



COMMITTEE ON PUBLIC ACCOUNTS
(2021-2022)
HUNDRED AND SEVENTY SECOND REPORT

(FIFTEENTH ASSEMBLY)

**Report of the Committee on Public Accounts, Assam Legislative
Assembly on the Report of the Comptroller and Auditor
General of India on Revenue Sector for the
year 2014-2015 relating to
Excise Department,
Government of Assam.**

Presented to the House on 14th March, 2022.

**Assam Legislative Assembly Secretariat,
Dispur, Guwahati-781006.**

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COMPOSITION OF THE COMMITTEE

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1. Shri Wazed Ali Choudhury

Members :

2. Shri Padma Hazarika
3. Shri Jayanta Malla Baruah
4. Shri Utpal Borah
5. Shri Manab Deka
6. Shri Chakradhar Gogoi
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12. Hafiz Bashir Ahmed
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2. Shri M.K. Sarma, Additional Secretary,
3. Smti. Bhashwatie Borah Rajguru, Under Secretary,
4. Shri Dhanajit Talukdar, Superintendent.

(ii)

PREFATORY REMARKS

I, Shri Wazed Ali Choudhury , Chairman, Committee on Public Accounts, Assam Legislative Assembly having been authorized to submit the Report on its behalf present this HUNDRED AND SEVENTY SECOND Report of the Committee on Public Accounts on the Audit paras contained in the Report of the C & AG of India on Revenue Sector for the year 2014-2015 relating to Excise Department, Government of Assam.

2. The Report of the C & AG of India on Revenue Sector for the year 2014-2015 was laid before the House on 18th July, 2016.

3. The Report mentioned above relating to the Excise Department was considered by the Committee in its sitting held on 24th August, 2021 and 8th February, 2022.

4. The 172nd Report of the Committee on Public Accounts was finalized and approved by the Committee in its sitting held on 8th March, 2022.

5. The Committee has appreciated the valuable assistance rendered by the Principal Accountant General (Audit), Assam and his Junior Officers and staff during the examination of the Department.

6. The Committee thanked to the Departmental witnesses as well as Finance Department for their kind Co-operation. The Committee was also pleased to offer thanks to the Principal Secretary, Assam Legislative Assembly along with his officers and staff of the Committee on Public Accounts Branch for their valuable services rendered to the Committee.

7. The Committee earnestly hope that the Government would implement the recommendations made in this Report.

Dispur :
The 8th March, 2022

WAZED ALI CHOUDHURY

Chairman,
Committee on Public Accounts,
Assam Legislative Assembly.

THE REPORT

Excise Department

Compliance Audit observations

**Mis-classification of brands of IMFL resulted in loss of revenue of Rs. 172.08 crore.
(Audit Para 3.5/C&AG(R/R)/2014-2015/P-55-56)**

1.1 The audit has pointed out that as per the provisions of the AE Act and Rules, excise duty is leviable on the 'cost price' of India Made Foreign Liquor (IMFL). 'Cost price' in this case means the 'ex-bond price' i.e. the price at which the IMFL consignments are issued by the bonded warehouses to the retailers. At the beginning of the year, the bottling units producing IMFL or the bonded warehouses importing IMFL from outside the State are required to apply for label registration to the CE, Assam furnishing full details of the brand, its ex-bond price, maximum retail price (MRP) etc. The process involved in the registration of labels is shown through the block diagram in the Audit Report. Mention was made in para 5.8.4.1 of the Performance Audit on Receipts under State Excise incorporated in the Report of the Comptroller and Auditor General of India for the year 2012-13, Revenue Sector, Government of Assam regarding absence of a system in the Office of the Superintendents of Excise/CE, Assam to devise a system of re-verifying whether the classification of the brands as applied by the bottling units/companies and ordered by CE, Assam holds good in view of the MRP printed on the labels furnished by the licensees. During the exit conference of the aforesaid performance audit, the CE while accepting the audit recommendation stated (October 2013) that similar analysis would be carried out during registration of labels in future. The formula adopted by Audit for arriving at the ex-bond price through backward calculation from the MRP. During scrutiny of the records of five bottling units¹ under the above SE, it was observed that three brands of IMFL namely 'Mc Dowell's No. 1 Reserve Whisky', 'Officers Choice Blue Pure Grain Whisky' and 'AC Black Whisky' were registered as 'Luxury' brand (attracting excise duty of Rs. 598.90 per case) on the basis of the ex-bond price (below Rs. 1,199 per case) declared by the licensees at the time of application for label registration. The MRP of the products were fixed as Rs. 240 per bottle of 750 ml or equivalent and approved by the CE, Assam for affixing on the body of the bottles. Analysis of the cost price in view of the MRP on the lines as depicted in block diagram is shown in the Audit Report. The ex-bond price after deducting the prescribed elements worked out to Rs. 1,291.98 per case and thus, the brands were to be classified under next higher category i.e. 'Premium' attracting higher rates of excise duty at Rs. 942.50 per case and value added tax (VAT) on the same.

1. M/s. Spey Bottlers Pvt. Ltd., M/s Karnak Distillery Pvt Ltd, M/s Manglam Distillers and Bottling Industries, M/s Saaran Industries and M/s Indo Assam Distillery and Bottling Pvt Ltd.

