

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2016-2019)**

**SECOND REPORT
(Presented on 8th March, 2017)**



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2017

FOURTEENTH KERALA LEGISLATIVE ASSEMBLY

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ON
PUBLIC ACCOUNTS
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SECOND REPORT

on

**Paragraphs relating to Excise Department contained in the Report
of the Comptroller and Auditor General of India for the
financial year ended 31st March 2011
(Revenue Receipts)**

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(2016-2019)

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Second Report on paragraphs relating to Excise Department contained in the Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts).

The Report of the Comptroller and Auditor General of India for the year ended 31st March, 2011 (Revenue Receipts) was laid on the Table of the House on 6th March, 2012.

The Committee considered and finalised this Report at the meeting held on 8th February, 2017.

The Committee place on records their appreciation of the assistance rendered to them by the Accountant General by the examination of the Audit Report.

Thiruvananthapuram,
8-3-2017.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

REPORT

EXCISE DEPARTMENT

AUDIT PARAGRAPH

BACKDROP FOR AUDIT

Why did we select working of the Excise Department for review ?

We ranked the operations of the Excise Department against commonly used criteria for selection of audit areas for performance review. The details of our assessment is at Appendix. Our assessment revealed that Excise Department did not rank high in terms of financial materiality of the revenue generated and financial risk. However, the Department emerged as 'high priority' in terms of significance and visibility of its operations, operational risks and estimated audit impact. Our overall assessment revealed that working of the Excise Department was a 'high priority' area for audit.

What were the main objectives of our audit?

We undertook the review to ascertain what internal controls exist and whether these are functioning effectively, particularly with regard to:

- Identification of key risks to the achievement of the Department's objectives and management of such risks;
- Demand and collection of excise revenue leviable under the various Acts and Rules administered by the Excise Department;
- Enforcing provisions of the Acts and Rules effectively to prevent production, transportation and consumption of illicit/harmful spirituous preparations;
- Allotment and utilisation of resources efficiently to carry out the responsibilities entrusted to the Department; and
- Effective implementation of objectives envisaged in the annual abkari policies of the Government.

What was the audit framework used to conduct our review?

As our audit focus was on the functioning of internal controls in the Department, we conducted our audit against the COSO* framework of internal controls, which is an internationally established and accepted control framework. According to the COSO framework, the following are the five elements of an effective internal control system:

- *Control environment*—This provides a foundation for all other control elements. It is the responsibility of the top management of the Department to establish the control environment through measures such as adopting consistent policies, ensuring timely action to implement the policies, ensuring availability of employees, making available updated manuals to guide work, taking timely and strict action against violations and initiating measures to strengthen systems.
- *Risk assessment*—The management must clearly identify strategic objectives of the Department, risks to achieving such objectives and measures to manage such risks.
- *Control activities*—These are the policies, procedures and practices that enable the Department to achieve objectives
- *Information and communication*—This entails establishing systems for assimilating financial, operational and compliance information and passing on such information to those who need it.
- *Monitoring*—This covers day-to-day monitoring of activities as well as periodic assessment of activities through internal audit and/or external evaluation.

What was the criteria against which audit was conducted?

The functioning of the Excise Department was compared against the audit criteria listed below and incorporated within the COSO control frame work explained in para 1.3:

- Rates of taxes/duties and the provisions contained in various Abkari Acts/Rules.

* Committee of Sponsoring Organisations.

- Abkari policy of the Government.
- Standards and specifications fixed by the Government for various spirituous preparations.
- Instructions issued by the Department.

How did we select our audit sample?

We selected samples from all the three geographical zones. Six out of the 14 divisions and a minimum of 25 per cent of the circles, from the six identified divisions, were selected by simple random sampling using the audit software IDEA*. Twenty five per cent Ranges from the selected circles and a minimum of 25 per cent of the distilleries in the selected divisions were also selected. In addition, three major border check posts†, the Commissionerate of Excise and the bonded warehouses of the Kerala State Beverages Corporation (KSBC) (FL-9 Licence ‡) in the selected districts were also selected. The units selected are detailed below:

Zone	Division (Two from each Zone)	Circle	Range
South Zone	Thiruvananthapuram	Neyyattinkara	Neyyattinkara
	Alappuzha	Alappuzha	Alappuzha
		Mavelikkara	Mavelikkara
Central Zone	Thrissur	Vadanappally	Chavakkad
		Wadakkencherry	Kunnamkulam
	Palakkad	Chittor	Chittor
		Alathur	Alathur
North Zone	Kozhikode	Kozhikode	Feroke
	Kasargod	Kasargod	Kasargod

What was the scope of audit and audit methodology?

We conducted the review during January to May 2011 mainly through scrutiny of files and records at the selected units and by collecting information from other Government agencies like the Kerala State Mental Health Authority,

* Interactive Data Extraction and Analysis.

† Amaravila, Manjeswaram and Walayar.

‡ Foreign Liquor 9-Licence for possession and supply of foreign liquor in wholesale.

the Directorate of Health Services, the Chemical Examiners Laboratory Thiruvananthapuram, and the State Crime Records Bureau. Our audit team also physically observed the functioning of the border checkpoints. The review covered a five year period from 2006-07 to 2010-11.

What was the nature of consultation with the Government in the conduct of the review?

Before taking up the review, we organised an entry conference in January 2011 with the Secretary (Taxes), wherein the scope and methodology of audit was discussed. The Secretary assured us full co-operation in the conduct of audit. On behalf of the Indian Audit and Accounts Department, we acknowledge the co-operation of the Kerala State Excise Department, the Chief Chemical Examiner and State Crime Records Bureau in providing necessary information and records for audit. The Report was sent (August 2011) to the Department/Government and an exit conference was held on 31st October 2011 with the Additional Secretary, Taxes Department wherein the key audit findings and recommendations were discussed. The response of the Government during the exit conference and on other occasions has been suitably incorporated in the Report.

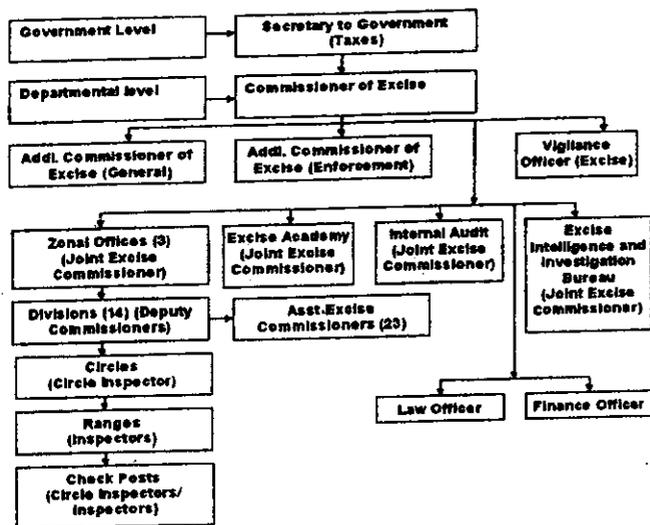
AUDIT PARAGRAPH

BACKGROUND INFORMATION

What is the organisational setup of the Department?

The Secretary to the Government (Taxes) is in charge of the Department at the Government level and Excise Commissioner is in charge of the Department at the Department level. The Excise Commissioner is assisted by two Additional Excise Commissioners for General Administration and Enforcement respectively. The State is divided into three zones for administrative purpose, each under the control of a Joint Excise Commissioner. The divisions at the district level are under the Deputy Commissioners. The circles at taluk level are under the control of the Circle Inspector of Excise. The circles are further divided into various ranges administered by Inspectors of Excise. The Excise Inspectors are assisted by preventive officers and guards. In addition, a Drug and Narcotic Cell and an Excise Intelligence and Investigation Bureau function under the Department. There are also various border check posts for preventing illegal transportation of goods.

The organogram of the Department is given below:



What are the main functions of the Department?

As per the Annual Administrative report of the Excise Department, the main functions are as listed below:

- Administer the Abkari Act, the Prohibition Act 1950, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 and the Spirituous Preparations (Inter State Trade and Commerce) Central Act, 1955;
- Submit proposals for the annual Abkari policy of the Government;
- Issue licenses for setting up outlets for sale of liquor;
- Demand and collect excise revenue leviable under the various Acts and Rules administered by the Department;
- Supervise breweries, distilleries and godowns; and
- Prevent production, transportation and consumption of illicit/harmful spirituous preparations.

Is the Department a regulator or a revenue generator?

The total revenue realised from State excise and the tax revenue of the State for the last five years was as follows:

Year	Total tax receipts	Excise revenue	Percentage of excise revenue
	(₹ in crore)		
2006-07	11941.82	953.07	7.98
2007-08	13668.95	1169.25	8.55
2008-09	15990.18	1397.64	8.74
2009-10	17625.02	1514.81	8.60
2010-11	21721.69	1699.55	7.82

The table indicates that excise revenues accounted for 7-9 *per cent* of the total tax revenue of the state. The actual receipts under different minor heads were as follows:

Minor heads	(₹ in crore)				
	2006-07	2007-08	2008-09	2009-10	2010-11
0039-00-101 Country Spirits	1.03	2.77	3.47	0.69	0.31
102 Country fermented liquor	41.67	42.25	94.71*	41.02	30.45
103 Malt Liquor	23.59	41.08	49.40	57.68	69.83
105 Foreign Liquor & Spirits	851.21	1,056.59	1,210.36	1,380.03	1,568.83
106 Commercial and Denatured Spirits and Medicated Wines	19.84*	4.86	0.17	0.73	0.29
107 Medicinal & Toilet Preparations containing alcohol and Opium etc	0.28	0.50	0.42	0.55	0.49
108 Opium, hemp and other drugs	0.11	0.70	0.10	0.37	0.15
150 Fines and confiscations	1.87	2.80	4.48	5.07	6.58
800 Other Receipts	13.47	17.70	34.53	28.67	22.59
Total	953.07	1,169.25	1,397.64	1,514.81	1,699.52

* The reason for the large variation under these heads could not be identified as there was no reconciliation of receipts

We noticed that 90 to 95 *per cent* of the excise revenue relates to foreign liquor and spirits. The revenue from spirit and foreign liquor is remitted from the distilleries or the KSBC, which is the sole licensee in the State for storage, distribution and sale of foreign liquor, where the Excise department performs only supervisory functions. In the toddy sector also, the rentals and tree tax are being remitted in advance from the year 2002 vide the Kerala Abkari Shops Disposal Rules, 2002.

We are of the view that as only limited effort is needed from the Excise Department to generate and collect revenue, the departmental activities are more geared towards regulation and enforcement.

[Audit Paragraphs 1.1 to 2.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March, 2011]

Conclusion/Recommendation

No Comments

AUDIT PARAGRAPH

CONTROL ENVIRONMENT

It is the responsibility of the Government and the top management of the Department to establish the control environment through measures such as adopting consistent policies, ensuring timely action to implement the policies, ensuring availability of qualified employees, making available updated manuals to guide work, taking timely and strict action against violations and initiating measures to strengthen systems. We noticed several weaknesses in the control environment, which are described below:

Did the top management act as a role model by adopting transparent procedures?

As per the Abkari Act and the Foreign Liquor Rules, 1953, Foreign Liquor includes plain rectified spirit including absolute alcohol intended to be used for manufacture of liquor meant for human consumption. Import fee of ₹ 5 per litre

was leviable on import of IMFL other than beer, vide notification issued in March 1996. As such Extra Neutral Alcohol (ENA) imported into the State from other States for manufacture of potable liquor comes under the classification of IMFL and attracts levy of import fee.

Test check of the records of the distilleries revealed that the import fee was not levied in the State and this was pointed out in the Report of the C&AG for the periods ended 31st March, 2007 and 31st March, 2008. In reply to this, the Government cited the decision of the Supreme Court in the case of Synthetic and Chemicals V/s State of UP and others (October 1989) for not levying the import fee. The Supreme Court, in this case, held that rectified spirit was not alcohol fit for human consumption but an industrial alcohol which was outside the purview of State legislation. However, later in January 1997, the Supreme Court in the case of Bihar Distillery and ANR Vs. Union of India and others held that so far as the rectified spirit supplied or utilised for potable purpose was concerned, levy of excise duty and all other control shall be with the States. Thus as per the notification issued in 1996 and the latter decision of the Supreme Court in 1997, the import fee was leviable on rectified spirit.

The Public Accounts Committee, after discussion of the paragraphs observed (July 2008) that in reality IMFL was a finished product and rectified spirit, a raw material and since the definition creates confusion and much practical difficulties, recommended necessary amendment to be made in the Act as well as the Rules in such a way so as to fix separate rates for finished goods and raw material. However, the Government, instead of fixing separate import fee for finished goods and raw materials, abolished (December 2009) the import fee for rectified spirit or Extra Neutral Alcohol including absolute alcohol intended to be used for the manufacture of liquor meant for human consumption by amending the Act with retrospective effect from 30th March, 1996.

We examined the procedures followed to bring about an amendment in the Abkari Act to waive import fee. We noticed that three amendments to the Abkari Act were under consideration of the Government, one for giving effect to the

recommendations of the Expert Committee (Lalithambika Committee) and two other bills (Bill Nos. 37 and 47) for inserting a new section/modifying a section (these bills were earlier presented in 2006). As per the orders of the Minister for Labour and Excise the amendment of Section 6, for abolition of import fee, was also incorporated and a common Bill (Bill No. 313) was presented and issued as an Ordinance (January 2010). Our observations are detailed below:-

- The note for the Council of Ministers indicated that the proposed amendment would not involve any financial commitments/implications. While the amendments to give effect to the recommendations of the Lalithambika Committee and to Bill Nos. 37 and 47 did not involve any financial implications, amendment to Section 6 had major financial impact. In fact, in the Subject Committee on Economic Affairs to which the bill was referred, five members gave a dissent note against the bill on the grounds that the State Exchequer would lose a considerable amount of revenue if import fee was not levied.
- We noticed that the Statement of Objects and Reasons appended to the bill indicated that amendments were proposed to the Abkari Act in consideration of the recommendations of the Expert Committee (Lalithambika Committee) along with amendments proposed in the Bill Nos. 37 and 47. Amendment to Sn. 6 to waive import fee was neither based on the Expert Committee's recommendations nor based on Bill Nos. 37 and 47. Thus, there was no information about the reasons for amending Section 6 to waive import fees.

We are of the opinion that the bill was proposed to the Council of Ministers by including an incorrect statement on financial impact and to the Legislature without complete information about the Section 6. In the Audit Reports considered by the PAC, a revenue loss of ₹ 142.18 crore was pointed out. Further, based on the number of permits/No Objection Certificates issued to the distilleries for import of ENA during 2010-11, we are of the view that there would be a recurring annual loss of approximately ₹ 77 crore to the Exchequer due to abolition of import fee.

We consider that the Government and top management of the Department did not adopt transparent procedures to get an amendment to the Abkari Act enacted.

After we pointed out the matter the Government stated (November 2011) that the top management acted as a role model by adopting transparent procedure as reflected in the Abkari policy announced from time to time. The Department prevented illicit liquor in the market substantially which might be one of the major reasons for increased consumption of IMFL sold through authorised outlets. Further with the objective of reducing alcoholism and intensifying campaign against alcoholism, Excise Department has taken earnest efforts by revising existing budget provision of ₹ 20 lakh to ₹ 2 crore.

The reply is not acceptable as it is not specific to the point raised in audit.

[Audit Paragraphs 3 to 3.1 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

1. To a query about the litigation regarding the import of rectified spirit, the Excise Commissioner replied that four cases were pending before the Supreme Court. In the case of Synthetic and Chemicals Limited Vs. State of U.P. and others, the constitution bench of Supreme Court ordered that as industrial alcohol was a raw material, state had no power to impose import fee on it. Subsequently in the case of Bihar Distillery and ANR Vs. Union of India and others, a two member bench of Supreme Court made an observation that if the rectified spirit released from the distillery was intended for the manufacture of portable liquor, the state was authorised to impose the excise duty or any another license as in the case of portable liquor. Supreme Court disproved the judgement in State of U.P. and others Vs. Vam Organic Chemicals Ltd. Later the Apex Court referred the case, State of U. P. and others Vs. Lalitha Prasad Vaisu to a nine member constitution bench of the Supreme Court which is still pending. When Kerala initiated steps to realise import fee in this regard, the United Spirits approached Kerala High Court and the Court quashed the notices issued by State upholding the judgement of the Apex court in the case of Synthetic and Chemicals Ltd.

2. The Committee observed that in order to tackle the situation government brought an amendment to section 6 of the Abkari Act in 2010 with retrospective effect from 1996 and thereby made it clear that it is not necessary to collect levy on imported spirit meant for the manufacture of IMFL. Taking into account of the intention of the State Government, it felt that it would be unfair to interfere into the government policy. So it decided not to pursue with the objection raised by Audit. The Committee condemned the indifferent attitude of the excise Department for not taking any step to counter the argument of the Accountant General, the department rather issued demand notices to realise the import fee from distilleries. The Committee ridiculed the dept's stand that the assessment was not done at Commissioner level but by the subordinate officers. It commented that unless the government had initiated legislation the department might have to answer for the consequences. It warned that the Excise Department should be more vigilant to avoid such lapses in future.

Conclusion/Recommendation

3. **The Committee understands that Government had taken a policy decision not to levy import fee on spirit meant for manufacturing IMFL. It opines that the department had not taken any step even to counter the argument of Accountant General. On other hand they issued demand notices to realise the import fee from distilleries. It warns that Excise Department should be more vigilant in avoiding such lapses in future.**

AUDIT PARAGRAPH

Did the Government adopt consistent policies?

The consumption of IMFL in the State increased by 63 *per cent* from 133 lakh cases to 217 lakh cases in five years

Every year the Government announces an Abkari policy stating briefly the strategies/activities to be undertaken during the year and announcing the changes in the rate of fees/rentals etc. for various kinds of licenses issued under the Abkari laws. We noticed contradictions between different policies of the Government. For instance, though the Government's annual Abkari policy emphasised on discouraging consumption of alcohol, yet the Government's action to grant more

licences for liquor outlets and to regularise ineligible bar hotels contradicted this broad policy objective. The number of liquor outlets and liquor consumption in the state increased steadily during the five year period 2006-07 to 2010-11 as shown in the following table. Further, Kerala has the highest per capita consumption of liquor in the country as per the publication of the Public Relations Department titled "Substance Abuse Prevention and Control – A master plan for Kerala".

Major Foreign Liquor Outlets

Type of Licence	No. of licences sanctioned during 2006-07 to 2010-11	Total number as on 31-3-2011
FL3 Bar Hotels	153	683
FL1 Liquor shops	33	384
Total	186	1067

Details of Liquor Consumption

Year	Sales in lakh cases		Increase over the previous year (in lakh cases)	Gross sale (₹ in crore)
	IMFL	Beer		
2006-07	132.65	50.05	33.04	3143.29
2007-08	148.01	58.62	23.93	3669.49
2008-09	171.17	70.60	35.14	4631.00
2009-10	188.05	85.24	31.52	5539.85
2010-11	217.02	85.61	29.73	6730.30

Source: KSBC

We noticed that the population of the State increased by about 1.5 lakh persons per year (based on the population of 318.41 lakh in 2001 and 333.8 lakh in 2011) whereas the increase in annual liquor consumption ranged from 24 lakh to 35 lakh cases during the review period, indicating an increase in the rate of consumption.

[Audit Paragraph 3.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

4. To a query regarding the liquor policy, the witness Excise Commissioner appraised that it was aimed to reduce the consumption of alcohol and the Government achieved it to a certain extent through awareness campaigns. The Committee noticed that the statistics indicates increase in sales from 2006 onwards. In 2010-11, 217.02 lakh cases of IMFL and 85.61 lakh cases of beer were sold; which means there was an increase in sales of 29.73 lakh cases when compared to previous year. To a query Excise Commissioner submitted that before 7-8 years the rate of growth of alcohol consumption was more than 25% which was showing a decreasing trend year by year.

5. The Committee remarked that in the notes furnished by the department it was shown that the rate of growth of alcohol consumption was decreased by -1% than that of previous year whereas in the statement of facts filed before court in a case was that alcohol consumption has been increasing. In this regard, the witness, Excise Commissioner submitted that it was filed by the MD, Kerala State Beverages Corporation. The Committee directed the Excise Department to examine the circumstances which led to file contradictory statement before the court and seek explanation from the MD, KSBC in this regard and report to it.

Conclusion/Recommendation

6. **The Committee observes with grave concern that there was a contradiction between the statement furnished by the department regarding the rate of growth of alcohol consumption in the State and the statement of facts filed before the court by the MD, KSBC in a case. It exhorts the Excise Department to examine the circumstances which led to submit such a contradictory statement. It suggests to seek explanation from the MD, KSBC in this regard and furnish a report to it.**

AUDIT PARAGRAPH

Were the policies implemented effectively?

It is the responsibility of the top management of the Department to ensure that action is taken to implement the policies of the Government. We noticed that many of the policy statements were not followed up by action plans or their implementation was tardy. As a result, implementation of Government policies was ineffective.

Major policy statements	Status of implementation
1	2
Government is fully committed to discourage alcohol consumption as it leads to serious social problems. (Abkari Policy 2007-08)	Consumption is increasing each year.
Stringent action will be initiated against illicit liquor trade in the State. (Abkari Policy 2007-08)	Intelligence inputs and minutes of field level conference reveal illicit liquor trade is still rampant in the State
Enforcement will be strengthened with popular committees. (Abkari Policy 2007-08)	Popular committees were formed. But only 27 to 53 per cent of the targeted meetings were convened during the period 2006-07 to 2010-11.
Production and distribution of sweet toddy is under active consideration. (Abkari Policy 2007-08 and 2008-09)	Not implemented
Awareness programme to create awareness among students/ public about the ill effects of alcohol consumption. (Abkari Policy 2007-08)	₹20 lakh was provided in each budget for the programmes and the campaign, street shows, etc. were being conducted regularly. We consider that the allocation is meagre to have a perceptible impact.

1	2
Creation of an apex body for co-operative societies and to give permission to them for production of sweet toddy. (Abkari Policy 2007-08 and 2008-09)	Not implemented
Production of cheap IMFL at CHICOPS distillery at Palakkad (Abkari Policy 2008-09)	Not implemented
Starting of de-addiction centres in selected Government hospitals with the co-operation of Health department (Abkari Policy 2009-10)	Government ordered (2009-10) de-addiction centres to be started in government hospitals in eight districts. However, the centres have not yet been started so far.
As part of improving the toddy sector, Government proposed to start toddy parlours in all districts (Abkari Policy 2011-12)	Not yet started

[Audit Paragraph 3.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

7. To a query of the Committee, the Joint Excise Commissioner informed that the functioning of popular Committee was being reviewed. Also films on the hazards of alcohol consumption have been showing in schools and awareness programmes have also been conducted to reduce the consumption of alcohol.

8. The Committee criticized that awareness programme against the consumption of alcohol was not monitored properly. It suggested that there should be co-ordination between Excise Department and PRD in conducting awareness programmes and people's participation should be assured in these programmes. The Committee decided to recommend that the department should take measures to ensure that the popular committees are working effectively.

Conclusion/Recommendation

9. The Committee suggests that there should be a co-ordination between PRD and Excise Department in conducting awareness programmes against the consumption of alcohol. It emphasizes that people's participation should be ensured in such programmes. It directs that such awareness programmes should be monitored properly. The Committee recommends that the Excise Department should take steps to ensure that popular committees are working effectively.

AUDIT PARAGRAPH

Was the Excise manual useful in guiding the work of employees?

The Kerala Excise Manual currently used by the Department was prepared in 1972. We noticed that it has not been revised so far despite several major changes relating to prohibition of alcohol, creation of intelligence wing and amendments to Abkari laws. As the manual is outdated it could only be of limited use in guiding the work of departmental employees. The employees of the Department confirmed that the Manual, though useful, needs to be updated.

[Audit Paragraph 3.4 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

10. Regarding audit paragraph, the Excise Commissioner informed that a Committee consisting of senior officers in the department had been constituted before 6 months for the purpose and the committee submitted its report which is under consideration of the Government.

11. To a query he added that the Manual was framed 45 years back and the amendments to the Acts and rules thereafter had not been incorporated in the manual. So a comprehensive and updated revision of the Excise manual has to be done. He was optimistic that revision of manual could be completed within three months.

Conclusion/Recommendation

12. The Committee moots the Excise Department to take strenuous effort to complete the revision of Excise Manual at the earliest.

AUDIT PARAGRAPH

Was prompt follow up action taken on study reports?

Eventhough various study reports on Excise department were given, no follow up action was taken.

We noticed that during the period under review, various study reports were submitted to the Department for improvement of its functioning. However, no action was taken on a majority of the recommendations as shown below:

Sl. No.	Study Report	Year of report	Status/Remarks
1	Report on Simplification of procedures and methods in the Excise Department	2008	The report contained many recommendations relating to confiscation, personnel, modernisation of check posts, starting a website, revision of excise manual, providing facility for consumption of IMFL in FL1 shops, etc. No follow up action was taken on these recommendations.
2	Expert Committee formed to study and to report changes required in Abkari Act	December 2009	The Abkari Act was amended vide Act 3 of 2010 in April 2010 by introducing new sections/provisions, etc. based on one of the recommendations of the committee.
3	Report by the Committee on Chemical Composition of Toddy	January 2009	Pending with Government.

