper conduct of the Receipt Audit. With this end in view, the definitions of certain important terms are given below:-

- **"Beer"** means alcoholic beverage prepared from alt or grain with or without addition of sugar and hops and includes black beer, ale, stout, porter and such other substance as may be specified by the State Government;
- **"To bottle"** means transfer of liquor from a cask or other vessel to a bottle or other approved receptacle and includes re bottling;

---

<sup>1</sup> The Punjab Excise Act, 1914 and the Himachal Pradesh Excise Act, 2011.

- **"Brewery"** means premises where beer is manufactured and includes every place therein where beer is stored or where-from it is issued;
- **"Collector"** means any officer appointed by the State Government, under sub-section(2) of section 5 of this Act;
- **"Denatured"** means effectually and permanently rendered unfit for human consumption;
- **"distillery"** means premises where spirit is manufactured and includes every place therein where it is stored or where from it is issued;
- **"excise duty"** and **"countervailing duty"** mean any such excise duty or countervailing duty, as the case may be, as is mentioned in entry 51 of List-II of the Seventh Schedule to the Constitution;
- **"export"** means to take out of Himachal Pradesh otherwise than across a custom frontier as defined by the Central Government;
- **"Financial Commissioner"** means the Excise and Taxation Commissioner appointed under sub-section (1) of section 5;
- **"import"** (except in the phrase "import into India") means to bring into Himachal Pradesh otherwise than across a customs frontier as defined by the central Government;
- **"license"** means a license granted under this Act;
- **"liquor"** means intoxication liquor and includes all liquid consisting of or containing alcohol, whether obtained by fermentation or by subsequent distillation, and also alcohol, whether obtained by fermentation or by subsequent distillation, and also includes any substance which the State Government may, by notification, declare to be liquor;
- **"manufacture"** includes any process, whether natural or artificial by which any liquor is produced or prepared, and also re-distillation, and every process for the rectification, reduction, flavoring, blending or colouring or bottling of liquor;
- **"medicinal preparations"** and **"toilet preparations"** shall have the same meaning as assigned to them under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955;
- **"notification"** means notification issued under this Act or the rules made thereunder and published in the Official Gazette;
- **"pass"** means a document which actually authorizes the removal or transportation of liquor;
- **"permit"** means a n objection statement issued by the Collector of the district of destination concerned or an officer authorized in this behalf in the import and transport of liquor and includes a document authorizing possession of liquor exceeding the limit of retail-sale;
- **"place"** includes building, shop, tent, enclosure, booth, vehicle, vessel, boat and raft;
- **"prescribed"** means prescribed by rules made under this Act;
- **"sale"** includes any transfer otherwise than by way of gift;
- **"state"** means the State of Himachal Pradesh;
- **"State Government"** means the Government of Himachal Pradesh;
- **"spirit"** means any liquor containing alcohol obtained by distillation, whether denatured or not;
- **"transport"** means to move from one place to another place within the State;

- **"vehicle"** means wheeled conveyance of any description, which is capable of being used for movement and includes aircraft, boat, vessel, raft, motor vehicle, a cart and any carriage by cattle;
- **"warehouse"** means a place where storage of liquor is permitted and includes a relevant part of manufactory; and
- **"winery"** means premises where wine is manufactured and includes every place therein where wine is stored or wherefrom it is used.
- **<sup>2</sup>Bulk litre and proof litre:** Excise duty on liquor is generally levied according to the strength of the spirit in terms of their alcoholic content. Proof litre means a litre (1000cc) of the spirit of proof strength. Proof strength means having the strength on concentration of "London Proof". Bulk litre means a litre of the spirit in bulk without reference to the strength. Generally in Himachal Pradesh, rectified spirits, Brandy Whisky, Rum, Gin, Milk punch, etc. of the strength of London proof are subjected to duty at the rate of per proof litre and duties on rest of the articles are levied on the basis of per bulk litre.
- **U. P:** The excisable products are normally marked U.P. i.e. under proof. For example, if the product is marked of the strength of 25 U.P. it means that it contains 25 percent distilled water and 75 percent alcohol.
- **<sup>3</sup>London proof** means that mixture of alcohol and distilled water which at the temperature of 51°F weighs exactly 12/13<sup>th</sup> (Twelve thirteenth) parts of an equal measure of distilled water at the same temperature.
- **<sup>4</sup>Foreign Liquor** includes every liquor imported into India other than Indian liquor and arrack.
- **<sup>5</sup>Countervailing Duty-** It is a duty on the excisable article manufactured or produced in India outside the State of Himachal Pradesh and imported into Himachal Pradesh. This duty is to be levied on each import into on transport of the excisable articles in the State of Himachal Pradesh so as to make the total excise duty and countervailing duty on the said excisable articles equal to the rate of excise duty levied on that kind of excisable article.
- **Excise tree** includes the tree of mohwa, coconut, palm, palyrab, date, bagani, sagom sendhi or doddasal tree or any other tree, the fermented or unfermented juice of which contains alcohol and from which toddy or other liquor can be prepared.
- **Bond** is a document binding the parties using it to pay duty of excise due to Government and indemnify them against loss, if any. They are largely used to cover import, export and transport of the excisable articles reaching intact from the despatching end to the recovering end and storage thereafter in accordance with the directions of the Excise Officer.
- **<sup>6</sup>Wash** means a sachharine solution from which after distillation spirit is obtained.
- **Toddy** means fermented or unfermented juice drawn from an excise tree.

---

<sup>2</sup> Term referred to in section 1 of the Punjab Excise Fiscal Order, 1932 and Rule 31 of the Punjab Liquor Licence rules, 1956.

<sup>3</sup> Term referred to in section 1 of the Punjab Excise Fiscal Order, 1932 vide chapter 2 of the Punjab Excise Manual, Vol-II.

<sup>4</sup> Section 2(2) of Chapter I of Punjab Excise Manual, Vol-II.

<sup>5</sup> Section 2(6-b) of The Punjab Excise Manual, Vol-I.

<sup>6</sup> Item (c) of the Punjab Distillery Rules, 1932 vide Chapter 9 of Punjab Excise Manual, Vol-II.

## **CHAPTER II**

### **GENERAL PRINCIPLES OF AUDIT AND AUDITING STANDARD**

**2.1** Audit of revenue receipts is to be regulated by the general principles governing the audit of receipts as laid down in Chapter 3 of section II of Comptroller and Auditor General's Manual of standing orders (Audit) and provisions of this manual, H.P Excise Act 2011 and Excise announcements.

**2.2** Auditors should conduct themselves in a manner, which promotes co-operation and guide relations between auditors and the audited entity. They should be fair and impartial. It is therefore, essential that the opinions formed during audit are thoroughly accurate and reliable.

**2.3** Auditors have a duty to adhere to high standards of honesty and candidness in the course of their work and in relationship with the staff of audited entity. In order to sustain public confidence, the conduct of auditors should be above suspicion and reproach.

**2.4** Auditors should be have in a way that increases their independence. They should be objective in dealing with the issues and topics under review.

**2.5** Auditors should not disclose information obtained in the auditing process to third parties either orally or in writing.

**2.6** The auditor should scrutinize all the matters that are considered material and knowledge of which is to influence the user of audit report. It is not always in terms of money but a transaction can be material in terms of characteristics and in the context of its occurrence. The auditors must exercise his judgment in determining the audit procedures to afford a reasonable basis for his opinion.

**2.7** The aim of the audit is to safe guard the financial interests of the state and to upload and promote public accountability. It is primarily the responsibility of the departmental authorities to see that all the revenue or other debts due to the Government which have been to be brought to account, are correctly and promptly assessed, realized and credited to the Government account. It is to be ensured in audit that there exists an adequate information control/internal control and reporting system that will minimize the risk of errors and irregularities and jaccittable the accountability process.

**2.8** The auditor should plan the audit in a manner, which ensures that an audit of high quality is carried out in an economic, efficient and effective way. For the purpose, important aspects of functions of audited office are to be identified and audit objectives and tests required to achieve them are specified. Audit is to provide for a review to determine whether appropriate action has to been taken on previously reported audit findings.

**2.9** The work of the audit staff at each level of audit should be properly supervised to ensure fulfillment of audit objectives and the supervision should be directed both to substance and to the method in order to ensure that all evaluations and conclusions are soundly based and supported by reasonable audit evidence and off errors, deficiencies and unusual matters have been identified and documented/ reported as mentioned in Appendix-A.

**2.10** The auditor in determining the extent and scope of audit should study and evaluate the variability of Internal Control and highlight the shortcomings giving rise to errors and irregularities.



**2.11** The auditor should be well versed with the Act/Rules, notifications and orders issued by department from time to time and settled law on the subject. The lacunae in the Act/Rules leading to non-fulfillment of stated objectives of the Government regarding revenues be highlighted and suggest remedies to overcome legal infirmities. Where there is difference of opinions regarding interpretation of law the opinion of the law department be sought and accepted.

**2.12** The audit findings, conclusions and recommendations must be based on evidence. Therefore, data collection and sampling technique be chosen carefully. Where the computer based system data is an important part, the reliability of data be assessed and data base of the department may be used to seek audit evidence. They should apply technique of inspection, observation, enquiry and confirmation to collect audit evidence, which should be properly documented.

**2.13** Auditors should adequately document the audit evidence in working papers, including the bases and extent of the planning, work performed and the findings of audit. Working papers should contain sufficient information to enable an experienced auditor having no previous connection with the audit to ascertain from them the evidence that supports the auditor's significant findings and conclusions.

**2.14** The audit should not in any way substitute itself for the revenue authorities in the performance of their statutory duties. Physical verification of the premises and stock of any class of licenses and independent enquiry from the general public are outside the scope of the audit.

**2.15** In the audit of Government revenue receipts such as taxes duties and other files, the auditor should satisfy himself that the rules and procedures in that behalf are designed to secure an effective check of on assessment, collection and proper allocation of revenue and are being duly observed and for this purpose carry out such examination of the account as he think fit.

**2.16** On the completion of each audit assignment, the auditor should prepare a written report setting out the observations and conclusions in an appropriate form. Its contents should be easy to understand and free from vagueness or ambiguity. It should include only information which is relevant and supported by sufficient and competent audit evidence and be independent, objective, fair, complete, accurate, constructive and concise as the subject matter permits.

**2.17** Auditors should recognize that their judgment is being applied to actions resulting from past management decisions, care should, therefore, be exercised in making such judgments, and then report should indicate the nature and extent of information reasonably available (or which ought to have been available) to the audited entity at the time the decisions were taken. By stating clearly the scope, objectives and findings of the audit, the reports demonstrate to the reader that the auditor is being fair. Fairness also implies the presentation of weakness or critical findings in such a way as to encourage correction, and to improve systems and guidance within the audited entity. Accordingly the facts are generally agreed with the audited entity in order to ensure that they are complete, accurate and fairly presented in the report. There may also be a need to include the audited entity's responses to the matters raised, either verbatim or in summary, especially where an auditor presents it's from views or recommendations.

**2.18** Fraud involves deliberate misrepresentation of facts and/or significant information to obtain undue or illegal financial advantage, through manipulation, falsification or alteration of records or documents, misappropriation, suppression or

omission of the effects of transactions from records or documents, recording of transactions without substances and misapplication of accounting policies. Basic elements of fraud include a material omission or false representation by the perpetrator and it involves betrayal of trust.

**2.19** Corruption involves efforts to influence and/or the abuse of public authority through the giving or the acceptance of inducement or illegal reward for undue personal or private advantage. An act of corruption comprises of misuse of office or position of authority for private gain and involves either on offer and or acceptance of inducement for performance of official act. Corruption involves two parties namely the person who offers the reward or inducement and the party accepting it.

**2.20** In the audit of Receipts, it would be necessary in the case of department which is receiver of public monies to ascertain what arrangements are in place to ensure the prompt detection, investigation and prevention of irregularities, double refunds, fraudulent or forged refund vouchers or other loss of revenue through fraud, error or willful omission or negligence to levy or collect taxes or to make refunds. For instance, the department could be requested to undertake a comparison of a sample set of counterfoils of receipts with those available with the tax payers or other debtors, the results of the comparative study being made available to Audit. Audit may also suggest any appropriate improvements in procedure.

**2.21** It is the primary duty of the department concerned to establish an environment that prevents valuable entity assets from being lost through frauds and corruption by providing adequate controls and checks. This doesn't absolve the auditor of its responsibility to detect and report the frauds by analyzing the internal control system and transactions in depth. High-risk areas of fraud in revenue receipts are in cash management, Assessment of revenue and refunds.

**2.22** While determining materiality levels for different audit areas the auditor may take into account adjustments to the materiality level that may make audit more responsive to risk arising from fraud and corruption. For this purpose auditor should apply its own judgment to determine the extent of audit investigation to be undertaken in cases of suspected fraud and corruption and formulate a formal policy or strategy for deterring fraud and corruption.

**2.23** Audit should review whether applicable accounting standards ensure disclosure of true financial position inclusive of any losses resulting from fraud and corruption. The responsibility for adequate and timely disclosure of any cases of fraud and corruption rest with the office concerned and the auditor must evaluate and report on the adequacy and competence with which the office concerned has discharged its responsibility.

**2.24** Shortcomings in systems and controls which provide an environment conducive to fraud and corruption should proactively reported by audit to the department to improve the control environment and minimize the risk of fraud and corruption. Audit should make the department aware that the absence or lack of application of reliable or valid performance measures and indicators could increase the responsibility of occurrence of fraud and corruption.

**2.25** Since complete documentary proofs about cases of fraud may not be available to audit due care should be exercised in arriving at an audit conclusion. In many circumstances additional checks may have to be performed and additional evidence

acquired than would normally be considered appropriate and necessary for arriving at an audit opinion.

**2.26** Before taking up the audit the auditor should have a complete understanding of the auditee organization and environment in which it operates the level of internal control and past performance especially previous instances of fraud and corruption. Based on the risk, assessment, the auditor should develop the audit objective and design audit procedures so to have reasonable expectations of detecting and evaluating material mis-statement and irregularities arising from fraud and corruption.