Had the Department devised a system of re-verifying the classification after receipt of the printed labels on the basis of the MRP printed therein, such mis-classification could have possibly got detected. Considering the volume of sale of the above brands during the years 2013-14 and 2014-15², there was loss of revenue of Rs. 172.08 crore on account of excise duty and VAT. The case was reported to the Department/ Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

1.2 The department by its written reply has stated that the classification of brands of IMFL is made on the basis of ex-bond price. The price against which the bonded warehouse used to issue or deliver the consignment of liquor to a retail licensee had various components like ex-bond price, excise duty, transport fee, VAT etc. A retailer, before lifting liquor from the bonded warehouse, was required to deposit in advance the amount of ad-valorem duty, transport fees and VAT. The VAT is applicable on the aggregate of ex-bond price, excise duty and transport fee. On account of all these components, there is investment on the part of retailer. Hence, the gross profit margin was allowed on the landing cost of retailer. It is needless to say that out of the gross margin, a retail licensee has to meet all his establishment overhead, loading/unloading, labour, pilferage etc. However, it appears that audit team had done some backward calculation and profit margin of retail licensee has been calculated after excluding Excise duty, VAT & Transport fees etc. from MRP, which does not accord with the method of calculation of the Excise Department. The comparative cost card is given below for ready reference:

Comparative cost card as per Excise Deptt. Vis-à-vis AG Office			
	EXCISE CALCULATION		AG CALCULATION
Brand Name	MCDOWELL NO.1 reserve	OFFICERS CHOICE	OFFICERS CHOICE
Category	WHISKY	WHISKY	WHISKY
Size (ML)	750/375	750/375	750/375
Basic price/ex-bond price	1,199.00	1,199.00	1,291.98
Ex.Duty	598.30	598.00	598.90
Transport fees	50.00	50.00	50.00
VAT @ 30% of (ex-bond price + excise duty+ transport fee)	554.19	554.37	567.26
Landing cost to Retailer	2,401.49	2,402.27	2,508.14
Profit	478.51	477.73	371.86
Sale Price	2,880.00	2,880.00	2,880.00
MRP	240.00	240.00	240.00
Retailer's Profit in %	20%	20%	15%

On the basis of the replies, the Committee held discussion with the Department on 24th August, 2021. During the course of discussion the Committee directed the department to submit the upto-date replies on the para. As desired by the Committee the Department has submitted the replies as follows :

the stage/point of levy or calculation of excise duty was when the liquor was sold by a Bonded warehouse to a retailer. The taxable amount i.e. the taxable base on which the excise duty is applicable is the price consideration which the bonded Warehouse received from the retailer on account of sale of liquor. The retailer while lifting liquor paid Ad-valorem levy, transport fee & VAT by separate challans and also paid the price consideration to the Bonded Warehouse. The excise duty payable during the relevant period did not have any linkage or nexus with MRP of IMFL. The Bonded warehouse did not receive any extra price consideration over and above the Ex-bond price. Hence, based on the profit margin of the retailer and arriving at an inflated national ex-bond price by doing same back calculation is not sustainable in the eye of law. MRP did not have any role in calculation of the excise duty at that point of time as it was completely based on Ex-bond price. The excise duty which was found legitimately due to the Govt. exchequer was calculated on the Ex bond price and hence there was no question of any loss of revenue.

During the course of discussion, the Commissioner of Excise stated that in the instant case retailer's profit margin was allowed slightly higher than maximum profit margin of 20 per cent as prescribed by the Department.

Recommendation/Observation

1.3 The Committee heard the oral deposition by the departmental witness and observes that MRP may vary due to retailers profit margin, however, Ad-valorem levy depends on Ex-bond price. The Department should take all precaution to safeguard Govt. revenue, In this regard, the Committee directed the Department, that such type of incidence should not be reoccurred in future. With this direction the Committee decided to drop the para.

**Evasion of excise duty of Rs. 1.54 crore due to overstatement of closing stock/deficiency in actual stock of ENA
(Audit Para 3.6/C&AG(R/R) /2014-2015/P-56-58)**

1.4 The audit has pointed out that as per the system prevalent in the Bottling units, the base material for manufacture of IMFL is extra neutral alcohol (ENA), malt spirit, other flavours etc. These materials are stored in separate vats³ and issued to the blending vats as per the need. The infogram the production mechanism.

V ENA vats	*On receipt of ENA, the same is stored in the ENA vats. *ENA is issued to the blending vats as and when need for production arises.
V Blending vats	*Receives ENA, malt spirit, water, flavour etc and after blending the IMFL is prepared. *The final product is channellised to the production unit of IMFL.
V Bonded warehouse	*The produced IMFL is transferred to the warehouse attached to the bottling unit. *IMFL is issued to the bonded warehouses from this warehouse of the bottling unit.
V Control mechanism	*The bottling units are required to maintain vat registers showing the stock of ENA, ENA received. ENA issued to the blending vats and the closing balance of ENA per day. Each of entries in the vat register is to be authenticated by the Excise Officer-in-charge of the unit. Further, the CE, Assam has devised a reporting mechanism for the bottling units for submission of monthly reports showing OB of ENA, ENA received, ENA transferred to the blending vats, production of IMFL, stock of IMFL at blending vats and stock of ENA at the ENA vats. The monthly reports are compiled from the entries made in the vat registers

During scrutiny of records of two bottling units namely M/s Manglam Distilleries and Bottling Industries and M/s Seven Sisters Trade and Distilleries Pvt. Ltd under the above SE, a detailed verification of the stock of ENA was carried out. In M/s Manglam Distilleries it was observed that as per the ENA stock register maintained by the Officer-in-charge of the bottling unit, the closing stock of ENA as on 31 August 2014 was shown as 7,62,827.12 LPL⁴. Between 1-15 September 2014, 1,65,967.983 LPL ENA was received in the ENA vats while 3,24,221.356 LPL ENA was shown to have been issued to the blending vats during the same period. Thus, the stock of ENA as on 15 September 2014 was shown as 6,04,573.75 LPL. Subsequently, a joint physical verification was carried out in the same day i.e. 15 September 2014 in coordination with the Excise personnel and representatives of the bottling unit.