[Audit Paragraph 3.5 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

13. Regarding the modernisation of check posts, the Joint Excise Commissioner deposed that though building could not be constructed in check posts, steps were taken to install container modules in 12 check posts at a cost of ₹1.22 crore and the work was entrusted with Nirmithi Kendra. One container module was already installed in Valayar check Post. To a query regarding the installation of scanner in check posts the Excise Commissioner explained it as uneconomic and impractical.

14. The Excise Commissioner deposed that though the report by Expert Committee regarding chemical composition of Toddy was submitted in January 2009, it was not approved by Government. The Government again constituted another Committee and included Chief Chemical Examiner as a member and the committee submitted its report and it has been under consideration. He continued that at present the alcohol content of the toddy only was being examined and 8.1% is the permissible limit. But with this examination it could not be ascertained whether the toddy was natural or artificial. To resolve the issue, testing of seven basic parameters including percentage of potassium, phosphorous etc. in addition to strength of alcohol was proposed in the report and after the approval of the report the prescribed chemical composition of toddy would be notified.

15. The Joint Excise Commissioner supplemented that in addition to the laboratories, one mobile testing lab was also functioning in Thiruvananthapuram. He was optimistic that three more labs could be made functional during the next financial year.

16. The Committee found that the department had not taken measures to implement the suggestions put forth by various study reports. So the Committee decided to recommend to avoid unnecessary delay in implementing the recommendations contained in various study reports on Excise Department. It also urged to furnish details of follow up action taken in this regard.

Conclusion/Recommendation

17. The Committee observes that though many studies had been put forth suggestions for the substantial improvement of the Excise Department, the department had not taken any fruitful steps to implement any of the recommendation contained in those reports. The Committee recommends to avoid unnecessary delay in implementing the recommendations contained in the study reports on Excise Department. It also urges to furnish details of follow up action taken in this regard.

AUDIT PARAGRAPH

Was effective action initiated against violations at the Commissionerate?

We noticed from the correspondence files between the Commissionerate and field offices, kept in the Commissionerate, that even though violation of licence conditions/permit system was reported from the field offices, effective corrective measures were not taken at the Commissionerate. In response to our audit query, the Commissionerate replied that data regarding FL-3* licences cancelled for violation of license conditions was not available with them and that such data was available at the Division offices. As the Excise Commissioner was the competent authority to cancel licences under the Abkari Act and the Foreign Liquor Rules, non-availability of such basic details at the Commissionerate raises doubts about the seriousness with which reports of violations are treated.

[Audit Paragraph 3.6 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

* Foreign Liquor-3 Hotel (Restaurant) Licence.

18. Regarding audit paragraph, the Excise Commissioner informed that at present the registers showing violations of licence condition, renewal of licence in respect of bar hotels etc. have been maintained in the department. He added that once licence was issued, subsequent matters relating to bar hotels, like violations, registering cases etc. were dealt at the district level offices and it was not co-ordinated at the Commissionerate. He continued that after the objection raised by Audit, necessary steps were taken to rectify those defects. To a query of the Committee, the witness detailed that the Commissioner would cancel the licence of the hotel in case of violation if any was reported from district level offices. But the renewal of that licence was under the jurisdiction of the Deputy Commissioner and permission of panchayat is required only for the commencement of Bar hotels. The Committee directed the Excise Department to furnish the data including details of cancellation of FL- 3 license for violation of license conditions.

19. When enquired about the computerization in the department, the Excise Commissioner informed that networking was not available with their offices. The Accountant General (E&RSA) opined that in order to improve controlling function of the department computerization should be made effective. The Excise Commissioner informed that a project report for total computerization was sent for vetting of IT Department. The Committee decided to recommend that total computerization of Excise Department should be done immediately and directed to formulate a time frame for the completion of computerization.

Conclusion/Recommendation

20. The Committee directs the Excise Department to furnish the details of cancellation of FL-3 licence for violation of license conditions.

It recommends that total computerisation of Excise Department should be done immediately and directs to formulate a time frame for the completion of computerisation.

AUDIT PARAGRAPH**RISK ASSESSMENT**

It is the responsibility of the management of the Department to clearly define strategic objectives and identify the major risks in achieving such objectives of the Department. Our findings on the risk assessment practices adopted in the Department are detailed below:

Did the department define its strategic objectives and targets?

We noticed that the Department has not so far set forth mission and vision statements and the main objectives of the Department. We consider that in the absence of such strategic guidelines, the Department faces a risk of functioning without a clear and consistent purpose. For instance, the employees may not be sure as to whether to focus on collection of revenue or on prevention of consumption of illicit liquor.

Recommendation 1: The Department may consider preparing a strategic plan covering mission, vision and objectives. Further, such a plan may be published widely amongst employees and the public.

Did the Department assess risks to achieving its objectives?

We noticed that the Department has not carried out risk assessment to identify the significant risks to achieving its objectives. We consider that identification of key risks will enable the Department to focus its efforts towards mitigating risks.

What were the significant strategic risks identified by audit?

It is the responsibility of the Department to identify risks and initiate measures to counter the risks. As the Department has not identified risks, we made an attempt to identify a few significant strategic risks that we consider could affect the functioning of the Department adversely. In addition to the strategic risks that are described below, various operational risks are covered in later chapters.

Is there a conflict of interest between a major licensee for liquor trade and the Excise Department?

The Excise Department is entrusted with the supervision and control over the production, distribution and sale of spirit/IMFL within the State and the Department acts as a regulatory authority. Kerala State Beverages (Manufacturing and Marketing) Corporation (KSBC), a Government Company, has sole rights over the procurement, distribution and sale of IMFL within the state. KSBC is a major licensee for liquor trade.

The Excise Department is one of the promoters of KSBC and the Excise Commissioner is the Chairman of KSBC. As both agencies are headed by the same person, we consider that there is a conflict of interest, as KSBC as a licensee is engaged in promotion of liquor trade and the Department as a regulatory authority, is responsible for regulating liquor trade. We feel that the present arrangement may adversely impact the Excise Department from functioning as an effective regulator.

After we pointed out the matter the Government stated (November 2011) that the Excise Commissioner only acts as Chairman of KSBC in order to exercise control on the decision taken by the Board of Directors and that for more than 25 years the Excise Commissioner is the Chairman and that there was no conflict of interest.

The remarks furnished by the Government are not acceptable since there is conflict of interest as one entity is the licensing authority and the other is the licensee.

[Audit Paragraph 4 to 4.3.1 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

21. Regarding audit paragraph, the Excise Commissioner deposed that strategic plan related to Mission & Vision Statement was effectively implemented and regularly monitored in the department during the past three years. With regard to the audit paragraph the Excise Commissioner detailed that training to Excise officers was being conducted effectively. So far Training imparted to 12 batches. Excise academy has been functioning in Thrissur and, training programme was also conducted for Excise officers in co-ordination with IMG.

22. Regarding the objection raised by Audit that dual functions viz generation of income and awareness programme might lead to conflict of interest. The Excise Commissioner deposed that earlier awareness programmes were conducted by NGO's, but could not attain the desired result. So the department began to conduct awareness programmes with its own fund. He also informed that from the very moment of the inception of Kerala Beverages Corporation, ie, from 1984, Excise Commissioner was the chairman of Beverages Corporation and being Chairman he could closely watch its functioning.

23. To a query the Excise Commissioner informed that ₹3.5 crore was allotted to Cochin Medical College for starting a de-addiction centre and committees were constituted at State level and district level for the purpose. Taking into account of the fact that the number of alcoholics are increasing in rural areas, the Committee decided to recommend that financial assistance must be extended to the de-addiction centres at Taluk hospitals also.

Conclusion/Recommendation

24. **The Committee recommends that financial assistance must be extended to the de-addiction centres at Taluk hospitals also as the number of alcoholics seems to be increasing in rural areas.**

AUDIT PARAGRAPH

Is the present system of printing and custody of permit books prone to misuse?

Misuse of permit books for liquor transport in the State cannot be ruled out in the present system of printing and distribution of the permits

Transportation of spirituous preparations/IMFL is controlled by issuing permits. Permits are issued for transportation of IMFL from distilleries to FL9 godowns* and from FL9 to various retail outlets, etc. These permits were being printed at the Government press in book form, each containing 25 permits and stocked at the Commissionerate and issued from there as per requirement of the field units.

We noticed that the serial numbers to the permits are assigned by the press and the numbers are not continuous. Our verification of the stock register at the Commissionerate revealed several sets of numbers to be missing. Further, the register was not closed regularly. As the numbers were assigned by the press and the numbering was not continuous, we are unable to conclude whether the permit books with the missing numbers were actually printed or not.

We consider that the various weaknesses described above relating to the printing of permits and its custody poses a serious strategic risk. We are of the opinion that the weaknesses could be misused to facilitate transportation of illicit liquor by printing permits with the missing numbers. Responding to an audit enquiry on irregular maintenance of stock register of permits, the Commissionerate stated that it was a usual practice and the weaknesses pointed out by audit would be noted for future guidance. However, the fact remains that it was an important control which was not implemented effectively.

[Audit Paragraph 4 to 4.3.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

25. When enquired about the chances of misuse of the missing permits for the transportation of illicit liquor, the witness, Excise Commissioner ruled out chances of malpractice and submitted that due to shifting of office from Peroorkada to Excise Head Quarters, the bundle of permit books were disorganised and could not submit it for verification at the time of auditing. Now all the issues have been sorted out and the stock positions of permit books are corrected and

* Licenses for possession and supply of foreign liquor in wholesale for sale to other retail license holders like FL1, FL3, FL4 club licenses, etc.

tallied on physical verification. An official from the Office of the Accountant General invited the attention of the Committee over the fact that Audit found that stock register was neither periodically closed nor updated. Moreover from the register it could not be ascertained the balance stock position or missing details. The Excise Commissioner pointed out that all the registers were computerised currently.

26. The Committee was at a dismay to note that even though Accountant General pointed out a serious lapse, the department rectified the mistake simply by computerising and updating the register. The Committee expressed its anguish and remarked that responsibility should be fixed for the lapse and the delinquent should be penalised. It directed the Excise Department to conduct a departmental enquiry and report within one month to it. The Excise Commissioner agreed to do so. (The department conducted a detailed enquiry in this regard and submitted a report on 16-12-2015)

Conclusion/Recommendation

27. The Committee opines that the gravity of a mistake would not get nullified, simply by rectifying it. The Committee directs that responsibility should be fixed for the lapse and the delinquent should be penalised.

AUDIT PARAGRAPH

How effective was the role of the Department over printing, supply and affixing of security labels?

The Licensee itself was printing the security labels through a private party and affixing it on the IMFL bottles. At no stage the Licensing Authority, the Excise Department has control over it.

In order to avoid the risk of production and sale of duplicate/ spurious liquor in the State, the Department introduced (June 2003) a system of affixing a security hologram label in all IMFL bottles sold in the State. As directed by Government (September 2001) KSBC entered into an agreement with the Centre for Development of Imaging Technology (C-DIT), a State Government autonomous body, in November 2001 for printing and supply of holographic security labels at

the rate of 13.86 paise per label. The agreement was for 10 years and C-DIT has been supplying the necessary security labels to KSBC. When the liquor reaches the KSBC godown from the distilleries it is unloaded at the FL-9 warehouses and the casual labourers employed by the KSBC affix the security labels supplied from KSBC before despatch to liquor outlets like FL1, FL3 and FL4 licensees in the State.

Our examination of the records revealed the following:

- Though KSBC entrusted the printing and supply of security labels to C-DIT, C-DIT in turn entrusted the work to a private agency*, vide agreement dated 17 April 2002 violating the agreement conditions relating to non-transfer of work and maintaining secrecy.
- In April 2009 a section of C-DIT employees submitted a memorandum to the Director General of Police alleging that the private party was printing the labels at two places, near the Walayar Check post and at Ernakulam. The memorandum was forwarded to the Excise Commissioner by the DGP. The Intelligence wing of the Department investigated the issue and reported (December 2009) that entrusting the printing of security labels to a private agency by C-DIT was in violation of the agreement between C-DIT and KSBC relating to secrecy, non-transfer of work, printing labels only at C-DIT, Thiruvananthapuram. However, no further action was taken on the issue.

The Excise officials, the designated authority for supervision of production and distribution of IMFL, cannot authenticate the genuineness of a hologram as they were not aware of the hologram details

- The Assistant Excise Commissioner, KSBC (HQ), Thiruvananthapuram wrote (June 2010) to the Excise Commissioner that at present the security labels which are affixed on liquor bottles bearing the signature of the Excise Commissioner are fully handled by KSBC and in the current scenario even on booking a case of 'secondst†' it cannot be effectively prosecuted as the excise officials are not the competent authority to affirm **whether** the stickers affixed are genuine or not. The officials of

* The 'Process colour', Ernakulam.

† Low Quality/unaccounted liquor sold in the market.

C-DIT/KSBC have to be cited as private witness for proving that the labels are counterfeited. They can act only as private witness, as they are not declared as competent authority in Abkari Act. Hence effective prosecution is a remote possibility. He also submitted (June 2010) a proposal to the Excise Commissioner for bringing the printing and custody of security label under the direct supervision of the Excise Department citing that the Excise Department of Tamil Nadu owns a press to print the security labels. No action was taken on this proposal.

- We observed that thousands of bottles of IMFL are affixed with security labels at the FL9 godowns everyday. We are of the opinion that the Department is unable to exercise effective supervision as only four to eight employees of the Department were working in these godowns and the employees were only entering the serial numbers of the labels supplied by KSBC in the registers.

We are of the opinion that as the security labels are being printed by a private agency and as the Department is exercising minimal supervision over the production, supply and affixing of the labels, there is a risk of supply of security labels to illicit liquor producers/sellers.

Recommendation 2: The Department must ensure that Security labels are printed under the direct supervision of the Department.

[Audit Paragraph 4.3.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II

28. Regarding audit paragraph, an official from the Office of the Accountant General informed that KSBC entrusted C-DIT, a government agency for printing security label but C-DIT subcontracted the job to a private agency and KSBC had been using the security labels printed by them without any supervision.

29. The Joint Excise Commissioner deposed that an Expert Committee was constituted for formulating directions in making high security hologramic labels with track and trace facility and that Committee would submit new Request for Proposal (RFP) within one month. The Committee expressed its apprehension over the inertia on the part of the department in not taking any action against C-DIT for subcontracting the hologram printing to some private company in violation of the terms and conditions.

30. The Committee enquired how the security of security label could be ensured if its printing was carried out by some private agencies. Then the Excise Commissioner submitted that as the C-DIT did not have the technology of printing hologram label, they had no other alternative than entrusting the work to some private agency. He added that the issue had been resolved before 3 years, when the violation of agreement conditions was found out by the Excise Vigilance Commissioner and currently hologram labels are printed in high security under the direct control of the Excise Commissioner.

31. In this regard the Accountant General (E&RSA) invited the attention of the Committee on another serious issue that by subcontracting the label manufacture to a private firm without inviting tender resulted for a loss to the tune of ₹ 50 lakh per month. An official from the AG's Office supplemented that in a letter sent by an Assistant Excise Commissioner to Excise Commissioner, it was complained that the genuineness of the hologram signed by Excise Commissioner could not be ascertained. The witness, Joint Excise Commissioner informed that the Assistant Excise Commissioner arose doubts on the genuineness of the hologram labels as the labels were handed over to the M.D., KSBC for sticking. That matter was also taken up by Government and steps were being taken to enforce more effective security system in which a label having 23 features also envisaged to stick on the bottles in addition to the hologram label and a Committee was entrusted to develop the label.

32. Though appreciated the effort taken by the Excise Department, the Committee expressed its displeasure over the prevailing security labelling system. The Committee is of the opinion that being a government undertaking is not a license to violate the rules, and subcontracting of hologram printing to a private firm without prior permission was highly irregular. It strongly warned that such irresponsible act of the C-DIT would not be entertained and decided to recommend for introducing a foolproof printing system for security labels without delay.

Conclusion/Recommendation

33. The Committee reprimands the Excise Department for the inertia on its part in not taking any action against C-DIT for subcontracting the hologram printing to some private company violating the terms and conditions of the agreement. It expresses its dissatisfaction over the prevailing security labelling system. It strongly warns the Excise Department that such irresponsible act of C-DIT would not be entertained and recommends for introducing a foolproof printing system for security labels without further delay.

AUDIT PARAGRAPH

CONTROL ACTIVITIES

This chapter contains our assessment on the efficacy of controls in discharging key functions of the Department like financial and budget management, generation and collection of revenue, issue of licenses and enforcement. The major source of revenue is from IMFL, the collection of which is by the KSBC, a State public sector undertaking and we did not notice any significant observation to comment in this report.

Was budget managed effectively?

The budget provision and expenditure and the excise revenue for the period 2006-07 to 2010-11 were as follows:

(₹ in crore)

Year	Expenditure			Receipts		
	Budget provision	Expenditure	Savings	Budget Estimate	Receipts	Excess
2006-07	63.88	58.07	5.81	944.73	953.07	8.34
2007-08	66.91	69.40	(-)2.49	986.86	1169.25	182.39
2008-09	79.44	72.84	6.60	1299.85	1397.64	97.79
2009-10	85.81	83.31	2.50	1440.52	1514.81	74.29
2010-11	96.13	92.51	3.62	1440.52	1699.55	259.03

We noticed that actual expenditure was lower than the budget provision in all the years except 2007-08. The variation between the budget estimates and the actual expenditure was less than 10 per cent during all the years and less than five per cent in three out of the five years under review.

We also noticed that actual receipts were in excess of the estimates in all the years and the variation was high during 2007-08 (18.5 per cent) and 2010-11 (18 per cent). The Department replied that the large difference in receipt during 2007-08 was due to increase in licence fee, rentals, etc.

We are of the view that the Department managed its budget effectively as generally the variation between the budget and actual revenue and expense was within reasonable limits.

Did the Department officials use the powers vested in them to collect arrears of revenue?

The Government vide notification dated 21 July, 1970 appointed Deputy Commissioners and Assistant Commissioners of the Excise Department to exercise the powers and perform the functions of a Collector under clause(e) of Section 2 of the Revenue Recovery Act, 1968, for the collection of both the current and old abkari arrears. However, this power given to the Excise Department has not been exercised by them. Instead the departmental officers were reporting arrears to the Revenue Department for collection. The Revenue Department returned cases amounting to ₹ 17.05 crore, stating that the persons were insolvent. Further, an amount of ₹ 17.15 crore was also waived under Amnesty Scheme.

We are of the opinion that if the departmental officials had exercised the powers vested in them and taken timely action against defaulters, the loss of ₹ 34.20 crore (₹ 17.15 crore + ₹ 17.05 crore) to the Government could have been avoided to a great extent.

Did the Department have effective systems to collect arrears of revenue?

From April 2002, the Department introduced a new system for collection of monthly rentals and fees from the concerned licensees such as distilleries, FL 3 bar hotels, toddy shops etc. Under the new system the licensees have to pay the rentals

in advance. As a result there has been no major accretion to abkari arrears since 2002. The abkari arrears as on 31 March 2002, before the introduction of the new system, was ₹ 179.30 crore and the arrears as of 31 March, 2011 were ₹ 230.29 crore.

Revenue recovery cases relating to ₹ 17.05 crore were returned by revenue department stating it as non recoverable as there were no property in the name of the defaulter.

Even in respect of cases referred to the Revenue Department for revenue recovery, it is the responsibility of the departmental officers to regularly follow up such cases to see that prompt action is being taken by the Revenue authorities to recover the dues. We, however, noticed that even after nine years, the Department could not recover the arrears outstanding for very long periods as there has been an increase in arrears as stated in the previous para.

We also noticed differences between the total demand under Abkari arrears as per the records of the Excise Department and that of Land Revenue Commissioner, as noted below:

(₹ in crore)

	Amount as per records of Excise Department	Amount as per records of Land Revenue Commissioner
Total Demand	230.29	109.18
Demand under Stay	26.59	64.38
RRC returned	17.05	21.26

We are of the opinion that the Department did not have controls in place to periodically reconcile the differences in the amounts with the Land Revenue Department. Further, the Department was not communicating details of vacation of stay to the revenue authorities for taking further action.

Did the Amnesty Scheme achieve its objectives?

By introduction of Amnesty scheme Government could collect a sum of ₹ 21.87 crore.

Considering the abkari arrears outstanding for long periods, the State Government introduced an Amnesty Scheme in May 2008 for payment of abkari arrears allowing certain conditional concessions. Through this scheme the Government could collect an amount of ₹ 21.87 crore as on 31 March, 2011 and clear 949 cases out of 1919 cases outstanding before the introduction of the scheme. As withdrawal of court cases was a precondition, the long standing court cases related to 37 arrear cases were also closed.

We are of the view that the Department partially achieved some of the objectives of the amnesty scheme by clearing about 50 per cent of the outstanding cases.

Was the Department able to generate and collect revenue efficiently and effectively?

Did the Department levy all the fees payable under the Abkari Act?

Permit fee of ₹ 16.45 crore was not levied.

As per Section 10 and 11 of the Abkari Act, the Government fixes the minimum quantity of liquor or intoxicating drug that can be transported without permit and permit is needed for transporting quantities in excess of such prescribed limit. Under Section 6 and 7 of the Act, spirit can be imported or exported by the various licensees for which No Objection Certificates (NOC) are issued under the specific Rules under which licences were issued.

As per SRO 388/95 (March 1995), Government directed that a fee of ₹ 500 must be levied with effect from April 1995 on each permit to be issued under sections 6, 7 and 11 of the Abkari Act 1 of 1077. Further, ₹ 50 was to be levied on each 'No Objection Certificate' to be issued under section 6 and 7 of the said Act to all licensees under the Kerala Distillery and Warehouse Rules 1968, the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules 1975, the Brewery Rules 1967, the Kerala Winery Rules 1970 and the Kerala Rectified Spirit Rules 1972, for the purpose of importing, exporting or transporting any kind of liquor and rectified spirit including absolute alcohol.

After we pointed out the matter the Government stated (November 2011) that in the light of the observation the Excise Commissioner was directed to forward a draft amendment proposal to amend FL Rules enabling Government to levy permit fee.

Further developments have not been received (December 2011).

In 2004, vide SRO 317/04 issued in partial modification of SRO 388/95, the rates of fee for the issue of NOC under Section 6 and 7 of the Abkari Act were increased to ₹ 1,000 and the permit fee was left unchanged at ₹ 500.

In 2009 vide SRO 1023/2009 the Government increased the fee of 'No Objection Certificate' issued under sections 6 and 7 of the Abkari Act also to ₹ 1,000. By the above stated notifications, the rate for permits and 'No Objection Certificates' issued under Section 6 and 7 of the Act only was increased. No change was effected in the fee of ₹ 500 for the transport permit issued under Section 11 of the Act and such a fee was neither withdrawn nor modified.

We test checked records in FL9 warehouses and noticed that the permit fee for the permits issued under section 11 of the Abkari Act from FL9 godowns for the transport of IMFL to other licensees was not levied. This resulted in short levy of permit fees of ₹ 16.45 crore during 2006-07 to 2010-11 as detailed in the following table:

Year	Total Permits issued	Non levy at the rate of ₹ 500 per permit (₹ in lakh)
2006-07	52,288	261.44
2007-08	57,301	286.50
2008-09	63,847	319.24
2009-10	75,420	377.10
2010-11	80,128	400.64
Total	3,28,984	1644.92

When we pointed out the loss of revenue, the Department replied that SRO No. 1023/09 related to all licensees under the Kerala Distillery and Warehouse Rules 1968, the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules 1975, the Brewery Rules 1967, the Kerala Winery Rules 1970 and the Kerala Rectified Spirit Rules 1972, for the purpose of importing and exporting any kind of rectified spirit including absolute alcohol, wherein the required fee was being collected and was not related to the Foreign Liquor Rules. The Department also stated that as per Section 11 of the Abkari Act, transport permit was being issued from KSBC FL9 warehouse, for which no fee was stipulated.

We do not agree with this reply of the Department as the Government had not changed the rate of permit fee for the permits issued under section 11 of the Act, which remained unchanged since its introduction in 1995. Moreover, the explanatory note attached to the SRO 1023/09 inter alia states that 'Government finds it necessary to continue the existing fee to be levied on each permit to be issued under Sections 6, 7, and 11 of the said Act'.

Recommendation 3: The Department may take immediate steps to levy and recover the permit fees under Section 11 of the Abkari Act for the period from 2006-07 onwards.

[Audit Paragraph 5 to 5. 2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

34. To a query, the Joint Excise Commissioner stated that out of the arrears of ₹ 237 crore ₹ 63.81 crore was principal amount and ₹ 170.43 crore was interest and amount accrued over 45 years was pending to be collected. He continued that an amount to the tune of ₹ 24 crore was under court stay and ₹ 19.61 crore pertaining to cases of Revenue recovery which were returned as irrecoverable. The Excise Commissioner added that amount could be deducted from the arrears only after a report from respective District Collector showing that no property was owned by the persons concerned under his jurisdiction from all the 14 districts.

