

FIFTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2023-2026)**

FORTY SECOND REPORT
(Presented on 1st February, 2024)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2024**

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On

**Paragraphs relating to Excise Department contained in the Reports of the
Comptroller and Auditor General of India (Revenue Sector) for the
years ended 31st March 2013, 31st March 2014, 31st March 2015,
31st March 2016, 31st March 2017 and 31st March 2018**

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COMMITTEE ON PUBLIC ACCOUNTS

(2023-2026)

Composition

Chairman :

Shri Sunny Joseph.

Members :

Shri Manjalamkuzhi Ali

Shri M. V. Govindan Master

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Shri Mathew T. Thomas

Shri M. Rajagopalan

Shri P. S. Supal

Shri Thomas K. Thomas

Shri K. N. Unnikrishnan

Shri M. Vincent.

Legislature Secretariat :

Shri Shaji C. Baby, Secretary-in-charge

Shri P. S. Selvarajan, Joint Secretary

Shri Jomy K. Joseph, Deputy Secretary

Smt. Beena O.M., Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, On their behalf present the Forty Second Report on paragraphs relating to Excise Department contained in the Reports Of The Comptroller and Auditor General of India (Revenue Sector) for the years ended 31st March 2013, 31st March 2014, 31st March 2015, 31st March 2016, 31st March 2017 and 31st March 2018.

The Report of The Comptroller and Auditor General of India for the years Ended 31st March 2013, 31st March 2014, 31st March 2015, 31st March 2016, 31st March 2017 and 31st March 2018 were laid on the Table of the House on 10th June 2014, 11th March 2015, 24th February 2016, 6th March 2017, 12th June 2018 And 12th February 2020 respectively.

The Committee considered and finalised this Report at the meeting held on 10th January, 2024.

The Committee place on records our appreciation of the assistance rendered to us by the Accountant General in the examination of the Audit Report.

Thiruvananthapuram,
1st February, 2024.

SUNNY JOSEPH,
Chairman,
Committee on Public Accounts.

REPORT

EXCISE DEPARTMENT

[Audit Paragraphs 6.1 to 6.7 contained in the Report of the Comptroller & Auditor General of India (Revenue Sector) for the year ended 31st march 2013]

6.1 Tax administration

Excise department is under the control of Secretary (Taxes) at the Government level and the Excise Commissioner is the head of the department. The Abkari Act 1 of 1077 governs the laws relating to import, export, transport, manufacture, sale and possession of intoxicating liquor and drugs in the State. The receipt is mainly derived from the duty on foreign liquor and spirits.

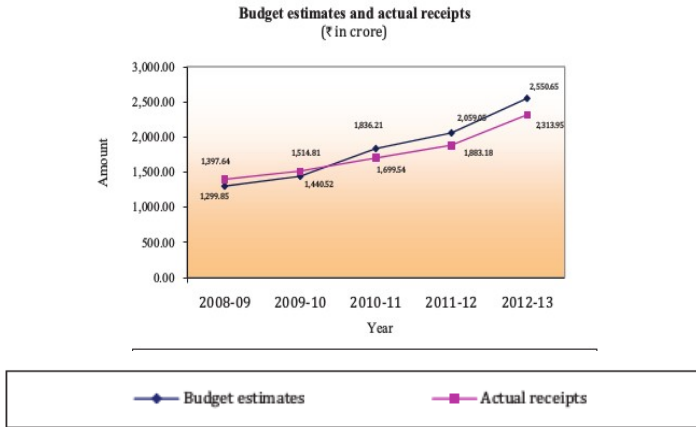
6.2 Trend of receipts

Actual Receipts from excise duties and fees during the last five years (2008-09 to 2012-13) along with the budget estimates during the same period are exhibited in the following table and graph.

(₹ in Crore)

Year	Budget estimates	Actual Receipts	Variation	Percentage of Variation	Total tax receipts of the State	Percentage of actual receipts to total tax receipts	Percentage of growth over previous year
2008-09	1,299.85	1,397.64	(+) 97.79	(+) 7.52	15,990.18	8.74	19.53
2009-10	1,440.52	1,514.81	(+) 74.29	(+) 5.16	17,625.02	8.59	8.38
2010-11	1,836.21	1,699.54	(-) 136.67	(-) 7.44	21,721.69	7.82	12.19
2011-12	2,059.05	1,883.18	(-) 175.87	(-) 8.54	25,718.60	7.32	10.81
2012-13	2,550.65	2,313.95	(-) 236.70	(-) 9.28	30,076.61	7.96	22.87

Source : Finance Account of relevant years.



Audit noticed that the budget estimates and actual receipts for the year 2012-13 showed a variation of (-) 9.28 per cent. The Department stated (September 2013) that non enhancement of excise duty and other fees resulted in reduction of revenue receipts for the year 2012-13.

6.3 Cost of collection

The gross collection of revenue receipts under the head State excise duties, expenditure incurred on collection and the percentage of expenditure to gross collection from 2008-09 to 2012-13 along with the All India average percentage of expenditure on collection to gross collection for relevant years are mentioned below:

Year	Collection*	Expenditure on collection of revenue*	Percentage of expenditure to gross collection	All India average percentage of the preceding year
	(₹ in Crore)			
2008-09	1,397.64	72.84	5.21	3.27
2009-10	1,514.81	83.36	5.50	3.66
2010-11	1,699.54	92.51	5.44	3.64
2011-12	1,883.18	144.69	7.68	3.05
2012-13	2,313.95	146.81	6.33	2.98

Source*: Finance Accounts of relevant years and departmental figures.

Audit noticed an increase in revenue collection and in the expenditure on collection of revenue consistently for the years from 2008-09 to 2012-13. The percentage of expenditure to gross collection was also higher than the All India average percentage during the last five years.

6.4 Impact of audit

During the last four years, Audit pointed out non-levy of import fee, non/short remittance of gallonage fee, delay in crediting rentals of toddy shops etc., with revenue implication of ₹75.95 Crore in 157 paragraphs. Of these, the Department/ Government accepted audit observations involving ₹32.11 Crore and recovered ₹83.52 lakh. The details are shown in the following table:

Table (₹ in lakh)

Year	Paragraphs included in the LARs		Paragraphs accepted during the year		Recovery during the year	
	No.	Amount	No.	Amount	No.	Amount
2008-09	76	5,337.00	40	3,130.00	10	2.30
2009-10	54	2,147.00	39	39.00	39	39.00
2010-11 *	27	111.15	32	26.66	32	26.66
2011-12 *	0	0	10	15.56	10	15.56
Total	157	7,595.15	121	3,211.22	91	83.52

* No local audit was conducted during the years 2010-11 and 2011-12 as a performance audit of the Department covering period 2006-11 was conducted and Report was presented to State Legislature in March 2012.

The recovery was only 2.60 per cent when compared to the cases accepted by the department.

6.5 Working of Internal Audit Wing

The internal audit wing (IAW) in the State Excise Department commenced functioning from 3 November 1980. The wing is headed by a Joint Commissioner of Excise and is assisted by one Assistant Excise Commissioner, three superintendents, three excise inspectors and six preventive officers. During the

year 2012-13, the target of auditing 62 units was achieved. There were 77 IRs with 118 observations involving ₹105.43 crore outstanding at the end of March 2013. The Department has not prepared a separate internal audit manual.

Audit recommends that the IAW may be strengthened so that they are able to audit more sub offices. Besides, a mechanism needs to be installed for timely settlement of the audit observations raised by the IAW. It is also recommended to prepare an Internal Audit Manual.

6.6 Results of audit

In 2012-13, Audit test checked the records of 68 units relating to the State Excise Department and noticed non/short levy of tax and other irregularities involving ₹ 8.54 Crore in 17 cases which fall under the following categories:

(₹ in Crore)

Sl. No.	Categories	No. of cases	Amount
1	Non-realisation of transport permit fee	3	3.77
2	Non-realisation of gallonage fee	2	0.06
3	Short collection of cost of establishment	6	0.08
4	Non-levy of import fee on grape spirit/malt spirit	1	0.02
5	Others	5	4.61
	Total	17	8.54

During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 0.05 Crore in two cases which were pointed out in audit during the year 2012-13. The Department realised during the year 2012-13 an amount of ₹ 0.01 Crore in five cases which were pointed out during previous years.

A draft para was issued (January 2013) involving ₹3.89 lakh, in which the department had recovered the entire amount.

6.7 Non-realisation of transport permit fee

Permits were issued to licencees for transport of IMFL without realising fee	
(Three ¹ Offices of the Joint Excise Commissioners)	
Under Section 10 read with Section 11 of the Abkari Act 1 of 1077, liquor or intoxicating drug exceeding such quantity as prescribed by Government from time to time, either generally for the whole State or for a local area shall be transported under a permit. Under Sections 6 and 7 of the Act, liquor or intoxicating drugs can be imported or exported by the various licencees for which No Objection Certificates (NOC) are issued under the specific Rules under which licences were issued.	Liquor or intoxicating drugs exceeding quantity prescribed by Government shall be transported only under permits issued by the Commissioner of Excise. Government by Notification ² issued in March 1995 fixed a fee of ₹500 with effect from April 1995 on each permit to be issued for the import, export and transportation of liquor or intoxicating drugs under Sections 6, 7 and 11 of the Abkari Act 1 of 1077.

The non-collection of the permit fee was pointed out in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2011. But scrutiny (between July 2012 and September 2012) of permit issue registers of 21 FL9³ Warehouses under the offices of the three Joint Excise Commissioners revealed that 71,074 transport permits within the state were issued (between 1 April 2011 and 8 February 2012). Permit fee of ₹ 3.55 Crore was not realised while issuing the above transport permits.

After Audit pointed out the matter (between July 2012 and September 2012) the Department stated (between July 2012 and September 2012) that in pursuance of Notification⁴ (February 2012) permit fee leviable under Section 11 is being realised from February 2012 at the rate of ₹ 500. But nothing was mentioned about the permit fee relating to the period from April 2011 to February 2012. Further report has not been received (February 2014).

1 Central Zone, Ernakulam, North Zone, Kozhikode and South Zone, Thiruvananthapuram.

2 SRO 388/95 dated 27 March 1995

3 Bonded warehouses of Kerala State Beverages Corporation

4 SRO 85/2012 dated 9 February 2012

When the matter was reported to Government in March 2013, the Government endorsed the reply of the Department which stated (November 2013) that prior to 9 February 2012 there was no clear provision to levy permit fee from licensees under Foreign Liquor Rules for the transport of IMFL from FL9 Warehouses to other licenced premises. On the basis of SRO 85/2012 dated 9 February 2012, permit fee is being collected.

The reply furnished by Department was not correct. When Government enhanced the fees for each permit issued under section 6 and section 7 to ₹ 1,000 vide notification in March 2004, Government had not withdrawn the permit fee of ₹ 500 under Section 11. However, permit fee under Section 11 was not realised during the period from 01 April 2004 to 8 February 2012.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(1) Regarding the audit para, non-realisation of transport permit fee the Excise Commissioner informed that AG's observation was about the short levy occurred in the collection of transport fee. On the basis of this, in 2012 an amendment was made in Foreign Liquor Rules and at present the Excise department collects permit fee on the permits issued under Foreign Liquor Rules. He added that permit fee was not collected until the year 2012 as it could not be brought into force with retrospective effect.

(2) To a query of the committee, the Assistant Excise Commissioner replied that Government had issued a notification vide SRO No. 388/95 which stipulated that a fee of ₹ 500/- would be imposed on each permit issued under Section 6, 7 and 11 of the Abkari Act. Subsequently a notification was issued as SRO No. 317/2004 to increase the permit fee to ₹ 1000/- under section 6 and 7 of the Abkari Act. In the SRO 317/2004, no reference was made regarding Section 11. The Assistant Excise Commissioner further clarified that the Kerala Distillery and Warehouse Rules, the Kerala Foreign Liquor (Compounding, Blending & Bottling) Rules, the Brewery Rules, the Kerala Winery Rules, the Kerala Rectified Spirit Rules were only included in SRO No. 388/95. The amendments made in the rules

in 2004 & 2009 were only for increasing the rates. He supplemented that later in 2012, according to AG's direction, the permit fee was levied for NOC vide SRO No. 85/2012.

(3) Further, to a query of the Committee, Assistant Excise Commissioner, informed that the department had no intention to impose permit fee for foreign liquor for transportation to retail shops and informed that till 1995, no permit fee was levied and section 11 was only meant for collecting permit fee when transporting spirit from one place to another. When asked about the loss incurred because of non-realisation of transport permit fee, the Assistant Excise Commissioner replied that if calculated, it would be a huge amount, but as the Government had no intention to levy fee from licensees at that time it could be construed only as a notional loss.

(4) The Committee accepted the reply furnished by the Department that permit fee has been collected since 2012.

Conclusion/Recommendation

(5) No Comments

[Audit Paragraphs 6.1 to 6.6 contained in the Report of the Comptroller & Auditor General of India (Revenue Sector) for the year ended 31st march 2014]

6.1 Tax administration

The Secretary to the Government (Taxes) is the administrative head of the Excise Department at Government level. The Department is headed by the Excise Commissioner. The Department has been divided into three zones⁵ which are headed by the Joint Excise Commissioners, South, Central and North zone. The divisions at the district level are under the Deputy Commissioners. Besides, Excise Inspectors under the control of the Deputy Commissioner of the respective districts are deputed to oversee collection of excise duties, license fee etc.

5 South zone (Alappuzha, Kollam, Kottayam, Pathanamthitta and Thiruvananthapuram), Central zone (Ernakulam, Idukki, Palakkad and Thrissur) and North zone (Kannur, Kasargod, Kozhikode, Malappuram and Wayanad)

6.2 Internal audit

The Internal Audit Wing (IAW) in the State, Excise Department is headed by the Joint Commissioner of Excise and is assisted by one Assistant Excise Commissioner, three superintendents, three excise inspectors and six preventive officers.

This wing conducts inspections in the 313 sub offices based on the questionnaire for inspection contained in the Excise Manual in accordance with the guidelines issued by the Finance (IAC) Department as well as Departmental instructions issued from time to time.

Out of the total units, 46 were audited. There were 70 IRs with 119 observations involving ₹109.82 Crore outstanding at the end of the year. The Department has not prepared a separate internal audit manual.

6.3 Results of audit

In 2013-14, test check of the records of 25 units relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/interest/ penalty and other irregularities involving ₹7.77 Crore in 14 cases which fall under the following categories given in the Table.

Table (₹ in lakh)

Sl. No.	Categories	Number of cases	Amount
(1)	(2)	(3)	(4)
1	Non-levy of excise duty on transit wastage	1	1.76
2	Short levy of enhanced license fee on FL3 licenses	2	740.00
3	Short levy of enhanced fee on SP VI and SP VII licenses	3	7.46
4	Short collection of rental on toddy shops	1	16.14
5	Short collection of cost of establishment	3	10.82
6	Others	5	0.73
	Total	14	776.91

During the course of the year, the Department accepted under assessment and other deficiencies involving ₹8.09 lakh in five cases which were pointed out. The Department realised an amount of ₹0.10 Crore in eight cases during the year 2013-14 which were pointed out during previous years. A few illustrative cases involving ₹8.22 Crore are discussed in the following paragraphs.

Compliance Audit observations

6.4 Short levy of enhanced license fee from FL-3 licensees

The differential FL-3 license fee was not collected from the licensees though the fee was enhanced during the year.

(Excise Commissionerate, Thiruvananthapuram)

As per Rule 13(3) of the Foreign Liquor Rules, 1953 FL-3 Hotel (Restaurant) licenses were issued to hotels which have obtained three star and above classification for one year on payment of the annual rent of ₹22 lakh. As per Rule 13 (15) in the case of enhancement of annual rent/fee, all licensees are liable to remit the difference between the amount of annual rent/fee already remitted and the enhanced rent/fee. Government through a notification⁶ enhanced the annual rent of FL-3 licenses from ₹22 lakh to ₹23 lakh during 2012-13.

Scrutiny (February 2014) of the FL-3 license issue register for the year 2012-13 in the Office of the Commissioner of Excise, Thiruvananthapuram and the details of fee collected furnished by the 14 Excise Divisional Offices⁷, revealed that license fee at pre-revised rates for 2012-13 was collected from 740 FL-3 licensees in the State. Though, the annual license fee for 2012-13 was revised, the balance fee was not collected from these 740 licensees. This resulted in short levy of license fee of ₹7.40 Crore as shown in **Appendix III**

When this was pointed out to Department (February 2014) and to Government (April 2014), the Government stated (June 2014) that enhancement of license fee has only prospective effect and Government have no intention to

⁶ G.O.(P) No. 60/2013/TD dated 30 March 2013.

⁷ Alappuzha, Ernakulam, Idukki, Kannur, Kasargod, Kollam, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Thiruvananthapuram, Thrissur and Wayanad.

increase license fee retrospectively. The reply furnished is not acceptable as this was in contravention to Rule 13 of Foreign Liquor Rules, 1953. Further remarks have not been received (October 2014).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(6) Regarding the audit para, short levy of enhanced license fee from FL-3 licensees, the committee commented that the annual license fee was enhanced only at the fag end of the year and enquired whether it had any retrospective effect. Then the witness, Excise Commissioner replied that the license fee was enhanced with respect to the Abkari policy declared for each year and it comes into effect from the next year only. The committee opined that if it had been clearly specified in the Government Order for the renewal of licenses, it would have avoided all the confusions and queries.

(7) The Assistant Excise Commissioner informed that the Abkari policy usually gives prospective effect and that it declares in the month of march. Therefore, it would only be implemented in the following financial year and all these facts were clearly stated in the relevant Government Order.

(8) The Committee accepted the reply furnished by the Department.

Conclusion/Recommendation

(9) No comments.

6.5 Non-levy of fine due to incorrect computation of transit wastage of spirit

The wastage of ENA was allowed in excess due to incorrect computation of the wastage on the volume in bulk litres without converting it into proof litres based on the strength.

(Excise offices in five distilleries⁸)

Rule 7 (5) of the Kerala Foreign Liquor (Compounding, Blending & Bottling) Rules, 1975 read with Rule 55 of the Kerala Distillery and Warehouse Rules, 1968, specifies allowance for wastage in the case of spirits allowed to be imported. In the case of spirits

8 United Distilleries Ltd., Amruth Distilleries Ltd., United Spirits Ltd., Empee Distilleries Ltd., Kerala Alcoholic Products Ltd.

obtained by the distilleries/blending units in the State, the licensee shall pay duty at the rate⁹ of ₹ 20 per proof litre¹⁰ (PL) for excess wastage where such losses could not be accounted for the satisfaction of the Deputy Commissioner of Excise. As per Rule 47 A(4) (b) of the Kerala Distillery and Warehouse Rules 1968, all consignments of extra neutral alcohol (ENA) obtained shall be verified by volume and strength jointly by officer-in-Charge of the distillery and licensee and the net quantity received shall be taken into account. As per Rule 11 of the Kerala Rectified Spirit Rules, 1972 a fine at the rates of duty applicable to rectified spirit shall be levied on quantity of spirit wasted in excess of such limits.

Scrutiny of the consignment registers on ENA for the year 2012-13 maintained in five distilleries revealed that the volume and strength of each consignment of spirit received in distillery was less than the volume and strength recorded at the exporting unit. The Department computed the wastage only on the basis of volume in bulk litres without considering the volume in proof litres based on the strength of the spirit. The incorrect computation of the wastage resulted in allowing excess wastage of 1.12 lakh PL and non-levy of duty of ₹ 22.46 lakh as given in the Table.

Table

Non-levy of fine due to allowance of excess wastage

Name of Distillery		Wastage allowed in excess (PL)	Non levy of fine @ ₹20 per PL (₹)
1.	United Distilleries Ltd.	7,090	1,41,800
2.	Amruth Distilleries Ltd.	19,967	3,99,340
3.	United spirits Ltd.	60,612	12,12,240
4.	Empee Distilleries Ltd.	15,818	3,16,360
5.	Kerala Alcoholics Products Ltd.	8,825	1,76,500
		1,12,312	22,46,240

⁹ GO(P) No. 97/2010/TD dated: 03.04.2010

¹⁰ Spirit having same alcohol content as one litre of 'proof spirit', i.e., a mixture of alcohol and water with alcohol 57.06 per cent by volume at 60°F

When the cases were reported (between February and March 2014), officers concerned replied that the cases would be examined and reply furnished. Further report has not been received (October 2014).

The cases were reported to Government in April 2014; their reply has not been received (October 2014).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of the Committee with officials concerned.

(10) While considering the audit para 'non-levy of fine due to incorrect computation of transit wastage of spirit', the committee asked whether any case was pending in court on this matter. The witness, the Excise Commissioner replied that there was a case pending before the Hon'ble High Court. There occurred a computational issue related to Kerala Alcoholic Products Limited and the company approached the court. The SLP filed by the Government in the Supreme Court against the appeal order was dismissed. Following this, the Kerala Distillery & Warehouse Rules was amended vide GO (P) No. 57/2014/TD dated:5-4-2014 by substituting the word "duty" by the words "Fine of ₹ Twenty per proof liter".

(11) To a query of the committee, the Excise Commissioner replied that as the judgement was against the Government, rule was amended, and hence duty could not be claimed with retrospective effect.

(12) The Senior Audit Officer, Accountant General's office intervened and said that based on Hon'ble Supreme Court judgment in CA No. 2633/99 dated 11-3-2004, state has no power to levy excise duty on rectified spirit, which is not an intoxicating liquor. He further asked whether it was applicable to the Kerala Rectified Spirit Rules 1972. The witness, Excise Commissioner explained that each licence was issued according to different rules and added that the issue was based on Distillery & Warehouse Rules.

(13) The committee went through the judgment in CA No. 2633/99 dated: 11-3-2004 and opined that action in this regard should have been taken by the Government much earlier.

Conclusion/Recommendation

(14) The Committee agrees to the finding of the C&AG that the wastage of extra neutral alcohol was allowed in excess due to incorrect computation of the wastage on the volume in bulk litres without converting it into proof liters. The Committee observes that the Kerala Distillery & Warehouse Rules were amended only after the decision of the Supreme Court, which was against the Government and this has resulted in the non-levy of duty leading to loss of revenue to Government. The Committee opines that the department computed the wastage of spirit in terms of volume in bulk litres, without considering the volume in proof litres, based on the strength of the spirit. The Committee recommends that the department should avoid incorrect computations in order to protect Government revenue.

6.6 Short levy of license fee from licensees of SP VI and SP VII licenses.

The license fee on the sale of spirituous preparations through revised, same was collected only at pre-revised rate.

(Two¹¹ Excise Division Offices and seven¹² Excise Circle Offices)

Under Rule 11 of the Kerala Spirituous Preparations (Control) Rules, 1969, for the wholesale and retail sales of spirituous preparations (SP), dealers shall have SP VI and SP VII licenses respectively. Government enhanced¹³ the license fee for SP VI and SP VII licenses from ₹ 500 to ₹ 5,000 and ₹ 150 to ₹ 1,000 respectively.

Scrutiny of the license fee registers for the period 2009-12 of two divisional and seven Circle Offices revealed that the license fee at pre-revised rates for 2011-12 was collected from the 79 SP VI and 49 SP VII licenses. Though the license fee was revised vide Notifications dated 17-8-2011 and 19-11-2011, the balance was not collected from the licensees. This resulted in non-levy of license fee of ₹ 3.97 lakh as shown in **Appendix III**.

When this was pointed out (between June 2013 and March 2014), the Department stated that the matter would be examined and reply furnished later. Further report has not been received (October 2014).

The case was reported to Government in February 2014; their reply has not been received (October 2014).

11 Kasargod and Thrissur

12 Fort Kochi, Irinjalakuda, Kodungalloor, Kunnathunadu, Thrissur, Vadanapally and Wadakkancherry.

13 GO (MS) No. 107/2011/TD dated: 17.08.2011 and GO(P) No. 150/2011/TD dated: 19.10.2011.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(15) With regard to the audit observation the Excise Commissioner informed that Government has increased the license fee for SP VI, SP VII licenses vide G.O. dated: 19-10-2011 with prospective effect and an amount of ₹ 15.49 lakhs has been collected. The Committee accepted the reply.

Conclusion/Recommendation

(16) No Comments

[Audit Paragraphs 6.1 to 6.6 contained in the Report of C&AG of India (Revenue Sector) for the year ended 31st March 2015]

6.1 Tax administration

The Principal Secretary to the Government (Taxes) is the administrative head of the Excise Department at Government level. The Department is headed by the Excise Commissioner. The Department has been divided into three¹⁴ zones which are headed by the Joint Excise Commissioners, South, Central and North zone. The divisions at the district level are working under the Deputy Commissioners. Besides, Excise Inspectors under the control of the Deputy Commissioner of the respective districts are deputed to oversee collection of excise duties, license fee etc.

6.2 Internal Audit

The Internal Audit Wing (IAW) in the State Excise Department is headed by the Joint Commissioner of Excise and is assisted by one Assistant Excise Commissioner, three Superintendents, three Excise Inspectors and six Preventive Officers

The wing had to conduct inspections in the 313 sub offices annually based on the questionnaire for inspection contained in the Excise Manual in

14 South zone (Alappuzha, Kollam, Kottayam, Pathanamthitta and Thiruvananthapuram), Central zone (Ernakulam, Idukki, Palakkad and Thrissur) and North zone (Kannur, Kasargod, Kozhikode, Malappuram and Wayanad).

accordance with the guidelines issued by the Finance (IAC) Department as well as departmental instructions issued from time to time.

Out of the total 313 units to be audited, the wing planned and audited 101 units during 2014-15 as against 46 units audited during 2013-14. There were 119 IRs with 334 observations involving ₹109.33 Crore outstanding at the end of the year. There was a clearance of only 22.5 per cent of outstanding audit observations. Even after 35 years of inception of the Wing in 1980, the Department has not prepared a separate internal audit manual, which is indicative of lack of initiative for ensuring good governance.

6.3 Results of Audit

In 2014-15, test check of the records of 40 offices¹⁵ under Excise Department relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/interest/ penalty and other irregularities involving ₹ 14.98 Crore in 47 cases which fall under the following categories as given in the table.

Table

(₹ in Crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non-levy of excise duty on transit/bottling wastage	6	0.32
2.	Non levy of excise duty/ licence fee	10	0.24
3.	Short remittance of gallonage fee	5	0.07
4.	Non imposition of fine	7	4.09
5.	Others	19	10.26
	Total	47	14.98

During the course of the year, the department accepted underassessment and other deficiencies involving ₹ 58.26 lakh in 12 cases which were pointed out during previous years. The Department realised an amount of ₹ 57.93 lakh in the above 12 cases during the year 2014-15.

15 Out of 128 Offices.

When the reason for short realisation of amount pointed out by Audit was called for in august 2015 and subsequently in October 2015, the Department stated (November 2015) that this would be furnished on receipt of the reports from sub offices. This had not been received (January 2016).

A few illustrative audit observations involving ₹ 4.44 Crore are mentioned in the following paragraphs.

6.4 Non-imposition of fine in cases of shortage in consignment of liquor.

Fine was not imposed on the directions of Excise Commissioner which was against the statutes.

- 7 Offices¹⁶ of the Excise Inspectors.

As per Rule 11 of Foreign Liquor (FL) Rules, 1953, the Excise Inspector at the destination shall verify the consignment on arrival and see that the quantity is duly credited in the accounts where the transport is by a licensee. Rule 34 of the FL Rules, 1953 stipulates that infraction of any of the Rules or conditions of a licence issued under these rules either by a licensee or by a person in his employment shall entail on the licensee or agent or both a fine¹⁷ or cancellation of the licence or both.

A scrutiny of transport permits and goods receipt register in seven offices of the Excise Inspectors attached with FL-9 Warehouses of Kerala State Beverages Corporation, revealed that during the period 2012-14, the Excise Inspectors released 3,034 consignments of IMFL in which shortage was found to be less than one case¹⁸ of liquor without realising the fine prescribed. This was based on the directions¹⁹ issued by the Excise Commissioner, which was contrary to Rule 34 of FL Rules. This resulted in non realisation of fine of ₹4.35 Crore.

The DC (Excise), Alappuzha stated (July 2015) that demand notice had since been issued. The Government stated (October 2015) that there was no direction to

16 Alappuzha, Aluva, Pappinissery, Thavakkara, Ayurkunnam, S. H. Mount, Tripunithura.

17 ₹ 10,000 upto 11.09.2012 and there after at ₹ 15,000

18 Box containing eight bottles of liquor.

19 Circular No. XC1-5090/10 dated: 29-8-2010

collect the fine for the consignment having shortage of less than one case and the Excise Commissioner had no intention to collect fine on shortage of liquor if found less than one case. The Government reply was not acceptable since the permit holder violated the permit conditions prescribed under Section 11 of the Abkari Act and was liable to pay penalty under Rule 34 of Foreign Liquor Rules. Further report had not been received (January 2016).

[Note received from the Government on the above audit paragraphs is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(17) To a query of the committee, the Excise Commissioner informed that permits are being issued for consignment of 600 cases of IMFL and each case consists of 9 litres, to the licencees for transportation in the state. The Excise Commissioner has given concession of 0.15% on the liquor consignment in which shortage is one case or less. However, if the shortage is noticed, the consignment will be freezed and imposed fine after reporting the fact to the Commissioner. However, AG's opinion was to impose fine for the shortage of even a single bottle. The committee opined that the reason behind the shortage of liquor on a consignment might not always be theft but it could be deliberate too. The Committee directed the department to check whether the concession given by the Commissioner was misused or not.

(18) To a query of the committee, the witness Excise Commissioner replied that there was no revenue loss in respect of excise duty on shortage of liquor because it was already levied from them.

(19) The loss incurred to the KSBC would be compensated by the Distillery. The Corporation makes payment only for the actual load that it has received.

(20) The Committee directed the department to take a more realistic approach to the loss of liquor consignment from vehicles parked near warehouses of KSBC and also to review whether the concession given by the department was being misused.

Conclusion/Recommendation

(21) The Committee observes that the Excise Commissioner has given concessions of 0.15 per cent on a liquor consignment in which the shortage is limited

to a maximum of one case of liquor. The Committee opines that the purposeful omission in such cases cannot be ruled out and directs the department to be watchful in this regard and that suitable amendment, if necessary, be made to the warehouse rules to ward off blatant misuse of such concession.

(22) The Committee directs the department to adopt a more realistic approach to address the issue of loss/theft of liquor consignment from vehicles in transit or parked in the nearby locations of the warehouses of KSBC.

6.5 Short levy of duty due to allowance of excess wastages

Duty as stipulated in statutes was not levied for excess wastage of liquor.

Office of Excise Inspector, Devicolam Distilleries Ltd. Kakkanad

Rule 10(5) of the Kerala Foreign Liquor (Compounding, Blending & Bottling) (KFL(CB&B)) Rules, 1975 stipulates that while bottling of spirits are carried out in the bottling warehouses, an allowance of not more than half per cent shall be allowed for loss in bottling and the wastage shall be calculated on the quantity. Any deficiency in excess of half per cent shall be charged with duty at the rate²⁰ of ₹20 per proof litre²¹ (PL) applicable to Indian made foreign spirits.

Scrutiny (November 2014) of the registers of bottling operations in the office of Excise Inspector attached with Devicolam Distilleries Limited, Kakkanad revealed that during the period 2012-2014, wastage of 25,826.26 PL liquor in excess of permissible limits was allowed to the distillery by the Excise Inspector while bottling the liquor. This resulted in short levy of duty of ₹ 5.17 lakh.

Government stated (October 2015) that counter signed challan for remitting the duty short levied had been issued to the distillery. Further report had not been received (January 2016).

[Notes received from the government on the above audit paragraph is included as appendix II]

²⁰ GO(P)No.97/2010/TD dated 3 April 2010

²¹ Spirit having same alcohol content as one litre of proof spirit. ie., a mixture of alcohol and water with alcohol 57.06 per cent by volume at 60°F

Excerpts from the discussion of committee with officials concerned.

(23) As to the audit objection short levy of fine due to allowance of excess wastage, the Excise Commissioner informed that as per the Kerala Distillery & Warehouse Rules, while bottling and blending of spirit are carried out in the bottling warehouses, loss of half per cent each is permissible which comes to a total of one per cent. He added that according to AG's opinion only one type of wastage should be permitted. He continued that bottling and blending are two different processes, so the rule provides for this type of allowance. However, after AG's objection the department had issued notice to the Devicolam Distilleries Ltd., Kakkanad to remit an amount of ₹ 8,91,005 which was incurred due to wastage of liquor in excess of permissible limits. But the distillery authorities filed a case before the Hon'ble High Court and obtained a stay order. The witness further said that the stay is being extended, but the department has no urgency to close this case as the distillery has remitted the fine before filing the case.

(24) The Committee enquired about the number of pending cases related to Excise department before various Courts and directed to collect and consolidate the pending cases and furnish the details to the Committee.

(25) The Committee directs the department to take expeditious actions for the disposal of all pending cases before various courts and to ensure that the pending cases are closely monitored by the legal wing of the department. The department agreed to do so.

(26) The Committee directed the department to clarify whether Devicolam Distilleries Ltd. had remitted the amount or not and to report the present status of the case. The Committee urged the department that it should ensure timely action by engaging the legal wing of the department, for the speedy disposal of the case.

Conclusions/Recommendations

(27) The Committee directs the Excise Department to furnish a detailed report regarding the number of pending cases in various courts related to the Excise Department. The Committee also directs the department to take

expeditious actions for the disposal of all pending cases in various courts and to ensure that the pending cases are closely monitored by the legal wing of the department for their speedy disposal.

(28) The Committee directs the department to clarify whether Devicolam Distilleries Ltd. had remitted the amount involved in the case (₹ 8,91,005) and to report the present status of the case to the Committee at the earliest.

6.6 Short realisation of Fine and penalty

Fine and penalty realised were less than those stipulated as per the Statutes.

Excise commissionerate, Thiruvananthapuram

As per Section 67(2) read with 67(3) of Abkari Act, the Commissioner may impose a fine²² of ₹3 lakh each on any person or persons holding a license or permit for violation by way of reconstitution, alteration or modification without the permission of the Commissioner of any deed on strength of which the licence is granted and the Commissioner may regularise such irregular constitution on payment of fine and on application from the licensee. Under Rule 19 (iii) of Foreign Liquor Rules 1953, reconstitution of Partnership /Directors of a company may be allowed on payment²³ ₹ one lakh.

M/s Hotel Dona Castle, Kollam is a company having bar license. The Board of Directors of the company was reconstituted twice in March 2013 without the permission of the Commissioner. The Commissioner regularised²⁴ these two reconstitutions treating them as a single one and levied ₹ 4 lakh by way of fine and penalty. The Akbari Act envisages fine and penalty for each reconstitution and hence the action taken by the Commissioner was not correct. This resulted in short realisation of fine and penalty of ₹ 4 lakh.

