


**“Analysis of Revenue Received From Tax and  
Duties Levied on Intoxicant Items in Madhya  
Pradesh and Probability of Its Increasing From  
2005 to 2010”**

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Appendix-3

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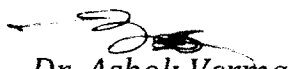
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- Is put the standard both in respect of contents and language for being referred to the examiner.***

  
***Dr. Ashok Verma***

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A handwritten signature in black ink, appearing to read 'Rakesh Jain', with a stylized flourish above the name.

**CA. Rakesh Kumar Jain**

***“Analysis of Revenue Received From Tax and Duties Levied on Intoxicant  
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***CHAPTER -I***  
***INTRODUCTION***

## Chapter - I

### Introduction

#### **1.1 Introduction**

Economic thinking about the role of public finance has changed from time to time according to the exigencies of circumstances. Before the great depression of the thirties, the purpose of public finance was to raise sufficient money for carrying on purely governmental functions and to balance the budget. Now this concept has lost its importance.

***The public revenue is necessary for the government to perform its various functions for the welfare of the society and development of the economy.***

Due to certain historical reasons the Indian tax system continued for long to be unorganized, unregulated and unplanned. During the British rule no attention was paid for the uniformity in the tax system and there existed vast differences between the tax policies of the centre and provinces. The main aim of the rulers was to get as much money as possible and hence no principles of taxation were observed. The tax system was mainly repressive and its main aim was to finance the administration.

Public revenue refers to the revenue of the public authorities—central, state and local governments. Public revenue includes income from taxes, prices of goods and services supplied by public enterprises, revenue from the administrative activities, such as fees, fines, etc., and gifts and grants. With the increase in governmental functions and expenditure, the volume and importance of public revenue has also increased in recent times. Thus taxes have always formed, and still form, the main source of the revenue for the governments and other public bodies. The best means of obtaining government's finance is taxation.

***“A tax is a compulsory contribution from a person to the government to defray the expenses incurred in the common interest of all, without reference to special benefits conferred”.***

***According to De Vite De Macro “A tax is the shares of the income of citizens which the state appropriates in order to procure for itself the means necessary for the production of general public service”.***

Tax has also been defined as, ***“Any non-penal yet compulsory transfer of resources from the private to the public sector, levied on the basis of pre-determined criteria and without reference to specific benefits received, so as to accomplish some of a nation’s economic and social objectives”.***

Early writers believed in the maxim ***“Taxation for Revenue Only”*** and it should have no other effects on economic life. It is now universally recognized that taxation is bound to have effects on the economic life of a country.

***Thus “Economic development depends, far more than is commonly recognized, on a carefully thought-out and well-organised tax structure”.***

Taxation is necessary because of its effects on production, distribution, controlling price level and reducing consumption. Even if the intention is to have taxation for revenue only, its significant effects on production, consumption and distribution of income and wealth, economic activity and employment in general, cannot be avoided. It is necessary, therefore, to arrange the taxation system in such a way that it may have, on the whole, the best possible effects.

***As Dalton said, “the best system of taxation from the economic point of view is that which has the best or the least bad economic effects”.*** The

aims of social welfare, social justice and economic development are only of post-independence origin in India. Taxation for deliberately is bringing about certain desired changes in the production, consumption and distribution of wealth and for stabilizing the level of employment and business activity. A suitable tax policy along with a public expenditure and public debt policy will be a powerful instrument to bring about certain desired changes in the economy

### **1.2 Overview**

One of the basic responsibilities of the public sector is to achieve efficiency in resource allocation and this is to be accomplished in having a tax-expenditure combination by the governments at different layers. The problem becomes somewhat complex in a federal system due to the existence of multiple layers of governments with differing functional responsibilities. There exist differing expectations of the people from these governments. A government closer to the people i.e. The Local Governments are subjected to higher pressure for provision of designated public goods whereas distant governments like state and central governments are facing such problems only at the time of elections and voting. Choosing a right tax-expenditure combination is a difficult and complicated job. While spending money it is necessary to spend in a manner so as to derive maximum social benefit whereas in taxing the people it is important to see that a system of progressive taxation is in vogue.

***Through tax, the government also channelizes production and consumption activities in the economy into socially desired lines.***



### **1.3 Meaning of Excise Duty**

Taxes are important sources of revenue of a government. The other sources of revenue like non-tax revenue and borrowing play much less important role than the taxes. Taxes are again divided into direct tax and indirect tax. Normally direct taxes are imposed on income and wealth of an individual or a corporate entity whereas indirect taxes are imposed on services and commodities. Excise is a commodity tax paid by the consumer when he purchases it in the market. A consumption based tax differs from an income based tax in the fact that a person's economic well being during the period is measured by the amount he consumes, not the amount of income that he earns (*Due and Friedlander, 1973*).

Over the years, the structure of consumption taxes at the international level has undergone significant change and is less burdensome on the necessities of life. (*Groves 1958*).

In the *Napoleonic Era* the British taxes have been described as levies on everything "*Which it is pleasant to see, hear, feel, smell or taste*". Consumption taxes can be selective or general. In selective consumption taxes a particular set of commodities are brought under tax net to restrict their consumption. Such taxes are coming under the excise tax category. In developed countries excise duties are in the nature of sumptuary taxes. It is levied on production, sale or consumption of a commodity or service with the expressed intent of reducing its final consumption relative to other goods and services in the economy.

***Most common taxes levied on the alcohol, tobacco, lottery tickets, horse racing, gambling etc. All these are public bad not desired for consumption in the society (Buchanan and Flowers, 1975).***

### ***1.4 Social Cost of State Excise Duty***

Excess use of commodities branded as public bad items will impose a social cost on the society, which is not compensated by the consumer in the ordinary pricing system. The market mechanism did not capture this cost under normal circumstances. Due to low production cost of these items, given to it, it may be consumed in large quantities, which have invisible long run implications for the society. Proliferation of consumption of intoxicated items will give rise to increase in crime, domestic violence and general lawlessness in the society. By imposing a tax or duty, two objectives are accomplished by the government. One is by raising the price artificially, the demand for these commodities are regulated. Secondly, the revenue raised from these items will support the resource requirement of the government, which is to be used for the general welfare of the population. The exact estimation of the social cost and the welfare gain out of public expenditure financed through taxation is an extremely difficult task. Normally, it depends on the value judgment of a government as to what extent the excise duty on the intended regulated items has to be raised so as to restrict the consumption of such public bad items for the purpose of mobilizing more resources. Some governments feel that prohibition is better than proliferation of consumption of these items. There is no conclusive evidence to prove that prohibition will lead to low level of development. Prohibition may lead to enhanced efficiency of the economy and rise in the growth rate, which will more than compensate the expenditure multiplier effect of public investment. All this means imposition of state excise duty requires bringing intricate balance between the twin problem of social cost and resource requirement of an economy.

***The difficulties faced by a government in imposing excise duty on intoxicated items are:***

- a. It is difficult to adjust the duty structure to the social cost because of consumption of these items by a heterogeneous group of people. There exist varieties of brands of these items consumed by different strata of the population. Some of these consumers are very much habituated with it even though they belong to the lower income group of the society.
- b. Because of the consumption pattern high duty may sometimes result in higher tax burden on the impoverished group of people making it regressive. At times, a rural poor may consume these items in place of necessities of life due to the addictive nature of these items.
- c. Duty burden on these goods may provoke evasion as a small quantity of these items.
- d. Caped from the sight of the government system may bring high profit. Most of the smuggling activities at the national and international level exist only because of this.

***1.5 Nature of Excise Duties***

The excise duty is being imposed by a government on a defined set of commodities. In federal countries it can be imposed both by the central and regional governments. Even though excise belongs to the family of consumption taxes, it is imposed right after the manufacturing level in contrast to sales tax, which is imposed at the final consumption point. The value added tax is a midway of the two types. It is a tax on the value addition of the commodity at both final and intermediate consumption points. It is imposed at multiple points on the additional value of the commodity. For this purpose taxes paid on the inputs used in the manufacturing is deducted from the total tax liability.

During the last few decades the resource requirement of almost all types of government has increased manifold due to increased role of the government in their respective economies. As a result of this, these governments are in search of new taxes. This is with a view to minimize the higher rate existing or required in case of taxes that are being imposed. The excise duty is a direct outcome of this in the consumption based tax systems of many countries of the world. In the beginning, it was imposed only on few commodities keeping in mind its' impact on the demand and the final consumer.

***Most commonly, excise duty on liquor and other narcotic drugs are imposed with specific rates rather than on ad valorem basis. This means that the tax is collected on the basis of quantity of the goods purchased and consumed by an individual in physical terms.***

***The price or the value of the commodity purchased is irrelevant in this process. Specific duty rates are favored because of these reasons are:***

- a.*** It is easy to estimate the tax liability without going into the complicated question of deciding the price.
- b.*** It avoids the distorting effects of ad valorem taxes at the manufacturing level,
- c.*** Lastly, it is easy to handle politically.
- d.*** The demerits of specific duty are:
- e.*** It is regressive in character
- f.*** It is difficult to identify the basic unit of measurement on which the specific tax is to be imposed,
- g.*** Lastly, it is not very much elastic and did not grow along with GDP of the country.

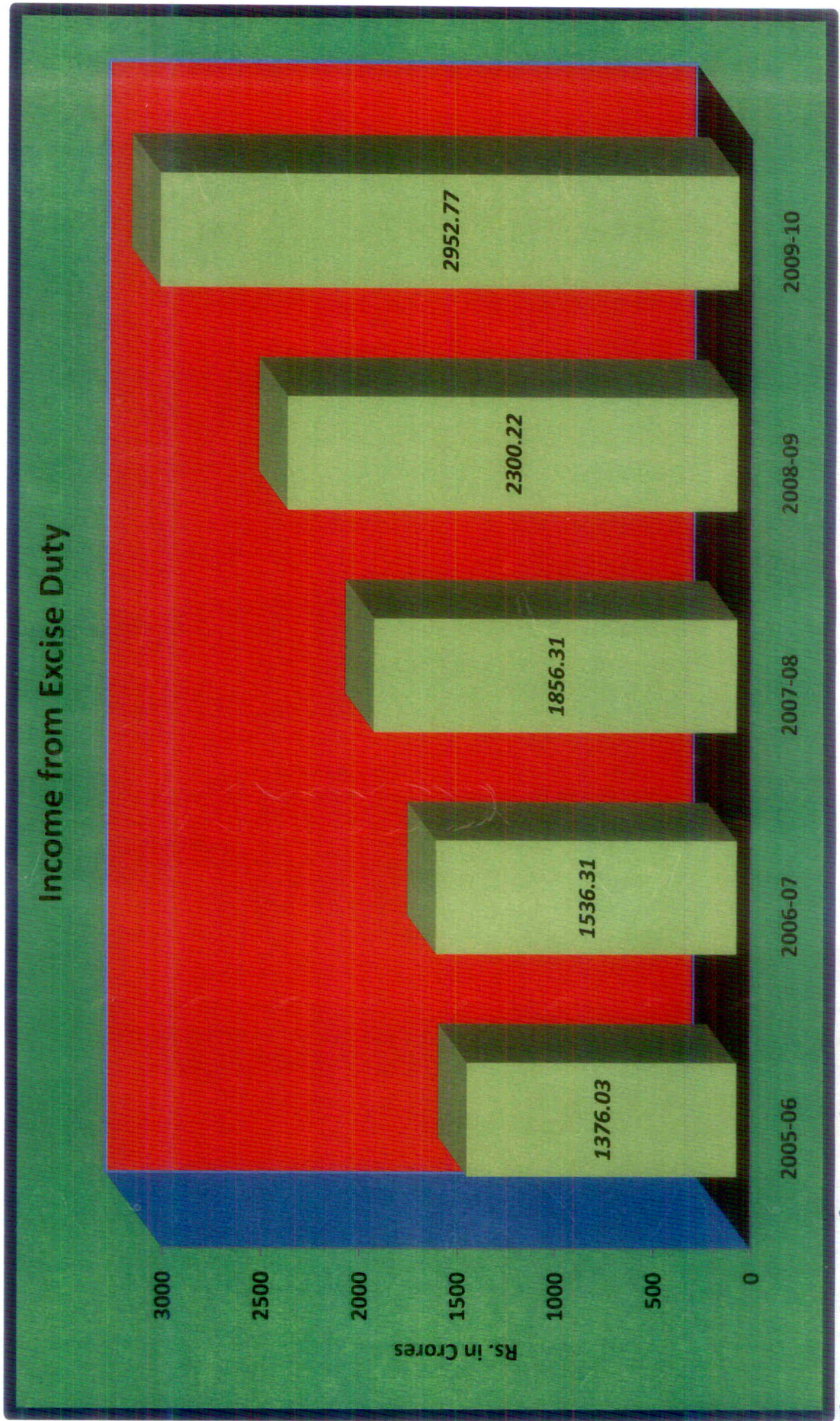
Resource mobilization for development is a challenging task for developing economics. The process of growth creates imbalances in the resource allocation and distribution.

*The role of the government is to regulate and promote the activities of the private sector so as to bring harmony in the development process.*

*Tax imposition aims at channeling production in desired line and distributes the benefit of development in an equitable manner. State excise duty has the specific mandate of controlling consumption of public bad commodities and extracting revenue from the consumers*

*Who belongs to the affluent section of the society. The Government of MP received revenue from excise duty levied on intoxicants items is showing in figures-1.*

**INCOME FROM EXCISE DUTY IN MP**



*Figure 1: Income from Excise Duty in MP*

## ***1.6 History of Excise Duty in India***

The union excise duty has been imposed by the central government on selective items since independence. Gradually the coverage extended to almost all the commodities produced in the country. Historically, excise duty was not very popular till the thirties. The revenue of the government mostly comprises of land revenue only.