The Committee was informed that in 55 cases in which government acquired bought-in-land, the arrears turned up to ₹ 85.11 crore and unless the land could sale, the arrear could not be collected because of the delayed auction proceedings. The Committee opined that there should be a co-ordination between Revenue and Excise Departments to clear the arrears in revenue collection and decided to recommend to take strenuous effort to reduce the arrears.

35. Regarding the audit paragraph, the Excise Commissioner replied that for the last 12 years there was no arrears in the department and the arrears mentioned in the audit paragraph were pertaining to cases pending over 45 years and the amount received as security at that time was meagre to realise the arrears.

36. Regarding the audit paragraph, the Joint Excise Commissioner informed that AG's observation was that fee was not collected for issuing permit for transportation of liquor. Notification was issued by the department prescribing the fees to be realised on different kinds of permits. The permit for transportation of foreign liquor was not imposed with fee until the year 2012 whereas a fee @ ₹ 500 was prescribed for those permits issued under the Brewery Rules and Distillery Rules. When Accountant General pointed this anomaly, necessary amendment was brought to the rules so that transportation of foreign liquor was imposed with permit fee.

37. In this regard an official from the Office of the Accountant General invited the attention of the Committee that earlier the department had collected import fee @ ₹ 50 and transportation fee @ ₹ 500. Later when import fee was revised from ₹ 50 to ₹ 1000, corresponding revision was not brought to transportation fee and the department ceased to levy fee for transportation of foreign liquor.

38. The Joint Excise Commissioner defended with the argument that the notification issued in 2009 was stipulated to levy stamp fee on each permit to be issued u/s 11 of the Abkari Act and ₹ 1,000 on each NOC to be issued u/s 6 and 7 of the said Act to all licensees under the Kerala Distillery and Warehouse Rules, the Kerala foreign Liquor Compounding, Blending and Bottling Rules, the Brewery Rules, the Kerala Winery Rules and the Kerala Rectified spirit Rules for the purpose of importing, exporting or transporting any kind of liquor and rectified

spirit including absolute alcohol. He continued that the notification did not mention the Foreign Liquor Rule which was later included as per AG's observation as it seems a source of income for government.

Conclusion/Recommendation

39. The Committee opines that co-ordination between Revenue and Excise Departments is essential to clear the arrears in revenue collection and directs that Excise Department should take all effective measures to bring down the arrears to the minimum.

AUDIT PARAGRAPH

Did the Department discharge its duties as a licensing authority effectively?

Were Foreign Liquor 3 Hotel (restaurant) licences granted according to Rules?

The basic eligible criteria for granting an FL3 licence was overlooked in majority of the cases while granting the licences.

The FL3 Hotel (Restaurant) licences were issued under Rule 13(3) of the Foreign Liquor Rules by the Excise Commissioner under orders of the Government, in the interest of promotion of tourism in the State to hotels which have obtained 3-star and above classification from the Ministry of Tourism. The main criteria for granting an FL3 licence were as follows:

- Hotels should have a rating of 2-star (till March 2002)/3-star and above;
- It should be in the interest of promoting tourism;
- The hotel should be located beyond a minimum distance from educational institutions/ temple/church/mosque, burial ground etc;
- Local need must justify a bar hotel.

The licences were issued for one year on payment of the prescribed rental and the licensees were required to renew it every year. As per rules, the cost of liquor shall be billed along with the cost of meals, ie. liquor can be sold only to those who dine in the restaurant.

We noticed that in a majority of the cases these criteria were overlooked as detailed in the ensuing paragraphs.

Were FL3 licenses issued and renewed to non-standard hotels/restaurants?

The minimum standard eligible for obtaining an FL3 licence was 2-star standards from April 1982 and 3-star and above from April 2002. We noticed that licenses were issued and renewed to 418 bar hotels, ie. 61 per cent of the total bar hotels in the state even though they were not eligible for the FL3 licenses as per the Rules.

We noticed that the Government first allowed time up to 30 June 1992 for those licensees who had not attained the prescribed two star standards to attain the prescribed standard and subsequently extended the period. During the review period, we noticed that the Excise Commissioner submitted his proposals for the Abkari policy for the year 2007-08 vide letter dated 11 January 2007 which did not include the proposal for regularisation of 418 non standard bar hotels, the list of which was sent to the Government in January 2006. However, based on a discussion with the Hon'ble Minister for Labour and Excise on 22nd January 2007, the Excise Commissioner sent a revised proposal on 23rd January 2007 including the proposal that "Bar Licenses (FL3 licences) which have not attained 2-star classification and functioning at present may be regularised".

After we pointed out the matter the Government stated (November 2011) that there are certain bar hotels functioning with standard below two star specifications. As these hotels were functioning for long periods, they were regularised based on Abkari Policy 2007-08.

The point is not acceptable for the reason that as per Rules the licences are issued each year and the standard for granting licence are still three star standard.

We noticed that the Government, 15 years after extending time limit for the first time, again extended (12th March 2007) the time limit up to 31st March 2007 and stated that failure to comply with the standards would lead to cancellation of

licences. However, on the very next day, i.e. 13th March 2007 the Government added a proviso to Rule 13 that all existing licensees not having the above classification and which were functional as on 31st March 2007 shall be regularised. The Abkari policy for 2008-09 (February 2008) stated that the Government would insist on minimum facility and hygienic conditions in all the 418 bar hotels which did not have 2 star status, but which were regularised during 2007-08.

We noticed that the field officers of the Department had reported violation of licence conditions like unhygienic conditions, lack of facilities, non adherence of the time schedule, selling on dry days, opening more than one counter, etc. in these bar hotels. However, no action was taken by the Department on these reports.

Restaurants in bar hotels function for name sake only. Seven persons died of overdrinking in the bars.

The Excise Commissioner sent a letter (January 2011) to the Government highlighting the poor standards maintained by the 418 unclassified bars and requested not to grant fresh FL3 licenses for areas other than tourism notified areas. In the letter the Excise Commissioner, *inter alia*, stated that the restaurant segment of the unclassified hotels were functioning for name sake only and during the last one year seven people had died due to excessive drinking in the unclassified hotels. He also pointed out that he had personally seen that almost all the customers went there to drink liquor and not for taking food.

We noticed that even though the Excise Commissioner had requested not to issue fresh FL3 licenses, seven more FL3 licenses were issued between 12th January and 31st March 2011. Moreover in the Abkari Policy for 2010-11, the Government declared that the FL3 licensees not having the requisite star qualification and who were functional during 2009-10 should be regularised. Thus, the Government has made it a regular feature to regularise ineligible licensees.

We are of the opinion that the Government has not taken a firm stand to ensure that only hotels of a minimum standard are issued FL3 licenses. Further, we opine that the Government has seriously compromised public safety by (a) regularising 418 unclassified bars, though they were not able to attain the

minimum standards despite repeated extension of time and (b) by turning a blind eye towards the various complaints against these unclassified bars. On this being pointed out in audit the Department stated (June 2011) that the Government is the competent authority to issue orders allowing relaxation, if any, for the functioning of FL3 licensees/bar hotels.

Is “interest of promotion of tourism” clearly defined?

Even though the FL3 licenses were to be issued in the interest of promotion of tourism in the State, the Government has so far not issued guidelines for determining “interest of promotion of tourism” for this purpose.

Did the Department effectively enforce minimum distance of bar hotels from educational institutions/religious places etc.?

The Foreign Liquor Rules, 1953 and Kerala Abkari Shops Disposal Rules, 2002 prohibits sanctioning of bar hotels in the vicinity of an educational institution, temple, church, mosque, burial ground or SC/ST colony. Condition No. 22 for the FL3 licence stipulates that no licence should be issued for a shop which is situated or which is intended to be opened in a place where on grounds of public interest of expediency it is objectionable to permit any traffic in liquor. The purpose of keeping the student community away from the vicinity of the concerned premises had been explained by a Division Bench of the Hon’ble High Court of Kerala in the decision reported in 1988(2) K.L.T. 261.

The distance as per rules has to be determined as the shortest path way/lane/ street/road generally used by the public and the same shall be measured from gate to gate. The Hon’ble High Court of Kerala in a judgment (1993) held that the distance had to be measured by taking the distance that a law abiding pedestrian would walk through, using zebra crossing. Hence, after this judgment, bar licenses were being issued by the Department even in cases where the prohibited structures are just across the road.

The Government has not so far amended the Rules to make the distance restriction more specific so as to keep away the student community from the vicinity of bar hotels. Hence, the intention of the Government of not allowing bar hotels in the vicinity of educational institutions/temple, church, mosque, etc. is compromised for want of amendment of the Rules.

Our test check of records have shown that even in the capital city, along the road where the Government Secretariat is situated, licences were granted to bar hotels located opposite reputed educational institutions. Bar licence to a 4 star hotel sharing the compound walls of a Government College and a church was granted when distance restriction for private 4 star hotels was withdrawn during 1994-96. All these licenses were being renewed every year.

We are of the opinion that the condition that bars should not be in the vicinity of educational institutions, places of worship etc. remained only on paper in the Rules and was not being enforced.

Recommendation 4: The Government may consider amending the Rules (like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc. is applied in practice.

[Audit Paragraph 5.3 to 5.3.1.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

40. Regarding Audit Paragraph, the Excise Commissioner replied that tourism centres were declared by Tourism Department and certification for Star Classifications, rating etc. were issued by Ministry of Tourism Department, Government of India and Excise Department had no role in this regard.

41. Regarding the minimum distance stipulated for bar hotels, the Excise Commissioner deposed that the Accountant General questioned the prevailing practice of calculating distance through earth, it opined that aerial distance need to be calculated. He added that the interpretation of High court was to measure distance along with zebra line in such way that a law abiding person crossing the road. It ordered that the length of stair case also taken into account for the calculation of distance. The division bench of High Court and the Supreme Court approved the verdict of the single bench.

42. To a query, the Excise Commissioner submitted that the hotel in front of the University College, Thiruvananthapuram, adjacent to church was started functioning even before Star classification of hotels was stipulated in the rule and at present that hotel had exemption since it was graded with four stars. The Government's policy was that measurement of aerial distance for the purpose was not practical and it preferred to measure along the land and Government policy was to continue the prevailing rules.

43. The Committee commented that in many places, in the shade of this interpretation schools gates were shifted conveniently for the construction of bars and felt pity that the very intention of legislation was defeated. The Committee opined that the prevailing rule is against the intention of legislation and hence decided to recommend that Excise Department should reconsider the issues to make necessary amendments in the rule, so that the purpose of legislation could be served.

Conclusion/Recommendation

44. The Committee opines that the prevailing rule regarding the distance for the construction of bars is against the very intention of legislation. The Committee recommends that Excise Department should reconsider the issue to make necessary amendments in the rule to do justice to the legislation.

AUDIT PARAGRAPH

Did the Department effectively supervise Foreign Liquor 1* (FL1) licensee shops?

There was no effective supervision by Excise department in FL1 retail shops.

The privilege for the retail sale of IMFL was granted exclusively to KSBC and Kerala State Cooperative Consumer's Federation Ltd. at annual rentals fixed by the Government. The rental at present is ₹ 63 lakh. The licence is granted subject to the condition of distance restriction prescribed in the Rules. The FL1 licensees have to procure the supplies only from the FL 9 licensees. FL 9 licenses are given exclusively to KSBC. As on 31st March 2011 there were 384 FL1 shops of which 338 (88 per cent) are owned by KSBC and 46 by the Consumer Federation.

* Foreign liquor 1 shops are the retail outlets for foreign liquor in the State.

Our examination revealed that though the Excise Department was required to inspect and take samples of IMFL from the FL 1 shops for chemical examination, the inspection and taking of samples from the FL 1 shops was less/negligible compared to other licensed liquor or toddy outlets as shown in the following table:

Category	2006-07		2007-08		2008-09		2009-10		2010-11	
	No. of shops	No. of times sampled	No. of shops	No. of times sampled	No. of shops	No. of times sampled	No. of shops	No. of times sampled	No. of shops	No. of times sampled
FL-1 (liquor shops)	354 1820	29 1803	368 1803	29 2243	371 2243	20 2478	383 2478	32 2048	384 2048	74 2048
FL-3 (Bar hotels)	572 4982	2389 5064	584 5064	2860 5893	611 5893	2697 6472	660 6472	3441 7793	680 7793	5463 7793
Toddy Shops	4405 27793	13525 34280	5286 34280	15700 37065	5589 37065	15590 49136	4964 49136	22850 57828	5226 57828	21950 57828
Total	5331 34595	15943 41147	6238 41147	18589 45201	6571 45201	18307 58086	6007 58086	26323 67669	6290 67669	27487 67669

We noticed that the Personnel and Administrative Reforms Department (PARD) in their report (2008) on "Simplification of Procedures and Methods in the Excise Department" pointed out lack of proper inspection/non-taking of samples and even the possibility of collusion with outsiders to sell seconds in Fl 1 outlets.

We are of the opinion that as major part of the IMFL sales were effected through the FL1 shops, the lack of effective supervision by the Department increases the risk of sale of low quality/seconds liquor.

Did the Department exercise effective supervision over distilleries?

Under the Distillery and Warehouse Rules all manholes, locks and other apparatus of stills and spirit vessels must be locked with Abkari locks for effective control by the Excise Department. The Abkari locks and tickets should be under the personal custody of the Distillery Officer. Rule 27 to 35 of the Distillery and Warehousing Rules- Part II describes the use and storage of Abkari locks and tickets. When an Abkari lock is affixed to any pipe, cock, receptacle, door, etc. the officer affixing it shall enter the details of the pipe, time, etc. on the counterfoil and remove the ticket from the book and place it in the space provided for the purpose in front of the lock. The flap may then be closed on top of the ticket and the locks fastened to the pipe, cock, etc. For removal of locks, the officer should first move the keyhole cover to one side to ascertain that the tickets are not tampered with. Our test check in seven distilleries revealed shortage of Abkari locks as detailed in the following table:

Distillery	Required	In use	Shortage
United Spirits Limited	4	3	1
Kaycee Distillery, Thrissur	18	6	12
Polson Distillery, Chalakkudy	26	25	1
Sevenses Distillery, Thrissur	5	1	4
Imperial Spirits Ltd., Palakkad	2	2	Nil
Amrut Distilleries Limited, Palakkad	2	2	Nil
United Distilleries Limited, Kozhikode	8	2	6

As the Abkari Lock is an important control tool used by the Department to check usage of spirit, manufacture and disposal of liquor, we are of the view that shortage of locks would affect the efficacy of supervision by the Excise Department over the distilleries.

[Audit Paragraph 5.3.2 to 5.3.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

45. With regard to the audit paragraph the Excise Commissioner stated that FL1 shops were not inspected like bar hotels/toddy shops. The Excise Commissioner added that like bar hotels, taking samples from KSBC outlets would be impractical as retail sale was not permitted in such shops the bottle taking for sample became unusable and it might cause for huge loss to Government. The Committee decided to recommend that security features in bottling of IMFL should be enhanced.

46. The Committee was informed that abkari lock was a special type of lock which was being manufactured in an Aligarh based firm and it was a paper sealed brass lock which would break on tampering. So manipulation could be detected very easily. The Excise Commissioner submitted that at the time of auditing, there was shortage in abkari lock, even then security of stores was ensured by double locking system in which one key would be maintained by excise staff and the other by the staff of the store. He added that the problem was solved out and at present abkari lock is surplus.

Conclusion/Recommendation

47. The Committee recommends that security features in bottling of IMFL should be enhanced.

AUDIT PARAGRAPH

Did the Department effectively and efficiently discharge its responsibilities as an enforcement authority?

Was there effective follow up action on Intelligence inputs?

Even the specific intelligence inputs, giving location/names of toddy shops/ vehicles etc., involved in violation of Abkari Laws, were not properly followed up by the enforcement wing.

The Excise Department has an Excise Intelligence and Investigative Bureau (EI&IB) under a Joint Excise Commissioner. The information on illegal activities gathered by them was transferred to the Enforcement wing of the Department for taking necessary corrective/legal measures to stop the illegal activities. Details of inputs provided by the Intelligence wing and the number of cases of occurrence of crime/violation of Acts and Rules detected out of these inputs during 2006-07 to 2010-11 were as follows:

Name of Zone	No. of inputs	No. of cases detected on the basis of inputs	Percentage of cases detected to inputs
South Zone (5 districts)	12782	2396	18.75
Central Zone (4 districts)	6498	1402	21.58
North Zone (5 districts)	6069	1749	28.82

Even though the enforcement wing acknowledged the intelligence inputs the action taken by them was not effective as detailed below :

- The JEC (EI&IB) gave (5th May 2010) detailed information to AEC Palakkad listing the ranges where artificial toddy was being sold. It was stated that the licensees were using smuggled spirit for enhancing the strength of the toddy and accidents may happen in the abkari sector. He also directed that urgent steps should be taken to stop the sale of artificial toddy through the toddy shops. We noticed that no effective action was taken on this input as the Intelligence Wing again reported (June and August 2010) that sale of artificial toddy/illegal activities was continuing and provided further detailed information.

- In one case in Alappuzha division (December 2010), the intelligence official had to accompany the enforcement employees to detect and register a case of illicit transport of toddy as the enforcement staff did not respond to the earlier inputs given.
- The intelligence wing gave (20th August 2010) detailed information about the spurious liquor sold in Malappuram district. Had rigorous raids been conducted and spurious liquor seized, the liquor tragedy at Malappuram in September 2010 which resulted in the death of 25 persons could have been avoided.

We are of the opinion that the intelligence reports on the sale of artificial toddy are not being followed up by the enforcement wing with the seriousness they deserve. We are of the view that ineffective follow up action poses serious health problems to the regular consumers and could even lead to liquor tragedies.

Our examination of records revealed that lack of sufficient manpower and infrastructure facilities as detailed below were adversely affecting effective enforcement work like raids/patrolling etc.:

- Forty eight offices (field units) do not have sanctioned post of drivers and in 51 offices the vehicles were manned by drivers on daily wages. Deploying daily wage drivers for raids/intelligence gathering may affect the secrecy/quality of work.
- Lack of communication systems like walkie-talkies and wireless systems.

Recommendation 5: The Department may provide the required infrastructure support to the enforcement wing, so that enforcement activities could be carried out more effectively.

[Audit Paragraph 5.4 to 5.4.1 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

48. Regarding follow up action of Intelligence inputs by the department, the Excise Commissioner deposed that situation had been improved considerably and explained the statistics as follows:

Excise Intelligence had given 5620 inputs in 2011 to various enforcement offices of which 2018 cases were booked and detection percentage was 35.9. By 2012 percentage could be raised to 50.02. In 2013 detection was 65.72% and 77.19% till October 2014. He further added that though infrastructure had been increased, the old staff pattern was not modified and the intelligence wing in the Excise Department comprised of one Joint Excise Commissioner at State level, one Assistant Excise Commissioner each in three zones and one Excise Inspector and five Preventive Officers at the district level. He apprised that with this limited staff, department was being taken strenuous efforts to achieve these intelligence inputs. The Committee opined that unless an effective enforcement mechanism was evolved, chances for illicit transaction of liquor would be high and emphasised the need for enhancing manpower in the intelligence wing. It advocated the Excise Department to take effective measures in this regard.

Conclusion/Recommendation

49. **The Committee opines that unless an effective enforcement mechanism has not been evolved, chances for illicit transaction of liquor would be high. It emphasises the need for enhancing manpower in the intelligence wing and advocates that the Excise Department should take effective measures in this regard.**

AUDIT PARAGRAPH

Was effective action taken on abkari cases where violations were detected?

As of 31st March 2011, 46183 cases were pending either in the Excise Offices or in courts.

The enforcement activities of the Department was being carried out through the Excise Enforcement and Anti Narcotic Cell at district level, circles at taluk level and the Ranges, border check posts and patrol units. In addition to following up on the intelligence inputs, these units detect violation of Abkari laws through regular inspection of the premises of the licensees, verification at check posts, raids conducted at suspected areas, etc. The cases in which violations were noticed were registered and followed up through the concerned circles/ranges.

We noted that during 2006-07 to 2010-11, 39674 abkari cases were registered in the state and as on 31st March 2011, 46183 cases were pending either in the courts or in the excise offices as shown below:

Year	No of cases registered	Year wise details of cases pending	
		Pending with excise	Pending with Court
Up to 2005-06		1808	14553
2006-07	6470	926	4202
2007-08	7922	1048	4996
2008-09	8127	1163	4884
2009-10	8697	1486	4665
2010-11	8458	2059	4393
Total	39674	8490	37693

The details of cases detected, charge sheeted and pending as of 31 March, 2011 in the selected districts from 2006-07 to 2010-11 were as follows:

Sl. No.	Name of office	Number of Abkari/NDPS* cases detected	No. of UD cases out of the detected cases	No. of major † cases out of the detected cases	No. of cases in which investigation completed and charge sheeted	No. of cases pending charge sheeting
1	Alappuzha	4712	473(10%)	10	3651	1042
2	Thiruvananthapuram	4350	168(4%)	179	5297	591
3	Kozhikode	2393	711(30%)	3	2554	645
4	Palakkad	2620	615(23%)	24	2308	260
5	Thrissur	2230	330(15%)	31	2380	235
6	Kasargod	1488	186(13%)	53	1176	334
	Total	17793	2483(14%)	300	17366	3107

* Narcotic Drugs and Psychotropic Substances.

† Cases involving spirit above 500 liters/vehicle involved.

Our analysis of the abkari cases revealed as follows:

Out of the total cases detected during the last five years, major cases were only two percent. Others being UD cases / minor cases.

- 4 to 30 per cent of the total cases were treated as undetected (UD) cases, i.e. cases where there was violation of Abkari laws but the Department could not identify/catch the offenders/culprits and hence could not proceed with the cases. The percentage of UD cases for the six districts worked to 14 per cent, which we consider high.
- We noticed that enforcement employees were being diverted to attend to the cases pending in the courts and for charge sheeting. We are of the view that diversion of enforcement employees would impede normal enforcement activities like inspections, raids, etc.
- We found that charge sheets were not prepared in 86 major cases relating to Thiruvananthapuram, Thrissur and Palakkad Divisions due to delay in identifying the offenders, getting details of actual owners of the vehicles involved, bogus registration certificates etc.

As per the records of the State Crime Records Bureau, the Police department had also registered 79571 cases during 2006-2011 involving both major and minor cases.

[Audit Paragraph 5.4.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

50. Regarding the huge pendency of abkari cases before court, the Excise Commissioner informed that current scenario is entirely different. At present the cases for which charge sheet was submitted were less and most cases pending before court took its due course of time for disposal. He added that at present 42816 cases are pending before court and as charge sheet is to be framed after investigation in 2162 cases. The Committee was at a dismay to note that the cases dealt with were so old i.e. even before 2005-06 and inquired the reason for

non settlement of the cases. The witness, Excise Commissioner reminded that the abkari cases including illicit transportation of liquor were classified under court of sessions and disposed case were replaced with new ones. The Committee remarked that the table revealed that pendency with court and department had been increasing and was surprised to note that 8490 cases are pending before the department. The witness raised objection regarding the figure and claimed that only 2162 cases were pending. So the Committee directed the Excise Department to submit latest position of pendency at the earliest.

Conclusion/Recommendation

51. The Committee directs the Excise Department to submit latest position of pendency of abkari cases at the earliest.

AUDIT PARAGRAPH

Were the confiscated vehicles disposed expeditiously?

The vehicles seized in Abkari cases were to be kept under safe custody, confiscated and finally disposed as prescribed under the Kerala Abkari Disposal of Confiscated Articles Rules, 1996. Under the Rules, on seizure of the vehicle, the Divisional officer after giving an opportunity to the accused for being heard and after obtaining chemical analysis report, issues the confiscation orders. We noticed significant delays in confiscating the seized vehicles and in the disposal of the confiscated vehicles as detailed in the following table:

Details of vehicles pending confiscation

Divisions/ Year	Up to 2005	2006	2007	2008	2009	2010	2011	Total
Thiruvananthapuram	3	2	3	5	19	41	8	81
Alappuzha	4	0	2	2	6	31	3	48
Thrissur	1	0	0	1	0	18	0	20
Palakkad	0	0	0	0	0	12	6	18
Kozhikode	0	0	0	1	4	23	0	28
Kasargod	1	1	0	0	1	27	3	33
Total	9	3	5	9	30	152	20	228

Out of the 228 vehicles pending confiscation, 169 were pending for want of chemical analysis report or due to non completion of investigation. Fifty three vehicles were pending because of procedural delays and six cases were pending in court.