3. Container in which ENA/malt etc are stored in bottling unit.

4. London Proof Litre- Strength of alcohol is measured in terms of 'degree proof'. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Any given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

It was seen that the actual stock of ENA was 4,30,669.25 LPL, thus revealing difference of 1,73,904.5 LPL. Similarly, in M/s Seven Sisters Trade and Distilleries Pvt. Ltd it was observed that as per the ENA stock register maintained by the Officer-in-charge of the bottling unit, the closing stock of ENA as on 2 September 2014 was shown as 1,34,964 BL⁵. Subsequently, a joint physical verification was carried out in the same day (after the closure of issue of ENA for blending from ENA vats) in coordination with the Excise personnel and representatives of the bottling unit. It was seen in the verification that the actual stock of ENA was 1,04,475 BL, thus revealing a difference of 30,489 BL or 50,962 LPL⁶ ENA. The differential stock of ENA was capable of producing 26,349 cases⁷ and 7,722 cases of IMFL in the aforesaid two bottling units respectively involving minimum excise duty of Rs. 1.54 crore⁸ which was evaded by the licensees. The cases were reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

1.5 The department by its written reply has stated that the Superintendent of Excise, Kamrup has submitted replies on the basis of reports submitted by the concerned Officers-in-charge. As per his reply, there is no discrepancy in respect of evasion of excise duty to the tune of Rs. 1.54 crores. The Officer-in-Charge of M/s Manglam Distillery & Bottling Pvt. Ltd., Kamrup vide letter No. MDBI/2016-17/10 dated 01.12.2016 has clarified that as per their books of records the closing stock of ENA as on 31.08.2014 was 998,254.79 LPL and the quantity of ENA received during the period from 01.09.2014 to 15.09.2014 was 166,637.52 LPL, while the quantity of ENA issued for blending was 385,544.04 LPL. As stated by the Officer-in-Charge of the said bottling plant, the closing stock of ENA as on 15.09.2014 was 779,348.27 LPL in lieu of 604,573.75 LPL as observed by Audit.

Similarly, as per report submitted by the Officer-in-charge of M/s Seven Sisters Trade & Distilleries PVT. Ltd., it is seen that during physical verification by the audit team, they had verified 6 nos. VATs and found 104,475 BL showing difference of 30,489 BL. However, there was total 9 nos. VATs and in the remaining 3 nos. of VATs there was stock of 30,489 BL of stock.

5. Bulk litre.

6. Considering the average strength of ENA available as on 2.9.2014 i.e. 67.15 degree over proof.

7. Calculated at 6.6 LPL per case (750 ml/375 ml cases contain 6.75 LPL while 180 ml cases contain 6.48 LPL-hence calculated at median of the two as production of 180 ml is more than the other two).

8. Considering the minimum rate of excise duty i.e. Rs.452.79 per case applicable to General brands.

The Committee took up the para for discussion with the Department on 24th August, 2021. During the course of discussion, the Committee directed the Department to submit upto date position on the para. As desired by the Committee the Department has submit the replies . The department through written reply has stated that vats and closing stocks to be reconciled with Office of the Accountant General, Assam.

Accordingly, the Committee held discussion with the Department on 8th February, 2022. During the course of discussion the Committee further directed the Department to submit the latest position on the para. In this regard the Department has submitted the replies:

As per proceedings of the meeting of the Committee on Public Accounts, Assam Legislative Assembly held on 24th August 2021, the records of documents were checked with office the Accountant General, Assam. For further verification, an enquiry committee has been constituted vide this office order No.III-40/2020-21/85 dtd. 4th February 2022 to examine the matter in details. The enquiry committee headed by the Supdt. Of Excise, Kamrup vide letter dtd. 18.02.2022 has reported that M/s. Mangalam distilleries Pvt. Ltd. have not submitted any documents as licensed premises has been closed for the last three years. Demand notice has already been issued vide No. KXL.218/2016-17/pt/181 dtd.17.02.2022 by the Supdt. Of Excise kamrup. The renewal of the licence for the year 2022-23 shall not be considered. In case of M/s Seven Sister trade & Distilleries Pvt. Ltd. On verification, the enquiry committee has verified VAT wise closing stock as 02/09/2014 as follows :

Storage VAT No.	Closing stock as on 02/09/2014 in BL
1	24750.00
2	24750.00
3	24809.00
4	24778.00
5	00
6	00
7	7847.00
8	1295.00
9	00
10	13616.00
11	00
12	8560.00
13	4559.00
Total	1,34,964.00

On verification of the stock register the actual Stock of ENA in VATs was found to be 34,964.00 BL. Though the report of the audit team indicated a shortage of 30,489.00 BL of ENA compared to stock book, during physical verification conducted later, no such deviation between the book stock and physical stock was detected. As such the claim of the licensee appears to be tenable.

Recommendation/Observation

1.6 After a threadbare discussion and listening to the submission from the departmental representatives, the Committee recommends that the department should take legal action against the M/S. Mangalam Distilleries Pvt. Ltd. and ensure realization of dues. The Committee also recommends that the Department should reconcile the closing stock as submitted in respect of M/S. Seven Sisters Trade and Distilleries with office of the Principal Accountant General Audit. Action taken in this regards may be intimated to the Committee within 30 days from the date of presentation of the Report before the House.

Revenue of Rs. 1.18 crore not realised against damaged stock allowed for destruction (Audit Para 3.7/C&AG(R/R)/2014-2015/P-58-59)

1.7 The audit has pointed out that as per the Assam Bonded Warehouse (ABW) Rules, 1965, if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they might be rejected or destroyed or otherwise dealt with under the orders of the C.E. Further, Rule 32 of the ABW Rules mentions that the State Government shall not be responsible for the destruction, loss or damage of any spirit stored in warehouse by fire or by gauging or by any other cause, whatsoever. During scrutiny of records of four bonded warehouses⁹ in the above SE Offices, it was observed that the CE, Assam allowed (between May 2011 and May 2014) destruction of IMFL and beer involving excise duty of Rs.1.18 crore¹⁰ which were found to be unfit for human consumption due to prolonged storage. Accordingly the stock of IMFL/Beer was destroyed under supervision of the concerned SsE between June 2011 and June 2014. It was, however noticed that though the Rule 32 of ABW Rules specifically states that the State Government shall not be responsible for any damage/destruction of IMFL/Beer, neither did the licensees pay the excise duty involved nor was any demand raised by the CE/SE for recovery of the same. This resulted in revenue of Rs. 1.18 crore not being realized. The case was reported to the Department/Government in December 2014/January 2015 and followed up in April 2015; their replies have not been received November 2015).