***Excise duty was first imposed on Motor Sprit in 1917, on Kerosene in 1922, on Silver in 1922 and on Cotton Yarn in 1924. It was extended to other items in 1934.***

In our country, State Governments are now empowered to levy state excise on Alcoholic Liquors, Opium and Narcotic articles to restrict their consumption. The Indian Excise Commission, 1905 had prepared the guideline to be followed by the State Governments. The GOI Act, 1919 transferred the excise duty on liquor and other intoxicants to the domain of the provincial governments for the first time and the change was retained in the GOI Act, 1935. In 1937, when elected governments took charge of administration on the provinces, there was total prohibition in Chennai and Bombay provinces and partial prohibition in some other provinces. The constitution of free India also entrusted the imposition of state excise duty to the state level.

While examining the state excise duty in India, it is desirable to shed light on the controversy of prohibition. The desirability of prohibition as a state policy was a matter of intense debate immediately after independence. Two committees one headed by ***Sri Sriman Narayan*** and other by ***Sri Tek Chand*** were constituted and made an elaborate study on the issue but gave completely opposite views. While the first committee supported full

prohibition, the second took a liberal view and opined for gradual prohibition. The biggest controversy is centre around the revenue loss arising out of prohibition ignoring the consequential impact of it on the welfare of the masses. When Janta governments came to power in 1977, prohibition issued surfaced again and the country witnessed total prohibition from 1977-81. In 1981, the change of governments at the centre led to a liberal view and prohibition was withdrawn from the country. At present, state excise constitutes an important source of revenue of the State Governments. Many states introduced prohibition for brief periods but later on withdrawn them due to their inability to control sale of illicit liquor and revenue compulsions.

***Gujarat is the only state in the country, which has continuously adopted prohibition as the state policy and is one of the leading developed states of the country.***

### ***1.7 Revenue from State Excise Duty***

The role of state excise duty in the finances of the State Government appears to be varying widely. For some states like Punjab, Maharashtra, Uttar Pradesh, Tamil Nadu, Andhra Pradesh, Delhi and Haryana, it has been a prominent source of income since long. States like Rajasthan, Kerala, Karnataka and Madhya Pradesh has taken various steps to ensure better collection from this source and succeeded in achieving it. Orissa, West Bengal and Bihar are the only three states where the role of this duty has not improved much. Haryana, Andhra Pradesh and Orissa are the three states that experimented prohibition for a brief period and could not control the illegal trading in liquor and returned back to excise control mechanism.



## **1.8 Provisions under Madhya Pradesh Excise Act, 1915**

### **Definitions**

- a. Beer** includes ale, stout, porter and all other fermented liquors usually made from malt;
- b. Bottle** means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and bottling includes re-bottling;
- c. Chief Revenue Authority** means the authority declared by the State Government to be the chief revenue authority for the purpose of this act;
- d. Common Drinking House means** a place where drinking of liquor is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place, whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever;
- e. Denatured** means rendered unfit for human consumption in such manner as may be prescribed by the government in this behalf;
- f. Excisable Article** means-
- Any alcoholic liquor for human consumption; or
  - Any intoxicating drug or
  - Opium as defined in and Poppy Straw as defined narcotic, drugs and psychotropic substances act, 1985.
- g. Excise Duty and Countervailing Duty** means any such excise duty or countervailing duty, as the case may be, as motioned in of list ii in the seventh schedule to the constitution.
- h. Excise Officer** means a Collector or any officer or other person appointed or invested with powers under section 7.

- i. Excise Revenue* means revenue derived or derivable from [any duty, fee, tax, penalty, payment](other than a fine imposed by a court of law) or confiscation imposed or ordered or agreed to under the provisions of this act, or of any other law for the time being in force relating to liquor or intoxicating drugs;]
- j. Export* means to take out of the [state] otherwise than across a customs frontier as defined by the central government;]
- k. Import* (except in the phrase “import into India”) means to bring into the [state] otherwise than across a customs frontier as defined by the central government;]
- l. Intoxicant* means any liquor or intoxicating drug.
- m. Intoxicating Drug* means-
- The leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*cannabis saliva l.*), including all forms known as Bhang, Sindhi or Ganja;
  - Any mixture, with or without neutral materials of any of the above forms of intoxicating drugs, or any drink prepared there from; and
  - Any other intoxicating or narcotic substance which the State Government may, by notification, declare to be an intoxicating drug not being narcotic drug as defined in the **Narcotic Drugs and Psychotropic Substances Act, 1985.**
- n. Liquor* means intoxicating liquor, and includes sprits of wine, spirit, wine, Tari, Beer, all liquid consisting of or containing alcohol, and any substances which the State Government may, by notification, declare to be liquor for the purpose of this act.
- o. Manufacture* includes every process, whether natural or artificial, by which any [intoxicant] is produced or prepared and also re distillation

and every process for the rectification, flavouring, blending or colouring of liquor.

**p. Place** includes house, building, shop, booth, tent, [enclosure, space] vessel, raft, and vehicle.

**q.** Expression referring to **Sale** includes any transfer otherwise than by way of gift.

**r. Spirit** means any liquor containing alcohol obtained by distillation whether it is denatured or not.

**s. Tari** means fermented or unfermented juice drawn from any kind of palm tree.

**t. Transport** means to move from one place to another within the state.

**u. Notifications for special purpose**

- The State Government may, by notification, declare what, for the purpose of this act, or any portion thereof, shall be deemed to be 'Country Liquor' and 'Foreign Liquor' respectively:
- The State Government may, by notification, declare with respect either to the whole[state] or to any specified local area, and as regards purchasers generally or any specified class of purchasers, and either generally or for any specified occasion, what quantity of any intoxicant shall, for the purposes of this act, be the limit of a retail sale.
- The sale of any intoxicant in any quantity in excess of the quantity declared in respect thereof under sub-section (i) shall be deemed to be a sale by wholesale.

### ***Appointment of Officers and Delegation of Power***

- a.** The State Government may, by notification, for the whole or for any specified part of the state to-
- b.** Appoint an officer, hereinafter referred to as the Excise Commissioner , who subject to such control (if any) as the State Government may direct, shall superintend the administration of the excise department and the collection of the excise revenue;
- c.** Appoint any person other than the Collector to exercise all or any of the powers and to perform all or any of the duties conferred and imposed on a Collector, subject to such control as the State Government may direct;
- d.** Appoint officers of the excise department of such classes and with such designations, powers and duties as the State Government may think fit;
- e.** Order that all or any of the powers and duties assigned by or under this act to any officer appointed under clause(c) shall be exercised and performed by any servant of the [government] or any other person;
- f.** Delegate to the chief revenue authority or the Excise Commissioner all or any of its powers under this act, except the power conferred by section 62 to make rules;
- g.** Withdraw from any officer or person all or any of his powers under this act; and
- h.** Permit the delegation by the chief revenue authority, the Excise Commissioner or the Collector to any person or class of persons specified in such notification of any powers conferred or duties imposed upon it or him by or under this act, or exercised or discharged by it or him in respect of the excise revenue under may other act for the time being in force.

### ***1.9 Objectives of the Study***

- a.*** To study the provisions of MP Excise Act, 1915.
- b.*** To analysis duties and taxes levied on intoxicants in MP.
- c.*** To study state excise revenue and methods of taxation.
- d.*** To study the procedure of issuing license and its types.
- e.*** To analysis non recovery of excise duty and their chances to improve.
- f.*** To compare and analysis of excise duty levied on intoxicants to other states.

### ***1.10 Research Methodology***

- a. The Data:*** for the study we had taken approx 100 distilleries and breweries in MP
- b. Sample Area:*** Madhya Pradesh
- c. Research Tools:*** percentage method is used for analysis and comparison.
- d. Hypothesis:***
  - ***H0:*** there is no difference between MP excise duty and other states excise duty.
  - ***H1:*** there is difference between MP excise duty and other states excise duty.
  - ***H0:*** there are no chances to increase MP excise duty.
  - ***H1:*** there are chances to increase MP excise duty.

***CHAPTER -II***  
***ORGANIZATION SET UP OF STATE***  
***EXCISE DEPARTMENT IN MP***

## Chapter -II

### Organization Set Up Of State Excise Department In MP

Excise duty has been one of the important taxes under commodity taxation. These duties are mainly levied to restrict the consumption of certain commodities like alcohol, tobacco and narcotic drugs. Excise duty ordinarily means a tax or duty on commodities produced within the country and levied with a view to restrict their consumption.

#### ***In India, Excise Duties Fall Into Two Categories***

- Those levied for the purpose of revenue and
- Those levied for the purpose of restricting the consumption of commodities such as intoxicants and harmful drugs.

#### ***Power to Collect Excise Duty by States***

The duties of excise on alcoholic liquors for human consumption became the state subject under the "Government of India Act, 1919". It remained as such under the constitution of India, 1950 entry no.51 of list ii of seventh schedule of the constitution of India.

***The states are empowered to levy duties on the intoxicants goods manufactured or produced in the states.***

#### ***2.1 Organisational Set Up of the Excise Department***

The Principal Secretary, Commercial Tax Department is the administrative head of the department at government level. The Excise Commissioner (EC) is the head of the department and is assisted by two Additional Excise Commissioner (AEC), one Deputy Excise Commissioner (DEC), one

Assistant Excise Commissioner (AEC) and two District Excise Officers (DEO) at the head quarters at Gwalior. There are seven division in the state each headed by DEC. In addition each division has its own flying squad working under DEC. There is a state level flying squad working under over all control of EC. Collector is the head of excise administration in the district and is assisted by AEC or DEO at division/district.

### ***General***

Knowledge of the administrative set up of the department assessing, collecting and accounting for revenue is as essential for the proper conduct of revenue audit as knowledge of the act and rules them. The effectiveness of internal check at various levels and the functions of different branches may help audit to determine the extent and scope of scrutiny it should exercise. The following paragraphs detail the set up of the state excise department.

### ***Headquarter Level***

The department is working under the commercial tax department of the government of Madhya Pradesh. The headquarters of the department is at Gwalior. The Excise Commissioner (EC), from Indian administrative services (IAS) is the head of the department who exercises overall superintendence on the administration of excise department and the collection of the excise revenue. The post of two Additional Commissioner s (AEC), one Deputy Commissioner (DC), one Assistant Commissioner (AEC), two District Excise Officers (DEO), one administrative officer, one Joint Director (Accounts or Finance) and one statistical officer are sanctioned to assist the EC at headquarter. All the officers are departmental officers except one addl. EC from IAS cadre, JD from treasury and accounts



and statistical officer from planning, fiscal and statistics department. ADC is posted in the state flying squad who works under the EC for prevention of excise offences.

### ***Divisional Level***

There are seven flying squads at divisional level for prevention of excise offences. The offices of the flying squads were established from 1 July 1999. The dc is the officer in charge of the flying squad, one AEC and other executive and clerical staff is posted to assist him. Thus, the post of seven DCS and seven AECS are sanctioned for seven divisional flying squads.

### ***District Level***

- a.** The Collector is the head of state excise administration at the district level; AECS are posted in districts at divisional headquarters and AECS OR DEOS in remaining districts to assist him. Thus, seven AECS are posted in districts at divisional headquarters and AEC or DEO in 41 districts. The DEOS and other staff are also posted in distilleries or bottling plants and bhang godown of the state. The executive and clerical staff is posted to assist AEC or DEO in the district and distilleries etc.
- b.** There are ten distilleries and five breweries in the state producing alcohol and Beer respectively. The alcohol is also exported to other states. Molasses are imported from other states due to its scarcity in the state. Supply of Country Sprit in sealed bottles to retail shops is arranged by inviting tenders from distillers. All the warehouses situated in that area are attached to the respective supplies RS.

***c. The warehouses in the district are intended to***

- Receive spirit from the distillery/supplier.
- Maintain stock of Spirit.
- Preparation of liquor fit for human consumption from spirit;
- Packing and supply of bottles and loose liquor to vending licensees.
- Maintain proper accounts of the above mentioned operations.

***d.*** The maintenance and running of a warehouse including provision of necessary plant, machinery, equipments, vats etc. It is the responsibility of the distiller or supplier. He is also responsible to provide necessary staff and arrangements for the conduct of the above mentioned operations. In short, the distiller or supply license includes the maintenance of the warehouse attached to it. The ADEO or Excise Inspector posted at each warehouse is known as warehouse officer with whose permission and under whose supervision each operation of the warehouse is conducted.

***e.*** The distillery inspectors and the warehouse officers are subordinates of and are responsible to the district excise officer of the district in which the distillery or ware house is situated.

***f.*** Foreign Liquor is manufactured in bottling plants (Foreign Liquor). The Government is established Foreign Liquor (including Beer) warehouses at divisional level for supply of Foreign Liquor to the retail vendors according to their demands.

***Establishment of various cells at headquarter***

***a.*** An audit cell was established in April 1978 in the office of head of the department in which Joint Director (Finance) and other officials from director of treasury and accounts, Madhya Pradesh are posted on deputation. The cell was established with the objective of improving

accounting procedures, attending to audit queries promptly and implementing internal audit throughout the department.

- b. There is a statistics cell in the department. A statistical officer and assistant statistical officer from statistics department on deputation are posted in the cell. The main object of the cell is to compile the figures of all activities of the department, submission and analysis thereof.
- c. There is a laboratory in the office of the head of department wherein a chemist, clerk, peon and a Chowkidar are posted. The main work of the laboratory is to conduct chemical analysis of the molasses used for production of sprit in the distillery and the sprit produced.
- d. A computer branch has also been established in the office of the head of the department with the main objective of maintenance of information about services of the officers/official and other information of department.

## ***2.2 Internal Checks and Inspection***

### ***Excise Commissioner or Additional Commissioner***

The Additional Commissioner and Deputy Commissioner of excise are expected to conduct inspection of the office of the District Excise Officer, distillery, warehouse and vending contractor in the manner prescribed by the State Government.