Details of confiscated vehicles pending disposal

Divisions/ Year	Up to 2000	2000 to 2005	2006	2007	2008	2009	2010	Total
Thiruvananthapuram	2	12	8	6	3	13	16	60
Alappuzha	7	2	2	11	11	17	4	54
Thrissur	1	1	1	1	5	27	9	45
Palakkad	3	2	0	2	6	33	16	62
Kozhikode	1	2	0	1	2	10	1	17
Kasargod	3	4	0	2	1	1	6	17
Total	17	23	11	23	28	101	52	225

Out of 255 vehicles pending disposal, 40 vehicles (15.7 per cent) were pending disposal for more than six years. Out of 255 vehicles, 16 vehicles were released temporarily on the basis of bank guarantee, 32 cases were pending in the court, in 72 cases appeals were pending with the departmental authorities and 135 cases were pending for completion of departmental procedures. We also noticed that five vehicles kept in the premises of Parassala, Vizhinjam and Aryanad Police Stations were missing.

[Audit Paragraph 5.4.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March, 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

52. Regarding seized vehicles in Excise Offices, the Joint Excise Commissioner informed that a committee chaired by Chief Secretary was constituted for the disposal of vehicles. At present after making discussions with officials in the enforcement wing viz, police, excise, forest etc. vehicle disposal is being conducted on war foot basis and periodical review was also conducted by Excise Department also. He detailed that auction of these vehicles could be done only after completing the court procedures, if the owner of the confiscated vehicle was exonerated the vehicle should be given him back. He continued that percentage of conviction was high in Kerala when compared to other states.

53. The Committee reminded that large number of confiscated vehicles got damaged due to rust and the department could not do anything to make them usable. The Committee enquired the reason for the contradiction in the statement that 700 confiscated vehicles against 42000 pending cases. The Joint Excise Commissioner added that there was a provision in Abkari Act which empowers the excise officials to dispose the confiscated vehicle without presenting before court. The Deputy Commissioners were authorised to confiscate the vehicle and to sell without producing the same before the court of law since the confiscated vehicles were not a part of mainour in the abkari cases. So those vehicles would be disposed at the value fixed by the Mechanical engineer and approved by the Excise Commissioner. The Excise Commissioner supplemented that the vehicles in usable condition were utilized by the Excise Department, but most of the vehicles caught were in bad condition and uneconomic to use. With regard to delay in disposing vehicles the Joint Excise Commissioner explained that before confiscation, the RC owner need to be heard, but real owner of the RC could not be traced out easily, since engine number and chasis number might be tampered.

54. The Excise Commissioner added that the disposal of cases was carrying out at three levels. At the district level the Deputy Commissioner, then Additional Commissioner, the Enforce Appellate Authority and Excise Commissioner, the Revisional Authority. Crossing the levels to get a final decision is a time consuming process. He thus endeavored to explain about the efforts taken by the department for the speedy disposal of vehicles and added that disposal of vehicles were reviewed by Chief Secretary.

Conclusion/Recommendation

55. The Committee observes that a large number of confiscated vehicles were got damaged due to prolonged retention and directs the Excise Department to take effective measures to avoid delay in disposal of such vehicles.

AUDIT PARAGRAPH

Did the Department manage to dispose the seized spirit efficiently?

During the five year period from 2006-07 to 2010-11, 2.96 lakh bulk litres of seized spirit was lost due to leakage having revenue impact of ₹ 1.07 crore.

The spirit seized was sold to Government owned distilleries in Thiruvalla (Travancore Sugars and Chemicals Ltd.) and Palakkad (CHICOPS) at the rate of ₹10 per litre up to September 2009 and thereafter at the rate of ₹15 per litre. From these distilleries it was sold to Government institutions or to licensees under the Rectified Spirits Rules, 1972 or the Cochin Denatured spirits and Methyl Alcohol Rules after collecting excise duty in addition to the sale price.

Details of leakage of seized spirit for the five year period under review were as follows:

(in litres)							
Year	Opening balance	Seized	Total	Disposal	Leakage	Closing balance	Percentage of leakage
2006-07	221372	274526	495898	240936	76209.5	178752.32	15.37
2007-08	178752	233301	412053	174099.3	55651.5	182302.32	13.51
2008-09	182302	114909	297211	137352	40275	119584.22	13.55
2009-10	119584	172732	292316	149219.5	15134.9	127961.82	5.18
2010-11	127962	46540.9	174503	123061	12177	39264.72	6.98
Total		842008	1671981	824667.8	199447.9		

We noticed a reduction in the percentage of leakage of seized spirit during the last two years as compared to earlier years. However, in the absence of a norm relating to permissible percentage of leakage, we are unable to conclude whether the Department efficiently disposed of seized spirit.

We are of the opinion that absence of a norm may result in excessive leakage with a resultant adverse impact on revenue, in the form of cost of spirit and excise duty thereon. For instance, leakage of 2.96 lakh bulk litres of seized spirit during the five year period from 2006-07 to 2010-11, has a potential revenue impact of ₹ 1.07 crore. Further, absence of norms for leakage may lead to misuse of seized spirit for making illicit liquor.

Recommendation 6: The Department may prescribe norms for leakage of seized spirit and monitor adherence of such norms.

[Audit Paragraph 5.4.4 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

56. The Committee was informed that the seized spirit would be kept as in the seized condition in the thondy rooms, the low quality of the cans and the high pressure inside the thondy room caused breakage of cans and thereby leakage. The Excise Commissioner ruled out the chances for manipulation and informed that norms for wastage could not be fixed and hence actual wastage would be submitted to Court. The Joint Excise Commissioner added that recently an amendment was brought to the Abkari Act regarding pre trial disposal. Accordingly inventory certificate produced in court by district officer was certified by the Magistrate after checking spirit could be disposed based on that certificate as proof before trial by court. With the introduction of pre-trial disposal, disposal of spirit could be done within 6 months of its capture. Spirit was used in hospitals and sold to TSC @ ₹ 20 per litre. To a query he informed that captured hooch would be destroyed on the spot.

Conclusion/Recommendation

No comments.

AUDIT PARAGRAPH

Was enforcement work at the checkpoints managed effectively and efficiently?

The Department established major and minor check posts along the border districts like Thiruvananthapuram, Palakkad, Kasargod etc. The details of the check posts were as follows:

Name of District	Number of Check Posts	
	Major	Minor
Thiruvananthapuram	1	14
Thrissur	1	1
Palakkad	1	7
Kannur	1	2
Kasargod	1	2
Kollam	-	1
Idukki	1	4
Wayanad	-	3
Kozhikode	-	1

Our physical observation of the check posts revealed that:

- In Thiruvananthapuram, the minor check posts were in temporary sheds without any facilities.
- The staff working in the check posts was not provided with wireless equipment or arms. Hence, they were unable to stop a suspected vehicle or to give information to other offices for taking immediate action.

- The ineffective enforcement is reflected in low detection /registration of cases through check posts. During the five year period the numbers of cases detected through the check posts in Thiruvananthapuram and Kasargod divisions were as below:

Sl. No.	Check post/Year	2006-07	2007-08	2008-09	2009-10	2010-11	Total
1	Amaravila	5	5	1	8		19
2	Attupuram	2					2
3	Mandapathinkadavu					1	1
4	Kallikkadu			1	1		2
5	Pirayummodu	1		1	2		4
6	Manjeshwar	9	6	4	3	2	24
	Total	17	11	7	14	3	52

Sl. No. 1 to 5 at Thiruvananthapuram and 6 at Kasargod

The details of cases detected from Walayar check post in Palakkad district were not separately recorded:

- We were informed that there are 14 entry points from Karnataka State in Kasargod, against which only three check posts were operated. In the other 11 entry points, commercial tax check posts were functioning. The border patrol units of the Excise Department detected 73 cases in these routes during the last five years pointing to the need for setting up check posts at these entry points also.

Case study: Irregular exemption granted at Walayar check post

A priority for a class of vehicles coming through the sales tax check posts was granted under the Kerala General Sales Tax/Kerala Value Added Tax Act termed Green Channel facility. This was granted to M/s Malabar Cements Ltd., Walayar and the vehicles with cement bags coming from the factory were allowed to pass through the check post without verification of vehicles. However this facility was not applicable to Excise Department and all the vehicles were to be checked at excise check posts. Records of vehicles checked were not being maintained at the check posts. Hence, we interacted with check post officials and were informed that all vehicles of Malabar Cements with Green Channel card coming through the excise check posts were allowed to pass through without verification.

The Excise Department had registered (January 2008) a case of illicit spirit transported through Walayar excise check post by misusing the system of green channel facility. As per media reports 150 trucks containing more than 8000 litres per load of illicit spirit were allowed to pass through without verification. We consider that the irregular exemption granted at the excise check post had caused transportation of illicit spirit into the State which could be used for production of unaccounted liquor or for mixing with toddy.

We noticed that in all the border areas, the taxes department of the Government has two check posts, one each for the Commercial taxes and the Excise Department. We consider that this arrangement leads to duplication of infrastructure facilities and further, the vehicles have to be stopped at both check posts, often, within a short distance.

[Audit Paragraph 5.4.5 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011]

Notes received from Government on the above audit paragraph is included as Appendix II.

57. The Excise Commissioner stated that much effort had been taken to modernise excise checkpoints and the process is still continuing and Amaravila Checkpost had not started functioning in full swing even though it had been converted into an integrated checkpost. As Excise Department had no land for providing basic amenities. Container modules were envisaged to install in 12 checkpoints under the plan scheme. He added that though there were 14 entry points, only 3 excise checkpoints were functioned and border checking only was carrying out at other points. To a query he informed that in many checkpoints space constraints hindered from parking of vehicles for checking and hence number of cases detected was less.

58. The Committee emphasised the need for installing a scanner in checkpoints. The Joint Excise Commissioner apprised that physical verification of goods in vehicles was carrying out by Excise Department. On the other hand Commercial Taxes Department verified whether tax is to be imposed to the goods as per the records. He was optimistic that with the installation of scanner, commodities transported through checkpoints could be identified easily and took action against illicit transportation of spirit. The Joint Excise Commissioner explained the practical difficulty in installing scanner in one checkpoint only that vehicles could be escaped through other checkpoints having no scanner as there were 38 major/minor checkpoints. The report of the committee studied in this regard was submitted to the Chief Secretary which is under consideration.

59. To a query, the Joint Excise Commissioner answered that spirit transported through green channel of Malabar Cement was seized by Excise Department and case was booked against it. He added that after that incident, all vehicles passed through check posts were checked by Excise Department irrespective of whether it is green channel or not and Green Channel facility of Malabar Cement was cancelled by that time.

60. The Committee opined that if Excise, Sales Tax and Transport Departments were functioning under one tower or terminal and scanning information would make available to all, each department could act immediately to avoid corruption. It reminded that once the Registration Number of vehicle was recorded it could not tamper since it being generated automatically.

61. The Committee directed that necessary instructions should be issued to restrict the entry of different types of vehicles through different check posts. It also decided to recommend that Excise Department should take expeditious steps to set up integrated check posts with scanner at the earliest. The Committee decided to recommend that Excise Department should check the feasibility of installing scanner in check posts.

Conclusion/Recommendation

62. **The Committee recommends that there should be a consensus among the Excise, Sales Tax and Transport Departments to set up integrated check posts with scanner immediately. It moots that if these departments could be brought under one terminal, they could function more effectively to avoid corruption. It directs that necessary instructions should be issued to restrict the entry of different type of vehicles through different check posts. The Committee also recommends to install scanner in all check posts.**

AUDIT PARAGRAPH

Did the Department exercise effective supervision over toddy shops?

The privilege for vending toddy was granted through public sale as prescribed in the Kerala Abkari Shop Disposal Rules, 2002 for a fixed annual rental for each toddy shop as may be decided by the Government from time to time. The right under this licence was confined to manufacture and sale of fermented toddy tapped from Coconut, Palmyra or Choondapana palms on which tree tax under the Act was paid. During the years 2009-10 and 2010-11 there were 5,214 and 5,215 toddy shops respectively in the State.

Was tree tax under assessed?

Out of the total tree tax collected during the last five years, 34 percent was collection from Chittoor range alone and out of the total tree tax from Palakkad division 87 percent was from Chittoor range

Tree tax is levied under Rule 2, 4 and 6 of the Tree Tax Rules. Under the rules, the Department issued licences for each half year from April to September and from October to March for collecting toddy from coconut tree and

Choondapana(sago)tree. In case of Palmyrah trees the licence is issued for one year. As per rules, all the trees shall be marked within three weeks after issue of licence, under the personal supervision of the Excise Inspector or other competent person and toddy can be drawn for sale only from the marked trees.

Details of revenue under tree tax in the selected divisions for the last five years were as follows:

Sl. No.	Name of Division	Tree tax realised (₹in lakh)					Total
		2006-07	2007-08	2008-09	2009-10	2010-11	
1	Thiruvananthapuram	26.93	33.17	28.47	28.89	13.83	131.29
2	Alappuzha	21.30	34.41	28.14	20.06	19.23	123.14
3	Thrissur	4.58	29.03	29.54	30.05	27.09	120.29
4	Palakkad	58.37	135.52	138.38	239.83	98.68	670.78
5	Kozhikode	6.22	9.09	9.15	8.94	9.14	42.54
6	Kasargod	3.86	5.85	6.15	6.28	6.40	28.54
	Total	121.26	247.07	239.83	334.05	174.37	1116.58

Our analysis of collection of tree tax revealed the following:

- The total tree tax for the selected district was ₹ 11.17 crore and for the State for the last five years was ₹ 17.37 crore of which 39 per cent was contributed by Palakkad division and 34 per cent by Chittoor range in Palakkad division.
- Coconut trees were tapped in the Chittoor range from large plantations for inter division transport of toddy. The Intelligence report (June 2010) on toddy shops concluded that for the interdivision transfer of toddy, tree tax was paid for lakh of trees belonging to Chittoor Range. However, in the large plantations where tapping was taking place, there were areas with no numbering and duplicate numbering. Based on the report, we are of the opinion that the Department does not have effective controls to ensure that toddy was tapped only from the marked trees.

- As per the State Excise Manual the yield per tree is 1.5 litre of toddy. However the Expert Committee after detailed studies on yield of toddy recommended (December 2009) fixing an average of three litre per tree. However, for the issue of permits and for calculating total toddy production in the State, yield is calculated at 1.5 litre per tree. Further, it is assumed that toddy was tapped only from marked trees.

We are of the opinion that as the actual yield of toddy was higher than the estimated yield and further as toddy was tapped from unmarked trees, the tree tax towards toddy is under assessed. We are unable to quantify the probable loss of revenue in the absence of details of number of trees from which toddy was actually drawn.

[Audit Paragraph 5.4.6 to 5.4.6.1 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

63. To a query regarding the under assessment of tree tax, the Excise Commissioner averted that there was no under assessment. He added that tree tapping would be allowed only after realising the tree tax and later inspecting and marking of tree would be done frequently by excise officials. He added that difference of opinion might be regarding the actual yields which differ per trees, in Excise Manual yield was defined as 1.5 litres of toddy per coconut and tree tax was ₹ 30 per tree. The Committee was informed that actual yield would be 2 to 3 litres per tree. Also the rule stipulated that 50 trees would be tapped for one toddy shop. When enquired the possibility of tapping of unmarked trees, the Excise Commissioner submitted that all the marked trees need not be tapped.

64. The Joint Excise Commissioner admitted the observation of Audit that more than marked trees were tapped in Chittur region and informed that inspections were being conducted strictly in that region by Additional Commissioner.

65. To a query, the Excise Commissioner replied that rule was framed regarding the production of 'Neera'. Now Neera was produced and sold on experimental basis. So far Excise Department had issued 17 licenses and decision on pending applications would be made after the policy decision regarding the number of licenses to be issued in each district was taken. The Joint Excise Commissioner supplemented that production of 'Neera' was carrying out under the supervision of Coconut Development Board with the co-operation of Agriculture University.

66. The Committee decided to recommend to take stringent action to curtail the prevalent unhealthy practices in the field of tree tapping and also to avoid financial loss in this regard.

Conclusion/Recommendation

67. The Committee directs the Excise Department to instigate effective measures to curtail the prevalent unhealthy practices in the field of toddy tapping and also to curb the financial loss in this regard.

AUDIT PARAGRAPH

Was the Kombazha check post effective in controlling misuse of permit system?

The check post established at Kombazha for checking interdivision transport of toddy was not effective.

Palakkad division was the main toddy production centre in the State and large quantities of toddy were being transported from Palakkad division to other divisions in the State for which the Deputy Commissioner of Excise, Palakkad issues inter division transport permits. The permits were issued for each half year.

In order to control the misuse of permits, the Department established (April 2009) a check post at Kombazha near Kuthiran Hills at NH 47 between

Thrissur and Palakkad districts which was placed under the Assistant Excise Commissioner (Enforcement), Thrissur. It was decided that all the consignments of toddy transported should pass through this check post and be subjected to verification by the Excise Officials. A register for noting the vehicle number, permit number and date, quantity of toddy transported, shop number, range of destination, etc. was also prescribed. The quantity allowed for daily transport, numbers of the vehicles used for transport, etc. were to be noted in the permits. The excise officials had to ensure at the check posts that only the permitted quantity of natural toddy was transported and the vehicle used was the permitted one.

We scrutinised the records and observed the procedures followed at the check post which revealed the following:

- There was no facility at the check post to verify the quality/quantity of toddy transported. In reply to an audit query, the Department replied that there was no mechanism to measure the actual quantity of toddy transported or to collect toddy samples at the check posts.
- Even though the permit was prescribed with daily columns for punching, to avoid repeated transportation, the permits were not punched. Instead, the quantities transported were noted in a note book kept by the licensee, which was not subjected to any inspection.
- Cans used for transporting toddy were not filled completely and the quantity was often below the permitted level. This provided scope for filling the cans with spurious toddy after passing through the check post.
- Toddy intended for different shops were transported in a single can, which again provides an opportunity for emptying the entire quantity in a single shop and filling and transporting illicit toddy to other shops in the absence of proper excise supervision.

- We cross checked records at Kombazha check post and the stock registers of twenty toddy shops relating to eight different groups in Kottayam district. Our analysis revealed significant variation between the quantities noted at the check post and at the toddy shops as detailed below:

Date	Permit Quantity	Quantity brought as per check post records	Quantity as per shop stock account	(in litres)	
				Variation	Variation in per cent
4-1-2011	4470 (Total Permit Quantity per day for 20 shops)	2956	4036	1080	36.5
5-1-2011		3544	3913	369	10.4
6-1-2011		3449	3972	523	15.2
7-1-2011		3282	3978	696	21.2
8-1-2011		3687	4123	436	11.8
9-1-2011		3884	3955	71	1.8
10-1-2011		3736	4099	363	9.7
11-1-2011		2575	3745	1170	45.4

- Even though it was decided (10 May 2010) to collect all the toddy transported through interdivision permit relating to a particular range in the collection centre of the range to the concerned toddy shops under escort of excise guards, this instruction was kept in abeyance.

We are of the view that the permit system for transportation of inter division toddy and the functioning of the check post created for controlling inter division transport were largely ineffective. We are of the opinion that due to several flaws, the existing controls will not be able to ensure that spurious/artificial toddy was not transported under the garb of inter division transportation.

Recommendation 7: Fresh toddy collection centres may be started under direct supervision of Excise Department and toddy distributed to other divisions under excise escort.

[Audit Paragraph 5.4.6.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

68. To a query the Joint Excise Commissioner informed that Kombazha checkpost was started to confirm toddy received in shops was produced in Palghat and thereby avoiding local manufacturing and adulteration of toddy. The toddy would be permitted to transport to southern parts of Palghat only after sealing it in Kombazha checkpost. Recently Kombazha checkpost was shifted to Alathur range due to plenty of cases registered there.

69. To another query the Joint Excise Commissioner said that cans would not be filled fully and its lids were tightened loosely in order to avoid bursting off cans due to fermentation. There were a group of 5-7 toddy shops under one licensee and toddy for the whole group would be transported and distributed in required quantities and no separate utensils were used for each shops.

70. The Excise Commissioner informed that quality of toddy was examined by the Chief Chemical Examiner in labs situated at Thiruvananthapuram, Ernakulam and Kozhikode. The Committee understood from the table that more quantity of toddy than permitted was available in the locality and enquired the reason. The Joint Excise Commissioner deposed that the table shows the difference in toddy bought in each toddy shop and toddy available in the shops, but the domestic production was not taken into consideration.

71. The Committee pointed out that 2950 litre of toddy was transferred through checkpost where as it was recorded in the register that 4036 litre of toddy was brought in toddy shops. The Joint Excise Commissioner apprised that in addition to 2950 litre transported through checkposts there was local production also and begged for pardon for not submitting adequate reply at the time of Audit. The Committee urged the Excise Department to check whether the data was inclusive of local production or not.

72. The Committee felt it impractical to give escort to each vehicle as suggested by the Accountant General. It directed the Excise Department to check the feasibility of installing a scanner and a weighing machine in Alathur checkpost.

73. The Committee opined that adulteration of toddy was mainly occurred in Palakkad district and emphasized the need for enforcing of quality testing system there. The Committee directed the Excise Department to entrust some university or Regional Research Laboratory for the development of a quality testing device and fund for such innovations should be provided by the department.

Conclusion/Recommendation

74. The Committee emphasizes the need for pioneering a quality testing system in Palakkad district, since adulteration of toddy was reported largely there. The Committee directs the Excise Department to entrust some University or Regional Research Laboratory for the development of a quality testing device and to provide fund for this. It also urges the Excise Department to check the feasibility of a scanner and a weighing machine in Alathur check post.

AUDIT PARAGRAPH

Was the permit system for inter division transport of toddy misused?

During the last five years the revenue realised at the rate of ₹ 1 per litre through inter division transfer of toddy in Palakkad division was as follows:

Year	Fee Collected (₹ in crore)
2006-07	5.92
2007-08	6.02
2008-09	7.27
2009-10	7.99
2010-11	7.95

The total quantity of toddy that was permitted for inter division transport as per the number of permits issued and quantity fixed per day and the fee actually collected at ₹1 per litre for the period 2008-09 to 2010-11 were as follows.

Year	No. of Permits	Quantity of toddy (litre per day)	Total quantity for 180 days	Total for the year (litres in crore)	Quantity of toddy for which fee was collected at (₹ 1 per litre)	Excess quantity transported (litres in crore)
1	2	3	4	5	6	7 = 6-5
2008-09						
I Half Year	180	40918.50	7365330			
II Half Year	148	44805	8064900	1.54	7.27	5.73
2009-10						
I Half Year	354					
	166	122832	22109760			
II Half Year	117	43139	7765020	2.99	7.99	5.00
2010-11						
I Half Year	183	71349	12842820			
II Half Year	165	37471	6744780	1.96	7.95	5.99

The field offices had suggested stoppage of interdivision transport of toddy as it was being used as a cover for centralized production and distribution of artificial toddy.

We noticed that during all the three years the quantity actually transported was much higher than what was permitted. However, considering higher yield of toddy, the licensees were allowed to transport excess toddy by paying the permit fee @ ₹ 1 per litre. The average yield recorded by the Expert Committee was 3 litre per tree instead of 1.5 litre prescribed at present.

We noticed that the field officers of the Department recommended stoppage of inter division transport of toddy as the system was being used as a cover for centralised production of artificial toddy and their distribution through toddy shops creating health hazards. However, the Department has not taken any action on this matter.

We are of the opinion that even if the higher yield suggested by the Expert Committee is adopted, still the toddy actually transported was much higher than the quantity for which license was issued due to the weaknesses in the functioning of the checkposts as explained in para 5.4.6.2, which indicated the possibility of artificial toddy being transported under the cover of permits.

[Audit Paragraph 5.4.6.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II

75. Regarding the objection the Accountant General that toddy transported from Palakkad to other division was more than permitted quantity, the Excise Commissioner replied that variation was mainly due to domestic production of toddy as trees in Palakkad area were of high yield. He rejected the chance for under assessment in tax. The Joint Excise Commissioner supplemented that earlier more quantity of toddy was permitted to transport by paying extra amount for the excess quantity in Kumbazha checkpost and later that illegal practice was stopped.

76. The Committee inquired whether toddy transported more than permissible quantity in the area was due to the production of toddy artificially. The Excise Commissioner stick on the stance that there were high yielding trees especially in Chittur area where trees were planted solely for tapping. There trees were sheared with utmost care so that yield upto 4.5 litre per trees was reported there. At present the expert committee recommended to fix the yield per tree as 2.3 litre. He continued that no Scientific study had been conducted in this regard.

77. The Committee directed the Excise Department that steps should be taken to prevent artificial production of toddy in Palakkad. The Excise Commissioner assured that inspection by higher level officers and proper marking of coconut tree should be done. The Joint Excise Commissioner added that Expert Committee had prescribed some parametres like colour, odour, alcohol content, total activity, Phosphorus, Potassium, Vitamin C and turbidity to check

whether toddy was artificial or not. The Committee commented that out of these specifications, except colour and odour, all others could be identified using computer analysis. The Joint Excise Commissioner informed that for testing, total distillation followed by chemical processes was required. The Committee decided to recommend that computerised testing facility must be introduced. It also emphasized to set up a separate enforcement wing for that region to prevent artificial production of toddy.

Conclusion/Recommendation

78. The Committee directs the Excise Department to take steps to prevent artificial production of toddy in Palakkad and exhorts to establish a separate enforcement wing for that region. It recommends that computerised testing facility of toddy must be introduced.

AUDIT PARAGRAPH

Was enforcement compromised due to delay in providing infrastructure?