**2.27** Increasing use of Information Technology systems by auditee, requires that the auditors should know reliable and verifiable system based audit trails to evaluate the internal controls as computerized fraud could involve manipulation of a computer or computer data by whatever method in order to dishonestly obtain money, properly or same other advantage of value or to causeless. The auditor has to be particularly aware of the audit trail, of the checks and balances of I.T. systems, of the levels of the control and needs to also have fair idea of how processing controls can be circumvented by the perpetrator of fraud and how data can be accessed and manipulated. It is particularly important for the auditor of the IT system to assess in his audit the level of security controls built in and if these are in tune with the sensitivity of data.

**2.28** Whenever a material instance of failure to comply with the applicable laws and regulations is observed the auditor should investigate the lapses in control system. He may also examine if the supporting evidence has been tampered in any manner or any individual(s) could have benefited from the material violation.

**2.29** Auditors need to be alert to deviations from acceptable accounting standards including disclosure requirements particularly when there is suspicion of fraud and corruption.

**2.30** When in the opinion of auditor the financial statements include material fraudulent transactions or such transactions have not been adequately disclosed or the audit conducted by the auditor leads him to the conclusion that instance(s) of fraud and/or corruption have taken place and when the auditor has adequate evidence to support his conclusion he should ensure that the findings are adequately included in audit report. However, the terms fraud and corruption may not be used in a conclusive sense unless such action is established in a court of law.

**2.31** In the following up on reported cases of fraud and corruption the auditor should determine whether the necessary action is being taken with due regard to urgency that the situation demands and become aware of the changes in the system and procedures which could be violated through subsequent audits.

### CHAPTER III

#### SOURCES<sup>1</sup> OF EXCISE REVENUE-MODES OF LEVYING DUTIES AND RECOVERY THEREOF

- 3.1 (A)** State Excise Revenue of Himachal Pradesh consists of :
- (i) License Fees e.g. for distillery, brewery and liquor shops.
  - (ii) Fee levied on traders, hotels, bars, etc.
  - (iii) Duty and litre fee on arrack and superior liquors, like whisky, brandy, rum, gin, wines, which are collectively known as Indian Made Foreign Liquors.
  - (iv) Composition fees, fines, penalty or confiscation levied, imposed or ordered under the various provisions of the Excise Act.
  - (v) Sale proceeds of saleable forms.
  - (vi) Collection of contribution from the licensee in respect of staff posted on cost recovery basis.
  - (vii) Countervailing duties on liquors manufactured elsewhere in India and “imported” into the State.
  - (viii) Duties on medicinal and toilet preparations containing alcohol, etc.
  - (ix) Excise duty, Export fee, and assessed fee, etc.
  - (x) Cesses.

#### NOTES

1. The demand of the establishment charges of the supervisory staff posted at distilleries factory premises cannot be justified as an excise duty within the meaning of entry 51 of list II to the VII Schedule of the Constitution. The levy cannot also be justified by reference to entry 7 of list III to the VII Schedule read with Entry 47. The levy is, therefore, *ultra vires* (M/s Anable Shahi Wine and Distilleries (P) Ltd. Vs. the Government of Andhra Pradesh **A.I.R.** 1972 A.P. 379).

2. A license can be enforced and cancelled by the authority that granted it. The licence cannot be cancelled from a back date. The holder shall not be entitled to any compensation for the cancellation or suspension of his license permit or pass nor to a refund of any fee paid or deposit made in respect thereof.

**3.2 (B) <sup>2</sup>Mode of Levy-** The excise duty shall be levied in one or more of the following ways :

- (a) Reliably on the quantity of any excisable article imported, exported, transported, collected or manufactured, in or issued from a distillery, brewery or warehouse.
- (b) On intoxicating drugs by an average rate levied on the cultivation of hemp plant or by a rate charged on the quantity collected.
- (c) In the case of spirits or beer manufactured in any distillery, brewery or manufacturing unit in accordance with such scale of equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash or work, as the case may be.
- (d) In the case of toddy, in the form of a tax on each variety of excise tree from which toddy is drawn having due regard to period during which such tree is capable of yielding toddy.
- (e) By fees or licenses for the manufacture, supply or sale of any excisable article.

**3.3 (C) Recovery of Excise Revenue<sup>3</sup> -** (1) The following moneys, namely :-

- (a) all excise revenue;
- (b) any loss that may accrue, when in consequence of default, a grant has been taken under management by the Collector or has been resold by him under Section 39; and
- (c) all amounts due to Government from any person on account of any contract relating to the excise revenue;

<sup>1</sup> Section 31 to 34 of the Punjab excise Act, 1914, the H.P. Excise Act, 2011 and Announcements of each year.

<sup>2</sup> Section 32 of the Punjab Excise Act, 1914.

<sup>3</sup> Section 60 of the Punjab Excise Act, 1914

may be recovered from the person primarily liable to pay the same, or from his surety (if any) by distress and sale of his moveable property or by any other process for the recovery of arrears of land revenue due from land holders or from farmers of land on their sureties.

(2) When a grant has been taken under management by the Collector or has been resold by him under Section 39, the Collector may recover, in any manner indicated above any money due to the defaulter by any lessee or assignee.

(3) In the event of default by any person licensed or holding a lease under the Act, all his distillery, brewery, warehouse or shop premises, fittings or apparatus and all stocks of (intoxicants) or material for manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises shall be liable to be attached in satisfaction of any claim for excise revenue or in respect of loss incurred by the State Government through such default and to be sold to satisfy such claim which shall be a first charge upon the sale proceeds.

Interest at stipulated percentage is charged on delayed remittance of monthly installments under Annual Excise Announcement.

## CHAPTER IV

### <sup>1</sup>ORGANISATION OF THE STATE EXCISE DEPARTMENT

**4.1** The Excise and Taxation Department in Himachal Pradesh functions under the overall control of the Excise and Taxation Commissioner who is responsible to Government through the Pr. Secretary of Excise and Taxation Department.

**4.2** The Excise and Taxation Commissioner in the Himachal Pradesh is assisted by three Additional/Deputy Excise Taxation Commissioner(Central, North and South) for carrying out the purposes of the Act. One of the Deputy Excise and Taxation Commissioners has been entrusted exclusively with the functions relating to the excise revenues. At the district level, the duties of administering the Excise Law have been entrusted to the Assistant Excise and Taxation Commissioners/Excise and Taxation Officers are assisted by inspectorate staff.

The Deputy Excise and Taxation Commissioners of zone is <sup>2</sup>empowered to discharge the functions of a collector under the Excise Act in respect of their respective area. In order to carryout smooth inspection of breweries, distilleries wineries and bonded warehouses Government has appointed the Joint Excise and Taxation Commissioner (distillery) at Headquarter Shimla. He also looks after the works of finalization of annual excise policy, rules framed thereunder in day to day general working of excise branch. The Deputy Excise and Taxation Commissioners and Assistant Excise and Taxation Commissioners are responsible for the superintendence of administration and collection of tax and shall exercise all other powers under the Act in the zones under their respective charge.

The Deputy Excise and Taxation Commissioner(HQ) looking after the work of Public Information Officer under Right to Information Act.

At the district level, the Assistant Excise Taxation Commissioners/Excise and Taxation Officers Incharge, subject to the overall control and direction of the Commissioner are responsible for the superintendence of administration and collection of tax under the Act in the district concerned.

#### **Audit Checks**

**I. *Points to be seen in the audit of Assistant Excise and Taxation Commissioners Offices.***

- (i) All files leading to issue of important orders regarding assessment, levy and collection of excise duty to implement Government's excise policy may be examined to ensure that the orders are in conformity with the provisions of the Act and Rules made thereunder.
- (ii) Scrutiny of register of licensees in respect of licence issued by the commissioner, with or without the approval of the Government, to see that the licence fees have been correctly assessed, realised and credited to Government account.
- (iii) Scrutiny of all contracts entered into by the Commissioners.
- (iv) Whether security for the due observance of the terms of licence has been taken.
- (v) It should be ensured that necessary scrutiny was conducted by the department to check that no manufacture, bottling or blending operations were conducted without a license.
- (vi) No revision of licence fee is allowed except under the provisions of the Act.
- (vii) It should be seen that where reauction of vends/shops etc. has been made, the consequential loss is made good by recovery from the original licencees alongwith interest at the prescribed rates.

---

<sup>1</sup> Section 5 to 7 of the H.P. Excise Act, 2011

<sup>2</sup> Govt of H.P. Excise and Taxation Department Notification no. 1-17/64 E&T , dated 7<sup>th</sup> August ,1965.

- (viii) Check cases of refunds of excise duty made under orders of the Commissioners.
- (ix) It should be scrutinized that in respect of export permits granted, the necessary bond is executed by the exporter and a running bond account is maintained which should show at any stage that the duty due on the intoxicants exported is covered by the bond amount.

*II. Points to be seen the during audit of District Excise Office*

- (i) Scrutiny of the registers of the licensees to verify that the prescribed license fees have been levied correctly and realised and credited to Government account.
- (ii) Check of interest realised on delayed remittances of fees, rentals, etc.
- (iii) Scrutiny of the files relating to auction of rentals of country liquor shops and also securities collected from the contractors and refunds.
- (iv) Check of permits issued for the transport of liquors, etc.
- (v) Check of refunds, if any, of revenue.

## CHAPTER V

### <sup>1</sup>LICENCE FEE

**5.1** Sufficiently before the commencement of each financial year, the State Government determines the excise policy for the ensuing year. This policy is broadly meant to govern:

- (i) location of vends,
- (ii) closure of some of the existing vends,
- (iii) opening of new vends in the light of the public opinion in local areas,
- (iv) sources and rates of supplies of liquor,
- (v) quotas of liquor considered adequate for each district, and
- (vi) other allied matters.

In the month of February/March each year the various vends in each District approved for the next excise year are put to public auction after wide publicity. These auctions are presided over by the Collector. The vends put to auction are of following types:

**L-2** for wholesale and retail vend of Indian made foreign spirit and imported spirit to the public.

**L-10** Retail vend of beer [cider and wine] for the premises.

**L-13** for wholesale vend of country spirit.

**L-14** for retail sale of country liquor for consumption on and off the premises.

**L.14-A** etail vend of Country Spirit for consumption of the premises.

**L.14-B** retail vend of Country Spirit at a fair on a special occasion.

**L-20-B** Manufacture and retail negotiation.

The licenses for liquor vends are valid from 1<sup>st</sup> April to 31<sup>st</sup> March.

**5.2** Some of the important provisions of the Annual Excise Announcement governing *inter alia* the procedure of auction are described below :-

- (i) All licenses are granted subject to the provisions of the Punjab Excise Act, 1914 in Himachal Pradesh Excise Act, 2011 and the Rules framed there-under from time to time.
- (ii) All bids are subject to the confirmation of the Excise and Taxation Commissioner, who may reject any bid without assigning any reasons.
- (iii) No person is allowed to bid for any license unless he has deposited the required sum of money in the Government treasury or with the presiding officer.
- (iv) The highest bidder may be required to furnish a security or to make a reasonable deposit, in lieu of security as determined by the Collector, for strict observance of the terms and conditions of the licence.
- (v) Every bidder is required to bring alongwith his income-tax clearance certificate, solvency certificate, certificate of his properties and the successful bidders should be prepared to furnish two sureties.
- (vi) The Presiding Officer may refuse any bid which he considers to be merely speculative or dictated by private enmity. He may also demand an immediate deposit of the whole amount or a part thereof on the spot. For reasons to be recorded in writing, he may refuse to accept the highest bid.
- (vii) The highest bidder for any licence is required to pay 1/10<sup>th</sup> of the annual license fee within a week of the auction and in case where the Presiding Officer is not satisfied as to the indemnity and financial position of the bidder he may demand 1/10<sup>th</sup> of the bid money being paid at once at the fall of the hammer or a suitable security in the form of Bank Draft, Surety of a respectable person or hypothecation of immoveable property situated within Himachal Pradesh being furnished to his satisfaction. The licensee shall pay the balance in 9 equal

---

<sup>1</sup> The H.P. liquor License Rules, 1986 and Annual Announcements of Excise and Taxation Department.



monthly installments by the seventh of each month commencing from April. Failure to pay the advance licence fee shall entail cancellation of the licence and its resale. Any consequential loss to Government shall be recoverable alongwith interest at the prescribed rate from the defaulting bidder as arrears of land revenue.

- (viii) To ensure that a successful bidder for a licence is not debarred from holding a licence under the 'Intoxicants Licence and Sale Orders', he may before he starts his business be required to file an affidavit on a non-judicial stamp paper, to the effect that he has not been convicted of any non-bailable offence or of any offence under the Punjab Excise Act, etc.
- (ix) No remission of licence fee is allowed and no representations from the licensees for the grant of relief on account of sales falling short of their expectations are entertained.
- (x) The basic quota of country liquor will be supplied through the source approved by the Excise and Taxation Commissioner.
- (xi) The country liquor sold by the licensed vendors is of the strength of 50 degree under proof.
- (xii) The unsold stock of country liquor at the end of Excise year is required to be surrendered to the Collector and accounted for in the subsequent year.
- (xiii) The L-13 Licensees are required to deposit a security as per the announcements made annually with the Presiding Officer at the fall of hammer.
- (xiv) From the year 1970-71 the sales tax/Vat at the prescribed rate will be charged on the first sale of liquor in the State that is by L-1 and L-13 licensees.
- (xv) The L-13 licensees are responsible and liable to pay such compensation to the L-14 licensees of their vend sphere as may be determined by the Collector, in the event of the failure to make supplies and due to which the retail sale licensees suffer any loss.
- (xvi) The licences in form 20-B for manufacture and retail vend of country fermented liquor are granted only in the Districts of Kangra, Kullu and Mandi in certain specified areas of these districts. The licences for manufacture and possession of country fermented liquor for home consumption and for use on special occasions are granted on payment of fees prescribed by the Government as laid in the annual policy announcement.

**5.3** All the demands created as a result of auction of various types of vends are recorded in a Demand and Collection register in form M-2. The periodical installments recovered from the vendors and the balances outstanding at the end of the year are also recorded in this register under proper attestation.

**5.4** In the event of a default in the timely payment of the advance installments of recoveries suitable amount of penalty is imposed under Section 65 of the Punjab Excise Act. The particulars of the penalty imposed and recoveries made are entered in a register in form M-6.