In the inspection of distilleries, breweries and warehouses, they are required to examine the working of the system, with a view to proposing improvement in fiscal arrangements and methods of distillation. They should also examine the quantity and quality of the excisable articles manufactured and stocked in the distilleries and warehouses and checks and scrutinizes the accounts and registers maintained there.

In the inspection of the district excise office, they are required to examine in detail the accounts and registers maintained and scrutinize the records with a view to judging that the laws and rules are strictly being followed and there is no leakage of revenue.

### ***Deputy Commissioner of Divisional Flying Squad***

The Deputy Commissioner of Excise and the divisional flying squads are essentially the inspecting and controlling officers of their respective divisions. They are required to inspect the work of the district excise officers, the field staff posted in the districts, the distilleries and warehouses, bonded pharmacies and important excise centers in their respective charge.

### ***Collectors***

The Collectors have a complete control over all excise matters in their respective districts. They are to conduct a detailed check of the offices of the district Excise Officers once in a year.

### ***District Excise Officer (DEO)***

#### ***Inspection of Distilleries and Warehouses***

The District Excise Officer is expected to visit each distillery and warehouse in the district at least once in every quarter either for casual inspection and stock taking, or for a detailed inspection and check of accounts. The assistant district excise officer should take up alternately with the District Excise Officer the casual or detailed inspection of distillery and warehouses in the district. As far as possible, the assistant district excise officer should not carry out two consecutive detailed inspections of a warehouse. These

inspections are to be conducted irrespective of the inspections conducted by the Excise Commissioner and his assistants.

***The quarterly inspection of the District Excise Officer and his assistants should be conducted to ascertain that.***

- a. All sprit issued to the warehouse, less wastage in transit is properly brought to account and that transit wastages are within the prescribed limits;
- b. The stock of sprit is correct;
- c. All issues are supported by treasury receipted challan;
- d. All wastages of sprit are fair and within the prescribed limits, that all cases of excess wastages have been reported to the Excise Commissioner or the officer authorized by him for levy of penalty and that duty has been collected on excess wastages of bottled liquor;
- e. All entries in the various registers are correct. The sprit stock account shows the true balance and issue of sprit and there is no leakage of sprit etc.
- f. The working of the warehouse is being conducted efficiently under the supervision of the warehouse officer; and
- g. The balance of stock of Hemp Drugs shown in the stock register agrees with the actual stock of these drugs in the store, issues of hemp drugs are supported by receipted challan and the cost and duty there on has been correctly deposited in every instance.

***Inspection of the Office of the District Excise Officer***

A thorough inspection of his office has to be conducted by the district excise officer at least once in six months.

### ***2.3 Establishment of Flying Squads***

- a.** The State Government may, by notification, establish flying squads for investigating into any case of alleged or suspected evasion of excise revenue or any case of alleged or suspected contravention of any of the provisions of this act or the rules made there under and shall specify therein the area over which the flying squad shall exercise jurisdiction.
- b.** A flying squad established under sub-section (1) shall consist of Excise Officers and other persons as the State Government may, from time to time, appoint thereto.
- c.** The Excise Officers or other person appointed to the flying squad shall exercise the powers and perform the duties as may be conferred or imposed under section 7.]

\*\*\*\*\*

*“In the previous two chapters we had studied the provisions, rules, and regulations of MP Excise Act, which we have to know for further studies. We had also studied the structure and organisation set up of the excise department as we had conducted audit for our research in this department so we have to know about the structure and set up.*

*But before starting the analysis and comparison of excise duty and taxes levied on intoxicant items in MP to other states. We should review previous studies so that we can understand about methodology adopted by them which is studied in next chapter review of literature”.*

\*\*\*\*\*

***CHAPTER -III***  
***REVIEW OF LITERATURE***



## Chapter -III

### Review of Literature

*This chapter presents the review of literature. Taxes are important source of public income. Taxes are compulsory payments to government without expectation of direct return or benefit to the tax payer.*

#### 3.1 History of Tax System

Ancient states developed taxation to some extent, but they regarded taxation as minor and, emergency revenue. Property, commodity, income and inheritance taxes were sometimes collected, but the small expenditure of ancient states did not require extensive systems of taxation.

The origin of tax system of modern states, as **Professor Plehn** states are properly found in feudal rather than in ancient fiscal practices. For a long time, after the down fall of Rome, rulers were supported by their own lands compulsory dues from their subjects. Feudal market dues, tools for protection and the use of roads, bridges, and ferries, land rent, and other payments in goods and services were gradually commuted into money payments, or taxes with the rise of money economy. Kings were pleased to receive money and subjects preferred to pay money rather than their goods or services.

As the crafts perfected their arts, new forms of wealth arose, the new industries appeared, and land tax, excise, custom duties, market tax, toll taxes on personal goods and other taxes were increasingly imposed. Feudal dues and extraction did not universally and immediately become transformed in to taxes, but step by step, the old revenue system began to give way to taxation. Many medieval taxes continued down into modern

history of tax system. As modern states arose after 1500 A. D. Taxation slowly became more important. The study on taxation received attention of economists and they considered tax as a burden and favoured a limited government. With the growth of public expenditure new revenues became essential and they turned to imposing taxes upon new kinds of property, new business activities and new articles of consumption. Income and inheritance taxes rose in importance during the 19th and 20th centuries. In the first half of the 19th century,

**Gucci Ardini** suggested progressive taxation based on faculty for just distribution of tax burden. But **Bodin** advocated proportional taxation towards the end of the century. In the first part of the 20th century,

**Professor E.R.A. Seligman and F.Y. Tausig** advocated progressive taxation while **John R. Mc. Culloch** supported proportionate taxation on the basis of faculty.

### **3.2 Classical and Modern Views**

**Adam Smith** speaks of tax source as “**Revenue from the People**”. He advocated only limited functions of the state, but since then the functions of the state increased much, and the continuous emphasis on social welfare compelled the state to increase the social services considerably. Therefore, he does not serve the purpose of the modern state as he emphasized taxes only as the source of income, (i.e.) Income from people. Nowadays taxes are neither the only sources of income, nor income from taxes alone can serve the purpose of the state.

Contemporary writer **Bastable** speaks of taxation as, “**taking of the revenues from the society by the power of the Sovereign**”.

**Professor Adam** calls it as “**Derivative Revenue**”.

**Professor Seligman** speaks of compulsory revenue with the sub – group, taxing power, viz. taxes, special assessment and fees.

**Professor Shiras** called it as tax revenue. Taylor says that taxes generally arise as a by-product of administrative control or function of government, and hence, they are called as “**Administrative Revenue**”.

According to **G. Findley Shiras**, “**That Is The First Place Taxation Should Have Productivity**”.

Classical economists considered taxation primarily as a means of raising revenue. For modern economists taxation is not merely a source of revenue. It is an instrument for changing the pattern of consumption, investment and the level of national income. The 20th century economist **A. P. Lerner** pronounced the concept of “**Functional Finance**” in defiance to the classical concepts of sound finance.

**J. M. Keynes** prescribed remedy to economic ills using functional finance. Since then taxation revenue became a means for stability and growth.

**According to Musgrave, to appraise the quality of a tax structure, following requirements may be used as criteria;**

- a. The distribution of the tax burden should be equitable. Everyone should be made to pay his or her “fair share”. Taxes should be chosen so as to minimize interference with economic decisions.
- b. Such interferences impose “excess burdens” which should be minimized.
- c. Where tax policy is used to achieve other objectives, such as to grant investment incentives, this should be done so as to minimize interference with the equity of the system.
- d. The tax structure should facilitate the use of fiscal policy for stabilization and growth objectives.

- e. The tax system should permit fair and non arbitrary administration and it should be understandable to the tax payer.
- f. Administration and compliance cost should be as low as is compatible with the other objectives.

### **3.3 Tax Structure**

India has a well developed tax structure with a three-tier federal structure, comprising the union government, the State Governments and the urban or rural local bodies. The power to levy taxes and duties is distributed among the three tiers of governments, in accordance with the provisions of the Indian constitution.

Tax structure refers to the aggregate of all taxes. When economic development takes place the tax structure also will undergo changes. When the economy is agrarian, property taxes are the major sources of revenue to the government. When the economy grows as a result of industrialization and commercialization, taxes on commodities and services become the major source of revenue. The tax structure undergoes changes as commodity taxes become major source by replacing property taxes.

***Charles Mansfield has stated, "Economic development depends far more on a commonly recognized carefully thought out and well - organized tax structure".***

For forecasting the tax revenue one has to find out the relevant determinants of the growth of tax revenues using appropriate model. ***Professor P. Mishap's*** study suggests that industrialization and per capita income are the two most important determinants, of union tax revenues in India.

**Harley H. Hendricks** has sketched a pattern of tax structure change from traditional to industrialized societies. According to this pattern, non – tax sources and traditional direct taxes, namely, land revenue, provide most of the revenue in traditional societies. As the society begins to break away from old ways, taxes on international trade assume importance as the supplier of revenue. Thus land revenue ceases to be an important element in the tax structure.

**Hendricks** has also examined the fact that to what extent economies at the same level of development could have different tax structures. He finds that the tax structure flexibility is a luxury which only advanced countries can afford. Since a wealth of tax bases exists, they are in a position to select and adopt a tax structure according to their cultural and political styles. A less developed country is not so fortunate. Here the tax structure is determined primarily by the available tax bases.

**Richard Musgrave** has also provided a theory of tax structure change. In his view, tax structure development is shaped by economic as well as social and political factors. Economic factors influence in two ways. In the first place, nature of tax base changes with changes in the structure of the economy which goes with development. Secondly, economic objectives of tax policy vary with the stages of economic development. “**The rise of Eagle Tartan** philosophy in particular, has been the driving force behind the rise of progressive taxation”.

**Musgrave’s sketch of tax structure change contains two stages**

- (i) An early stage and
- (ii) A later period.

For the early period, he emphasizes the tax handle which means linking closely the tax structure to available tax bases. In the later period, the problem of revenue collection is no longer the search for feasible tax bases.

Now, a plethora of tax bases emerge and revenue collection is related to the devising of the forms of taxation which will yield large revenue from a wide variety of tax bases. Experiences have shown that the elasticity and buoyancy of progressive taxes in India are very low and lower than those of indirect taxes. This is a weakness of the Indian tax structure.

### **3.4 Recent Studies on Taxation**

**K. Venkatraman** has studied the overall trends in the finances of 15 major states between 1951-52 and 1966-67. According to this study, central government's control and assistance have come to occupy a very prominent place in the finances of State Governments. The percentage of tax revenue in total revenue is higher in Maharashtra during the second and third five year plans where as it was higher in Andhra Pradesh during the first five year plan. The contribution of sales tax revenue to total revenue was higher in Maharashtra in 1965-66. The growth of sale tax has been higher than the growth of national income. But union excise has grown even faster. This study emphasizes the need for co-ordination among states for the exchange and compilation of information on financial and taxation matters.

**Dibakar Jha and Bireswar Ganguly** have analysed the financial position of Bihar during the first three five year plan periods. According to them the distribution of transferred resources among the states and by them to the local authorities has to be governed by the principles of, "**to each according to his means**". The states' dependency upon the centre has greatly increased during the 17 years of planning but nearly 70% of the central assistance to the states was non - statutory. In the states tax system the taxes on agricultural income, state excise and stamp and registration have been declining, while land revenue and sales tax have assumed

greater significance. Deficit on revenue account is a chronic feature of Bihar's budgetary policy. This deficit is not due to a short fall in revenue but it is mainly due to increased expenditure on revenue account.

**L.S.Porwal** examined the financial situation of Rajasthan. A period of twenty years from 1949 – 50 to 1969 – 70 was chosen for his study. This is a diagnostic study. This study analysed the budgetary position of major and medium **Rajput states**. Also, this study describes the evolution of financial relations between the union government and the state of Rajasthan. The centre should treat the states as partners in the statutory divisible pool and hence they should be consulted in all matters connected there with. The author has further recommended that regional disparities in the socio – economic conditions should be given due weight in deciding the allocations to the states. Both the tax and non-tax revenues have increased in the study period. But the states' own non-tax revenue has receded in importance.

***The ratio of direct and indirect taxes in 1950-51 was 43:57; but it changed to 29:71 in 1969-70. As such, the system of taxation has tended to become more regressive in the study period.***

**K.S.R.N. Sarma and M.J.K. Thavaraj** has examined the incidence of taxes in India. Their study reveals that the incidence of corporate income tax is on the non agricultural population, the incidence of central excise and property tax falls on the non agricultural sector and the incidence of estate duty is borne by the agricultural and non-agricultural sector.

**Hemalata Rao** analysed the tax incidence on agricultural sector in Uttar Pradesh. The conclusion is that the agricultural sector is less taxed than non agricultural sector. While suggesting tax base reform,

**Professor I. S. Gulati** has pointed out that in the year 1970 - 71, the changes introduced in income - tax and wealth tax were to contribute Rs.15 Crores. The source of erosion of tax base is the tax treatment of agricultural incomes. Agricultural income is taxed only at the state level through a combination of land revenue and agricultural income tax.

**D. T. Lakdawala** examined the effects of mobilising internal resources by 16 Indian states for the period from 1950-51 to 1970-71 and has reported that income taxation and company taxation generally have a much greater elasticity than commodity taxation. State tax revenues being largely commodity based are likely to be less growth elastic. This study suggests that co-ordination between neighbouring states is urgently needed.

**T. N. Krishnan** examined the tax on property and net wealth in India. His analysis revealed that the yield from such a tax can vary from Rs. 220 Crores to Rs. 350 Crores per annum. In his study is done on tax incentives for saving and investment, MP.