9. M/s S.B. Bonded warehouse, Cachar, M/s Nanak Singh Sujana Singh Sadana Pvt Ltd, M/s Abhijeet International and M/s Carlsberg India Pvt. Ltd., kamrup.

10. M/s S.B. Bonded warehouse, Cachar-9,346 cases of IMFL and 10,807 of Beer involving excise duty of Rs.64.63 lakh, M/s Nanak Singh Sujana Singh Sadana Pvt Ltd, Kamrup-51,691.84 BL of IMFL and 31,020.8 BL Beer involving excise duty of Rs. 36.96 lakh, M/s Abhijeet International, Kamrup-711 cases of IMFL and 3,066 cases of Beer involving excise duty of Rs. 9.19 lakh and M/s Carlsberg India Pvt Ltd., kamrup-5,891 cases of Beer involving excise duty of Rs. 6.90 lakh

1.8 The department by if written reply has stated that remission was allowed by CE, Assam under instruction No. 229 relating to liquor of Assam Excise manual vide letters under reference below.

1) No.III-43/2008-09/198 dated 11/03/2015 (M/s Abhijit International Bwh)

2) No.III-21/81-82/Pt-1/620 dated 20/02/15(M/s NSSSS Pvt.Ltd.)

3) No.III-201/2011-12/115 dated 29/01/2015 (M/s Carlsberg India Pvt. Ltd, Ghy.)

The Superintendent of Excise, Cachar has reported that out of total amount of Rs. 64.63 lakh in respect of M/s SB Bonded Warehouse, Silchar, remission of Rs. 28.89 lakh was granted by CE, Assam vide No.III-101/2006-07/286 dated 12.02.15. SE, Cachar has been directed to ask the licensee concerned to deposit the balance amount vide this office letter No.III-40/2020-21/34 dated 18/08/2021.

The Committee in its meeting held on 24th August, 2021, has directed the department to submit the upto date replies on the para. As desired by the Committee the Department has submit the replies as follows : the department by their written reply has stated their position with supporting documents in respect of remittance.

On the basis of the replies the Committee held further discussion with the Department on 8th February, 2022. During the course of discussion the Committee again directed the department to submit the latest position on the para. In this regard the Department has submitted the following as shown below :Remission was allowed by CE, Assam under instruction No. 229 relating to liquor of AssamExcise manual vide letters under reference below.

i) M/s Abhijit International Bonded Warehouse, Guwahati vide letter No.III-43/2008-09/198, dtd. 11/03/2015 amount of Rs. 9,12,191/-.

ii)M/s NSSSS Pvt. Ltd vide letter No.III-21/81-82/pt-1/620 dtd. 20/02/15 amount of Rs. 38,37,392/-

iii) M/s Carlsberg India Pvt. Ltd. Guwahati vide letter No. III-201/2011-12/115, dtd. 29/01/2015. Amount of Rs. 9,04,601/-

iv) The Supdt. of Excise, Cachar has reported that out of total amount of Rs. 64.63 lakh in respect of M/s. SB Bonded Warehouse, Silchar, remission of Rs. 28.89 lakh was done by CE, Assam vide No.III-101/2006-07/286 dtd. 12.02.15. On scrutiny of the office record it is observed that total three nos. of destruction order of the IMFL/ Beer of unsuitable quantities was issued from the Commissioner of Excise, Assam viz.

i) No.III-101/2006-07/164 dtd. 31.05.2011

ii)No.III-101/2006-07/196 dtd. 07.09.2012

iii)No.III-101/2006-07/277 dtd. 04.01.2014

Though, as per Rule 37 of the Assam Bonded warehouse Rule 1965 and as per instruction 229 relating to liquor, the Commissioner of Excise is empowered to remit the amount of the liquor so destroyed. The destruction carried out by Suptd. Of Excise, Cachar as communicated under letter Nos. i) No.III-101/2006-07/164 dtd.31.05.2011 and ii) No.III-101/2006-07/196 dtd. 07.09.2012 are yet to be remitted. However, in the meantime, the licensee of M/s. SB Bonded Warehouse, Silchar has submitted a prayer dtd.17.02.2022 to Commissioner of Excise, Assam for remission of the amount.

Recommendation/Observation

1.9 The Committee reiterated its earlier recommendation made by the Committee in its Report No. 156 in para 1.3 at page 2 and recommends that the recoverable amount should be recovered from concern Warehouses during 2021-2022. If not recovered in normal process, legal action should be initiated as per rule . Action taken in this regard may be intimated to the Committee within 30 days from the date of presentation of the Report before the House.

Demand on incorrect reduction of strength of ENA by the Bottling Units was not raised resulting in loss of revenue of Rs. 61.63 lakh (Audit Para 3.8/C&AG(R/R) /2014-2015/P-59-60)

1.10 The audit has pointed out that as per the system prevalent in the State Excise Department, proof of strength is determined by taking the hydrometer reading and the temperature of the liquor. The findings are to be read in the sykes's table book¹¹ to determine the strength of the liquor. During scrutiny of records of two bottling units namely M/s Saaran Industries and M/s Karnak Distillery Pvt. Ltd under the above SE, it was observed that in case of 209 consignments¹² of ENA received between September 2012 and December 2013 the strength of ENA at the point of dispatch was certified ranging between 1.67 and 1.684 degree proof. However, while receiving the same consignments the strength of ENA was reduced and mentioned to be between 1.66 and 1.68. The irregular reduction of strength of the ENA consignments led to short accounting of ENA by 67,926.794 LPL which was capable of producing 10,292 cases of IMFL. Though Officers-in-charge were posted at the bottling units, the irregular reduction in strength of ENA escaped their notice. This resulted in loss of revenue of Rs. 61.63 lakh¹³. The case was reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

11. Sykes book of hydrometer is used for gauging the strength of liquor by taking the reading of hydrometer and temperature.