Did non-availability of speed boat hamper enforcement?

Alappuzha division has vast areas covered by backwaters and network of waterways alienated from the mainland by circumscribing lagoons and lakes. A boat available with Kuttanad range was auctioned in 1998 and since then the office had no boat for enforcement activities. The Department also found that the enforcement work of the Range office was not effective and that smugglers and hooligans were utilising this area as a safe haven and as a transit point to smuggle spirit, illicit liquor and narcotic substances into other parts of the State.

The Government accorded administrative sanction (March 2004) for the purchase of a big boat and a speed boat. Though the Excise Commissioner invited tenders (March 2004) for supply of the boats and two parties had submitted quotations, no further action was taken on the matter. The Department stated (May 2004) that funds provided for purchase of boats was mainly used for purchase of vehicles and hence the purchase of boat had to be deferred.

After five years, the Excise Commissioner proposed (August 2009) purchase of boats for Kuttanad range of Alappuzha division. The Commissioner proposed purchase of a speed boat from M/s Steel Industries Limited, Kerala (SILK) for ₹ 33.35 lakh and the Government accorded administrative sanction (May 2010) for the procurement of the speed boat. An agreement was signed with M/s SILK for delivery of the boat within 180 days from payment of the first instalment. Though the first instalment of ₹ 3.36 lakh was paid (May 2010), the boat has not been delivered so far (June 2011).

We are of the opinion that the lukewarm approach of the Department deprived the Kuttanad range of the services of a boat for twelve years from the date of auctioning the departmental boat. We consider that enforcement work was seriously compromised due to inaction on the purchase of a boat, particularly considering the fact that the region was used by nefarious elements for smuggling.

Were the enforcement employees adequately armed?

As part of the programme for modernisation of the Department, a sum of ₹ 1.06 crore was provided separately in the budget for the years 2003-04 to 2010-11 for purchase of arms and ammunition as shown below:

Year	Budget Provision (₹in lakh)	Expenditure (₹in lakh)
2003-04 to 05-06	15	Nil
2006-07	10	Nil
2007-08	15	Nil
2008-09	18	Nil
2009-10	18	18
2010-11	30	10.12
Total	106	28.12

The Department took eight years to purchase 110 pistols for its enforcement officials. As no ammunition was purchased, these pistols could not be used.

We noticed that though budget provision was available, no expenditure was incurred up to 2008-09. The Excise Commissioner submitted a proposal (May 2008) for purchase of 0.32 pistols and the Government sanctioned (July 2009) the purchase. The Excise Commissioner placed (January 2010) a revised purchase order on Gun and Shell Factory, Cossipore, Kolkata (Purchase order submitted in July 2009 was defective) and purchased 110 pistols at a cost of ₹ 93.89 lakh by utilising the fund of ₹ 28.13 lakh available for 2009-10 and 2010-11 and ₹ 65.76 lakh from the balance available in the allocation for modernisation.

We noticed that the pistols purchased were kept idle as ammunition was not purchased. Further, even after the purchase of 110 pistols, only 160 pistols and revolvers were available against the requirement of 420. We are of the opinion that due to delays in procuring arms and ammunition, the Department failed to adequately arm the enforcement employees despite availability of funds.

In response to our observation, the Department replied that it was decided to purchase ammunition after the purchase of pistols and that only 300 officers were working in the field units of which well trained officers were even less and hence the stock of 160 pistols and revolvers was sufficient.

We are unable to accept the reply of the Department as it was the duty of the top management of the Department to sufficiently train and arm all the employees engaged in enforcement work.

Recommendation 8: The Department may take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat.

[Audit Paragraph 5.4.7 to 5.4.7.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

79. Regarding the audit paragraph, the Joint Excise Commissioner informed that in Kuttanad division a boat was purchased from M/s Steel Industries Limited, Kerala and it was being used for the enforcement activities there.

80. With regard to the arms and ammunitions in the enforcement wing of Excise Department, the Joint Excise Commissioner submitted that gun was given to officers of and above the rank of Excise Inspector in the field units.

Conclusion/Recommendation

No remarks

AUDIT PARAGRAPH

Did the Department have effective and economic systems for chemical analysis of samples?

Did the Department maintain complete and accurate records of samples sent for chemical analysis?

Samples of IMFL and toddy were regularly taken during routine inspections of IMFL/toddy outlets or during raids conducted and were sent to the three Regional Chemical Laboratories for analysis. Test check of the records revealed that in two* offices the sample register was not properly maintained. We noticed that the register did not contain details of all the samples sent for analysis and the test results received. In Kozhikode Division, as per the register, 1569 samples were sent for chemical analysis, but test results were noted only in 26 cases. As the Chemical Examiner stated (May 2011) that no test results were pending for Kozhikode, it can be concluded that the test results were not noted in the register maintained at the Division.

We are of the opinion that absence of complete details in the register would hinder generation of important data on the number of cases in which adulterated/spurious liquor was found and the follow-up action taken on such cases.

* ECO Chittoor, EDO Kozhikodu.

Was the Department able to perform chemical analysis of the samples in a timely manner?

Samples given for chemical analysis even five years before were pending at chemical examination labs

We noticed that as on March 2011 a large number of chemical analysis reports were pending for more than five years in all the test checked circles except Kozhikode as shown below:

Name of Circle	No. of toddy samples sent for chemical examination	No. of samples pending for more than five years	Percent of samples pending
Neyyattinkara	556	113	20.3
Alappuzha	893	504	56.4
Mavelikkara	545	264	48.4
Vadanappally	618	186	30.1
Vadakkanchery	1072	115	10.7
Chittor	335	35	10.4
Kasargod	107	29	27.1

We also noticed that while the chemical analysis reports relating to samples sent from the distilleries were given by the Chemical laboratories on the same day/next day itself, the toddy samples were pending analysis for years.

More than 19000 samples received in Regional Chemical Laboratories during the period 2004 to 2011 were not analyzed so far.

The Chief Chemical Examiner, replying (May 2011) to our audit query, stated that the samples were getting accumulated in the laboratory, which created a time gap of one to two years between the date of collection and examination of samples. Lack of sufficient staff strength and priority being given to distillery samples and those involved in the Abkari cases were cited as the other reasons for the delay. The Chief Chemical Examiner also stated that as no purpose was served in

examination of samples after the licence period, the Department decided to deviate from the analysis of samples on the order of receipt and started analysing current samples after giving permission to destroy more than 7000 toddy samples relating to old periods. For instance, the samples taken up to July 2005 were not analysed and only samples taken from August 2005 onwards were taken up for analysis. However, due to the huge disparity between receipt and disposal, samples pending analysis increased and it was again decided to analyse fresh samples from July 2009 onwards.

The Chief Chemical Examiner stated that the number of samples pending with them was as follows:

Name of Laboratory	Period	No of samples pending
Regional Chemical Laboratory, Thiruvananthapuram	Up to July 2005	7,762
	September 2008 to July 2009	5,921
	August 2009 to March 2011	1,325
Regional Chemical Laboratory, Ernakulam	October 2010 to March 2011	4,476
Regional Chemical Laboratory, Kozhikode		Nil
Total		19,484

The Chief Chemical Examiner also stated that even if analysis was completed, there was delay in issuing certificates of chemical analysis due to the large number of cases pending in the typing section for want of sufficient number of typists. This was being cleared by engaging typists on contract basis. A new report generating software was also being developed for preparing and printing the certificates by the analysts immediately after analysis.

We consider that the undue delay in analysing the samples severely impedes enforcement action against erring licensees/spurious liquor traders and delays the preparation of charge sheets. Further, non-analysis of the samples sent to the laboratories may encourage the sale of illicit liquor.

Recommendation 9: The Department may prescribe time limits for completion of chemical analysis and submission of test results. Chemical laboratories may be provided necessary human resources to enable them to discharge their functions effectively.

Were the test results of chemical analysis useful?

Were the test results of toddy samples useful?

Even when artificial toddy was detected Chief Chemical Examiner could not report it.

The Government fixed 8.1 per cent alcohol as the maximum alcohol permissible in toddy. The Department requested the Chief Chemical Examiner to state specifically whether a toddy sample was artificial or natural. We noticed that the chemical analysis report states the percentage of alcohol contained in the sample and whether the sample contained any noxious substance, but does not specify whether the toddy is natural or artificial.

The Chief Chemical Examiner informed (August 2009) the Excise Commissioner that the Chemical Laboratory could not give a definite opinion as to whether the samples of toddy analysed were artificial or natural due to lack of specific norms for natural toddy. He stated that he had requested the SRO 144/07 to be modified by incorporating the recommendations of the Committee on Chemical Composition of Toddy, so that the artificial or adulterated toddy could be clearly identified and reported. The Committee's report (dated 19 January 2009) was still pending with the Government.

We are of the opinion that non-prescription of correct parameters of natural toddy was preventing the Chief Chemical Examiner from reporting samples of artificial toddy, and this lacuna has rendered the chemical analysis of samples a

futile exercise. We are of the view that this serious shortcoming may lead to severe health problems to consumers of artificial toddy and facilitate spurious toddy traders to escape from the clutches of law.

After we pointed out the matter the Government stated (November 2011) that the Technical Committee constituted for the purpose of finding out parameters to distinguish natural and artificial toddy had submitted only a preliminary report and that the final report is awaited. Further, due to retirement of certain members, Government is actively considering the reconstitution of the Committee.

Further developments have not been received.

Recommendation 10: The Government may consider taking action to prescribe clear parameters for identifying natural and artificial toddy. The chemical analysis report should specify whether the sample was of natural or artificial toddy.

Were test results of IMFL/Beer samples useful?

We noticed that the test results submitted by distilleries from other states contain detailed analytical reports based on BIS/IS standards. However, the test results given from the State Chemical Examination Laboratories only mention the alcohol percentage/ volume and whether it was harmful for human consumption or not, etc. It could not be ascertained from the report as to whether IMFL samples taken from IMFL retail outlets included low quality (seconds) liquor.

[Audit Paragraph 5.5 to 5.5.3.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March, 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

81. When enquired whether any departmental action was taken against officials for not keeping register during the last 2-3 years, the Joint Excise Commissioner replied that stringent disciplinary action was taken in cases as per the report of the Vigilance Department regarding non-maintenance of register. Also strict directions were issued to keep and maintain registers.

82. The Committee was astonished to note that more than 19,000 samples received in Regional Chemical Laboratories during the period 2004-2011 were not analysed so far. The Excise Commissioner deposed that had a chemical lab was established under the control of Excise Department, the samples could have been analysed in time. He added that though Excise Department had a separate wing, for the purpose, sufficient staff was not provided with. A mobile testing lab was functioning under Excise Department where preliminary testing of toddy on whether harmful chemicals were mixed with it or percentage of alcohol was within the permitted limit was carrying out.

83. The Committee suggested that fund should be provided for the formulation of a mechanized computerized testing facility with the help of CUSAT or Agriculture University. The Excise Commissioner hoped that a lab exclusively for Excise Department could be established as an attachment to the research academy.

84. To a query of the Committee 'Were the test results of IMFL/Beer samples useful', the Joint Excise Commissioner apprised that test result and report of IMFL Chemical analysis were useful.

Conclusion/Recommendation

85. **The Committee suggests that Excise Department should provide fund for the formulation of a mechanised computerized testing facility with the help of CUSAT or Agricultural University.**

AUDIT PARAGRAPH

Did the Department manage man power resources effectively?

As on 31 March 2011 the total sanctioned strength of the Department was 4841 out of which there were 173 vacant positions. The vacancy position was as follows:

Name of Post	Sanctioned Strength	Vacant position
Deputy Excise Commissioners	14	2
Circle Inspectors	136	9
Excise Inspectors	335	27
Assistant Excise Inspectors	80	6
Preventive Officers	982	42
Excise Guards	2913	73
Typist	42	2
Drivers	229	11
Peon	72	1
Total	4803	173

Did the Department have adequate manpower to discharge its functions?

There is no separate ministerial staff in the Excise Department.

Our analysis revealed that the Department did not possess adequate manpower as detailed below:

- All the functions of the Department were being carried out by the uniformed personnel. There were no ministerial cadre to carry out the routine office work in the Department. We noticed that the enforcement employees were posted for office duty for short terms which in our view would adversely affect both the enforcement work and the office work as the employees were posted to sections for short periods.

This problem was highlighted in three different study reports submitted by the Personnel And Administrative Reforms Department (P&ARD) in 1998, 2008 and 2010 and it was recommended that ministerial wing abolished in 1968 should be reintroduced. We also observed that the Excise Commissioner sent proposals to the Government for introduction of ministerial staff only in January 2011, which was pending with the Government.

Against 279 vehicles there are only 229 sanctioned post of drivers and in 48 field offices there are no sanctioned post of driver

- The Department has 279 vehicles against which there were only 229 sanctioned posts of drivers. The Department informed us that there were 48 offices having four wheelers without sanctioned post of drivers and that a proposal for creation of post of drivers had been sent to the Government in May 2011. We also noticed that in 51 field units the vehicles were manned by drivers on daily wages. As the field units of the Department were engaged in enforcement work that required quick mobility and reliable drivers, we are of the view that absence of regular drivers hampered the enforcement work.
- Though the department has to pursue hundreds of cases in the courts there was no legal section and a law officer on deputation was functioning without any supporting staff.
- P&ARD in their report (2008) on 'Simplification of procedures and methods in Excise Department' recommended recruitment of women Excise Guards, as women were also involved in abkari cases. It was also recommended to provide quota to Excise Guards and Preventive Officers in the recruitment of Excise Inspectors. This recommendation has not been acted upon so far.

- KSBC had monopoly rights over the procurement and distribution of IMFL in the State. All the permits for such procurement/transport were issued from the office of the Assistant Excise Commissioner (AEC) attached to KSBC. We noted that the staff strength of AEC office, fixed in June 1997, has not been changed till now though the work load had increased manifold, from 5,183 permits issued in 1997 to 35,085 permits in 2009-10. Similarly, the number of FL1 shops and godowns had also increased during this period.

Recommendation 11: The Department may carry out a work study to clearly assess the manpower needs.

Did the Department provide adequate training to its employees?

The Department has not so far conducted any training needs analysis. Till 1996 the uniformed personnel of the Department were trained at the Police Training College. However, there was no regular training programme in the Department during 1996 to 2004. We noticed that even after setting up of the State Excise Academy and Research Centre at Thrissur in March 2004 only 1730 persons belonging to different cadres were given three months training and there are still 1184 personnel in the Department without any training. Even though an annual plan was prepared for the year 2011-12 it could not be adhered to for want of infrastructure facilities. In his letter dated October 2011 to the Excise Commissioner, the Principal of the Training Academy stated that the present building had no space to conduct the proposed training and that the new building constructed for the Academy had not been handed over to them till date.

We also observed that even though an Excise Intelligence and Investigating wing was started in 2004, no special training was provided to the staff for this specific function. We are unable to comment on the quality of training as there are no records of feedback from trainees.

[Audit Paragraph 5.6 to 5.6.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

86. Regarding audit paragraph, the Joint Excise Commissioner submitted that the proposal for the creation of 48 posts of drivers was under consideration. The Excise Commissioner invited the attention of the Committee over the fact that the staff pattern at the time of the formulation of the department was still continuing and dearth of the staff hindered smooth functioning of the department. The Committee decided to recommend to increase the staff strength in accordance with the requirement.

87. Regarding audit paragraph, the Excise Commissioner informed that training was being imparted to personnel at the State Excise and Research Centre.

Conclusion/Recommendation

88. The Committee notices that the staff pattern at the time of formulation of the Excise department prevails in the department and remarks that for the effective enforcement of law and smooth functioning of the department adequate manpower should be provided with. So it recommends that Excise Department should conduct a work study to assess the requirement of manpower and should take necessary steps to increase the staff strength in accordance with the requirement.

AUDIT PARAGRAPH

Was the Department able to effectively address social concerns of alcoholism ?

As pointed out in previous chapters, even though the State revenues from Excise was steadily increasing, studies conducted by UN agencies and NGOs revealed increasing health and social problems in the State due to alcoholism.

Kerala has the highest per capita consumption of alcohol in India, consuming more than 8 litres of liquor per person annually. According to a study by Global Alcohol Policy Alliance, over the past 20 years the number of drinkers has increased from one in 300 to one in 20 in India and the age at which youngsters begin to consume liquor has come down in Kerala from 19 in 1986 to 17 in 1990 and 14 in 1994.

According to a WHO report (February 2011), 3.2 lakh young people between the age of 15 and 29 die annually from alcohol related causes which represents 9 per cent of all deaths in that age group. Even though such statistics for the State is not available, as the age of initiation was 14 or less, the situation may not be different in Kerala. Decreasing mental health indicators for the state like increase in suicide rate, rising number of divorces linked to alcoholism, etc. are also areas of concern.

As per Police records, sudden death due to alcoholism was 67 in 2006-07 which increased to 93 in 2010-11.

One of the policy measures commonly adopted against alcoholism is to increase the statutory minimum age for drinking. According to studies an increase in the age of legal drinking from 18 to 21 achieves 60 per cent of the effort of prohibition on alcohol consumption. In Kerala the minimum legal drinking age is 18, whereas in Delhi it is 25 and recently Maharashtra also increased the age to 25 and introduced permit system for drinking.

We are of the view that increase in the number of de-addiction centres in the state in recent years is a pointer to the increasing scourge of alcoholism. We also noticed that none of the de-addiction centres has obtained licence from the Kerala State Mental Health Authority, the licensing authority as per Mental Health Act, 1987, to issue licences to de-addiction centres.

Data obtained from the State Crime Records Bureau revealed that cases of sudden death and suicide due to alcoholism in the State were as shown below:

Year	No of drunken driving cases registered	Sudden death due to alcoholism	Suicide due to over alcoholism
2006-07	16664	67	20
2007-08	26330	74	22
2008-09	56994	54	19
2009-10	97935	96	13
2010-11	168686	93	44
Total	366609	384	118

As these are only reported cases, the actual numbers would be much higher. The P&ARD report on 'Simplification of Procedures and Methods' stated that a study had shown that nearly 70 per cent of 42365 road accidents in the State during 2007 were due to drunken driving.

We are of the opinion that the Department does not have an effective strategy to counter various social ills caused by alcoholism like suicides, road accidents, falling health and premature death.

[Audit Paragraph 5.7 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31st March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

89. The Committee observed that the research wing of State Excise Academy was not functioning properly. It exhorted the department to develop the academy into an excellent centre where impact of alcoholism on family, society and employment sector could be studied.

Conclusion/Recommendation

90. The Committee observes that the research wing of the State Excise Academy was not functioning properly. It exhorts the Excise Department to develop the Academy as a centre of excellence where impact of alcoholism on family, society and employment sector could be studied.

AUDIT PARAGRAPH

INFORMATION AND COMMUNICATIONS

Was computerisation effective?

Was computerisation by M/s Keltron effective?

The Department started computerisation in 2002-03 by purchasing from M/s Keltron 18 computers, of which four were installed in the Commissionerate and the other 14 issued to the 14 divisions. Work was awarded (April 2004) to

M/s Keltron for development of six software modules'. As per records, M/s Keltron completed the work (April 2005) and the software was demonstrated (May 2005) to the officials of the Department. Further details regarding utilization of the software were not available in the records provided to us. However, we noticed from the letter (26 October 2007) sent by the Excise Commissioner to the Government that the Department did not have any software except SPARK system, for preparing the pay rolls. The Government sanctioned (March 2011) purchase of a web based solution from M/s Keltron at a cost of ₹ 11 lakh for issuing No Objection Certificates, permits for ENA, approving labels, etc. We noticed that during 2002-03 to 2010-11 the Department purchased 277 computers and peripherals for ₹ 1.22 crore. As the Department did not maintain stock register of computers, we could not comment on the issue and usage of the computers.

In reply to our audit query, the Department agreed (May 2011) that no software other than SPARK was being used in the Department and that discussion was being held with NIC for development of various softwares. Regarding non-maintenance of stock register, the Department replied that absence of stock register of computers was already noticed and that urgent steps will be taken to verify the stock.

Was computerisation of issue of transport/import permit system put to effective use?

The work of computerisation of issue of permits for import/export/transportation of spirit/liquor started 6 years back was not yet completed.

We noticed that on an average the Assistant Excise Commissioner, attached to KSBC, issued 1750 transport permits and 110 import permits every month. The Department proposed (2005) and the Government sanctioned (April 2007) computerisation of the permit issue system. The work was entrusted to C-DIT and funds were provided by KSBC. The software was prepared by C-DIT and handed over (June 2008) to KSBC. However, as final approval of the software has not been given by the Commissioner of Excise so far, the software could not be put to use.

* Crime monitoring, Abkari arrears & Licence Managing system, Court cases tracking & monitoring system, Establishment Management System, Old arrears and reconciliation system, and audit system.

We are of the view that despite the high volume of work and even eight years after initiation of computerisation, the Department has been unable to computerise any of its core functions.

Was the Department publishing its administrative report timely?

The annual administrative report published by the Department is the document that highlights the functions and achievements of the Department. It is thus an important information tool to reach the public. We noticed that the administrative reports of the Department were pending from 2001-02 onwards.

Does the Department have an informative website?

We noticed that though hosting of the website of the Department was included in the modernisation programme statement of 2003-04 and recommended in various study reports it has not been done so far. We are of the view that as the Department's functions necessitates constant interaction with the general public and stake holders like the licensees, a comprehensive website would have helped in speedy dissemination of information.

[Audit Paragraph 6.1 to 6.3 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

Conclusion/Recommendation

No comments.

AUDIT PARAGRAPH

MONITORING

Monitoring of work was done in the Department through internal audit, internal inspection, periodical meetings at field level offices and through closing of various registers. Our findings on the effectiveness of the monitoring mechanism are given in the ensuing paragraphs.

Was internal inspection being used as an effective monitoring mechanism?

Internal Inspection was being conducted by the Deputy Commissioners and Circle Inspectors. The Deputy Commissioner inspects Circle Offices and Ranges under his jurisdiction once in six months and Circle Inspectors inspect Ranges/ Check posts, etc. once in three months. An inspection register was being maintained in these offices in which the dates of inspections were being noted.

In the six districts test checked by us, we noticed that internal inspections were being carried out regularly and the dates of inspections were being noted in the register. We noticed some instances where the inspecting officers had recorded their observations in the register. Follow-up action taken on the inspecting officer's observations was not available and hence we are unable to comment on the efficacy of these inspections.

Were periodical meetings used as effective monitoring mechanisms?

We appreciate that monthly meetings were being held regularly to review the progress of court cases, enforcement activities undertaken, progress in realisation of arrears, raids etc. and instructions were being issued for timely action on the discussed issues. Minutes of these meetings were also being prepared.

We are of the opinion that effectiveness of the periodical meetings was hampered slightly as action taken on instructions issued in past meetings were not followed up in subsequent meetings.

Was the Internal Audit department effective?

The Internal Audit Department (IAD) was headed by a Joint Excise Commissioner with Assistant Excise Commissioner (1), Superintendents (3), Excise Inspectors (2) and Preventive Officers (5).

Our examination of the records relating to the functioning of the IAD revealed that:

- Though there are 300 field units to be covered in audit, the IAD did not prepare annual/biennial audit plans to cover these units at specified intervals.

- During 2010-11 the IAD audited 93 units, which works out to only 31 per cent of the total field units.
- As on 31 March 2011, 226 Inspection reports and 277 paras were outstanding as shown in the following table:

Year	No. of Inspection reports pending	No. of paras to be cleared
2003	4	4
2004	12	18
2005	7	10
2006	22	26
2007	5	7
2008	8	11
2009	66	78
2010	52	59
2011	50	64
	226	277

Our test check revealed that effective action was not being taken on the internal audit reports.

Were the registers maintained and physical verification conducted properly ?

Was the Stock Register of receipt/permit books maintained properly?

The various stock registers were not properly maintained or annual stock taking/ physical verification conducted.

A stock register of various forms, books, etc. like TR5 receipt books, Transit permit books and Export and Import permit books was being maintained in the Excise Commissionerate. We observed that:

- The balance was not arrived at after each receipt/issue of the books
- The register was not closed periodically
- Physical verification was not done periodically

In case of permits which were printed in the Government press, the numbers were being assigned by the press, and the numbers were not continuous. On this being pointed out by us, the Department stated that our observations were noted for future guidance.

Was Vehicle Register maintained properly?

We noticed that:

- The Department did not maintain a stock register for vehicles containing details of vehicles purchased, issued, condemned, etc.
- Expenses incurred on repairs and maintenance of each vehicle was not noted. Only the total amount incurred on repairs and maintenance was being noted.

Responding to our audit observations, the Department replied that absence of stock registers of departmental vehicles purchased was already noticed and urgent steps were being taken to verify the stock.

Were all details available in the Allotment/Appropriation register?

Our scrutiny of the allotment/appropriation register maintained at the Commissionerate revealed that expenditure against allotment was not properly/completely noted. Expenditure was not seen noted against Pay and Allowances allotment.