The Government stated (October 2015) that revision petition to Government had been rejected and the Excise Commissioner had been directed to realise the short remittance of fee and fine from the licensee.

22 Ordinance No. 32 of 2013 issued in Notification no. 5211/LegA2/2013/Law dated 26-04-2013.

23 GO(P)No.161/2012/td dated 12-09-2012.

24 Proceedings No. XC.72049/2013/R.Dis is dated 9-9-2013 of Commissioner of Excise, Thiruvananthapuram.

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

Excerpts from the discussion of Committee with officials concerned.

(29) While considering the audit para 6.6, the Excise Commissioner clarified that if the Board of Directors of an institution, holding a license or permit, is reconstituted without permission, the Commissioner may regularise such irregular constitution on payment of fine as stipulated in the Foreign Liquor rules. Then, the Committee enquired about the present position in the case of M/s. Dona Castle, Kollam. The witness, Excise Commissioner replied that the Board of Directors of M/s. Dona Castle was reconstituted twice in March 2013 and the Commissioner imposed fine on the first reconstitution. When a notice was issued to the licensee against the second reconstitution as pointed out by the AG, they filed a case before the Hon'ble High Court against levying ₹ 3,00,000/- instead of ₹ 25,000/-. They obtained a favourable order from the Hon'ble High Court directing the Government to repay the excess amount which was imposed on the petitioner. He added that Government have requested the Advocate General to file an appeal against the order.

(30) To a query of the Committee, the Excise Commissioner clarified that the Abkari Act envisages imposition of fine for each reconstitution of the Board of Directors of a company having license without the prior permission of the Excise Commissioner, even though it is to replace a deceased person. The Committee opined that it is an injustice to impose fine on the heir on assuming charge. The witness Excise Commissioner, replied that according to 19(iii) of Foreign Liquor Rules 1953, the reconstitution of Partnership/Board of Directors of a company may be permitted on payment of ₹ 1 lakh. The Committee enquired whether an appeal was filed in the case of M/s. Dona Castle, the Excise Commissioner answered in the affirmative.

Conclusion/Recommendation

31. The Committee directs the department to furnish details about the current status of the appeal petition filed against order in the case of M/s. Dona Castle, Kollam.

[Audit paragraphs 5.1 to 5.4.6 contained in the report of the Comptroller and Auditor General of India (Revenue Sector) for the year ended 31st March 2016]

5.1 Tax Administration

The Additional Chief Secretary to the Government (Taxes) is the administrative head of the Excise Department at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided into three²⁵ zones which are headed by the Joint Excise Commissioners (JEC), South, Central and North zone. The divisions at the district level are working under the Deputy Excise Commissioners (DEC). Besides, Excise Circle Inspectors (ECI) and Excise Inspectors (EI) under the control of the DEC of the respective districts are deputed to oversee collection of excise duties, licence fee etc.

5.2 Internal audit

The Internal Audit Wing (IAW) in the State Excise Department is monitored by the EC. The Wing consists of one JEC assisted by one Assistant Excise Commissioner (ACE), three Superintendents, three EIs and six Preventive Officers. The priority for internal audit is given to auditee districts in which more vehicles have been seized, huge collectable arrears are pending and undue delay in collection was noticed in auditee offices.

The wing had to conduct inspections in the 310 sub offices annually. Out of the total 310 units to be audited, the wing planned and audited 118 units during 2015- 16 as against 101 units audited during 2014-15. The details of outstanding paras and the clearance made during the year were not furnished by the Department.

5.3 Results of audit

In 2015-16, test check of the records relating to excise duty, licence fee receipt etc.; of 34 offices under Excise Department showed non/short realisation of

25 South zone (Alappuzha, Kollam, Kottayam, Pathanamthitta and Thiruvananthapuram), Central zone (Ernakulam, Idukki, Palakkad and Thrissur) and North zone (Kannur, Kasargod, Kozhikode, Malappuram and Wayanad).

excise duty/license fee/interest/ penalty and other irregularities involving ₹ 70.74 Crore in 30 cases which fall under the following categories as given in the Table.

Table

Sl.No.	Categories	Number of cases	Amount (₹ in Crore)
1	Issue of licence and enforcement of license conditions by the Excise Department	1	67.67
2	Non realisation of enhanced fee	6	1.96
3	Others	23	1.11
	Total	30	70.74

During the course of the year, the Department accepted underassessment and other deficiencies involving ₹70.74 Crore in 30 cases pointed out by Audit. The Department realised an amount of ₹ 25.52 Crore in 18 cases during the year 2015- 16.

The results of audit on issues of licences and enforcement of licence conditions by the Excise Department involving money value of ₹67.67 Crore is discussed in the succeeding paragraph.

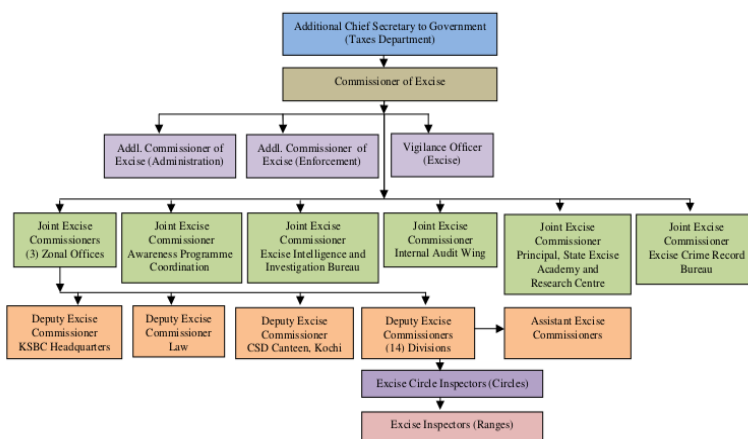
5.4 Issue of licences and enforcement of licence conditions by the Excise Department

5.4.1. Introduction

The State has the exclusive privilege in the manufacture, storage, and sale of liquor and intoxicating drugs as per the Abkari Act and Narcotic Drugs & Psychotropic Substances (NDPS) Act, 1985. Section 18 A of the Abkari Act, provides for the grant of such privilege by issuing licences to any person or persons on payment of rentals. Section 8(c) of the NDPS Act, 1985 provides for the grant of licence for manufacture, possession and sale of any narcotic drug or psychotropic substances. The State Excise Department issues licences to the hotels, restaurants and clubs that serve alcoholic drinks i.e. beer, wine, liquor for consumption on the premises to the visitors. The licence to vend toddy is also issued by the Excise Department.

The Kerala State Beverages (Manufacturing and Marketing) Corporation Ltd. (KSBC) is the sole wholesale distributor of Indian Made Foreign Liquor (IMFL) and beer (FL9 Licence). The licence to vend foreign liquor in sealed bottles to the public (FL1 licence) is granted exclusively to the KSBC and Kerala State Cooperative Consumer Federation (CONSUMERFED). Licences for manufacturing units, for selling spirituous preparations etc., were also issued/renewed by the Excise Department.

Organogram of the Department is given below



5.4.2. Audit Objective and scope

The objectives of Audit were to assess whether

- the licences are issued in a fair and transparent manner and in accordance with the provisions of the Acts & Rules,
- effective enforcement system exists for detection of violation of licence condition.

The audit was conducted between May 2016 and July 2016 covering the period from 2013-14 to 2015-2016. The scope of Audit was confined mainly to the office of the EC and

DECs. Audit selected 119 out of 503²⁶ FL-3 /FL-11²⁷ licences. Audit also selected four²⁸ out of the 18 IMFL bottling units licencees, two²⁹ out of three brewery licencees and five³⁰ out of 22 FL-9³¹ licencees of KSBC in the selected five³² Offices of DEC. An entry meeting was held on 26 May 2016 with the Additional Secretary, Taxes Department to discuss the audit objectives, criteria and the audit plan. An exit conference was held on 7 October 2016 with Additional Secretary (Taxes) and EC.

5.4.3. Audit findings

5.4.3.1. Lack of transparency in issue of bar and beer/wine parlour licences

In terms of Rule 13 of the Foreign Liquor Rules (FL Rules), FL-3 licences (bar licence) and FL-11 licences (beer/wine parlour licence) can be issued by EC with the sanction of the Government subject to the fulfilment of terms and conditions prescribed. Further, Rule 13B (1) of FL Rules, stipulates that persons desirous of obtaining a licence may apply to the EC in writing through the DEC of the district concerned. Applications thus received by the DEC are routed through the JEC of the zone to the EC for issue of licences after getting Government sanction. Seven fresh bar licences and 78 fresh beer/wine parlour licences were issued during the period from 2013-14 to 2015-16. Audit observed defects in issue of licences which are discussed in the succeeding paragraphs.

Control Mechanism

The FL Rules did not prescribe a register for watching the receipt and disposal of applications for grant of bar and beer/wine parlour licences. Audit also noticed that the Department did not have Management Information System (MIS) reports on the status of applications for bar and beer/wine parlour. As such, the total number of applications received and disposed of and reason for pendency in respect of licences for bar and beer/wine parlour in the State could not be ascertained which indicates lack of control over the applications.

26 45 FL-3/ FL-11 licences out of 85 issued by the EC, 74 out of 418 FL-11 licences issued by DEC to non-standard bar hotels functioned as on 31 March 2014.

27 FL-3 hotel (restaurant) licences (bar licence) and FL-11 beer/wine parlour licence

28 M/s. Amrut Distilleries, Pvt. Ltd, Palakkad, M/s Empee Distilleries Ltd, Palakkad, M/s. Devicolam Distilleries Ltd, Ernakulam and M/s. United Spirits Ltd, Alappuzha.

29 United Breweries Ltd at Palakkad and Alappuzha.

30 Balaramapuram, Alapuzha, Perumbavoor, Palakkad and Wayanad.

31 Foreign Liquor 9 – Licence for possession and supply of foreign liquor on wholesale.

32 Thiruvananthapuram, Alapuzha, Ernakulam, Palakkad and Wayanad.

For ensuring transparency, control over receipt and disposal of applications for bar and beer/wine parlour licences, it is essential to have a provision of register and MIS reports.

In the exit conference, the Department assured (October 2016) that this would be examined and reply would be furnished. Further reply would be awaited in Audit.

Timeliness

The FL Rules did not prescribe a time line for the disposal of applications received for grant of bar and beer/wine parlour licenses. However, under the Kerala State Right to Service Act, 2012, the EC stipulated³³ time limit for issue of bar and beer/wine parlour as within 90 working days from the date of receipt of application. Under Rule 14 of FL Rules, if the licences are granted in the course of a financial year, the full annual fee shall be paid.

On a scrutiny of the register of licences maintained at EC, it was noticed that time taken ranged from 54 days to 139 days for issue of bar licences and 11 days to 722 days for issue of beer/wine (B/W) parlour licences as detailed in the Table.

Table

Nature of licence	Bar	B/W	Bar	B/W	Bar	B/W	Bar	B/W	Bar	B/W	Bar	B/W
No. of licences	--	4	2	5	2	17	-	10	1	10	-	24
Time taken in days	11-31		32-60		61-90		91-120		121-150		151-722	

In 45 cases i.e. 60 per cent, the licenses were issued after a delay of 90 days.

Out of the above 45 cases, in 15 beer/wine parlour licences the Department did not issue licence in the financial year of the application itself, which deprived the Department

33 Notification No. XA1-22847/2012 dated 5 December 2012

of revenue in the form of annual licence fee for that financial year. A few illustrative cases are detailed in the Table below.

Table

Sl. No.	Name of applicant	Date of application	Date of forwarding by DEC	Date of forwarding by JEC	Date of forwarding by EC	Date of sanction by Govt.	Date of issue of licences
1	M/s Rohini Hills, Kunnikkode, Kollam.	16/12/2014	26/12/2014	13/1/2015	13/2/2015	6/4/2015	24/4/2015
2	Spice Grove Hotels & Resorts (Pvt.) Ltd., Anakkara, Idukki.	18/6/2013	11/9/2013	26/9/2013	4/10/2013	19/2/2015	26/2/2015
3	Hotel Vakkom Palazzo, Vakkom, Thiruvananthapuram.	14/1/2014	28/1/2014	1/2/2014	14/2/2014	4/3/2014	21/5/2014

source: Relevant files.

The Department (October 2016) assured that this would be examined and reply will be furnished. Further reply would be awaited in Audit.

[Note received from the Government on the above audit paragraphs is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(32) When the Committee sought an explanation for the lack of transparency in issuing of bar and beer/wine parlour licences, the witness, Excise Commissioner replied that an online system in the Government portal named 'Service Plus' has

been introduced for issuing licences for Bar, Beer/wine parlour. He explained that through 'Service Plus' application for licence can be submitted along with all documents and delay if any, can also be traced. He added that this online system ensured transparency of processing of applications and even the consolidated data pertaining to the number of applications received, number of pending applications, number of disposed applications etc. could also be tracked down.

(33) To a query of the Committee about generating the MIS reports and maintaining registers through this system, the witness replied in the affirmative.

(34) While considering the point of prescribing a time line for the disposal of applications, the Committee opined that Government should set down an appropriate time limit for the issue of licences to Bar and Beer/Wine Parlour. Then the Excise Commissioner informed that it was fixed as 90 working days from the date of receipt of application.

(35) To a query of the Committee, the witness informed that expiry date was fixed for Beer and thereafter, it would be disposed. He also informed that permission should be required to transfer bars from one place to another even if the location remained in the same premises of a resort or hotel.

(36) The Committee accepted the reply furnished by the Government.

Conclusion/Recommendation

(37) No comments

5.4.3.2 Issue of beer/wine parlour licences without proper hygiene verification

Government decided³⁴ (April 2014) provisionally not to renew the licences of 418 non-standard hotels which had poor hygiene standards as reported in the Report of CAG of India on Performance of State Excise Department for the year ended 31 March 2011 and in the judgment of Hon'ble Supreme Court³⁵.

The Government issued³⁶ directions for physical inspection in assessing the facilities available in the 418 non standard hotels and the facilities were to be

34. G.O (MS) No.56/2014/TD dated 02.04.2014.

35. C.A.No.3196-3198/2014 dated 3 March 2014.

measured against the standard specification for classification of hotels issued by the Government of India (for the year 2013). It was also directed to complete the detailed check list in the presence of the hoteliers in a professional and objective manner.

Before completion of this exercise, Government issued Abkari policy³⁷ 2014-15 by which issue of bar licenses were confined to hotels with five star and above classifications. Subsequently, the Government revised³⁸ Abkari Policy for 2014-15 and decided to issue beer/wine parlour licences to the hotels where a bar licence granted was in force as on 31 March 2014 subject to the condition that the standards of hygiene were to be certified by the DEC's concerned by amending³⁹ Rule 13(11) of FL Rules.

In the five selected offices of the DEC's, beer/wine parlour licences were issued to 166 hotels included in the list of 418 non-standard hotels during January 2015. Audit test checked 74 licence files and noticed that in all the test checked cases, the DEC's did not record or document the method adopted or checks made by them as prescribed in the directions issued in August 2014 for certifying the hygiene. Thus, it cannot be ruled out that hygiene was certified by the DEC's without completing the detailed checks prescribed by Government.

The case was pointed out to Department and reported to Government (August 2014). The Department stated (October 2016) that detailed reply would be furnished without delay. Further reply would be awaited in Audit.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(38) In the audit para it was revealed that beer/wine licenses were issued to 166 non-standard hotels in 2015 without completing hygiene checks. The Excise Commissioner informed the Committee that the local bodies concerned were responsible for issuing hygiene certificates for Beer/Wine parlour licences and after

36 No. 19929/GI/2014/TD dated 18 August 2014 of Secretary, Taxes Department.

37. GO(MS) No.139/2014/TD dated 22 August 2014.

38. GO (MS) No.205/2014/TD dated 20 December 2014.

39. GO(P) No.211/2014/TD dated 30 December 2014.

receiving the certificates, no further inspections was done by the Excise Department. The Assistant Excise Commissioner pointed out that AG had objected to the issuance of Bar/Beer licences to 418 non-standard hotels by the department as part of the policy decision of the Government. To a query of the Committee, the Excise Commissioner replied that the Excise Department along with the Food Safety Authority Officers conducts inspections in beer/wine parlours. As to the hygiene certificates, the Commissioner replied that it is being issued by the LSGDs. The Excise Commissioner further clarified that licenses would only be issued after getting the hygiene certificate from the LSGD officials.

(39) To a query of the Committee, the Excise Commissioner clarified that the 166 hotels included in the list of 418 non-standard hotels, which had been given beer/wine parlour licences, were in hygienic conditions. Even after obtaining the hygiene certificate, health inspectors can inspect the parlours at any time. Excise Department could only direct the institutions to maintain cleanliness.

(40) The Committee directed the Excise Department to conduct inspections in the Bar/Beer licensed hotels and wine parlour premises along with Local self Government Institution Officials to ensure that proper hygiene standards are maintained through out the licence period.

Conclusions/Recommendations

(41) The Committee directs the Excise Department to conduct inspections in Bar/Beer licensed hotels and wine parlours in collaboration with Local Self Government Institutions to ensure proper maintenance of hygiene standards throughout the licence period.

(42). The Committee directs the department to carry out Joint Inspections with the Food Safety officers at the Beer/Wine Parlour on a regular basis and ensure spot inspections by health inspectors from time to time.

5.4.3.3 Issue of licences to liquor vendors along National Highways

Government of India issued instructions⁴⁰ to remove liquor shops along the National Highways (NH) and to ensure that no licences are issued to liquor vendors along NH in order to prevent drunken driving and thereby reducing the occurrence of road accidents.

40. DO letter No. RT-25035/70/12-RS dated 11 March 2013 of the Secretary, Ministry of Road Transport and Highways.

As on 31 March 2016, there were four⁴¹ bar hotels and 182 beer/wine parlours functioning along the NHs. Audit noticed that during 2013-14 to 2015-16, 10 fresh bar and beer/wine parlour licences were issued to the hotels located along the NHs.

Thus, the State Government had not followed the instructions of Government of India for not issuing fresh licences to liquor vendors.

The Department stated (October 2016) that the matter would be looked into. Further reply would be awaited in Audit.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(43) The Committee accepted the reply furnished by the department.

Conclusion/Recommendation

(44) No Comments.

5.4.3.4 Non-identification of individuals/institutions who are required to take licence for spirituous preparations

Any medicinal or toilet preparation containing alcohol, whether self generated or otherwise or any intoxicating drug is a spirituous preparation vide definition 3(k) of the Kerala Spirituous Preparations (Control) Rules, 1969. According to Section 15 of Abkari Act, no liquor or intoxicating drug shall be sold without licence issued by the EC. Rule 11 of the Kerala Spirituous Preparation (Control) Rules 1969 prescribes licence in Form SP VI (for wholesale) and SP VII (for retail sale) for allopathic medicinal preparations, homoeopathic preparations and preparations coming under the indigenous system of medicines and licence fee recoverable as detailed in the Table.

41. Air Link Castle, Athani, Le Meridian, Ernakulam, Crowne Plaza, Ernakulam and Diana Heights, Aluva.

Table

Licence Form	Licence fee
Wholesale licence in Form SP VI	₹ 5,000 for a year or part thereof
Retail licence in Form SP VII for Homoeopathic&Ayurvedic preparations	₹ 1,000 for a year or part thereof
Retail licence in Form SP VII for Allopathic preparations	₹ 300 for a year or part thereof

Audit verified data of persons dealing with wholesale and retail sale of medicines in the selected districts, obtained from the official website of Drugs Controller, with the licence issue register kept in the five selected offices of the DEC's and it was noticed that out of 6965 persons, dealing with wholesale and retail business of allopathy and homoeopathy medicines, only 49 persons have taken the licence as detailed in the Table below.

Table

District	Allopathy-Retail		Allopathy-Wholesale		Homoeopathy (Wholesale & retail)	
	Total no. of shops	No of shops for which licence issued	Total no. of shops	No. of shops for which licence issued	Total no. of shops	No. of shops for which licence issued
Thiruvananthapuram	1472	1	563	1	22	1
Alappuzha	944	4	249	6	32	4
Palakkad	904	2	320	4	20	3
Eranakulam	1403	8	673	4	62	11
Wayanad	234	0	49	0	18	0
Total	4957	15	1854	15	154	19

[Total No. of shops- 6965, Total Licences issued – 49]

Source: Website of Controller of Drugs, Kerala as on 1 June 2016.

Audit observed that the licences are issued only to those who approached for licences and no system existed in the Department for identifying the persons engaged in the trade of spirituous preparation by conducting survey or by collecting data available with other licensing agencies such as Drugs Controller functioning under Health Department/ Directorate of Homoeopathy, etc.

Failure to identify such persons resulted in non issue of licences to all persons engaged in trade of spirituous preparations and may lead to misuse of spirituous preparations. Had they been identified and issued licences, an additional revenue of ₹ 1.08 crore⁴² per year would also have been realized in the selected five districts alone. When applied to the whole State, additional potential revenue would be manifolds.

The EC stated (October 2016) that there was practical difficulty in conducting inspections in all the shops due to limited number of Drug Inspectors. The reply is not acceptable as data in respect of unlicensed drug dealers can be collected from Office of the Drugs Controller. Further reply would be awaited in Audit.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(45) While considering the audit para 'non-identification of individuals/ institutions who are required to take licence for spirituous preparations' the witness Excise Commissioner, Excise Department informed that all institutions which used spirit as an ingredient for their products need to take licence under Kerala Spirituous Preparations (Control) Rules 1969. He added that in the case of spirituous preparations of allopathic medicines, the license is given by Drugs Control Department and for ayurvedic medicines it is given by the Excise Department. He supplemented that if Allopathy and Homoeopathy were included under the Excise Department it would create a lot of problems. The Assistant Excise Commissioner, Excise Department pointed out that cough syrups are the main products in Allopathic medicine with alcohol content and that a few years ago

42. $(4,942 \times ₹ 300) + (1,839 \times ₹ 5,000) + (135 \times ₹ 1,000) = ₹ 1,08,12,600.$

the department had conducted a search in all allopathic medical stores as per instruction of A.G., and as a result, the shop owners were reluctant to take cough syrups in allopathic medical stores. To a query of the Committee, the Excise Commissioner replied that Medical College hospitals were allowed to procure chemicals like Formalin in a fixed quantity and that it would also monitor to avoid its misuse.

(46) The witness Excise Commissioner, Excise Department replied to the query of the Committee that Excise Department does not issue licence to the companies which make sanitiser. However, they were required to obtain a licence for the transportation of rectified spirit.

(47) The Committee opined that the Excise Department should find an alternate way to control the spirituous preparations of Allopathy and Homoeopathy.

(48) The Committee directed the department to figure out a mechanism for controlling the spirituous preparation in Allopathic & Homoeopathic systems of medicines and the department agreed to do so.

Conclusion/Recommendation

(49) The Committee is of the opinion that it would be ideal for the Excise Department to find a mechanism to control the spirituous preparation of Allopathic & Homoeopathic system of medicines.

5.4.4. Non-observance of provisions of Abkari Act and Rules

The Abkari Act and Rules made thereunder and the notification by the Government provides for levy and collection of Abkari and other revenue from the licencees. But the departmental authorities did not observe the provisions in many cases which resulted in short/non levy and non-realisation of revenue. Illustrative cases are given in following paragraphs.

5.4.4.1 Non-realisation of stamp duty on licences

Under Section 18 A of the Abkari Act, the Government can grant exclusive or other privilege of (i) manufacturing or supplying by wholesale or (ii) selling by retail or (iii) of manufacturing or supplying by wholesale and selling by retail, any

liquor or intoxicating drugs within any local area on his or their payment to the Government of an amount as rental in consideration for the grant of such privilege. Stamp duty at the rate of ₹ five for every ₹ 100 or part thereof is chargeable on all the licenses to let including any agreement to let or sublet for rent or fee under Article 35 A of the schedule to the Kerala Stamp Act as inserted by Section 4(5) of the Finance Act, 2015 with effect from 1 April 2015.

Scrutiny of the registers and the information furnished by the selected DEC's revealed that licence fee amounting to ₹ 84.72 Crore was collected for the year 2015-16 and 2016-17.

However, while issuing these licences, the Department did not collect the stamp duty. The stamp duty leviable worked out to ₹ 4.24 Crore. Audit also pointed out the case to the Department of Registration. Reply from the Government had not been received (November 2016).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(50) On regarding the audit objection, non-realisation of stamp duty on licences, the Excise Commissioner, Excise Department informed that Government has not intended to collect stamp duty on abkari licences because Government has not formulated stamp duty on abkari licences. He added that abkari licences are granted by the Government, which are not let or sublet by the Government, so no stamp duty is imposed.

(51) The Committee directed the department to scrutinise the legal aspects of the objection pertaining to the imposition of stamp duty on abkari licences and submit the report to the Committee. The department agreed to do so.

Conclusion/Recommendation

(52) The Committee directs the department to scrutinise the legal aspects of the objection pertaining to the realisation of stamp duty on abkari licences and to submit a report to the Committee at the earliest.

5.4.4.2 Non-levy of differential excise duty from brewery

Under Section 18 of the Abkari Act, excise duty may be collected in the case of spirit or beer, either on the quantity produced in or passed out of a distillery, brewery, winery or other manufactory or in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort or on the value of liquor, as the case may be, as the Government may prescribe. The excise duty or countervailing duty shall be payable by manufacturer or importer of the liquor. In respect of beer, excise duty is being collected from the manufacturer on the quantity of production at the end of each quarter as provided in Rule 19 Part I of Brewery Rules, 1967. Under proviso to Section 18 of the Abkari Act, where there is a difference of duty of excise, countervailing duty or luxury tax between two licence periods, such difference may be collected in respect of all stocks of foreign liquor or intoxicating drugs held by licencees at the close of the former period. The duty of excise on beer is enhanced to ₹ five per Bulk Litre (BL) from ₹ three per BL with effect from 1st April, 2015⁴³.

Audit found from the assessment records of the two breweries⁴⁴ that the difference of excise duty at the rate of ₹ two per BL was not collected in respect of 31.56 lakh BL of beer held by the licencees as on 31st March 2015, at the close of the former period. This resulted in non-levy of differential excise duty of ₹ 63.12 lakh. Interest at 12 per cent per annum under Rule 20 of Brewery Rules, 1967 was also leviable which comes to ₹ 6.94 lakh⁴⁵.

On this being pointed out, it was stated that an amount of ₹59.58 lakh being differential excise duty with interest was remitted by M/s. United Breweries, Palakkad on 14th November, 2016. Further reply would be awaited in Audit.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(53) The Committee accepted the reply furnished by the department.

43. SRO 186/2015 dated 30.3.2015

44. M/s. United Breweries Limited at Palakkad and Alappuzha.

45. At 11 per cent from July 2015 to May 2016

Conclusion/Recommendation

(54) No Comments

5.4.4.3 Non-remittance of collected excise duty by licencees consequent on enhancement of duty

Under Section 18 of the Abkari Act, where any liquor is chargeable with duty of excise or countervailing duty at a rate depending on the value of the liquor, such value shall be the value at which the KSBC purchases such liquor from the supplier. The rate of excise duty on IMFL/Beer was enhanced from 1st April, 2015.

Audit noticed the KSBC/CONSUMERFED revised sales prices incorporating the enhanced excise duty and collected the same from the retailer/consumers on the closing stock as on 31st March, 2015. However, the excess excise duty so collected was neither paid by the licencees nor demanded by the DEC's concerned.

The closing stock of IMFL and beer as on 31st March, 2015 held by KSBC (sole wholesale licencee -FL-9 and retail licencee – FL-1) were as detailed in the Table.

Table

	IMFL (No. of cases in lakh)	Beer (No. of cases in lakh)
FL-9 Warehouses of KSBC	14.81	7.11
Retail shops of KSBC (FL-1)	5.78	1.57

Out of the 14.81 lakh cases of IMFL held as closing stock in the KSBC Warehouses, audit test checked 8.83 lakh cases of IMFL (from the 60 items where the closing stock was more than 5,000 cases) and found that the differential excise duty on the selected cases would come to ₹23.56 Crore. In respect of beer, ₹ 57.14 lakh BL was the closing stock as on 31st March, 2015 and excise duty payable on it at the differential rate would come to ₹1.14 Crore

- In the retail shops of KSBC, Audit test checked 3.53 lakh cases of IMFL where closing stock was more than 1,000 cases and found that the differential

excise duty payable would come to ₹9.82 Crore. In respect of beer, closing stock was ₹12.62 lakh BL and the excise duty at the differential rate of ₹two per BL would come to ₹25.25 lakh.

- Out of the 511 brands of IMFL held as closing stock in the retail shops of CONSUMERFED audit checked 357 brands (by adopting the price list of KSBC) and the differential excise duty on the selected cases would come to ₹70.89 lakh. In respect of beer, closing stock was 89,319.39 BL as on 31st March, 2015 and excise duty payable at the differential rate would come to ₹1.79 lakh.

On this being pointed out, an amount of ₹67.45 Crore being excise duty was remitted by the KSBC on 22nd July, 2016. However, interest on the delayed payment has not been remitted at the prescribed rate of *18 per cent per annum* by the KSBC. CONSUMERFED has not remitted the excise duty at the differential rate.

The Department stated (October 2016) that there is only one rate for a particular litre of any brand and excise duty cannot be collected from FL1, FL3 licencees as per Supreme Court order. The reply is not acceptable since this is not a matter of non-collection but of non remittance of collected amount. Further report had not been received. **[Note received from the Government on the above audit paragraph is included as Appendix II]**

Excerpts from the discussion of Committee with officials concerned.

(55) The Committee accepted the reply of the Department

Conclusion/Recommendation

(56) No Comments

5.4.4.4 Unauthorised reconstitution of companies/firms holding FL licences

As per Section 67(2) read with 67(3) of the Abkari Act, the EC may impose a fine of ₹ 3 lakh each on any person or persons holding a licence or permit for violation by reconstitution, alteration or modification without the permission of the EC of any deed on the strength of which any licence is granted and the EC may

regularise such irregular reconstitution on payment of fine and on application from the licensee. Under Rule 19(iii) of FL Rules, reconstitution of partnership/directors of a company may be allowed on payment of ₹one lakh. In the office of the EC, no separate register other than the general inward register for recording the reconstitution of companies/partnership firms was maintained.

Audit collected the data on reconstitution of director board of 49 companies and 56 partnership firms of the five selected districts during 2013-14 to 2015-16 from the Registrar of Companies, Ernakulam/Website of Ministry of Corporate Affairs, Government of India which discloses the master data and signatory/director details of companies and from the Inspector General of Registration (Firms) and found that in 18 companies and four firms, reconstitution/modification of director board of companies/partnership were done in 39 occasions by addition/deletion of directors/partners as detailed in the Appendix III.

On a cross verification of the personal register (general inward register) at the office of the EC, it was noticed that all the 18 companies and four firms as given in Appendix III neither applied for permission nor for regularisation of unauthorised reconstitution/ modification/ alteration.

Audit noticed that there was no system in the Department to verify the reconstitution/modification/alteration by periodical verification of the deed on the strength of which the licences were granted, which may result in ineligible person⁴⁶ joining as directors/partners of companies/firms which hold licences.

The revenue realisable from the 18 companies and four partnership firms due to the unauthorised reconstitution during the period from 2013-14 to 2015-16 would come to ₹1.56 Crore⁴⁷.

Names of firms/companies who defaulted maximum number of times are detailed in the Table below

46. Rule 13 B and 13 C of FL Rules.

47. 39 occasions- Fee ₹ 1 lakh each and Fine ₹3 lakh each.

Table

Sl. No.	Name of Company	District in which licensee operates	No. of occasions of default
1	Marari Beach Resorts Private Limited	Alappuzha	3
2	Eih Associated Hotels Limited Unit Trident Cochin	Ernakulam	4
3	Intercontinental Hotels Group (India) Private Limited (Holiday Inn)	Ernakulam	5

The EC stated (October 2016) that the matter would be verified. Reply from Government had not been received (November 2016).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(57) The Assistant Excise Commissioner, Excise Department replied that the department had taken necessary steps for realising the revenue from 49 companies and notices were issued to these companies for remitting the fine. The committee agreed to the reply furnished by the department.

Conclusion/Recommendation

(58) The Committee directs the department to furnish the details regarding the remittance of fine from 49 companies.

5.4.4.5 Non realisation of differential excise duty on production of IMFL with higher strength

Rule 11(2) of the Kerala Foreign Liquor (Compounding, Blending & Bottling) Rules, 1975 stipulates that in the case of spirits released for consumption within the State, the strength of Gin shall not be lower than 35 degree under proof (UP) and strength of spirits shall not be lower than 25 degree UP. However, the actual spirit content of IMFL may be one degree proof under or over the declared proof strength under Rule 10 A. Rule 11 also prescribes that the liquor shall be

issued from the finished product stores only in bottles and on payment of duty and other taxes for consumption within the State. No liquor processed in a batch shall be issued until a sample thereof has been analysed and certificate of its fitness for human consumption issued by the Chemical Examiner. As per Government notification under Section 18(2) of the Abkari Act excise duty is leviable per proof litre.

KSBC is paying the excise duty based on the purchase value on behalf of the manufacturers/supplier at the time of issue of transport permit. The price list published by the KSBC discloses the price of each brand and the excise duty thereon. The excise duty was calculated based on strength of IMFL as 75 degree proof (25 degree UP) and the minimum strength of IMFL to be sold was 42.86 V/V⁴⁸ (per cent of ethyl alcohol per volume).

Audit selected nine brands of IMFL from the selected four⁴⁹ manufacturing units and verified the alcohol content as certified by the Chemical Examiner for the year 2015-16 and noticed that out of the 503 batches of IMFL produced, in 167 batches, the alcohol content was more than the minimum strength of 42.86 V/V, but within the allowable variation as detailed in the table

Table

Name of licensee	Name of brand	Total no. of batches of IMFL produced	No. of batches containing strength more than 42.86 V/V
M/s. Empee Distilleries Limited, Palakkad	Aristocrat XXX Rum	26	10
	Brihans Golden Gate Grape Brandy	53	15
	Empees Nepolian Classic VSOP Brandy	54	23

⁴⁸ Volume by volume.

⁴⁹ M/s. Empee Distilleries Limited, Palakkad, M/s. Amrut Distilleries Pvt. Ltd., Palakkad, M/s. Devicolam Distilleries Limited, Ernakulam and M/s. United Spirits Limited, Alappuzha.

M/s. Amrut Distilleries Pvt.Limited, Palakkad	Bejoice Premium Brandy	48	21
	Old Port XXX Rum	63	26
M/s. Devicolam Distilleries Limited, Ernakulam	Chief Executive Matured XXX Rum	49	15
	MGM Orange Kiz Vodka	78	17
M/s. United Spirits Limited, Alappuzha	No.1 Mc Dowells Brandy	60	19
	Mc Dowells VSOP Delux Brandy	72	21
	Total	503	167

The higher strength means higher alcoholic content i.e. more extra neutral alcohol was utilised for the manufacture of IMFL. But the duty was paid by the KSBC considering the strength as 75 degree proof (i.e. 42.86 V/V). Audit worked out the differential duty based on the landed cost fixed by the KSBC in respect of the nine brands, which itself comes to ₹13.25 lakh.