**5.5 Audit Procedure-** In the auction of vends and the collection of licence fees the following checks may be executed in audit:

- (i) It should be seen that the provisions contained in the annual announcement of excise policy are broadly in conformity with the provisions of the Act and the rules made thereunder.
- (ii) It should be seen that the annual auction is held sufficiently before the commencement of the financial year and wide publicity is given for this purpose.

- (iii) It should be seen that, necessary, formalities regarding obtaining of sureties, securities, income-tax clearance certificates, etc., to ensure the financial and legal soundness of the bidders are duly observed.
- (iv) The auction proceeds are generally progressive from year to year. In the event of any shortfall in the proceeds as compared to those of the previous years the audit may with advantage analyse the reasons for the shortfall, and offer comment, if necessary.
- (v) The correctness of the entries of demand made in the Demand and Collection Register should be verified with reference to the record of auction and the statements in form M-14 and 114-A submitted by the Collector to the Finance Commissioners.  
Variations, if any, should be pointed out.
- (vi) It should be seen that reauction of vends has been made with proper approval and that the consequential loss is made good by recovery from the original licensee alongwith interest at the prescribed rate.
- (vii) In the audit of the Demand and Collection register it should be seen that the periodical installments are paid by the licensees in time and in the event of delays recourse to penal provisions has been taken. For this purpose the relevant entries in M-6 register should be checked up.
- (viii) A test check of the entries of collection made in the Demand and Collection register should be conducted with reference to the Daily Collection Register, Treasury Challans and the original record of the treasury.
- (ix) Where the department has fixed additional licence fees for extra quotas of liquor to be lifted by the licensees, it should be seen that the fees at the prescribed rates have been recovered for such quotas.

## **CHAPTER VI**

### **<sup>1</sup>FIXED FEE**

**6.1** Fixed fee is also a type of licence fee. The main difference between the two is that the licence fee is determined through the process of auction whereas the fixed fee is the prescribed annual fee for the grant of certain specified licences discussed in the succeeding paragraphs.

**6.2** In Himachal Pradesh the following licence are granted on payment of fixed fee :

**L-1** Licence for the wholesale and retail vend of foreign liquor to the trade only.

**L.1-A** Storage of foreign liquor in bond combined with wholesale and retail vend of foreign liquor to the trade only.

**L.1-AA** Wholesale vend of imported foreign liquor to the trade only.

**L.1.B** Wholesale vend of foreign liquor to L-1 vend only.

**L.1-C** Wholesale vend of foreign liquor to L.1 vend only by the manufactures within the state.

**L.2-A** Retail vend of foreign liquor to the public only for consumption on the premises (supplementary to form L-2).

**L-3** Retail vend of foreign liquor in Hotel or Dak bungalow.

**L.3-A** Retail vend of beer in a hotel or dak- bungalow.

**L-4** Retail vend of foreign liquor in a restaurant.

**L.4-A** Retail vend of beer [cider and wine] in a restaurant.

**L-5** Retail vend of foreign liquor in a bar attached to a restaurant (Supplementary to Form L-4).

**L-5.A** Retail vend of beer in bar (supplementary to form L.4-A).

**L.6** Retail vend of foreign liquor in a railway refreshment room.

**L.7** Retail vend of foreign liquor in a railway dinning car.

**L.8** Retail vend of foreign liquor off the premises supplementary to L.7 which off the premises.

**L.10-A** Retail vend of beer for the premises in the premises of L-14 vend of Country Liquor.

**L.10-B** Retail vend of beer for premises of L.14-A vend of Country Liquor.

**L-11** Bottling of foreign liquor.

**L.12** Vend of Medicated Wines.

**L-13** Wholesale vend of except when held by a Distilleries

**L.13-A** Licence for storage and transfer of Country Spirit by "L.14" or "L.14-A" licensee to own vends.

**L-15** Bottling of country spirits.

**L-17** Vend of denatured spirits wholesale and/ or retail.

---

<sup>1</sup> The Himachal Pradesh Liquar Licence Rules, 1986

**L-19** Vend of rectified spirits.

**L-20-C** Manufacture and possession of country fermented liquor for home consumption.

**L.20-CC** Manufacture of Country Liquor by distillation from fruits and grain for home consumption.

**L-20-D** manufacture and possession of country fermented liquor for use on special occasions.

**L.21** Extensions of hours during which sale is permitted.

**L-50** possession and transport of liquor upto a specified limit for personal consumption.

The above mentioned fixed fees are payable in advance for the grant of licenses. The exact amount fixed as payable is determined by the State Government from time to time, taking into consideration the scale of consumption per diem/per mensem/ per annum of sale or retail vend of different qualities/varieties of liquor liable for sale against a particular licence.

**6.3** A licence in form S-1 for manufacturing and selling of sweets is also granted on payment fixed by the Government every year and under the Punjab Sweets (Manufacture) Rules, 1955. S-1 licence once granted remains in force until it is cancelled, determined or surrendered.

#### **Audit Checks**

It should be seen in audit that-

- (i) The licences for the localities specified in the annual announcements policy are granted by the Commissioner after the payment of prescribed fee.
- (ii) The fees have been correctly deposited into the treasury by the licensees. For this purpose treasury challans, daily collection register and the record of the treasury may be checked up.
- (iii) The L-20 C & D licences for the manufacture and consumption of country fermented liquor are granted only in the areas specified in the annual excise policy announcement.

## CHAPTER VII

### <sup>1</sup>EXCISE DUTY

**7.1** Apart from the receipts from the licence fees, the excise duty constitutes another major source of revenues under the head “State Excise Duties”. The nature of the duty is described briefly in the succeeding paragraphs.

**7.2** With the grant of licence on the payment of auction money or the prescribed fees, a licensee become entitled to open his business premises for the sale of liquor, etc. The actual lifting of liquors from the prescribed sources viz., warehouse, distillery etc. is allowed only on payment of excise duty at the rate fixed by the Government from time to time. The rates of excise duty for the year 2018-19 are ₹ 18 per proof litre for country liquor and ₹ 45.00 per proof litre for Indian made foreign liquor.

**7.3** The excise duty on Indian made beer, cidar, sweets and wines for the year 2018-19 is as under:-

- (i) Beer up to 5% alcoholic contents ₹10.40 per bottle of 650 Mls or ₹ 16.00 per bulk litre & Beer exceeding 5% alcoholic contents but not exceeding 8.25% ₹15.00 per bottle of 650 Mls or ₹ 23.07 per bulk litre.
- (ii) Alcoholic cidar ₹1.15 per bottle of 650 milli-litre.
- (iii) Sweets and wines, containing proof spirit not exceeding 20 percent manufactured in H.P. ₹ 5.00 per bulk litre and imported from out of the State ₹ 9.00 per bulk litre.
- (iv) Sweets and wines containing proof spirit exceeding 20 percent but not exceeding 30 per cent manufactured in H.P. ₹ 7.00 per bulk litre and imported from out of the State ₹ 12.00 per bulk litre.

No such duty is chargeable in respect of country fermented liquors, namely jhol, lugri, etc.

**7.4** The duty is payable to the State on the basic principle of “duty follows consumption”. Excise duty on all liquor imported for consumption in the State is, therefore, payable to the State revenues.

**7.5** As already stated in para 5.2(x) of Chapter V the basic quota of country liquor will be supplied through any source approved by the Excise and Taxation Commissioner. The L-13 licensee who is required to maintain sufficient stock of country liquor at all time to meet the requirements of retail vendors (L-14), will contact the Excise and Taxation Officer of the District concerned for the issue of permit to obtain the supply. Such permits are issued on pre-payment of excise duty at the prescribed rates for the desired quantity. A copy of such permit is also sent to the Excise Inspector posted at the Distillery. On the production of the permit the L-13 licensee will obtain the supply from the Distillery. The Distillery Inspector will issue a pass to the licensee to enable him transport the liquor to his premises, at the same time informing the Excise and Taxation Officer, of destination about the issue of liquor. This will enable the Excise and Taxation Officer, to check up the accuracy of supply with the copy of permit kept in his office.

**7.6** The L-14 vendor obtains the supply from L-13 vendor on payment of a gross amount consisting of-

- (i) bare cost of liquor,
- (ii) excise duty paid by the L-13 licensee, and
- (iii) overhead charges including transport charges and profit of the L-13 licensee etc.

---

<sup>1</sup> Section 31, 32 of the Punjab Excise Act, 1914, the Punjab Excise fiscal order, 1932 and H.P. Excise Annual Announcements.

**7.7** The L-1 licensees (wholesale IMFS) obtain their supply from any approved distillery within or outside Himachal Pradesh after obtaining duty paid permits to be issued by the Excise and Taxation Officer of the District concerned. The L-2, licensees (retail vendors of IMFS) obtain their supplies from the L-1 licensees on prescribed charges which include the excise duty already paid by the L-1 licensee.

**7.8** The procedure regarding the realization of excise duty on beer is the same as for Indian made foreign spirits.

**7.9** The Excise duty on the sale of sweets is realized by the S-1 licensees at the time of sale by them. No excise duty is at present leviable on the consumption of country fermented liquor.

**7.10** L-9 licensee (Retail vendors of foreign liquor in military canteen) obtain their supply of IMFS from the duty paid stock of L-1 licensees or on duty paid permits to be issued by the Excise and Taxation Officer, if they intend to obtain the supplies from outside the State.

**7.11** Excise duty and licence fee on Indian made rum, supplied to troops stationed in the forward areas of Himachal Pradesh is determined by Government from time to time. For extent of exemption from levy of excise duty and licence fee on liquor/spirit supplied to the Army personnel, provisions to this effect are contained in the annual excise policy/ announcement every year, which also includes all important orders, notifications issued from time to time by the State Government the Excise & Taxation Commissioner in furtherance of the provisions of the Excise Act.

**7.12 Audit Checks-** In the audit of excise duty it should be seen that all the permits are issued by the Excise and Taxation Officer on prior payment of duty, and the amount charged has been correctly worked out as per the Excise announcements. For this purpose treasury challan, daily collection register and the original record of the treasury should be test checked.

## **CHAPTER VIII**

### **<sup>1</sup>ASSESSED FEE**

**8.1** The following licences are granted on payment of assessed fees:-

**L-3** Retail vend of foreign liquor in Hotel or Dak bungalow.

**L.3-A** Retail vend of beer in a hotel or dak- bungalow.

**L-4** Retail vend of foreign liquor in a restaurant.

**L.4-A** Retail vend of beer[cider and wine] in a restaurant.

**L-5** Retail vend of foreign liquor in a bar attached to a restaurant (Supplementary to Form L-4).

**L-5.A** Retail vend of beer in bar (supplementary to form L.4-A).

**L.6** Retail vend of foreign liquor in a railway refreshment room.

**L.7** Retail vend of foreign liquor in a railway dining car.

**L.8** Retail vend of foreign liquor off the premises supplementary to L.7 which off the premises.

**L-9** Retail vend of foreign liquor in military canteen including unit-run Military Canteens or those run regimentally on club lines and I.T.B.P Canteens.

**L.9-A** Retail vend of foreign liquor exclusively for sale of the liquor to ex-servicemen (Supplementary to license in form L.9 in a Military Canteen including unit-run Military Canteens or those run regimentally on club lines).

**L-12-A** Temporary license for the retail sales of foreign liquor at a bar in a theatre or cinema.

**L.12-B** Licence for the retail vend of foreign liquor at a bar attached permanently to a theatre or cinema or other such place of entertainment.

**L.12-C** Licence for the retail vend of foreign liquor at a club.

**8.2** The assessed fees are determined by the State Government from time to time for each type of licence. Provisions to this effect are contained in the annual excise policy announcement. The assessed fee is recoverable at the time of the issue of permit or pass and the same is charged in addition to the fixed fee. The determination of assessed fee is on the basis of scale of retail vend of the foreign liquors of various varieties for their sale per bulk litre.

**8.3 Audit Checks-** In audit it should be seen that all the permits/passes issued by the Excise and Taxation Officer are on prior payment of duty and that the amounts charged are worked out correctly. The treasury challans, daily collection register and the original record of treasury should be test checked for this purpose.

---

<sup>1</sup> The Himachal Pradesh Liquor Licence Rules, 1986

## CHAPTER IX

### COUNTRY LIQUOR<sup>1</sup> – BONDED WARE-HOUSE

**9.1** The "Bonded Warehouse" means a warehouse licensed by the Excise and Taxation Commissioner for the receipt and storage, under bond, of liquor of the kind specified in the licence, both bottled and in bulk as approved by the State Govt. for its reduction, bottling, transport or export in bond, or on payment of duty within the State. The State Govt. have framed rules for the grant of bonded warehouse license called the "Himachal Pradesh Country Liquor Bonded Warehouse Rule, 1987".

**9.2** The licence in form BWH-2 is granted on a application made in writing. The licensee may be required to deposit a security not exceeding ₹ 25,000 for the fulfillment of the condition of the license.

**9.3** The license is granted or renewed for a period of one year on payment of fixed amount per year as licence fee.

**9.4** The licensee obtains liquor in bond without payment of duty from any distillery or warehouse in India under order of the Financial Commissioner, Himachal Pradesh on the authority of import or transport permits granted by the Excise and Taxation Commissioner or Collector.

**9.5** If the licensee fails to cater to the requirements of country liquor licensees he is bound to pay such compensation to the country liquor license as may be determined by the Collector and also make good the loss of excise duty which would have otherwise accrued to the State Government.

**9.6** No liquor is issued from the warehouse to the licensees for sale until excise duty at the rate prescribed by the Government from time to time is deposited in the treasury.

**9.7** The following is the scale of wastage allowance percent for spirit imported or transported to the bonded warehouse:-

|  | When conveyed in<br>vessels | when conveyed in metallic vessels |
|--|-----------------------------|-----------------------------------|
| For journey taking not more than two days                      | 2                           | ½                                 |
| For journey taking more than two days but not more than 9 days | 3                           | 1                                 |
| For journey taking more than 9 days but not more than 18 days  | 4                           | 1 ½                               |
| For journey taking more than 18 days                           | 5                           | 2                                 |

**9.8** An allowance not exceeding 1 percent is made for dryage and wastage of spirit in bulk in store-room, 1 percent in bottling operation and 1 percent in the bottled stock store-room on account of breakage or leakage etc.