On this being pointed out, the Finance Officer stated that Pay, DA, HRA and other allowances under the heads of accounts viz. 2039-00-001-99-01, 98-01 and 97-01 were seen drawn without allocation and that was the practise followed in that Department. Hence no expenditure was recorded in the allotment register and that during the current financial year (2011-12) expenditure would be recorded. The Finance Officer also stated that there was no proper Finance Section with Superintendents/Section Officers. Preventive Officers and Excise Inspectors were being taken for ministerial work and they were not given proper training in financial matters and budgetary works.

Did the Department conduct periodical verification of Arms and Ammunition?

We noticed that physical verification of the arms issued to the field units was not conducted. The Deputy Commissioner, Palakkad stated that after 2002, the physical verification was being done by the possessor himself which shows there was no control mechanism to verify the stock of arms and ammunition.

[Audit Paragraphs 7 to 7.4.4 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011.]

Notes received from Government on the above audit paragraph is included as Appendix II.

91. Regarding audit paragraph, the Joint Excise Commissioner replied that there was an internal audit wing in the Excise Department. But audit would not be conducted in each and every office due to dearth of staff. So the department was selective and had been conducting inspections only in offices where more cases were reported. The Committee reiterated its earlier comment that the Excise Department should take necessary measures for increasing the staff strength and also advocated for excluding the officers indulged in audit from imposing ceiling limit.

Conclusion/Recommendation

92. The Committee advocates for excluding the officers engaged in audit from ceiling limit of Travelling Allowances.

AUDIT PARAGRAPH

CONCLUSION AND SUMMARY OF RECOMMENDATIONS

Conclusion

The Excise Department has not set forth a mission and vision for itself nor identified risks to the achievement of its goals. Lack of vision has resulted in declaration of conflicting policy statements like reduction of alcohol consumption on the one hand and opening more outlets for liquor consumption on the other.

The Department though entrusted with the task of collection of excise revenue, along with regulatory and enforcement activities, has only a limited role in respect of revenue generation. The Department did not levy permit fee amounting to ₹ 16.45 crore due on the transport permits issued from FL9 godowns to the retail outlets. It was able to achieve some of the objectives of the Amnesty Scheme by clearing about 50 per cent of the outstanding cases.

There was laxity in enforcement activities and the cases detected were also accumulating due to delay in registration/charge sheeting. 46,183 cases were pending as on 31st March 2011. Even though the department has its own intelligence wing, and sufficient inputs are given, the enforcement wing did not utilise/follow up the inputs to prevent illegal activities.

Chemical analysis results were pending for more than five years due to lack of infrastructure facilities at the laboratories, causing delay in registration/charge sheeting of cases wherever necessary. Around 20,000 samples were pending analysis even after the Department sanctioned destruction of more than 7000 samples. Even artificial toddy detected was not being reported due to technical reasons.

418 bar hotels were functioning though they were not entitled for licence under the existing rules. Though the declared policy of Government was to discourage alcohol consumption, during the last five years, the Government granted 153 bar licences and the liquor consumption in the state increased by 63 percent.

Lack of sufficient infrastructure facilities, training and proper equipments for the personnel were among the factors contributing to the ineffective enforcement.

Summary of Recommendations

The Government/Department may consider implementing the following recommendations:

- The Department may consider preparing a strategic plan covering mission, vision and objectives. Further, such a plan may be published widely amongst employees and the public.

- The Department must ensure that security labels are printed under its direct supervision.
- The Department may take immediate steps to levy and recover the permit fees under Section 11 of the Abkari Act for the period from 2006-07 onwards.
- The Government may consider amending the Rules (like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc. is applied in practice.
- The department may immediately provide the required infrastructure support to the enforcement wing, so that enforcement activities can be carried out more effectively.
- The department may prescribe norms for leakage of seized spirit and monitor adherence of such norms.
- Fresh toddy collection centres may be started under direct supervision of the Excise Department and toddy distributed to other divisions under excise escort.
- The Department may take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat.
- The Department may prescribe time limits for completion of chemical analysis and submission of test results. Chemical laboratories may be provided necessary human resources to enable them to discharge their functions effectively.
- The Government may consider taking action to prescribe clear parameters for identifying natural and artificial toddy. The chemical analysis report should specify whether the sample was of natural or artificial toddy.

The Department may carry out a work study to clearly assess the manpower needs.

[Audit Paragraphs 8.1 to 8.2 contained in the Stand alone Report of the Comptroller and Auditor General of India on State Excise Department for the year ended 31 March 2011.]

Conclusion/Recommendation

93. The Committee concluded the evaluation of the audit paragraphs relating to Excise Department with the direction to furnish a report detailing the reason for writing off the case No. 13/2013 in Thiruvananthapuram range, charges under which the case was referred, the compounding fees realised in that case and reason for non-realisation of fine in compounding cases to it at the earliest.

Thiruvananthapuram,
8th February 2017.

V. D. SATHEESAN,
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

Sl. No.	Para No.	Department concerned	Conclusion/Recommendation
1	2	3	4
1	3	Excise	The Committee understands that Government had taken a policy decision not to levy import fee on spirit meant for manufacturing IMFL. It opines that the department had not taken any step even to counter the argument of Accountant General. On other hand they issued demand notices to realise the import fee from distilleries. It warns that Excise Department should be more vigilant in avoiding such lapses in future.
2	6	Excise	The Committee observes with grave concern that there was a contradiction between the statement furnished by the department regarding the rate of growth of alcohol consumption in the State and the statement of facts filed before the court by the MD, KSBC in a case. It exhorts the Excise Department to examine the circumstances which led to submit such a contradictory statement. It suggests to seek explanation from the MD, KSBC in this regard and furnish a report to it.
3	9	Excise	The Committee suggests that there should be a co-ordination between PRD and Excise Department in conducting awareness programmes against the consumption of alcohol. It emphasizes that people's participation should be ensured in such programmes. It directs that such awareness programmes should be monitored properly. The Committee recommends that the Excise Department should take steps to ensure that popular committees are working effectively.
4	12	Excise	The Committee moots the Excise Department to take strenuous effort to complete the revision of Excise Manual at the earliest.

1	2	3	4
5	17	Excise	The Committee observes that though many studies had been put forth suggestions for the substantial improvement of the Excise Department, the department had not taken any fruitful steps to implement any of the recommendation contained in those reports. The Committee recommends to avoid unnecessary delay in implementing the recommendations contained in the study reports on Excise Department. It also urges to furnish details of follow up action taken in this regard.
6	20	Excise	The Committee directs the Excise Department to furnish the details of cancellation of FL 3 licence for violation of license conditions. It recommends that total computerisation of Excise Department should be done immediately and directs to formulate a time frame for the completion of computersiation.
7	24	Excise	The Committee recommends that financial assistance must be extended to the de-addiction centres at Taluk hospitals also as the number of alcoholics seems to be increasing in rural areas.
8	27	Excise	The Committee opines that the gravity of a mistake would not get nullified, simply by rectifying it. The Committee directs that responsibility should be fixed for the lapse and the delinquent should be penalised.
9	33	Excise	The Committee reprimands the Excise Department for the inertia on its part in not taking any action against C-DIT for subcontracting the hologram printing to some private company violating the terms and conditions of the agreement. It expresses its dissatisfaction over the prevailing security labelling system. It strongly warns the Excise Department that such irresponsible act of C-DIT would not be entertained and recommends for introducing a foolproof printing system for security labels without further delay.

1	2	3	4
10	39	Excise	The Committee opines that co-ordination between Revenue and Excise Departments is essential to clear the arrears in revenue collection and directs that Excise Department should take all effective measures to bring down the arrears to the minimum.
11	44	Excise	The Committee opines that the prevailing rule regarding the distance for the construction of bars is against the very intention of legislation. The Committee recommends that Excise Department should reconsider the issue to make necessary amendments in the rule to do justice to the legislation.
12	47	Excise	The Committee recommends that security features in bottling of IMFL should be enhanced.
13	49	Excise	The Committee opines that unless an effective enforcement mechanism has not been evolved, chances for illicit transaction of liquor would be high. It emphasises the need for enhancing manpower in the intelligence wing and advocates that the Excise Department should take effective measures in this regard.
14	51	Excise	The Committee directs the Excise Department to submit latest position of pendency of abkari cases at the earliest.
15	55	Excise	The Committee observes that a large number of confiscated vehicles were got damaged due to prolonged retention and directs the Excise Department to take effective measures to avoid delay in disposal of such vehicles.
16	62	Excise	The Committee recommends that there should be a consensus among the Excise, Sales Tax and Transport Departments to set up integrated check posts with scanner immediately. It moots that if these departments could be brought under one terminal, they could function more effectively to avoid corruption. It directs that necessary instructions should be issued to restrict the entry of different type of vehicles through different check posts. The Committee also recommends to install scanner in all check posts.

1	2	3	4
17	67	Excise	The Committee directs the Excise Department to instigate effective measures to curtail the prevalent unhealthy practices in the field of toddy tapping and also to curb the financial loss in this regard.
18	74	Excise	The Committee emphasizes the need for pioneering a quality testing system in Palakkad district, since adulteration of toddy was reported largely there. The Committee directs the Excise Department to entrust some University or Regional Research Laboratory for the development of a quality testing device and to provide fund for this. It also urges the Excise Department to check the feasibility of a scanner and a weighing machine in Alathur check post.
19	78	Excise	The Committee directs the Excise Department to take steps to prevent artificial production of toddy in Palakkad and exhorts to establish a separate enforcement wing for that region. It recommends that computerised testing facility of toddy must be introduced.
20	85	Excise	The Committee suggests that Excise Department should provide fund for the formulation of a mechanised computerized testing facility with the help of CUSAT or Agricultural University.
21	88	Excise	The Committee notices that the staff pattern at the time of formulation of the Excise department prevails in the department and remarks that for the effective enforcement of law and smooth functioning of the department adequate manpower should be provided with. So it recommends that Excise Department should conduct a work study to assess the requirement of manpower and should take necessary steps to increase the staff strength in accordance with the requirement.
22	90	Excise	The Committee observes that the research wing of the State Excise Academy was not functioning properly. It exhorts the Excise Department to develop the Academy as a centre of excellence where impact of alcoholism on family, society and employment sector could be studied.

1	2	3	4
23	92	Excise	The Committee advocates for excluding the officers engaged in audit from ceiling limit of Travelling Allowances.
24	93	Excise	The Committee concluded the evaluation of the audit paragraphs relating to Excise Department with the direction to furnish a report detailing the reason for writing off the case No. 13/2013 in Thiruvananthapuram range, charges under which the case was referred, the compounding fees realised in that case and reason for non-realisation of fine in compounding cases to it at the earliest.

APPENDIX II
 NOTES RECEIVED FROM THE GOVERNMENT
GOVERNMENT OF KERALA
TAXES(G) DEPARTMENT

Action Taken Report on the C&AG Report (RR) Report No.6 for the year ended 31-3-2011

Para No.	Recommendations	Action taken
1.1	Why did we select working of Excise Department for review?	No Remarks
1.2	What were the main objectives of our audit?	No Remarks
1.3	What was the audit framework used to conduct our review?	No Remarks
1.4	What was the criteria against which audit was conducted?	No Remarks
1.5	How did we select our audit sample?	No Remarks
1.6	What was the scope of audit and audit methodology?	No Remarks
1.7	What was the nature of consultation with the Government in the conduct of the review	No Remarks
2.1	What was the organizational setup of the Department?	No Remarks

2.2	What are the main functions of the Department?	No Remarks
2.3	Is the Department a regulator or revenue generator?	<p>Excise Department is a regulatory Department. It is true that it is one of the revenue generating Departments in the state. Besides the excise revenue collected directly by the Department, sales tax on liquor is also related to Excise Department. Excise Department enforces the Abkari Act, NDPS Act, 1985, Medicinal and Toilet Preparation (Excise Duties) Act and various Rules framed under the above Acts. However, of late the orientation of the department more titled as a regulatory department, than a revenue generative department. Earnest and sincere efforts is being taken by the department to bring down consumption of alcohol in the state and campaign against alcoholism and drug abuse is taken up by the department as the most important objective.</p>
3.1	Did the top management act as a role model by adopting transparent procedures?	<p>The top management acts as a role model by adopting transparent procedure. As regards to the points raised by AG in the report, the following fact is submitted.</p> <p>The Government had no intention to levy import fee on ENA/ Rectified spirit imported into the state. The procedures followed to bring about an amendment in the Abkari Act to waive import fee is on proper grounds as detailed below.</p> <p>As per G.O(Ms) No. 234/2007/TD dated 28/07/2007, Government appointed a Committee headed by Smt. J. Lalithambika, IAS, formerly Add. Chief Secretary to Government to study and report on the amendment of the 107 years old Abkari Act, 1077, and the Committee submitted the report with recommendations to amend the Abkari Act, by including 11 new sections and for amending 3 existing sections. A draft bill was also appended to the report and Government promulgated an Ordinance (Ordinance NO. 6 of 2010) by incorporating amendment to section 6 as assembly was not in session at that time. Subsequently, the Abkari (Amendment) bill 2010 to replace the ordinance has been introduced in the assembly with approval of the Council of Ministers. The approval of the Council was obtained after observing all legal and procedural formalities. The State Government is competent to amend any provisions in the Abkari Act or rule made under the act. The Government of Kerala is competent to enact/ amend the existing rules so as to control, impose Excise duties on the rectified spirit, IMFL, etc, and at the same time Government also have the right to grant any tax exemption to the industries engaged in the production of IMFL or country liquor to protect the industries from recurring loss due to imposing such taxes. Invoking the inherent power of the Government, for protection of industries in the State, amendment in the Foreign Liquor Rules</p>

was introduced as per Act 3 of 2010 to revoke the import fee on rectified spirit meant for the production of IMFL meant for human consumption. The loss of revenue as alleged by the audit is arrived on the basis of mere hypothesis and hence it does not have any impact on the revenue of the State exchequer and Government have no intention to levy import fee on the ENA imported for the manufacture of IMFL, and thus Government do not consider that non realization of the import fee as a loss. Government do not consider import fee on ENA as a source of revenue. This amendment has not resulted in loss of revenue. The Council note was prepared in consultation with the Finance Department and that Department did not raise any objections in the amendment of the Foreign Liquor Rules. Moreover, the bill was introduced in the State legislature by the Law Department. Hence there is no revenue loss to Government as alleged in the audit report.

State has the power to levy fee on various items in such rates as may be fixed by the state which are allowed by the constitution of India. The intention of legislature was not to collect import fee @ Rs.5/- litres on rectified spirit. The intention of the legislature was declared by amending the Act. The government and the top officials of the department have only adopted transparent procedures to get the amendments in the Abkari Act.

In respect of fixing separate rates of finished goods and raw material it is already fixed by the Government i.e; for the raw material Government did not intend to levy any import fee. In the case of finished goods, Indian Made Foreign Liquor has an import fee of Rs.5/RL and Beer and Wine have an import fee of Rs.2/ Bulk litres.

Since Government have no intention to levy import fee on raw materials, there is no loss to the state exchequer. As per SRO No.330/96 the import fee for Indian Made Foreign liquor other than Beer imported is fixed @ Rs.5/- per proof liter and that of Beer and wine as Rs.2/-per Bulk liter. In the case of Rectified Spirit Govt.have not notified any import fee. More over in the light of the observation made by the Accountant General, Abkari Act itself has been amended to the effect that it is not necessary to collect the import fee on Rectified Spirit. Moreover it may be noted that a constitution Bench of Supreme Court of India in Synthetics and Chemicals Ltd. and others Vs. State of Uttar Pradesh and others has ordered that "On an analysis of the aforesaid decisions and practice, we are clearly of the opinion that in respect of industrial

alcohol the States are not authorized to impose the impost they have purported to do. In that view of the matter the contentions of the petitioners must succeed and such impositions and imposts must go as being invalid in law so far as industrial alcohol is concerned. We make it clear that this will not affect any impost so far as potable alcohol as commonly understood is concerned. It will also not affect any imposition of levy on industrial alcohol fee where there are circumstances to establish that there was quid pro quo for the fee sought to be imposed. This will not affect any regulating measure as such".

Thus, in respect of the industrial alcohol it has been authoritatively held that States are not authorized to impose any fee.

But a two member bench of Supreme Court of India in Bihar Distillery and another Vs. Union of India held that "Where the removal/ clearance is for industrial purposes (other than the manufacture of potable liquor), the levy of duties of excise and all other control shall be of the Union but where the removal/ clearance is for obtaining or manufacturing potable liquors, the levy of duties of excise and all other control shall be that of the States.

In other words, where the entire rectified spirit produced is supplied for potable purposes- or to the extent it is so supplied, as the case may be - the levy of excise duties and all other control shall be that of the States".

It may be further noted that, later, referring to the judgments in Synthetics and Chemicals Ltd, Bihar Distillery, Vam Organic Chemicals Ltd., and other judgments, yet another Bench of the Apex Court in its judgments in State of U.P and Others vs. Vam Organic Chemicals Ltd and Others (2004 (1) SCC 225) held that "Article 246 gives to Parliament exclusive power to make laws with respect to the matters enumerated in List 1 of the Seventh Schedule. Entry 84 of List 1 and Entry 51 of List II were constructed by this Court in Synthetics case to hold that Parliament alone has the exclusive power to legislate in

unnecessary to refer to the law with regard to the comparative competence of the Union and the States with regard to levy of excise, regulation and control of industrial alcohol prior to the decision of the Constitution Bench in Synthetics. Whatever the law was earlier, the decision in Synthetics now holds the field". In that decision the State's power to levy excise duty was held to be limited by Entry 51 to tax on alcoholic liquors for human consumption. It was also held that Section 2 of the Industries (Development and Regulation) Act, 1951 as well as Serial No. 26 of the First schedule to that Act covered the whole field on industrial alcohol and its products. Therefore, since the coming into force of the IDR Act on 8.5.1952 the State Legislatures are constitutionally incompetent to levy duty/tax on industrial alcohol.

The principle was succinctly reiterated in State of U.P vs Modi Distillery where it was said that the State's power to levy excise duty was limited to alcoholic liquor for human consumption and - that the framers of the Constitution when they used the expression "alcohol liquors for human consumption" meant and the expression still means that liquor which as it is, is consumable in the sense that it is capable of being taken by human beings as such as a beverage or drink.

.....Dictionaries and technical books showed that rectified spirit (95 per cent) was an industrial alcohol and not potable as such..... Therefore even if ethyl alcohol (95 per cent) could be used as a raw material or input, after processing and substantial dilution, in the production of whisky, gin, country liquor etc, nevertheless, it was not "intoxicating liquor" which expression meant only that liquor which was consumable by human beings as it was.

Thus, the State cannot legislate on industrial alcohol despite the fact that such industrial alcohol has the potential to be used to manufacture alcoholic liquor.

A somewhat contrary view was taken by a Bench of two judges of this Court in Bihar Distillery vs. Union of India. It was held that the decision in Synthetics did not deal with

rectified spirit which could be converted into potable alcohol and was merely concerned with industrial alcohol which could not be so converted i.e., denatured rectified spirit. A distinction was drawn between industries engaged in manufacturing rectified spirit meant exclusively for supply to industries (industries other than those engaged in obtaining or manufacturing of potable liquor) whether after denaturing it or without denaturing it and industries engaged in manufacturing rectified spirit exclusively for the purpose of obtaining or manufacturing potable liquor. In the first case, the industry was to be under "the total and exclusive control of the Union and be governed by the IDR Act and the rules and regulations made there under" (SCC p.743, para 23). As far as the second case is concerned, "they shall be under the total and exclusive control of the States in all respects and at all stages including the establishment of the distillery".

The decision in Bihar Distillery was doubted in Deccan Sugar and Abkari Co. Ltd vs Commissioner of Excise, A.P. It was said that the decision in Bihar Distillery ran counter to the scheme or legislative competence as examined by the Constitution Bench of the Supreme Court as well as in the three-judge Bench decision of Supreme Court in Modi Distillery. The appeals were accordingly referred to a large Bench for reconsideration of the judgment in Bihar Distillery case.

The larger Bench followed Synthetics and Modi Distillery without expressly overruling the decision in Bihar Distillery. Therefore on the basis that, the decision in Synthetics continues to exclude the State from levying tax on industrial alcohol whether or not it has the potential to be used as alcoholic liquor.

However, Synthetics has also said (SCC p.149 para 63) "the States have the power to regulate the use of alcohol and that power must include power to make provisions to prevent and /or check industrial alcohol being used as intoxicating or drinkable alcohol".

In summing up the law the Constitution Bench said (SCC p. 158 para 86) "The position with regard to the control of alcohol industry has undergone material and significant change after the amendment of 1956 to the IDR Act. After the amendment, the State is left with only the following powers to legislate in respect of alcohol:

(a) It may pass any legislation in the nature of prohibition of potable liquor referable to Entry 6 of List II and regulating powers.

(b) It may lay down regulations to ensure that non-potable alcohol is not diverted and misused as a substitute for potable alcohol.

(c) The State may charge excise duty on potable alcohol and sales tax under Entry 52 of List II. However sales tax cannot be charged on industrial alcohol in the present case because under the Ethyl Alcohol (price control) orders, sales tax cannot be charged by the State on industrial alcohol.

(d) However, in case the State is rendering any service, as distinct from its claim of so-called grant of privilege, it may charge fees based on quid pro quo. See in this connection, the observations of Indian Mica Case.

The State's power is thus limited to (i) the regulation of non-potable alcohol for the limited purpose of preventing its use as alcoholic liquor, and (ii) the charging of fees based on quid pro quo.

Thus, this judgment makes it clear that the Apex Court upheld the principles laid down in Synthetics and Chemicals Ltd. and that the principles laid down in Bihar Distillery case, is already disapproved.

It may be further noted that the Hon'ble Apex Court has referred the decision in Synthetics and Chemicals Ltd. case to a larger bench in its order in State of Uttar Pradesh and others vs. Lalitha Prasad Valsu (2007 (13) SCC 463). But no decision has been taken till date.

Hence judgment in Bihar Distillery vs. Union of India, has been disapproved by the Hon'ble Apex Court and the judgment in Synthetics case now hold the field even though the matter has been referred to a larger bench consisting of 9 Judges even now notices are issued as per the findings of the Accountant General to remit import fee on special spirits. But the Hon'ble High Court of Kerala has quashed the notices on the above ground.

With respect to the irregularities pointed out by the Comptroller & Audit General regarding the procedure in amending the Abkari Act, it may be noted that the amendment brought in the Abkari Act has been considered and passed by the Kerala Legislative Assembly. It is already mentioned that Government have no intention to collect import fee on Spirit. Hence there is no financial loss to the Government in amending the Abkari Act. It is true that some members of the Subject Committee gave a dissent note against the bill cannot be considered as a irregularity. In a democratic process, decisions are made on majority. Hence the majority of the members of the Subject Committee agreed the amendment and recommended to place before the Assembly. From the above, it can be seen that the Government and the top management of the Department adopted transparent procedures to get an amendment to the Abkari Act.

By all these facts it is clear that Govt act as a role model by adopting transparent policies .

3.2

Did the Government adopt consistent policies ?

Every year the Government announces an Abkari Policy which is the guideline to be followed during the period. In the Abkari Policy Government stating the strategies/activities to be undertaken during the period and announces the fees structure during the year. Some policy announcements are the continuation of the previous year's policy, but some other decisions were taken based on the feedback of the last year's policy. It is the programme of the Government to change its policy at any time in the best interest of the public. Consistent policy is implemented in the Abkari sector especially in respect of the sale of liquor. The state on a periodical reassessment of the policy is competent to modify or amend its earlier declared policy. The Government is

also competent to amend the concerned rules by adding, modifying or omitting any provision to give effect to the policy as ordered by the Apex Court in its judgment in Kandath Distillery case. The main strategy of the Government policy for the past years is to limit the availability of liquor. Government have much concerns about the Alcoholism among the people and took various steps to make them aware of the ill effects of Alcoholism and Drug Abuse. During the year 2008-2009 an amount of Rs. 20 lakhs was allotted for conducting awareness programmes to the Excise Department and an amount of Rs.30 lakhs was also made available from K.S.B.C. Excise Department by utilizing the funds, conducted effective awareness programme so as to educate the people the evil effects of Liquor and Drugs. Enforcement activities had been strengthened and stringent provisions were incorporated in the Abkari Act. All offences relating to illicit Liquor were made non bailable and imprisonment up to 10 years and with a fine of Rs.1 lakh.

The Government from 2011-12 further geared up the awareness programme by allotting more funds in the budget provisions and during the year 2011-12 an amount of Rs.1.20 crores was allotted and thereby the Excise Department was able to launch massive awareness programme in the society and the programmes are being continued effectively.

During the year 2011, a separate wing under a Joint Excise Commissioner has been constituted in the department to co-ordinate, the awareness programme the Government in subsequent year also allotted sufficient funds for awareness programme. The government took various steps to reduce the availability of liquor. By the announcement of the Abkari Policy for the year 2014-15, vide G.O. (Ms) No. 139/2014/TD dated 22/08/2014.