Thus the differential duty based on the chemical examiner report was not demanded by the officer in charge of the manufacturing unit.

The EC stated (October 2016) that detailed reply would be furnished, reply from Government had not been received (November 2016).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(59) While considering the audit para non-realisation of differential excise duty on production of IMFL with higher strength, the Excise Commissioner, Excise Department informed that at present excise duty is calculated on the basis of

declared strength of IMFL i.e. 42.86% volume by volume (V/V) and an allowance of 0.56% V/V is allowed at the time of manufacturing. He added that as pointed out by the Accountant General, if excise duty was imposed at a higher rate for the liquor containing higher strength, the Distillery would claim a deduction in the excise duty for the liquor having less alcoholic strength. However, variation of 0.56% at the time of manufacturing is allowed by the Government. As it is not a deliberate process, the allowance given by the Government is lawful. If the increase is beyond 0.56% Government can charge case against the distillery concerned.

(60) The Committee accepted the reply furnished by the department.

Conclusion/Recommendation

(61) No Comments

5.4.4.6 Non-disposal of frozen stock of IMFL kept in the warehouses of KSBC

As per Rule 33 A of the FL Rules, the EC may take steps to dispose the liquor kept in any licenced premises in any manner as he deems fit in the event of any exigency warranting such action.

As on 31st March, 2016, the frozen stock of IMFL⁵⁰ kept in the five selected warehouses of KSBC was 1.07 lakh litres. Audit noticed that the EC did not dispose the frozen stocks by sale or destruction. Hence, the possibility of misuse of frozen stock of IMFL could not be ruled out.

In the exit conference the EC admitted the observation raised by Audit and stated that the stock can only be destroyed and cannot be reused. Reply from Government had not been received (November 2016).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(62) Regarding the audit observation about non-disposal of frozen stock of IMFL kept in the warehouses of KSBC, the witness Excise Commissioner

50. IMFL frozen by the ECI from the hotels whose bar licences cancelled with effect from 1st April, 2015.

informed that this happened at the time when the bars were closed. He further informed that the sanction for destruction of the frozen stock of IMFL were being given to KSBC from time to time without any pendency. To a query of the Committee he added that minimum staff from the Excise Department had been deputed to all warehouses and they examined the whole stocks during loading and distribution. In addition to this, an instruction has been given for conducting a joined inspection every month by the Excise Circle Inspector and Assistant Excise Commissioner in all districts. To a query of the Committee, the Excise Commissioner informed that inspection is done to check whether any pilferage has occurred in addition to the checking of stock in the warehouses. The Committee accepted the explanation furnished by the department.

Conclusion/Recommendation

(63) No Comments

5.4.5. Lack of control over the licencees

Section 14 of the Abkari Act enables the EC with the previous approval of the Government (i) to prescribe the mode of supervision that may be necessary in a distillery, brewery, winery or other manufactory where liquor is manufactured under a licence granted under the Act or warehouse wherein liquor is deposited and kept without payment of duty under a licence granted under the Act to ensure proper collection of duties, taxes and other dues payable under this Act or the proper utilization of liquor or intoxicating drug. Accordingly, the distilleries/bottling units of IMFL, breweries and warehouses were under the supervision of excise staff and all the transactions including blending were under the supervision of Excise Department.

Audit test checked records of selected four bottling units and two breweries and the following deficiencies were noticed.

5.4.5.1 Production of brandy not conforming to the Indian standard

In the Abkari Policy for 2011-12, Government stated that necessary steps would be taken to make available high quality liquor to the consumers. As per Amendment No. 1 (June 2010) to IS 4450: 2005 alcoholic drinks brandies - specification (Third Revision), blended grape brandy shall be a mixture of at least two *per cent* pure grape brandy with brandy and brandy shall be made either from neutral spirit conforming to IS 6613 or rectified spirit of grade 1 of IS 323 or a mixture of both.

Audit selected two brands of grape brandy during 2015-16 each from the four selected bottling units and collected the information on the quantity of grape spirit used in the manufacture. In two bottling units⁵¹, the percentage of grape spirit used in four brands was less than two percentage ranging from 0.75 *per cent* to 1.51 *per cent* and thereby not conforming to the prescribed Indian standard resulting in lack of quality assurance to the consumers as detailed in the Table.

Table

Sl. No.	Name of licensee	Name of brands	ENA (BL)	Grape Spirit (BL)	Total ENA + Grape Spirit (BL)	Perce ntage of Grape Spirit	Non standard production of brandy (cases in lakh)
1	M/s. Amrut Distilleries Pvt. Ltd, Palakkad	Bejois Blended Grape Brandy	6,04,077	4,617	6,08,694	0.75	1.55
		Bejois Premium Brandy	7,38,628	11,353	7,49,981	1.51	1.83
2	M/s. Devicolam Distilleries Limited, Ernakulam	Count Cristo Vintage Brandy	1,32,689	1,892	1,34,581	1.41	0.29
		ScarlettsVS Brandy	12,913	105	13,018	0.81	0.02
Total							3.69

Non-prescription of provision in the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975 to make available high quality liquor to the consumers as stated in the policy resulted in the production and release of 3.69 lakh cases of non standard brandy to the consumers.

The EC stated (October 2016) that the matter would be examined. Reply from Government had not been received (November 2016).

51. M/s. Amrut Distilleries Pvt. Limited, Palakkad, M/s. Devicolam Distilleries Limited, Ernakulam.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(64) While considering the audit para the Excise Commissioner informed that standard brandy must contain atleast 2% grape essence. Brandy made without grape essence is classified as Indian brandy as per rule. Mostly, Distilleries produce Indian brandy now without adding grape essence. Excise Department cannot direct them to add grape essence.

(65) The Committee opined that a suitable provision should be inserted in the FL Rules to ensure that standard liquor is made available to the consumers. Then the Assistant Excise Commissioner replied that in India the standard of liquor is decided by FSSA (Food Safety and Standards Authority). According to the recent notification, brandy is classified into three categories ie., brandy made of pure grape, blended brandy made of 2% grape essence and Indian brandy with less than 2% grape essence. FSSA has directed the manufactures to indicate this classification clearly on the label. Indian brandy is made by most bottling units as it is cheap. FSSA had approved this and consumers know that it is not made of grape juice. To a query of the Committee, he supplemented that sugarcane essence is used instead of grape essence, since it is the least expensive essence.

(66) To a query of the Committee, the Assistant Excise Commissioner informed that there are 10 distilleries, 8 blending units and 3 breweries in the state and no new licences have been issued for the past 10 years in this sector.

(67) The Committee opined that Excise Department should ensure that FSSA standard is strictly maintained in the manufacturing of liquor in the State.

(68) To a query of the Committee, the Excise Commissioner made it clear that an incident that occurred recently in Thiruvalla has come to the notice of the Department where, fraudulent adjustment was made in the stock to cover up the shortage while transporting liquor from other states. It has been found out that this was done by the employees of a transport contractor who had got the contract

before 6 months. Other than this no such incident came to the notice of the Department. With a view to unearth similar incidents, the Department conducted inspections in all the manufacturing units and directions have also been given to conduct more such inspections.

Conclusion /Recommendation

(69) The Committee recommends that the Excise Department should ensure that FSSAI standard liquor is made available to the consumers of the State and to strictly monitor the breweries & distillery units to maintain the standard fixed by the concerned authorities.

5.4.5.2 Violation of licence conditions

- **Irregular transfer of Extra Neutral Alcohol**

In terms of Rule 8 and conditions of Form 4 licence issued under the Kerala Bottling Rules, 1975, the licensee shall utilise the spirit only for blending and compounding of IMFL and only bottled liquor shall be removed from the licenced premises. As per condition 20 in Form 4[(Rule 8(1))] licence, contravention of any of the rules and conditions of the licence shall entail imposition of a fine not exceeding ₹10,000 or cancellation of the licence or both.

Scrutiny of the Extra Neutral Alcohol (ENA) import register and transport permits in the Office of the EI, M/s Amrut Distilleries Pvt. Ltd, Palakkad for the period 2014-15 to 2015-16, revealed that 7.2 lakh litre of ENA imported from outside the State for the blending and bottling operations were removed from the licenced premises and transferred to another licensee M/s SDF Industries Limited at Thrissur district based on no objection certificates (NOCs) issued by the EC and transport permits issued by the DEC, Thrissur .

Audit observed that the permission granted by the EC for the removal of ENA was not in accordance with the provision of the Rules. The EC, who is responsible for the execution of the provisions of Abkari Act and Rules, issued NOCs instead of rejecting the application of the licensee.

Department stated that there is no revenue loss in this case. The reply is not acceptable since this helped the licensee to overcome the imposition of fine or cancellation of license or both.

• **Bottling of IMFL for distilleries outside the State**

Under the conditions of licences issued under the Bottling Rules, 1975 and the Kerala Distillery and Warehouse Rules (Distillery Rules), 1968 the licensee shall not lease out, sub-rent or otherwise transfer the privileges granted to him without the prior permission of the EC. The Distillery Rules or Bottling Rules did not prescribe any provision for job work or collection of additional licence fee or bottling fee as prescribed in the Bottling Rules of States like Madhyapradesh and Uttar Pradesh.

Out of the four bottling units test checked, three units ⁵² had undertaken the job work of blending and bottling of IMFL brands owned by outside the State distilleries. The units did the job work based on the approval of registration of such brands by EC under Rule 3 of the Foreign Liquor (Registration of Brands) Rules, 1995 by paying a fee at a higher rate of ₹ two lakh whereas in other cases the brand registration fee was rupees fifty thousand only.

During the period from 2013-14 to 2015-16, in the three units, a total of 74.67 lakh cases of 88 outside the State brands of IMFL were blended and bottled. Audit found that the additional revenue mobilized through the brand registration fee at the higher rate was ₹1.32 Crore ⁵³ . Had the distilleries outside the State manufactured the IMFL in their own distilleries and imported into Kerala, a revenue of ₹ 25.16 Crore would have been realised as import fee ⁵⁴ .

The EC stated that there was only brand registration in this case and no separate licenses were issued. The new brand application is submitted by the distillery already existing in the State on behalf of the distillery outside the State. The reply is not acceptable as the job work agreement authorizes the outside distilleries to have storage facilities and adequate number of dedicated spirit storage tanks which amounts to transfer of privilege, a violation of license conditions. Reply from the Government had not been received (November 2016).

52. M/s. Empee Distilleries Limited, Palakkad, M/s. Devicolam Distilleries Limited, Ernakulam and M/s. United Spirits Limited, Alappuzha.

53. 88 x ₹1.50 lakh, ₹two lakh- ₹50,000

54. Import fee at the rate of ₹ five per proof litre.

5.4.6. Conclusion

Audit found that the systems in the Department to issue beer and wine parlour licences, identification of persons liable to obtain licenses for spirituous preparations and enforcing of the provisions of the Abkari Act and Rules made thereunder did not function transparently and efficiently.

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(70) To a query of the Committee, regarding the irregular transfer of extra neutral alcohol, the Excise Commissioner, Excise Department replied that extra neutral alcohol had transferred from a licenced premises to another licensee due to the shortage of spirit storage capacity and that it was done with the permission of department eventhough the action was an irregular one. The Assistant Commissioner, Excise Department clarified that the institution which transferred the spirit might have done it due to lack of production capacity or to prevent spoiling of the spirit.

(71) The Committee accepted the reply furnished by the department.

(72) While considering the point of bottling of IMFL for distilleries outside the state, the Excise Commissioner, Excise Department informed that most of the Distilleries in Kerala buy spirit from outside the State and sell the same with their label on it. On noticing this point, Government has imposed. ₹2 lakh as fee for this tie-up arrangement and thus solved the problem. The Committee accepted the explanation furnished by the department.

Conclusion/Recommendation

(73) No Comments.

[Audit paragraphs 5.1 to 5.4 contained in the Report of Comptroller and Auditor General of India (Revenue Sector) for the year ended 31st March, 2017.]

5.1 Tax administration

The Additional Chief Secretary to the Government (Excise), is the administrative head of the Excise Department at Government level. The Department is headed by the Excise Commissioner (EC). The Department has been divided into three⁵⁵ zones which are headed by the Joint Excise Commissioners (JEC), South, Central and North zone. The divisions at the district level are working under the Deputy Excise Commissioners (DEC). Besides, Excise Circle Inspectors (ECI) and Excise Inspectors (EI) under the control of the DEC of the respective districts are deputed to oversee collection of excise duties, licence fee etc.

5.2 Internal audit

The Internal Audit Wing (IAW) in the State Excise Department is monitored by the EC. The Wing consists of one Joint Commissioner of Excise assisted by one Assistant Excise Commissioner (AEC), three Superintendents, three Excise Inspectors (EI) and six Preventive Officers. The priority for internal audit is given to auditee districts in which more vehicles have been seized, huge collectable arrears are pending and undue delay in collection was noticed in auditee offices.

The wing had to conduct inspections in the 311 sub offices annually. Out of the total 311 units to be audited, the wing planned and audited 46 units during 2016-17 as against 118 units audited during 2015-16. During the year, the Department cleared 924 paragraphs out of 1808 paragraphs which was 51.11 *per cent* of the outstanding objections. The Department needs to cover up the shortfall in conduct of audit and to settle old outstanding objections.

5.3 Results of audit

In 2016-17, test check of the records relating to excise duty, license fee receipts etc., of 25 offices under Excise Department showed non/short realisation

55 South zone (Alappuzha, Kollam, Kottayam, Pathanamthitta and Thiruvananthapuram), Central zone (Ernakulam, Idukki, Palakkad and Thrissur) and North zone (Kannur, Kasargod, Kozhikode, Malappuram and Wayanad).

of excise duty/license fee/interest/ penalty and other irregularities involving ₹1.20 Crore in 15 cases, which fall under the following categories as given in Table

Table

(₹ in Crore)

Sl. No.	Categories	Number of cases	Amount
1	Non-levy of Excise duty/License fee	4	0.13
2	Others	11	1.07
Total		15	1.20

During the course of the year, the Department accepted under-assessment and other deficiencies involving ₹1.04 Crore in nine cases pointed out by Audit. The Department realised an amount of ₹0.38 Crore in 15 cases during the year 2016-17.

In four cases involving ₹0.16 Crore, the Department recovered the entire amount. One paragraph involving ₹0.40 Crore is mentioned in the succeeding paragraph.

5.4 Unauthorised reconstitution of Board of Directors of companies/firms holding Foreign Liquor licences

As per Section 67(2) read with 67(3) of Abkari Act, as amended in 2014, the Excise Commissioner (EC) may impose a fine of rupees three lakh each on any person or persons holding a license or permit for violation by reconstitution, alteration or modification without the permission of the EC of any deed on the strength of which any license is granted and the EC may regularise such irregular reconstitution on payment of fine and on application from the licensee. Under Rule 19(iii) of Foreign Liquor Rules, reconstitution of partnership/ directors of a company may be allowed on payment of rupees one lakh.

Audit cross verified the data on reconstitution of Board of Directors of companies in four offices ⁵⁶ between October 2016 and March 2017 with the data in the Website of Ministry of Corporate Affairs, Government of India, which

56. Commissionerate of Excise, Thiruvananthapuram, Excise Division Office, Kasargode, Kollam and Malappuram.

discloses the master data and signatory/director details of companies and observed that seven companies, who had neither applied for permission nor regularisation of reconstitution, had modified/reconstituted Board of Directors of companies on 10 occasions by addition/deletion of directors/partners as given in Table .

Table

Sl. No.	Name of Company	District in which licensee operates	No. of occasions
1.	Hamara Hotels Pvt. Ltd.	Thrissur	1
2	Hotel Aramana (Samuel & Joseph Hotel Pvt. Ltd.)	Thrissur	2
3	Quality Hotels Pvt. Ltd.	Thrissur	2
4	Contour Holiday Resorts Pvt. Ltd.	Thrissur	1
5	Zuri Hotels & Resorts Pvt. Ltd.	Kottayam	2
6	Quilon Hotels & Resorts Pvt. Ltd.	Kollam	1
7	Hotel Souparnika Inn	Malappuram	1
Total			10

Non-imposition of fine by EC for unauthorised reconstitution and fee for regularisation resulted in non realisation of revenue of ₹40 lakh⁵⁷ realisable from seven companies during the period from 2012-13 to 2015-16.

On this being pointed out (April 2017), Government replied (October 2017) that notices were issued in respect of all cases and ₹6.50 lakh was collected in respect of two cases. One case was pending before the Hon'ble High Court.

57. 10 occasions x four lakh each (fee ₹one lakh each and fine ₹ three lakh each)

[Note received from the Government on the above audit paragraphs is included as Appendix II]

Excerpts from the the discussion of Committee with officials concerned.

(74) While considering the audit objection in the case of Hamara Hotels Pvt. Ltd., the Excise Commissioner, Excise Department informed that a fee of ₹ 1,00,000/- had been remitted by the licensee. The Committee accepted the reply furnished by the department.

(75) To a query of the Committee, the Excise Commissioner replied that a notice had been issued to the licensee, Hotel Aramana (Samuel & Joseph Hotel Pvt. Ltd), Thrissur to remit an amount of ₹ 8 lakh against which a case was filed before the Hon'ble High Court and they had obtained a favourable judgement.

(76) The witness, Excise Commissioner informed that a notice had been issued to the licensee (Quality Hotels Pvt.Ltd, Kottayam) to remit a fee of ₹14 lakh and then they filed a case against it and the company had remitted an amount of ₹9,00,000/- as per the order of Hon'ble High Court.

(77) To a query of the Committee, regarding Contour Holiday Resorts Pvt Ltd., Kottayam, the Excise Commissioner clarified that as the reconstitution was done for including Government nominee as a board member, the Department did not take further action. Further, the Assistant Excise Commissioner explained that when private hotels avail loans from KSIDC or KFC, Government nominates its officials in the board as nominated member. The Committee opined that it was quite surprising to note that Government nominees are incorporated in the Board of Directors of private companies. It is uncalled for and unfair to extend exemption for such unauthorised reconstitution of the Board of Directors of a private company when there is specific provisions for the imposition of fine under the Abkari Act.

(78) The Excise Commissioner replied that a notice had been issued to the licensee (Zuri hotels & Resorts Pvt.Ltd, Kottayam) to regularise the unauthorised reconstitution carried out in the Board of Directors and the objection filed by the Hotel is under consideration. The Committee accepted the reply furnished by the department.

(79) While considering the audit para, the Excise Commissioner informed that the company Quilon Hotels & Resort Pvt. Ltd., Kollam had remitted a total amount of ₹ 40,000/- as fee and fine and the Committee accepted the reply.

(80) The Excise Commissioner informed that the company (Hotel Souparnika Inn, Malappuram) had remitted fee of ₹2,50,000/- and the Committee accepted the reply

Conclusion/Recommendation_

(81) The Committee expresses its displeasure in incorporating Government nominees in the Board of Directors of private companies and for extending the exemption for such unauthorised reconstitution of the Board of Directors of such companies when there are specific provisions for the imposition of fine for irregular reconstitution under the Abkari Act.

[Audit paragraphs 5.1 to 5.8 contained in the Report of Comptroller and Auditor General of India (Revenue Sector) for the year ended 31st March 2018]

5.1 Tax administration

The Additional Chief Secretary to the Government (Excise), is the administrative head of the Excise Department at the Government level. The Department is headed by the Excise Commissioner (EC). The Department is divided into three ⁵⁸ zones, which are headed by the Joint Excise Commissioners (JEC), South, Central and North zone. The divisions at the district level are working under the Deputy Excise Commissioners (DEC). Besides, Excise Circle Inspectors (ECI) and Excise Inspectors (EI) under the control of the DEC of the respective districts are deputed to oversee collection of excise duties, licence fees, etc.

5.2 Internal audit

The Internal Audit Wing (IAW) in the State Excise Department is monitored by the Excise Commissioner. The Wing consists of one Joint Commissioner of Excise assisted by one Assistant Excise Commissioner, three Superintendents, three Excise Inspectors and six Preventive Officers. The priority for internal audit is given to auditee districts in which more vehicles are seized and huge collectable arrears are pending.

58. South zone (Alappuzha, Kollam, Kottayam, Pathanamthitta and Thiruvananthapuram), Central zone (Ernakulam, Idukki, Palakkad and Thrissur) and North zone (Kannur, Kasargod, Kozhikode, Malappuram and Wayanad).

Out of the total 311 units to be audited, the wing planned and audited 47 units during 2017-18. During the year, the Department cleared 1,119 paragraphs out of 2,838 paragraphs which was 39.43 per cent of the outstanding objections (June 2018).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of the Committee with officials concerned.

(82) With regard to the audit para "Internal Audit", the Excise Commissioner informed that a total of 2492 paras in 182 audit reports were disposed and necessary steps were being taken to clear the pending paras at the earliest.

(83) The Committee enquired about the progress of the preparation of Audit Manual and added that necessary steps should be taken to strengthen the Internal Audit Wing. The Excise Commissioner, replied that the department was preparing the draft and expeditious steps would be taken for its completion.

(84) The Committee opined that Internal Audit Wing of a department is expected to conduct proper auditing of all the financial transactions done by the department and in the case of Excise Department, which gives huge revenue to the Exchequer, a separate fullfledged audit wing is indispensable to the Department. Therefore, the Committee recommended that adequate posts should be created in the Excise Department for strengthening the Internal Audit Wing.

Conclusions / Recommendations

(85) The Committee understands that the process of the preparation of Audit Manual in the Excise Department is progressing very slowly. Therefore, the Committee directs the department to take expeditious steps for the preparation and completion of Audit Manual.

(86) The Committee opines that the Internal Audit Wing of a department is in charge of conducting proper auditing of all the financial transactions of the department and in the case of Excise Department, which gives huge revenue to the State Exchequer, a separate fullfledged audit wing is indispensable. Therefore, the Committee directs the Excise Department to

take necessary steps to strengthen the Internal Audit Wing and also recommends to create adequate posts in the Excise Department for strengthening the Internal Audit Wing.

5.3 Results of audit

There are 69 auditable units in the State Excise Department. Out of these, 37 units were selected for audit during the year 2017-18. Scrutiny of the records of these units including those of retail licencees (366 licencees) disclosed 30 cases of non/short realisation of excise duty and license fee, interest on delayed payment and loss of excise duty on account of excess wastages of spirit/liquor/beer and other irregularities involving ₹ 20.30 Crore (17 licencees-approximately five per cent of the licencees audited). These cases are illustrative only as these are based on the test check of records. Audit pointed out some of the similar omissions in the earlier years also. Not only do these irregularities persist, but they also remain undetected till the next audit is conducted. Government needed to improve the internal control system including strengthening of internal audit so that occurrences/recurrence of the lapses can be avoided. Under assessment of tax and other irregularities involving ₹20.30 Crore in 30 cases which fall under the following categories are given in the Table.

Table

(₹ in Crore)

Sl. No.	Categories	Number of cases	Amount
1	Non/Short levy of Excise duty/License fee	6	4.79
2	Others	24	15.51
Total		30	20.30

During the course of the year, the Department accepted under assessment and other deficiencies involving ₹11.40 Crore in 27 cases pointed out by Audit. An amount of ₹26.11 lakh pointed out during the year 2017-18 was realised in 10 cases.

The Department recovered an entire amount of ₹ 5 lakh in one case as pointed out by Audit. A few Audit observations involving ₹12.23 Crore are mentioned in the succeeding paragraphs.

5.4 Bottling of other State brands of IMFL in Kerala

As per conditions of licences issued under the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules (Bottling Rules), 1975 and the Kerala Distillery and Warehouse Rules (Distillery Rules), 1968, the bottling licensee shall not lease out, sub-rent or otherwise transfer the privileges granted to him without the prior permission of the EC. The Distillery Rules or Bottling Rules did not prescribe any provision for job work.

Out of the seven bottling units checked in the selected six districts⁵⁹, five units⁶⁰ had undertaken the job work of blending and bottling of IMFL brands owned by other State distilleries. During the period from 2016-17 to 2017-18, in the five units, a total of 60.50 lakh cases of 108 brands of IMFL of other States were blended and bottled.

Audit observed that the job work of bottling of IMFL for other State distilleries was done without the previous sanction of EC under Bottling Rules and amounts to unauthorised transfer of privilege. Further, Audit found that the revenue mobilised through the brand registration fee⁶¹ was ₹ 2.16 Crore⁶². If the distilleries outside the State had manufactured the IMFL in their own distilleries and imported into Kerala, a revenue of ₹ 20.42 Crore would have been realised as import fee at the rate of ₹ 33.75 per case.

A provision for additional licence fee or bottling fee for according sanction of transfer of privilege for State brands in the Bottling Rules as in the rules of State like Madhya Pradesh and Uttar Pradesh would yield additional revenue.

59 Ernakulam, Kannur, Kottayam, Palakkad, Thiruvananthapuram and Thrissur.

60 M/s. Devicolam distilleries Pvt. Ltd, Ernakulam, M/s. Indo-Scotish Distilleries Ltd, Ernakulam, M/s. Empee Distilleries Ltd, Palakkad, M/s. Imperial Spirit Ltd, Palakkad, M/s. SDF Industries Limited, Thrissur.

61 ₹ 2 lakh per brand as per Rule 3 of the Foreign Liquor (Registration of Brands) Rules, 1995.

62 108 brands x ₹ 2 lakh.

Government stated (May 2019) that audit observation was noted for future guidance. Further progress in the matter is awaited (September 2019).

5.5 Non-inclusion of import fee element in the purchase cost for levying excise duty

As per Section 18 of the Abkari Act, excise duty⁶³ at different rate is payable based on the purchase cost of different brands of Indian Made Foreign Liquor (IMFL) by the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited (KSBC), the sole wholesale licensee in the State. However, the purchase cost was not defined in the Abkari Act. According to the Kerala Value Added Tax Act, 2003 of the State, purchase price means the amount of valuable consideration paid or payable by a dealer for any purchase of taxable goods including any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof. Further as per the Excise Manual⁶⁴, the point of levy of duty in the case of all imports into Kerala is the point of entry into Kerala.

During the year 2016-17 and 2017-18, 13,95,393 cases of IMFL were imported from outside the State and excise duty was realised on the basis of cost price which did not include the element of import fee of ₹ 32.40 per case in respect of 180 millilitre bottles and ₹ 33.75 in respect of bottles of other volumes that was paid by the FL-9 licensee i.e., warehouse of KSBC before importing the IMFL.

Thus, the import fee which is required to be paid by the KSBC, before importing IMFL from outside the State which forms an element of purchase cost was not included in the cost calculating the excise duty. Absence of a precise definition of purchase cost thus led to loss of revenue of ₹4.72 Crore for the years 2016-17 and 2017-18.

The issue was referred to Government (April 2019). Reply was not received (September 2019).

63 The term excise duty means countervailing duty also.

64 Para No. 6 of Chapter VIII.

[Note received from the Government on the above audit paragraphs is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(87) Regarding the audit para non-inclusion of import fee element in the purchase cost for levying excise duty, the witness Excise Commissioner informed that import fee is imposed for transportation of goods from the manufacturer's site located outside the State and in the case of liquor it is ₹ 5 per litre. He added that excise duty is normally levied on manufacturing of goods and is not on the point of transportation or sale of the same and hence the levy of Excise Duty and VAT are different concepts and cannot be linked together.

(88) The levy of Excise Duty is on purchase value, and not on purchase cost. It is the amount for which KSBC purchases liquor from suppliers. Supplier is paying ₹ 5/L separately and this cannot be included in the excise duty as it will result in double taxation.

(89) The Committee opined that according to the AG, an amendment made in the Abkari Act would result in extra revenue to the State. It would be prudent for the department to examine the matter further.

Conclusion / Recommendation

(90) The Committee recommends the department to examine further the matter of exclusion of import fee element in the purchase cost for levying the excise duty as, according to the AG, the absence of a precise definition of purchase cost led to a loss of extra revenue to the State.

5.6 Non-disposal of Indian Made Foreign Liquor (IMFL) on the stoppage of production

Rule 33A of the Foreign Liquor Rules stipulates that the EC may take steps to dispose of the liquor kept in any licensed premises in any manner as he deems fit in the event of any exigency warranting such action. The Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975 do not prescribe a time limit for the licensee to remove the bottled liquor from the store room after it is bottled.

The Excise Commissioner directed⁶⁵ (October 2016) the DEC's to collect the data on the unsold IMFL kept in various distilleries/bottling units as the Hon'ble High Court quashed the demand of excise on the old unsold stock in a unit.

M/s. United Spirits Limited, Palakkad, a blending and bottling unit of IMFL stopped functioning from 5 November 2016. As on August 2018, 38, 158 cases of MC No.1 Celebration Matured XXX Rum were lying in the store room for 25 months (July 2016 to August 2018). Further 3,722.44 litres of Signature Whisky and 82,552.75 litres of MC No.1 Celebration Matured XXX Rum were stored in the tank after completion of compounding and blending before bottling. Even though the manufacturing unit stopped function from November 2016, no action was taken to sell or dispose of the closing stock of IMFL (August 2018).

The revenue due to the State exchequer in the form of excise duty on MC No.1 Celebration Matured XXX Rum and that of blended MC No.1 Celebration Matured XXX Rum and Signature Whisky works out to ₹3.96 Crore as given in the Table.

Table

(In ₹)

Name of brand	Mc No.1 Celebration Matured XXX Rum				Signature Whisky
Volume	1000 ml	750 ml	500 ml	180 ml	1000 ml
No. of cases	7,580+9,172 ⁶⁶	8,942	18,815	2,821	413 ⁶⁷
Excise duty ⁶⁸	803.72	867.35	818.38	819.22	1,599.75
Excise Duty leviable	1,34,63,917.44	77,55,843.70	1,53,97,819.70	23,11,019.62	6,60,696.75
Total Excise duty					3,95,89,297

A provision in the Bottling Rules fixing a time limit for removal of bottled

65 Letter No. XC3-12897/16 dated 18 October 2016.

66 Letter No. XC3-12897/16 dated 18 October 2016.

67 Excise Duty on IMFL stored in tank was calculated as if it was sold in cases (i.e. nine litre units) containing bottles of 1000 ml volume. (i.e. No. of cases = total litres/9).

68 Excise duty per case taken from the price list of KSBC warehouses w.e.f. 1 October 2016.

liquor from the unit as in the rules⁶⁹ of the States of Odisha and Rajasthan would protect revenue. In the absence of such a provision in the Act/Rules, the Department was not able to take timely action in non-realisation of revenue and ensure disposal of stock of IMFL. Further, any mishappening due to use of liquor in closed unit cannot be ruled out.

Government stated (May 2019) that the audit observation was noted for future guidance and action is being taken to recover the amount in respect of the stock and dispose the same. Further progress in the matter is awaited (September 2019).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(91) While considering the audit para, the witness Excise Commissioner, Excise Department informed that M/s United Spirits, Kanjikkode had ceased its functions in 2016 and due to this they had destroyed the unsold IMFL. He further added that the Hon'ble High Court of Kerala, in its judgement has ruled that State is not entitled to levy excise duty on liquor, that had been destroyed.

(92) The Committee accepted the explanation submitted by the department and suggested that a time limit should be fixed to dispose of the bottled liquor kept in the unit. The department agreed to do so.

Conclusion / Recommendation

(93) The Committee recommends the department to amend the provisions of the Foreign Liquor Rules suitable to fix time limit for the annual disposal of old unsold stock/bottled liquor kept in the distilleries/bottling units.

69 Under Rule 39(1) of the Board's Excise Rule (BER), 1965 of the Odisha State a licensee should remove the bottled liquor within three months. Similar provision is envisaged in Rule 7 of the Rajasthan Distilleries Rules, 1976.

5.7 Non-identification of individuals/institutions who are required to take licence for spirituous preparations

Any medicinal or toilet preparation containing alcohol, whether self-generated or otherwise or any intoxicating drug is a spirituous preparation vide definition 3(k) of the Kerala Spirituous Preparations (Control) Rules, 1969. According to Section 15 of Abkari Act, no liquor or intoxicating drug shall be sold without licence issued by the EC. Rule 11 of the Kerala Spirituous Preparation (Control) Rules, 1969 prescribes licence in Form SP VI (for whole sale) and SP VII (for retail sale) for allopathic medicinal preparations, homoeopathic preparations and preparations coming under the indigenous system of medicines and licence fee is recoverable as detailed in the Table.

Table.

Licence Form	Licence fee
Wholesale licence in Form SP VI	₹ 5,000 for a year or part thereof
Retail licence in Form SP VII for Homoeopathic & Ayurvedic preparations	₹ 1,000 for a year or part thereof
Retail licence in Form SP VII for Allopathic preparations	₹ 300 for a year or part thereof

Audit examined the licence issue register of the six selected offices ⁷⁰ of DEC's for the period 2017-18 and noticed that 157 persons have taken the licence as detailed in the Table below. However, from the data obtained from the Office of the Drugs Controller in the six districts, Audit noticed that 11,855 persons had not taken licences from the Excise Department for the trading of spirituous preparations, but were engaged in the trade. This resulted in loss of revenue in the form of licence fee of ₹ 2.35 Crore⁷¹ per year.

⁷⁰ Ernakulam, Kannur, Kottayam, Palakkad, Thiruvananthapuram and Thrissur.

⁷¹ $(7,432 \times ₹ 300) + (4,041 \times ₹ 5,000) + (167 \times ₹ 5,000) + (215 \times ₹ 1,000) = ₹ 2,34,84,600.$

Table

District	Allopathy – Retail		Allopathy – Wholesale		Homoeopathic – Wholesale		Homoeopathi– Retail	
	Total no. of shops	No. of Shops for which licence issued	Total no. of shops	No of shops for which licence issued	Total no. of shops	No. of shops for which licence issued	Total no. of shops	No. of shops for which licence issued
Ernakulam	1,620	3	1,282	2	56	9	56	5
Kannur	791	0	472	0	34	0	64	0
Kottayam	814	0	375	0	35	16	46	12
Palakkad	1,065	3	374	3	17	1	17	2
Thrissur	1,483	0	826	1	35	2	35	3
Thiruvananthapuram	1,731	66	745	27	18	0	21	2
Total	7,504	72	4,074	33	195	28	239	24

[Total No. of shops- 12,012; Total Licences issued – 157].

Source: Details from Controller of Drugs, Kerala as on 1 September 2018 and licence issue register at DEC's.

Audit observed that the licences are issued only to those who approached for licences and no system existed in the Department for identifying the persons engaged in the trade of spirituous preparation by conducting survey or by collecting data available with other licensing agencies such as Office of the Drugs Controller functioning under Health Department/ Directorate of Homoeopathy, etc.

There is no provision in the Rules to invoke any action against the persons who have not taken licences. The issue still persists despite being pointed out in previous Audit Report for the year ended March 2016.