**9.9** In case of wastage exceeds the prescribed limit occurs in the warehouse the licensee is liable to pay duty at the scheduled rate fixed in respect of that particular year in which excess wastage occurred.

**9.10** The licensee is required to maintain such register and submit such returns to the department as may be required under Rule-31 of the Himachal Pradesh country liquor bonded warehouse Rules, 1987.

**9.11 Audit checks** – (i) It may be seen in audit that the prescribed amount of security has been deposited by the licensee in the manner determined by the Financial Commissioner.

<sup>1</sup>Rules under the H.P. Bonded Warehouse Rules, 1987.



(ii) It may be seen that the licence fee has been deposited by the licensee, if the licence was extended.

(iii) If it is substantiated in audit that the licensee has failed to cater to the requirements of the liquor vendors it may be seen that adequate action was taken by the department to make good the loss of excise duty caused to the State Government.

(iv) It may be checked up that the wastage allowed to the bonded warehouse licensee does not exceed the prescribed scale and where wastage of more than the prescribed limit occurs, excise duty at the scheduled rate fixed by the Government for the particular year, has been recovered.

(v) The receipt/issue of goods in/from the warehouse is according to the permits issued by the Excise and Taxation Commissioner or Collector.

(vi) The consignments on receipt in the warehouse are taken in stock and the issues are properly charged off in stock amount.

## CHAPTER- X

### <sup>1</sup>SEARCH, SEIZURES, CONFISCATIONS, FINES AND PENALTIES

**10.1** For the purpose of entry into and inspection of the places of manufacture, sale, as also for seizure and confiscation, etc., categories namely 1<sup>st</sup>, the Excise officers have been divided into three categories namely 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> class. 1<sup>st</sup> class includes all officers of the Excise Department upto the rank of Excise Sub-Inspectors and also includes all Tehsildars, Naib Tehsildars and Police Officers up to the rank of Head Constable and above. II class officers includes all Excise sub-inspectors as leave reserves. III class represents all excise clerks attached to the excise officers of district and all excise chaprasis and peons, field Kanungos and police constables.

**10.2** Excise Officers of 3<sup>rd</sup> class have the powers under Section 45 of the Act to arrest without warrant a person found committing an offence punishable under Section 61 and also to seize and detain intoxicants and other articles liable to confiscation in connection with the aforesaid offences and to detain and search any vessel, raft, vehicle, animal, package receptacle or covering in or upon which he may have reasonable cause to suspect.

**10.3** Excise Officers of 2<sup>nd</sup> class have, in addition to the powers enjoyed by the Excise Officers of the 3<sup>rd</sup> class, all powers under Section- 47 and 45 which include seizing accounts and registers, test measure weight any materials, steel utensil, implements, apparatus or intoxicants.

Similarly, Excise Officers of the 1<sup>st</sup> class have in addition to the powers enjoyed by the Excise Officers of the 2<sup>nd</sup> class, powers to investigate under Section 46, power to search without warrant, seize, detain, search and arrest as provided in Section 49 and power to grant bail under Section 73.

**10.4** All police officers are required to aid the Excise Officers in the due execution of the Excise Act upon request made by such Excise Officers.

**10.5** All offences committed in contravention of the various provisions of the Act are subject to trial by a Court who according to the nature and extent of the crime decides the cases in accordance with the provisions of Section 61 to 69 of the Act.

Minor and other offences are compounded by the Collector himself by imposing fines or penalties.

**10.6 <sup>2</sup>Confiscations-** Whenever an offence punishable under this Act has been committed,

(a) every intoxicant or excise bottle in respect of which such offence has been committed, together with the contents of such bottle, if any,

(b) every steel utensil, implement or apparatus and all materials in respect of or by means of which such offence has been committed,

(c) every intoxicant or excise bottle lawfully imported, transported, manufactured, had in possession or sold alongwith, or in addition to any intoxicant or excise bottle liable to confiscation under clause(a),

(d) every receptacle, package and covering in which any intoxicant, an excise bottle, materials, steel utensil, implement or apparatus as aforesaid is or are found together with the other contents (if any) of such receptacle or package, and

(e) every animal, cart, vessel, raft or other conveyance used in carrying such receptacle, package, covering of articles as aforesaid, shall be liable to confiscation.

---

<sup>1</sup>Sections 45 to 49 of Punjab Excise Act, 1914.

<sup>2</sup> Sections 60 H.P. Excise Act, 2011.

A Magistrate trying an offence under the Act may order confiscation in respect of any thing liable to confiscation in the circumstances discussed in the foregoing sub-para.

When there is reason to believe that an offence has been committed and anything or any animals cannot be satisfactorily accounted for and the offender is not known, the Collector may, however, pass an order only after one month of the seizure of the thing or animal in question.

**10.7 <sup>3</sup>Compounding-** The Collector may accept from any person who is reasonably suspected of having committed an offence punishable under Section 62, Section 65 or Section 68 of the Excise Act, a sum of money by way of composition for such offence, and on the payment of such sum of money, no further proceedings shall be taken against him.

The cancellation or suspension of licence/permit or pass under Section 36(a), (b) and (c) of the Excise Act may also be forgone or revoked by and at the sole discretion of the authority having power to cancel or suspend it on payment of such penalty as such authority may fix may order release of confiscated goods on receiving payment of the value thereof.

**10.8** Confiscated liquors and hemp shall be disposed of in the following manner:-

- (1) All liquor of illicit origin and illicit liquor not contained in sealed bottles and hemp drugs, declared unfit, for human consumption by the Chemical Examiner shall be destroyed under orders of the Collector in the presence of the Excise and Taxation Officer.
- (2) Liquor lawfully manufactured and contained in sealed bottles shall be sold by auction or made over to the local licensed vendors under the orders of the Collector. In the case of country liquor or the sale price shall not be less than the issue price of distillery and other liquors shall also not be disposed of for price less than that charged by the wholesale vendors. Similarly the price charged for Bhang shall also not be less than the wholesale price fixed for the area.
- (3) In case the Collector is unable to dispose of the bottled liquor or hemp drug declared fit for consumption he may if the value of such material does not exceed ₹10 order its destruction and in other cases, he may send a report to the Commissioner for orders as to its disposal.

**10.9** For the purpose of ready reference copies of some of the judicial decisions relating to the Excise Act and the Rules framed thereunder have been incorporated as Appendix 'A' to this manual.

**10.10** The State Government may by notification either wholly or partially and subject to such conditions as it may think fit to prescribe exemption on any intoxicant from all or any of the provisions of this Act :-

| Purpose   | Act/Rules                                 |
|---|---|
| <b>The Punjab Excise Act (1 of 1914)</b>  |   |
| (i) No compensation or refund claimable for Cancellation Suspension of a licence. | Section 40 of Excise Act, 1914 (1 of 19). |
| (ii) Compensation in case of withdrawal of licences.                              | Section 41(2) of Excise Act (1 of 19).    |
| (iii) Refund of fee deposit . . . . .   | Section 41(3) of Excise Act (1 of 19).    |
| (iv) No claim in consequence of refusal to renewal licence.                       | Section 43 of Excise Act (1 of 19).       |
| (v) Refunds of licence fee on surrendering a licence.                             | Section 44 of Excise Act (1 of 19).       |

<sup>3</sup> Section 80 of the Punjab Excise Act, 1914.

**Himachal Pradesh Excise Fiscal Order 1965**

- (i) Certain intoxicants are exempted under the Himachal Excise Act.

Orders No. 8 to 13 of Himachal Pradesh Excise Fiscal Orders, 1965.

**Punjab Liquor Import, Export, Transport and possession order 1932**

- (i) Rectified spirit imported in bond without payment of duty.
- (ii) Country spirit, Indian made Foreign spirit and rectified spirit exported / transported in bond without payment of duty.

Exception under Rule 11 of Punjab Liquor, Import, Export, Transport, and possession order 1932.

Exception under Rule 12(1) & 12(b) of Punjab Liquor, Import, Export, Transport and Possession order, 1932.

**Punjab Brewery Rules, 1932**

- (i) When duty demanded is objected by the licence Refund of difference to be paid.
- (ii) Claim for refund/remission etc. of duty, due to accident or fire or other unavoidable cause.

Rule 10.35 of Punjab Brewery Rules, 1932.

Rules 10.36(1) to (8) of Punjab Brewery Rules, 1932.

## CHAPTER- XI

### <sup>1</sup>DISTILLERY

**11.1 Definition-** Distillery means a unit or premises where under a licence issued under the Rules, power, potable or industrial alcoholic spirits are manufactured by means of vaporizing and recondensing a liquid. It also include redistillation.

**11.2 <sup>2</sup>Licensing of distillery-** Any person desiring to obtain a licence for a distillery under Section 21 of the Punjab Excise Act (1 of 1914), may apply to the Collector. Every application for a licence for a distillery shall be in writing in form D-1 and shall be accompanied by:-

- (i) A correct plan of the premises which the applicant proposes to use for the purposes of his business under his licence and of the building existing or to be erected thereon, for said purpose;
- (ii) a list and plans of all warehouses, store-rooms and other places thereto, or to be used in connection therewith, and
- (iii) a certificate from the Civil Surgeon that there is no objection on sanitary grounds to the construction of distilling premises, or to the distillation of spirit on the site and in the building shown in the accompanying plans.

The Financial Commissioner has full powers to grant or refuse applications for licences, with reference to the requirements of the State.

**11.3 No <sup>3</sup>licence shall be granted unless and until the applicant therefore has-**

- (i) deposited a security in cash or in National Savings Certificates for the fulfillment of all the conditions of his licence a sum, to be fixed by Financial Commissioner, which shall not be less than ₹20,000/- or more than ₹50,000/- in amount: and
- (ii) satisfied the Collector that the proposed building, plants, and apparatus to be used in connection with the business of distillation, storage and issue of spirit are built in accordance with the prescribed regulations and that due precaution has been taken against fire, but in respect of the present buildings, plant and apparatus of existing distilleries, which do not conform with the provisions of these rules, the Financial Commissioner may in writing, grant exemption from the operation of any of these rules/provisions.

**11.4 <sup>4</sup>The licence shall be in form D-2 and is not transferable except with the sanction of the Financial Commissioner.**

**11.5 <sup>5</sup>Security-** The licensee shall execute a bond in form D-3 pledging the premises, Stock of spirit, Stills, all apparatus and utensils employed in the manufacture and storage of spirit for the due discharge of all payments which may become due to Government. With the sanction of the Financial Commissioner, the licensee may in lieu of executing such a bond deposit Government promissory notes or in National Savings Certificates of such value as the Financial Commissioner may direct. A deposit made under this rule shall be separate and distinct from the security deposit required by Rule 4.

**11.6 Period of licences<sup>6</sup>-** Licences are granted without limit of the period for which they are in force, but can be cancelled for breach of the terms, or can be determined by Financial Commissioner after Six month notice.

- (a) If the licensee ceases to work in the distillery without giving notice as required in his licence, or if he ceases to work in the distillery within the period of such notice, the Collector may take possession of the distillery and its plant and work by himself or by

---

<sup>1</sup> Section 20 & 21 of the Excise Act 1914 and Rule 2(f) of the Indian Power Alcohol Rules, 1950.

<sup>2</sup> Rule 2 of the Punjab Distillery Rules, 1932.

<sup>3</sup> Rule 4 *ibid*.

<sup>4</sup> Rule 5 of the Punjab Distillery Rules, 1932.

<sup>5</sup> Rule 6 of the Punjab Distillery Rules, 1932.

<sup>6</sup> Rules 7 to 11 of the Rules *ibid*.

the agency of any person authorised by him in that behalf for a period equivalent to the period of notice or the unexpired period of notice, as the case may be.

(b) In the case mentioned in the foregoing rule the licensee shall be entitled to receive from Government such reasonable rent for the use of the building and plant as shall be determined by the Financial Commissioner.

(c) If a licence be revoked, cancelled or determined, the licensee shall dispose, under the conditions of his licence of his stock of spirit, apparatus, storage vessels and other distilling plant in such manner as the Financial Commissioner may direct.

(d) The licensee may not hypothecate the whole or any part of licensed premises without the previous written sanction of the Financial Commissioner.

**11.7 Inspection<sup>7</sup>**- (i) The licensee shall at any time permit the Financial Commissioner, Collector or any Officer authorised by the Financial Commissioner or Collector in that behalf, to inspect and examine his licensed distillery, the premises and warehouses connected therewith and the spirit made and stored therein and shall render to the officer concerned all proper assistance in making such inspection and examination.

(ii) The licensee shall agree to the posting of a Government excise establishment to his distillery for the purpose of ensuring the due observance of these rules and for watch and ward.

(iii) The licensee shall promote within his distillery enclosure an office for the Inspector as well as quarters for the Inspector and the peons who will be required to remain within the distillery enclosure on night duty.

(iv) The licensee shall, if required make into the Government treasury such payment as may be demanded on account of the salaries of the Government, excise establishment posted to the distillery but he shall not make any direct payment to any member of such establishment.

(v) The licensee shall, when required permit samples of the material used or spirit prepared in the distillery to be taken for the analysis under the orders of the Collector or Financial Commissioner.

(vi) The licensee shall afford all reasonable assistance to the Inspector in carrying out his duties.

**11.8 Procedure regarding the receipt of raw materials and the issue of finished products<sup>8</sup>**- The licensee shall, if there is demand upon his distillery for such a quantity, produced during each calendar year at least 90 percent of the outturn of plain and spiced country spirit which his stills are capable of producing according to the estimate of their charge capacity entered in his licence. The calculation of the outturn shall be based on the assumption that 100 litres of wash whether of gur, molasses or mahua, will yield 12 proof litres of spirit, that each continuous still will work on an average 12 hours a day and that each pot still will be charged with wash one and half times a day, and that all stills will work for an average of five days a week throughout the year.