**Chitale** said that the larger the amount saved, the larger the tax benefit.

**S.S.Joshi** brought out the fact that the percentage of land revenue and agricultural income tax to the total revenue from the state taxes is not only low but decreasing also.

**K.N.Reddy** has analysed the indirect tax structure. He suggested that it is unfair to use the veil of indirect taxation to mobilise the revenues too much and the revenues of sales tax may be shared with the local bodies.

A study under has taken by **Rajendra Jain** deals with the problems of state finances in India between 1960-61 and 1976-77. According to him, State Governments in India have not made adequate efforts to mobilise financial resources and their dependency on central assistance has been increasing, causing erosion of their fiscal autonomy. In order to mobilise more revenue, this study suggested the following measures.



***Agricultural income tax should be merged with the general income tax and an element of progression through grading system should be introduced in land taxation.***

- a. Taxes on urban properties and tax on transfers of properties and capital should be thoroughly revised and up graded.
- b. Professional Tax should be imposed on services of professionals like lawyers, doctors, engineers in all the states and rates may be revised upward and be transferred to the local bodies.
- c. States tax system should be rationalized and its procedure may be simplified.
- d. Taxes on passengers and goods are merged with taxes on motor vehicles.
- e. Receipts under the general services may be revised immediately.

***Timmaiah*** estimated the revenue potential and revenue efforts of four southern states and one union territory namely Andhra Pradesh, Kerala, Karnataka, Tamil Nadu and Pondicherry for the period from 1969-70 to 1973-74. According to this study, only Karnataka had tapped the land revenue more than the all state average. Andhra Pradesh, Kerala and Tamil Nadu did not tap the potential yield from the land revenue. In the case of excise duty, all the states except Tamil Nadu had tapped their revenue potential. The obvious reason for the low yield is operation of prohibition. Tamil Nadu had tapped its revenue potential in sales tax to the hit and hence its revenue effort was higher than all other states. In the case of entertainment duty, Karnataka and Tamil Nadu had exploited their revenues potential to the maximum in the case of stamp duties and registration fees, Andhra Pradesh and Tamil Nadu had tapped their entire

revenue potential. Regarding forest revenue, Andhra Pradesh and Tamil Nadu had not fully utilized their potentials.

**K. S. Sonachalam** has analysed the revenue and capital budgets of Tamil Nadu from 1957-58 to 1972-73. It is a time pattern analysis. This study reveals that the planning era has witnessed not only an expansion of the well established functions of State Governments but also addition of new functions consequent upon the development process. During the study period of 16 years, there were eight surplus and eight deficit budgets.

The tax revenue has increased by more than six fold from Rs. 3324 Crores to Rs. 21120 Crores in the same period, and the share of the state in the divisible pool increased from 22% to 26%.

The rate of growth in expenditure on education, agriculture and welfare were strikingly high and are indeed to be welcomed. The highest rate of growth of debt services an increase of 25 times in the period under review is a cancer eating into the vitals of state finance. The grants and loans from the centre are the supporting pillars of the arch of state finance. Due to planning, the relationship between the centre and states, has moved away from quasi- federalism to co-operative federalism.

**S. Guhan** reviewed the finances of Tamil Nadu for the 25 years period between 1960 and 1985. In this study, he analysed the revenue source of State Government and the effect of resource mobilisation. According to this study, in the Indian fiscal system, the developmental responsibilities of the states are wider while resources available for fulfilling them are limited and inelastic. Contribution of tax revenues in total receipts has significantly increased from 50% to 72%. Taxes have grown much faster than non - tax sources of revenue. Tax revenue as a proportion of NSDP has increased from 4.9% to 8.5% whereas the share of non- tax revenue went down. The reason for the relatively low proportion of non - tax revenue to total

revenue is that Tamil Nadu does not have the benefit of significant income from forest products or mineral royalties compared to the states such as Assam, Bihar, MP and Orissa.

**G. Subramanian and B. Rama Krishna Rao** state that direct taxes in India have so far remained ineffective in performing their redistributive role of reducing inequality in the distribution of income and wealth in India. In his study on taxation as a means to control inflation, **Vito Tanzi** concludes that there is no direct casual connection between the level of taxation and the level of prices.

**A. K. Agarwal** analysed the replacement of sales tax by excise duties. The FICCI suggested that the sales tax should be levied and collected by the centre and the revenue may be distributed among states. It again demanded replacement of sales tax by additional excise duties and there is greater need to simplify the sales tax structure.

**N. Jayasimhulu Naidu and K. A. Parvathy** have stated that during the period from 1956-57 to 1977-78, the tax revenue increased from Rs. 23.07 Crores to 367.61 Crores registering a growth of 1493%.

The tax structure in Andhra Pradesh is more regressive. The yield from indirect tax increased faster than direct taxes. The ratio of direct to indirect taxes in Andhra Pradesh was 28:72 in 1973-74, whereas the ratio for all taxes was 15:85. Thus the ratio of direct to indirect tax revenue in Andhra Pradesh is better than the all state average. During 1956-57, the yield from tax revenue was more than non-tax revenue but in 1977 - 78, non - tax revenue increased gradually.

**Anupam Gupta** has pointed out that the elasticity of personal income tax with respect to income cannot be greater than one, under a progressive tax structure. It ranges between 0.5266 and 0.6339.

**Robert M. Coen and Bert G. Hichman** analysed the US Growth in the 1980s. Their study disclosed that the personal tax reductions raise output in the short run but leave actual and potential output virtually unchanged in the longer run.

**Shyam Nath** states that urban property taxes in India are levied against the annual rental value of the property. He concluded that rent control has adversely affected the level and growth of property tax revenue in Indian cities.

**Raja Chelliah and Narian Sinha** estimated the tax effort of 15 Indian states between 1973 and 1976. According to them the average annual growth rate of state tax during the study period was higher in Madhya Pradesh (25.27%) followed by Utter Pradesh (25.09%). This growth rate was less in Tamil Nadu (6.4%). In Tamil Nadu, the performance in terms of tax revenue by sales tax, stamps and registration fees, tax on Motor Sprit, motor vehicle tax, passengers and goods tax and electricity duty were higher than the all state average where as the performance was less in the case of land revenue, profession tax, entertainment tax and state excise.

**N. K. Sharda** analysed the financial position of Himachal Pradesh between 1967-68 and 1982-83 in comparison with the financial position of Haryana, Jammu and Kashmir, Punjab and Rajasthan. According to this study, revenue receipts grow faster than revenue expenditure. This is due to the state's greater tax effort and increasing central transfers. The slow growth of non-tax revenue has always been constrained on the growth of revenue. In terms of per capita aggregate revenue effort, Himachal Pradesh lags behind the neighbouring states thus indicating a low revenue burden on its people.

**Mahesh C. Purohit** has examined the structure of sales tax in India. Sales tax system in India consists of states sales tax and the federal sales tax. The

revenue from this tax alone accounts for 57% of the states own tax revenue.

**Makesh C. Purohit** has disclosed that Punjab, Haryana, Himachal Pradesh, Gujarat, Jammu and Kashmir provide some concessional-treatment. Maharashtra and Orissa provide four percent, Madhya Pradesh provides two percent, and Bihar provides three percent and Assam provides no concessional treatment.

**V.B. Tulasidhas and M.Govinda Rao** has studied the sales tax system in Madhya Pradesh. They consider that Madhya Pradesh, a backward state has the most liberal sales tax subsidy scheme among all states. They have brought out the fact that Madhya Pradesh has adopted potentially the most expensive open ended comprehensive type of sales tax incentive scheme which violates the economic efficiency criterion in many respects.

**M. N. Murty** argues that while an expenditure tax is superior to an income tax from the point of view of horizontal equity and other economic objectives, partial tax reforms like substituting an expenditure tax for a personal income tax may not be welfare improving.

**Joel Slemrod** feels that the zero investment is a measure of the disincentive to investment provided by the tax system.

**Helan F. Ladd and Katherine L. Bradbury** investigated the simultaneous relationship between tax rates and city property tax bases using data for 86 large US cities in 1972, 1977 and 1982. They found that a 10% increase in a city's property tax rate decreases the property tax base by about 1.5%.

**Edger K. Browning** developed a theoretical analysis on the responsiveness of tax revenue to a change in tax rates on labour income. He found that tax revenue is likely to be less responsive to higher tax rates.

**Pawan K. Aggarwal** has estimated the elasticity of personal income tax in India. He maintained that mitigating inequity in the distribution of income

and imparting built in flexibility to the tax system have been the main objectives of India. His study discloses that a rise in inequality has the positive effect on elasticity of the personal income tax.

**The Raja Chelliah** tax reform committee's interim report rightly felt that the method of tax administration need to be modernized and tax enforcement visibly improved. It suggested the abolition of wealth tax and introducing a "**Presumptive Tax Scheme**".

According to **Pradeep Singh Kharola**, fixation of property tax considers the size of the building, type of construction, age of the building and the location of the building. These are the important factors for the fixation of property tax.

**Vasant Sathe** feels that for reducing the large number of indirect taxes, value added tax was introduced. The presumptive co-operate or institutional tax method is an instrument for taxing the hard to tax groups.

**Biswadeb Chatterjee** has examined the tax performance of west Bengal in comparison with the performances of Maharashtra, Punjab and Orissa in order to assess the relative efficiency of West Bengal. He has analysed the tax potential and performance of these states by using regression models. His study reveals that compared to Maharashtra, Orissa and Punjab and the all India average, tax effort of west Bengal was poor and this had an adverse impact on the total revenue and total expenditure of the state and so west Bengal's dependency on central transfers has increased. His study has emphasised the importance of own source revenues in providing stability to the finances of the State Governments.

**Raghendra Jha and Balbir S.Sahni** state that presents Canadian fiscal profile is the outcome of many historical developments since confederation. The federal taxing power empowers provinces to levy direct taxation within the province for the purpose of raising revenue. Both the

federal and the provincial taxing powers may be delegated to subordinate bodies. There have been many attempts to rationalize these taxing powers, thereby suggesting that both levels of government may impose taxes by all or any means.

**Professor Broadway** suggests that the present system entailing sizable decentralization of fiscal responsibilities to the provinces has not yet jeopardized the efficient and equitable functioning of the economy. With its highly harmonized income tax system, a broad based equalisation program, and retaining of the basic foundations of an efficiently operating internal common market, the Canadian fiscal federalism functions wonderfully well. In his study, **Revesz** employed a combination of two LES (Linear Engel Curves) preference maps to investigate the structure of optimal commodity tax rates under non-linear Engel curves demand specifications. The model illustrates the situation where the consumption of some goods starts at intermediate or high income levels. It shows that under non-linear Engel curves demand conditions large variations can arise in optimal commodity tax rates. This involves much higher taxes on luxuries than on necessities. However, the gains in social welfare compared to the uniform tax solution are relatively small. It also demonstrates that a change over from direct to progressive indirect taxation will improve social welfare and labour supply. Moreover, it indicates very close relationship between consumer group income and optimal tax rates. Further it suggests that evasion prone necessities should be taxed at lower rates than other necessities.

**Le-Yin-Zhang** reported that the Chinese government launched important reforms to the central-provincial fiscal relationship, aiming to replace the previous revenue-sharing system with a tax-sharing system, and ultimately to stem so-called fiscal decline in 1994. The connections between revenue collection, allocation and expenditure within the

budgetary relationship were underlined by the reform of 1994. Up to 1993, the Central Government had no tax collecting agencies of its own apart from the state bureau of customs, which collected custom duties, and the state administration for taxation (SAT), which collected the indirect taxes. A small number of large (SOES) state owned enterprises paid directly to the central government. The centre relied heavily on the provinces – to collect revenue. From 1994, the centre holds most of the formal authority, including the power to define taxes, tax bases and tax rates, to determine the allocation of spending responsibilities and the authority of issuing bonds to finance debts. This reform has succeeded in increasing the centre's share in total revenue collection. It has also started to stem the decline in the budgetary revenue GDP ratio. Budgetary revenue growth began to outstrip the growth of the economy in 1996 and widened its lead in 1997.

**Le-Yin-Zhang** states that the 1994 reform was successful in changing the pattern of revenue collection. But it has not led to significant changes in the nature of the central – provincial fiscal relations in terms of revenue allocation and spending. He has also pointed out that this reform has not altered the actual distribution of funds between the centre and provinces. It suggests tremendous efforts taken by the Central Government to gain dominant control over financial resources. Therefore, progress so far represents neither a stalemate nor a landslide victory for the centre.

**N. J. Korean** in his study attempts to bring at the deteriorating trend in state finances in India between 1995–96 and 1998–99.

**According to him the reasons for deteriorating trend of state finances are:**

- a. Failure to contain wasteful expenditure and reluctance to raise additional resources.



- b. Tax wars among State Governments to attract private investment in the wake of economic reforms as well as competitive populism on the part of ruling parties and contenders for power.
- c. The pay revision of employees forced upon the State Governments by the centre.

***Nirupam Bajpai and Jeffrey D. Sachs*** analysed the financial position of the State Governments in India. They said that over the years, the consolidated financial position of the State Governments in India has shown a marked deterioration in some of their major deficit indicators. One of the fundamental weaknesses of State Government finances in India can be attributed to the increases in non- developmental expenditure, particularly the revenue component of the non-developmental expenditure, and interest payments as a proportion of revenue receipts. Structural imbalances in the form of large revenue deficits, rising interest burden, increasing distortions in the pattern of expenditure, and very slow growing non-tax revenues are major problem areas for state finances. These problems have been aggravated a great deal over the past few years because of a variety of reasons.