The issue was referred to Government (April 2019). Reply was not received (September 2019).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(94) Since the Committee considered the same subject while examining para 5.4.3.4 of the Report of C&AG ended on 31st March 2016, it made no specific remark.

Conclusion / Recommendation

(95) No comments.

5.8 Unauthorised reconstitution of Board of Directors of companies/firms holding Foreign Liquor licences

Under Rule 19(iii) of Foreign Liquor Rules, reconstitution of partnership/directors of a company may be allowed on payment of ₹ one lakh. As per Section 67(2) read with 67(3) of Abkari Act, as amended in 2014, the Excise Commissioner (EC) may impose a fine of ₹ three lakh each on any person or persons holding a licence or permit for violation by reconstitution, alteration or modification without the permission of the EC of any deed on the strength of which any licence is granted and the EC may regularise such irregular reconstitution on payment of fine and application from the licensee.

Audit cross verified the data on reconstitution of Board of Directors of companies in Excise Division Offices in selected districts⁷² between March 2016 and March 2018 with the data in the Website of Ministry of Corporate Affairs, Government of India. Audit observed that 20 companies, who had neither applied

72 Ernakulam, Kannur, Kottayam, Palakkad, Thiruvananthapuram and Thrissur.

for permission nor regularisation of reconstitution, had modified/reconstituted Board of Directors on 30 occasions by addition/deletion of directors/partners as given in **Appendix III**. Absence of mechanism in the Department to identify the unauthorised reconstitution resulted in non-realisation of revenue.

Non-imposition of fine for unauthorised reconstitution and non-collection of fee for regularisation resulted in non-realisation of revenue of ₹ 1.20 Crore⁷³ from 20 companies during the period 2016-17 and 2017-18.

The issue was referred to Government (April 2019). Reply was not received (September 2019).

[Note received from the Government on the above audit paragraph is included as Appendix II]

Excerpts from the discussion of Committee with officials concerned.

(96) While considering the audit para the Excise Commissioner informed that under Trivandrum division at present the Hotel Estury Island is not in possession of any licence under Foreign Liquor rules and they had paid the duty earlier. He also informed that Kovalam Resorts Pvt. Ltd. has paid ₹9 lakh and that South Park, MG Road paid the amount and submitted an application for the regularization of unauthorised reconstitution. He added that in the case of 'Turtle on the Beach,' a notice had already been issued to the licencees and it was under processing and also informed that notices were already issued to Hotel Chola international and Niramaya Retreat Pvt. Ltd.

(97) He supplimented that under the Kottayam Division Hotel Breeze Land, Changanassery had already regularized the reconstitution by paying the amount. Under the Ernakulam Division, Hotel Trident, Willington Island had requested more time for remitting the amount and in the case of Vivantha by Taj, Willington Island, informed that they were ready to remit the amount. He added that for

73 30 occasions at the rate of rupees four lakh each (fee of rupees one lakh each and fine of rupees three lakh each).

Kochin Heritage Hotel (M Star Hotel Pvt. Ltd.) a notice had been issued to the licensee to re-submit the application after rectifying the error and processing of the same is under progress. He again supplemented that for Olive Down Town, Le Maritime, Kochi and Taj Residency (Taj Kerala Hotels Resorts Ltd.- Gateway) notices had been issued. In the case of Fragrant Nature, O. G. Blue (OG Estate Pvt. Ltd.) the reply of the firm is under process.

(98) The Committee directed the department to furnish a report showing the present status of all these cases and to take speedy decisions in settling them. The Excise Commissioner, Excise Department agreed to do so.

Conclusion / Recommendation

(99) The Committee directs the Excise Department to furnish a detailed report to the Committee compiling the current status of all the cases pertaining to unauthorised reconstitution of Board of Directors of companies/ firms holding foreign liquor licences and to take speedy decisions in settling the disputes.

Thiruvananthapuram,
1st February, 2024.

SUNNY JOSEPH,
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	14	Excise	The Committee agrees to the finding of the C&AG that the wastage of extra neutral alcohol was allowed in excess due to incorrect computation of the wastage on the volume in bulk litres without converting it into proof liters. The Committee observes that the Kerala Distillery & Warehouse Rules were amended only after the decision of the Supreme Court, which was against the Government and this has resulted in the non-levy of duty leading to loss of revenue to Government. The Committee opines that the department computed the wastage of spirit in terms of volume in bulk litres, without considering the volume in proof litres, based on the strength of the spirit. The Committee recommends that the department should avoid incorrect computations in order to protect Government revenue.
2.	21	Excise	The Committee observes that the Excise Commissioner has given concessions of 0.15 per cent on a liquor consignment in which the shortage is limited to a maximum of one case of liquor. The Committee opines that the purposeful omission in such cases cannot be ruled out and directs the department to be watchful in this regard and that suitable amendment, if necessary, be made to the warehouse rules to ward off blatant misuse of such concession.

(1)	(2)	(3)	(4)
3.	22	Excise	The Committee directs the department to adopt a more realistic approach to address the issue of loss/theft of liquor consignment from vehicles in transit or parked in the nearby locations of the warehouses of KSBC.
4.	27	Excise	The Committee directs the Excise Department to furnish a detailed report regarding the number of pending cases in various courts related to the Excise Department. The Committee also directs the department to take expeditious actions for the disposal of all pending cases in various courts and to ensure that the pending cases are closely monitored by the legal wing of the department for their speedy disposal.
5	28	Excise	The Committee directs the department to clarify whether Devicolam Distilleries Ltd. had remitted the amount involved in the case (₹ 8,91,005) and to report the present status of the case to the Committee at the earliest.
6	31	Excise	The Committee directs the department to furnish details about the current status of the appeal petition filed against order in the case of M/s. Dona Castle, Kollam.
7	41	Excise	The Committee directs the Excise Department to conduct inspections in Bar/Beer licensed hotels and wine parlours in collaboration with Local Self Government Institutions to ensure proper maintenance of hygiene standards throughout the licence period.

(1)	(2)	(3)	(4)
8	42	Excise	The Committee directs the department, to carry out Joint Inspections with the Food Safety officers at the Beer/Wine Parlour on a regular basis and ensure spot inspections by health inspectors from time to time.
9	49	„	The Committee is of the opinion that it would be ideal for the Excise Department to find a mechanism to control the spirituous preparation of Allopathic & Homoeopathic system of medicines.
10	52	„	The Committee directs the department to scrutinise the legal aspects of the objection pertaining to the realisation of stamp duty on abkari licences and to submit a report to the Committee at the earliest.
11	58	Excise	The Committee directs the department to furnish the details regarding the remittance of fine from 49 companies.
12	69	Excise	The Committee recommends that the Excise Department should ensure that FSSAI standard liquor is made available to the consumers of the State and to strictly monitor the breweries & distillery units to maintain the standard fixed by the concerned authorities.
13	81	„	The Committee expresses its displeasure in incorporating Government nominees in the Board of Directors of private companies and for extending the exemption for such unauthorised reconstitution of the Board of Directors of such companies when there are specific provisions for the imposition of fine for irregular reconstitution under the Abkari Act.

(1)	(2)	(3)	(4)
14	85	Excise	The Committee understands that the process of the preparation of Audit Manual in the Excise Department is progressing very slowly. Therefore, the Committee directs the department to take expeditious steps for the preparation and completion of Audit Manual.
15	86	Excise	The Committee opines that the Internal Audit Wing of a department is in charge of conducting proper auditing of all the financial transactions of the department and in the case of Excise Department, which gives huge revenue to the State Exchequer, a separate fullfledged audit wing is indispensable. Therefore, the Committee directs the Excise Department to take necessary steps to strengthen the Internal Audit Wing and also recommends to create adequate posts in the Excise Department for strengthening the Internal Audit Wing.
16	90	Excise	The Committee recommends the department to examine further the matter of exclusion of import fee element in the purchase cost for levying the excise duty as, according to the AG, the absence of a precise definition of purchase cost led to a loss of extra revenue to the State.
17	93	Excise	The Committee recommends the department to amend the provisions of the Foreign Liquor Rules suitable to fix time limit for the annual disposal of old unsold stock/bottled liquor kept in the distilleries/bottling units.
18	99	Excise	The Committee directs the Excise Department to furnish a detailed report to the Committee compiling the current status of all the cases pertaining to unauthorised reconstitution of Board of Directors of companies/firms holding foreign liquor licences and to take speedy decisions in settling the disputes.

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2024

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APPENDIX –II
Notes furnished by Government

6	6.1	Tax Administration	No remarks												
6	6.2	<p>Trend of receipt.</p> <p>Audit noticed that the budget estimates and actual receipts for the year 2012-13 showed a variation of (-) 9.28 percent. The Department stated (September 2013) that non enhancement of excise duty and other fees resulted in reduction of revenue receipts for the year 2012-13.</p>	<p>The reason for the variation in the actual receipts in Excise Revenue against the Budget Estimate is detailed below.</p> <p>The Budget Estimate for the financial year 2012-13 was 2550.65 crores. The actual receipt for the financial year 2012-13 was 2313.95 crores as per the report of the C&AG of India. The Budget Estimate and the Actual receipts showed a variation of -9.28%.</p> <p>The major component of Excise Revenue is the Excise Duty imposed on wines and spirits manufactured in India. The Excise duty collected is directly related to the sale volume of Indian Made Foreign Liquor. In recent years, the sale of liquor is showing a negative growth rate when compared to the sale volume in previous years. The sale volume of IMFL which was growing at an annual rate of 16% in 2010-11 dropped to 11% in 2011-12 and further dropped to 1% in 2012-13. the comparative analysis is shown below:</p> <table border="1"> <thead> <tr> <th>Financial Year</th> <th>Sale(cases in Lakhs)</th> <th>% of growth compared to previous year</th> </tr> </thead> <tbody> <tr> <td>2010-11</td> <td>217.41</td> <td>16%</td> </tr> <tr> <td>2011-12</td> <td>241.78</td> <td>11%</td> </tr> <tr> <td>2012-13</td> <td>244.33</td> <td>1%</td> </tr> </tbody> </table> <p>As per the Budget Estimate for 2012-13 the collection of Excise Revenue to be collected under the Head of the Account 0039-00-105-</p>	Financial Year	Sale(cases in Lakhs)	% of growth compared to previous year	2010-11	217.41	16%	2011-12	241.78	11%	2012-13	244.33	1%
Financial Year	Sale(cases in Lakhs)	% of growth compared to previous year													
2010-11	217.41	16%													
2011-12	241.78	11%													
2012-13	244.33	1%													

			<p>97(Duty on wines and spirit manufactured in India) was 1385 Crores. The actual receipt on the same head for the financial year 2012-13 was 1294.37 crores as per the report of C&AG of India. There was a shortfall of 90.63 crores alone in collection of duty on wines and spirits manufactured in India.</p> <p>The reason for the decline in the growth rate regarding sale volume of liquor is considered to be as a result of the campaign against alcoholism by the Government.</p>
6	6.3	<p><u>Cost of collection</u></p> <p>Audit noticed an increase in revenue collection and in the expenditure on collection of revenue consistently for the years from 2008-09 to 2012-13. The percentage of expenditure to gross collection was also higher than the All India average percentage during the last five years.</p>	<p>Revenue collection is one of the responsibilities of Excise Department. The main duty of Excise Department is enforcement work under Abkari Act, NDPS Act and M&TP Act and various rules framed under the said Act. Arrack ban was introduced in the state w.e.f. 01/04/1996 and this has increased the responsibilities of the Excise Department in the field of enforcement. Various licensed premises including Toddy Shops are functioning in this state and for preventing malpractices in these licensed premises supervise frequent inspections needed to be conducted. Now-a-days Excise Department is also conducting awareness programmes against alcoholism and drug abuse. Therefore all India average cannot be compared in the case of Excise Department.</p> <p>During 1996 Government have banned Arrack consumption in</p>

		<p>the state. In subsequent years, government have directed that, the alcohol consumption in the state will be curtailed to a stage of alcohol free state. It may be noted that, the object of Excise Department is to prevent the alcohol, unauthorized alcohol consumption in the state by preventing it coming from nearby states and locally made ones. With that view, governments have sanctioned 67 posts from 18.05.2011 to 2014 (abstract enclosed). Further periodical hike in DA & pay revision to the employees caused growth of expenditure over gross collection.</p> <p>As growth of gross collection depends to a great extent the growth in consumption of liquor, Department has some limitation in boosting up collection as the policy of Government is gradual reduction in sale and consumption of liquor.</p>
6.4	<p><u>Impact of audit</u></p> <p>During the last four years, Audit pointed out non-levy of import fee, non/short remittance of gallonage fee, delay in crediting rentals of toddy shops etc., with revenue implication of ₹75.95 crore in 157 paragraphs. Of these, the Department/ Government accepted audit observations involving ₹32.11 crore and recovered ₹</p>	<p>As per GO (P) No.100/2010/TD dated of 04.04.2010(SRO No.359/2010) Rule 15A of Foreign Liquor Rules was amended, wherein it is stated that Gallonage fee is payable also for the loss in shortage by breakage or otherwise, exceeding 0.25% in the case of beer and 0.05% in the case other Foreign Liquor stored in the Warehouse and or not satisfactorily accounted for the licensee while taking stock. This amendment had come into effect on 07.04.2010. Government vide letter No.11152/G3/2011/TD dated 12.12.2011 have informed that KSBC is not liable to pay Gallonage fee prior to</p>

	<p>83.52 lakh.</p> <p>The recovery was only 2.60 percent when compared to the cases accepted by the department.</p>	<p>07.04.2010. On the basis of this Government decision, the Para related to this matter pointed out in the Local Audit Report of KSBC Warehouse have been settled by the Accountant General.</p> <p>The Hon' ble Supreme Court in various judgments has ordered that the state is not competent to impose duty/fee on rectified spirits which is not consumable even if it is meant for manufacture of potable liquor.</p> <p>Government have decided not to impose import fee on rectified spirit or extra neutral alcohol intended to be used for the manufacture of liquor. The Abkari Act has been amended to implement above decision vide Abkari (amendments) Act, 2010 w.e.f. 30/03/1996. Hence at present there is no provision to levy import fee on rectified spirits which is not consumable even if it is meant for manufacture of potable liquor.</p> <p>In the case of Toddy shops action has already been taken for crediting the rental of toddy shops to the proper head of account soon on receipt of confirmation of sale of toddy shops by the Excise Commissioner.</p>
6.5	<p>Working of Internal Audit Wing.</p> <p>Audit recommends that the IAW may be strengthened so that they are able to audit more sub offices. Besides, a</p>	<p>Internal Audit Wing is conducting the audit of sub offices in accordance with the circular directions issued by the Department and according to the guideline issued by the Finance (IAC) Department, Government of Kerala. As recommended by the Accountant General,</p>

mechanism needs to be installed for timely settlement of the audit observations raised by the IAW. It is also recommended to prepare an Internal Audit Manual.

a team has been constituted for the preparation of separate Internal Audit Manual.

The present staff pattern is not at all sufficient to inspect all the 313 sub offices within the prescribed time limit. TA ceiling limit to the officials of Internal Audit Wing is another problem in the conduct of inspections. The above facts have already been brought to the notice of the Government. The Commissioner of Excise requested Government to create 19 additional posts with a view to strengthen the Internal Audit Wing and also requested to exempt the TA ceiling limit for the officials of Internal Audit Wing.

For the timely settlement of the audit observations, the Commissioner of Excise conduct meetings with the officers concerned and reviewing the progress in rectification. During the year 2013 and 2014 Internal Audit Wing has conducted File adalath and settled 83 outstanding paras and 51 Inspection Reports of the Internal Audit Wing. Now only 22 paras in 12 Inspection Reports are pending out of the 105 paras in 63 IRs mentioned in the C&AG Report. As a result of the earnest effort taken by the department and by conducting Audit Committee Meetings, 82 LARs and 143 paras were settled during the last one year. Now only 314 paras in 178 LARs are outstanding in the Department. Necessary follow up action is being taken to clear the outstanding paras at the earliest.

6.6	<p>Results of Audit</p> <p>In 2012-13, Audit test checked the records of 68 units relating to the State Excise Department and noticed non/short levy of tax and other irregularities involving ₹ 8.54 crore in 17 cases. During the course of the year, the Department accepted under assessment and other deficiencies of ₹ 0.05 crore in two cases which were pointed out in audit during the year 2012-13. The Department realised during the year 2012-13 an amount of ₹ 0.01 crore in five cases which were pointed out during previous years. A draft para was issued (January 2013) involving ₹ 3.89 lakh, in which the department had recovered the entire amount.</p>	<p>As per GO (P) No.100/2010/TD dated of 04/04/2010(SRO No. 359/2010) Rule 15A of Foreign Liquor Rules was amended, wherein it is stated that Gallonage fee is payable also for the loss in shortage by breakage or otherwise, exceeding 0.25% in the case of beer and 0.05% in the case of other Foreign Liquor stored in the Warehouse and or not satisfactorily accounted for the licensee while taking stock. This amendment had come into effect on 07.04.2010. Government vide letter No.11152/G3/2011/TD dated 12.12.2011 have informed that KSBC is not liable to pay Gallonage fee prior to 07.04.2010. On the basis of this government decision, the Para related to this matter pointed out in the Local Audit Report of KSBC Warehouses have been settled by the Accountant General.</p> <p>The Hon'ble Supreme Court in various judgments has ordered that the state is not competent to impose duty/fee on rectified spirits which is not consumable even if it is meant for manufacture of potable liquor.</p> <p>Government have decided not to impose import fee on rectified spirit or extra neutral alcohol intended to be used for the manufacture of liquor. The Abkari Act has been amended to implement above decision vide Abkari (amendments) Act, 2010 w.e.f 30.03.1996. Hence at present there is no provision to import fee on rectified spirits which is not consumable even if it is meant for manufacture of potable</p>
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liquor.

In the case of Toddy shops action has already been taken for crediting the rental of toddy shops to the proper head of account soon on the receipt of confirmation of sale of toddy shops by the Excise Commissioner.

As per GO (P) No.3000/98/Fin. Dated 25.11.98 Government reviewed the pay and allowance of the State Government Employees. Following this the cost of establishment to be paid by the distilleries and Pharmaceuticals have been issued vide order No.XC.3.6600/99 dated 21.06.99, directing to pay average cost of pay, pension and leave salary contribution and uniform allowance. But as per the observation of the Accountant General, a subsequent order i.e. XE-1.1614/05 dated 23.05.2005 issued to realize 25% of the maximum of the scale of pay as leave salary and pension contribution as per rule 146 of part 1 of KSR as this is a foreign service. Against this the Distilleries and Pharmaceuticals filed many writ petitions. The Hon'ble High Court vide judgment dated 11.06.12 in WP(c) No.23356/05 of Southern Union Pharmaceuticals ordered that the cost of establishment is only the actual cost and not the notional cost. Court further quashed the order of the realization of the 25% as pension contribution and leave salary and directed to reimburse the excess amount to the distilleries and Pharmaceuticals. Advocate

General has opined that there is no scope for filing appeal

1. Non-realisation of Transport Permit fee.

- 1. LAR.No.20.1100/12-13/698-699-Part-II A, Para I.**
- 2. LAR.No.20.1101/12-13/784-785-Part-II A, Para I.**
- 3. LAR.No.20.1103/12-13/786-787-Part-II A, Para I.**

In the above LARs the Accountant General has pointed out that the fee for transport permits issued under section 11 of the Abkari Act for the transportation of IMFL from FL-9 Ware houses to other licensees was not levied during 2011-12 and resulted in short collection of permit fee.

As per SRO no.1023/2009 in GO (P) no.212/2009/TD dated 30.11.2009, a fee of Rs.500/- shall be levied on each permit only from all licensees coming under the Kerala Distillery and Warehouses Rule 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.

FL-9 license is issued to the Managing Director, Kerala state

Beverages Corporation under 'Foreign Liquor rules' which came into effect in 1953. This rule was not incorporated anywhere in the above SRO and in the previous connected SROs. It may be noted that the licensees under Foreign liquor Rules which came in to effect in 1953 do not come under the category of all licensees mentioned in the SROs and by realizing this fact, amendment has been made to the notification by incorporating 'Foreign liquor Rules', which has been published as SRO No.85/2012 dated 09.02.2012 to levy permit fee up on the permits issued from all licensees under 'Foreign liquor Rules'. It is pertinent to note that prior to 09.02.2012, there was no clear provision to levy permit fee from licensees under Foreign liquor Rules for the transport of IMFL from FL-9 warehouses to other licensed premises. At present, permit fee is being collected before issue of permit with effect from the date of notification i.e. 09.02.2012. Hence at present no arrear is pending in respect of permit fee. In this circumstance the above Para in the local audit may be dropped.

2. Non-realization of Gallonage fee.

1. LAR.No.20-1100/12-13/698-699 Part-IIA, Para-II: Short levy of Gallonage fee in sale of Beer and IMFL:-

The actual sale of IMFL & Beer for the year 2011-12 was 10592932.56 BL and 3827788.42 BL respectively. But the Accountant

			<p>General has point out that 10611191.75 BL and 3830774.52 BL of Beer were sold by the KSBC for the year 2011-12. The Manager KSBC, Nedumangad clarified that different quantity is because of the reason that 18259.18 BL of IMFL and 2986.1 BL of Beer was transferred to Malabar Distillery, Menonpara as dead stock as per the GTN and destroyed the same. They also submitted the statement of dead stock transferred as per GTN during 2011-12 and sale details including transfer of dead lock for the year 2011-12.</p> <p><u>2.LAR.No.20-1100/12-13/698-699Part-IIA. Para III: Non levy of Gallonage fee on shortage of Beer and IMFL-Circle Inspector of Excise, Alappuzha: -</u></p> <p>The Gallonage fee for the shortage of Beer and IMFL has been calculated and a notice has been issued to the Manager, KSBC, Alappuzha to remit the amount. The Manager, KSBC, Alappuzha reported that out of the shortage of Beer and IMFL mentioned in the LAR, 900B/L of IMFL (100C/s) 112.5B/L of IMFL (12C/s and 6 bottles) and 3900 B/L of Beer (500C/s) were transferred to KSBC Warehouses at Perinthalmanna, Tripunithura and Kollam vide Transport permit No.103308 dated 18.05.2010, 103312 dated 14.02.2011 and 103315 dated 29.08.2011.</p>
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Besides, 14080.68 B/L and 1333.8B/L of Beer destroyed during the financial year 2011-12 vide order No.XC1-14376/11 dated 28.06.2011 of the Excise Commissioner, Thiruvananthapuram and also that part of the dead stock had been included in the opening balance.

3. Short collection of cost of establishment.

1.LAR.No.20.1101/12-13-Part-II B. Para No. I of the office of Joint Excise Commissioner, Central zone, Ernakulam:-

The Accountant General has settled the above Para vide letter No.SRA (HQ)/Ex/20-1101//2012-2013/1102 dated 28.11.2013.

2.LAR.No.20.1103/12-13-Part-II B. Para No. I of the office of Joint Excise Commissioner, North Zone, Kozhikode:-

An amount of Rs.15101/- (Rupees Fifteen Thousand One hundred One only) has been realized from KSBC authorities vide Chelan No.241 dated 15.10.2012 at Sub- Treasury,Kannur.Since the matter has been settled this audit may be dropped (Copy of the Chelan enclosed).

		<p><u>3.LAR.No.20.1107/12-13-Part-II B. Para No. I of the office of Excise Inspector, Seven seas Distillery, Thrissur:-</u></p> <p>The Accountant General has settled the above Para vide letter No.SRA (HQ)/Ex/20-1107/2012-2013 dated 06.06.2013.</p> <p><u>4.LAR.No.20.1114/12-13-Part-II A. Para No. I of the office of Excise Inspector, Amruth Distillery, Palakkad: -</u></p> <p>The Accountant General has settled the above LAR vide letter No.SRA (HQ) / Excise /ACM / Palakkad /1043 dated 10.03.2015</p> <p><u>5.LAR.No.20.1109/12-13-Part-II A. Para No. I of the office of Excise Inspector, KS Distillery, Kannur:-</u></p> <p>The Amount was under stay in WP(C) No.26174/2005 filed before the Hon'ble High court of Kerala. The Hon'ble Court disposed the case in favour of licensee Government Pleaders opined that there is no scope for appeal against their judgment (copies enclosed)</p>
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6.LAR.No.20.1098/ 12-13- Part- II B. Para No. I of the office of
Excise Inspector, South Travancore Distillery, Neyyattinkara: -

The Accountant General has settled the above Para vide
letter No.SRA (HQ)/Ex/20-1098/2012-2013/506 dated 31.07.2013.

4. Non-levy of Import fee on Grape spirit/Malt spirit

LAR.No.20.1107/12-13-Part-II A. Para No. I of the office of Excise
Inspector, Seven seas Distillery, Thrissur:-

M/s Seven Seas Distillery, Thrissur filed WP(C) Nos.1634/2012,
5438/2012 and: 8743/2012 before the Hon'ble High court of Kerala
against the demand notice issued for the remittance of import fee on
special spirit and they have obtained these cases in their favour. Writ
appeal Nos.1863/2012,1940/2012 and 1938/2012 filed against the
above judgement are still pending before the court. Government
Pleaders have been requested to take necessary steps for speedy
disposal of the WAs.

5. Others

1. LAR.No.20.1100/12-13-Part-II A. Para IV shortage in opening
stock of Beer and IMFL:-

Notice has been issued to Kerala State Beverages Corporation authorities for remitting the shortage of Gallonage fee of Rs.78735/-for the period 2010-11 and Rs.104950/- for the period 2011-12 (Total Rs.183685). But Kerala State Beverages Corporation authorities have not remitted the amount yet. Further progress will be submitted soon.

2.IAR.No.20.1102/12-13-Part-II A. Para I-Failure to take follow up action for recovery of Abkar arrears amounting to Rs.28.08 Lakh:-

Sincere efforts have been taken by the Excise Department with the Revenue authorities to collect the arrear amount from the defaulters. Since Solvency Certificate was issued by the Revenue authorities, timely action was taken by the Excise Department as per Rules to collect the arrear amount. Accordingly Rs.410478/-(Rupees Four Lakh Ten Thousand Four hundred and Seventy Eight only) was collected by the Revenue Department as sales proceeds in respect of the solvency properties. Subsequently, the revenue authorities have reported that since the defaulter does not possess any movable or immovable properties, there is no scope to collect any amount even if section 65 under the Revenue Recovery Act is invoked.

		<p><u>3. LAR. No. 20.1104 / 12-13 Part- II. Para II- Non realization of Additional Security deposit of Rs.425 Lakh:-</u></p> <p>The licensees mentioned as SL.No.1,5,7,8,9,10,11,12,13 and 14 had filed Writ Petition against furnishing the security deposit before the Hon'ble High Court and the court vide judgement dated 22.11.2014 allowed the Writ petitions and the impugned proceedings and demands fixing enhancement in the matter of security/Adl. Security and the consequential demands made were quashed (Copy of the judgement enclosed)</p> <p><u>4. LAR. No. 20.1108/ 12-13- Part-II. Para I-Non recovery of fine of Rs.5.07.600/- on Extra Neutral Alcohol lost in transit: -</u></p> <p>Demand Notice was issued to the licensee for remitting the fine of Rs.5, 07,600/ (Rupees Five Lakh Seven Thousand Six hundred only) imposed for the loss of 15122 bulk liters of Extra Neutral Alcohol, lost in transit. Against the demand notice, the firm obtained interim stay from the Hon'ble High Court of Kerala vide order dated 11.10.2013 in IA-13220/13 in WP(C)No.4631/2012(D). The counter affidavit in the above case has already been filed. The interim stay stands extended until further orders vide order dated 16.09.2014 of the Hon'ble High Court of Kerala. An urgent memo has already been filed on 29.09.2014. The case is still pending before the court.</p>
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			<p><u>5. I.A.R.No.20.1108/12-13- Part-II. Para II-Non recovery of fine and interest of Rs.1. 11.475/- on excess wastage of spirit in stock:-</u></p> <p>The Accountant General vide letter dated 28.03.2013 has informed that the above Para is not pursued further.</p>
6.7	<p><u>Non-realization of transport permit fee</u></p> <p>Liquor of intoxicating drugs exceeding quantity prescribed by Government shall be transported only under permits issued by the Commissioner of Excise. Government by Notification² issued in March 1995 fixed a fee of ₹ 500 with effect from April 1995 on each permit to be issued for the import, export and transportation of liquor or intoxicating drugs under Sections 6,7 and 11 of the Abkari Act 1 of 1077.</p> <p>The non-collection of the permit fee was pointed out in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2011. But scrutiny (between July 2012 and September 2012) of permit</p>	<p>Governments vide SRO.No.1023/2009 have ordered that a fee of Rs.1000/- shall be levied on each permit to be issued under section 6 & 7 of the Abkari Act and fee of Rs.500/- shall be levied on each permit to be issued under section 11 of the Act and Rs.1000/- on each NOC to be issued under section 6 & 7 of the Act to all licensees under the Kerala Distillery and Warehouse Rules, 1968, The Kerala FL(Compounding, Blending & Bottling) Rules, 1975, The Brewery Rules,1970 and The Kerala Rectified Spirit Rules, 1972 for the purpose of importing, exporting or transporting any kind of liquor.</p> <p>But the Audit party noted that the permit fee for the permits issued under section 11 of the Act from FL9 Warehouses for transport of IMFL to other licensees was not levied. The transport permit fee was not realized in such cases as the licensees under the Foreign Liquor Rules are not included in the SRO No.1023/2009</p> <p>Government vide SRO No.85/2012 dated 09.02.2012 amended the SRO No. 1023/2009 and inserted the Foreign Liquor Rules in the SRO with effect from 09.02.2012. No retrospective effect has been given in the SRO realizing the permit fee issued prior to 09.02.2012.</p>	

issue registers of 21 FL93 Warehouses under the offices of the three Joint Excise Commissioners revealed that 71,074 transport permits within the state were issued (between 1 April 2011 and 8 February 2012). Permit fee of ₹3.55 crore was not realised while issuing the above transport permits.

After Audit pointed out the matter (between July 2012 and September 2012) the Department stated (between July 2012 and September 2012) that in pursuance of Notification⁴ (February 2012 permit fee leviable under section 11 is being realised from February 2012 at the rate of ₹500.

But nothing was mentioned about the permit fee relating to the period from April 2011 to February 2012. Further report has not been received (February 2014).

When the matter was reported to

On the basis of SRO No. 85/2012 the permit fee issued as per Foreign Liquor Rules is being collected with effect from 09.02.2012 from the FL9 Warehouses.

It may be noted that notification (SRO.No.1023/2009) was issued in supersession of the notification issued vide GO (P) No.48/2004/TD dated 31.03.2004 and published as SRO No.317/2004. In the SRO No. 317/2004 also Foreign Liquor Rule was not seen included. Hence the permit fee was not realized during the period from 01.04.2004 to 08.02.2012.

Government have decided to levy permit fee on the permits issued under Foreign Liquor Rules only from 09.02.2012. Before that there was no stipulation to collect permit fees on permits issued under Foreign Liquor Rules. Hence the permit fee was not collected

Government in March 2013, the Government endorsed the reply of the Department which stated (November 2013) that prior to 9 February 2012 there was no clear provision to levy permit fee from licensees under Foreign Liquor Rules for the transport of IMFL from FL9 Warehouses to other licenced premises. On the basis of SRO 85/2012 dated 9 February 2012, permit fee is being collected.

The reply furnished by Department was not correct. When Government enhanced the fees for each permit issued under section 6 and section 7 to ₹1,000 vide notification in March 2004, Government had not withdrawn the permit fee of ₹500 under section 11. However, permit fee under Section 11 was not realised during the period from 01 April 2004 to 8 February 2012.


TONI JOSE IAS

Additional Chief Secretary to Government
Labour, Skills, Excise & Water Resources Department

STATEMENT OF ACTION TAKEN FOR TAXES (G) DEPARTMENT
ON THE RECOMMENDATIONS CONTAINED IN THE C&AG REPORT (REVENUE SECTOR)
FOR THE YEAR ENDED 31.3.2014

Sl No.	Para No.	Table No.	Recommendation	Present position
1	6.1		<p><u>Tax Administration</u></p> <p>The Secretary to the Government (Taxes) is the administrative head of the Excise Department at Government level. The Department is headed by the Excise Commissioner. The Department has been divided into three zones which are headed by the Joint Excise Commissioners, South, Central and North zone. The divisions at the district level are under the Deputy Commissioners. Besides, Excise Inspectors under the control of the Deputy Commissioner of the respective districts are deputed to oversee collection of excise duties, license fee etc.</p>	No remarks
2	6.2		<p><u>Internal Audit</u></p> <p>The Internal Audit Wing (IAW) in the</p>	Internal Audit Wing in Excise Department is having only one unit functioning in the Excise Head Quarters and gives priority for the

		<p>State Excise Department is headed by the Joint Commissioner of Excise and is assisted by 1 AEC, three superintendents, three excise inspectors and six preventive officers.</p> <p>This wing conducts inspections in the 313 sub offices based on the questionnaire for inspection contained in the Excise Manual in accordance with the guidelines issued by the Finance (IAC) Department as well as Departmental instructions issued from time to time.</p> <p>Out of the total units, 46 were audited. There were 70 IRs with 119 observations involving ₹ 109.82 crore outstanding at the end of the year. The Department has not prepared a separate internal audit manual.</p>	<p>following</p> <ol style="list-style-type: none"> 1.) Speedy disposal of vehicles by way of confiscation and auctioning of vehicles 2.) To reduce the pendency of crime cases by charge sheeting cases without delay 3.) To monitor the functioning of Distilleries, Pharmaceuticals, etc. in order to find out the evasion of duty, fees, fine etc. 4.) To monitor the follow up action for the realisation of arrears in the old arrear cases <p>It is a cumbersome task to inspect and monitor the entire 313 Excise offices in the State with skeleton staff. Also, Internal Audit Wing is overburdened with workload relating to old arrear, estate upkeep etc. The present Internal Audit Wing consists of one Joint Excise Commissioner, one Assistant Excise Commissioner, 3 Superintendents, 3 Excise Inspectors and 6 Preventive Officers. Conducting audit in all the 313 sub offices every year is not possible due to inadequate staff strength. TA ceiling imposed to the audit officers is another barrier to conduct regular inspection. The present TA ceiling limit of the department officials are applicable to the members of the inspection team also and this badly hinders the smooth functioning of the wing as the officers have to plan the inspections according to the TA ceiling limit. Owing to this, the</p>
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				<p>IAW is not in a position to inspect the sub offices effectively and systematically which leads to huge pendency in the inspection of the sub offices</p> <p>During the year 2014-15, IAW had conducted inspection at 101 sub offices. Most of the observations pointed out are finance oriented and pertains to old arrears for which all possible steps are taken to collect through Amnesty scheme and other measures.</p> <p>The Internal control mechanism in the department has been made more effective by regular and periodic inspection of sub offices conducted by Joint Excise Commissioner, Deputy Excise Commissioner and Circle Inspector of Excise as per the circular direction no. XF3-9665/13 dated 13.9.2013. Follow up action in this regard is also watched through Internal Audit Wing of the Excise department</p>								
3	6.3		<p>Results of audit</p> <p>In 2013-14, test check of the records of 25 units relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/interest/ penalty and other irregularities involving ₹ 7.77 crore in 14 cases which fall under the following categories given in Table-6.1.</p>	<p>Details regarding this Para are furnished in the following paras as shown below</p> <table><tr><th>Categories</th><th>Action taken</th></tr><tr><td>Non-levy of excise duty on transit wastage</td><td>Given in Para 6.5</td></tr><tr><td>Short levy of enhanced license fee on FL3 licenses</td><td>Given in Para 6.4</td></tr><tr><td>Short levy of enhanced fee on SP VI and SP VII license</td><td>Given in Para 6.6</td></tr></table>	Categories	Action taken	Non-levy of excise duty on transit wastage	Given in Para 6.5	Short levy of enhanced license fee on FL3 licenses	Given in Para 6.4	Short levy of enhanced fee on SP VI and SP VII license	Given in Para 6.6
Categories	Action taken											
Non-levy of excise duty on transit wastage	Given in Para 6.5											
Short levy of enhanced license fee on FL3 licenses	Given in Para 6.4											
Short levy of enhanced fee on SP VI and SP VII license	Given in Para 6.6											

Table-6.1.