12. M/s Saaran Industries-121 consignments and M/s Karnak Distillery Pvt-88 consignments.

13. Considering excise duty applicable to 'luxury brands' i.e. Rs. 598.90/- case-as the unit authorized by the CE, Assam to produce luxury brands (Officers Choice and Officers Choice Blue).

1.11 The department by their written reply has stated that as per the report submitted by the Officer-in-Charge, there is no loss of revenue to the tune of Rs. 61.63 lakh in respect of the two Bottling Plants namely, M/s Karnak Distillery & M/s Saaran Industries. According to the report submitted by the Officer-in-Charge, the strength & quantity of ENA varied due to transportation & temperature or different climatic condition. It is also reported that if any transit loss occurs more than the allowable limit, the bottling unit deposit the Excise Duty through Treasury Challan.

During the course of discussion on 24th August, 2021, the Committee has directed the department to submit the upto date report. As directed by the Committee the Department has submitted the followings.

That the Supdt. Of Excise, Kamrup has been directed to realize the excise duty from licensees of M/s. Karnak Distillery Pvt. Ltd., Guwahati and M/s. Saaran Industries Pvt. Ltd., Guwahati vide letter No.III-40/2020-21/74 dtd.27.11.2021 and No.III-40/2020-21/74.dtd.27.11.2021.

After a threadbare discussion on 8th February, 2022, the Committee further directed the department to submit the latest position on the para. In this regard, the Department has submitted the followings :

That the Supdt. Of Excise, Kamrup had been directed to realize the excise duty from licensees of M/s. Karnak Distillery Pvt. Ltd., Guwahati and M/s Saaran Industries Pvt. Ltd., Guwahati vide letters No.III-40/2020-21/75 dtd. 27.11.2021 and No.III-40/2020-21/74 dtd.27.11.2021. However, the amount is yet to be realized from the bottling units and reminders have been issued to the bottling units vide letters No. KXL.218/2016-17/Pt/117 dtd.10.12.2021 and No.KXL.218/2016-17/pt/116 dtd.01.11.2021 to deposit the same at the earliest. The Suptd. of Excise, Kamrup vide letter No. KXL.218/2016-17/pt/165 dtd. 15.02.2022 has challan copies of deposit of the amount of Rs. 15,49,962/- (against 88 consignments) being the chargeable Excise duty on transit loss of ENA in excess of allowable deficiency in respect of M/s. Karnak Distillery Pvt. Ltd., Guwahati. The Suptd. of Excise, Kamrup vide letter No. KXL.218/2016-17/pt/166 dtd.15.02.2022 has challan copies of deposit of the amount of Rs. 17,62,112/- (against 121 consignments) being the chargeable Excise duty on transit loss of ENA in excess of allowable deficiency in respect of M/s. Saaran Industries, Guwahati. After taking into consideration of transit loss the total quantity received when expressed in LPL was found correct.

Recommendation/Observation

1.12 After a threadbare discussion, the Committee has found that Department realised Transit loss of Rs. 33.12 lakh against audit observation of Rs. 61.63 lakhs. The Committee recommends, that the Department should enquire and ensure there is no loss of revenue. In case of short realization, action should be taken to realise the amount as per rule and legal process. Action taken in this regard may be intimated to the Committee within 30 days from the date of presentation of the Report before the House.

Two bonded warehouses, one bottling unit, five retail 'Off' and one retail 'On' licensees did not pay the annual licence fees while two bottling units and 58 'Off' licensees paid short resulting in non/short realization of licence fees of Rs.61.50 lakh.

(Audit Para 3.9/C&AG((R/R) /2014-2015/P-60-61)

1.13 The audit has pointed out that The Assam Excise Rules provide that the licensee of wholesale bonded warehouses and retail licensees are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30 September 2010, the licence fees for retail 'Off' and 'On'/Bar licensees¹⁴ are Rs. 1 lakh and Rs. 50,000 per annum respectively while the rates of licence fees for bonded warehouses depend upon the bond limits as shown in the table(inset). The bonded warehouses are also liable to pay wholesale licence fees at Rs. 2 lakh per annum. Further, the licence fee for bottling units of foreign liquor is fixed as Rs. 1.50 lakh per annum to be paid in advance upto production of a quantity of 30 lakh LPL annually.

Bond limit	Licence Fees
Upto Rs. 25 lakh	Rs. 1 lakh
From Rs. 25 lakh to Rs. 50 lakh	Rs. 1.50 lakh
From Rs. 50 lakh to Rs. 1 crore	Rs. 2.50 lakh
Rs. 1 crore and above	Rs. 5 lakh

During scrutiny of the records in the above SE Offices, it was observed that though the licence fees are to be paid in advance before the commencement of the year, two bonded warehouses, five retail 'Off' licensees and one 'On' licensee did not pay the annual licence fees, wholesale licence fees etc., for various years between 2010-11 and 2013-14.

Similarly, M/s Raizel Industries did not pay the Wholesale licence fees of Rs. 2 lakh for 2014-15 while the bottling fees for the years 2013-14 and 2014-15 were paid short by Rs. 1 lakh and M/s N V Distilleries & Breweries (North East) Pvt. Ltd paid the wholesale licence fees for 2011-12 to 2014-15 at lower rates than that applicable leading to short payment of Rs. 4 lakh. Further, 58 'Off' licensees paid licence fees at lower rates pertaining to various years between 2011-12 and 2012-13.

14. 'Off' licensees-where IMFL/Beer can be sold and cannot be consumed in the premises of the licensee and 'On' licensees-where IMFL/Beer can be consumed in the premises of the licensee.