Responding to the emerging fiscal challenges, in recent years, a number of states have moved towards introducing long-term structural reforms in their finances in order to broaden the tax base and redress the imbalances in their expenditure patterns. It may be pointed out that these reforms have yet to make any significant improvement in the state of state finances since they have been partially implemented, and are extremely slow moving. A number of State Governments, including Kerala, Maharashtra, Rajasthan, Punjab, and Utter Pradesh have undertaken measures to reform their sales tax system and simplified their administrative structure to mobilize higher levels of revenue. A number of states like Tamil Nadu,

Karnataka, Himachal Pradesh, Goa, Haryana, Kerala and Orissa have sought to encourage private sector participation in the transport and power generation sectors. Some states have also provided a certain degree of autonomy to the power sector by setting up an independent state electricity regulatory commission. In the area of expenditure reduction, they have identified several potential areas for controlling expenditure of the State Governments. They suggest that by raising user charges on water in accordance with the costs incurred in providing water, and aligning tariff rates of the state electricity boards in line with their costs, the State Governments could significantly cut their budgetary losses. In addition, a freeze on State Government employment can help save scarce resources to be used for productive purposes elsewhere in the states.

The study conducted *by Ashok. K. Lahiri on "Sub National Public Finance in India"* analysed the financial position of Indian states from 1970 - 71 to 1996-97. This study focuses on five states, namely Assam, Haryana, Kerala, Punjab and Tamil Nadu. According to this study, persistent fiscal stress and consequent pressures on liquidity management have led to the frequent use of ways and means advances and the overdraft facility by the states. Moreover, it pointed out that populist policies such as the supply of free power to farmers and cheap power to households, inadequate water charges, supply of subsidised rice and the inability of states to mobilise resources promised at the time of formulating the five year plans have contributed to the worsening of the fiscal position of the states.

*Montek. S. Ahluwalia* focused on the economic performance of the individual states in the post reforms period. His study covers the period between 1980-81 and 1997-98. According to this study, inter - state inequality as measured by the Gini co-efficient , has clearly increased showing that the rich states got richer and the poor states got poorer is not

entirely accurate. State plan expenditure to GDP declined and the interest payments as percentage of revenue has increased. Over the years both the centre and the states have seen a burgeoning on non – plan expenditure in the face of inadequate buoyancy of revenues.

The study undertaken by *Atul Sarma* examined the performance of Gujarat's revenue and expenditure systems. According to this study, in the reform period, beginning from mid 1991 Central Government's several reform measures, for instance, efforts to curb fiscal deficits, tax reforms, liberalization of interest rates and pricing of goods such as coal and petroleum products produced by its public sector undertakings etc have adversely affected state's budgets.

Aggregate revenue of the state grew almost at the same rate both in pre – reform period of about 20 years and the post seven years of the reforms. However, the state's own tax revenue growth slumped from 15.66% per annum in the preceding period to 13.44% per annum in the latter period. Non – tax revenue growth declined in the reform period as compared to its growth in the pre – reform period. Also, this study pointed out that low water charges and power tariff, low cost recovery of non – merit public services and poor interest on collecting non – tax revenue are the major constraints.

*Andreas Haufler and Guttorm Schjelderup* analysed optimal taxation of corporate profits when governments can choose both the rate and the base of the corporation tax, but are constrained to collect a given amount of corporate tax revenue. The efficiency of allowing a full deduction for the cost of capital is well known in a closed economy and continues to apply in a setting where the domestic investor earns a competitive rate of return in the world capital market. Therefore, he concluded that when foreign direct

investment is introduced firms can shift profits between countries through transfer pricing, then it will be optimal for each government to distort investment decisions in order to lower tax rates and reduce the incentive for profit shifting.

In their study, **S. Michael and Panos Hatzipanayotou** constructed a general equilibrium trade model of a two - class small open host and source country. When consumption tax revenue finances the provision of a public good, marginal migration reduces social welfare in the source country and raises it in the host. When consumption tax revenue is equally distributed among domestic households in each country, then migration has an ambiguous impact on social welfare in either country. When tariff revenue in either country is either equally distributed among domestic households, or it is used to finance the provision of a public good, then migration has an ambiguous effect on social welfare in the host country, and is expected to reduce social welfare in the source country.

**Tejinder Singh and Dr. A. K. Jain** analysed the growing importance of the corporation tax in the direct tax structure in India and the relative position of the direct taxes in the total tax receipts in India for a period from 1951-52 to 1995-96. They found that the share of direct taxes in total tax revenue has declined steadily from 37% in the early fifties to 14% in 1989-90. However, with rationalisation and harmonisation of the tax structure under the new economic policy, the receipts from direct taxes rose from 14 percent in 1990-91 to 19.5% in 1995 - 96. With the passage of time, the company form of organization is increasing its importance in India. This is evident from the fact that the contribution of corporation tax as percentage of gross direct tax revenue of the centre is increasing. The yield from corporation tax which was a meagre Rs. 40 Crores in 1950-51 increased to

Rs. 5335 Crores in 1990-91 and to Rs. 21860 Crores in 1997-98. Today corporation tax contributes more of the revenue from taxes on income.

**A. B. Atkinson and J. E. Stieglitz** made an attempt to find out as to how local taxation affects the decision of consumers to buy goods over the internet with the data of 25,000 people with online access. They found that local taxation plays an influential role in online commerce. Controlling the characteristics of the individuals, people living in places with higher tax rates are more likely to buy things over the internet than people in low tax locations. It is not due to city - specific differences. Further, the impact of taxes on internet commerce appears to be greatest for online products. The magnitude of the tax effect is large and suggests that applying existing sales taxes to the internet might reduce the number of online buyers. On the whole, taxes will play an important role for individuals living in a **"World without its Borders"**.

**Ajit Karnik, Anita Rath and J. C. Sharma** considers that the property tax is shrouded in many controversies in its present form in India. Although the relative importance of property tax in terms of revenue collection has declined overtime, it still remains an important source of revenue for all local bodies and is the primary source for non-octroi levying jurisdictions. Therefore, they made an attempt to understand the reform in the property tax systems in Indian municipalities. Recent attempts at reform have been based on shifting away from the age old rental value based system of property taxation. They explore the possibility of an alternative capital value based system for a metropolitan city Mumbai and address the intricacies of a smooth shift over to the alternative system. In his paper, **Shankaracharya** sketches the contours of India's tax reform efforts from the mid-1970s to the mid-2000s. He has pointed out that enormous progress has been made in the last 30 years, judged by the standards of

economic efficiency, equity, built-in revenue elasticity and transparency. However, key issues for further reform include the plethora of complex exemptions affecting customs tariff, low buoyancy of excise, integration of Cenvat with state vat and the broad-basing of direct taxes. He has further stated that sustaining programmes to deploy information technology and modern risk management methods in tax administration will be critical, for the dictum "***Tax Administration is a Tax Policy***" is really quite true.

In his paper, ***Rajmal*** provides a phase-wise analytical review of the fiscal situation of the Indian major states over the previous two and half decades and examines the effectiveness of the policy measures to strengthen the state finances. The analysis reveals that the states' fiscal position showed imbalances, albeit in a varied degree, since the mid-1980s which deepened in the second half of the 1990s. The effectiveness of policy measures has remained largely inadequate. Most of the policy measures were exigency-driven rather than being structured. As the states face large resource gap, they require effective and time-bound policy measures to enhance revenues particularly non-taxes and shift in expenditure pattern towards economic infrastructure and social sectors to facilitate acceleration in growth.

***Pradap R. Jena*** brings out the problems caused by inaccurate forecasting of both central and states' revenues for the fiscal management of the states. The analysis shows that poor forecasting methodologies employed to forecast central and state tax revenues caused and adverse impact on the fiscal management of states. In recent years, the central government's forecast of tax revenues are in the nature of target setting rather than forecasting, and this had a negative impact on the state finances. He has stated that both the central and State Governments should prioritise their

expenditure plans by adopting a medium term framework and adopt more scientific techniques of forecasting in making budgetary projections.

**Sanjay Kumar, A. L. Nagar and Sayan Samanta** developed an econometric model for indexing the effectiveness of tax administration by using the principal component method to remove the feedback effect between voluntary and enforced compliance. Tax policy and tax administration are inextricably linked to each other. Effective tax administration requires an environment in which citizens are induced to comply with tax laws voluntarily. In fact, this is based on the incentive pattern. If they feel that the non - compliance may cost more, people would comply with tax laws more. Therefore, an efficient tax administration would detect and penalise non-compliance, and facilitate voluntary compliance through the provision of quality tax payers' service. One key strategy to improve the effectiveness of administration would be to build a proper information system, and a data base. Therefore, there is a need to manage the tax administration with a view to achieve a proper balance between the service to the tax payer and enforcement of the tax laws to promote voluntary compliance.

**Elena Lanchovichina, Lili Liu and Mohan Nagarajan** has presented a framework for sub national fiscal sustainability analysis and explains the differences between fiscal adjustment at the national and sub national levels. In the late 1990s Tamil Nadu experienced an unprecedented fiscal deterioration. The fiscal crisis in Tamil Nadu was part of the widespread fiscal deterioration experienced by other India states. The rapidly rising fiscal deficit and debt level in Tamil Nadu and other Indian states were troubling. Therefore, they are particularly interested in how various components of the fiscal accounts of the state respond to policy reform and

shocks, and how these policies and shocks may impact fiscal adjustment and sustainability.

The analysis suggests that fiscal adjustment in Tamil Nadu has left fiscal space for increase in infrastructure investment, which may be achieved without threatening fiscal sustainability. It also suggests that revenue stagnation, a decrease in central devolution and an increase in subsidies may constrain fiscal balances and result in a primary deficit of 0.5% of GSDP after 2008–09.

**M. Covina Rao and U. A. Vasantha Rao** feel that fiscal decentralisation of rural local governments in India is meaningful only when the Panchayats have adequate untied funds to provide public services assigned to them. They have further explained that the revenue mobilisation by rural local bodies is abysmally low. And so the Panchayats have been empowered to raise revenues from tax and non – tax sources assigned to them. But the assignment does not include any important revenue handles and the Panchayats are not able to exploit properly even the only notable tax base assigned to them-the property tax. They argue that it is necessary to take a re-look at the tax powers of Panchayats. It is also important to build administrative and enforcement capacity. An essential precondition for building such capacity is to create a reliable data and information system.

**Anita Rath** analysed the fiscal significance of octroi tax in greater Mumbai and deliberates on various alternative sources of revenue. Although octroi is the most productive source of revenue for local bodies it affects rural and marginal producers adversely. Due to the various problems it has been labelled as an “**Obnoxious, Vexatious and Wasteful**” tax. And so the tax has been removed progressively all over the world. But Maharashtra is the only state in the country where octroi posts still exist. It is now being abolished in 15 smaller cities in the state. However, it continues to be levied by the



Municipal Corporations in the state. The pressure has been mounting from various quarters in recent times for its complete removal. To understand the relative significance of octroi in greater Mumbai, an interstate analysis of its importance in the general fiscal scenario of the urban local bodies is attempted. Octroi was abolished in Haryana, Orissa and in the municipal councils of Maharashtra and Gujarat. The fiscal positions of these states have been adversely affected after the abolition of octroi. To comprehend the fiscal significance of the tax in greater Mumbai it would be useful to see its contribution in absolute terms, its relative significance and its buoyancy. The gross octroi receipts of 22 Municipal Corporations in the state for 2004–2005 reveals the highly desperate position of these corporations in terms of the revenue that they get from this source.

***Octroi revenue was less than Rs. 100 Crores for 16 Municipal Corporations in that year and Municipal Corporation of greater Mumbai received around Rs. 2450 Crores. The contribution of octroi is the highest in case of greater Mumbai among all local bodies. The growth of revenue from octroi has also been phenomenal in case of greater Mumbai. From Rs. 7.00 Crores in 1965-66 it has gone up to around Rs. 4200 Crores in 2007– 08.***

The relative contribution of octroi in the overall fiscal framework of MCGM is appreciable because octroi serves around 50% of the total revenue 55 requirement of MCGM. The revenue significance of the octroi can be deciphered from the fact that the revenue from the octroi accruing to only MCGM is equivalent to the state excise revenue and exceeds the central sales tax accruing to the state. It is almost around one-fifth of the state sales tax.

Thus she concluded that the abolition of octroi poses a special challenge in greater Mumbai, where octroi is the most lucrative source of revenue. To ensure fiscal autonomy, octroi would be essential for Municipal Corporation of greater Mumbai.

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*“After reviewing literature in details we learned and understand what methodology adopted by researchers in previous studies, what their findings and suggestions were given by them.*

*In the next chapter we are going to study about license methods and its types. In this chapter we will understand the regulation / notification/ circulation issued by Government of MP, time to time in relation to the license fees, types of licence, procedure for sale and auction etc, which is very important, part of our study.*

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***CHAPTER -IV***  
***LICENSE METHODS AND ITS TYPES***

## **Chapter-IV**

### **License Methods and Its Types**

#### ***4.1 Procedure for Issuing License***

##### ***Every License, Permit or Pass Granted Under This Act-***

- a.* On payment of such fees given in notification.
- b.* For such period,
- c.* Subject to such restrictions, and on such conditions and,
- d.* Shall be in such form and contain such particulars, as the State Government may direct either generally by rules made under section 62 or in any particular instance.

#### ***4.2. Power to Take Security for Granting License***

Any authority granting a license under this act may require the licensee to execute a counterpart agreement in conformity with the tenor of his license and to give such security for the performance of such agreement, or to make such deposit or to provide both as such authority may think fit.