Sl. No	Categories	Number of cases	(₹ in lakh Amount)
1	Non-levy of excise duty on transit wastage	1	1.76
2	Short levy of enhanced license fee on FL3 licenses	2	740.00
3	Short levy of enhanced fee on SP VI and SP VII license	2	7.46
4	Short collection of rental on toddy shops	1	16.14
5	Short collection of cost of establishment	3	10.82
6	Others	5	0.73
Total		14	776.91

During the course of the year, the Department accepted under assessment

			and other deficiencies involving ₹ 8.09 lakh in five cases which were pointed out. The Department realised an amount of ₹ 0.10 crore in eight cases during the year 2013-14 which were pointed out during previous years.	
5	6.4	6.1 (Sl.No. 2)	<p><u>Short levy of enhanced license fee from FL-3 licensees</u></p> <p>As per Rule 13(3) of the Foreign Liquor Rules, 1953 FL-3 Hotel (Restaurant) licenses were issued to hotels which have obtained three star and above classification for one year on payment of the annual rent of ₹ 22 lakh. As per Rule 13 (15) in the case of enhancement of annual rent/fee, all licensees are liable to remit the difference between the amount of annual rent/fee already remitted and the enhanced rent/fee. Government through a notification enhanced the annual rent of FL-3 licenses from ₹ 22 lakh to ₹ 23 lakh during 2012-13.</p>	<p>The Audit party pointed out that there is a loss of revenue to the tune of Rs.740 lakhs, since the enhanced license fee of FL3 license has not been demanded from the licensees. Now this issue involve in C & AG report as 6.3 Sl.No.2.</p> <p>The Accountant General, Thiruvananthapuram vide letter No.SRA (HQ) III/20-1138/13-14/1 dated 02.04.2014 reported that Government enhanced the annual rental of FL3 licenses from 22 Lakhs to 23 Lakhs by amending the rule 13 (3) of Foreign Liquor Rules vide SRO 257/2013 dated 30.03.2013. On verification of the license issue register of FL3 licenses and information furnished to audit by the 14 Excise Divisional Offices it was noticed that the difference in license fee @ Rs.1 Lakh / licensee had not been demanded and collected from the 714 existing FL3 licensees and 26 new licensees in the State during 2012-13. This has resulted in a loss of revenue to the tune of Rs.740 Lakhs.</p> <p>In this respect it may be noted that as per GO (MS) No.</p>

			<p>Scrutiny (February 2014) of the FL-3 license issue register for the year 2012-13 in the Office of the Commissioner of Excise, Thiruvananthapuram and the details of fee collected furnished by the 14 Excise Divisional Offices, revealed that license fee at pre-revised rates for 2012-13 was collected from 740 FL-3 licenses in the State. Though, the annual license fee for 2012-13 was revised, the balance fee was not collected from these 740 licensees. This resulted in short levy of license fee of ₹ 7.40 crore.</p>	<p>41/13/TD dated 15.03.2013, Government have ordered interim arrangements for the renewal of licenses for the year 2013-14, since Abkari policy for the said year could not be declared. In the above Government Order it has been clearly specified that the licenses will be extended for the year 2013-14 after realizing the enhanced license fee as stated in the Government Order. Accordingly the Foreign Liquor Rules have been amended to give effect the changes declared in the above Government Order. Therefore the enhanced fee will come into effect only from 01.04.2013.</p> <p>The Government Order doesn't have retrospective effect. It has only prospective effect from 01.04.2013. The Government had no such intention to increase the license fee retrospectively, and it is evident from GO (MS) No. 41/13/TD dated 15.03.2013 (the enhancement with effect from 01.04.2013). Hence there is no revenue loss as mentioned in the C & AG report. A copy of the Government Order is enclosed for favour of perusal. Therefore it is reported that there is no loss to Government and hence the report may be accepted and further action may be dropped.</p>
4	6.5	6.1 (Sl No. 1)	<p><u>Non-levy of fine due to incorrect computation of transit wastage of spirit.</u></p>	<p>All the Excise Inspectors of M/s. Kerala Alcoholic Products Ltd., Palakkad, Empee Distilleries, Palakkad, United Spirits Ltd.,</p>

		<p>Rule 7(5) of the Kerala Foreign Liquor (Compounding, Blending & Bottling) Rules, 1975 read with Rule 55 of the Kerala Distillery and Warehouse Rules, 1968, specifies allowance for wastage in the case of spirits allowed to be imported. In the case of spirits obtained by the distilleries/blending units in the state, the licensee shall pay duty at the rate of ₹ 20 per proof litre (PL) for excess wastage where such losses could not be accounted for the satisfaction of the Deputy Commissioner of Excise. As per Rule 47 A (4) (b) of the Kerala Distillery and Warehouse Rules 1968, all consignments of extra neutral alcohol (ENA) obtained shall be verified by volume and strength jointly by officer-in-charge of the distillery and licensee and the net quantity received shall be taken into account. As per Rule 11 of the Kerala Rectified Spirit Rules, 1972 a fine at the rates of duty applicable to</p>	<p>Palakkad, Amrut Distillery, Palakkad and United Distillery, Calicut issued Chalan for the remittance of excess transit wastage as stated in the audit report. All the distillery authorities, except M/s. Kerala Alcoholic products refused to pay the excess transit wastage. M/s. Kerala Alcoholic Products Ltd, Palakkad remitted an amount of Rs.1,76,500/- towards excess transit wastage on Extra Neutral Alcohol & Grape Spirit for the year 2012-13 as per Chalan No.327/04.06.2014 at Sub-Treasury, Chittur.</p> <p>All the other distilleries stated that "the audit objection regarding excess wastage of Extra Neutral Alcohol raised for the year 2012-13 is misconceived and unsustainable. The Hon'ble High Court of Kerala by judgment dated 2.2.2006 in WP (C) No.32187/05 held that state has no competence to levy Excise duty on Rectified Spirit/ Extra Neutral Alcohol and declared Rule 55 (4) of the Distillery & Warehouse Rule as ultra virus and unenforceable in so far as it deals with levy of duty on Wastage exceeding 0.5%. The appeal filed by the state was also dismissed by the division bench of Hon'ble High Court. In view of the above judgment of the Hon'ble High Court the audit objection raised and consequent demand are unsustainable."</p> <p>In this regard it may be noted that this issue is related with the demand of excise duty in excess of the 0.5% wastage as per</p>
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rectified spirit shall be levied on quantity of spirit wasted in excess of such limits. Scrutiny of the consignment registers on ENA for the year 2012-2013 maintained in five distilleries revealed that the volume and strength of each consignment of spirit received in distillery was less than the volume and strength recorded at the exporting unit. The Department computed the wastage only on the basis of volume in bulk litres without considering the volume in proof litres based on the strength of the spirit. The incorrect computation of the wastage resulted in allowing excess wastage of 1.12 lakh PL and non-levy of duty of ₹22.46 lakh as given in Table-6.2

Table-6.2

Non-levy of fine due to allowance of excess wastage

Name of Distillery	Wastage allowed in excess (PL)	Non levy of the fine @ ₹20 per PL (₹)
1. United	7,090	1,41,800

rule 55(4) of the Kerala Distillery and Warehouse Rules. In case of loss of spirit due to accidents also, the department is demanding the excise duty as per this rule and in both these cases, the Hon'ble High Court observed that the state has no power to levy excise duty and Rule 55(4) is ultra virus on the basis of the Hon'ble Supreme Court Judgment Synthetics & Chemicals Versus State of U.P. The Writ Appeals 43/08, 71/08, and 188/08 filed by the State against the single bench judgment were also disposed by a Division Bench of the Hon'ble High Court in favour of the petitioners on 30.03.2010 on the basis of the synthetics Versus State of U.P. Against these common judgment the State filed SLP (CC) No. 3080/11. But the Supreme Court of India dismissed the case. Following these, the Government Pleader concerned assured that a review Petition can be filed against the Judgment in WA No 43/08 and connected cases.

Following this Review Petition No. 675/13 filed in WA No.43/08, RP No.721/13 in WA No. 71/08 and RP No. 696/13 in WA No. 188/08. But all these Review Petitions were disposed in favour of the distilleries on 23.11.2013. Government then directed to file SLP in the above cases on 05.12.13 and accordingly Advocate General has been requested to file SLP in all the Review Petitions.

			<table><tr><td>Distilleries Ltd</td><td></td><td></td></tr><tr><td>2. Amruth Distilleries Ltd</td><td>19,967</td><td>3,99,340</td></tr><tr><td>3. United Spirits Ltd</td><td>60,612</td><td>12,12,240</td></tr><tr><td>4.Empee Distilleries Ltd</td><td>15,818</td><td>3,16,360</td></tr><tr><td>5. Kerala Alcoholics Products Ltd</td><td>8,825</td><td>1,76,500</td></tr><tr><td></td><td>1,12,312</td><td>22,46,240</td></tr></table>	Distilleries Ltd			2. Amruth Distilleries Ltd	19,967	3,99,340	3. United Spirits Ltd	60,612	12,12,240	4.Empee Distilleries Ltd	15,818	3,16,360	5. Kerala Alcoholics Products Ltd	8,825	1,76,500		1,12,312	22,46,240	<p>But the standing counsel Sri Ramesh Babu vide letter dated 05.02.2014 informed the AG that SLP in RP No. 675/13 in WA No. 43/08 cannot be filed as this has already been examined by the Apex Court. As per the opinion of the AG, all relevant rules demanding excise duty on the excess wastage of duty has been amended vide GO (P) No. 57/2014/TD dated 05.04.2014 by substituting the word "duty" by the words "fine of Rs. Twenty per proof liter" in rule 34,47A and 55 of the Kerala Distillery & Warehouse rules. But prior to the amendment of rule as per GO (P) No.57/2014/TD dated 05.04.2014; the court orders in existence prevent the state from demanding duty on rectified spirit / ENA and special spirits.</p>
Distilleries Ltd																						
2. Amruth Distilleries Ltd	19,967	3,99,340																				
3. United Spirits Ltd	60,612	12,12,240																				
4.Empee Distilleries Ltd	15,818	3,16,360																				
5. Kerala Alcoholics Products Ltd	8,825	1,76,500																				
	1,12,312	22,46,240																				
6	6.6	6.1 (Sl. No. 3)	<p><u>Short levy of license fee from licensees of SP VI and SP VII licenses.</u></p> <p>Under Rule 11 of the Kerala Spirituous Preparations (Control) Rules, 1969, for the wholesale and retail sales of Spirituous Preparations (SP), dealers shall have SP VI and SP VII licenses respectively. Government enhanced the license fee for SP VI and SP VII licenses from ₹ 500 to ₹ 5000 and ₹ 150 to ₹ 1,000 respectively.</p>	<p>The Audit party pointed out that there is a loss of revenue to the tune of Rs.3.97 Lakhs, since the enhanced License fee of SPVI, SPVII licences has not been demanded from the Licensees.</p> <p>In the audit para it is mentioned that the original Abkari Policy for the year 2011-12 was declared on 14.02.2011 vide G.O. (MS) No.26/11 and rate of fee for the various licences etc were continued without any change.. Subsequently, Govt. vide G.O.(MS) No.107/2011/TD dated 17.08.2011 cancelled the Abkari Policy declared in February 2011 and decided to enhance the licence fee</p>																		

		<p>Scrutiny of the license fee registers for the period 2009-12 of two Divisional and seven Circle Offices revealed that the license fee at pre-revised rates for 2011-12 was collected from the 79 SP VI and 49 SP VII licensees. Though the license fee was revised vide Notifications dated 17.8.2011 and 19.11.2011, the balance was not collected from the licensees. This resulted in non-levy of license fee ₹ 3.97 lakh.</p>	<p>for SPVI and SPVII licences from Rs. 500 and Rs.150 to Rs.5000 and Rs.1000/- respectively. This change was inserted in the Kerala Spirituous Preparations (Control) Rules, 1969 vide S.R.O No.670/2011 in G.O.(P)No.150/11/TD dated 19.10.2011. Scrutiny of the Chelan registers and connected records of SPVI and SPVII licence in the Excise Offices in Thrissur and Ernakulum Districts disclosed that the licence fee for the enhanced rate was not collected from the Licensees. This has resulted in a loss of revenue to the tune of Rs.3, 97,000/-</p> <p>In this respect it may be noted that as per G.O. (MS) No.107/2011/TD dated 17.08.2011 Govt: had decided to enhance the licence fee for SPVI and SPVII Licensees. But the licence fee for the year 2011-12 has already been collected vide G.O (MS) No.26/2011 dated 14.02.2011 and the Rule came to force only on 19.10.2011. Therefore the enhanced fee will come into effect only on 19.10.2011. The Govt: order doesn't have retrospective effect. It has only prospective effect from 19.10.2011. Kerala Spirituous Preparation Control rule does not provide for such collection of enhanced fee which is enhanced during the course of the year. Hence there is no revenue loss as mentioned in the C&AG report.</p>
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				<p>However Excise Department took steps to collect the enhanced licence fee as per the audit report and the collection particulars of enhanced License fee in various divisions are shown below.</p>			
SL No	Name of Division	Details of Licenses		Collected amount			
1	Thrissur	SPVII	86 x 850	72,250			
		SPVI	86 x 4500	3,73,500			
2	Emakulum	SPVII	10 x 850	8,500			
		SPVI	5 x 4500	22,500			
3	Malappuram	SPVII	39 x 850	33,150			
		SPVI	20 x 4500	90,000			
4	Kannur	SPVII	20 x 850	17,000			
		SPVI	21 x 4500	94,500			
5	Wayanad	SPVII	7 x 850	5,950			
		SPVI	2 x 4500	9,000			
6	Kasaragod	SPVII	2 x 850	1,700			
		SPVI	2 x 4500	9,000			
7	Pathanamthitta	SPVII	10 x 850	8,500			
			2 x 700	1,400			
		SPVI	11 x 4500	49,500			
8	Idukki	SPVII	1 x 850	850			
		SPVI	3 x 4500	13,500			
9	Thiruvananthapuram	SPVII	58 x 850	49,300			
		SPVI	13 x 4500	58,500			

				<table> <tr> <td>10</td><td>Kozhikode</td><td>SPVII</td><td>25 x 850</td><td>21,250</td></tr> <tr> <td></td><td></td><td>SPVI</td><td>29 x 4500</td><td>1,30,500</td></tr> <tr> <td>11</td><td>Palakkad</td><td>SPVII</td><td>28 x 850</td><td>23,800</td></tr> <tr> <td></td><td></td><td>SPVI</td><td>20 x 4500</td><td>90,000</td></tr> <tr> <td>12</td><td>Kottayam</td><td>SPVII</td><td>15 x 850</td><td>12,750</td></tr> <tr> <td></td><td></td><td>SPVI</td><td>14 x 4500</td><td>63,000</td></tr> <tr> <td>13</td><td>Kollam</td><td>SPVII</td><td>49 x 850</td><td>41,650</td></tr> <tr> <td></td><td></td><td>SPVI</td><td>38 x 4500</td><td>1,62,000</td></tr> <tr> <td>14</td><td>Alappuzha</td><td>SPVII</td><td>16 x 850</td><td>13,600</td></tr> <tr> <td></td><td></td><td>SPVI</td><td>16 x 4500</td><td>72,000</td></tr> <tr> <td></td><td>TOTAL</td><td></td><td></td><td>15,49,150</td></tr> </table>	10	Kozhikode	SPVII	25 x 850	21,250			SPVI	29 x 4500	1,30,500	11	Palakkad	SPVII	28 x 850	23,800			SPVI	20 x 4500	90,000	12	Kottayam	SPVII	15 x 850	12,750			SPVI	14 x 4500	63,000	13	Kollam	SPVII	49 x 850	41,650			SPVI	38 x 4500	1,62,000	14	Alappuzha	SPVII	16 x 850	13,600			SPVI	16 x 4500	72,000		TOTAL			15,49,150
10	Kozhikode	SPVII	25 x 850	21,250																																																							
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	TOTAL			15,49,150																																																							
				In the above circumstances the Para may be dropped																																																							
6	6.3	6.1 (Sl. No. 4)	Short collection of rental on toddy shops	<p><u>1.LAR.No.29,1124/13-14 dated 11.07.2013 of the Deputy Excise Commissioner, Excise Division Office, Kottayam.</u></p> <p>The Deputy Commissioner of Excise, Kottayam has reported that during the period 2010-2011 a total amount of Rs.5,72,13,900/- was due as rental of toddy shops and the total amount adjusted towards Government head was Rs.5,68,41,400/- and Rs.3,72,000/-vide Chalan No.1614 dated 24.04.2010 and Chalan No.1622 dated 20.05.2010 respectively. The total amount calculated as the rental of toddy shops in Kottayam Division for the</p>																																																							

				<p>year 2010-2011, at the time of audit was ₹5,88,27,500/-, which was due to some clerical errors. On verification of the office records in the Division Office and the gazette dated 12.03.2013 in which the rentals of toddy shops were published for the year 2010-2011, the above fact was ascertained. Hence there is no shortage in collection of the rental amount during the year 2010-2011. It is ascertained that the actual amount of rental was Rs. 5,72,13,900..Hence the Para may be dropped.</p>
6	6.3	6.1 (Sl No. 5)	Short collection of cost of establishment	<p>The salary of the government employees were revised with effect from 01.03.1997, as per GO (P)No.3000/1998/fin dated 25.11.1998. Consequent to this Pay Revision, the cost of establishment of the excise supervisory staff deployed to the Distilleries, Compounding Blending and Bottling units, Pharmaceuticals etc has been revised by the Excise Commissioner as per order No XC3-6600/99 dated 21.06.1999 as laid down in Rule 14 of the Distillery and Warehouse Rules, Rule 6 (1) of the Compounding, Blending, and Bottling Rules, Rule 21A of the Brewery Rules and Rule 16(4) of the Kerala Rectified Spirit Rules.</p> <p>Consequent to the observation of the Accountant General, Kerala, Excise Commissioner, vide order No XE1-1614/02 dated 23.05.2005, directed the Distilleries and Pharmaceuticals to remit 25% of the maximum of the scale of pay of the excise staff</p>

			<p>deployed to those institutions towards the leave salary and pension contribution with effect from 01.03.1997 as per rule 146 of part I KSR.</p> <p>The Distilleries and Pharmaceuticals filed 14 writ Petitions against the order of the Excise Commissioner, directing remittance of 25% of the maximum of the scale of pay of the post to which the excise officers are deployed in the Distilleries and Pharmaceuticals. The Hon'ble High Court disposed Writ Petition (C) No.3610/2006 by judgement dated 22.08.2012, holding the view that the issue is covered by the common judgement in writ Petition(C) No.23356/2005 and writ Petition No.5990/2007 dated 11.06.2012, wherein the Court has clearly brushed aside contentions of the Department and quashed the order dated 23.05.2005 directing recovery of salary and pension contribution @25% of the maximum of the scale of pay.</p> <p>In the meanwhile, the judgement dated 11.11.2011 in Writ Petition Nos.25526, 21045, 21051 and 23550/2005, the Hon'ble High Court directed the respondent to make a representation highlighting their grievance to the Government in the matter for a settlement. The affected petitioners in the above cases filed Writ Appeal no.63/2012 before the Hon'ble Division Bench and the</p>
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				<p>same was also disposed infavour of the petitioners. Following this Government vide letter No.18430/F1/2013/TD dated 28.11.2013 and letter No.23076/F1/2013/TD dated 02.12.2013 decided to withdraw the appeals proposed to be filed against the judgement in WP(C) 23356/05, 3610/06 and 5990/07 and also decided to make suitable amendments in the rules concerned</p> <p>Now Government made amendments in the Distillery and Warehouse Rules, Compounding, Blending, and Bottling Rules and the Kerala Rectified Spirit Rules vide GO(P)No.156/2014/TD,157/2014/TD and 158/2014/TD dated 22.09.2014 for realizing actual cost of pay instead of average cost of pay in compliance with the judgement.</p>
6	6.3	6.1 (SI No. 6)	Others	<p><u>1. LAR.No.20.1133/13-14-Part-IIB, Para II of Excise Circle Office, Kuthiyathodu-</u></p> <p><u>Non-L levy of late fee for belated renewal of fixed fee licence.</u></p> <p>A report in this regard had been submitted to the Accountant General and the Accountant General had settled this Para by informing that this para is not pursued further vide letter no.SRA (HQ)III/Ex/20-1133/13-14/1433 dated 28.01.2014.</p>

				<p><u>2. I.A.R.No.20.1133/13-14-Part-III, Para III of Excise Circle Office, Kathiyathodu-</u></p> <p><u>Short collection of RS.1. Licence fee.</u></p> <p>A report in this regard had been submitted to the Accountant General and the Accountant General had settled this Para by informing that this para is not pursued further vide letter no.SRA (HQ)III/Ex/20-1133/13-14/22 dated 04.04.2014.</p> <p><u>3. I.A.R.No.20.1135/13-14- Part-III, Para I of Excise Circle Office,Kochi-</u></p> <p><u>Short Collection of Rs.8050/- due to non levy of balance licence fee.</u></p> <p>The Deputy Commissioner of Excise, Ernakulam has reported that all the licensees remitted the balance licence fee. Hence the para may be dropped. The remittance particulars are shown below</p> <table border="1"><thead><tr><th>Name of Licensee</th><th>Balance Amount</th><th>Chalan No and Date</th></tr></thead><tbody><tr><td><u>SPVI Licensee</u></td><td></td><td></td></tr><tr><td>1, Sri.P.S.Pradeep</td><td>Rs.4500/-</td><td>47 /29.08.2013</td></tr><tr><td>M/s Optima Marketing</td><td>—</td><td>S T, Palluruthy</td></tr><tr><td>2, Sri. K.R.Ambujan,</td><td>Rs.4500/-</td><td>33 /30.08.2013,</td></tr><tr><td>Kerala Arya Vaidyasala.</td><td></td><td>S T, Palluruthy</td></tr><tr><td><u>SPVI- Licensee.</u></td><td></td><td></td></tr></tbody></table>	Name of Licensee	Balance Amount	Chalan No and Date	<u>SPVI Licensee</u>			1, Sri.P.S.Pradeep	Rs.4500/-	47 /29.08.2013	M/s Optima Marketing	—	S T, Palluruthy	2, Sri. K.R.Ambujan,	Rs.4500/-	33 /30.08.2013,	Kerala Arya Vaidyasala.		S T, Palluruthy	<u>SPVI- Licensee.</u>		
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2, Sri. K.R.Ambujan,	Rs.4500/-	33 /30.08.2013,																							
Kerala Arya Vaidyasala.		S T, Palluruthy																							
<u>SPVI- Licensee.</u>																									

				1, Sri. K.R.Ambujan	Rs.850/-	34/30.08.2013, S T, Palluruthy
				2, Dr.Govindan kutty Menon	Rs.850/-	45/29.08.2013, S T, Palluruthy
				3, Smt.P.N. Savithri.	Rs.850/-	49/29.08.2013, S T, Palluruthy
				4, Smt.K.L. Celine	Rs.850/-	72/07.09.2013, S T, Palluruthy
				<u>4. I.A.R.No.20.1135/13-14-Part-III, Para II of Excise Circle Office, Kochi-</u>		
				<u>Non-L levy of late fee for belated renewal of fixed fee licence.</u>		
				<p>The Deputy Commissioner of Excise, Ernakulam has reported that the late fee for belated renewal of fixed fee licence has been collected from the licensees as follows. Hence the Para may be dropped.</p>		
				Name of ND.3-Licensees	Balance Amount.	Chalan No and Date
				1, Dr.S.R.Gelinda, Holi Cross Hospital, Perumpadappu. (Licence No.57/12-13)	Rs.750/-	43/21.12.2013, S T, Palluruthy
				2,Dr. Pradeep Kumar.M.A, Fathima	Rs.750/-	1107/01.10.2014

				Hospital, Kochi, (Licence No.60/10-11		S T, Palluruthy
				<p><u>5. LAR.No.20.1131/13-14-Part-IIB. Para II of Excise Division Office, Alappuzha:-</u></p> <p><u>Delay in disposal of confiscated spirit (Rs.47,913/-).</u></p> <p>During the period of inspection 4791.25 litres of Spirit were pending for disposal. Out of this, 2395 litres of spirit has been sold to Travancore Sugars and Chemicals Ltd, Thiruvalla and about 161 litres of spirit was lost due to leakage and evaporation. Speedy actions are taken to dispose the remaining quantity of spirit.</p>		

Heath

GEETHA L.
 Additional Secretary
 Taxes Department
 Govt. S.
 Thiruvalla

Regn. No. KERBIL/2012/45973

dated 29-3-2013 with RNI

KL/2013/2013

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Government of Kerala

കേരള സർക്കാർ

2013



KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണ

PUBLISHED BY AUTHORITY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

Thiruvananthapuram

30th March, 2013

2013 മാർച്ച് 30

No. 220

GOVERNMENT OF KERALA

Taxes (G) Department

NOTIFICATION

G. O. (P) No. 60/2013/TD

Dated, Thiruvananthapuram, 30th March, 2013.

S. R. O. No. 257/2013.—In exercise of the powers conferred by sections 18A, 24 and 29 of the Abkari Act, 1 of 1077, the Government of Kerala hereby make the following rules further to amend the Foreign Liquor Rules issued under notification No. SR 4-1859/52/RD dated 17th January, 1953 and published in the Travancore-Cochin Gazette Extraordinary No. 2 dated 17th January, 1953, namely:—



കേരള സർക്കാർ
സംഗ്രഹം

നികുതി വകുപ്പ് - ഏഷ്യൻ - നിലവിലുള്ള കള്ളപ്പണപ്പ് ലൈസൻസുകളുടെ ന്യൂ
ലൈസൻസുകളും വിശദീകരിച്ചു നൽകി - ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.
നികുതി (ജി) വകുപ്പ്

ജി.ഒ. (എം.എസ്) നം. 41/2013/നി.വ. തീരുവനന്തപുരം, തീയതി, 15-03-2013.

പരാമർശം: 1. ജി.ഒ. (എം.എസ്) നം. 12/2013/നി.വ. തീയതി 23-01-2013
2. ബഹു ഏഷ്യൻ വകുപ്പ് മന്ത്രിയുടെ അദ്ധ്യക്ഷതയിൽ 08-03-2013-ന്
കൂടിയ യോഗത്തിന്റെയും.

ഉത്തരവ്

2011-12 വർഷത്തെ മദ്യനയനത്തിന്റെ വ്യവസ്ഥകളനുസരിച്ച്, വിദേശ മദ്യ
നിരയത്തിൽ വരുത്തിയ ചില കേൾക്കലുകൾ ബഹു കേരള ഹൈക്കോർട്ടിന്റെ
27-07-2012-ലെ W.A. 470/2012 നമ്പർ കേസിലെ വിധിയനുസരിച്ച് ഭൂതകാല
തിനേതത്വമിന്ന്, സർക്കാരിന്റെ, 2011-2012, 2012-2013 എന്നീ വർഷങ്ങളിൽ
മദ്യനയനത്തിൽ തിരുമാനങ്ങൾ നടപ്പിലാക്കാൻ കഴിയാത്തതിനാൽ, 2013-14 വർഷത്തെ
മദ്യനയം പ്രഖ്യാപിക്കുന്നതിനുള്ള തനതാണമല്ലെന്ന് നിർദ്ദേശിക്കുന്നതിന്, റ്റു കേരള ഹൈ
കോർട്ടിന്റെ 01-04-2013-ന് പുറപ്പെടുവിച്ച കേസിലെ വിധിയിൽ നിന്നും, പരാമർശം (1)
പ്രകാരം ഉത്തരവിട്ടിട്ടുള്ള പ്രസ്തുത കമ്മിഷന്റെ റിപ്പോർട്ട് ലഭ്യമാകുവാൻ കാലതാമസം
കാണിക്കുന്നതിനാലും, 2013-14-ലെ മദ്യനയം കൂടി 31-ന് മുമ്പ് പ്രഖ്യാപിക്കാൻ
കഴിയാത്തതിനാലും, സംസ്ഥാനത്തെ നിലവിലുള്ള കള്ളപ്പണപ്പുകളുടെയും
മദ്യനയങ്ങളുടെയും ലൈസൻസ് 01-04-2013-ന് പുറപ്പെടുവിച്ച വിധിയിൽ നിന്നും
കഴിയാത്ത സാഹചര്യത്തിൽ, പ്രസ്തുത സാമ്പ്യൽ അടച്ചിടേണ്ട സമയമെങ്കിൽ
പ്രഖ്യാപിക്കുന്നതിന്, നിലവിലുള്ള കള്ളപ്പണപ്പുകൾ, 2012-13 വർഷത്തെ റെറ്റിലിന്റെ
അനുപാതിക റെറ്റിൽ, കൂടാതെ, KTWFF കോൺട്രിബ്യൂഷൻ എന്നിവ ഇടാക്കിയും, 50%
തുകയ്ക്ക് വിറ്റുനൽകുന്നതിനുള്ള കള്ളപ്പണപ്പുകൾ, അതിന്റെ അനുപാതിക റെറ്റിലിനും,
500/- രൂപ റെറ്റിലിന് തൊഴിലാളി കമ്മിറ്റികളെ റെറ്റിലിട്ടുള്ളവ, നിലവിലുള്ള
നിയമസമരങ്ങൾക്ക് വിരുദ്ധമായും, 01-04-2013 മുതൽ 3 മാസത്തേക്ക്, നിലവിലുള്ള
ലൈസൻസുകൾക്ക് വിരുദ്ധമായും നൽകുന്നതിനും അധിക വിഭവ സമാഹരണത്തിന്റെ
താൽപര്യം, നിലവിലുള്ള ലൈസൻസ ഫീസ്, പുതുക്കുവാനും, പരാമർശം (2)
പ്രകാരം തീരുമാനിച്ചിട്ടുണ്ട്.

2. സർക്കാർ ഇക്കാര്യം വിശദമായി പരിശോധിച്ചു. 2013-14-ലെ മദ്യനയം
പ്രഖ്യാപിക്കുന്നതിന് കാലതാമസം നേരിടുന്നതിനാൽ, സംസ്ഥാനത്തെ മദ്യനയങ്ങൾ
അടച്ചിടുന്നതുവേണ്ടി സാമ്പത്തിക നഷ്ടവും, തൊഴിലാളികൾക്കുണ്ടാകാവുന്ന
ജോലി നഷ്ടവും പ്രഖ്യാപിക്കുന്നതിന്, നിലവിലുള്ള കള്ളപ്പണപ്പുകൾ, 2012-13 വർഷത്തെ
വാർഷിക റെറ്റിലിന്റെ അനുപാതിക റെറ്റിൽ, കൂടാതെ, KTWFF കോൺട്രിബ്യൂഷൻ
എന്നിവ ഇടാക്കിയും, 50% തുകയ്ക്ക് വിറ്റുനൽകുന്നതിനുള്ള കള്ളപ്പണപ്പുകൾ, 50%
റെറ്റിലിന്റെ അനുപാതിക റെറ്റിലിനും, തൊഴിലാളി കമ്മിറ്റികളെ റെറ്റിലിട്ടുള്ള
കള്ളപ്പണപ്പുകൾ നിലവിലെ 500/- രൂപയ്ക്കും, നിലവിലുള്ള നിയമസമരങ്ങൾക്കും,
കള്ളപ്പണപ്പുകളുടെ കാര്യത്തിൽ നിലവിലുള്ള കോടതി കേന്ദ്രീകൃത വിധേയമായും,
01-04-2013 മുതൽ 3 മാസത്തേക്ക് ലൈസൻസ് കാലാവധി വിശദീകരിച്ചു നൽകി.
നിലവിലെ ലൈസൻസുകളെ റെറ്റിലിക്കുവാനും, ബാങ്ക് ലൈസൻസുകൾ, സ്വപ്രീം
കോടതിയിൽ നിലവിലുള്ള കേന്ദ്രീകൃത വിധിയും, ജസ്റ്റിസ് രാമചന്ദ്രൻ കമ്മീഷന്റെ

റിപ്പോർട്ടിന്മേൽ സർക്കാർ കൈക്കൊള്ളുന്ന തിരുവനന്തപുരം വിധേയമായും, വെർഷിൾ റെൻഡൽ തുകയായി - 23,00,000/- രൂപ (ഇരുപത്തിമൂന്നു ലക്ഷം രൂപ മാത്രം) ഈടാക്കിക്കൊണ്ടും FL1 ലൈസൻസ് ഹാൾ നിലവിലെ 63,00,000/- രൂപ (അമ്പത്തിമൂന്നു ലക്ഷം രൂപ) മാറ്റം കൂടാതെ 1 വർഷത്തേക്ക് ഈടാക്കിക്കൊണ്ടും ടിർച്ചിപ്പിച്ചു നൽകുവാനും മറ്റു ലൈസൻസ് ഹാൾക്കൾ ചുവടെ ചേർത്ത പകാരം വർദ്ധിപ്പിക്കുവാനും ഉത്തരവാകുന്നു.