This resulted in non/short realization of licence fees of Rs. 61.50 lakh. Despite non/short payment of licence fees by the licensees, no demand notice was issued by any of the SsE till the matter was pointed out by Audit. On this being pointed out, the SsE, Karbi Anglong and North Lakhimpur stated during the exit conferences that demand notices had been issued to three and two licensees respectively. Particulars of recovery in respect of the above cases and further development in respect of the remaining cases had not been reported (November 2015). The cases were reported to the Department/Government between January and December 2014 and followed up in April 2015; their replies have not been received (November 2015).

1.14 The department by its written reply has stated that 1. As per reports received from the Superintendent of Excise, Kamrup : (a) M/s. Raizel Industries have deposited the arrear licence fees of Rs. 3 Lakh (Wholesale Licence Fees & Bottling fees as well vide treasury Challan No. 11/3597 dated 19/11/2014 (b) M/s NV Distilleries & Breweries (North East) Pvt. Ltd has not been functioning since grant of licence.

2. Further, as per reports received from the Superintendent of Excise, Lakhimpur : (a) M/s R N Bonded warehouse, Lakhimpur was served with the notice for depositing of pending annual renewal fee for the years 2010-11 to 2013-14 for an amount of Rs. 15.50 lakhs, but no response has been received from the party concerned. SE concerned has further reported that said BWH has remained inoperative till date. Licensee has prayed for cancellation and exemption of licence fee, but, the matter is still pending at his end as the said BWH could not provide the stock Register, license copy etc. (b) (i) Sri Sarbeswar Gogoi (IMFL OFF licensee) has deposited the pending licence fee pertaining to the year 2013-14 vide treasury Challan No. 2013/12/4828 dated 31/12/2013. (ii) Smti Ghanakanti Gogoi, IMFL "OFF" licensee passed away on 14/10/2010 and shop was closed and her licence fee for the year 2011-12 to 2013-14 onwards are still pending as the process of transfer of said licence could not be completed being the matter sub-judice. (iii) Sri Kiranjyoti Chutia, IMFL "OFF" licensee has deposited the pending licence fee for the years 2013-14 to 2015-16 amounting to Rs. 3 lakhs vide treasury Challan No. 2015/11/3408 dated 12/11/2015. (iv) Secretary Planter's Club Dejoo TE has deposited their pending licence fee vide treasury Challan No. 2015/03/1530 dated 20/03/2015. (v) Sri Lalit Saikia, IMFL "OFF" licensee was granted waiver from depositing pending licence fee vide Govt. letter No. EX.313/2012/40 dated 01/07/2015 for the year 2013-14. 3. Again as per reports received from the Supdt. Of Excise, Golaghat, the amount has been realized & treasury Challan . 4. As reported by the Supdt. Of Excise, Karimganj, amount was realized treasury Challan.

5. As reported by the Superintendent of Excise, Karbi-Anglong, (a) The license of M/s Sara distillery Pvt. Ltd. was non-functional since 2010-11. Demand notice was served by SE concerned vide No. KA/EX/2013-14/3 dated 20.06.2014 to pay the pending dues of Rs. 12.50 lakh, but no payment has been received till date. (b) The licensee of M/s N.K. Bonded warehouse paid Rs. 1.50 lakh vide treasury Challan No. 018/08/01884 dtd. 27/08/2018.

Demand notice was served by SE concerned vide No. KA/EX-22/2013-14/2 dated 0.06.2014 to pay the pending dues of Rs.2.00 lakh, but no payment has been received till date. The license is non operative since the grant of licence. (c) The IMFL "ON" license of Sri Ratan Dey was non-functional since the grant of license. Demand notice was served by SE concerned vide No. KA/EX-22/2013-14/4 dated 20.06.2014 to clear up the pending dues of Rs. 50,000/-, but no payment has been received till date. (d) The licensee of IMFL "OFF" license i.e. Lt. Jeevraj Singh passed away on 02/07/2014.

On 24th August, 2021, the Committee held discussion to consider the para 3.9. During the course of discussion the Committee was satisfied with the reply submitted by the Department.

Recommendation/Observation

1.15 After a threadbare discussion, the Committee observed that the amount has been recovered. Therefore, the Committee decided to drop the para.

**Excess allowance of godowan wastage over and above the permissible limit let to revenue of Rs. 19.55 lakh not being realized
(Audit Para 3.10/C&AG(R/R) /2014-2015/P-61-62)**

1.16 The audit has pointed out that as per Rule 37 of the Assam Bonded Warehouse (ABW) Rules and subsequent executive instructions, the SE or the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of the quarter and the licensee shall pay duty at prescribed rates on all spirits in excess of an allowance of one per cent on account of wastage allowance. During test check of records in the above Offices, it was observed that during the quarter endings falling between June 2011 and March 2014, three licensees of bonded warehouses claimed godown wastage of 54,457.28 LPL against the admissible wastage of 32,398.18 LPL calculated at one per cent of the Closing Stock of 32,39,817.68 LPL. The excess and inadmissible wastage of 22,059.10 LPL of IMFL pertaining to various brands claimed by the licensees escaped notice of the Officers-in-charge. Also, though the licensees had submitted monthly statements to the CE, Assam through the SsE, excess claim of godown wastage could not be detected at any level. This resulted in excise duty of Rs.19.66 lakh not realized as shown in the following Table.

Name of the licensee/Name of controlling SE	Quarter ended falling between	Closing balance disclosed	Godowan wastage permissible (@ one per cent of the closing balance as at col 3)	Godowan wastage claimed	Excess godowan wastage over and above one per cent	Excise duty involved (Rs. In lakh)
M/S Shivam Enterprise BW/SE, Dhubri	June 2011 and December 2013	8,89,009.60	8,890.10	22,972.95	14,082.85	12.21
M/s KDC BW/SE, Kamrup	January 2013 and March 2014	19,77,981.45	19,779.81	24,289.57	4,509.76	4.09
M/s Eastern Enterprise BW/SE, Kamrup	March 2013 and September 2013	3,72,826.63	3,728.27	7,194.76	3,466.49	3.36
Total		32,39,817.68	32,398.18	54,457.28	22,059.10	19.66

The cases were reported to the Department/Government between April and December 2014 and followed up in April 2015; their replies have not been received (November 2015).