#### ***4.3 Technical Defects, Irregularities and Omissions***

- a.* No license granted under this act shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license or in any proceedings taken prior to the grant thereof.
- b.* The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

#### **4.4 Determination of License Fees**

- a. The most important task before the excise administration, therefore, is the determination of the true value of the said consideration year to year which the government is expected to realise from the licensees, surplus profits that may result in the manufacture etc.; and selling trade of the intoxicants may be considered to be the reasonable consideration. The excise administration assessee, with reference to the data collected by them, and with due regard to the economic advancement of the area, prosperity in crops, trade activity, development of the means of communications, roads and transport etc; and the social conditions of the area, the surplus profits that are expected to be derived in the trade of intoxicants which serve as a guide in the determination of such consideration/license fee and is generally known as the 'reserve price' at which a particular assignment can be allowed to go in public auction, tenders or negotiations. Practice has evolved for the determination of the license fee, a system of open competition either by inviting sealed tenders from the intending persons or by public auction of excise privileges. With due regard to the 'reserve price', the license is granted to the highest tendered/bidder. The excise duty and license fee are different in their nature, pith and substance.
- b. Whereas the excise duty is primarily levied on a manufacturer or producer on what is manufactured or produced by him, the license fee is the consideration for the assignment of an excise privilege in a particular area for a fixed period. Currency of licenses for the manufacture etc. And sale of intoxicants
- c. The licenses for manufacture, wholesale supply and retail sale or country/ Foreign Liquor/Hemp Drugs are granted for one year expiring on 31 march each year subject to such restrictions and on such

conditions and in such form as the 23 State Government may prescribe and on payment of such fees as may be determined. Grant of license for the whole sale supply of Country Liquor

- d. A license in form CS-1 for manufacture, bottling and whole sale supply of Country Sprit may be granted by the EC after approval of the State Government on payment of prescribed fee in advance. It shall commence on such date as may be specified therein and be enforce for such period as the State Government may decide and shall be for such area or areas as may be determined by the EC from time to time. Grant of retail sale licenses
- e. The assignments of the retail vends of the following excisable articles are as a rule disposed of by public auction held annually in each districts and the license fee determined there at:
- Country Sprit
  - Tari
  - Hemp Drugs
  - Foreign Liquor including Beer
- f. The State Government has introduced the system of adjustment of excise duty against auction amount relating to assignment of the retail vend of Country Liquor and Foreign Liquor by public auctions/tender with effect from 1<sup>st</sup> April 1996.

The most distinguished feature of the new system is that the monthly instalment of auction amount (derived by division of yearly auction amount by twelve) shall be deposited to government by end of each month after adjusting the amount of duty of Country/ Foreign Liquor paid at the prevalent rates against the quantity of Country or Foreign Liquor drawn by the licensee from the respective warehouse.

The annual amount is payable in 24 equal fortnightly instalments with effect from 1<sup>st</sup> April 2002. When the cumulative total of the adjustable duty deposited, difference of adjustable duty and instalments paid in cash by the licensee together with the advance amount deposited by him at the time of auction/tender becomes equal to the yearly auction amount, the licensee's liability to pay monthly instalment of auction amount shall cease and he shall be permitted to take liquor without payment of duty

- g. Against the advance deposits. After the licensee has taken duty free issues against the full advance deposits made by him at the time of auction, he shall be allowed rebate on further issues of Country or Foreign Liquor at the following rates:
- h. Till the total duty deposited does not exceed 25% of the annual auction amount 25% of the prevailing rate of duty
- i. When the total duty deposited exceeds 25% of the annual auction amount. 50% of the prevailing rates of duty.
- j. Provided that rebate will be admissible only during the month of February/March and issues of Country or Foreign Liquor to the licensee may be permitted in any fortnight not exceeding the average fortnightly issues during all the preceding fortnights or as the EC looking to the circumstances may fix for any fortnight or a part thereof.

**Explanation i - "Auction Amount"** means the bid received for a shop or group of shops put to auction whether by open auction or tender system for any period and accepted and confirmed by the Collector or EC as the case may be.



**Explanation ii - Fortnightly Average Quantity** in relation to any shop/group of shops means, the quantity fixed for the financial year as per guideline of the EC and then dividing it by 24.

**Explanation iii** - the word **Fortnight** means a period commencing on 1<sup>st</sup> or 16<sup>th</sup> and ending on 15<sup>th</sup> or last day of a month respectively.

**Explanation iv - Duty** in case of Country Sprit for the purpose of rebate shall mean the duty less the cost price of the Country Sprit payable to the licensee by the State Government.

- k. Several changes have taken place from 1<sup>st</sup> April 2004 in the policy of sale of retail sale of liquor shops. Sale of shops under lottery system was introduced during the year 2004-05.

Reserve price which includes prescribed basic license fee was assessed by the department for retail shops and applications were invited and shops allotted by lottery. After payment of basic license fee and security deposit in prescribed manner by the successful applicants, the license was issued by the department in favour of successful applicants.

The licensee is required to pay annual license fee (which is equal to reserve price or annual value of the shop minus basic license fee) in 24 instalments after adjustment of duty paid by him on liquor drawn by him from warehouses.

The shops which could not sell under lottery system are too disposed by tender system. In 2005-06, the shops were sold in the same manner and it was provided in the conditions of sale of shops that the licensees who observed the license conditions during 2005-06 would be eligible for renewal of license for the next year on 20% increase in annual value of shops. After that, the licenses of shops are being renewed on prescribed increase in annual value and the shops which could not be renewed are being sold by tender system.

#### ***4.5 Sale of Retail Shops***

The Excise Commissioner issues the sale proclamation, giving details of the dates on which the sale is to be held throughout the state. The Collector of the district is required to adhere to the dates published. If it necessary for some reason to postpone the auction to a subsequent date, immediate intimation. Thereof is given to the EC with a brief explanation of the reasons and a statement of the new dates. The sale is held at headquarters of the district.

***The intending applicants or tenderers are required to apply in prescribed application form in accordance with the condition of sale of shops notified by the department.***

- a. It is the responsibility of the Collector to ensure that the intending applicants or tenderers are given every opportunity of knowing the value of the privileges offered and the conditions under which they are granted and, therefore, the 25, DEO or AEC prepares a sale memorandum containing information about the following matters:
- b. The conditions under which the contracts will be put up for public auction whether they be general conditions prescribed under the act, or particular conditions prescribed by the Excise Commissioner or the Collector for the district.
- c. The number and names of the shops to be sold, the description of the localities in which the shops will be located and source of supply, the rate of duty etc. In respect of toddy shops rate of tree tax is to be specifically mentioned.
- d. The distribution of shops in vends areas when not auctioned separately. Any changes in the excise arrangements of the district or of adjoining areas which are likely to affect the interests of license holders. The

fixation is (if any) of maximum and minimum prices and the dates of the excise sales in adjoining district.

#### ***4.6 General Sale Conditions***

Apart from the particular conditions applying to individual shops which are published in the sale memoranda, there are, certain general sale conditions which are applicable to all cases are given below in brief. Every person who makes a bid or tender for an excise contract is liable to be held to his bid or tender, whether it be the highest or not, until and unless the shop has been put up for resale on a subsequent occasion not less than a week later. By bidding or offering a tender, he shall be held to have bound himself by all the rules made under the act and to have accepted all the conditions under which the contracts are being granted. The amount bid by himself is held to be the license fee imposed under the act for the right of exercising the privilege sold.

The officer presiding at the sales is authorised to reject any bid for any valid reasons and without assigning any cause.

Where a site has been fixed for the location of a shop, any bidder for that shop shall be considered to have bound him to occupy that site and to pay the rent therefore. But, no sale shall be considered invalid and no claim for compensation shall lie by reason of such site becoming unavailable or of a change of site being ordered.

Where maximum and minimum prices have been fixed, these must be adhered to unless altered during the year with the sanction of the EC.

Sale is not complete against the government until successful applicant/tendered has furnished the security required.

#### ***4.7 Counterpart Agreement and Security***

Under the provisions of section 29 of MP Excise Act, any authority granting a license under the act may require a licensee to execute the counterpart agreement in conformity with the tenure of his license and to give such security for the performance of such agreement or to make such deposit or to 26 provide both as such authority may think fit.

***The following rules regulate the taking of security from license holders.***

- a. Every intending applicant or tenderer or bidder is required to deposit in cash earnest money deposit with the application.
- b. Every successful bidder is required to deposit prescribed security for the due observance of the condition of license a sum in cash or bank guarantee issued from the local branch of nationalised bank or banker's cheque, cash order or saving certificates pledged with the Collector in the name of the government of Madhya Pradesh.
- c. Every successful bidder is required to deposit in advance a portion of license fee as may be prescribed to be adjusted as fee for the closing months every year.

#### ***4.8 Confirmation of Sale***

The confirmation is of any sale whether held by the Collector or any other officer shall rest with the Collector who may accept or reject any offer at his discretion without assigning any reason.

#### ***4.9 Date of Confirmation of Sale***

Where the confirmation of the EC is necessary for the sale, the date of confirmation shall be reckoned to be the date on which the order

confirming the sale is received in Collector's office. In the case of all other sales held at headquarters of the district by the Collector or under his supervision, the date of confirmation shall be reckoned to be the last day of the sales. When the sale of certain privileges is postponed or is held in outlying tassels, the date of confirmation shall be held to be the date on which the order of confirmation is received at district or tahasil office as the case may be.

#### ***4.10 Resale on Default***

If a person in whose favour the sale of a privilege is confirmed fails to furnish the required basic license fee, security, advance deposits etc. As the case may be within prescribed time, the privilege may be resold or otherwise disposed of at the discretion of the Collector at the risk of the defaulting purchaser.

When several shops purchased by a single contractor are resold due to above reasons or for some other adequate reasons, the resale should be reckoned as one case for the purpose of adjustment of gains and losses.

#### ***4.11 Certain Person Debarred From Bidding***

Under rule (iii) of rules of general application framed under section 62 (2) (e) (f) and (h) or the act, certain persons are debarred from bidding in public auction for the sale of excise privileges. They are mainly described as below:

- a. Former licensees who owe arrears of excise revenue to government or whose conduct as licensee has been unsatisfactory or who have been guilty of serious breach of their licenses under the act and other relevant acts or the rules made there under and persons who have been

convicted by a criminal court, of such offences, as in the opinion of the officer holding the sale, render them undesirable holders of the licenses and persons believed to be of a bad character shall not be entitled to apply without the consent of the Collector or DEO/AEC or the officer holding the sale.

- b. An agent shall not be allowed to bid unless he holds a power of attorney from his principal or unless such principal is present and authorises the agent to bid on his behalf.
- c. No person suffering from leprosy or any contagious diseases and no person below the age of eighteen years shall be allowed to bid or an excise privilege.
- d. An aggrieved person may appeal to the EC or any officer authorised in this behalf, provided that the time limit allowed for presenting an appeal shall not exceed five days from the date of conclusion of the auction. Licenses shall not also be granted in the name of two or more persons unless they represent a duly recognised firm or company.

#### ***4.12 Transfer or Sub-Lease of License***

No privilege of supply or sale shall be sold, transferred or sub-leased nor shall a holder of any such privilege enter in to a partnership for the working of such privilege in any way or manner without the written permission of the Collector, which shall be endorsed on the license. A partner, sub-lease, or transferee shall be bound by all the conditions of the license, but the original licensee also continues to be responsible to the State Government for the due payment of the license fee and proper working of the shop.

#### **4.13 Cancellation and Suspension of License**

Subject to such restrictions as the State Government may prescribe, the authority granting any license, permit or pass under this act may cancel or suspend it-

- a. If any duty or fee payable by the holder thereof be not duly paid or in the event of any breach by the holder thereof or by any of his servants, or by any one acting on his behalf with his express or implied permission of any of the terms or conditions thereof, or
- b. If the holder thereof, or any of his servants; or any one acting on his behalf with his express or implied permission, is convicted of any offence under the act or any other law for the time being in force relating to revenue, or of any offence under the NDPS Act 1985, Indian Merchandise Marks Act 1889 or under any section which has been introduced in to the Indian Penal Code.
- c. if the holder thereof is convicted of any cognizable and non-billable offence; or
- d. If the holder thereof is punished for any offence referred to in clause (8) of section 167 of the sea customs act 1878 or 28 (f) where a license, permit or pass been granted on the application of the holder of any lease granted under section 18, on the requisition in writing of such lessee; or
- e. If the conditions of the license permit or pass provide for such cancellation or suspension at will. (L-A) before making an order cancelling or suspending a license permit or pass under sub section (1), the authority aforesaid shall record in writing the reasons for the proposed action; furnish to the holder thereof a brief statement of the same and afford him a reasonable opportunity of being heard.
- f. Where a license, permit or pass held by any person is cancelled under clause (a), (b), (c) or (e) above, the authority aforesaid may cancel any

other license, permit or pass granted to such person under the act or under any other law for the time being in force relating to the excise revenue, or under the NDPS Act 1985.

g. The holder of a license, permit or pass shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

**h. *Where a license is cancelled or suspended above :-***

- The fee payable for the balance of the period, for which such license would have been current but for cancellation or suspension, may be recovered from the ex-licensee as excise revenue,
- The Collector may take the grant under management or resell it at the risk and loss of the ex-licensee, but any profit realized by such management or resale which is in excess of the amount recovered under clause (a) for such period shall be paid to the ex-licensee.

#### ***4.14 Withdrawal of License***

a. Whenever the authority which granted any license under the act considers that such license should be withdrawn for any cause other than those specified in section 31 of the act, it shall remit a sum equal to the amount of the fee payable in respect thereof for fifteen days and may withdraw the license either-

- On the expiration of fifteen days notice in writing of its intention to do so or,
- Forthwith without notice.

b. If any license be withdrawn under clause (b), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the EC may direct.



- c. when a license is withdrawn under sub-section(i) of section 32, any fee paid in advance to deposit made by the licensee in respect thereof 29 shall be refunded to him, after deducting the amount (if any) due to any holder of license granted under the act to sell an intoxicant may surrender his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fee payable for the license for the remainder of the period for which it would have been current but for such surrender, provided that if the EC is satisfied that there is sufficient reason for surrendering the license he may remit to the holder thereof the sum so payable on surrender or any portion thereof.
- d. The aforesaid provisions are not applicable in the case of any license granted under section 18.