ഇനം	നിലവിലുള്ളത്	പുതുക്കുവാനു ചേർക്കുന്നത്
1. Rule 13 (3A) Privilege of vending FMFL	Rs. 20,000/-	Rs. 25,000/-
2. Rule 13 (3B) Liquor Service in Restaurants to persons other than residents	Rs. 30,000/-	Rs. 30,000/-
3. Rule 13 (3B) Annual fee for Addl. Bar Counter	Rs. 30,000/-	Rs. 30,000/-
4. Rule 13 (6) Special licence to serve liquor on occasions	Rs. 25,000/-	Rs. 50,000/-
5. Rule 10 (37) Fee for label approval	Rs. 10,000/-	Rs. 25,000/-
6. Rule 10 (37) Brand Registration fee for outside brand	Rs. 2,00,000/-	Rs. 2,00,000/-
7. Rule 3 Transit permit fee	Rs. 2,500/-	Rs. 5,000/-

(ഗവർണ്ണറുടെ ഉത്തരവിൻ പ്രകാരം)

എ. അജിത് കുമാർ

സെക്രട്ടറി

To

1. എക്സൈസ് കമ്മീഷണർ, തിരുവനന്തപുരം
2. അടവുണ്ടയ്ക്കു ജനറൽ ഓഫീസർ, എ. ഓ. ഓ. ഓ. കോളം, തിരുവനന്തപുരം
3. അഡ്മിഷൻ ജനറൽ ഓഫീസർ, എ. ഓ. ഓ. ഓ. കോളം, തിരുവനന്തപുരം
4. സെക്രട്ടറി, കേരള നിയമസഭ, തിരുവനന്തപുരം
5. ഡയറക്ടർ, I & PRD (പ്രസിദ്ധീകരണത്തിന്)
6. സ്റ്റേഷൻ ഫയൽ / കാമ്പിസ് കോപ്പി

(ഗവർണ്ണറുടെ ഉത്തരവിൻ പ്രകാരം)

10-10-2019
സെക്ഷൻ ഓഫീസർ



GOVERNMENT OF KERALA

Abstract

Taxes Department - Abkari Policy for the year 2011-2012 - Orders issued.

Taxes (G) Department

G.O. (Ms) No.26/2011/TD.

Dated, Thiruvananthapuram, 14-02-2011.

Read :- Letter No.XA1-28700/09 dated 29-01-2011 from the Commissioner of Excise,
Thiruvananthapuram.

ORDER

Government is committed to protect the Toddy sector which is a traditional and job oriented industry. Government have taken several steps to curb benamies and to ensure the supply of pure toddy through toddy shops. To encourage licensees to run toddy shops in a better and hygienic environment, and to protect the interests of the workers, Government have reduced the rental of the Toddy shops in 2008-09 and 2009-10. In line with the above policy, Government propose to reduce the rental of the Toddy shops further. Government want Toddy shops to function in permanent buildings for which steps would be taken to make available funds from the Toddy Workers' Welfare Fund Board. Government also propose to take steps for increasing toddy production by encouraging farmers and planters to form 'chethu thottangal' in line with Plantation Corporation with a view to give benefits to all those who are associated with the toddy industry. The licensees who come forward to associate with the above programme will be encouraged.

Enforcement will be further strengthened by starting new Ranges, employing additional manpower, providing new vehicles, modern equipments etc., besides increasing the infrastructure facilities. As a result of reorganization of the district level administration under Deputy Excise Commissioners with Assistant Excise Commissioners in full charge of enforcement in each district, the flow of illicit spirit and spread of spurious liquor could be curbed substantially. Government will take further steps in this direction.

The campaign against illicit liquor and drug abuse will be continued more vigorously with the co-operation of peoples' representatives, trade unions, political parties, NGOs, Kudumbasree etc. More funds will be provided for educating the people against the ill effects of alcoholism especially among the younger generation. A separate wing at the Excise Commissionerate is proposed for the purpose.

(P.T.O.)

Toddy

1. Toddy shops functioned during 2010-11 will be allowed to function in 2011-12 also. Toddy shops run by co-operative societies in the districts of Kasargode, Kannur, Kozhikode and Malappuram, Perumbavoor and Piravom ranges in Ernakulam district will be allotted to Workers Co-operative Societies during 2011-12 as well. In other Ranges, if societies come forward for taking the shops it will also be considered.
2. Toddy shops will be sold in groups consisting of 5-7 shops. The unsold shops will be sold range-wise / Taluk-wise or entrusted with workers committee or Departmental Management directly.
3. Toddy shops entrusted with Workers Committee will be exempted from payment of tree tax, 3 months advance contribution to Toddy Workers Welfare Fund Board, 1 month advance wages and other benefits to employees besides the rental of the toddy shops.
4. Rental of the Toddy shops will be further reduced by 20%.
5. Toddy shops run by Workers Committee during the period 2002-03 to 2006-07 to which the benefit of exemption from payment of tree tax and 3 months advance contribution to Toddy Workers Welfare Fund Board sanctioned vide G.O.(Rt) No.267/2003/TD dated 19-04-2003 have not been extended for the period 2004-05, 2005-06, 2006-07, and the same will be done.
6. Preference will be given to the existing licensees who are running Toddy shops.
7. Toddy shops functioning in objectionable sites as per Government orders and the building of which requires repair, will be allowed to be relocated to a new location provided such new location is within 50 mts. radius of the previous one. Toddy shops which were functioning till 2006-07 and which were sought to be relocated within 50 mts. radius of the previous site for carrying out repair to the building etc. will be deemed as functional during 2010-2011.
8. Minimum number of trees to be tapped for each Toddy shop will be fixed as follows:

Coconut trees -	50
Palmyra -	100
Choonda pana -	25

(P.T.O.)

9. Minimum number of workers fixed for tapping 50 coconut trees will be 5 and for tapping 25 choondapana will be 2.
10. Where sufficient number of trees are not available for tapping within the limits of the toddy shops, permission will be given for tapping trees outside the jurisdiction, where the trees are available.
11. All assistance for planting coconut trees especially high yielding varieties will be provided so as to increase toddy production.
12. Those who come forward to establish coconut plantation will be given all encouragement.
13. Temporary workers will be allowed to tap trees in places where sufficient number of permanent workers are not available.
14. Licensee or a representative of the licensee shall invariably be present in the shop during working hours.
15. Toddy parlors will be permitted in all districts.
16. Proper records shall be maintained in the Toddy shops as regards toddy produced, toddy brought under inter-division permit, permanent and temporary workers and the name of the licensee's representative.
17. Benamies will not be allowed to run the toddy shops under any circumstances.
18. New testing laboratories will be established in all districts.
19. As part of diversification of toddy industry, manufacture of value added products from toddy like vinegar will be encouraged and permission will be given to DEC's in each district in this regard.

Foreign Liquor

1. Minimum star rating for the hotels for granting FL-3 & FL-11 licences will be '3' as that of 2010-11, and the same will not be issued to hotels which are located within 200 meters from educational institution, temple, church, mosque, SC / ST colony or of burial ground.

(P.T.O.)

2. The personnel limit of liquor to hold without licence or permit will be re-fixed as follows:

a. Toddy	2 1/2 lit.
b. Beer	7.8 lit.
c. FMFL	3 lit.
d. IMFL	3 lit.
e. Wine	4 lit.
f. Coco brandy	1 lit.

3. In the Abkari Policy for the year 2008-09, it was decided that use of non-recyclable and non-biodegradable plastic bottles would be discontinued in a phased manner and environment friendly, reusable glass bottles would be put in their place. It was also decided that to begin with, plastic bottles of 750 ml. would be discontinued from 01-04-2009. This period was extended upto 31-03-2011 in the Abkari Policy for the year 2010-11. In view of the shortage of glass bottles, Government propose to extend the above period till 31-03-2012.

By Order of the Governor,
V.P. JOY,
Secretary to Government.

To

1. The Commissioner of Excise, Thiruvananthapuram.
2. The Managing Director, Kerala State Beverages Corporation, Thiruvananthapuram.
3. The Accountant General (A & E / Audit), Kerala, Thiruvananthapuram.
4. The General Administration (SC) Department (vide Item No.5794 dated 09-02-2011.)
5. The Information and Public Relations Department (for giving wide publicity.)
6. S.F. / O.C.

Forwarded / By Order,


Section Officer



കേരള സർക്കാർ

സംഗ്രഹം

നികുതി വകുപ്പ് - എക്സൈസ് - അബ്കാരി നയം, 2011-12 - പുതുക്കി - ഉത്തരവ് പുറപ്പെടുവിക്കുന്നു.

നികുതി (ജി) വകുപ്പ്

ജി.ഒ. (എംഎസ്) നം.107/2011/നി.വ. തീയതി, 17-08-2011.

പരാമർശം:- 1. 14-02-2011-ലെ സർക്കാർ ഉത്തരവ് (കൈയെഴുത്തു) നം.26/2011/നി.വ.

2. ജി.ഒ.(എംഎസ്) നം.49/11/നി.വി. തീയതി 23-03-2011.

3. എക്സൈസ് കമ്മീഷണറുടെ, 21-06-2011-ലെ, എക്സ് എ1-4500/2011 നമ്പർ കത്ത്.

4. ജി.ഒ.(എംഎസ്) നം.78/11/നി.വി. തീയതി 27-06-2011.

5. ജി.ഒ.(എംഎസ്) നം.97/11/നി.വി. തീയതി 28-07-2011.

ഉത്തരവ്

2011-12-ലെ അബ്കാരി നയം, പരാമർശം (1) പ്രകാരം സർക്കാർ പുറപ്പെടുവിച്ചിരുന്നു. എന്നാൽ, കേരള നിയമസഭയിലേക്കുള്ള തിരഞ്ഞെടുപ്പ് പ്രഖ്യാപനം വന്നതിനാൽ, തദ്ദേശഭരണമായി നിയമ കേരളത്തിൽ വരുത്തുവാനോ, കള്ളപ്പാപ്പ് വില്പന നടത്തുവാനോ കഴിയാതെ വന്ന സാഹചര്യത്തിൽ, പരാമർശം 2, 4, 5 എന്നിവ പ്രകാരം കള്ളപ്പാപ്പുകളുടെ നടത്തിപ്പ്, നിലവിലുള്ള ലൈസൻസികൾക്ക് തന്നെ, 31-08-2011 വരെ ദീർഘിപ്പിച്ചു നൽകി ഉത്തരവാകുകയും ചെയ്തു. എന്നാൽ, പുതിയ സർക്കാർ നിലവിൽ വന്ന സാഹചര്യത്തിൽ, 2011-12 വർഷത്തെ അബ്കാരി നയം പുതുക്കി പുറപ്പെടുവിക്കാൻ തീരുമാനിച്ചു. അതിനാൽ, പരാമർശം 1-ലെ ഉത്തരവ് റദ്ദാക്കി, 2011-12-ലേക്കുള്ള പുതിയ അബ്കാരി നയം, ചുവടെ പറയും പ്രകാരം, പുറപ്പെടുവിച്ച് ഉത്തരവാകുന്നു.

1. കേരളീയ സമൂഹത്തിൽ വ്യാപിച്ചു വരുന്ന മദ്യസംരംഭനവും, അതിൽ നിന്നും ഉണ്ടാകുന്ന ഗുരുതരമായ സാമൂഹ്യ പ്രശ്നങ്ങളും ഈ സർക്കാർ വളരെ ഗൗരവത്തോടെയാണ് വീക്ഷിക്കുന്നത്. ഈ സാമൂഹ്യ വിപത്തീനെതിരെ ശക്തമായ വികാരമാണ് പൊതു സമൂഹത്തിൽ നിന്നും ഉയർന്നു വന്നു കൊണ്ടിരിക്കുന്നത്. ഈ യാഥാർത്ഥ്യം ഉൾക്കൊണ്ട്, കർക്കശമായ മദ്യനയം രൂപീകരിക്കുവാനാണ് സർക്കാർ ഉദ്ദേശിക്കുന്നത്.

(മുദ്രപുറം)

2. മദ്യവ്യവസായത്തെ ഒരു വരുമാന സ്രോതസ്സായി കാണാനോ, എക്സൈസ് വകുപ്പിനെ ഔദ്യോഗിക regulatory സംവിധാനം എന്ന പരമ്പരാഗത ശൈലിയിൽ മുന്നോട്ടു കൊണ്ടു പോകുവാനോ സർക്കാർ ഉദ്ദേശിക്കുന്നില്ല. മദ്യത്തിന്റെ അമിത വ്യാപനം തടയുന്നതോടൊപ്പം, ഉയർന്ന ഗുണനിലവാരമുള്ള മദ്യം ഉപയോക്താവിന് ലഭ്യമാക്കുന്നതിന് നടപടികൾ കൈക്കൊള്ളും. സാമൂഹ്യ പ്രതിബദ്ധതയുള്ള ഒരു സംവിധാനമായി എക്സൈസ് വകുപ്പിനെ മാറ്റിയെടുക്കാനാണ് സർക്കാർ ലക്ഷ്യമിടുന്നത്.

3. മദ്യനയത്തിന് രൂപം നൽകുന്നതിന് മുന്നോടിയായി ബന്ധപ്പെട്ട എല്ലാവരുമായി സർക്കാർ വിശദമായ ചർച്ചകൾ നടത്തുകയുണ്ടായി. പൊതു മൊഴിലാളി / വിദേശ മദ്യ തൊഴിലാളി സംഘടനകൾ, ബാറുകൾ, ഡിസ്റ്റിലറി / ബ്രവറി ഉടമകൾ എന്നിവർ ഇതിൽ ഉൾപ്പെടും. അതിലൂപരി, മദ്യവിരുദ്ധ - മദ്യ നിരോധന സംഘടനകൾ, ഡി-അഡിക്ഷൻ സെന്ററുകൾ നടത്തുന്ന സന്നദ്ധ സംഘടനകൾ, വ്യക്തികൾ, മതമേലദ്ധ്യക്ഷന്മാർ, രാഷ്ട്രീയ, സാമൂഹ്യ പ്രവർത്തകർ എന്നിവരുടേയും ശ്രദ്ധേയമായ ചർച്ചകൾ ഉണ്ടായി. ഈ ആശയവിനിമയത്തിലൂടെ സർക്കാരിന് ഈ രംഗത്ത് പ്രവർത്തിക്കുന്നവരുടെയും, പൊതു സമൂഹത്തിന്റെയും ആവശ്യങ്ങളും, ആശങ്കകളും, കാഴ്ചപ്പാടുകളും, വിലയേറിയ നിർദ്ദേശങ്ങളും ലഭിക്കുകയുണ്ടായി.

4. 2011-12 ലെ പുതുക്കിയ മദ്യ നയത്തിന് രൂപം നൽകുന്നതിൽ രേൽ പറഞ്ഞ ചർച്ചകളിൽ ഉയർന്നു വന്ന നിർദ്ദേശങ്ങളും പൊതു വികാരങ്ങളും ആവുന്നത്ര സ്വീകരിച്ചിട്ടുണ്ട്.

5. ട്യറിസം പ്രോത്സാഹിപ്പിക്കുന്നതിനാണ് പ്രധാനമായും ബാറുകൾ അനുവദിക്കുന്നത്. എന്നാൽ ഈ ലക്ഷ്യത്തിൽ നിന്നും വ്യതിചലിച്ച് ആവശ്യത്തിലധികം ബാറുകൾ സംസ്ഥാനത്ത് നിലവിൽ വന്നു കൊണ്ടിരിക്കുന്നു. സംസ്ഥാനത്ത് നിലവിൽ 883 ബാറുകൾ പ്രവർത്തിക്കുന്നുണ്ട്. തീർച്ചയായും ഈ പ്രവണത കർശനമായി നിയന്ത്രിക്കപ്പെടണമെന്നാണ് സർക്കാർ കരുതുന്നത്. ഇന്ത്യൻ നിർമ്മിത വിദേശമദ്യത്തിന്റെ അമിത വ്യാപനം തടയേണ്ടതുണ്ട്. ഇതിലേക്കായി, എഫ്.എൽ. 3 ലൈസൻസുകൾ അനുവദിക്കുന്നതിന്, താഴെ പറയുന്ന പുതിയ നിബന്ധനകളും മാനദണ്ഡങ്ങളും കൊണ്ടു വരുവാൻ സർക്കാർ ഉദ്ദേശിക്കുന്നു. 1

വിദേശ മദ്യമേഖല

6. (i) പുതുതായി ബാറുകൾ അനുവദിക്കുമ്പോൾ അവ തമ്മിലുള്ള അകലം പഞ്ചായത്തുകളിൽ 3 കിലോമീറ്ററും, മുനിസിപ്പാലിറ്റി / കോർപ്പറേഷനുകളിൽ ഒരു കിലോമീറ്ററും വേണമെന്ന പുതിയ നിബന്ധന കൊണ്ടുവരുന്നതാണ്.

(മറുപുറം)

03-2012 വരെ 3 സ്റ്റാർ പദവിയിൽ ചുരുക്കം ഹോട്ടലുകൾക്ക് ബോർ ലൈസൻസ് പരിശോധനയ്ക്ക് കൂടുതലായതാണ്. 01-04-2012 മുതൽ 4 സ്റ്റാർ ബോർ ലൈസൻസ് പദവിയിൽ പദവിയിൽ ഹോട്ടലുകൾക്ക് മാത്രമേ ബോർ ലൈസൻസ് അനുവദിക്കുകയുള്ളൂ. 4 സ്റ്റാർ ഹോട്ടലുകൾക്ക് ബോർ ലൈസൻസ് അനുവദിക്കുന്നതിനുള്ള ഭാരതീയ 200 മിറ്ററായി പരിമിതിപ്പെടുത്തുന്നതാണ്.

(iii) 2013-14 സാമ്പത്തിക വർഷം മുതൽ, മിനിമം 25 മുറികളുള്ള 5 സ്റ്റാർ ക്ലാസിഫിക്കേഷനുള്ള ഹോട്ടലുകൾക്ക് മാത്രമേ ബോർ ലൈസൻസ് അനുവദിക്കുകയുള്ളൂ.

ടൂറിസം വകുപ്പ് നോട്ടീഫൈ ചെയ്ത പത്ത് ടൂറിസ്റ്റ് കേന്ദ്രങ്ങളിൽ കൂടാതെ 20 മുറികളുള്ള 3 സ്റ്റാർ ബോർ ലൈസൻസ് പദവിയിലുള്ള ഹോട്ടലുകൾക്ക് ബോർ ലൈസൻസ് അനുവദിക്കുന്നതാണ്. ബോർ ലൈസൻസ് തയ്യാറാക്കിയതിനുശേഷം സംബന്ധിച്ച പുതിയ നിബന്ധന ഇവിടെ ബാധകമാക്കുന്നതല്ല.

(iv) ഭൂമിയിലുള്ളതല്ലാത്ത ഇനി മുതൽ ഡ്രൈ വേ അന്യമായിരിക്കും.

(v) യൂണിറ്റുകളിൽനിന്നുള്ള മദ്യപാനസാധനങ്ങൾ വിൽപനിക്കുന്നതിനായി, മദ്യം വിൽക്കുന്നതിനും വാങ്ങുന്നതിനുമുള്ള പ്രായപരിധി 18-ൽ നിന്നും 21 ആയി ഉയർത്തുന്നതാണ്.

(vi) പ്രായപൂർത്തിയായ ഒരാൾക്ക് ഒരു സമയം എല്ലാ ഇനം മദ്യവും കൂടി, നിലവിൽ പരമാവധി 27.1 ലിറ്റർ കൈവശം വയ്ക്കാവുന്നതാണ്. ഇത് 15 ലിറ്ററായി നിജപ്പെടുത്തുവാൻ ഉദ്ദേശിക്കുന്നു. ഇന്ത്യൻ നിർമ്മിത വിദേശമദ്യം പരമാവധി 3 ലിറ്റർ മാത്രമേ കൈവശം വയ്ക്കാവൂ എന്നും നിജപ്പെടുത്തുന്നതാണ്.

(vii) ബോർ ഹോട്ടലുകളുടെ പ്രവർത്തന സമയം ക്യാബിനാൻ ഉദ്ദേശിക്കുന്നു. പഞ്ചായത്ത്, മുനിസിപ്പാലിറ്റി പ്രദേശങ്ങളിൽ ഓവിലെ 8 മണി മുതൽ രാത്രി 11 മണിവരെയും, കോർപ്പറേഷൻ പ്രദേശത്ത് ഓവിലെ 9 മണി മുതൽ രാത്രി 12 മണിവരെയും മാത്രമേ ഇനി മുതൽ ബോർ ലൈസൻസ് പ്രവർത്തിക്കാവൂ എന്ന നിബന്ധന കൊണ്ടു വരുന്നതാണ്. സൂര്യോദയം മുതൽ (6 മണി) അർദ്ധരാത്രി വരെ പ്രവർത്തന സമയം അനുവദിക്കുന്ന ചട്ടങ്ങളിൽ ഇതിനാവശ്യമായ ഭേദഗതി കൊണ്ടുവരുന്നതാണ്. നടപ്പു വർഷത്തെ ബോർ ലൈസൻസ് ഫീസ് ഗവണ്മെന്റ് സ്വീകരിച്ചു കഴിഞ്ഞ സാഹചര്യത്തിൽ, ഈ നിബന്ധന 01-04-2012 മുതൽ പ്രാബല്യത്തിൽ വരുന്നതാണ്.

7. ഉദ്യോഗസ്ഥർ ശേഖരിക്കുന്ന സാമ്പിളുകളിൽ കൃത്രിമം കാണിക്കുമോ എന്ന ബോർ ലൈസൻസുകളുടെ സംശയ നിവാരണത്തിനായി രാസപരിശോധനയ്ക്കായി ശേഖരിക്കുന്ന മദ്യം അടങ്ങിയ സാമ്പിൾ ക്ലിപ്പിയുടെ അടപ്പിന്മേൽ ബോർ ലൈസൻസിയുടെ സീലും, ക്ലിപ്പിയിൽ എഴുതി മടിക്കുന്ന ചേലിലെ മറ്റും വയ്ക്കാൻ ആവശ്യപ്പെടേണ്ടതാണ്. ഈ കാര്യത്തിൽ ബോർ ലൈസൻസി / ഏജന്റ് വിസമ്മതം പ്രകടിപ്പിക്കുകയാണെങ്കിൽ മഹസ്റ്റാറിൽ ശേഖരപ്പെടുത്തേണ്ടതാണ്.

(മറുപുറം)

8. നിലവിൽ പാർട്ടണർഷിപ്പ് വ്യവസ്ഥയിൽ പ്രവർത്തിച്ചു വരുന്ന നക്ഷത്ര പരവി
 ്ലാത്ത ബാർ ഹോട്ടലുകളുടെ പാർട്ടണർമാർ പിരിഞ്ഞ് പോകുന്നതിന് ഓരോ പാർട്ട
 നവും 2 ലക്ഷം രൂപ ഫീസ് അടച്ച് നിലവിലെ പാർട്ടണർഷിപ്പ് പൂർണ്ണ രൂപീകരിക്കാവുന്ന
 ാണ്. പുതുതായി പുറത്തു നിന്നും പാർട്ടണറെ ഉൾപ്പെടുത്തുന്നതിന് ഓരോ പാർട്ടണർ
 ഷിപ്പും 20 ലക്ഷം രൂപ വീതം ഫീസ് അടയ്ക്കേണ്ടതാണ്.

കള്ള് ചെന്ത് മേഖല

9. പരമ്പരാഗത വ്യവസായമെന്ന നിലയിൽ കള്ള് ചെന്ത് വ്യവസായത്തെ പൂർണ്ണ
 ത്തി സംരക്ഷിക്കുക എന്നതായിരിക്കും ഈ സർക്കാരിന്റെ നയം. എന്നാൽ വ്യാജ കള്ള്
 മുകാരണവശാലും അനുവദിക്കുന്നതല്ല.

10. ശുദ്ധമായ കള്ള് ലഭ്യമാക്കുകയും തൊഴിലാളികൾക്ക് ന്യായമായ വേതനവും
 ജാലി സുരക്ഷയും ഉറപ്പാക്കുന്നതിനും വേണ്ടി ഷാപ്പ് നടത്തിപ്പ് മുൻ വർഷങ്ങളിൽ
 സാന്നിധ്യം എത്തിപ്പിച്ചിരുന്നു. ഈ രണ്ടു ലക്ഷ്യങ്ങളും നേടുന്നതിൽ പരാജയപ്പെട്ട
 ഹാഫസ്യത്തിൽ, സൊസൈറ്റി സംവിധാനം തുടർച്ചയായി ഉദ്ദേശിക്കുന്നില്ല.

11. കള്ളുഷാപ്പുകൾ ഗ്രൂപ്പിന്മാനത്തിലാണ് അനുവദിക്കുക. എന്നാൽ, തൃശ്ശൂർ
 റാലുകളിലെ പ്രത്യേക സാഹചര്യം കണക്കിലെടുത്തും, കള്ളു ചെന്ത് രംഗത്തെ എല്ലാ
 ടവ് യൂണിയനുകളും ഐക്യകണ്ഠേന ആവശ്യപ്പെടുത്തിന്റെ അടിസ്ഥാനത്തിലും,
 രവിടെ റേഞ്ച് അടിസ്ഥാനത്തിൽ കള്ള് ഷാപ്പുകൾ അനുവദിക്കുന്നതാണ്. കള്ളു ഷാപ്പ്
 ഭത്തിപ്പ് സഹകരണ സംഘങ്ങൾക്ക് നൽകിയ വർഷത്തിന് തൊട്ടു മുമ്പുള്ള വർഷമായ
 006-07-ൽ ഷാപ്പ് നടത്തിയിരുന്നവർക്ക് മുൻഗണന നൽകുന്നതാണ്. ഷാപ്പ് വാങ്ങാൻ
 തുടങ്ങിയ വരുന്ന സാഹചര്യത്തിൽ, ഷാപ്പ് നടത്തിപ്പ് പ്രതിഷേധിക്കുന്ന അതാത് ഷാപ്പ്
 തൊഴിലാളികളെ എതിർക്കാവുന്നതാണ്. തൊഴിലാളികൾ നടത്തുന്ന ഷാപ്പുകളെ KTW
 ontribution ഒരു മാസത്തെ വേതനത്തിനും മറ്റ് ആനുകൂല്യങ്ങൾക്കും തുല്യമായ തുക അട
 ുുന്നതിൽ നിന്നും ഒഴിവാക്കുന്നതാണ്.

12. ഷാപ്പൊന്നിന് 50 തെങ്ങുകളും 5 തൊഴിലാളികളും, 20 ചുണ്ടപനയ്ക്ക് രണ്ടു
 തൊഴിലാളികളും ഉണ്ടായിരിക്കണം എന്ന നിബന്ധന കർശനമായി നടപ്പിലാക്കുന്നതാ
 ന്.

13. അരിഷ്ടാസവങ്ങളുടെ ചില്ലറ വിൽപനയ്ക്ക് (retail) നൽകി വരുന്ന (SP VII)
 ലൈസൻസ് ഫീസ് 1000 രൂപയും, മൊത്തക്കച്ചവടത്തിന് (Wholesale & Exporters)
 നൽകി വരുന്ന ലൈസൻസ് ഫീസ് 5000 രൂപയുമായി വർദ്ധിപ്പിക്കുന്നതാണ്. വ്യാപക

(മുദ്രപുറം)

1. നിയമം ലംഘിച്ചുകൊണ്ട്, ലൈസൻസികൾ അരിപ്പൊതുവങ്ങൾ നിർമ്മിച്ച് വില്പന ന്നി വരുന്നത് തടയാൻ, നിലവിലുള്ള 2000 രൂപ ഫൈൻ 4000 രൂപയായി വർദ്ധിപ്പി ികൊണ്ട്, 1960-ലെ സ്റ്റിരിച്ചുസ് പ്രിപ്പറേഷൻ (കൺട്രോൾ) നിയമത്തിലെ ചട്ടം 17-ൽ ുതി വരുത്തുന്നതാണ്.

14. അബ്കാരി കുടിശ്ശിക പിരിച്ചെടുക്കുന്നതിനുള്ള ആനസ്തി (Amnesty) ന്നീം 6 സന്തതപ്പെടുത്തി (31-12-2011) ദിർഘിപ്പിക്കുന്നതാണ്.

15. സംസ്ഥാനത്ത് ഇപ്പോൾ മൂന്നു കെമിക്കൽ എക്സാമിനേഷൻ ലാബുകൾ മാത്ര പ്രവർത്തിക്കുന്നുള്ളു. നിലവിലുള്ള സംവിധാനത്തിന് പരിശോധനാഫലം വളരെ ാവകി ആഴ്ചകൾക്കു ശേഷം മാത്രമാണ് ലഭിക്കുന്നത്. ആയതിനാൽ, എല്ലാ ജില്ലാ ുസ്ഥാനങ്ങളിലും മദ്യത്തിന്റെ ഗുണനിലവാരം വേഗത്തിൽ പരിശോധിക്കുന്നതിനുള്ള ുതലാബൾ ലാബുകൾ ആരംഭിക്കുന്നതാണ്.

16. സീനികളിൽ മദ്യപാന രംഗങ്ങൾ പ്രദർശിപ്പിക്കുമ്പോൾ, മദ്യപാനം ആരോ ുത്തിനു ഹാനികരം എന്ന സ്റ്റാമ്പുട്ടറി വാണിജ് പ്രദർശിപ്പിക്കുന്നത് നിർബന്ധമാക്കു ുന്നതാണ്.

17. മദ്യസംരംഭ നിയന്ത്രിക്കുന്നതിനായി ഡി-അഡിക്ഷൻ സെന്ററുകൾ ആരംഭിക്കു ുന്നതാണ്. അതുപോലെ, മദ്യവിപണിയിലെ വ്യാപകമായ ബോധവൽക്കരണവും ആവശ്യമാണ്. ഇതിലേക്കായി, എക്സൈസ് വകുപ്പിന്റെ നേതൃത്വത്തിൽ സമഗ്രമായ പരിപാ ികൾ ആസൂത്രണം ചെയ്ത് നടപ്പിലാക്കുന്നതാണ്. മദ്യ-വിരുദ്ധ ബോധവൽക്കരണ പ്രചാ രണ പ്രവർത്തനങ്ങൾക്കു വേണ്ടി 20 ലക്ഷം രൂപ മാത്രം വകയിരുത്തിയ സ്ഥാനത്ത് ഈ സർക്കാർ 2 കോടി രൂപ ഈ വർഷം ചെലവഴിക്കുന്നതാണ്. ഇതു കൂടാതെ, ഈ നയത്തിന്റെ ഫലപ്രദമായ നടത്തിപ്പിനായി എക്സൈസ് വകുപ്പിനെ നവീകരിക്കുകയും എൻഫോഴ്സ്മെന്റ് വിഭാഗത്തെ ശക്തിപ്പെടുത്തുകയും ചെയ്യുന്നതാണ്.

അനുബന്ധം

താഴെപ്പറയുന്ന, ചുറിസം പ്രാധാന്യമുള്ള സ്ഥലങ്ങളിൽ ത്രിസ്റ്റാർ കാറ്റഗറി ുയിലുള്ള ഹോട്ടലുകൾക്ക് ബാർ ലൈസൻസ് തുടർന്നും നൽകുന്നതാണ്.

1. ബേക്കൽ
2. വൈത്തിരി
3. ആലപ്പുഴ
4. കുമരകം
5. ഫോർട്ട് കൊച്ചി
6. കുമളി

(മറുപുറം)

7. മുന്നാൾ
8. വർഷം
9. കോവളം
10. അഞ്ചുമുടി (കൊല്ലം)

(ഗവർണ്ണറുടെ ഉത്തരവിൽ പ്രകാരം),

വി.പി. ജോയ്,
ഗവണ്മെന്റ് സെക്രട്ടറി.

To

1. എക്സൈസ് കമ്മീഷണർ, തിരുവനന്തപുരം.
2. അക്സൈസ് ജനറൽ (എ അൻറ് ഇ / അഡ്മിൻ), കേരളം, തിരുവനന്തപുരം.
3. ധനകാര്യ വകുപ്പ് (06-08-2011-ലെ, 60950/എസ്.സി.2/11/ധന. നമ്പർ പ്രകാരം)
4. പൊതുഭരണ (എസ്.സി) വകുപ്പ് (26-07-2011-ലെ, ഇനം നമ്പർ 245 പ്രകാരം)
5. സ്റ്റാഫ് ഫയർ/ ഓഫീസ് കോപ്പി.

ഉത്തരവിൽ പ്രകാരം

Neelam

സെക്ഷൻ ഓഫീസർ.

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മകര സഭാസഭ
Government of Kerala
2014



Regn. No. KERBH/2012/45073
dated 3-9-2012 with RNI
Reg. No. KL/TW/NR/34/2012-14

കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണ
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Taxes (C) Department

NOTIFICATION

G.O. (P) No. 156/2014/TD, Dated, Thiruvananthapuram, 22nd September, 2014
6th Kann, 1190.

S. R. O. No. 566/2014, in exercise of the powers conferred by sections 18A and 29 of the Alkali Act, I of 1977, the Government of Kerala hereby make the following rules, further to Amend the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975 issued by notification under G.O. (P) No. 134/75/TD dated 4th October, 1975 and published as S.R.O. No. 902/1975 in the Kerala Gazette Extraordinary No. 383 dated 4th October, 1975, namely:—

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AT THE GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM, INDIA.

31/7839/2014/5-7.

കേരള സർക്കാർ
Government of Kerala
2014



Regn. No. KERBL/2012/45073
dated 5-9-2012 with RNI
Reg. No. KL7TV(N)/634/2012-14

കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണ
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
PUBLISHED BY AUTHORITY

വോള്യം 3 Vol. III		2014 സെപ്റ്റംബർ 22 22nd September 2014	
Thiruvananthapuram, Monday		6th Kann 1190 31st Bhadra 1936	നമ്പർ No. 2321

GOVERNMENT OF KERALA

Taxes (G) Department

NOTIFICATION

G. O. (P) No. 157/2014/ITD. Dated, Thiruvananthapuram, 22nd September, 2014.
5th Kann, 1190.

S. R. O. No. 567/2014. — In exercise of the powers conferred by sections, 18 A and 29 of the Abolition Act, I of 1977, the Government of Kerala hereby make the following rule further to amend the Kerala Distillery and Warehouse Rules, 1968 issued by notification under G. O. (Ms.) No. 75/68/RD, dated 1st February, 1968 and published as S.R.O. No. 112/1969 in the Kerala Gazette Extraordinary No. 11 dated 18th March, 1969, namely—

PRINTED AND PUBLISHED BY THE SUPERINTENDENT OF GOVERNMENT PRESSSES AT THE
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM, 2014.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Hon'ble High Court of Kerala in the judgement in WP(C) N. 23356/2005 and connected cases held that in respect of cost of establishment, the licensees under various rules under the Abkari Act are liable to pay only the actual amount paid by the State to the officers deputed to their establishment and also that the licensees are not liable to pay the amounts as contemplated in rule 146 of part 1 of Kerala Service Rules, since the Excise Officers working in those establishments are not in Foreign Service, as per the above rule. Accordingly, in compliance of the said judgement the Government have decided to amend the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975.

The notification is intended to achieve the above object.

1. Short title and commencement.—(1) These rules may be called the Kerala Foreign Liquor (Compounding, Blending and Bottling) Amendment Rules, 2014.