**11.9** Subject to the provisions of the preceding para, the licensee shall maintain a stock of plain and spiced country spirit in bottled form, so that such stock shall at the beginning of each month after allowing or compliance with all the orders in hand at the time, be equal to one half of the average issues during that month in the three preceding years. If on account of an emergent and unexpected demand during the last days of the preceding month, the stock on the first day of any month is below the quantity required by this rule, the licensee shall in the beginning of the month, make it good with the least possible delay. In case of serious or continued failure to comply with this condition, the licensee may be required to pay a penalty

---

<sup>7</sup> Rule 12 *ibid*.

<sup>8</sup> Rules 35 of the Punjab Distillery Rules, 1932

determined by the Financial Commissioner and persistent failure to comply with this condition will entail the cancellation of the licensee's licence.

**11.10** The licensee<sup>9</sup> shall have always in stock gur, molasses, or mahua store to be provided by him and approved by the Financial Commissioner, a quantity of gur, molasses, or mahua sufficient for the preparation of wash for the full working of all his stills, calculated upon the data set forth in rule 35 (vide para 12.8) for 10 full working days in the month from October to March inclusive, and for 7½ full working days in the months of April to September. The stock shall be calculated on the basis that it requires 1.12<sup>10</sup> quintals of gur, or 1.49 quintals of molasses or mahua to prepare 454.6 litre of wash provided that if the licensee maintains a stock of country spirit over and above the quantity required by rule 36 above, then the stock of gur, molasses or mahua may be correspondingly reduced. In making this calculation, 0.373 quintals of gur, molasses or mahua shall be considered equivalent to 22.730, 150.911 and 13.638 proof litres of country spirit respectively. The licensee shall on the 1<sup>st</sup> and 15<sup>th</sup> day of each month, report to the Inspector the quantity then in stock and shall then permit the Inspector to verify the quantity if he desires to do so.

**11.11** the licensee shall always have in stock a sufficient quantity of empty bottles of such descriptions and capacity, which he is permitted to bottle under these rules, so that after complying with all orders in hand, the stock of empty bottles shall be equal to the amount of bottles issued, during the corresponding month of the last year. the licensee shall on the 1<sup>st</sup> and 15<sup>th</sup> day of each month, report to the inspector the quantity of empty bottles in gross numbers, in stock, and shall permit the Inspector to verify the said quantity if he desires to do.

**11.12 Products manufactured-** The following products are generally manufactured in the distillery<sup>11</sup> whose definition is also given against each:-

- (a) **“spirit”** means both finished and unfinished spirit.
- (b) **“Rectified Spirit”** means spirit of a strength of 43 degrees or more over proof.
- (c) **“Spent less”** means the residues left after the wash has been exhausted of spirit.
- (d) **“Spiced spirit”** means spirit redistilled after the addition of flavours and spice to plain spirit.
- (e) **“Special spiced spirit”** means spiced spirit approved by the Financial Commissioner for issue as special spiced spirit. It includes matured spirit more than two years old.
- (f) **“Malt Whisky”** means whisky manufactured from malt only.
- (g) **“Matured Whisky”** means whisky matured in wood for a period of not less than two years.

**11.13 Accounts<sup>12</sup> and Registers-** The licensee shall keep up the registers which are by these rules prescribed for maintenance by the licensee, and shall submit them for inspection when, required.

**11.14** The licensee is entitled to inspect those registers maintained by the inspector which relate to the operation of distillation and issue and to stock-taking and notice should be given to him of any correction made in them.

**11.15 (i)** If a licensee has a laboratory<sup>13</sup> attached to his distillery and requires spirit for use in the laboratory, he shall be entitled to remove to the laboratory from the distillery duty-free from either the safes of the stills the spirit receivers, the spirit stores or from the maturing warehouse, finished spirit, and unfinished spirit to the extent of 13,500 litres per month

<sup>9</sup> Rule 37 of the Punjab Distillery Rules, 1932.

<sup>10</sup> Substituted vide Punjab Distillery (Third amendment) Rules 1962, published with Excise and Taxation commissioner's Notification No. GSR-303-PA-1/14/Scand 59/Amd(3)/62 dt.24-12-62.

<sup>11</sup> Rule 37-A inserted vide Financial Commissioner Notification No.3035-Ex, dated 26.06.1935.

<sup>12</sup> Rules 38 to 41 of the Punjab Distillery Rules, 1932.

<sup>13</sup> Rule 40 vide Financial Commissioner notification No.4492 Ex dated 23<sup>rd</sup> November 1938 and No.1579 dated 28<sup>th</sup> March, 1939.

provided that not more than two bottles each of the capacity of 757 millilitres shall be so removed at any time and the spirit so removed shall not be used in the distillery laboratory otherwise than for experimental work connected with the distillery operations only. The licensee shall keep a regular account of the disposal of each duty-free spirit in a register in form D-25. This register will be subjected to examination by Excise Officers. All spirit which becomes waste in the laboratory and does not by the addition of any chemicals or otherwise become deleterious, shall be returned to the distillery for redistillation.

(ii) An application for every quantity of spirit required to be removed from the distillery under this rule must be made in writing to the Distillery Inspector, who shall record thereon the quantity and strength of the spirit taken and make a note of the same in his diary and other relevant distillery registers.

(iii) If spirit removed under the concession is used otherwise than as permitted by sub-para (I) of para 11.14, the concession may be withdrawn.

**11.16** The licensee shall<sup>14</sup> also be entitled to remove once a year duty-free Indian made foreign liquor and country spirit not exceeding 4,500 litres or with the permission previously obtained of the Financial Commissioner in specified quantities in excess of 4,500 litres from the distillery for laboratory examination in a foreign country; provided that he shall keep a regular account of the disposal of such duty-free spirit, which will be subject to examination by excise officers. He shall also produce within six months the custom receipt in respect of the duty paid on such consignment on its entry into a foreign country. In default, the licensee shall be required to make good the duty which otherwise would have been levied on the quantity of liquor, when it left the distillery. The licensee, shall, if required to do so, produce a certificate showing that the liquor in question was duly examined.

**11.17** The licensee, within one week of their being made, but not later, may call in question, by an objection in writing presented to the inspector registers which are open to his inspection any dispute regarding such entries which cannot be settled by discussion between the inspector and the licensee, shall be referred to the Collector. If no objection is raised the entries shall be presumed to be correct.

**11.18** Wastage allowance<sup>15</sup> and losses.- If it is found that the wastage in any distillery is excessive, the Financial Commissioner may prescribe a scale of wastage and the licensee shall pay duty as on issue, in respect of all losses attributed to wastage, in excess of the scale fixed.

**11.19** (1) <sup>16</sup>The following scales for spirit are prescribed for Kasauli Distillery Solan Brewery in Himachal Pradesh.

Wastage allowance in case of -

| <b>Spirit Store Room</b> | <b>Bottling Operations</b> | <b>Bottled Spirit Room</b> |
|--------------------------|----------------------------|----------------------------|
| 2 percent                | 1.5 percent                | 1 percent                  |

(2) For the purpose of this rule, wastage shall be calculated for each month for each kind of spirit shall separately but the charge on account of still head duty for each kind of spirit shall be made at the end of the financial year. The distillery bottling section shall be allowed to set off the results of the month/months in which the wastage of spirit was less than the prescribed scale against those of the month/months in which the wastage exceeds this scale.

(3) Duty shall be charged at the still head duty rate applicable to a particular kind of spirit.

**11.20 Audit Checks-** In audit it should be seen that-

<sup>14</sup> Rule 40-A vide Financial Commissioner Notification No.2661-Ex dated 27<sup>th</sup> June, 1938 and No.3827 dated 27<sup>th</sup> September, 1938 as subsequently amended.

<sup>15</sup> Rule 101 of Punjab Distillery Rules, 1932 vide Notification No.1-17/64-E & T dated 20.09.1965.

<sup>16</sup> Rule 101-A of Punjab Distillery Rules, 1932 vide Notification No.1-17/64-E & T dated 20.09.1965.



- (i) a licence for the Distillery was granted after depositing the security as may be fixed by the competent authority.
- (ii) it may also be seen that a bond is duly executed in Form D-3 pledging the premises, stock stills, all apparatus and utensils employed in the manufacture and storage of spirit for the due discharge of all payments which may become due to Government.
- (iii) it may be ensured that the production during each Calendar Year is according to prescribed percentage of out-turn of plain and spiced country liquor which the stills are capable of producing as entered in the license.
- (iv) that the quantity of gur, molasses and mahua is sufficient for the preparation of wash for the full working of all the stills.
- (v) if the laboratory is attached to the distillery, it may be seen that quantity of spirit for use in the laboratory from the distillery, duty-free from either the safes of the stills, the spirit receivers, the spirit store or from the maturing warehouse finished or unfinished spirit to the extent prescribed under the rules.
- (vi) that duty-free Indian made liquor and country spirit in excess of quantity permissible is not removed from the distillery for laboratory examination in a foreign country.
- (vii) that wastages and losses in the distillery are not in excess of prescribed limits as under Rules 101 & 102.
- (viii) deficiency allowable during the period of storage in the warehouse is calculated according to the prescribed scale in terms of clause (16) of Rule 90.

## CHAPTER XII BREWERY

### Definition

**12.1 Brewery<sup>1</sup>** means a building where beer is manufactured, and includes every place therein where beer is stored or where it is issued further. The term “Beer” means any liquor prepared from malt or grain, with or without the addition of sugar and hops and includes ale, porter and stout.

**12.2 Licensing of Brewery<sup>2</sup>**- Licence means a licence granted for a brewery under section 21 of the Punjab Excise Act, 1914.

The application for obtaining a licence for a brewery accompanied by a full description clearly specifying the applicant's premises, utensils and plants in which the purpose of and distinguishing marks on each room, place and vessel shall be submitted to the Collector who will submit the same with his report to the Financial Commissioner.

**12.3** The Financial Commissioner has full power to grant or refuse applications for licence with reference to the requirements of the State. No licence shall be granted unless and until the applicant therefor has-

- (a) deposited a security in cash or in National Savings Certificates for the fulfillment of all the conditions of his licence a sum to be fixed by the Financial Commissioner which shall not be less than ₹ 20,000 or more than ₹ 50,000 in amount, and
- (b) satisfied the Collector that the proposed building, plant and apparatus to be used in connection with the business of brewing.

Storage and Issue- Beer are built in accordance with the prescribed regulations and that due precaution has been taken against fire.

**12.4 (1)** The licensee shall execute a bond<sup>3</sup> in form B-3, pledging the premises, stock of beer, all apparatus and utensils, employed in the manufacture and storage of beer for the due discharge of all payments which may become due to Government. The licensee may however, in lieu of executing such bond execute a bond in form B-16 and deposit promissory notes or National Savings Certificate of such value as the Financial Commissioner may direct to furnish a guarantee by the State Bank of India in form B-17 to the satisfaction of the Financial Commissioner. A deposit made under this rule, shall be separate and distinct from the security deposit required by the preceding rule.

(2) The licences<sup>4</sup> shall be in Form B-1 and it is not transferable except with the sanction of the Financial Commissioner. A licence once granted<sup>5</sup> under these rules will be valid for a period of one year from the date of issue unless until it is cancelled, determined or surrendered.

(3) Licences can be cancelled by the Financial Commissioner for breach of the terms thereof, or can be determined by him after one year's notice.

(4) The licensee<sup>6</sup> may not hypothecate the whole or any part of the licensed premises without the previous written sanction of the Financial Commissioner.

(5) The licensee<sup>7</sup> shall maintain a list of all entries referred to in para 12.2 above and he shall not make any addition, either to buildings or to plant without the previous consent in writing of the Financial Commissioner.

(6) The licensee<sup>8</sup> shall at any time permit the Collector, the inspector or any officer authorized to inspect breweries to inspect and examine his licensed brewery, the premises,

---

<sup>1</sup> Rule 2 of the Punjab Brewery Rules, 1956.

<sup>2</sup> Rules 3 to 5 of the Rules *ibid*.

<sup>3</sup> Rule 6 *ibid*.

<sup>4</sup> Rule 7 *Ibid*.

<sup>5</sup> Rule 8 of *Ibid*.

<sup>6</sup> Rule 10 of the Punjab Brewery Rules, 1956.

<sup>7</sup> Rule 11.

warehouses, and utensils connected therewith, any room, place or utensil and the beer made and stored therein, and shall render to the Collector or to the officers aforesaid, all proper assistance in making such inspection and examination.

(7) The licensee<sup>9</sup> shall agree to the posting of an excise establishment to his brewery. He will also provide within the brewery enclosure an office for the inspector, as well as quarters to be approved by the Financial Commissioner.

(8) The licensee shall if required by the Financial Commissioner, provide residential quarters for the excise establishment posted to the brewery.

(9) The licensee<sup>10</sup> shall, when required permit without payment samples of the material issued, of worts in any stage of fermentation or beer prepared in the brewery to be taken for analysis by the Collector or the Inspector or by an officer authorised by the Financial Commissioner or Collector take samples and entry thereof made in general register in Form B-12 maintained by the inspector.

(10) The licensee shall (must) provide and maintain sufficient and just scales and weights<sup>11</sup> and other necessary and reasonable appliances to enable the inspector and other officers to take account of or check by weight, gauge, or measure all materials and liquids produced in brewing and provide sufficient lights, ladders and other conveniences to enable the Excise Staff to perform their duties. The weights and scales appliances, etc. mentioned herein, shall be provided on the requisition of the inspector subject to an appeal to the Collector whose decision will be final.

(11) The inspector will be provided by the Financial Commissioner with proper gauging rods and a standard<sup>12</sup> saccharometer and the thermometer entries whereof shall be made in register B-12. If the licensee questions their correctness or the results obtained by the officer, he must make a written protest to the inspector for onward transmission to the Collector, who, after due enquiry will report the matter to the Financial Commissioner.

(12) The licensee must cause to be legibly painted with oil color keep so painted, on some conspicuous part of every mashtun, underback, copper, heating tank, cooler, fermenting vessel, and settling back intended to be used by him in his business, and on the outside the door of every room and place wherein any part of his business is to be carried on, the name of the vessel, room or place according to the purpose for which it is intended. Where more than one vessel, rooms, or places used for the same purpose, all such vessels, rooms, or places must be marked by progressive numbers.

(13) All mushtuns, underbacks, coolers, fermenting vessels and settling backs shall be so placed and fixed as to admit, of the contents being accurately ascertained by gauge or measure and shall not be altered in shape, position, or capacity without two day's notice in writing to the inspector.