1.17 The department by its written reply has stated that as reported by the Superintendent of Excise, Kamrup, M/s. KDC Bonded Warehouse deposited Rs. 4.09 Lakh. M/s. Eastern BWH deposited amount to the tune of Rs. 216,115/- vide treasury Challan No. 9167 dated 25-06-2014 and Rs. 227,005/- vide treasury Challan No. 5433 dated 07-02-2015. As reported by the Supdt. Of Excise, Dhubri, M/s. Shivam Bonded Warehouse has already deposited Rs. 11,32,209/- vide treasury Challan No.165 dated 30.03.15, No.96 dt.18.03.15, No.33 dt.19.01.15 and No.72 dt.28.10.14 as per Inspection report No. RS/EX/08-16/13-14/38 dtd. 10/04/2014 of the AG(Audit), Assam. On 24th August, 2021, the Committee held discussion with the department to considered the para 3.10. During the course of discussion the Committee was satisfy with the Departmental reply.

Recommendation/Observation

1.18 Since the deposit of amount doesn't arise, the Committee has decided to drop the para.

Additional bottling fee of Rs. 13.68 lakh not/short realized on IMFL. (Audit Para 3.11/C&AG(R/R) /2014-2015/P-62-63)

1.19 The audit has pointed out that as per Government of Assam notification of September 2010 the licence fee for bottling units of foreign liquor is fixed as Rs. 1.50 lakh per annum to be paid in advance upto production of a quantity of 30 lakh LPL annually. For production beyond the prescribed limit of 30 lakh LPL, the licensee is required to pay an additional bottling fee of Rs. 8 per case. The additional bottling fee is to be paid within first week of the end of the financial year to which such production relates. During scrutiny of records of two bottling units (M/S Saaran Industries, Sonapur and M/s Seven Sister Trade and Distillery Pvt. Ltd, Amingaon) under the SE, Kamrup it was observed that the licensees produced 54.94 lakh LPL and 37.66 lakh LPL IMFL respectively during 2013-14. Though the production exceeded the prescribed limit of 30 lakh LPL by 24.94 lakh LPL and 7.66 lakh LPL respectively on which additional bottling fees of Rs. 29.55 lakh¹⁵ and Rs. 9.08 lakh¹⁶ was payable, M/s Saaran Industries paid only Rs. 24.95 lakh while no payment was made by the other licensee. The Excise Officers-in-charge posted at the bottling units also did not raise any demand for realization of the balance amount. Consequently, there was non/short realization of revenue of Rs. 13.68 lakh. Further , although the licensees submitted monthly statements of production to the Office of the CE, Assam through the SE, Kamrup, non/short realization of additional bottling fees remained unnoticed. The case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015).

15. 24.94 lakh LPL or 3,69,417 cases X Rs. 8 per case.

16. 7.66 lakh LPL or 1,13,477 cases X Rs. 8 per case.

1.20 The department by its written reply has stated that as per reply furnished by the Supdt. of Excise, Kamrup, M/s Seven Sisters Trade & Distilleries Pvt. Ltd. has deposited a sum of Rs. 7,89,832/- vide Challan No. 02/3370 dated 11.02.2015 towards full amount of additional bottling fee for the year 2013-14. As per the statements furnished by M/s. Saaran Industries, the actual production exceeded by 21,04,852.47 LPL i.e. 3,11,830 cases (dividing LPL by 6.75). Applying the rate of Rs. 8/- per case, the amount comes to Rs. 24,94,639.96 which is already deposited as reflected in Audit report. Therefore, actual additional bottling fees as per production statement is Rs. 24.95 lakh instead of Rs. 29.55 lakh and the same has already been paid.

The Committee in its meeting held on 24th August, 2021, has directed the department to submit the upto date replies. As desired by the Committee the Department has submitted the replies as follows :

The department by their written reply has stated that in case of M/s. Seven Sisters Trade & Distilleries Pvt. Ltd., Guwahati, they have already deposited requisite additional bottling fee amounting of Rs. 7,89,832/- vide challan No.02/3370, dtd. 11.02.2015. As per the M/s. Saaran Industries, Guwahati is concerned, the actual production which exceeded by 21,04,852.47 LPL i.e. 3,11,830 cases. The actual additional bottling fee amounting to Rs. 24.95 lakhs (Rs. 8/x 311830 cases) has already been deposited and also reflected in the audit report.

During the course of discussion on 8th February, 2022, the Committee further directed the department to submit the latest position of the para. In this regard the Department has submitted the followings :

In case of M/s. Seven Sisters Trade & Distilleries Pvt. Ltd. Guwahati, they have already deposited the requisite additional bottling fee amount of Rs. 7,89,832/- vide challan No. 02/3370, dtd. 11.02.2015. As per the M/s Saaran Industries, Guwahati , concerned, after scrutiny of records, it was found that the actual production had exceeded by 21,04,852.47 LPL i.e. 3,11,830 cases. The additional bottling fee amounting to Rs. 24.95 lakhs (Rs. 8/- x 311830 cases) had also been deposited by licensee and also reflected in the audit report.

Recommendation/Observation

1.21 After a threadbare discussion, the Committee directed the department to reconcile the figure with A.G. and with this direction the Committee decided to drop the para.