So many changes were introduced and the same is described below:

1. No Bar license shall be issued to any hotels other than 5 Star Bar Hotels
2. It was also decided to cancel all existing FL 3 licensed Bar hotels except 5 star hotels.
3. 10% of FL1 shops shall be closed in each year and 39 shops have already been closed.
4. Working Hours of the FL3 LICENSE (Bar Hotels) has been reduced by 3 hours.
5. Governments have also ordered to treat "Good Friday" "International Day against Drug Abuse and illicit Trafficking (June 26) and "All Sundays as Dry

Days".

6. The Government of Kerala through Excise Department has launched the spreading message of awareness of ill effects of alcoholism and drug abuse through "National Service Scheme" for college students and Anti liquor Clubs in High school and College students.

Government is taking serious concern over the increased consumption of liquor in our society and the consequent serious social implications arising there from.

Government policy is very clear that the liquor business is not considered as a source of income to Government. Government is fully committed to reduce the availability of the liquor in a phased manner and thus to achieve the directive principles as envisaged in the constitution.

As a result of the effective awareness programmes and other policy measures implemented by the Government, it was able to reduce the rate of growth of consumption of liquor as detailed below;

Year	Sale of IMFL (In lakhs) cases	Growth in consumption compared to previo years
2010-11	217.41	16%
2011-12	241.78	11%
2012-13	244.33	1 %
2013-14	240.67	-1 %

3.3	Were the policies implemented effectively?	<p>Government announces Abkari Policy every year, usually before 1st April, after having wide consultations with all its stakeholders. Policy, broadly spells out the perspective of Government, which is subject to change according to the need of the time. Hence sometimes the decisions in the Policy may be pending for implementation due to some social commitment and other matters. Anyhow almost all the Policy decisions have been implemented timely by the Excise Department.</p> <p>As per the Abkari policy for the year 2011-12, announced -vide G.O.(Ms) No.107 /11/TD dated 17/08/11, Government introduced various measures to reduce the consumption of liquor in the State wherein it has been decided not to grant FL3 licence to three star hotels and no new FL3 licenses shall be issued within a radius of 3 kilometers in Panchayat area, and 1 kilometer in Corporation/ Municipality areas from an existing Bar hotel. Accordingly, amendment in the respective rules of FL Rules were brought vide GO(P) No. 192/11/TD dated 9/12/11,(S.R.O.No.779/2011 dated 9th December,2011), GO(P)NO.48/12/TD dated 27/03/12(S.R.O.No.202/2012 dated 27th March,2012), for the statutory backing of the above decision. But the Hon'ble High Court in WA NO 470/12 dated 27/07/2012 have quashed the above amendment as discriminatory /unconstitutional. The Hon'ble Supreme Court in the Judgment dated 5/3/14 in CA NO 3196-3198/14 arising out of the SLP 26241-26243 /12 filed by the State have upheld the decision of the Government not to issue FL3 licenses to 3 star hotels, and held the decision of High Court, in respect of the distance prescribed for issue of Bar hotels as legal. Government as per G.O.(MS) No. 139/14 /TD dated 22/8/14, announced the Abkari policy for the year 2014-2015 to achieve the target of liquor free Kerala. Accordingly, So several measures noted below were adopted ;</p> <ol style="list-style-type: none"> 1) No Bar license shall be issued to any hotels other than 5 star Bar Hotels . 2) It was also decided to cancel all existing FL3 licenses Bar hotels except 5 Star hotels. 3) 10% of FL1 Shops shall be closed in each year and 39 shops have already been closed . 4) Govt also ordered to treat "Good Friday" "international Day against Drug Abuse and Illicit Trafficking and all Sundays as Dry days <p>For getting statutory backing to all these changes necessary amendment have already made -vide G.O.(P) No. 141/14/TD dated 27/9/14, and G.O.(P)No.152/14/TD dated 11/9/14 respectively.</p> <p>As a whole the policy decisions of the government have been implemented effectively.</p>
3.4	Was the Excise manual useful in guiding the work of employees?	Action has been taken to revise the Excise Manual. A Committee consisting of senior officers has been constituted to revise the Excise Manual and it is under process.

3.5	Was prompt follow up action taken on study reports?	<p>Timely action has been taken on most of the study reports. As regards to the objections raised by AG, the following remarks are offered:</p> <p>(1) Action is being taken for modernization of Check Posts. All Major Check Posts were put under the charge of Circle Inspector of Excise and all Minor Check Posts were put under the charge of Excise Inspectors. Excise department has already started its own Website, i.e. www.keralaexcise.gov.in. Under the plan fund during the year 2014-15 an amount of Rs. 1.25 crores was sanctioned for modernization of Check Posts and it is decided to set up 12 container modules in 12 check posts with the Installation charge of Rs. 1.22 crores and the work entrusted with Nirmiti Kendra. Department is taking speedy steps for the disposal of the vehicles and all Deputy Commissioners of Excise are authorized to confirm the auction sale at the time of the conduct of the sale itself provided the sale amount is above the market price fixed by the Mechanical Engineer.</p> <p>(2) Necessary action has been taken on most of the recommendations made by the Expert Committee. As recommended by the Committee necessary amendments were made in the Abkari Act and rules.</p> <p>(3) Government has constituted a technical Committee to identify and establish Chemical Composition of natural Toddy. The Committee submitted its report on 21/01/2009.</p> <p>But further the Government have re-constituted the Committee vide GO (Ms) No.174/11/TD dt. 22/11/2011 and entrusted to conduct a detailed study of Chemical Composition of natural toddy and re-fix the quality parameters which may help to identify and distinguish natural coconut toddy samples from synthetic ones. The study report will be submitted shortly.</p>
3.6	Was effective action initiated against violations at the Commissionerate?	<p>At present the matters relating to Bar Hotels like renewal, action against violations, alteration & modification in the licensed premises, reconstitution of partnership deed etc are handled in the Commissionerate in separate files on each occasions when it came for orders. After completing the required procedures in the files, these files are closed and given to record section of the Commissionerate. However, steps have already been taken to maintain the registers showing the violation of licence condition and actions taken thereon.</p>
4.1	Did the department define its strategic objectives and targets?	<p>The Excise Department is a uniformed force, formed to conduct the works related to the collection of revenue and prevention of supply of illegal liquors and drugs. The officials in the Department are also entrusted with the duty of collecting revenue. The vision, mission and objectives of the Excise Department are published among the officials and for public.</p> <p>Vision: To build up liquor free society and eradication of drug abuse for ensuring a</p>

		<p>happy, peaceful and prosperous society.</p> <p>Mission: The Mission of the Excise Department is prevention of offences under the Abkari Act, Narcotic Drugs and Psychotropic Substances Act and Medicinal and Toilet Preparations (Excise Duties) Act. Another mission of the department is to reduce the availability of Liquor by limiting the number of shops and to organize intensive awareness campaign against Alcoholism and drug abuse. Leakage of Excise Revenue will be prevented and transparency in the functioning of the Department will be ensured.</p> <p>Main Objectives:</p> <ol style="list-style-type: none"> (1) Strengthening of enforcement activities, effective investigation and successful conduct of prosecution. (2) Improved office management and E-Governance. (3) Sustained campaign against liquor and drug abuse. (4) Strengthen preventive machinery to eradicate illicit liquor. (5) Frame policies to restrict availability of liquor and have better control over the licensed premises.
<p>4.2</p>	<p>Did the department assess risks to achieving its objectives?</p>	<p>Risk factors in the functioning of the Department are being examined and proper remedial actions were taken then and there. All the Excise officials up to the rank of Excise Inspectors are provided with arms and proper training also being imparted to the Excise personnel at State Excise Academy and Research Centre, Thrissur, Kerala Police Academy and IMG.</p>
<p>4.3.1</p>	<p>Is there a conflict of interest between a major licensee for liquor trade and the Excise Department?</p>	<p>Kerala State Beverages (M&M) Corporation Ltd., being a Government owned company, the interest of both government and the company can be protected by continuing the Excise Commissioner as its head and thereby the chances of probable disputes can be eliminated. There is no dispute in carrying out the responsibility of both as licensing authority and as Chairman of the Company - together by the Excise Commissioner. It is better for the smooth functioning of the corporation, if the designated authority to control the trade and consumption of liquor; himself is the chairman of the Corporation. The day to day function of the corporation is handled by the Managing Director and hence there is no conflict of interest. The major decisions of the KSBC is done by the Board of Directors hence there is no conflict.</p>
<p>4.3.2</p>	<p>Is the present system of printing and custody of permit books prone to misuse?</p>	<p>Import/Transport/Transit/Export permit books are printing at Government Central Press, Thiruvananthapuram, containing 25 permits in each book and 20 permit books in a bundle, and kept in the Store Section of Commissionerate of Excise. The same is supplied to the subordinate offices as per the requirement. Earlier there was a practice of assigning permit numbers by the Government press authority. As per</p>

		<p>Order No.XE3-13491/2010 dated 30.5.2011, the charge of the Store Section was entrusted to Fair Copy Superintendent. From 1.6.2011 onwards, permit numbers are assigned by the Commissionerate of Excise.</p> <p>Due to the shifting of the Store section of Commissionerate of Excise from Peroorkada to Excise Head quarters, the bundle of permit books were broken and it was kept in the Record Section and thereafter it was transferred to the Store Section. At present the permit books were arranged serially in ascending order and kept bundle-wise. Now the stock positions of permit books are corrected and stock position of Stock Register are tallied with the physical stock. It is also decided that as a first phase, permit will be computerized at K.S.B.C Head Quarters and it will be implemented shortly.</p>
4.3.3	How effective was the role of the Department over printing, supply and affixing of security labels?	<p>From 2003 onwards the printing of Security Hologram label was entrusted to C-Dt. But Government vide letter No. 1731/A3/2012/TD dated 28/06/2012 has directed that the printing of Holographic Security label will be under the General Supervision and control of a Joint Excise Commissioner. Govt., has also ordered that Excise Commissioner will post an officer in the cadre of Asst. Excise Commissioner to have thorough control and supervision of the printing process so as to ensure that it is done in a perfect manner, preventing any chances for leakage, theft, duplication etc. The Assistant Excise Commissioner (Enforcement), Thiruvananthapuram has been deputed for the supervision and control of the printing process. Government plans to introduce High Security Holograms labels with track and trace facilities. Excise Department has invited expression of interest (EOI) through C-Dt. The EOI received have been scrutinized by the expert committee headed by Sri.Ajith Brahmanandan, Technical Director, NIC and other members</p> <p>Later Government have constituted another expert committee consisting of vide GO(Rt) No. 530/2014/TD dated 11/07/2014 to scan the market conditions and prepare fresh RFP. With the following members viz. Sri. Ajith Brahmanandan, Technical Director, NIC; Sri.R.K.Sreekumaran Chettiar(Convenor), Joint Excise Commissioner(Law), Sri. B.Thanudas, Group Director, Computational Infra structural Net Work(CNG) Avionics Entity, VSSC, Tvpm., Prof. Jayakrishnaraj .G., Electronics and Communication Engineering Department, College of Engineering, Tvpm., Shri.Dina Chandran .C, Principal, Institute of Printing Technology, Govt. Polytechnic College, Shornur, Sri. E.P. Mahadevan Pilla, Professor and Head, Department of Optoelectronics, University of Kerala, Karyavattom, Tvpm., Sri.Shji K.S, Scientist, Standardization Testing Quality Control (STQC) Akkulam, Sri. Sabarish, Scientist and Head of Information System Division, Department of Science and Technology, Tvpm. and Sri.B.G.Biju, Manager(Projects) KSIDC, Tvpm. The committee is studying the proposal for the</p>

		<p>preparation of RFP for the main manufacture of high security labels with track and trace facility. The programme of preparing RFP will be completed shortly, and action for the implementation of the scheme will be taken without delay.</p>
5.1	Was budget managed effectively?	<p>The Excise Department managed its budget effectively as generally the variation between the actual revenue and expense were within the reasonable limits.</p>
5.1.1	Did the Department officials use the powers vested in them to collect arrears of revenue?	<p>As per SRO No.280/70, the Deputy Commissioner of Excise (Formerly AEC) was entrusted as Revenue Recovery Officers. But due to the shortage of staff in the subordinate offices like Range Offices and Excise Circle Offices, the effective revenue recovery collection was not possible as enforcement duties for the suppression of illicit liquor traders were the preliminary responsibility of the department along with various licensing works in the Abkari Sector, hence it was not implemented in the Excise Department related to R.R such as collection of the details of land and properties of the defaulters, assessment of the survey No. of the properties, fixing its upset price, confirmation of the lands taken as bought-in-land are not within the reach of Excise Department. These are being done by the Revenue Department as they have a separate wing for the purpose.</p> <p>The RRC was recommended by the District Collector for Rs.17.05 crores on the defaulters were declared as insolvent or they were expired. There is absolutely no possibility to realize the arrears from the defaulters or from their legal heirs. Most of the R.R.C returned cases were recommended for realization under R.R.Act before 35 years.</p> <p>One of the effective step taken by the Government for the realization of the long pending arrears which could not have been collected is by the declaration of Amnesty Scheme. Under Amnesty Scheme certain reductions are ordered by the Government for the purpose of collection of arrears. As a part of the scheme interest portion of the principal amount is waived by the Government. As a result of the implementation of the scheme the department is able to collect 24 crores of arrears, which could not have been collected otherwise. The relief given by the Government for the settlement of arrears can never be considered as a loss. After recommending R.R. proceedings before the District Collector, Excise Department is watching the progress of the R.R. proceedings with the Taluk Revenue Authorities and render all necessary assistance to them for the realization of arrears. There is proper liaison between the revenue and excise department in this regard.</p>

5.1.2	Did the Department have effective systems to collect arrears of revenue?	<p>In the report Accountant General has sought a question how the arrear of Rs.179.3 crores during 2002 had increased to 230.29 crores as on 31/03/2011, even though Government had adopted a policy of advance remittance of rentals, fees in licencing. In this regard It is submitted that the increase in the arrear amount was not due to further accumulation of arrears but due to the addition of interest accrued year by year to the Principal Amount. In every year interest on the principal amount is calculated @18% per year and added to the total amount, and hence results in hike in the total demand.</p> <p>The difference seen in the DCB statement of Abkari arrears prepared by the Excise Department as on 31/03/2011 and that of Land Revenue Department are due to the following reasons;</p> <ol style="list-style-type: none"> a. Excise Department computes the DCB statement taking into account the up to date interest due in each and every arrear case, as on the date of preparation of the statement whereas Land Revenue Department compute interest as on the date of the finalization of Revenue Recovery proceedings. b. When RRC's are returned, Land Revenue officers due to various reasons deduct the amount from their demand. But Excise Department could not deduct the amount from the total demand.
5.1.3	Did the Amnesty scheme achieve its objectives?	<p>As per the Amnesty scheme declared by Government of Kerala on 26.05.2008 for the collection of default arrears, many of the defaulters came forward to remit the arrear as per the scheme, in all districts. An amount of Rs.24 crores could be collected so far from 1044 cases and 45 cases pending in various courts were withdrawn as per this scheme.</p>
5.2.1	Did the department levy all the fees payable under the Abkari Act?	<p>Government issues notifications prescribing rate of permit fee to be collected for the permits issued u/s. 11 of the Abkari Act. In the notification published in SRO 388/95, 317/04 and 1023/09 Government have not included permits issued under Foreign Liquor Rules in the above notifications. Hence, no fee was collected in respect of permits issued to licensees under Foreign Liquor Rules. Licensees under Kerala Distilleries and Winery Rules, Kerala Foreign Liquor (CBB) Rules, Brewery Rules, Kerala Winery Rules and Kerala Rectified Spirit Rules were only included in the notification.</p> <p>Now, Government has amended the SRO. No. 1023/2009 vide G.O (P) No. 11/12/TD dated 09/02/2012 and decided to levy transport permit fee on the permits issued to the licensees under Foreign Liquor Rules. Now Transport Permit fee is being collected from</p>

		<p>the licensees under Foreign Liquor Rules also.</p> <p>At present No Objection have been issued from Excise Department for the import and export of Indian Made Foreign Liquor by realizing a fee of Rs.1,000/- (One Thousand only) and also issuing import / export permit along with the NOC by realizing an additional fee of Rs.1000/- (One thousand only). Government decided to impose Transport Permit fee @ Rs.500/- (Rupees Five Hundred only) and the same is realized.</p>
5.3.1	Where Foreign Liquor 3 Hotel (restaurant) licenses granted according to Rules?	<p>The Excise Department discharged its duties effectively as a licensing Authority in issuing licence under Foreign Liquor Rules, strictly complying the rules and condition prevailing time to time. After the detailed enquiry of Deputy Commissioner of Excise, Joint Commissioner of Excise and based on their reports and considering all the conditions as prescribed under the Act and Rules, Excise Commissioner recommends to Government for such licence. There were no violations of such conditions for granting FL-3 licence.</p>
5.3.1.1	Where FL3 licenses issued and renewed to non-standard hotels/restaurants?	<p>The Minimum standard prescribed for obtaining FL3 licence was 2 star standard from April 1982 and 3 star standard from April 2002. It may be noted that the specific standard insisted is for obtaining fresh FL-3 licence and not for renewing the FL3 licence already sanctioned before the date. Government had issued the licences for different hotels in accordance with the then existed rules and licences of such bar hotels were renewed and regularized as per the policy decisions taken by the Government. No FL3 licences are issued or renewed in violation of the provisions of the Act and Rules and standing orders of Government. The Hon'ble Supreme Court in Civil appeal No. 3196/2014 and connected cases made certain observation with regard to un-standard hotel mentioned in this report. In the light of the observations made by Apex Court, Govt. announced its Abkari Policy for the year 2014-15 taking due consideration of the various aspect involved in the grant of license including the recommendation of the One man commission as well as the report submitted by the Secretary Taxes Department in this regard. Accordingly Government declared its Abkari Policy vide GO (MS) No.139/2014/TD dated 22/08/2014. In view of the new Abkari Policy, no bar license will be issued to any Hotels other than five Star Hotels. It was also decided to cancel all the existing FL3 licenses of bar hotels except 5 star hotels and not to renew the FL3 license of 418 hotels mentioned in this Report and in the judgement of the Hon'ble Supreme Court. As per the new Abkari policy of the Government, the Foreign Liquor Rules have been amended to that effect as per GO (P) No.141/2014/TD dated 27/08/2014.</p>

5.3.1.2	Is "Interest of promotion of tourism" clearly defined?	<p>FL-3 licences are granted to those Hotels having star classification issued by the Ministry of Tourism, Government of India. Hence Interest of promotion of Tourism need not be defined by the Excise Department.</p>
5.3.1.3	<p>Did the Department effectively enforce minimum distance of bar hotels from educational institutions/religious places etc.?</p>	<p>Rule 13(3) of Foreign Liquor Rules stipulates that no FL-3 licence shall be issued to hotels which are located within 200 meters from an educational institution, temple, church, mosque or burial ground.</p> <p>As per Note 2 of rule 13(3) of Foreign Liquor Rules, the basis to calculating the distance will be shortest pathway / lane / street / road generally used by the public (and the same will be measured from gate to gate).</p> <p>Hotel Ruby Arena, Medical College has requested to grant FL-3 licence. But the same was rejected vide Order No. XC7-1427/07 dated 19/02/2007 of Excise Commissioner, since it is located at about 41 meters away from Men's hostel of Medical College, Thiruvananthapuram.</p> <p>The Hon'ble High Court of Kerala, vide judgment dated 16/11/2007 in WP (C) No. 27123/07 has directed to re-measure the distance from the gate of the Men's hostel of the Medical College, Thiruvananthapuram to the main gate of the Hotel Ruby Arena, through the Zebra crossing and directed to decide the issue afresh.</p> <p>The distance between the Men's Hostel and the Hotel through Zebra crossing is 384 meters. Government preferred WP. No. 354/08 against the judgment in WP (C) No. 27123/07. Sri. M. Vijayakumar has also filed W.A. No. 1039/08. The Hon'ble Division Bench held that this issue covers the judgment in WA. 1120/93 regarding the mode of measurement of the prohibited distance and both Writ Appeals were dismissed. Government preferred SLP No. 12363/09, before the Apex Court against the impugned order but the Apex Court dismissed the SLP.</p>
5.3.2	<p>Did the Department effectively supervise Foreign Liquor (FL1) licensee shops?</p>	<p>The FL1 Shops in the State are conducted by the Government Agencies Viz., KSBC & Kerala State Consumer Federation. Hence samples of liquor are not taken from such shops frequently as done in toddy shops and bar hotels. Moreover the liquor sold in the FL-1 shops is in sealed bottles, which are supplied by FL-9 bonded warehouse under the supervision of Excise. The consignments of liquor brought to FL-9 were also subjected to chemical analysis at the manufacturing points, where also sufficient Excise supervisory staff is posted for effective supervision and monitoring. In the case of Bar</p>

		Hotels and Toddy Shops, liquor is not sold in sealed bottles. Hence samples are taken frequently from these shops.
5.3.3	Did the Department exercise effective supervision over distilleries?	Effective supervision is being done in the Distilleries, Compounding and Blending Units. Sufficient number of Abkari locks are issued to all the distilleries. Moreover sufficient stock has been kept in the head quarters for adequate supply, whenever demand comes from the distillery units.
5.4.1	Was there effective follow up action on intelligence inputs?	In the Excise Department an Intelligence wing under a Joint Commissioner of Excise is functioning to furnish necessary inputs on Abkari crimes. The illicit activities in the Abkari sector is being collected and handed over to the field units for enforcement purpose then and there and thereby to curtail these activities. It is submitted that with the available facilities, effective steps have been taken on these secret reports. It may be noticed that now there have been an increase in the ratio of detection of cases compared to previous years. Furnishing of inputs by the Intelligence Wing and follow up action on it by the field level officials is periodically reviewed in the monthly conference held by the Deputy Commissioners of Excise at the district level and by the Excise Commissioner at the State level. The statement for the details of inputs given, cases detected and percentage up to 28.08.2014 is enclosed herewith. Annexure A

5.4.2	Was effective action taken on abkari cases where violations were detected?	<p>The Department has strengthened the enforcement activities, as a result the number of cases detected increased considerably. It was decided to entrust the investigation of major Spirit cases to higher level officers for better result. There is a proposal in Government to constitute a Crime Branch wing in the Department for the quality investigation of the major Abkari cases. A Crime Records Bureau has already been started functioning for keeping up to date data of crime and culprits.</p> <p>During the year 2007-08, total number of cases detected was 7666. In 2008-09, 2009-10 & 2010-11, number of cases detected are 7832, 8616 & 8338 respectively. The increase of detection of case shows the effective enforcement mechanism of the Department.</p> <p>Illicit distillation of arrack and ganja cultivation is mainly done at Forest areas and In Government land. At the time of detection there is no chance to get information about the whereabouts of the offenders. Hence the cases are treated as UD cases. On further investigation of these cases, there is rare chance to find out the whereabouts of the offenders. For that reason, the above cases were disposed as UD cases. It may be noted that due to strengthening of enforcement work in the forest area, the flow of illicit liquor from that area has drastically come down.</p> <p>Due to effective functioning of Check posts, border patrolling, vehicle checking and effective enforcement work in the State the flow of illicit spirit from outside the State can be controlled.</p> <p>Necessary direction has already been given to all Deputy Excise Commissioners for the confiscation and speedy disposal of all seized vehicles.</p>
5.4.3	Whether the confiscated vehicles disposed expeditiously?	<p>The vehicles seized in connection with Abkari cases are disposed as per Sec.67B, 67C, 67E and 67F of the Abkari Act. Necessary direction has already been given to all Deputy Excise Commissioners for the confiscation and speedy disposal of all seized vehicles. As on 31st August 2014 a total number of 323 vehicles are pending for confiscation and 383 confiscated vehicles are pending for auction in the state. Now the disposal of confiscated vehicles is being conducted on a war foot basis.</p>
5.4.4	Did the Department manage to dispose the seized spirit efficiently?	<p>It is a fact that leakage was happened in the confiscated spirit stored in various offices from 2006-07 to 2010-11. But there is timely monitoring by the Spirit Disposal Committee, and effective directions have been given and as a result the department could dispose major portion of the confiscated spirit, which was kept in various offices. The seized spirit is kept in plastic cans as in the seized condition in the thondy rooms in stack position; the low quality of the cans and the high pressure inside the thondy room causes breakage of cans and thereby leakage. Norms for wastage cannot be fixed and only actual wastage is accounted and the wastage occurred is also reported to the</p>