(14) No vessel which has been altered in shape, position or capacity shall again be taken into use unless it has been regauged by the inspector and new tables constructed by him if necessary.

(15) All mashtuns and fermenting vessels shall be gauged jointly by the inspector and the licensee and tables prepared by the inspector in form B-4 showing the total capacity of each vessel, in bulk litres or in the case of mashtuns in imperial bushels and the capacity of each 2.54 millimetres in depth. The tables prepared under the preceding para shall, before being taken into use, be certified by the licensee or his accredited agent as correct. The

---

<sup>8</sup> Rule 12.

<sup>9</sup> Rules 13.

<sup>10</sup> Rule 16.

<sup>11</sup> Rule 19.

<sup>12</sup> Rule 21.

Collector shall also certify to the correctness of the tables and as opportunity affords check the data on which they are founded.

**12.5** Procedure<sup>13</sup> regarding the receipt of raw materials, and the issue of finished products.

The licensee shall keep a book in form B-5 and shall observe the following rules in relation to it and to the entries to be made therein:-

- (i) He shall keep a book in some part of his licensed premises ready at all times, for the inspection of the inspector and other officers, and shall permit any excise officer who is authorised to inspect the brewery, at any time, to inspect the same and make extracts there from.
- (ii) He shall enter separately in the book the quantity of malt, corn, sugar, hops, hop substitutes which he intends to use in his next brewing, and also the day and hour when such next brewing is intended to take place.
- (iii) He shall make such entry so far as respects the day and hour of brewing twenty-four hours at least before he shall begin to mash any malt or corn or dissolve any sugar and so far as respects the quantity of malt, corn, sugar, hops, and hop substitutes, two hours at least before the hour entered for brewing.
- (iv) He shall, two hours at least before the hour entered for brewing enter the time when all the worts will be drawn off the grains in the mushtuns.
- (v) He shall within one hour of the worts being collected in the fermenting vessels, or if the worts be not collected before six in the forenoon of the following day, enter the dip and gravity of worts produced from each brewing, and also the description and number of the vessels into which the worts have been conveyed. He shall at the time of making any entry insert the date when the entry is made.
- (vi) He shall not cancel, obliterate or alter any entry in the book, or make therein any entry which is untrue in any particular, should it be necessary to correct any entry in such a manner as to leave it distinctly visible and the amended entry shall be inserted above it. Every correction shall be initialled by the person making it at that time.

He shall, if so desired by the Financial Commissioner, send notice in writing to the Inspector, of his intention to brew forty eight hours before such brewing is to take place.

**12.6** <sup>14</sup>The licensee shall keep the total produce of one brewing separate from the produce of any other brewing for period of twenty four hours, unless an account of the first mentioned produce, shall have been sooner taken by the Inspector.

**12.7** <sup>15</sup>The licensee shall not mix the produce of one brewing with that of another except in his stores vats or casks, unless, he shall have given previous notice, in writing to the inspector and he shall specify the quantity and gravity of the worts when mixed.

**12.8** All grains in a mashtun must be kept untouched for one hour after the time entered in the book, as the time for the worts to be drawn off, unless the inspector has attended and taken account of such grains.

**12.9** <sup>16</sup>All worts shall be removed successfully, and in the customary order of brewing to the underback coppers, coolers, and fermenting vessels, and shall not be removed from the last named vessels until an account has been taken by the inspector or until expiration of twenty four hours from the time at which the worts are collected in these vessels. When worts shall have commenced running into a fermenting vessel, the whole of the produce of the brewing shall be collected within eighteen hours.

---

<sup>13</sup>Rule 29 of the Punjab Brewery Rules, 1956.

<sup>14</sup> Rule 30.

<sup>15</sup> Rule 31.

<sup>16</sup> Rule 33.

**12.10<sup>17</sup> Products manufactured, accounts, records and wastage allowances-**

(a) The duty on beer, at the prescribed rate shall be charged on the total quantity brewed as entered in the brewing book by the licensee or as ascertained by the inspector and entered in his Survey Book in form B-6.

**Whichever is higher, less an allowance of 10 per cent for wastage**

The duty on beer shall become due immediately the account of brewing has been taken by the inspector. An account of duty to be realized on collection of daily brews shall be maintained by the inspector in register in form B-15-A.

(b) The Financial Commissioner, may, however, cause the charge to be made up at the close of each quarter in respect of all the brewings within the quarter, and may, if the licensee execute a bond in form B-16 for its payment, defer the payment to a date not later than the fifteenth day of the month, succeeding the quarter in respect of which the duty was charged. The inspector shall at the end of each quarter prepare Beer –Duty-Voucher in form B-7 and shall cause a notice in form B-8 to be served upon the licensee for the payment of the amount.

(c) At the end of each quarters, the inspector shall prepare an abstract of brewing operations in form B-11 and a statement showing the quantity of beer issued to troops in Punjab and other States in form B-14 during the quarter. The abstract and the statement shall be submitted to the collector concerned who after check will forward them to the Financial Commissioner.

(d) The inspector shall also maintain a register in form B-15 showing issue of beer made to other States.

**12.11<sup>18</sup> Objection as to correctness of duty demanded-** If the licensee objects to the amount of the duty demanded from him, he may move the collector to revise the charge. But no revision will be undertaken unless and until all sums demanded under the preceding Para, have been paid. In the event of the original charge being found incorrect, any excess levied from the original charge being found incorrect will be refunded to him and if the amount claimed from him is found to be less than that actually due, he will be called upon to pay the difference at once into Government Treasury.

**12.12** (i) When beer upon which duty has been charged or paid, is destroyed, while on the entered premises<sup>19</sup> of the licensee, by accident or fire, or other unavoidable cause or when such beer, whether it has left the entered premises of the licensee or not becomes unfit for consumption, the Financial Commissioner, may on receipt of a formal claim from the licensee, through the Collector order a remission or refund or duty.

(ii) If the beer has been returned, the fact must be reported to the Excise staff as soon as the invoice has been received and the consignment checked on receipt and a claim prepared and attested by the Excise Inspector at once.

(iii) If the beer has been destroyed by accident or fire or other unavoidable cause or has been spoiled, while on the entered premises, as soon as the fact comes to the notice of the brewer, he must report it and if the Excise Staff is satisfied a claim will be prepared and attested by the Excise Inspector at once. But no refund will be given if there is reason to believe that the beer has been spoiled more than six months before it was brought to notice.

(iv) The claim must contain-

(a) a declaration that the beer which is the subject of the claim was brewed by the licensee.

(b) a statement of the circumstances to which the claim is due,

---

<sup>17</sup> Rule 35

<sup>18</sup> Rule 36.

<sup>19</sup> Rule 37.

(c) a statement of the date or dates on which the beer was brewed, and the quantity and original gravity of each lot of beer referred to in the claim,

(d) a statement when beer is found unfit for human consumption is the subject of claim that it is proposed to dispose of the beer either (i) by destroying or (ii) by distilling or (iii) converting it into vinegar.

(e) when required to do so, the licensee must give satisfactory proofs of any fact mentioned in the claim.

**12.13** <sup>20</sup>any remission or refund that is granted shall be at the rate at which the beer which is the subject claim was charged. The necessary calculations shall be as follows:

(a) When the beer that is the subject of the claim has not left the entered premises of the licensee, a deduction of two percent shall be made from the actual quantity in litres of such beer. The amount to be remitted or refunded shall be calculated on the remainder.

(b) When the beer is the subject of the claim that has left the entered premises of the licensee, there shall be made from the actual quantity in litres of such beer a deduction equivalent to such amount of added water as the report of the Chief Chemist, Central Revenue Control Laboratory, New Delhi, may show to be in beer. From the remaining quantity a further deduction of ten percent shall be made. On the final balance, so obtained, the amount to be remitted or refunded shall be calculated.

Refunds, of duty on quantities of 455 litres of beer or less, will not be granted.

(c) When the Financial Commissioner's orders to that effect have been received, the Collector shall make the remission or refund either (when the claim is in respect of destroyed beer) at once, as soon as the Excise and Taxation Officer furnishes a certificate in form B-9 or in form B-10 than the beer has, with the previous sanction of the Collector, been either (i) destroyed in his presence and that of the inspector or other officer deputed by the Collector, or (ii) distilled, or (iii) turned into vinegar.

**12.14** Licensees shall be bound by all additional rules for the control of breweries which may hereafter be prescribed under the existing law, or under any law which may hereafter be enacted and by special orders issued by the Financial Commissioner with regard to individual breweries and shall cause all persons employed by them in their breweries to obey all such rules.

**12.15** <sup>21</sup>The licensee to work a brewery, shall carry with it the right to bottle on the premises of the brewery, the beer made therein. Beer shall be bottled of any colour or description having capacity of 650 mls and 325 mls, with necks suitable for sealing with crown corks.

Provided that the use of bottles of the existing capacity of 21 to 27 ounces may continue subject to the condition that their equivalent capacity in metric units is indicated on the labels affixed to them.

**12.16 Audit Checks-** In audit, it will be seen that-

(i) the licence for the Brewery was granted after depositing the requisite security in cash or by way of National Savings Certificates;

(ii) the licensee has executed the bond in form B-3 pledging the premises, stock of beer, all apparatus, and utensils employed in the manufacture and storage of beer for the due discharge of all payments which may become due to Government;

(iii) compliance of rules framed under the Punjab Brewery Rules, 1956 for the maintenance of relevant records and periodical returns by the licensee and the Inspectorate staff is being made properly, especially with reference to Para 12.5 to 12.9 of this manual;

---

<sup>20</sup> Sub-claims (6) & (7) of Rule 37.

<sup>21</sup> Rules 39 to 40 the Rules *ibid*.

- (iv) the wastages and losses, etc. in the brewery and not in excess of the prescribed and admissible limits as laid down in the rules;
- (v) the refund, rebate or concession allowed by the department are in consonance with the procedures explained in Para 12.10 to 12.13 of this Manual. The Rules in the subject and actually admissible within prescribed limits and scales.

## CHAPTER XIII

### EXCISE DUTY ON MEDICINAL & TOILET PREPARATION

**13.1** Objection of the Act<sup>1</sup>-The Medicinal and Toilet Preparations (Excise Duties) Act, 1955 provides for the levy and collection of duties of excise on medicinal & toilet preparations containing alcohol, narcotic drug or narcotic. The scope of the Act with regard to “medicinal preparation” extends to and includes all drugs which are a remedy or prescription prepared for internal and external use of human beings or animals and all substance intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals. The term "toilet preparation" use in the toilet of the human body or in perfuming apparel of any description or any substance intended to cleanse, improve or alter the complexion, skin, hair or teeth, and include deodorant and perfumes.

**13.2. Levy, refund and exemption from duty-** The Act<sup>2</sup> provides for the levy of excise duties at the rates specified in Appendix B to this Manual, on all goods are manufactured in bond, in the State in which such goods are released from a bonded warehouse for home consumption, whether such state is the state of manufacture or not. In cases where dutiable goods are not manufactured in bond the duty is leviable in the State in which such goods are manufactured.

**13.3. Recovery of sums due to Government<sup>3</sup>-** In respect of duty of excise & any other sums of any kind payable to the collecting Government under any of the provisions of the Act or the Rules made thereunder, the excise officer so empowered to levy such duty or required the payment of such sums may deduct the amount so payable from any money owing to the person from whom such sums may be recoverable or due, which may be in his hand or under his disposal or control or may, recover the amount by attachment or sale of dutiable goods belonging to such person. In case the amount payable is not so recovered, he may prepare a certificate specifying the amount due and send it to the Collector of the district for recovering the Govt. duties as an arrear of land revenue.

Every person<sup>4</sup> who manufactures any dutiable goods, or who stores such goods in a warehouse, shall pay the duty or duties leviable on such goods under the Act, at such time and place and to such person as may be designated in the Rules whether the payment of such duty or duties is secured by bond or otherwise.

**13.4 Exemptions from duty in general or special cases<sup>5</sup>-** The Central Government may by notification in the official gazette, exempt subject to such conditions as may be specified, any dutiable goods from the whole or any part of the duty leviable on such goods if in the opinion of the Union Govt. it is necessary to grant such exemption in the interest of trade or in the public interest.

**13.5 Exemption from duty on medicinal preparations for Govt. and Charitable Institutions<sup>6</sup>-** No duty shall be collected on medicinal preparations containing alcohol manufactured in India and supplied direct from bonded factories or warehouses to the following institutions:-

- (i) hospitals and dispensaries working under the supervision of or subsidised by the Central or State Governments;

---

<sup>1</sup> Section 1 & 2 of the Medicinal & Toilet Preparations (Excise Duties) Act, 1955.

<sup>2</sup> Section 3 & 5 of the Act and chapter III of the Rules viz the Medicinal & Toilet Preparation (Excise Duties) Rules, 1956.

<sup>3</sup>Section 5 of the Act *ibid*.

<sup>4</sup>Rule 6 of the Medicinal & Toilet Preparations (Excise Duties) Rules, 1956.

<sup>5</sup>Rule 8 of the Rules *ibid*.

<sup>6</sup> Rule 7 of the Medicinal & Toilet Preparation (Excise Duties) Rules, 1956.



- (ii) Charitable hospitals and dispensaries under the administrative control and management of local bodies;
- (iii) Medicinal Store Depot of the Central or any State Government; and
- (iv) every other institution certified by the Principal Medical Officer of the district in which such institutions is situated, supplying medicines free to the poor.

**13.6 Refunds allowable within six months<sup>7</sup>**- No duties or charges which have been paid or have been adjusted in an account current maintained with the Excise Commissioner under Rule 9 of the Medicinal & Toilet Preparations (Excise Duties) Rules, 1956 and of which re-payment wholly or in part is claimed in consequence of the same having been paid through inadvertence, error or misconstruction, shall be refunded unless a written claim is lodged with the proper officer within six months from the date of such payment or adjustment, as the case may be.

**13.7** In the case of refund of licence fee, following provisions of the rules apply:-

- (a) if the licence applied for is refused, the licence fee paid, if any, with the application shall be refunded.
- (b) if the applicant surrenders his licence at any time either before the commencement of the licence or during the currency of the licence, he shall forfeit any claim for refund of such licence fee in full or in proportion to the period not availed of.