(2) They shall come into force at once.

2. Amendment of the Rules.—In the Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules, 1975,—

(1) in Rule 6,—

(i) in sub-rule (3),—

(a) in the first sentence, the words "including the allowances, leave salary and pension contributions shall be tantamount to

substituted, namely:—

"Explanation.—In this sub-rule, cost of establishment means actual cost of the staff appointed for the purpose of excise supervision, which includes pay, dearness allowance, uniform allowance and other compensatory allowances calculated at such rates as may be prescribed by the Commissioner from time to time."

(2) in "FORM 4", under the heading "CONDITIONS" for condition 10, the following condition shall be substituted, namely:—

"10. The licensee shall pay into the Government Treasury in advance every month, the actual cost of the staff appointed for the purpose of excise supervision, which includes pay, dearness allowance, uniform allowance and other compensatory allowances calculated at such rates as may be prescribed by the Commissioner from time to time."

By order of the Governor,

A. ARITH KUMAR,

Secretary to Government.

1. *Short title and commencement.*—(1) These rules may be called the Kerala Distillery and Warehouse (Amendment) Rules, 2014.

(2) They shall come into force at once.

2. *Amendment of the Rules.*—In the Kerala Distillery and Warehouse Rules, 1968, in PART I,—

(a) in rule 14,—

(i) the figure and brackets "(1)" occurring at the beginning shall be omitted;

(ii) in the first sentence, the words "including allowance, leave salary and pension contribution" shall be omitted;

(iii) for the Explanation, the following Explanation shall be substituted, namely:—

"*Explanation.*—In this rule cost of establishment means actual cost of the staff appointed for the purpose of excise supervision, which includes pay, dearness allowance, uniform allowance and other compensatory allowances calculated at such rates as may be prescribed by the Commissioner from time to time."

(b) in FORM IV A, under the heading "CONDITIONS" for condition 18, the following condition shall be substituted, namely:—

"18. The licensee shall pay in the Government Treasury in advance in the first day of each month, from the date of the licence, the actual cost of the staff appointed for the purpose of excise supervision which includes pay, dearness allowance, uniform allowance and other compensatory allowances calculated at such rates as may be prescribed by the Commissioner from time to time. If the licensee fails to remit the amount on the first day of every month, interest at the rate of 18% shall be charged and from the 20th day of the month, penal interest at 2.5% shall also be charged. In case of revision of pay and/or allowance of the staff with retrospective effect, the licensee shall be liable to pay to the Government the whole amount of arrears of differential cost caused by such retrospective revision."

By order of the Governor,

A. AJITH KUNAR,
Secretary to Government.

(This does not form part of the notification, but is intended to indicate its general purport.)

The Hon'ble High Court of Kerala in the judgment in WP(C) No. 23356/2005 and connected cases held that in respect of cost of establishment, the licensees under various rules under the Abkari Act are liable to pay only the actual amount paid by the State to the officers deputed to their establishments and also that the licensees are not liable to pay the amounts as contemplated in rule 146 of Part I of Kerala Service Rules, since the Excise Officers working in those establishments are not in Foreign Service, as per the above rule. Accordingly, in compliance of the above judgment the Government have decided to amend the Kerala Distilleries and Warehouse Rules, 1968.

The notification is intended to achieve the above object.

കേരള സർക്കാർ
Government of Kerala
2014



Regn. No. KERBL/2012/45073
dated 5-9-2012 with RNI
Reg. No. KL/TV/NY/634/2012-14

കേരള ഗസറ്റ്
KERALA GAZETTE

അസാധാരണ
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്

PUBLISHED BY AUTHORITY

നമ്പർ 3	22nd September 2014	നമ്പർ 2322
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GOVERNMENT OF KERALA

Taxes (C) Department

NOTIFICATION

G. O. (P) No. 158/2014/TD.

Dated, Thiruvananthapuram, 22nd September, 2014

6th Kanni, 1190.

S. R. O. No. 568/2014.—In exercise of the powers conferred by sections 18A and 29 of the Abkari Act 1 of 1977, the Government of Kerala hereby make the following rules further to amend the Kerala Rectified Spirit Rules, 1972 issued by notification under G. O. (P) No. 11/72/TD dated 14th February, 1972 and published as S. R. O. No. 215/1972 in the Kerala Gazette No. 19 dated 9th May, 1972, namely:—

RULES

1. *Short title and commencement.*—(1) These rules may be called the Kerala Rectified Spirit (Amendment) Rules, 2014.
- (2) They shall come into force at once.

PRINTED AND PUBLISHED BY THE SUPERINTENDENT OF GOVERNMENT PRESSES
AT THE GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM, 2014.

33/3841/2014/S-3.

2. Amendment of the Rules.—In the Kerala Rectified Spirit Rules, 1972—

(1) in rule 16, in sub-rule (4) for the explanation the following Explanation shall be substituted, namely:—

"Explanation:—In this sub-rule, cost of Establishment means actual cost of the staff appointed for the purpose of excise supervision, which includes pay, dearness allowance, uniform allowance and other compensatory allowances calculated at such rates as may be prescribed by the Commissioner from time to time".

(2) in "FORM R. S. III, under the heading "CONDITIONS" for condition 18, the following condition shall be substituted, namely:—

"18. The licensee shall pay to the Government Treasury in advance in the first day of each month, from the date of the licence, the actual cost of the staff appointed for the purpose of excise supervision which include pay, dearness allowance, uniform allowance and other compensatory allowances calculated at such rates as may be prescribed by the Commissioner from time to time. If the licensee fails to remit the amount on the first day of every month, interest at the rate of 18% shall be charged and from the 20th day of the month penal interest at 2.50% shall also be charged. In case of revision of pay and/or allowance of the staff with retrospective effect, the licensee shall be liable to pay to the Government the whole amount of arrears of differential cost caused by such retrospective revision.

By order of the Governor,

A. AJITHKUMAR,
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

The Hon'ble High Court of Kerala in the judgement in WP(C) No. 21356/2005 and connected cases held that in respect of cost of establishment, the licensees under various rules under the Aberrant Act are liable to pay only the actual amount paid by the State to the officers deputed to their establishment and also that the licensees are not liable to pay the amount as contemplated in rule 146 of Part I of Kerala Service Rules, since the Excise Officers working in those establishments are not in Foreign Service, as per the above rule. Accordingly, in compliance of the said judgement the Government have decided to amend the Kerala Rectified Spirit Rules, 1972.

The notification is intended to achieve the above object.

Very Urgent

Sect. 37, 3/80/2011/20 Lsh. GPM. © Govt. of Kerala



GOVERNMENT OF KERALA

No.18430/F1/2013/TD

Taxes (F) Department,
Thiruvananthapuram,
Dated 28-11-2013

31935

COMMISSIONATE OF
EXCISE

30 NOV 2013

RECEIVED

From

The Secretary to Government

To

The Advocate General,
Ernakulam.

Sir,

Sub:- Taxes Department - Excise Establishment - Filing of Writ Appeal against the common judgments in WP(C) Nos.23356/05, and 5990/07 and judgment in WP(C) No. 3610/2006 - Reg.

- Ref:- 1) Government letter of even No. dated 26-08-2013.
2) GO(Rt) No.832/13/TD dated 23-10-2013.

I am to invite your attention to the references cited and to inform that Government have decided to comply with the directions contained in the above judgments and similar judgments, until suitable amendments are incorporated in Rule 16 (4) of the Kerala Rectified Spirit Rules 1972 and in Kerala Foreign Liquor (Compounding, Blending and Bottling) Rules 1975 and other relevant rules. Hence, I am to request you to expedite steps to withdraw Writ Appeal proposed to file against the judgments in WP(C) Nos.23356/05, 3610/06 and 5990/07 at the earliest, under intimation to Government.

Yours faithfully,

TESSY P JOSE

Under Secretary

For Secretary to Government.

Approved for issue,


 Section Officer

- Copy to:- 1) The Commissioner of Excise, Thiruvananthapuram (He is requested to comply with the directions contained in the judgment urgently and furnish a compliance report direct to the Advocate General, Ernakulam under intimation to Government)
2) The Assistant Commissioner of Excise (Law), Ernakulam (for follow up)

32466

Sect. 37, 308/2011/20 Lash. GPM. G. Govt. of Kerala



GOVERNMENT OF KERALA

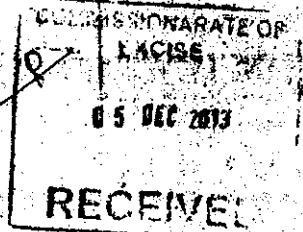
നം. 23076/എഫ്.1/2013/നി.വ.

നികുതി (എഫ്) വകുപ്പ്
 നിരവധനനാപ്യരും,
 തീയതി 02-12-2013

ഗവൺമെന്റ് സെക്രട്ടറി.

എക്സൈസ് കമ്മീഷണർ,
 നിരവധനനാപ്യരും.

സർ,



വിഷയം:- നികുതി വകുപ്പ് - എക്സൈസ് കമ്മീഷണറും - റിട്ട് അപ്പീൽ നമ്പർ. 63/2012 -
 വ്യക്തത - സംബന്ധിച്ച്.

- സ്വചന:-
1. 11-11-2013 ലെ ഉത്തര നമ്പർ സർക്കാർ കത്ത്.
 2. 19-11-2013 ലെ താങ്കളുടെ എക്സ്.സി.3-20055/13 നമ്പർ കത്ത്.
 3. 28-11-2013 ലെ 18430/എഫ്.1/13/നി.വ നമ്പർ കത്ത്.

സ്വചനകളിലെ താങ്കളുടെ ശ്രദ്ധ ക്ഷണിക്കുന്നു. വാങ്ങിയ (പി.)നം.23356/05, 5990/07 എന്നിവയിലെത്തുള്ള ബഹു. ഹൈക്കോടതിയുടെ ഉത്തരവിനെതിരെ സർക്കാർ ഫയൽ ചെയ്ത റിട്ട് അപ്പീലുകൾ പിൻവലിക്കാൻ സ്വചന (3) ലെ കത്ത് പ്രകാരം അഡ്വക്കേറ്റ് ജനറലിന് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്. ആയതിനാൽ WA 63/2012 -ലെത്തുള്ള ബഹു. ഹൈക്കോടതിയുടെ 31-07-2013 ലെ ഉത്തരവ് നടപ്പിലാക്കാനുള്ള സ്വചന (1) ലെ സർക്കാർ കത്തിലെ നിർദ്ദേശം പാലിച്ച്, അഡ്വക്കേറ്റ് ജനറലിനെ അറിയിക്കുന്നതോടൊപ്പം, വിവരം സർക്കാരിനെ അറിയിക്കാനും താല്പര്യപ്പെടുന്നു.

വിശ്വസ്തതയോടെ,

ടെസ്റ്റി. പി.ജോസ്

അതർ സെക്രട്ടറി,

ഗവൺമെന്റ് സെക്രട്ടറിയുടെ വേണ്ടി.

അംഗീകാരത്തോടെ

സെക്ഷൻ ഓഫീസർ

**Action Taken Report on the Recommendations contained in the Report of the
Committee on Public Accounts (2016-19)**

Department	Recommendation	Action taken Report
6.3 Taxes(Out of 128 offices)	<p>In 2014-15 test check of the records of 40 offices under Excise Department relating to excise duty , license fee receipts etc, showed non/short realisation of excise duty/license fee/ interest/penalty and other irregularities involving Rs.14.98 crores in 47 cases, which fall under the following categories.</p> <p>During the course of the year, the department accepted under assessment and other deficiencies involving 58.26 lakh in 12 cases which were pointed out during previous years. The Department realised an amount of Rs.57.93 lakh in the above 12 case during the year 2014-15.</p> <p>When the reason for short realisation of amount pointed out by Audit was called for in August 2015 and subsequently in October 2015, the Department stated (November 2015) that this would be furnished on receipt of the reports from sub offices. This had not been received (January 2016)</p>	<p>Out of Rs. 14.98 Crores to be collected to the Govt. account as reported in Para 6.3, an amount of Rs. 4,83,898/- has been collected from various items as per the reports received from Excise Division Office Malappuram, Thrissur, Pathanamthitta, Kottayam, Palakkad and Kasaragod. Action is under progress to collect the remaining amount. WP(C)No.28323/2015, filed by Devicolam Distillery regarding the excess wastage duty, is pending before the Hon'ble High Court of Kerala. Hence the dues cannot be recovered now.</p>
6.4 Taxes	<p>Non-imposition of fine in cases of shortage in consignment of liquor. Fine was not imposed on the directions of Excise Commissioner which was against the statutes. <u>7 offices of the Excise Inspectors</u>. As per Rule 11 of Foreign Liquor (FL) Rules, 1953, the Excise Inspector at the destination shall verify the consignment on arrival and see that the quantity is</p>	<p>One of the reason by which the shortage of liquor happens is lack of facility for safe parking of vehicles. Vehicles carrying liquor are parked outside the compound of warehouse or on the road side. Due to the long queue of the vehicles to unload the liquor, it may take 5 to 7 days or more to</p>

		<p>duly credited in the accounts where the transport is by a licensee. Rule 34 of the FL Rules, 1953 stipulates that infraction of any of the rules or conditions of a licence issued under these rules either by a licensee or by a person in his employment shall entail on the licensee or agent or both a fine or cancellation of the licence or both.</p> <p>A scrutiny of transport permits and goods receipt register in seven offices of the Excise Inspectors attached with FL-9 Warehouses of Kerala State Beverages Corporation, revealed that during the period 2012-14, the Excise Inspectors released 3,034 consignments of IMFL in which shortage was found to be less than one case of liquor without realising the fine prescribed. This was based on the directions issued by the Excise Commissioner, which was contrary to rule 34 of FL Rules. This resulted in non realisation of fine of Rs. 4.35 crore.</p> <p>The Deputy Excise Commissioner, Alappuzha stated (July 2015) that demand notice had since been issued. The Government stated (October 2015) that there was no direction to collect the fine for the consignment having shortage of less than one case and the Excise Commissioner had no intention to collect fine on shortage of liquor if found less than one case. The Government reply was not acceptable since the permit holder violated the permit conditions prescribed under section 11 of the Abkari Act and was liable to pay penalty under rule 34 of Foreign Liquor Rules. Further report had not been received (January 2016).</p>	<p>unload liquor. In such a situation there is chance of few bottles getting lost due to theft etc. Hence Excise Commissioner has allowed a meagre concession upto 1 case of liquor. Moreover, there is no provision in the rule for the regularization of such permit where there is shortage. The only legal remedy left is to register an Abkari case for the violation of FL Rules or permit condition. To avoid such drastic step, Excise Commissioner has issued a circular whereby a concession upto 1 case has been given ie; in a consignment of 600 cases, Excise Commissioner has given concession of 0.15%. In other case, Rs. 15,000/- is collected for a shortage of even 1 case of liquor. Moreover, duty paid permits are also issued. Hence there is no revenue loss in respect of Excise duty on shortage of liquor.</p>
6.5	Taxes	Short levy of duty due to allowance of excess	In the LAR, it is pointed out that wastage of

		<p>wastage. Duty as stipulated in the statutes was not levied for excess wastage of liquor. Office of Excise Inspector, Devicolam distilleries Ltd. Kakkanad. Rule 10(5) of the Kerala Foreign Liquor (Compounding, Blending and Bottling) (KFL(CB &B)) Rules, 1975 stipulated that while bottling of spirits are carried out in the bottling warehouses, an allowance of not more than half percent shall be allowed for loss in bottling and the wastage shall be calculated on the quantity. Any deficiency in excess of half percent shall be charged with duty at the rate of Rs. 20 per proof litre (PL) applicable to Indian made foreign spirits.</p> <p>Scrutiny (November 2014) of the registers of bottling operations in the office of Excise Inspector attached with Devicolam Distilleries Limited, Kakkanad revealed that during the period 2012-2014, wastage of 25,826.26 PL liquor in excess of permissible limits was allowed to the distillery by the Excise Inspector while bottling the liquor. This resulted in short levy of duty of Rs. 5.17 lakh.</p> <p>Government stated (October 2015) that counter signed challan for remitting the duty short levied had been issued to the distillery. Further report had not been received (January 2016).</p>	<p>25826.26 PL liquor in excess of permissible limit was allowed to the Distillery and hence resulted a short levy of duty of Rs. 5.17 lakh @ Rs. 20 PL.</p> <p>At present the rate of proof litre of spirit is Rs. 34.5/-. Thus the distillery authorities have to remit an amount of Rs. 8,91,005/- within 14 days of the receipt of the notice. In reply to the notice the distillery authorities represented that the matter has been brought to the notice of the Excise Commissioner and requested not to proceed further in the matter till a decision is taken on their application. As per the direction of the Deputy Commissioner of Excise, Ernakulam, the Excise Inspector, DDL issued a Chalan for Rs. 8,91,005/- to the authorities to remit the amount without further delay.</p> <p>On Receipt of the chalan the distillery authorities filed WP(C) No. 28323/15 before the Hon'ble High Court of Kerala. The Hon'ble Court in its order stayed further proceedings upto 19.10.2015. Awaiting final judgment.</p>
6.6	Taxes	<p><u>Short realisation of fine and penalty.</u> Fine and penalty realised were less than those stipulated as per the statutes.</p> <p>As per section 67(2) read with 67(3) of Abkari Act, the Commissioner may impose a fine of Rs. 3 lakh each on any person or persons holding a licence or permit for violation by way of re-constitution,</p>	<p>As pointed out by the AG vide letter no SRA (HQ) III/EX/20-1182/15-16 dated 13.05.2015, the Order of the Commissioner of Excise dated 09.09.2013 has been modified vide Order No. XC7-9637/15 dated 03.07.2015 for regularization of unauthorized reconstitutions of Director</p>

alteration or modification without the permission of the Commissioner of any deed on strength of which the licence is granted and the Commissioner may regularise such irregular re-constitution on payment of fine and on application from licensee. Under Rule 19(iii) of Foreign Liquor Rules, 1953 re-constitution of partnership/ Directors of a company may be allowed on payment of Rs.1 lakh.

M/s Hotel Dona Castle, Kollam is a company having bar licence. The Board of Directors of the company was reconstituted twice in March 2013 without the permission of the Commissioner. The Commissioner regularised these two reconstitutions treating them as a single one and levied Rs. Four lakh by way of fine and penalty. The Abkari Act envisages fine and penalty for each reconstitution and hence the action taken by the Commissioner was not correct. This resulted in short realisation of fine and penalty of Rs. Four Lakh.

The Government stated (October 2015) that revision petition to Government had been rejected and the Excise Commissioner had been directed to realise the short remittance of fee and fine from the licensee.

Board of Hotel Dona Castle. Notice has been issued to the licensee to remit the short collections as per the modified order.

Against the above modified order, the licensee filed revision petition before the Government and also filed WP(C) No. 24601/15 before the Hon'ble High Court of Kerala. The Hon'ble Court has directed the State Government of Kerala to consider the revision petition in accordance with law and pass appropriate orders thereon, as expeditiously as possible at any rate within two months from date of receipt of the copy of judgment. Government vide order No. GO (Rt) No. 746/2015/TD dated 30.09.2015 has rejected the revision petition submitted by M/s Hotel Dona Castle. The petitioner filed WP(C) No. 30748/2015 before the Hon'ble High Court of Kerala challenging the above order of Commissioner of Excise and Government. The Hon'ble High Court of Kerala, in its judgment dated 11/08/2017 directed the respondents to adjust the amount excessively paid by the petitioner against fine in excess of Rs. 25,000/- each under section 67(2) of Abkari Act in any future transactions or repay the same within two months from the date of the receipt of the copy of the judgment. But, as per the Abkari (Amendment) Act 2014, the Government have amended section 67 of the Abkari Act, by which the fine for

			<p>unauthorised reconstitution was raised from Rs. 25,000/- to Rs. 3 Lakhs, with effect from 26/04/2013. The applicant submitted the application for regularisation of the unauthorised reconstitution only on 10/06/2013. In such occasions the application could only be considered on the basis of the rules/laws prevailing at that time. Hence the argument of the petitioner is not justifiable and the compliance of the judgment of Hon'ble High Court will lead to huge loss to State Exchequer. In the light of this the Government have requested the Advocate General to file appeal against the judgment dated 11/08/2017 in WP(C) No. 30748/2015 filed by Sri. E.J.Davis, Hotel Dona Castle, Kollam.</p>
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 R. Raja Gopal
 Additional Secretary
 Taxes Dept

2017 മാർച്ചിൽ അവസാനിച്ച റവന്യൂ വിഭാഗത്തിന്മേലുള്ള സിടീഎ.ജി റിപ്പോർട്ടിൽ സിറികരിച്ച നടപടി വിവരം.

ക്രമ നമ്പർ	ഖണ്ഡിക	ശുപാർശ	മറുപടി
1	5.1	നികുതി കാരു നിർവ്വഹണം	നിർദ്ദേശം അംഗീകരിച്ചു.
2	5.2	ആന്തരിക പരിശോധന	<p>2015-16 വർഷത്തിൽ ആഭ്യന്തര പരിശോധന വിഭാഗത്തിന്റെ പരിശോധനാ ചുമതലകൾ, ഫീൽഡ് ഓഫീസുകളിലെ സർക്കിൾ ഇൻസ്പെക്ടർമാർ, റെയ്ഞ്ച് ഇൻസ്പെക്ടർമാർ എന്നിവർക്കുള്ള വിതരണ നൽകിയിരുന്നതിനാലാണ് കൂടുതൽ പരിശോധന നടത്താൻ കഴിഞ്ഞതെന്ന് കാണുന്നു. എന്നാൽ അനേകം വർദ്ധിച്ച് വരുന്ന കറ്റക്ടന്റുമാർ മൂലം ശക്തമായ എൻഫോഴ്സ്മെന്റ് പ്രവർത്തനങ്ങളും മറ്റ് ഭരണഭിന്ന ഡ്യൂട്ടികളും ഉള്ളതിനാൽ ശരിയായ രീതിയിൽ ഫീൽഡ് ഉദ്യോഗസ്ഥരെ ഉപയോഗിച്ച് പരിശോധനകൾ നടത്താൻ കഴിയാതെ വരുന്നതിനാൽ 2016-17 വർഷത്തിൽ ആസ്ഥാന ആഭ്യന്തര പരിശോധനാ വിഭാഗം നേരിട്ട് മാത്രമാണ് പരിശോധനകൾ മുഴുവനും നടത്തിയിട്ടുള്ളത്. എന്നാൽ ആസ്ഥാന ആഭ്യന്തര പരിശോധനാ വിഭാഗത്തിന് നിലവിൽ തിരുവനന്തപുരം ജില്ല മുതൽ കാസർഗോഡ് ജില്ല വരെയുള്ള 311 ഓഫീസുകൾ പരിശോധിച്ചു തുടർ നടപടി സ്വീകരിക്കാൻ 3 സൂപ്രണ്ട്, 3 എക്സൈസ് ഇൻസ്പെക്ടർ, 6 പ്രിവന്റിവ് ഓഫീസർ എന്നിങ്ങനെ മാത്രമാണ് അംഗബലം ഉള്ളത്. ജീവനക്കാരെ എണ്ണം വർദ്ധിപ്പിക്കുവാനുള്ള നടപടികൾ സർക്കാർ പരിഗണനയിൽ ആണ്. ഓഡിറ്റിംഗിൽ പങ്കെടുക്കുന്ന ഉദ്യോഗസ്ഥരെ യാത്രാപ്പടി ഇനത്തിൽ സാധാരണ ഉദ്യോഗസ്ഥർക്ക് നൽകുന്ന പരിധിയിൽ നിന്നും ഒഴിവാക്കിയിട്ടില്ല. ആയതിനാൽ പരിശോധനകളുടെ എണ്ണം നിയന്ത്രിതമായ യാത്രാപ്പടിക്ക് അനുസൃതമായി പരിമിതപ്പെടുത്തേണ്ടതായി വരുന്നു. എന്നാൽ ആസ്ഥാന ആഭ്യന്തര പരിശോധനാ വിഭാഗത്തിന്റെ പരിശോധന കൂടാതെ മേഖലാ ജോയിന്റ് എക്സൈസ് കമ്മീഷണർമാർ, ഡിവിഷൻ ഡെപ്യൂട്ടി എക്സൈസ് കമ്മീഷണർമാർ, സർക്കിൾ ഇൻസ്പെക്ടർമാർ എന്നിവർ തങ്ങളുടെ അധികാര പരിധിയിൽപ്പെടുന്ന ഓഫീസുകളിൽ നിർവ്വഹിക്കുന്ന ഇടവേളകളിൽ കൃത്യമായി ആഭ്യന്തര പരിശോധനകൾ നടത്തിവരുന്നുണ്ട്. 2016-17 വർഷത്തിൽ തീർപ്പാക്കാൻ ബാക്കി നിന്ന 2884</p>

			പരാമർശങ്ങളിൽ 1119 പരാമർശങ്ങൾ തീർപ്പാക്കിയിട്ടുള്ളതാണ്. അവശേഷിക്കുന്ന ന്യൂനതകൾ അടിയന്തിരമായി തീർപ്പാക്കാൻ ബന്ധപ്പെട്ട എല്ലാ ഉദ്യോഗസ്ഥർക്കും കർശന നിർദ്ദേശം നൽകിയിട്ടുണ്ട്.
3	5.3	ഓഡിറ്റിന്റെ ഫലങ്ങൾ	നിർദ്ദേശം അംഗീകരിച്ചു.
4	5.4	എഫ്.എൽ.ലൈസൻസുള്ള കമ്പനികൾ/ഫെറുകൾ ബോർഡ് ഓഫ് ഡയറക്ടേഴ്സിനെ നിയമ വിരുദ്ധമായി പുനഃസംഘടിപ്പിച്ചത്.	<p>1. <u>ഹമാര ഹോട്ടൽസ് പ്രൈവറ്റ് ലിമിറ്റഡ്, തൃശ്ശൂർ</u> ടി സാഹചര്യത്തിൽ 10.06.2013-ന് നടത്തിയ പുനഃസംഘടനയ്ക്ക് 10.06.2013-ലെ എക്സ്.സി.6-12661/13/ആർ.ഡിസ്. നമ്പർ ഉത്തരവ് പ്രകാരം അനുമതി നൽകുകയും, ആയതിനുള്ള ഫീസ് ആയ 1 ലക്ഷം രൂപ 29.06.2013-ലെ 329-ാം നമ്പർ ചലാൻ പ്രകാരം തൃശ്ശൂർ ജില്ലാ ട്രഷറിയിൽ അടവ് വരുത്തിയിട്ടുണ്ട്.</p> <p>2. <u>ഹോട്ടൽ അരമന (സാമുവൽ ആന്റ് അസഫ് ഹോട്ടൽ പ്രൈവറ്റ് ലിമിറ്റഡ്)</u> അനധികൃതമായി 2 പുനഃസംഘടനകൾ നടത്തിയതിന് ഫീസും പിഴയുമായി 8 ലക്ഷം രൂപ അടക്കുന്നതിന് 10.08.2017-ന് നോട്ടീസ് നൽകിയെങ്കിലും, ലൈസൻസി ബഹു. ഹൈക്കോടതിയിൽ ഡബ്ല്യു.പി.(സി) 28475/17 ആയി കേസ് ഫയൽ ചെയ്യുകയും, ഇക്കാര്യം അന്വേഷണത്തിന് ബഹു. കോടതി സ്റ്റേ ചെയ്യുകയും ചെയ്തു.</p> <p>3. <u>കാളിറ്റി ഹോട്ടൽസ് പ്രൈവറ്റ് ലിമിറ്റഡ്</u> അനധികൃതമായി നടത്തിയ 3 പുനഃസംഘടനയ്ക്ക് പിഴയും, ഫീസും, ലൈസൻസ് ട്രാൻസ്ഫർ ഫീസുമായി 14 ലക്ഷം രൂപ അടക്കുന്നതിന് 08.05.2015-ലെ എക്സ്.സി.6/7625/2015 നമ്പർ ഉത്തരവ് പ്രകാരം അനുമതി നൽകിയെങ്കിലും, ലൈസൻസി ബഹു. ഹൈക്കോടതിയിൽ ഡബ്ല്യു.പി.(സി)15169/15 ആയി ഫയൽ ചെയ്ത കേസിൽ കോടതി ഉത്തരവിൻ പ്രകാരം 9 ലക്ഷം രൂപ അടവ് വരുത്തിയിട്ടുണ്ട്.</p> <p>4. <u>കോഞ്ചാർ ഹോട്ടലിയ റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ്.</u> ചങ്ങനാശ്ശേരി റെയിഞ്ചിലെ എഫ്.എൽ.3 നമ്പർ കെ.റ്റി.03/18-19, കോഞ്ചാർ ഹോട്ടലിയ റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ് ഡയറക്ടർ ബോർഡ് ബഹു.എക്സൈസ് കമ്മീഷണറുടെ മുൻകൂർ അനുമതിയില്ലാതെ പുനഃക്രമീകരിച്ചതുമായി ബന്ധപ്പെട്ട് ടി ഹോട്ടൽ ലൈസൻസിക്ക് ചങ്ങനാശ്ശേരി എക്സൈസ് സർക്കിൾ ഇൻസ്പെക്ടർ മുഹമ്മദ്</p>

നോട്ടീസ് നടത്തുകയും ടി ലൈസൻസി ആയതിന് മറുപടി നൽകുകയും ചെയ്തിട്ടുണ്ട്. ടി സ്ഥാപനത്തിന്റെ ലൈസൻസിയായ ശ്രീ.എൻ.സുരേഷ്, കോണ്ടർ, ടിയാന്റെ ഭാര്യ, രേഖ സുരേഷ് എന്നിവർ സ്ഥിരമായി ഡയറക്ടർ ബോർഡിൽ ഉള്ളതും കേരള സ്റ്റേറ്റ് ഇൻഡസ്ട്രിയൽ ഡവലപ്പ്മെന്റ് കോർപ്പറേഷനിൽ നിന്നും ചോൺ ഏജന്റുമാരുമായി നാൽപ്പതിനായിരം കോർപ്പറേഷൻ കാലാകാലങ്ങളിൽ നിർദ്ദേശിക്കുന്ന മൊളിനെയും ഉൾപ്പെടുത്താറുണ്ടെന്നും ആണ് ലൈസൻസി മറുപടിയിൽ പറഞ്ഞിരിക്കുന്നത്.

ഇപ്പോൾ ടി ഹോട്ടലിന്റെ ഡയറക്ടർ ബോർഡിൽ ശ്രീ.എൻ.സുരേഷ്, ശ്രീമതി രേഖ സുരേഷ്, KSIDC നോമിനി ശ്രീ.ബി.ജി. ബീജ എന്നിവരാണ് ഉള്ളത്. ശ്രീ.ബി.ജോയി കമാറിന് പകരമായാണ് ശ്രീ.ബി.ജി.ബീജിനെ KSIDC നിയമിച്ചിരിക്കുന്നത്. കൂടാതെ KSIDC നോമിനേറ്റ് ചെയ്യുന്ന ആൾ കമ്പനിയുടെ ഡയറക്ടർ മാത്രമാണെന്നും അതർക്ക് കമ്പനിയിൽ യാതൊരുവിധ ഓഹരികളോ, ഉടമസ്ഥാവകാശം മറ്റാന്നും ഇല്ലായെന്ന് ലൈസൻസി പറഞ്ഞിരിക്കുന്നത്. ഇതു സംബന്ധിച്ച കൂടുതൽ വ്യക്തത വരുത്തുന്നതിനായി ലൈസൻസിക്ക് നോട്ടീസ് നൽകുവാൻ കോട്ടയം ഡെവലപ്മെന്റ് കമ്മീഷണർക്ക് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്.

5. സുരി ഹോട്ടൽസ് & റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ്

കോട്ടയം റെയ്ഞ്ചിലെ എഫ്.എൽ.3 നമ്പർ കെ.റ്റി.61/18-19, സുരി ഹോട്ടൽസ് & റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ്, കരകം എക്സൈസ് കമ്മീഷണറുടെ മുൻകൂർ അനുമതിയില്ലാതെ ഡയറക്ടർ ബോർഡ് പുനഃക്രമീകരിച്ചതുമായി ബന്ധപ്പെട്ട് ടി ഹോട്ടൽ ലൈസൻസിക്ക് വെബ് സൈറ്റിലെ signatory details പ്രകാരം നോട്ടീസ് നൽകുകയും, ടി ലൈസൻസി ആയതിന് മറുപടി നൽകുകയും ചെയ്തിട്ടുണ്ട്.

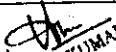
എക്സൈസ് കമ്മീഷണറുടെ എക്സ്.സി.7-28050/07 തീയതി 18.08.2008 നമ്പർ ഉത്തരവ് പ്രകാരം എഫ്.എൽ.3-നമ്പർ കെ.റ്റി.61/08-09 ബാർ ലൈസൻസ് അനുവദിച്ചപ്പോൾ ടി ഹോട്ടലിന്റെ പേര് ലൂണ കരകം റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ് എന്നായിരുന്നുവെന്നും, ടി കമ്പനിയുടെ മാനേജിംഗ് ഡയറക്ടർ ആയിരുന്ന ശ്രീ.സജി അസഹിന്റെ പേരിലായിരുന്നു ലൈസൻസ് അനുവദിച്ചിരുന്നത്.

2012-ൽ ലൂണ കരകം റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ് കമ്പനി, സുരി

ഹോസ്പിറ്റാലിറ്റി പ്രൈവറ്റ് ലിമിറ്റഡ് കമ്പനിയിൽ ലയിക്കുകയും ടി ഹോട്ടലിന്റെ പേര് ടി സൂരി കമരകം, കേരള റിസോർട്ട്സ് & സ്പാ, കമരകം എന്നും, ശ്രീ.ശരത് വത്സമാജ് (ജനറൽ മാനേജർ)-ന്റെ പേരിലേക്ക് ലൈസൻസ് മാറ്റുകയും ആയതിന്റെ ഫീസ് ആയി എക്സൈസ് കമ്മീഷണറുടെ എക്സ്.സി.7-740/12, തീയതി 30.01.12 നമ്പർ ഉത്തരവ് പ്രകാരം രണ്ട് ലക്ഷം രൂപ ട്രഷർ വരുത്തുകയും ചെയ്തിട്ടുണ്ട്. ടി കാലയളവിൽ ടി ഹോട്ടലിന്റെ ഡയറക്ടർ ബോർഡ് അംഗങ്ങൾ 1)Rashmi.C.Kamani, 2) Deepak.C.Kamani, 3) Aditya Deepak Kamani, 4) Abhishek Rashmi Kamani and 5)Vrajlal Vithaldas Joshi എന്നിങ്ങനെ 5 പേരാണ് ഉണ്ടായിരുന്നത്.