		<p>Court of Law by the concerned officials. Pretrial disposal involves series proceedings like inventory preparation. Certification by the Judicial Magistrate etc. and hence the process takes some time. In the above circumstances leakage through breakage is unavoidable. But Department take utmost care and action for speedy disposal of the seized spirit.</p>
5.4.5	<p>Was enforcement work at the checkpoints managed effectively and efficiently?</p>	<p>Government decided to modernize Excise Check Posts and also to start integrated Check Posts. As its first phase, Excise Check Post, Amaravila has been converted as integrated Check Post. All major Check Posts were brought under the supervision of Circle Inspector of Excise and Minor Check Posts were brought under the control of Excise Inspectors. For providing basic amenities at the Check Posts Container modules will be put in 12 Check Posts by utilizing the fund under the plan scheme. Vehicle with driver was allotted to all the major check posts. All the vehicles passes through check post are thoroughly inspected by the Excise officials. Effective patrolling is also being conducted at the Boarder areas with the neighboring states. As a result of the effective enforcement, effective checking of vehicles illegal transportation of liquor through the Check Posts have come down. The Circle Inspectors of Excise and Excise Inspectors posted at Check Post are provided with mobile phones.</p> <p>'Malabar cements' is a Public Sector undertaking. Even though the vehicle from Malabar cements was allowed to pass through green channel of check post, due to strict inspection, the spirit transported through such vehicle were seized by the Excise authorities and cases booked against them have been effectively investigated by the Department.</p>
5.4.6	<p>Did the Department exercise effective supervision over toddy shops?</p>	<p>The Excise Department has effective supervision in the functioning of toddy shops. It is the policy of the Government to sell only natural toddy through Toddy shops. Excise Department has already taken adequate steps to stop selling adulterated toddy through the Toddy shops. Target has been fixed for officers from Asst. Excise Commissioners to Excise Inspector for inspecting toddy shops and to collect toddy samples. Surprise inspections of toddy shops are conducted and the samples collected for chemical analysis. If adulteration is detected in any samples, the licence of all shops in the group will be cancelled summarily. Government have also ordered to set up mobile labs for the on the spot analysis of liquor and one such lab has already set up and started functioning.</p>
5.4.6.1	<p>Was tree tax under assessed?</p>	<p>There is no laxity or lapse on the part of the Department in collecting tree tax due to Government. Tree tapping will be allowed only after paying the tree tax. Inspecting and marking of the trees by the Excise officials. Direction has been given to the Excise</p>

		official to ensure this. The tree tax was not under assessed, and it was collected for each and every tree that was tapped. It is a fact that the actual yield of toddy is higher than that of the prescribed limit; i.e. 1.5 liters in the case of coconut tree. The technical committee constituted by the Government is studying this aspect also and suitable action will be taken in this regard on receipt of the report.
5.4.6.2	Was the Kombazha check post effective in controlling misuse of permit system?	Even though the recommendation is acceptable, it is very difficult to depute Excise personal for the escort of toddy which is transported to other divisions due to acute shortage of staff and due to heavy workload. More over large number of vehicles are being used for transporting of toddy. In order to ascertain the quality of toddy sold through toddy shops the samples are collected and sent for chemical analysis.
5.4.6.3	Was the permit system for inter division transport of toddy misused?	It may be noted that in respect of the total number of permits and quantity of toddy that was transported from Palakkad division to other divisions mentioned in this report there is some variation from that of the report by the Deputy Excise Commissioner, Thrissur and Palakkad. The details furnished by the Deputy Excise Commissioner, Thrissur and Palakkad are placed as <u>Annexure B</u> Out of the total production of the toddy in the State, one third is from Palakkad area. In most of the districts there is scarcity of coconut trees for the purpose of drawing toddy. But in Palakkad district there are coconut plantations for tapping. Therefore on the request of the toddy shop licensees of other districts toddy is permitted to be transported on the strength of the permits issued by the Deputy Commissioner of Excise, Palakkad. The vehicles transporting toddy is subjected to checking at various levels and ensured the quality of the toddy.
5.4.7.1	Did non-availability of speed boat hamper enforcement?	As per G.O. (Rt.) No.441/10/TD dated 18.05.2010 administrative sanction was accorded for the purchase of a steel boat from M/s. Steel Industries Kerala Ltd. for an amount of Rs.33.35 lakhs. An amount off 3.36 lakhs ie, 10% of the total amount was to be paid to the company during 2010-11 financial year after the execution of the agreement. As per the agreement, the boat was to be delivered to the department within 180 days from the contract date. But the company failed to comply with the agreement even after the department had made regular enquiries in this regard, the company repeatedly failed to deliver the boat within the stipulated time period. The delay was caused due to the lapse on the part of the company officials. Now the company has completed the construction of the boat and has handed over to the same department. The boat is now being used for the enforcement activities in Kuttanad range.

5.4.7.2	Were the enforcement employees adequately armed?	In the past the Excise Department could not provide arms to all the enforcement officers due to lack of sufficient training and for want of Arms and Ammunitions. But now almost all the officers were given basic arms training in the Police Academy at Thrissur and pistols with ammunitions were issued to the officers of the rank of Excise Inspectors and above in the field units.
5.5.1	Did the Department maintain complete and accurate records of samples sent for chemical analysis?	The register of samples is kept in all Excise offices with updated details. Nor maintenance of the same will be dealt with severely.
5.5.2	Was the Department able to perform chemical analysis of the samples in a timely manner?	Even though the samples have been sent for chemical analysis from Excise offices in time, delay is experienced in getting the report. The chemical examiner to Government have already requested to speed up the chemical analysis of samples.
5.5.3.1	Were the test results of toddy samples useful?	Government have constituted a Technical Expert Committee for prescribing the para meters for identifying natural and artificial toddy. Action will be taken on the basis of the report.
5.5.3.2	Were test results of IMFL/Beer samples useful?	The chemical analysis of the samples of IMFL explains the strength of the liquor and whether it contains any ingredients injurious to health. The test results of IMFL/Beer are useful.
5.6	Did the Department manage man power resources effectively?	Directions have already been given to all appointing authorities to report all the anticipated vacancies and accordingly they have reported all the vacancies set apart for direct recruitment from the Public Service Commission. Earnest effort is being taken to manage manpower resources effectively.
5.6.1	Did the Department have adequate manpower to discharge its functions?	At present the ministerial work in the Excise Department is carried out by experienced hands having knowledge of Excise Act and Rules. Their experience in office work is a conducive and complimentary factor for field operations and vice versa. Under the present system the ministerial work is being carried out in a laudable manner and hence no ministerial cadre is necessary, in Excise Department. The ministerial wing existed in Excise Department was abolished as per GO (MS) 141/68/RD Dated

		<p>29.02.1968 on the basis of a study conducted by P&ARD. The strength of the Excise Department is not sufficient and submitted proposals before the Government for the creation of more posts and new offices.</p>
5.6.2	<p>Did the Department provide adequate training to its employees?</p>	<p>The following training programmes are conducted in the State Excise and Research Centre, Thrissur for giving proper training to the excise officers.</p> <p>Civil Excise Officers were given basic training for 90 days in 11 batches for 683 officials. The training of 12th batch is in progress. Training to 56 drivers have already been given. Excise officials are also impart training in the investigation of Abkari and NDPS cases in collaboration with IMG at SEARC. Training is also arranged with IMG for Stress Management, Personality Development, Communication Skill, Right to Information Act, Right to Service Act, Human Rights Act, Woman's Right Protection Act, Juvenile Justice Act, Sc/ST Act, Consumer Protection Act, Store Purchase Manual, SPARK, Internet, Computer, campaign against alcoholism and drug abuse.</p>
5.7	<p>Was the Department able to effectively address social concerns of alcoholism?</p>	<p>The Government has much concern in the drinking habits of the people and has taken various steps for making the people aware of the ill effects of the liquor and drug abuse. Effective awareness programme have been launched in our society with the help of NGOs, Local Self Government, Kudumbasree, Residence Associations. More funds were also ear marked for the purpose. Students community was also brought under the programme for studying the social, economic, health and other impacts of alcoholism, Government have constituted a committee under Dr.Vijayakumar, Department of Community Medicine, Medical College, Thiruvananthapuram. The study has already been started. 5% Cess on the sale of liquor will be used for Awareness campaign</p>
6.1.1	<p>Was computerization by M/s Keltron effective?</p>	<p>At present excise department used IDEAS a file tracking software besides Spark software. Also the department introduced E-payment system for the online payment of taxes and fees. With the help of this software, 23 types of fees can be paid through online.</p> <p>Customizing the Service Plus software of NIC, department can successfully renew 2 licenses-named FL3 and FL11 through online.</p> <p>The development of the application for the effective functioning of the newly created Excise Crime Records Bureau is under process.</p> <p>Also it is informed that stock registers are properly maintained for the computers and accessories purchased.</p>

6.1.2	Was computerization of issue of transport/ Import permit system put to effective use?	Steps are being taken to computerize the issue of Permits. As the first phase, the permits issued by the Deputy commissioner of Excise, Kerala State Beverages Corporation, Headquarters has been partially computerised.
6.2	Was the Department publishing its administrative report timely?	The Administration Reports for the year up to 2012-13 have been submitted to Government. The Report for the year 2013-14 is being finalized.
6.3	Does the Department have an Informative website?	The Excise Department has developed a website, www.kerala_excise.gov.in . Functions of the Department, Abkari Act and Rules, Important orders, Abkari Policy etc are available in this website.
7.1	Was internal inspection being used as an effective monitoring mechanism?	The internal audit system in the Department acts effectively. joint Excise Commissioner, Deputy Commissioner of Excise and Circle Inspector of Excise conducts internal inspection in all offices under their jurisdiction and prepare inspection note in this regard. More over Internal Audit wing of the Excise Commissioners conduct audit inspection in all zonal and district offices, KSBC and Distillery and Pharmaceuticals. As a result of these inspections, Office Registers and other records are maintained properly and also take efficient proceeding of revenue collection and recovery. Strict direction has been given to the officers for the strict follow up action on the observations of the inspecting officers and for the proper maintenance of registers.
7.2	Were periodical meetings used as a effective monitoring mechanism?	Monthly review is being done by the Excise Commissioner in the monthly conference of officials of and above the rank of Assistant Excise Commissioners. The minutes of the meetings of previous month along with the action taken report is being reviewed in the Monthly Conference. At the division level it is monitored and reviewed by the Deputy Commissioners of Excise concerned.
7.3	Was internal Audit department effective?	There are 306 offices in the Excise Department which are to be inspected by the IAW. The present staff strength of 14 officials of the Internal Audit Wing is inadequate to cover up the inspection of all the sub offices in a time bound manner. All the Zonal offices, District level offices, KSBC Warehouses, Distilleries and Blending units, Pharmaceuticals are being inspected by the Internal Audit Wing at specified intervals and also inspecting Excise Circle Offices and Range Offices where there is large pending in routine work is brought to notice. Excise Circle Offices and Range Offices are

		periodically inspected by the Deputy Commissioner of Excise concerned. The inspection of the Internal Audit Wing is very effective in rectification and proper functioning of sub offices. The Excise Commissioner conducts periodical meeting with the subordinate officers and reviewing the progress in settlement of audit observation.
7.4.1	Was the Stock Register of receipt/permit books maintained properly?	At present permit books were arranged serially in ascending order and kept in bundle-wise. Now the stock position of permit books is correct and Stock Registers are tallied with the physical stock.
7.4.2	Was Vehicle Register maintained properly?	A Vehicle Register is maintained to record details of all vehicles.
7.4.3	Were all details available in the Allotment/Appropriation register?	All details are available in the allotment register except under "01 salary". Since there is no appropriation control under the H/A "01- salaries", the Excise Department has not allotted any funds under the above H/A. This is the practice usually followed in all the Government Departments.
7.4.4	Did the Department conduct periodical verification of Arms and Ammunition?	The officers maintain register of Arms and Ammunitions properly and on the transfer of officers necessary entries are made in the register and the arms are handed over. Proper verifications of Arms and Ammunitions are conducted at the time of office inspections of controlling officers.

CONCLUSION AND SUMMARY OF RECOMMENDATION

Conclusion and Summary of recommendations

1. The Department may consider preparing a strategic plan covering mission and Objectives. Further, Such plan may be publishing widely amongst employees and the public.

Excise Department is a regulatory Department. It is true that it is one of the revenue generating Departments in the state. Besides the excise revenue collected directly by the Department, sale tax on liquor is also related to Excise Department. Excise Department enforces the Abkari Act, NDPS Act, 1985, Medicinal and Toilet Preparations (Excise Duties) Act and various Rules framed under the above Acts. However the orientation of the department is more tilted as a regulatory department than a revenue generating department.

Excise Department is a uniformed force and playing a major role in the detection, investigation, charge sheeting and prosecution of the offences under the above act and rules. The department is also taking a lead role in the campaign against alcoholism and drug abuse.

The Vision, mission and objectives of the Excise Departments are as follows and were published among the officials and for public.

Vision: To build up liquor free society and eradication of drug abuse for ensuring a happy, peaceful and prosperous society.

Mission: The Mission of the Excise Department is prevention of offences under the Abkari Act, Narcotic Drugs and Psychotropic Substances Act and Medicinal and Toilet Preparations (Excise Duties) Act. Another mission of the department is to reduce the availability of Liquor by limiting the number of shops and to organize intensive awareness campaign against Alcoholism and drug abuse. Leakage of Excise Revenue will be prevented and transparency in the functioning of the Department will be ensured.

Main Objectives:

- (1) Strengthening of enforcement activities, effective investigation and successful conduct of prosecution.
- (2) Improved office management and E-Governance.
- (3) Sustained campaign against liquor and drug abuse.
- (4) Strengthen preventive machinery to eradicate illicit liquor.
- (5) Frame policies to restrict availability of liquor and have better control over the licensed premises.

Every year Excise Department prepares strategic plans and targets towards achieving the above mission, vision and objective through Result Frame Work document (RFD). Result Frame Work Document is a part of the performance monitoring and evaluation system to monitor and evaluate the performance of Government departments. RFD includes the agreed objectives, policies, programmes and projects along with the success indicators and targets to measure the performance in implementing them.

During the year 2011-12 Government as per GO (MS) No.18/2013/plg dated 14.03.2013 have published the composite scores of 36 departments in which Excise Department has secured 4th position with a score of 78.10. Then in the year 2012-2013 Government as per GO(MS)No.42/2013/plg dated 07.08.2013 have published the composite scores of 35 departments in which Excise Department has secured third position with a high score of 85.28.

2.The Department must ensure that security labels are printed under its directSupervision.

From 2003 onwards the printing of Security Hologram label was entrusted to C-Dit. But Government vide letter No. 1731/A3/2012/TD dated 28/06/2012 has directed that the printing of Holographic Security label will be under the General Supervision and control of a Joint Excise Commissioner. Govt., has also ordered that Excise Commissioner will post an officer in the cadre of Aast. Excise Commissioner to have thorough control and supervision of the printing process so as to ensure that it is done

in a perfect manner, preventing any chances for leakage, theft, duplication etc. The Assistant Excise Commissioner (Enforcement), Thiruvananthapuram has been deputed for the supervision and control of the printing process. Government plans to introduce High Security Holograme labels with track and trace facilities. Excise Department has invited expression of interest (EOI) through C-Dit. The EOI received have been scrutinized by the expert committee headed by Sri.Ajith Brahmanandan, Technical Director, NIC.

For wide publicity and to scan the market, Government have constituted another expert committee vide GO (Rt) No. 530/2014/TD dated 11/07/2014 for the purpose of preparing fresh RFP, with Sri. Ajith Brahmanandan, Technical Director, NIC, as Chairman, Sri.R.K.Sreekumaran Chettiar, Joint Excise Commissioner (IAW) as Convenor, Sri. B.Thanudas, Group Director, Computational Infrastructural Net Work(CNG) Avionics Entity, VSSC, Tvpm., Prof. Jayakrishnaraj .G., Electronics and Communication Engineering Department, College of Engineering, Tvpm., Shri.Dina Chandran .C, Principal, Institute of Printing Technology, Govt. Polytechnic College, Shomur, Sri. E.P. Mahadevan Pilla, Professor and Head, Department of Optoelectronics, University of Kerala, Karyavattom, Tvpm., Sri.Shaji K.S, Scientist, Standardization Testing Quality Control (STQC) Akkulam, Sri. Sabarish, Scientist and Head of Information System Division, Department of Science and Technology, Tvpm. and Sri.B.G.Biju, Manager (Projects) KSIDC, Tvpm. as Members. The committee is studying the proposal for the preparation of RFP for the manufacture of high security labels with track and trace facilities. Action for the implementation of the scheme will be taken without delay.

3.The Department may take immediate steps to levy and recover the permit fees Under section 11 of the Abkari Act for the period from 2006-07 onwards.

Based on the notifications issued by the Government prescribing the rate of fees applicable, the fee are being collected by the department accordingly. In the notification published as SRO 388/95, 317/04 and 1023/09 Government have not included the permits issued under the Foreign Liquor Rules, for the purpose of levy of transport permits. Hence, no fee was collected in respect of permits issued to licensees

under Foreign Liquor Rules, for the purpose of transporting IMFL from the KSBC Warehouse to the retail outlets. Licensees under Kerala Distilleries and Winery Rules, Kerala Foreign Liquor (CBB) Rules, Brewery Rules, Kerala Winery Rules and Kerala Rectified Spirit Rules were only included in the notification and hence permits fees were collected from them.

Now, Government has amended the SRO. No. 1023/2009 vide G.O (P) No. 11/12/TD dated 09/02/2012 and decided to levy transport permit fee on the permits issued to the licensees under Foreign Liquor Rules. At present Transport Permit fee is being collected from the licensees under Foreign Liquor Rules also, and it is well explained in the notifications issued.

4. The Government may Consider amending the Rules (like prescribing aerial distance) to ensure that the distance restriction principle of prohibiting functioning of bars near educational institutions, places of worship etc is applied in practice.

Rule 13(3) of Foreign Liquor Rules stipulates that no FL-3 licence shall be issued to hotels which are located within 200 meters from an educational institution, temple, church, mosque or burial ground.

As per Note 2 of rule 13(3) of Foreign Liquor Rules, the basis for calculating the distance will be shortest pathway / lane / street / road generally used by the public and the same will be measured from gate to gate. The rules enables the officials to measure the accurate distance of the hotels from the institutions specified in the rules. The rule is clear and specific. The description of other parameters like areal distance will lead to much confusion and disputes. Further the prescription of areal distance is a policy decision to be taken by the Government.

5. The Department may immediately provide the required infrastructure support to the enforcement wing, so that enforcement activities can be carried out more effectively.

Government is taking effective steps for providing the infrastructure support to the enforcement wing. During the year 2008, the structure of the Excise Department

had been changed and each district had been put under a Deputy Commissioner of Excise for overall supervision and control instead of an Assistant Excise Commissioner. The Assistant Excise Commissioner of each district was made exclusively in charge of enforcement operations.

Arms (Pistols/Revolvers) were made available to the enforcement officials of and above the rank of Excise Inspectors. Mobile phones were also given to the officials of and above the rank of Excise Inspectors. A proposal has been submitted before the Government for providing mobile phones to Preventive officers and Assistant Excise Inspectors.

Vehicles in good condition are a pre-requisite for effective enforcement operations. Government had already taken steps for providing vehicles to the enforcement units and also for replacing the old vehicles. A proposal for purchasing 22 vehicles is pending with Government and the Department anticipates Administrative Sanction from the Government.

During the year 2013-14, an amount of Rs 1.10 Crores was allotted under the plan fund for wireless system in Excise Department. As per GO (Rt) No. 486/13/TD dated 24/06/2013, Administrative Sanction was accorded for installation of Wireless system in 10 districts in Excise department by utilizing the Plan fund with the assistance of the Telecommunication wing of the Police Department. The Police Department requested to transfer the fund in the TSB account opened in their favour. But the Finance Department objected the proposal for allotting the entire amount to the TSB account of Police Department, but directed to give fund as per actual requirement through allotment letter. The Government as per GO(Rt) No. 192/2014/TD dated 07/03/2014 directed that the installation of the Wireless system is to be carried out by the Excise Department itself by getting assistance from the Police Telecommunication wing. But the system could not be implemented for want of time, and other Administrative procedures such as obtaining licence from Central Government, tender formalities for the purchase of the equipments, installation works etc.

In Excise Department, in the field units there is a shortage of 48 Drivers. Excise Department had already reported the fact to the Government vide Lr No. XE8 5018/11 dated 02/05/2011. *The matter is under consideration of Govt.*

6. The Department may prescribe norms for leakage of seized spirit and monitor adherence of such norms.

It is a fact that leakage had happened in the confiscated spirit kept in various offices from 2006-07 to 2010-11. The seized spirit is kept in plastic cans as in the seized condition in the thondy rooms in stack position; the low quality of the cans and the high pressure inside the thondy room causes breakage of cans and thereby leakage. As there is timely monitoring and follow up action in this issue by the department and the Spirit Disposal Committee, Department could dispose the confiscated spirit which was kept in various offices. Norms for wastage cannot be fixed and only actual wastage is accounted and the wastage occurred while in safe custody is also reported to the Court of Law by the officials concerned. Pretrial disposal involves series of proceedings like inventory preparation, Certification by the judicial Magistrate etc. and hence the process takes some time. But Department take utmost care and action for speedy disposal of the seized spirit.

7. Fresh toddy collections centres may be started under direct supervision of the Excise Department and toddy distributed to other divisions under excise escort.

The recommendation is acceptable. For the implementation of the same it requires creation of additional force for the escort of toddy which is transported to other Districts. Due to acute shortage of staff and heavy work load, post creation is absolutely necessary for the purpose. Further collection centers to be established with facilities for keeping toddy in hygienic condition. There are arrangements for taking samples of toddy that is being transported to other districts from Palakkad in vehicles before it is delivered to toddy shops. The toddy shops are also subjected to surprise inspection and samples collected for ascertaining the quality of the toddy sold through toddy shops.

8. The Department may take timely action to equip enforcement employees with arms, ammunition and provide other support facilities like boat.

As per GO (Rt) No. 441/10/TD dated 18/05/2010 Administrative Sanction was accorded for the purchase of a Steel boat from M/s Steel Industries Kerala Limited for an amount of Rs 33.35 Lakhs. Delay has happened in the manufacture of the steel boat. Now the company has completed the construction of the boat and the same has been handed over to the Department on 15/01/2014. The boat is presently used for the enforcement activities of Kuttand range.

The Excise Department could purchase 110 numbers of pistols from Gun and Shell factory Kolkotta on 16/08/2010 for enhancing the enforcement capacity of Excise forces after completing a series of formalities with the Government and Union Home Ministry and Gun and Shell factories, Kolkotta. 17000 numbers of 0.32 pistol ammunitions and 9000 numbers of 0.32 revolver ammunitions were also purchased from the ammunition factory, Kirkee, Pune on 03/2012 after completing so many procedures. The pistols with ammunitions and the revolver ammunitions were distributed to the field units. At present in Excise Department, all the field officers of and above the rank of Excise Inspectors are armed.

9. The Department may prescribe time limits for completion of chemical analysis and submission of test results. Chemical laboratories may be provided necessary human resources to enable them to discharge their functions effectively.

The Excise Department has already addressed the Chief Chemical Examiner to Government for getting the Chemical analysis report without delay. As per GO (Rt) no. 1740/2008/Home dated 30/05/2008, for the modernization of Excise wings under the regional chemical laboratories, Government had accorded sanction for the purchase of 3 numbers of imported gas chromatograph with all accessories and UPS and air-conditioner (1 each for 3 laboratories at Trivandrum, Ernakulam and Kozhikode) and 2 numbers of atomic absorption spectrometer with all accessories (1 each for the regional

laboratories at Ernakulam and Kozhikode). It is also ordered that the Kerala State Beverages Corporation will meet the expenditure of Rs 90 Lakhs for the above purpose. The KSBC had paid the amount and the machines were installed in the Laboratories. Even though Excise Department has taken steps for increasing the facilities of the Chemical Laboratories, delay is still experienced in getting the chemical reports. The Government may consider creation of additional posts in the Chemical Laboratories for getting the report without delay.

10. The Government may consider taking action to prescribe clear parameters for identifying natural and artificial toddy. The Chemical analysis report should specify whether the sample was of natural or artificial toddy.

The toddy samples are sent to the Chemical Laboratory for ascertaining the strength of alcohol in the liquid and whether the toddy is natural or artificial. But the chemical analysis report is silent as to whether it is natural/artificial. Department has conducted several discussions with the Chief Chemical Examiner and it has been opined that they could not furnish a report in this aspect unless the constituent elements in natural toddy is published by the Government in the relevant Act and Rules. In the circumstances Government have constituted a Technical Committee under the Chairmanship of Dr. Anirudhan, Head of Chemistry Department, University of Kerala for detailed study in this regard, vide GO(MS) No.174/11/TD dated 22.11.2011. The study of the committee has almost completed and on the basis of the report further action will be taken.

DETAILS OF INPUTS GIVEN, CASES DETECTED AND PERCENTAGE FOR
THE PERIOD UP TO 28-8-2014 BY THE EI & IB

Zone	Inputs given	Cases detected	Percentage
South Zone	7791	4335	55.64
Central Zone	3870	1815	46.89
North Zone	5787	3719	64.26

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Annexure B

Period	No. of ID permit issued	Quantity of toddy so transported (Litres)	Tree Tax collected (₹)	Addl. Fee collected (₹)	Addl. fee collected from Parali check point (₹)	Addl. fee collected from Kombazha check point (₹)	Remarks
1-4-2009 to 30-9-2009	1021	274069	5481420	42389919	-	-	
1-10-2009 to 31-3-2010	1013	302838	6056760	53268334	-	-	
1-4-2010 to 30-9-2010	959	312737	6254730	51802700	-	-	
1-10-2010 to 31-3-2011	794	196724	3934470	28261763	204490	626399	

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