**13.8 Licence<sup>8</sup>**- The Central Government may by notification, provide that from such date as may be specified, no person shall engage in the production or manufacture of any dutiable goods or of any specified component parts or ingredients of such goods or of specified containers of such goods or of labels of such containers except under the authority and in accordance with the terms and conditions of a licence under the Act. Every licence shall, however, be granted for such area for such period, subject to such restrictions, conditions and in such form and containing such particulars as may be prescribed by the Government. Every person desiring to engage in operations requiring the possession of a licence shall apply in writing on proper form every year for a licence should be duly accompanied with this site and elevation plans of the manufacturing building or a true copy of the partnership deed and a list of Directors and Managers in the cases of firms and companies respectively. If the authority competent to grant a licence is specified after making such enquiries or verifications in the matter as deemed necessary, it shall obtain cash or interest-bearing security of adequate amount from the applicant and grant an appropriate licence on proper form for a period not exceeding one year but in no case shall such period extend beyond 31<sup>st</sup> March next following the date of commencement of the licence.

**13.9 Supply of raw materials<sup>9</sup> and issue of manufactured articles from the manufacturing unit-** Raw material or rectified spirit shall ordinarily be supplied to a manufacturer from a distillery or a spirit warehouse of the State in which the manufacturing unit is situated. The manufacturer may, however, meet his requirement as such from sources situated outside the State. Subject to the satisfaction of the Excise Commissioner, loss of rectified spirit or its wastage in transit for bonafide reasons, not due to negligence or connivance or the part of the manufacturer the duty payable in respect of such loss may be waived off in full or in part according to the merits of the case. Manufacture of medicinal and toilet preparations containing alcohol shall be permitted in bond without payment of duty as well as outside bond. In the former case alcohol on which duty has not been paid shall be used under excise supervision and in the latter case only alcohol on which duty has already been paid shall be used. A bonded manufacturing unit must have adequate arrangement for one

<sup>7</sup> Rule 11 and 88 of the Rules *ibid*.

<sup>8</sup> Section 6 of the Act and Rules 82 to 85, 92, 93 & 96 of Chapter VI of the Medicinal & Toilet preparation (Excise Duties) Rules, 1956.

<sup>9</sup> Rules 18 to 20, 23, 26 to 29, 31, 34 to 40 and 81 of the Medicinal & Toilet Preparation (Excise Duties) Rules, 1956.

plain spirit store or a rectified spirit warehouse and atleast one room each for manufacturing medicinal/toilet preparations in finished form. Rectified spirit required for manufacturing of the aforesaid types shall be obtained through indents in form ID-I from any distillery or spirit warehouse approved by the Excise Commissioner. Issues of the rectified spirit from spirit store to the laboratory of the manufacturing unit shall be accompanied by a requisition of the licence in form R.G.-1. Each preparation of the manufactured dutiable goods shall be registered and shall bear a distinctive serial number of the batch as entered in a register in Form R.G.-3. Every preparation of the manufacturing unit is thereafter, removed to the finished store-room for storing in bulk i.e. in jars, containers or bottles each containing not less than 80 fluid ounces and bearing a label showing the name of the preparation, its batch number, its alcoholic strength and the name of the manufacturer while a proper record is kept of all deficiencies in bulk content of any finished medicinal or toilet preparation in store through Form R.G.-4, a proper allowance is also given under Rule 38 as to the prescribed percentage of wastage in production.

**13.10** Issues of alcoholic preparations shall be made from a bonded manufacturing unit on payment of duty. Similarly when a licensee desires to remove goods on payment of duty, he may do so on applying to the officer-in-charge. The licensee shall present before the officer-in-charge a duty signed application in Form A.R.-2, and the latter shall after checking the entries and realising the duty payable, the required quantities to be removed after issuing a permit. If the licensee is also an account holder as provided for in Rule 9, duty leviable on alcoholic preparations to be issued from a bonded manufacturing unit shall be debited in the account- current before the preparations are removed from the bonded premises. The licensee shall, however, maintain accounts in proper form and registers as prescribed in the list of Forms mentioned for various objects/purposes as per Appendix to the Rules subsidiary to the Act.

**13.11 Categories of Medicinal preparations<sup>10</sup>- Restricted and unrestricted preparations-** A list of medicinal preparations which are considered as capable of being misused as ordinary alcoholic beverages restricted preparations as per detailed list given in the schedule appended to the Medicinal & Toilet Preparations (Excise Duties) Rules, 1956. All other medicinal preparations being manufactured from a date prior to 1<sup>st</sup> April, 1957, shall be considered to be not capable of being misused as ordinary alcohol beverages, hereinafter referred to as unrestricted preparations.

If, however, a preparation falling in the unrestricted category is found to be widely used as ordinary alcoholic beverage, the Central Government may, on the request of a State Government of *suo-moto* refer the matter to the Standing Committee, referred to the Rule 68 and on the advice of the Committee, the Central Govt. shall declare the preparations as a restricted one. Ordinarily the medicinal preparations other than official allopathic preparations, which are manufactured in India for the first time on or after 1<sup>st</sup> April, 1957 shall be presumed to be restricted preparations unless declared to the contrary by the Central Government on the advice of the Standing Committee which is formed to advice the Union Government on all matters connected with the technical aspects of the Act and the Rules framed thereunder.

**13.12 Rates of Duty-** In order to regulate the provisions of the sections 3 to 5 of the Act as also those of various Rules framed namely the Medicinal and Toilet Preparations (Excise Duties) Rules 1956 the Government of India prescribed from time to time certain rates of duties on various types of medicinal and toilet preparations which have been reproduced in Appendix “B” to this Manual.

**13.13 Audit Checks-** (i) It should be seen that levy of excise duty on the medicinal and toilet preparations is in accordance with the existing rates as specified in the Act.

---

<sup>10</sup> Rule 60 and 62 of the Rule ibid.

- (ii) No undue delay has occurred in recovery of Government dues whether in the case of goods manufactured in bond, or release of goods from a bonded warehouse or otherwise.
- (iii) Exemption from duty are in accordance with the general/specific provisions of Government orders on the subject.
- (iv) Cases of rebate/remission of duty are examined in the light of merits/circumstances of each case vis-à-vis provisions of the case-law.
- (v) Refunds are allowed after proper verification as to exactness of the sums so refundable and that to within permissible time.
- (vi) Relevant conditions for the grant of licence under the Act or the rules framed thereunder are satisfied and records for the issue of raw material and the manufactured goods are examined and there is no instance or undue omission, commission or evasion of duty at any stage as provided for in the Act/Rules.

## **CHAPTER XIV**

### **AUDIT PROCEDURES**

#### **Composition of inspection parties and procedures for conducting of local inspection**

The parties assigned to audit the accounts of an Assistant Excise & Taxation Commissioner under the Act, shall consist of two trained Assistant Audit Officers and an Auditor. Necessary supervision by Sr. Audit Officer/ Audit Officer shall be provided where possible. It shall be the duty of the Inspecting Officer to test check the complete accounts of at least one month and in case certain transactions irregularly made, come to his notice, he shall get the accounts of all the months checked. A report to this effect shall be made to the headquarters along with his findings.

**14.2** The party visiting an office in connection with an inspection shall usually send an advance intimation of its taking up the audit by a probable date specifying therein the records etc. to be made available to it. Though it will supplement the intimation already sent by the headquarters, yet in case of any change in the programme due to unavoidable reasons it will serve as a fresh intimation.

**14.3** A party visiting an office, shall in the first instance call for a list of auditable documents from the head of the office and thereafter assign specific checking duties among the Assistant Audit Officers and the Auditor. Cases of importance alongwith the relevant records should be scrutinised by the Assistant Audit Officers. The Auditor attached to the party should be assigned duties of less importance of miscellaneous nature but should include verification of payment made into the Treasury and drawn from it. The list of payments made into the Treasury as supplied by the Treasury Officer should also be thoroughly scrutinised so as to avoid any chance of embezzlement etc.

**14.4** During course of audit if anything important reflecting on the working of the office or affecting the revenues of the Government come to the notice of the party, a memo stating the facts alongwith the records on which such facts are based, should be issued to the Head of the Office requesting him to confirm the facts and explain the position. On receipt of his reply, the case should be perused further and discussed with him if necessary, before incorporating it, in the Audit and Inspection Report. Such memos should form part of the rough sheets and forwarded to headquarters.

**14.5** All important points noticed in audit, should be incorporated in the Audit and Inspection Report. It should be drafted very meticulously in a legible hand in the manner laid in chapter V of the Outside Audit Department Manual and should comprise an introductory para review of outstanding objections from previous reports in brief and schedule of persistent irregularities in Part-I. In Part-II, important irregularities coming to the notice of the party during course of audit which have the potential of being developed into draft paras even at a later stage, should be included in Section I and all other points of lesser importance in Section B. All minor points should be included in Part-III, i.e. Test Audit Note. Minor points of errors in classification, erroneous accountals and improper maintenance of records should as far as possible be settled at the spot after getting the compliance made by the head of the offices.

**14.6** The Audit and Inspection Reports should thereafter be discussed on the last day of the inspection with the Head of Office who should be informed before hand of the same. He should be requested to be present at the Headquarters for discussion at the time of completion of the audit. The Head of the Office inspected should Sign on the Part III of the Audit & Inspection Report, to the effect that the Report has been discussed and the facts mentioned therein have been verified and found correct.

**14.7** After completion of the audit, the inspection report should invariably be submitted by the Inspecting Officer, demi-officially to the Deputy Accountant General (RS) so as to reach headquarters not later than five days after the completion of audit. Any delay in

its receipt at the headquarters should be got condoned under the orders of the Deputy Accountant General (RS).

**14.8** The Inspecting Officer while forwarding the inspection report, should frame tentative draft paras in respect of points included in Section-A of the Current Audit and Inspection Report (Part II) supported with relevant documents, extracts of records etc. on which these paras are based and the facts duly admitted by the Head of the Office. Inclusion of certain paras in Section A on the one hand and not framing tentative draft paras on the other without cogent reasons should be viewed seriously. Clear-cut cases of embezzlement of Government money or misappropriation of revenues or instances of glaring irregularities should however be included in Section A irrespective of the fact whether such cases could or could not be developed into draft paras.

**14.9** The Inspecting Officer shall be responsible for the review of old objections of previous reports. He should investigate the reason for not complying with the observations made in the previous inspection reports. He should, if necessary discuss each case with the Head of Office and stress upon the importance of taking early action for liquidation of such objections. He should, however, drop the objections where compliance has been made and shown to him. In case he is satisfied that the Head of Office has not taken adequate action towards the expeditious settlement of the old objections particularly those of glaring magnitude, the matter should be specifically brought to the notice of the Head of the Department calling upon him the necessity of taking early action at his end.

**14.10** The Inspection Report after its receipt at the headquarters, should be scrutinized by the Section in charge and submitted to the Deputy Accountant General (RS) for his approval and issue to the Department concerned. All cases recommended by the Inspecting Officer and considered fit for further processing as tentative draft paras should be pursued vigorously by a special cell. Other paras will, however, continue to be pursued by the Section concerned through the Inspection Reports.

**14.11** Time schedule for issue of Audit and Inspection notes.

The Audit and Inspection Notes are to be issued within one month from the date of completion of the local audit/inspection.

The period of one month for issue of Inspection Notes / Reports from the date of completion of audit has to be computed as under:-

- (i) 5 working days for the receipt of the draft report from the Audit Party (the draft report is expected to be discussed with the officer in charge before the close of inspection).
- (ii) 5 working days for the Section to submit the Audit and Inspection Note.
- (iii) 4 working days for the Audit Officer and the Group Officer to pass the Audit and Inspection Note.
- (iv) 10 working days for the typing and issue of the Audit and Inspection Note.
- (v) Total 24 working days (say one month)

**14.12** The headquarters office shall maintain a register in proper form to ensure that no delay occurs at any stage and immediate remedial measures are taken to avoid it. Any delay should be brought to the notice of the DAG (RS) for investigation.

**14.13** The records in connection with the Inspection Reports shall be preserved in accordance with the provisions of Appendix II of the outside Audit Department Manual and approval of the Deputy Accountant General (RS) shall be necessary before weeding out of old records is ordered by the Records Branch/Librarian.

**APPENDIX A**  
**(Referred to as Para 9 to Chapter II)**  
**IMPORTANT DECISIONS OF THE HIGH COURT CONCERNING THE EXCISE ACT AND RULES MADE THEREUNDER**

1. There was an interesting law point decided by the Delhi High Court, Himachal Pradesh Bench, Shimla. The petition was filed by M/s. Oberoi Clarkes Hotel, Simla, regarding imposition of a fee of ₹10,000 in addition to the assessed fee on the liquor licences L-3, L-4 and L-5 held by them for the period 1<sup>st</sup> April, 1968 by virtue of and amendment made by the Excise and Taxation Commissioner exercising the powers of the Financial Commissioner under section 9 of the Punjab Excise Act, 1914 (No. 1 of 1914) and in exercise of the powers conferred by section 59(d) of the said Act, the amendment taking retrospective of fee from 1<sup>st</sup> April, 1968.

The short question for consideration in this writ petition was whether the Excise and Taxation Commissioner could impose the said extra levy during the currency of the financial year 1<sup>st</sup> April, 1968 to 31<sup>st</sup> March, 1969 by an amendment dated 30<sup>th</sup> October, 1968 having retrospective effect from 1<sup>st</sup> April, 1968. It was represented by the learned counsel for the respondents that the Excise and Taxation Commissioner exercising the delegated powers of the Financial Commissioner, had no legal authority to make the said amendment to the Rule with retrospective effect.

It was contended by the learned counsel that there was no dispute in this case that Excise and Taxation Commissioner, was so powered under the Act. Under Section 59 of the Act, the Financial Commissioner may by notification make rule in respect of various matters, of which we are concerned with clause (d) which reads as follows :-

“prescribing the Scale of fees or the manner of fixing the fees payable in respect of any licence, permit or pass, or in respect of the string of any intoxicant”.