#### ***4.15 Termination of Contract or License***

The licenses/contract agreement is terminated on the expiry of the license period if not otherwise withdrawn, surrendered or cancelled without prejudice to the provisions of the act. On termination of licenses/contract the intoxicants remaining in the possession thereof shall be disposed off in the manner permitted by the EC. The amount of securities received from the contractor/licensee for due observance of conditions of license or safeguard of government property and dues owing to the licensee will be adjusted in the manner according to the provision of the excise law prevailing on the date of termination of expiry of the license/contract.

#### **4.16 Payment of License Fee**

*License fee payable as a condition of grant of license should be paid in advance at the treasury or sub treasury in lump except the following:-*

- a. The license fee for all intoxicant shall be payable at the treasury or in outlying tahasil, at the sub-treasury on or before the first working day of each month.
- b. The license fee for intoxicating drugs and Tari shall be paid in twelve equal monthly instalments. If a license fee be not exactly divisible by 12 the remainder left over after division by 12 is payable with the first instalment.
- c. No remission or abatement shall be claimable except in accordance with the provisions of section 32 of the act, or of rule vii below. An advance deposited as security shall be credited to fees due in the closing months of the year.
- d. If the license fee of any shop not paid on or before the 7th working day of the month, the Collector shall either prohibit the supply of intoxicant to that shop or order the supply to the defaulter at the selling price.

#### **4.17 License to Retail Vender for Foreign Liquor**

In respect of the assignment or retail vend of Foreign Liquor, a slightly different procedure is followed. Apart from the prescribed license fee for the various kinds of retail vend of Foreign Liquor, a fee per bottle of liquor as may be fixed 30 by government from time to time calculated on actual transactions, is also levied. The license fee and the fee per bottle are the same in nature i.e. the consideration for the assignment of excise privilege.

#### **4.18 Annual License Fees**

- a. The license fee shall be payable in twenty four equal fortnightly instalments by CS-2, CS-2 (B), FL-1 and AAAA licenses. If the license fee is not exactly divisible in equal fortnightly instalments, the remainder shall be adjusted in first instalment.
- b. The fortnight instalments of annual license fee calculated in the manner prescribed in rules, for Country Sprit and Foreign Liquor shops or the balance of such fortnightly instalment after adjusting the amount of duty of Country Sprit or Foreign Liquor paid at the prevailing rates against the quantity of Country Sprit or Foreign Liquor drawn by the licensee from the respective warehouses, as the case may be shall be deposited in full by challan in treasury or in the sub-treasury of the district/ tahasil by the end of each fortnight in the prescribed budgetary head.
- c. Adjustment of the amount of duty paid for the quantity of Country Sprit or Foreign Liquor, as the case may be, in any fortnight in excess of demand fixed for the shop for that fortnight shall be allowed in any of the forth coming fortnight.
  - **Explanation 1- Basic License Fee** means that part of consideration for the grant of license for the exclusive privilege of retail sale of Country Liquor or Indian made Foreign Liquor, as the case may be, under section 18 of the act, payable by the person selected as licensee before the license is granted to him, for the whole of the year or part thereof on such rates, as notified by the Excise Commissioner with the approval of State Government from time to time.
  - **Explanation 2- License Fee** means the remaining part of the consideration for grant of license for exclusive privilege of retail sale of Country Liquor or Indian made Foreign Liquor, as the case may be under section 18 of the act payable by the licensee, in addition to the

basic license fee. This sum shall not be less than the excise duty liveable on the annual minimum demand of quantity fixed for the shop.

#### 4.19 Types of License

The government of MP are issuing more than 25 types of license for distillery, bottling units, breweries, wholesaler of Foreign Liquor for sale and manufacture of intoxicants items for taking prescribed annual license fee as under

S. N.	Types of License	Purpose	Population of City/Town/District	Annual License Fee (Rs.)
1	FL-1B	Shop-Bar License		2 % of Annual Value of FL- 1 Shop
2.	FL-2	Restaurant Bar License	Gwalior, Bhopal, Indore, Sager, Jabalpur, Ujjain and Reva	6,40,000
			Kanha Kisali, PENCH, Mukki, Bandhvgarh, Pachmarhi and Mandu	2,20,000
2.A	FL-2	CRUZE Boat in Bhopal Lake		170000
3.	FL-3	Hotel Bar License	50,000 to 1 Lac	5,30,000
			1 Lac to 3 Lac	6,40,000
			3 Lac to 5 Lac	7,50,000
			5 Lac to 10 Lac	8,60,000
			Above 10 Lac	10,60,000
4.	FL-3A	Resort Bar License		5,30,000
5.	FL-4	Club License	----	80,000
6.	FL-4A	Commercial Club License	Gwalior, Indore, Bhopal, Jabalpur Urban Area and Rural Area and Other district Urban Area	4,80,000
			Rural Area	2,40,000
7.	FL-5	Occasional License	Commercial Purpose	2000
			Other Purpose	1000
8.	FL-6	Military Canteen Wholesale	----	10,000

		License		
9.	FL-7	Military Canteen Retail License	----	1,000
10.	FL-8	Military Club License	----	1,000
11.	FL-9	Bottling License	----	6,90,000
12.	FL-9A	Sprit Bottling License under Franchise System	----	1,15,000
13.	FL-10A	Outside Manufacturers Central Godown License	Sprit , Beer and Wine	----
14.	FL-10B	Outside India Manufacturers Central Godown License	Sprit , Beer and Wine	----
15.	D-1	License to Manufacturer Sprit in Distillery	----	9,20,000
16.	B-3		Brewery	9,20,000
			Winery	10,000
17.	CS-1	License for Wholesale Supply of Country Liquor	----	1,50,000
18.	CS-1A	License for Export of Country Sprit	----	1,50,000
19.	CS-1B	License for Country Sprit Bottling	----	2,00,000
20.	DS-1	License for Wholesale of Denatured Sprit	----	1,000
21.	DS-2	License for retail sale of Denatured Sprit	----	200
22.	DS-3	License for possession of Denatured Sprit for Industrial and Scientific Purpose	----	100
23.	DS-4	Special License for Druggist	----	200
24.	RS-1	License for sale of R. Sprit	----	100
25.	RS-2A	License for possession of Rectified Sprit for manufacture of basic drugs	----	100
26.	PS-III	Retail Poppy Straw License	----	3,00,000

**Table 1: Types of License and Prescribed Annual License Fee**

Source: [www.mpexcise.org](http://www.mpexcise.org)

#### **4.20 Disposal of Liquor Shops for the Year 2009-10**

Every year Government of MP formulates the Excise Policy and approves terms and conditions for grant of licenses. In pursuance to this policy and the approved terms and conditions, licenses in form L-1 are granted for the wholesale, retails and supply of liquor. In FY 2009-10 Government of MP disposed off shops in 7 division of MP are showing as under-

S. N.	Division	Number of Shops running by the Department		Number of Shops Disposed off	
		Country Liquor	Foreign Liquor	Country Liquor	Foreign Liquor
1	Gwalior	0	0	456	120
2	Indore	0	0	385	175
3	Bhopal	0	0	473	152
4	Ujjain	0	0	487	98
5	Jabalpur	0	0	388	157
6	Sagar	0	0	298	72
7	Rewa	0	0	190	90
<b>Total</b>		<b>0</b>	<b>0</b>	<b>2677</b>	<b>864</b>

**Table 2: Disposal of Liquor Shops for Year 2009-10**

Source: [www.mpexcise.org](http://www.mpexcise.org)

#### **4.21 Foreign Liquor Shops of Fixed Annual License Fees**

In pursuance of Excise Policy 2009-10, the Government of MP issued 1027 license for Foreign Liquor shops on the basis of fixed annual license fees are showing as under-

S. N.	Particular	2007-08	2008-09	2009-10
1	FL-1-B ( Ahata License)	102	99	128
2	FL-2 (Restaurant Bar License)	21	21	28
3	FL-3(Hotel Bar License)	128	124	141
4	FL- 3 A (Resort Bar)	1	1	2
5	FL-4 (Clubs License)	19	15	17
6	FL-4A (Commercial Club License)	12	12	11
7	FL-5 (Occasional License)	187	72	530
8	FL-6 (Military Canteen Wholesale License)	4	4	4
9	FL-7 (Military Canteen Retail License)	102	98	104
10	FL-8 (Clubs License for Military)	1	0	---
11	FL-9 (Bottling License)	20	18	22
12	FL-9A (Sprit Bottling License under Franchise System)	12	21	13
13	FL-10A (Outside Manufacturers Central Godown License )	17	18	22
14	FL-10B (Outside India Manufacturers Central Godown License	0	2	5
	<b>Total</b>	<b>626</b>	<b>505</b>	<b>1027</b>

**Table 3: Foreign Liquor Shops of Fixed Annual License Fees**

Source: [www.mpexcise.org](http://www.mpexcise.org)

#### **4.22 Poppy Straw Shops of Fixed Annual License Fee**

In pursuance of Excise Policy 2009-10, the Government of MP issued total 53 license for Poppy Straw, are showing as under-

S. N.	Intoxicant	2008-09	2009-10
1	L-1 (Bond License) License	6	6
2	L-2(Out of Bond License)	49	47
	Total	55	53

**Table 4: Poppy Straw Shops of Fixed Annual License Fee**

Source: [www.mpexcise.org](http://www.mpexcise.org)

#### **4.23 Wholesale Poppy Straw License (Fixed License)**

In pursuance of Excise Policy 2009-10, the Government of MP issued total 74 licenses for wholesale Poppy Straw, are showing as under-

S. No.	Intoxicant	2008-09	2009-10
1	P.S.-2 (Wholesale License)	0	0
2	P.S.-2 (Retail sale License)	79	74

**Table 5 Wholesale Poppy Straw License (Fixed License)**

Source: [www.mpexcise.org](http://www.mpexcise.org)

#### **4.24 Poppy Straw License (Auctioned License)**

In pursuance of Excise Policy 2009-10, the Government of MP issued total 88 license (Auctioned License) for wholesale Poppy Straw, is showing as under-

S. N.	Intoxicant	2008-09	2009-10
1	P.S.-2 (Wholesale License)	69	69
2	P.S.-2 (Retail sale License)	19	19

**Table 6: Poppy Straw License (Auctioned License)**

Source: [www.mpexcise.org](http://www.mpexcise.org)



#### 4.25 Shops of Intoxicants

67% shops are selling Country Liquor (Sprit). The Government of MP issued additional 159 licenses in 2009-10, for selling Foreign Liquor which is showing under mentioned table and figure -2.

S. N.	Intoxicants /Years	2005-06	2006-07	2007-08	2008-09	2009-10
1	Country Sprit	2677	2677	2677	2677	2677
2	Foreign Liquor (FL-1)	705	705	705	705	864
3	Toddy	13	13	13	13	16
4	Bhang and Bhang Ghota	277	262	265	261	264
5	Poppy Straw	69	69	69	69	69
		(P. S.-2)	(P. S. -2)	(P. S. -2)	(P. S. -2)	(P. S. -2)
		19	19	19	19	89
		(P. S. -3)	(P. S. -3)	(P. S. -3)	(P. S. -3)	(P.S.-3)

**Table 7: Shops of Intoxicants**

Source: [www.mpexcise.org](http://www.mpexcise.org)

**SHOPS OF INTOXICANTS IN MP, 2009-10 (%)**

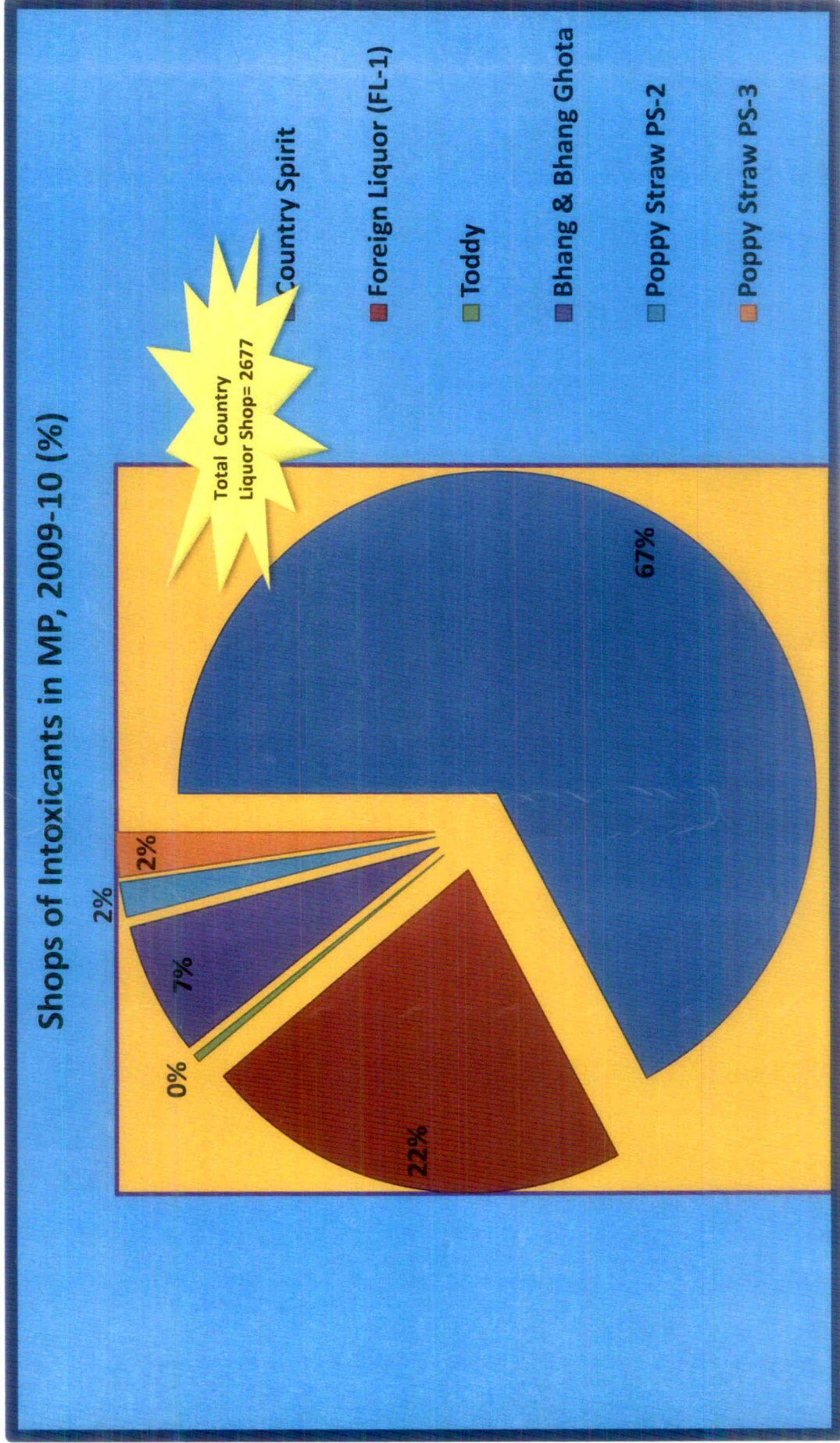


Figure 2: Shops of Intoxicants in MP, 2009-10 (%)