ഇടർന്ന് 2012-ൽ സൂരി ഹോസ്പിറ്റാലിറ്റി പ്രൈവറ്റ് ലിമിറ്റഡ് കമ്പനിയിൽ നിന്നും De-merge ചെയ്ത് ടി ഹോട്ടലിന്റെ ഉടമസ്ഥാവകാശം 1) Aditya Deepak Kamani, 2) Abhishek Rashmi Kamani, 3) Vrajlal Vithaldas Joshi എന്നിവർ മാത്രം അടങ്ങിയ ഡയറക്ടർ ബോർഡിന് ആകുകയും, ടി ഹോട്ടലിന്റെ പേര് Zuri Hotels and Resorts Pvt Ltd എന്ന് മാറ്റുകയും ചെയ്തു. ഡയറക്ടർ ബോർഡിൽ നിന്നും രണ്ട് അംഗങ്ങളെ ഒഴിവാക്കി പുനഃസംഘടിപ്പിച്ചതിനും ടി ഹോട്ടലിന്റെ പേര് മാറ്റിയതിനുമായി എക്സൈസ് കമ്മീഷണറുടെ എക്സ്.സി.7-2331/14, തീയതി 30.06.14 നമ്പർ ഉത്തരവ് പ്രകാരം 05.07.14-ൽ റ്റി.ആർ. നമ്പർ 208 ആയി 3,00,000/- രൂപയും റ്റി.ആർ. നമ്പർ 210 ആയി 1,00,000/- രൂപയും കോട്ടയം ജില്ലാ ട്രഷറിയിൽ ട്രഷർ വരുത്തിയതിന്റെ ചെല്ലാൻ പകർപ്പും ഹാജരാക്കിയിട്ടുണ്ട്. ആയത് 24.05.2013-ൽ നടത്തിയ മാറ്റത്തിനാണ് എന്ന് കാണുന്നു. കമ്പനികൾ സംബന്ധമായ വിവരങ്ങൾ അടങ്ങിയ Ministry of Corporate Affairs ന്റെ ഗവൺമെന്റ് സൈറ്റിൽ നിന്നും ലഭ്യമായ രേഖയിൽ നിന്നും ടി ഹോട്ടലിന്റെ ഡയറക്ടർ ബോർഡിൽ 1) Aditya Deepak Kamani, 2) Abhishek Rashmi Kamani, 3) Rashmi Chamanlal Kamani, 4) Deepk Kumar Chamanlal Vrajlal, 5) Devendra Nanaial Dave, 6) Vrajlal Vithaldas Joshi എന്നിങ്ങനെ ആകെ ആറ് ഡയറക്ടർമാരാണ് ഉള്ളത്. കൂടാതെ കമ്പനി സെക്രട്ടറിയായി 30.08.14-ൽ Chetan Dhirajlal എന്നയാളെ Star

			<p>Section 203 of the Companies Act, 2013 പ്രകാരം നിയമിക്കുകയും ചെയ്തിട്ടുണ്ട്. ഇതിന് ആവശ്യമായ തുക അടച്ചതായി കാണുന്നില്ല. ടിനാനെ നിയമിച്ചതിലൂടെ ബോർഡ് ഓഫ് ഡയറക്ടേഴ്സിൽ യാതൊരുവിധ മാറ്റവും ഇല്ലായെന്നാണ് ലൈസൻസി അറിയിച്ചിരിക്കുന്നത്. ആയതിൽ ലൈസൻസിക്കു നോട്ടീസ് നൽകി തുടർ നടപടികൾ സ്വീകരിക്കുവാൻ കോട്ടയം ഡെപ്യൂട്ടി എക്സൈസ് കമ്മീഷണർക്ക് നിർദ്ദേശം നൽകിയിട്ടുണ്ട്.</p> <p><u>6. കായിലോൺ ഹോട്ടൽസ് & റിസോർട്ട്സ് പ്രൈവറ്റ് ലിമിറ്റഡ്</u> 23.12.2017-ലെ ഇ.എക്സ്.സി/6670/2017-എക്സ്.സി.7 ഉത്തരവ് പ്രകാരം എഫ്.എൽ.3-1/2017-2018, കായിലോൺ ബീച്ച് ഹോട്ടലിന്റെ ലൈസൻസി കെ.എൽ.012092037201718 ഇ. തീയതി 23.12.2018 കൊല്ലം ട്രഷറി ബ്രാഞ്ചായ എസ്.ബി.ഒ.എ-യിൽ 4,00,000/- രൂപ പിഴയും, ഫീസും ഒടുക്കിയതായി അറിയിക്കുന്നു.</p> <p><u>7. ഹോട്ടൽ സൗപർണ്ണിക ഇൻ</u> ഹോട്ടൽ സൗപർണ്ണിക ഇൻ എന്ന എഫ്.എൽ.3 സ്ഥാപനത്തിന്റെ ഡയറക്ടർ ബോർഡ് 10.01.2012-ലെ എക്സ്.സി.1/14444/2011/ആർ.ഡിസ് ഉത്തരവ് പ്രകാരം പുനഃസംഘടിപ്പിച്ചിട്ടുള്ളതാണ്. ആയതുപ്രകാരം സർവ്വശ്രീ രാജ്കുമാർ ദാമോദർ, ജെയിംസ് എം.ജോസഫ് എന്നിവരെ പുതിയ ഫാർട്ടനർമാരായി ഉൾപ്പെടുത്തുകയും, എഫ്.എൽ.3- ലൈസൻസ് ശ്രീ.സാലിസ് ബിജാർ എന്നയാളുടെ പേരിൽ നിന്നും സർവ്വശ്രീ രാജ്കുമാർ ദാമോദർ, ജെയിംസ് എം.ജോസഫ് എന്നിവരുടെ പേരിലേയ്ക്ക് മാറ്റുകയും ചെയ്തിട്ടുള്ളതാണ്. ആയതിലേയ്ക്ക് ആവശ്യമായ ഫീസ് 2,50,000/- രൂപ 17.01.2012 തീയതിയിൽ 179,180 നമ്പർ ചലാക്കൾ പ്രകാരം ജില്ലാ ട്രഷറിയിൽ അടവാക്കിയിട്ടുള്ളതാണ്. ഇതേ പുനഃസംഘടന തന്നെയാണ് അക്കാണ്ടന്റെ ജനറലിന്റെ റിപ്പോർട്ടിൽ സൂചിപ്പിച്ചിട്ടുള്ളത്.</p>
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 ANIL KUMAR. V. S.
 Joint Secretary
 Taxes Department
 Govt. Secretariat
 Thiruvananthapuram

C& AG Report (Revenue sector) for the year ended 31st March 2016
Statement of Action Taken Report

Para No	Recommendation	Action Taken
5.1	Tax administration	Agreed with the statement.
5.2	Internal audit	It is reported that Excise department cleared 3012 paras out of 4104 paras. It means that 73.39% have been cleared till now. Earnest efforts are being taken to conduct audit in all offices. At present Internal Audit Wing of the Excise Department is conducting audit in all offices as far as possible. However, due to Covid-19 pandemic the targeted inspections could not be completed in time. Necessary steps are being taken to clear all audit objections.
5.3	Results of audit	Agreed with the statement.
5.4	<u>Issue of licenses and enforcement of licence conditions by the Excise Department</u>	
5.4.1	Introduction	Agreed with the statement.
5.4.2	Audit Objective and scope	The objectives of Audit were to assess whether, 1)The Licences are issued in a fair transparent manner and in accordance with the provisions of the Acts & Rules.

The application for grant of new FL.3(Bar Licence) and FL.11(Beer&Wine licence) are currently being accepted through service plus online portal. The application is submitted initially to the Circle Inspector of Excise concerned. The application is then examined by the Deputy Commissioner of Excise, the Joint Excise Commissioner, the Deputy Commissioner of Excise(Abkari), Additional Excise Commissioner(admin) and then by the Excise Commissioner. After the approval of Excise Commissioner, the proposal is forwarded to the Government for sanction. The file moves in the service plus online portal can be checked by the applicant. As such, the department issues licences in a very transparent manner.

2)Effective enforcement system exists for detection of violation of licence condition

The authorized officer in the Excise Department are conducting inspections and taking action under Sec.56(b) of Abkari Act against the licensees and his employees, who involved in any activity in contrary to any conditions of the licence issued under the Abkari act.

5.4.3 Audit findings

5.4.3.1 Lack of transparency in issue of Bar & Beer/Wine Parlour Licences.

For ensuring transparency, Online system has been introduced recently in the case of application for Bar License & Beer/Wine Parlour Licences. An applicant can apply for above licenses through online. The applicant can watch the processing of the file through online.

Control mechanism

By the introduction of online system it can be ensured the transparency of processing of applications top to bottom. The processing of applications for Bar, Beer & Wine Parlour licenses and other online services of the department can be verified by the citizens also.

Timelines

By the introduction of Online system processing of the application for Bar & Beer/Wine Parlour licences became speedy. In the case of applications which are submitted without proper documents and involved in Court cases can be processed/ disposed after getting the proper documents and in compliance of the Court orders. Moreover the FL3 and FL11 Licenses are issued based on the policy of the Government. Hence a time limit cannot be prescribed in all cases.

5.4.3.2	Issue of Beer/Wine Parlour licences without proper hygiene verification.	Sanitary certificate from concerned local authorities are made mandatory for applying fresh Bar & Beer/ Wine Parlour licences. In the case of renewal of licenses the Excise Officers especially Deputy Excise Commissioners of the Divisions were empowered to conduct verification of hygiene condition of the FL11 Licensed premises. That verification was done by the Deputy Excise Commissioners concerned.
5.4.3.3	Issue of Licences to liquor vendors along National Highways.	The decision of Central Government in this regard is only a guideline, and subsequently it has made under judicial scrutiny and a final verdict in this regards is made by Hon'ble Apex Court in C.A.No. 12164-12166/2016 dated 31.03.2017. In the abeyance of the above all liquor outlets within a radius of 500 mtrs from National Highways/State Highways were shut down. Subsequently, in a revisional order in SLP No.10243/2017 dated 11.07.2017 the Apex Court itself clarified that the order dated 31.03.2017 is not meant for Municipal and Corporation limits and as such all licenses within city limits were allowed to function. The present licensing rules were framed strictly in accordance with Abkari Policy framed by the Government for 2017-18 issued vide G.O(Ms)No. 43/2017/TD dated, 13.06.2017

5.4.3.4	Non-identification of individual/ institutions who are required to take license for Spirituous preparations.	In the case of sale of Spirituous preparations the rule itself exempts hospitals and dispensaries from taking license by rule 12 of SP(C) Rules. Also it is specifically submitted that all Allopathic, Homoeopathic retail, wholesale shop should come under the purview of Drug License. But in the case of Excise Department only those wholesale-retail outlets which wish to deal with Spirituous Preparation need to take license under SP(C) Rules. Direction has been given to the Deputy Excise Commissioners of the Divisions for the issuance of SPVI, SPVII licenses after collecting details of Allopathic, Homeopathic, wholesale and retail shops, which sells ayurvedic preparations as per Rule 10, 11, 12 of the SP(C) Rules.
5.4.4	<u>Non-observance of provisions of Abkari Act and Rules</u>	
5.4.4.1	Non realisation of stamp duty on licenses.	Serial No.35A in the scheduled to stamp Act is for the stamp duty of "Licence to let including any agreement to let or sub let for rent or fee". The licence fee mentioned in the schedule is not define Stamp Act. But it is directed to collect stamp duty as same as that of lease. Section 2 (1) of the Stamp Act defines lease as "lease of immovable property." Hence in the absence of proper

		<p>definition of licence to let mentioned in the scheduled, it is presumed as licence to let immovable properties. As per section 3(1) of the Abkari act the licence fee comes under the definition of Abkari Revenue. So far Government have not issued any notification under section 10 of the stamp act to collect Stamp Duty in respect of Abkari Revenue. As per section 18A of the Abkari Act, the Department can realise only rental (licence fee) from the licensees concerned while granting/renewing the licences. The Abkari Act and Rules have not been amended so far in pursuant with serial No.35A in the Schedule to Kerala stamp act, 1959 (as amended by Kerala Finance Act 2015). Government have not intended to collect stamp duty on Abkari licences. Moreover, Abkari Licences are not letting or subletting by the Government. It is a privilege owned by Government which granted to a person on a specific licence fee. Hence it is not necessary to collect stamp duty as observed by the act.</p>
5.4.4.2	Non-levy of differential Excise duty from Brewery.	<p>Out of the total amount due from breweries under the head differential duty from Brewery the balance amount of Rs.13,84,578/- has been collected. Hence, the entire amount has already been collected.</p>

5.4.4.3	Non-remittance of collected excise duty by licencees consequent on enhancement of duty.	The Kerala state Beverages Corporation has to be paid to Govt. an amount of Rs.15.18 Crores as differential excise duty. This amount is deducted from the excess rental amount paid by the Kerala state Beverages Corporation. The Managing Director Consumer fed Submitted an application for seeking permission to pay Rs.102.78 lakh in installments to be paid as differential excise duty and to inform the head of account where the amount is to be paid.
5.4.4.4	Unauthorised reconstitution of companies/firms holding FL Licences.	At present while applying for Licence under FL Rules, provisions were incorporated in the application form itself for specifically stating the particulars of company/firm etc. Also in view of the above audit objection adequate precautionary measures against committing such fraudulent practice were taken by analysis of each and every application of reconstitution in comparison with the particulars of the company from website (Registrar of Companies). In case of discrepancies, fine under Section 67(II) Abkari Act were also imposed (amounting to 3 Lakhs) to avoid loss of revenue under this head. The particulars mentioned under Table 5.7 has already been forwarded to concerned

		Deputy Excise Commissioners for urgent verification to take adequate steps under rules for regularisation by imposing fine.
5.4.4.5	Non-realisation of differential Excise duty on production of IMFL with higher strength.	At present excise duty is calculated on the basis of declared strength of IMFL i.e., 42.86% v/v. An allowance of 0.56% v/v is allowed at the time of manufacturing. As pointed out by the Accountant General if we calculate excise duty at a higher rate for the liquor containing higher strength the Distillery will claim deduction in the excise duty for the liquor having less alcoholic strength. Majority of the liquor produced will contain only less alcoholic strength because of its chemical nature which get deteriorated while manufacturing. This proposal may cause revenue loss to Government.
5.4.4.6	Non-disposal of frozen stock of IMFL kept in the warehouses of KSBC.	Permission for the destruction of frozen stock of IMFL kept in the warehouse, is given by the Excise Commissioner, soon after receiving the application from the Managing Director, KSBC. As such the sanction for destruction of the frozen stock IMFL were given to KSBC from time to time without any pendency. The destruction of frozen stock of IMFL in the warehouses are done under the strict supervision of Assistant Excise Commissioner.

5.4.5	<u>Lack of control over the licencees.</u>	Necessary supervisory staffs of Excise Department have been deputed to all the Distillery, Brewery, Compounding, Blending and Bottling Units and Warehouses for ensuring proper collection of duties, taxes and other dues payable under the Abkari Act and to monitor all functions of these units. Import, storage and Release of spirit, including Compounding, Blending and Bottling of liquor are done under the close supervision of the Excise Department.
5.4.5.1	Production of brandy not conforming to the Indian standard	At present the affairs of Distilleries and Breweries in Kerala are guided by Kerala Distillery & Warehouse Rule and Kerala Foreign Liquor(Compounding, Blending & Bottling) Rules. There is no clear stipulation in the rules for implementing BIS specification.
5.4.5.2	Violation of Licence conditions.	During the year 2014-15, 2015-16 the ENA imported by Amrut Distillery Ltd, Palakkad is transferred to SDF Industries Ltd, Thrissur as ordered by the Excise Commissioner. But since entire quantity of ENA transferred has been utilised for the production of IMFL by the SDF Industries Ltd Thrissur. Government sustained no loss to exchequer due to the stock transfer. Also both the Distilleries are functioning under Excise supervision. Hence transfer is no possible without the issue of transport

permit by the Excise Department in this regard. Here transfer is strictly made in accordance with permit condition and hence there is no violation of licence condition. Hence, the loss due to non-realisation of the fine for violation of license condition committed by the Distillery is only a hypothetical statistical derivation.

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C & AG Report (revenue sector) for the year ended 31st March 2018
Statement of Action Taken Report

Sl. No	Para No	Recommendation	Remarks
1	5.1	Tax administration	Agreed with the statement.
2	5.2	Internal Audit	The disposal of internal audit report for the year 2017-18 was 39.43% even though 48 internal inspection have been done during 2018-19 period including 2385 references. A total No. of 2492 paras disposed out of 4104 paras including 182 audit reports for the year 2017-18 period(61%). Necessary steps are being taken to close the pending paras at the earliest.
3	5.3	Results of Audit	During the year 2018-19, 48 internal audit inspections were conducted. Also conducted 48 internal audit inspections during 2019-20. Direction has been given to the audit teams to deeply examine audit Paras. Necessary steps are being taken to close the pending paras at the earliest.
4	5.4	Bottling of other State brands of IMFL in Kerala	The matter contained in this para is, the proposal for a provision for additional fee for according sanction of transfer of privilege for other State brands for bottling in the distilleries situated in the state. As per current Abkari policy (for the year 2020-2021) by making amendment in Distillery & Warehouse Rules 1968 and Foreign Liquor(Compounding, Blending & Bottling) Rules 1975 as G.O(P) No.57/2020/TD dated 21-04-20 and G.O(P) No.44/20/TD dated 20-03-20, the Government have introduced an annual fee of (Tie - up fee) Rupees two lakhs to the manufactures outside State who engage in tie-up with distilleries/compounding and blending units situated in the State for manufacturing their brands in Kerala.
5	5.5	Non-inclusion of import fee element in the purchase cost for levying excise duty.	Levy of Excise duty is governed by Section 18 of the Abkari Act 1077. Explanation to Sub Section 2 to Section 18 clearly defines the value on which the Excise Duty is payable in the case of liquor purchased by the Corporation. The said Explanation is extracted below: "Where any liquor is chargeable with duty of excise or countervailing duty at a rate depending on the value of the liquor, such value shall be the value at which the Kerala State Beverages (Manufacturing and Marketing) Corporation Limited purchases such liquor from the supplier and in case any such liquor is not purchased by the Kerala State Beverages

			<p>(Manufacturing and Marketing) Corporation Limited such value shall be the value fixed by the Commissioner"</p> <p>Import Fee also for calculating value of liquor for levy of Excise Duty, is seen drawn from the definition of purchase cost as contained in Kerala Value added Tax Act 2003, on the premises that purchase cost is not defined in the Abkari Act. The levy of Excise Duty is on purchase value, and not on purchase cost. The purpose of the Abkari Act and Kerala Value added Tax Act are for levy of different kinds of duties/taxes and therefore for levy of duty under the Abkari Act, it cannot be linked to the provisions in the Kerala Value added Tax Act, as done in the Audit Para. In the case of Indian Made Foreign liquor purchased by the Corporation, specific explanation is provided in the Abkari Act itself, for levy of duty of Excise and it is the amount for which the Corporation purchases liquor from liquor suppliers, i.e., the purchase price paid to liquor suppliers and hence for levy of Excise Duty, this alone needs to be considered, and inclusion of Import Fee is not envisaged, and therefore the conclusion is not legally and factually tenable.</p> <p>Excise Duty is normally levied on manufacture of goods, and is not on the point of transportation or sale of the same. Therefore, for levy of Excise Duty, there is no express or implied provision to include any cost that would be borne by the seller or purchaser for sale or transportation of such goods. Import Fee is intended for transportation of goods from the manufacturers site located outside the State to the State, and therefore Import Fee paid by the Corporation does not form part of value of goods for levy of Excise Duty payable under Section 18 of Abkari Act. Excise duty is on manufacture of goods, its levy should be on the selling price of the manufacturer seller, which is the same as the purchase price of KSBC. However, for levy of VAT, the taxable value may include purchase cost and other expenses to bring the goods. Hence the levy of Excise Duty and VAT are on different concepts and cannot be linked to each other.</p>
6	5.6	Non-disposal of the IMFL on the stoppage of production.	<p>The matter contained in this para is the proposal for a provision in the Bottling Rules fixing a time limit for removal of bottled liquor from the unit and loss to Government in form of Excise duty as old stock of IMFL kept in M/S United Spirits Kanjikkode. As per Kerala Foreign Liquor (Registration of Brand) Rules 1995, a particular liquor brand for which brand registration has been obtained in a financial year can be sold only up to May 31 of the subsequent financial year. After that period the above liquor kept in the distillery will be expired stock and further action in this liquor can be taken. The distilleries and bottling units can sell finished products of liquor only through KSBC and duty can be levied only after sale</p>

			<p>of this liquor. The Hon'ble High Court of Kerala in its judgments in W.A. 2589/2015 dated 11/1/2017, WA No. 233/2012 & 1438/2012 dated 6-3-2013 and other such cases held that state is not entitled to levy excise duty on quantity of liquor, that is only to be destroyed.</p> <p>In the case of old stock of IMFL kept in M/S United Spirits Kanjikkode, has stopped functioning of their units since 2016. M/S United Spirits Kanjikkode units filed the WP(C) 29510/2019 before the Hon'ble High Court of Kerala, to withdraw the Excise establishment from their units and destroy the unsold old stock of IMFL and raw materials lying in their units.</p> <p>Considering the Writ Petition, the Hon'ble High Court of Kerala in the Order dated 18-12-19, directed the Excise Commissioner to consider the request of the petitioner to destroy the unusable materials lying in their units and it shall be done within a period of two weeks.</p> <p>In order to comply with the above order issued by the Hon'ble court, sanction was accorded to destroy the unsold old stock of IMFL and raw materials lying in M/S United Spirits, Palakkad.</p>
7	5.7	Non-identification of individuals/ institutions who are required to take license for spirituous preparations.	<p>The Rule 3(k) of SP(C) Rules 1969 specifically states that "spirituous preparations means (i) any medicinal or toilet preparation containing alcohol, whether self generated or otherwise, or any intoxicating drug; or (ii) any mixture or compound of wine with medicinal substances, whether the wine is fortified with spirit or not; or (iii) any other substances containing alcohol or intoxicating drug whether self generated or otherwise notified under rule 5 to be a spirituous preparations" and the SP(C) Rule also prescribes licences for possession of the Spirituous preparations on payment of fixed fees.</p> <p>In this regard it is stated that at present there is no provisions in the rules to invoke any action against the persons who have not taken SP Licences and who continues with the Drug licence to run Allopathic & Homoeopathic medical stores.</p>
8	5.8	Unauthorized reconstitution of Board of Directors of companies firms holding Foreign Liquor licences	<p><u>Trivandrum Division.</u></p> <p>1. Kovalam resort Private Limited, Kovalam- As per order No. EXC/ 1959/ 2018/ XC.7 dated 07.07.2018, Excise commissioner issued permission for reconstitution of Director board.</p> <p>2. Taj Residency, Kovalam.- On verifying the records, it is understood that initially the Director Board of the hotel has 6 members and as per the available records present director board has only 3 members. He reported further that direction has already been issued to the licensee of the above hotel to submit application for regularizing the unauthorized reconstitution of the above firm.</p> <p>3. Estury Island- At present the Hotel Estury Island has not in possession of any license under</p>

		<p>Foreign Liquor rules.</p> <p>4. South Park, M.G. Road. - The application for the regularization of unauthorized reconstitution of the above firm was received in the Excise Commissioner's office and same is under processing.</p> <p>5. Turtle on the beach - A notice was already issued to the licensees of the above firm to regularize the unauthorized reconstitution.</p> <p>6. Hotel Chola International,- Hotel Chola International was done unauthorized reconstitution on 26.08.2017. The procedure for the regularization of the above reconstitution is under processing.</p> <p>7. Niramaya Retreat Private Limited- A notice was already given to the licensees of the above firm for regularization of unauthorized reconstitution.</p> <p><u>Kottayam Division.</u></p> <p>Hotel Breeze Land Changanassery- The unauthorized reconstitution done in the above hotel was already regularized.</p> <p><u>Ernakulam Division.</u></p> <p>1. Hotel Trident, Willington Island- A notice has been issued to the licensee of the above firm to submit application for regularizing the unauthorized reconstitution carried out in the board of directors. The authorities of the company has requested more time to produce the relevant documents.</p> <p>2. Vivantha By Taj, Willington Island- A notice has been issued to the licensee of the above firm to submit application for regularizing the unauthorized reconstitution carried out in the board of directors. The licensee of the above firm willing to remit the fee and fine for regularization. The authorities of the company have requested more time to produce the relevant documents.</p> <p>3. Kochin Heritage Hotel (M star Hotel Pvt Ltd) - Application for regularization of unauthorized reconstitution carried out in the board of directors put in by the company was received. Direction has been issued to the Deputy Commissioner of Excise, Ernakulam to rectify the defects noted in the application.</p> <p>4. Inter Continental Hotel Group India (Private) Limited (Holiday inn) -A notice has been issued to the licensee of the above firm to submit application for regularizing the unauthorized reconstitution carried out in the board of directors. The authorities of the company has requested more time to produce the relevant documents.</p> <p>5. Olive Down Town- A notice has been issued to the licensee of the above firm to submit application for regularizing the unauthorized reconstitution carried out in the board of</p>
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		<p>directors.</p> <p>6. Fragrant Nature.- A notice has been issued to the licensee of the above firm to submit application for regularizing the unauthorized reconstitution carried out in the board of directors. The Deputy Commissioner of Excise also reported that the authorities of the company has requested more time to produce the reverent documents.</p> <p>7. O G. Blue (OG Estate Private Limited).- Application for regularization of unauthorized reconstitution carried out in the board of directors put in by the company was received. Direction has been issued to the Deputy Commissioner of Excise, Ernakulam to rectify the defects noted in the application.</p> <p>8. Le Maritime, Kochi. The company had stated that they were not carried out any unauthorized reconstitution in the board of directors. Deputy Commissioner of Excise has also reported that notice has been issued to the company to produce relevant documents to prove there statement.</p> <p>9. Taj Residency (Taj Kerala Hotels Resorts Ltd- Gateway).- A notice has been issued to the licensee of the above firm to submit application for regularizing the unauthorized reconstitution carried out in the board of directors.</p> <p><u>Thrissur Division</u></p> <p>1. Alangar Elite Inns. The unauthorized reconstituion of partnership of the above firm was already regularized and the liceesees of the above firm was remitted an amount of Rs. 23,00,000/- to the state exchequer.</p> <p>2. Fort Gate Hotels, Kottapadi. The unauthorized reconstituion of partnership of the above firm was already regularized and the liceesees of the above firm was remitted an amount of Rs. 4,00,000/- to the state exchequer.</p> <p>3 Hotel Wayload Private Limited, Thrissur. A notice was issued to the licensees of the above hotel for regularization of unauthorized reconstitution of Director Board.</p>
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 Govt. Secretariat, Thrissur

APPENDIX -III

Appendices from AG's Report

(Ref: Paragraph 6.4)

Short levy of enhanced licence fee from FL-3 licensees

Sl. No.	Name of office	No. of licensees as on 31.3.2013	Short levy @ ₹ one lakh (₹ in lakh)
1	ETCO, Alappuzha	38	38
2	ETCO, Coimbatore	183	183
3	ETCO, Kollam	26	26
4	ETCO, Kozhikode	30	30
5	ETCO, Kottam	57	57
6	ETCO, Kottar	27	27
7	ETCO, Kottayam	8	8
8	ETCO, Kottayam	71	71
9	ETCO, Malappuram	27	27
10	ETCO, Palakkad	37	37
11	ETCO, Pudukottai	24	24
12	ETCO, Tirunelveli	113	113
13	ETCO, Thiruvananthapuram	88	88
14	ETCO, Wayanad	11	11
	Total	740	740

Appendix - XIII

(Ref: Paragraph 6.6)

Short levy of license fee from licensees of SP VI and SP VII licenses

SP VI licensees					
No.	Name of licensee	SP License No.	Amount due at ₹ 5,000 per license (₹)	Amount collected at ₹ 500 (₹)	Amount not collected (₹)
1	BCO, Kasargod	1	5000	500	4500
2	BCO, Thiruvur	24	120000	12000	108000
3	BCO, Kottayam	8	4000	4000	36000
4	BCO, Warkkancherry	4	20000	2000	18000
5	BCO, Irinjolekuda	11	165000	16500	148500
6	BCO, Vadamattur	5	25000	2500	22500
7	BCO, Puthi Kottu	1	5000	500	4500
8	BCO, Kottayam	3	15000	1500	13500
Total		79	395000	39500	355500
SP VII licensees					
No.	Name of licensee	SP License No.	Amount due at ₹ 1,000 per license (₹)	Amount collected at ₹ 150 (₹)	Amount not collected (₹)
1	BCO, Kasargod	1	1000	150	850
2	BCO, Thiruvur	22	22000	3300	18700
3	BCO, Kottayam	6	6000	900	5100
4	BCO, Warkkancherry	8	8000	1200	6800
5	BCO, Puthi Kottu	5	5000	750	4250
6	BCO, Kottayam	7	7000	1050	5950
Total		49	49000	7350	41650
Grand total		128	444000	46850	397150

(Ref. Paragraph 5.4.4.4)

Lit of 18 companies showing the name of company/date of issue of licences and number of occasion of reconstruction.

Sl. No.	Name of the Company	Location	Category	Date of issue of licence	Date of reconstruction	Date of reconstruction	Date of reconstruction	No. of occasions
1	Kanichal Hotels Pvt Ltd (Hotel Suj Lachya)	Trivandrum	FL-11	09-04-2015				1
2	Hotel Golda Private Limited	Trivandrum	FL-11	30-09-2013				1
3	Thomas Hotels And Resorts India Private Limited	Trivandrum	FL-11	09-05-2013				1
4	V M C R Hotels And Resorts Private Limited	Palekka	FL-11	11-02-2013	17-11-2013			2
5	Marwa Beach Resorts Private Limited	Atapuzha	FL-11	06-06-2013	06-11-2015	23-11-2015		3
6	Chithrapudi Hotels India Private Limited	Palekka	FL-11	26-08-2014				1
7	Sreevalsam Hotels And Resorts Private Limited	Palekka	FL-11	17-03-2014				1
8	Niramanya Retreats Kovalam Private Limited	Trivandrum	FL-11	06-13-2013	30-09-2013			2
9	Isola Di Coco Holidaying Private Limited	Trivandrum	FL-11	01-07-2014				1
10	Malayalam Industries Limited (Mermaid Hotels)	Eranakulam	FL-11	15-02-2016				1
11	Middle East Company Hotels Pvt. Ltd (Radisson Blue)	Eranakulam	FL-3	07-08-2013				1
12	Eth Associated Hotels Limited Unit Trident Cochin	Eranakulam	FL-3	28-04-2015	08-08-2014	23-06-2015	28-05-2015	4
13	Intercontinental Hotels Group (India) Pvt Ltd Limited (Holiday Inn)	Eranakulam	FL-3	04-01-2014	24-06-2014	17-03-2015	27-08-2015	5
14	Sree Gokulam Hotel (India) Private Limited	Eranakulam	FL-11	22-02-2014				1
15	Erasmagill Holidays Private Limited	Wayanad	FL-11	01-01-2013				1
16	Oceanic Hotels Limited-Viyatha By Taj Mahalaya Cochin	Eranakulam	FL-3	06-08-2013	23-10-2014	31-07-2015		3
17	Taj Kerala Hotels And Resorts Ltd. One Way Hotel (Taj Residency)	Eranakulam	FL-3	07-01-2015	06-08-2015			2

Appendix XVIII

(Reference: Paragraph 5.8)

Unauthorised reconstitution of Board of Directors of companies/ firms holding Foreign Liquor Licences

Sl. No.	Name of Company	Date of reconstitution of Board of Directors	No. of occasions
Ernakulam District			
1	Hotel Trident, Wellington Island, Ernakulam (Eih Associated Hotels Ltd.)	05.08.2016	1
2	Vivanta By Taj (Hotel Taj Mahal), Wellington Island, Ernakulam (Oriental hotels Pvt. Ltd.)	12.05.2016, 23.01.2017 25.07.2017, 23.01.2018	4
3	Cochin Heritage Hotel, Borey, Ernakulam (M Star Hotel Pvt Ltd.)	14.07.2017	1
4	Intercontinental Hotels Group India Private Limited (Holiday Inn) Ernakulam	17.11.2017 19.02.2018	2
5	Olive Down Town, Kankaravilla, Ernakulam (Highland Star Hotels and Resorts Private Ltd.)	13.04.2016	1
6	Fragrant Nature, Fort Kochi (Fragrant nature retreat and resort pvt Ltd.)	10.10.2016	1
7	Hotel OG & Bites, 11/58Ka, Kuttimoor, Maradu, Ernakulam (OG Estates Private Ltd.)	16.10.2017	1
8	Le Maritime Kochi (Sea Legend Hotels Pvt. Ltd.), XIV/144 A to J, Puthuvype, Vypeen, Ernakulam-682510	02.12.2016	1
9	Taj Kerala Hotels And Resorts Ltd, Que Way Hotel (Taj Residency)	02.05.2016, 09.08.2017 25.09.2017, 20.02.2018	4
Kottayam District			
10	Hotel BrezeLand, Changanassery	27.01.2017	1
Thiruvananthapuram District			
11	Kovalam Resorts Pvt Ltd., Kovalam	16.11.2016	1
12	Taj Residency, Kovalam (Taj Hotels International Limited)	24.03.2016	1
13	Estuary Island, Puthan, Changanassery Estuary Retreat Pvt Ltd.)	06.09.2017	1
14	The South Park, MG Road, Thiruvananthapuram (Fortune Park Hotels Ltd.)	21.03.2016 02.02.2018	2
15	Turtle on the Beach, Kovalam, Kovalam Turtle Annex Pvt Ltd.)	01.07.2016	1
16	Hotel Chola International, Thiruvananthapuram, Thiruvananthapuram (Chola Hotels Pvt Ltd)	26.08.2017	1
17	Niranam Retreats Pvt Ltd., Kovalam (Niranam Retreats Surya Samudra)	20.06.2017, 01.07.2017 13.02.2018	3
Thrissur District			
18	Alankar Elite Inns and Hotels Private Limited	31.08.2017	1
19	Fort Gate Hotels and Resorts Private Limited	31.08.2017	1
20	Hotel Wayford Private Limited	30.09.2017	1
Total			30

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Sl. No.	Name of the Firm	District in which situated	Nature of business	Date of registration	Date of expiry of license	Date of renewal of license	Status of license
18	Taj Kerala Hotels And Resorts Ltd. Gate Way Hotel Varkala	Trivandrum	FL-11	27-01-2015	06-08-2015		1
Partnership Firms							
1	Hotel Pooja Residency, Kalady	Ernakulam	FL-11	05-08-2013	20-11-2015		2
2	Hotel White City, North Paravur	Ernakulam	FL-11	04-07-2013			1
3	Hotel Sub Beas, Attakulangara	Trivandrum	FL-11	17-09-2015	17-09-2015		1
4	Hotel Residency Tower, Pooja Road	Trivandrum	FL-11	20-04-2013			36