It was thus in pursuance of the said power that the Excise and Taxation Commissioner, made the impugned notification dated 30<sup>th</sup> October, 1968. Prior to the amendment, rule 5-28 provided for certain licences including L-3, L-4 & L-5 being granted on assessed fees. The scheme of the Punjab Liquor Licence Rules in that fees payable in respect of licences were, according to rule 5.24 of four kinds (a) fixed fees, (b) assessed fees, (c) auction fees and (d) tender fees. Rule 5.27 originally contained only two clauses providing for fixed and assessed fees being levied with the enforcement of the said notification the licences L-3, L-4 and L-5 were brought under rule 5.27 and consequently taken out of rule 5.28 which provided for licence being granted on assessed fee alone. The effect of the impugned amendment was that in addition to the assessed fees a fixed fee has been levied on those licences by bringing those licences within the scope of rule 5.27 which provides for both fixed and assessed fees. Under section 58(3), the power of the State Government to make rules by notification for the purpose of carrying out the provisions of the Act is subject to the condition that the rules may be made without previous publication if the State Government considers that they should be brought into force at once.

The power to make the said amendment prospectively is not in question. The only question for decision in this case was whether such an amendment could be made retrospectively. Even though it was stated in the majority opinion of the Supreme Court in A.I.R. 1963. Supreme Court 274 (Indermani V.W.R. Nattu) that it was not necessary for the purpose of that case to decide the question whether retrospective operation could be given without the enactment under which the said bye-law was framed permitting the same by express language or by necessary intendment, Subha Rao J (as he then was) in its dissenting judgments, approved the view taken by the Mysore and Kerala High Court in AIR 1960 Mysore 3rd (India sugar & refineries Ltd. F. States and AIR 1959 Kerala 347 (C.W.L. Motor Services (P) Ltd. V. State of Kerala) respectively which took the view that when the Executive Govt. exercised subordinate and delegated legislative powers, the power to act, retrospectively could not be exercised unless the said power was expressly conferred by the legislature on the Government. There had been an elaborate discussion on this question in the Mysore case by S.R. Das Gupta C.J. It was held in the case that a legislative body unlike the executive body could always legislate retrospectively unless there was any prohibition under the Constitution which had created it. But so far as subordinate legislation, as it has been called, is concerned, it is a different question, unless the enactment authorized the making up of by using express language to that effect or the same can be informed by necessary intendment rules cannot be made by executive, exercising its powers of subordinate legislation to make the rule having retrospective operation. Having regard to the fact that the above question was left open by the majority opinion of the Supreme Court, it was curious to know whether there had been any appeal against the decision by the Mysore High Court in India Sugar and Refineries Ltd. V. State. In case any appeal was filed to the Supreme Court, what the result of it was.

As per Supreme Court Encyclopedia by Sh. R. Gopal Krishnan there is a summary of the decisions of Supreme Court in the State of Mysore V. India Sugar and Refineries in Civil Appeal No. 12 of 1959, the appeal was discussed on 28<sup>th</sup> March, 1961. It was, however, clear from the above that the decisions of the Mysore High Court had been confirmed there is in addition the opinion of Subha Rao J on the above question approving the Mysore decision even though the majority did not want to decide this question. Subha Rao J had also approved the view taken by Varadaraja Iyengar J in the Kerala case holding the notification by the executive in that case

giving retrospective effect thereto was bad. Subha Rao J also referred, with approval, to the observations of the House of Lords in *Howell V. Falmonth Boat Construction Co. Ltd.*, (1951 A.C.837) to the following effect :-  
 “It would be a dangerous power to place in the hands of Ministers and their Subordinate officials to allow them, whenever they had power to licence, to grant the licence ex-post facto, and a statutory power to licence should not be construed as a power to authorize or ratify what has been done unless the special terms of statutory provisions clearly warrant the construction.”

After drawing the attention of the Supreme Court to the judgements of the following cases;

- |  |                           |
|--|---------------------------|
| (i) I.T. Officer V.M.C.Popnoose                    | A.I.R. 1960 Mysore 326.   |
| (ii) Guruviah V. State of Madras                   | A.I.R. 1958 Madras 249.   |
| (iii) Modi Food Products V. Commissioner Sales Tax | A.I.R. 1956 Allahabad 35. |
| (iv) Shivdev Singh V. State of Punjab              | A.I.R. 1958 Punjab 453.   |
| (v) Ganeshi Lal V. State                           | A.I.R. 1967 Rajasthan 90. |

The counsel held that there were no powers to the executive under the provisions of the Act to make rules with retrospective effect. On this ground alone, the notification of the Excise & Taxation Commissioner, giving retrospective effect to the said notification with effect from 1<sup>st</sup> April, 1968 has to be struck down. On the other hand, Section 58(3) indicates that the rule making power conferred by Section 58 is subject to the condition that the rules may be made after previous publication and that it was only the State Government that could displease with the previous obligation if it considered that the same should be brought into force at once. The action of the Excise & Taxation Commissioner in making the rule retrospective was clearly ultra vires of his powers and would be ultra vires even of the powers of the State Government, for all that the State Government could do was to make the rule come into force at once, without previous publication. It follows from the above said provisions itself that the executive had not been given any powers by the Act to make rules with retrospective effect.

1. Besides the drastic consequences of imposing penal provisions, cancellation of licence under Sections 36(b) and 38 of the Act could not be set in motion by the Excise and Taxation Commissioner by requiring the fixed fee of ₹10,000 in the case, being made payable for the licences in question over and above the assessed fee by giving retrospective effect to his notification dated 30<sup>th</sup> October, 1968 w.e.f 1st April, 1968.

The writ petition was accordingly accepted, the retrospective effect given by the impugned notification from 1<sup>st</sup> April, 1968 was quashed and it was decided that the levy of ₹10,000 from the petitioner in that case was invalid.

2. There was another interesting case in which the reauction proceedings against the defaulter licensee were quashed by the Himachal Pradesh High Court at Shimla in a civil writ petition No. 24 of 1969 (Judgement delivered by R.S Pathal Chief Justice on 24<sup>th</sup> September, 1973).

The petitioner Sh. Santosh Kumar S/o Pandit Ram Dass wine merchant at Halti and Sehunta Distt Chamba were granted four licences of L-2 and L-14 vends at Halti and of L-2 & L-14 vends at Shunta for selling liquor at these places in the District of Chamba during the financial year 1968-69. The licensee carried on the business under aforesaid licence until December, 1968. On December 12, 1968, a notice was issued by the Assistant Excise and Taxation Officer, Chamba stating therein that he had failed to pay the monthly licence fees and Sales Tax and that the licences could be cancelled under section 36 of the Punjab Excise Act. The petitioner was also warned that he if did not deposit the dues within a week, licence would be reauctioned at his risk and any deficiency arising on the reauction together with outstanding arrears under section 60 of the Act. Further that the licensee would be blacklisted for the purpose of Government contracts.

The petitioner met the Collector at Chamba on December 18, 1968 and explained his position under which he was unable to deposit the licence fee. On December, 20, 1968 he was allowed to bring in supplies of liquor. Again on December 28, 1968 another notice was issued to him by the Collector Chamba informing that his licences had been cancelled under Section 36 of the Act, as he had failed to deposit the licence fee and the Sales Tax mentioned in the earlier notice dated December 12, 1968. He was also informed that in case the entire dues were not deposited within a week, the licences would be put to resale on 9 January, 1969 for the remaining period under Section 35 of the Act.

On the January 9, 1969, the licences were put to auction and a sum of Rs. 33,866 was made recoverable against the petitioner on account of deficiency in respect of the four licences. The petitioner prayed for the quashing of the notice of demand and of the recovery proceedings and also for mandamus directing the refund of the Security deposited by him and the cost price of the stocks removed by the Government department after cancellation of the licences.

It was held by the Court that the first contention of the petitioner that he was not served with notice to show cause against cancellation of the licence could not be accepted. The notice dated 12<sup>th</sup> December, 1968 informed him that he had not deposited the dues and that the licences were liable to be cancelled. These words were enough to given him show cause notice. In fact, he did submit a representation and also met the Collector a few day later and **seemed to have explained to him his position in the matter.** It was only after he had explained his position to that the notice dated 28 December, 1968, was issued cancelling the licences. When he met the Collector, the omission of any specific “Show Cause” notice cannot, in the circumstances serve cause for complaint. It was also contended that the notice dated 12 December, 1968, must be deemed to have been waived

because the petitioner was allowed to take in liquor supplies subsequently on 20<sup>th</sup> December, 1968. It was not possible to continue the issue of those supplied to the petitioner as a waiver of the notice. He was entitled to bring in the supplies so long as the licences were not cancelled. The first contention was thus, rejected.

The second contention was that the reauction of the licences under Rule 5.38 (22) of the Punjab Liquor Rules 1932 could have been conducted by the Collector whereas it was effected by the Revenue Assistant. The rule requires that when a licence had been cancelled, “ the Collector, may resell it by public auction or by private contract and any deficiency in the licence fee as well as expenses in the manner laid down” under section 60 of the Punjab Excise Act, 1914. The reauction could thus be effected by the Collector and not by anyone else. There was significant contract between this provision for resale of the cancelled licence and the provisions in Rule 5.38 (2) which authorises the Collector or “a gazette officer selected and empowered in this behalf by the Collector” to conduct auction held annually. The resale of cancelled licence is a matter of greater responsibility as it visits the defaulting licensee with a serious liability, that of being liable to pay any deficiency arising on the resale.

This view was also taken by the Division Bench of the Punjab & Haryana High Court in the case of M/S Joginder Singh Amat Prakash Singh & Co. V. State of Punjab. There was no dispute that the Collector did not conduct reauction. It was conducted by the Revenue Assistant accordingly the reauction proceedings must be quashed.

1 C.W.P. No. 2053 of 1969, decided by Hon’ble R.S Naurula and R.S Sarkaria J.J on 14<sup>th</sup> January 1970, and consequently, the recovery proceedings to the extent of the deficiency arising on the resale of the licences. No case had been made out for quashing the notice of demand or restraining the respondents from putting the petitioners on the Excise blacklist or for a direction for refund of the Security and payment of the cost price of the stocks removed after cancellation of the licences.

The petitioner was allowed in so far only that the, proceeding for resale of the petitioner’s licences are quashed and the recovery of the deficiency of the such resale, was also quashed. The remaining reliefs were refused and the parties were to bear their costs.



## APPENDIX B

(Referred to in Para 13.2 to Chapter XIII)

### STATEMENT SHOWING EXISTING RATES OF DUTY AND RATES OF DUTY AS REVISED UNDER (NOTIFICATION NO. 1/2003-M&TP, DATED 1<sup>ST</sup> MARCH, 2003) ON MEDICINAL AND TOILET PREPARATIONS CONTAINING ALCOHOL, NAROTIC DRUG OR NARCOTIC COVERED BY THE MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) ACT, 1955.

| Item No.         | Description of dutiable goods  | Existing rate of duty  | Rate of duty as revised under clause 39(c) of Finance Bill 1976  |
|------------------|--|--|--|
| 1                | 2  | 3  | 4  |
| <b>Medicinal</b> | <b>Preparations</b>  |  |  |
| 1.               | Allopathic Medicinal Preparations  |  |  |
|                  | (i) Medicinal Preparations containing alcohol which are not capable of being consumed as ordinary alcoholic beverages.                 | Ten per cent ad valorem or rupee one and ten paise per litre of the strength of London Proof spirit, whichever is higher.          | 12.5 per cent ad valorem or Rupees three and seventy five paise per litre of the strength of London proof spirit, whichever is higher. |
|                  | (a) Patent or Proprietary Medicines.   |  |  |
|                  | (b) Others   | Rupee one and ten paise per litre of the strength of London proof spirit.  | 12.5 per cent ad valorem or Rupees three and seventy five paise per litre of the strength of London proof spirit, whichever is higher. |
|                  | (ii) Medicinal Preparations containing alcohol which are capable of being consumed as ordinary alcoholic beverages.                    | Ten per cent ad valorem or rupees three and eightyfive paise per litre of the strength of London Proof spirit whichever is higher. | 12.5 per cent ad valorem or Rupees three and seventy five paise per litre of the strength of London proof spirit, whichever is higher. |
|                  | (a) Medicinal Preparations which contain known active ingredients in the therapeutic quantities.                                       | Rupees fifteen and fifty paise per litre of the strength of London proof spirit.   | 12.5 per cent ad valorem   |
| 2.               | (b) Others   | Ten per cent ad valorem.   | 12.5 per cent ad valorem.  |
|                  | (iii) Medicinal Preparations not containing alcohol but containing alcohol but containing narcotic drug or narcotic.                   |  |  |
|                  |  | NIL  | NIL  |
| 3.               | Medicinal Preparations in Ayurvedic, Unani or other indigenous system of medicine.   | Thirty-eight paise per litre of the strength of London Proof of spirit.  | Rs 12.5 per litre of the strength London proof spirit.   |
| 4                | (i) Medicinal Preparations containing self-generated alcohol, which are not capable of being consumed as ordinary alcoholic beverages. | Ten per cent ad valorem  | 12.5 per cent ad valorem.  |
|                  | (ii) Medicinal Preparations containing self-generated alcohol which are capable of being consumed as ordinary alcoholic beverages.     | Rupees three and eighty five paise per litre of the strength of London Proof spirit.   | Rupees twelve and fifty paise per litre of the strength of London proof spirit.  |
|                  | (iii) Medicinal Preparations not containing alcohol but  | Twenty five per cent ad valorem or rupees three and  | 12.5 percent ad valorem or rupees seven and fifty paise per  |

---

|   |  |  |
|---|--|--|
| containing narcotic drug or narcotic.       | eighty five paise per litre of the strength of London proof spirit, whichever is higher. | litre of the strength of London proof spirit, whichever is higher. |
| Homeopathic Preparations containing alcohol |  |  |

**Toilet Preparations**

Toilet Preparations containing alcohol or narcotic<sup>67</sup> narcotic.

---

<sup>67</sup> The expression "Narcotic drug or narcotic" has been substituted for the expression "Opium, Indian hemp, or other narcotic drug or narcotic. in view of the revised definition of "Narcotic drug or narcotic" vide clause 39(b) of Finance Bill, 1976.