**Payment of licence fees at lower rates by a Brewery was not detected which resulted in short-realization of revenue of Rs. 10 lakh.
(Audit Para 3.12/C&AG(R/R) /2014-2015/P-63)**

1.22 The audit has pointed out that as per Government notification of September 2010, a licensee operating brewery shall pay an annual licence fee of Rs. 10 lakh per annum in advance upto the production capacity of 80 lakh BL and Rs. 15 lakh per annum in case of production exceeding 80 lakh BL. During scrutiny of records of M/s Master (India) Brewing Company, Changsari (a brewery licensee) under SE, Kamrup it was observed that the licensee paid licence fees of Rs. 10 lakh per annum for the years 2011-12 and 2012-13 in advance on 15 March 2011 and 30 March 2012 respectively. Further scrutiny revealed that the licensee produced 91.20 lakh BL and 112.70 lakh BL Beer during the above years which attracted licence fees at higher rates of Rs. 15 lakh per annum. Neither did the licensee pay the balance amount of Rs. 10 lakh (at Rs. 5 lakh per annum for both years) nor was any demand raised by the Excise Officer-in-charge posted at the brewery for recovery of balance licence fees. Consequently, there was short-realisation of revenue of Rs. 10 lakh. Further, although the licensee submitted monthly statements of production to the Office of the CE, Assam through the SE, Kamrup, short realization of licence fees remained unnoticed. The case was reported to the Government/Department in December 2014 and followed up in April 2015; reply has not been received (November 2015).

1.23 The department by its written reply has stated that M/s Master India Brewing Company has deposited a total amount of Rs. 10 (ten) Lakh towards additional licence renewal fee vide two Challans : (i) Challan No.2/4172 dated 20/2/2015 for Rs. 5 lakhs for the financial year 2011-12, and (ii) Challan No. 3/2649 dated 3/03/2015 for Rs. 5 lakhs for the financial year 2012-13.

The Committee in its meeting held on 24th August, 2021, has directed the department to submitted the upto date replies. As desired by the Committee the Department has submitted the following are as follows :

The department by their written reply has stated that the short realization of license fee amounting to Rs. 10 lakh (ten lakh) towards additional renewal license fee has already been deposited by M/s. Master India Brewing Company vide Challan No.2/4172, dtd. 20/2/2015 for the financial year 2011-12 & vide Challan No. 3/2649, dtd. 13/03/2015 respectively.

Again on 8th February, 2022, the Committee took up the para for discussion. The Committee is satisfied with the reply submitted by the Department.

Recommendation/Observation

1.24 The Committee is satisfied with the written reply as well as oral deposition made by the departmental representatives and decided to drop the para.

**Short realization of licence fees of Rs. 10 lakh from two bonded warehouses
(Audit Para 3.13/C&AG((R/R) /2014-2015/P-64-65)**

1.25 The audit has pointed out that as per The Assam Excise Rules provide that the licensee of wholesale bonded warehouses are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30 September 2010, the bonded warehouses are required to pay licence fees at various rates depending upon the bond limits as shown in the table in the Inset. The stock of IMFL/Beer is to be maintained in a separate register to be kept at the disposal of the Officers-in-charge of the bonded warehouses. During scrutiny of records of two bonded warehouses under the above SE Office, it was observed that the bond limit of these licensees were fixed below Rs. 1 crore. The annual licence fees of Rs. 2.50 lakh per annum were accordingly paid by these bonded warehouses for the years falling between 2012-13 and 2014-15. However, scrutiny of the stock registers maintained by the licensees and monthly reports submitted to the CE, Assam revealed that the excise duty involvement in the stock of IMFL/Beer held by these licensees on various dates during the above years had increased above the bond limit fixed by the CE, Assam which made them liable to payment of licence fees at rates higher than that paid by them.

The differential licence fees were neither paid by the licensees of the bonded warehouses nor did the concerned Officers-in-charge/SE detect the excise duty involvement in IMFL/Beer in stock crossing the bond limit fixed by the CE. Consequently, there was short-realisation of licence fees of Rs. 10 lakh. Details are shown in the following Table :-

Name of the licensee/bond limit fixed by CE.	Year/Licence fees paid (Rs. in lakh)	Instances of duty involved in stock crossing over the bond limit		Licence fees payable (Rs. in lakh)	Licence fees short realized (col 5 – col 2) (Rs. in lakh)
		Month	Excise duty involved in the stock held (Rs.in lakh)		
(1)	(2)	(3)	(4)	(5)	(6)
Magalam Distillers & Bottling Industries/ below Rs. 1 crore	2012-13/ 2.50	October 2012	195.00	5.00	2.50
		March 2013	203.00		
	2013-14/ 2.50	September 2013	191.00	5.00	2.50
		March 2014	206.00		
Star Bonded Warehouse/	2013-14/ 2.50	December 2013	118.33	5.00	2.50
	2014-15/ 2.50	May 2014	138.00	5.00	2.50
Total					10.00

On this being pointed out, the SE, Kamrup stated during the exit conference (November 2014) that M/s Star Bonded Warehouse had paid Rs. 2.50 lakh on 18 November 2014 and recovery of the balance amount was in process. Further development had not been reported (November 2015). The Case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015). The case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015).

1.26 The department by its written reply has stated that the Supdt. of Excise, kamrup has served demand notices on M/s. Manglam Distilleries and Bottling Industries Pvt. Ltd. for payment of pending licence fee amounting to Rs. 5 lakh for the year 2012-13 and 2013-14. However, as the said bottling plant is not functional, the amount could not be realized. M/s. Star BWH has deposited an amount of Rs. 2,50,000/- for the year 2013-14 vide treasury Challan No.03/1957 dated 17/3/2015 and Rs.2,50,000/- vide treasury Challan No. 11/3329 dated 18/11/2014 for the year 2014-15.

During the course of discussion, the Committee in its meeting held on 24th August, 2021, has directed the department to submitted the uptodate replies on the para. As desired by the Committee the Department has submitted the following are as follows :

M/s. Star Bonded warehouse has already deposited the license fee amounting to Rs. 5,00,000/- vide treasury Challan No. 03/1957 and treasury Challan No. 11/3329.

Recommendation/Observation

1.27 The Committee expressed its satisfaction and decided to drop the para.