**\*\*\*\*\***

*"After reviewing licence methods and its types broadly, we learned and understand procedure part of issuing license, requirements, suspend and cancelation of license, fixed annual license fees etc and the government prescribes annual license fee for issuing various types of licence.*

*Now the next chapter i.e. State excise revenues and methods of taxation which is part of our objective in this chapter we can understand excise duty which is levied on sale and manufacture of intoxicants items, which is very important, part of our study"*

**\*\*\*\*\***

***CHAPTER- V***  
***STATE EXCISE REVENUES AND***  
***METHODS OF TAXATION***

## Chapter -V

### State Excise Revenues and Methods of Taxation

#### 5.1 Sources of Incomes

*Revenue under this head is received from manufacture transport, import, export and wholesale / retail trade of different intoxicating substances as per provisions of Madhya Pradesh Excise Act 1915, Madhya Pradesh Narcotic Drugs and Psychotropic Substances Act 1985, Medicinal and Toilet Preparations Act and rules made there under.*

- a. According to present excise policy, country and Foreign Liquor retail shops are disposed of by inviting renewal applications. Remaining shops are disposed by tender. If renewal applications are below 80% of the value of district, then all the shops of district are disposed of by tender. Bhang shops are auctioned either singly or in groups. Wholesale, retail licenses of Poppy Straw are auctioned in opium producing districts either singly or in groups, in rest of the districts these are disposed off on fixed license fee. In addition to above, other sources of revenue are license fees of distillery, Foreign Liquor bottling plants, breweries etc.
- b. Duty: as per government rules excise duty is payable on retail, sale and use of intoxicant.
- c. Import fee, export fee, permit fee on import, export and transport of intoxicants.

*Total revenues (incomes) received from excise duty in MP. Revenue under this head is received by way of collection excise duty from manufacture transport, import, export and wholesale / retail trade of different intoxicant @ rates given in below table 8*

(Rs. In Crores)

Items/ Year	2005-06	2006-07	2007-08	2008-09	2009-10
Excise Duty	1376.03	1536.31	1856.31	2300.22	2952.77

**Table 8: Details of Income in MP**

Source: [www.mpexcise.org](http://www.mpexcise.org)

## **5.2 State Excise Revenues and Excise Duty**

"Excise Revenue" means revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by a court of law) or confiscation imposed or ordered or agreed to under the provisions of the act or of any other law for the time being in force relating to liquor or intoxicating drugs.

***The methods by which the state excise revenue is raised fall under mentioned divisions.***

- a. Fixed duties imposed on excisable articles; and
- b. License fees for the right to manufacture, possession, cultivation, import, export, transfer and sale of excisable articles.

"excise duty" an excise duty or a countervailing duty, as the case may be, shall, if the State Government so directs, be levied on all excisable articles other than medicinal and toilet preparations specified for the time being in the schedule to M & TP Act, 1955

- c. Imported, or exported or transported;
- d. Manufactured, or cultivated or collected under any license granted under section 13; or
- e. Manufactured in any distillery established or any distillery or brewery licensed, under the act. Provided that it shall be lawful for the
- f. State Governments to exempt any excisable article from any duty to which the same may be liable under the act.

### ***Rates of Excise Duty Retail Sale or Use of Intoxicant***

Every year Government of MP revises the Excise Policy and revised rates of excise duty on the basis recommendation by committee. FY 2010-11 rates are showing as under

S.	ITEM	Rates of duty in 2010-11	Rates
1	Country Sprit	Rs.85 Per Proof Liter	
2	Foreign Liquor	Ex-Warehouse price per case	
		Up to Rs.400	Rs. 600/-per case whichever is higher
		Rs.401-800	112.50% of Ex-Foreign Liquor Supply Rate or Rs. 650/-per case whichever is higher
		Rs.801-1100	90% of Ex-Foreign Liquor Supply Rate or Rs. 900/- per case whichever is higher
		Rs. 1101-1600	70% of Ex-Foreign Liquor Supply Rate or Rs. 1025/-per case whichever is higher
		Rs. 1601-2800	45% of Ex-Foreign Liquor Supply Rate or Rs.1150/-per case whichever is higher
		Rs. 2801-4000	40% of Ex-Foreign Liquor Supply Rate or Rs. 1350/-per case whichever is higher
		Rs. 4001-10000	22.5% of Ex-Foreign Liquor Supply Rate or Rs.1650/-per case whichever is higher
3	Wine	Rs.125 Per Proof Liters	
	Wine produced in M.P.	NIL	
5	Beer	Rs.20 per BL for draught Beer	
		37.5% of Ex-Foreign Liquor Supply Rate or Rs.105/-per case Whichever is higher	
6	Low-Alcoholic Beverages	37.5 % of Ex-Foreign Liquor Warehouse price	
7	The Excise duty of the Indian made Foreign Liquor issued to the Defense Services personnel shall be charged for (Rum) at the rate of 30 percent and for other Indian made Foreign Liquor [Whisky, Brandy, Gin, Vodka, Wine, Malt (Beer) etc.]At the rate of 50 percent of Duty, payable by the Civilians.		
8	Bhang	Rs. 90 per Kg. Licensee under Auction System Rs. 250 per kg for others	

**Table 9: Rates of Excise Duty Retail Sale/Use of Intoxicant**

Source: [www.mpexcise.org](http://www.mpexcise.org)

### ***5.3 Point of Levy of Duty***

Under section 25 of the act, any excisable article (mentioned in entry number 51 of the state list of the seventh schedule of the constitution) attracts duty as soon as it is imported, exported, transported, manufactured, cultivated, collected or produced. Any duty there on becomes payable to the State Government. Without prejudice to the generality of the foregoing provisions, it is convenient for the tax imposing authority to impose excise duty at the moment when the excisable articles are issued from the distillery or the warehouse for the first time on the occasion of their sale to the vending licensees for human consumption. The entry rules and procedure are designed to obtain this objective.

Although the vending licensees are required to pay excise duty on liquor issued to them from the distillery or warehouse, the manufacturer or the supplying licensee, remains, by virtue of the provisions of the act, responsible for the payment of excise duty on all excisable materials manufactured or 21 produced by him. The result is that the responsibility for the payment of excise duty devolves on him on all spirit which is manufactured, imported by him but not issued for duty from the distillery or warehouse. Payment of duty is payable on removal from distillery, brewery or place of storage.

Without the sanction of the State Government, no intoxicant can be removed from any distillery, brewery, warehouse, or other place of storage established or licensed under the act, unless the duty (if any) payable under section 25 of the act has been paid or a bond has been executed for the payment there of forms of levies.



***The duty of excise may be levied under sub-section 1 of the section 25 of the act at different rates according to***

- a. The places to which any excisable articles is to be removed; or
- b. The strength and quality of excisable articles or
- c. The use of excisable article for different purposes; or
- d. The value of excisable articles based on principles as may be prescribed.

#### ***5.4 Ways of Levying Excise Duty***

Subject to such rules regulating the time, place and manner as the state government may prescribe excise duty shall be levied on the quantity of excisable articles imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse provided that

a. ***Duty may be levied-***

- ***On Intoxicating Drugs*** by an acreage rate levied on the cultivation of the hemp plants or by a rate charged on the quantity collected;
- ***On Sprit or Beer manufactured*** in any distillery established or any distillery or brewery licensed under the act. In accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or worth as the case may be as the State Government may prescribe, or by a rate charged directly on the materials used;
- ***On Tari*** by a tax on each tree from which the Tari is drawn.

- b. Where the payment is made upon the issue of an excisable article for sale from a warehouse, the duty shall be levied at the rate of duty in force on the date of issue of such articles from the warehouse.

### ***5.5 Enhancement of Duty***

Where the rate of duty is enhanced or reduced after payment of duty on issue of excisable article from warehouse and the excisable article is in stock with a holder of a license, the excisable article in stock shall be subject to the levy of duty at the rate so enhanced or reduced and the difference in duty shall be payable or refundable as the case may be by or to the holder of a license, with whom such duty paid is in stock at the material time.

### ***5.6 Assignment of Excise Privileges***

There are three principal reasons why there is no fundamental right of citizens to carry on trade or to do business in liquor. First, there is the police power of the state to enforce public morality to prohibit trades in noxious or dangerous goods. Second, there is a power of the state to enforce an absolute prohibition of manufacture or sale of intoxicating liquor. Article 47 states that the states shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health. Third, the history of excise law shows that the state has the exclusive right of privilege of manufacture or sale of liquor.

Absolute prohibition of manufacture or sale of liquor is permissible and the only exception can be for medicinal preparations. The concept of interest right of citizens to do business in liquor is anti-theatrical to the power of the state to enforce prohibition laws in respect of liquor. The state grants such right or privilege in the shape of a license or a lease. The state has the

power to hold a public auction for grant of such right or privilege and accept payment of a sum in consideration of grant of lease<sup>1</sup>.

### ***5.7 Levy and Collection of Excise Duties and Superintendence under Central Laws***

The under mentioned central laws govern and regulate the levy and collection of excise duties and authorise the State Government to superintend and execute the excise administration...

- Narcotic Drugs and Psychotropic Substances Act, 1985.
- The Medicinal and Toilet Preparations Act 1955.

### ***5.8 Psychotropic Substances***

The Narcotic Drugs and Psychotropic Substances Act, 1985 provides for the levy and collection of duties on opium by the State Government. Section 78 of the act provides that the State Government has been authorised to make rules, from time to time by notification in the official gazette, to permit absolutely or subject to the payment of duty or to any other condition and to regulate, within the whole state or any specified part of the territories administered by such government, all or any of the following matters:-

- a. The possession of opium
- b. The transport of opium
- c. The import or export of opium or
- d. The sale of opium and the form of duties leviable on the sale of opium by retail.

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<sup>1</sup> (Commentary under section 1 of the Act; Nishirwar Vs. State of M. P., 1975 JLJ 722=1975 MPLJ 536 = AIR 1975 SC 360).

### **5.9 Issue of Opium from Warehouse**

Under rule 9 of the MP NDPS Rules 1985 the sale of opium is prohibited except at a government warehouse or sub-treasury of the state of MP. The permit-holder shall credit the price of opium at the rate fixed from time to time in the treasury or sub-treasury and shall present the receipted challan to the officer in charge for issuing opium.

### **5.10 Duty on Poppy Straw**

In exercise of powers conferred under section 78 of the act, the State Government has further levied a duty on export and sale of Poppy Straw by the wholesale licensee to the retail licensee.

### **5.11 Permits and Licenses under NDPS Act**

State Government has prescribed the fixed license fee and permit fee under the opium and Poppy Straw rules.

<b>Form No.</b>	<b>Particular of License</b>	<b>License fee (Rs.)</b>
O.P. 1	License for the possession and sale of medicines containing opium on prescription.	10
O.P. 2	Druggist License	10
O.P. 4	Permit for possession of opium for personal consumption.	2
P.S. 2	License for wholesale of Poppy Straw.	By Auction
P.S. 3	License for the retail sale of Poppy Straw.	Prescribed Annual License fee.

**Table 10: Permits and Licenses under NDPS Act.**

Source: [www.mpexcise.org](http://www.mpexcise.org)

### **5.12 MP Government's New Excise Arrangement 2004-05**

The contract auction system in vogue since 1996 has encouraged monopoly; the State Government has decided that the country and Foreign Liquor shops would be allotted on payment of prescribed license fee after inviting applications on the basis of minimum quantity. In case of more than one application the allotment would be made through lottery.

Under the new arrangement a committee headed by district Collector would allot the shops. The new arrangement would be introduced from 1<sup>st</sup> April 2004. The notification for allotment is likely to be issued in the first week of March and for actual lottery in the second week of April. The sale of applications would be made from the offices of district Collector/District Excise Officer/Sub Divisional Magistrate and in the branches of the state bank of India/state bank of Indore dealing with government transactions at district headquarter.

The price of application form for shops in rural area/ Nagger Panchayats areas would be Rs. one thousand, two thousand for the shops held in Municipal Corporation and municipal areas barring the Rajbhogi ones and Rs. Three thousand for the shops held in municipal corporation areas of Indore, Jabalpur, Bhopal and Gwalior. A person can give only one application for one shop but he can give separate applications for more than one shops. Details about consumption, minimum quantity, license fee etc would be enclosed with the application forms. The shops remaining unallotted after first round of the lottery would be allotted in the second and third round for which dates would be decided by the district committee.

***There are about 2207 Country Liquor shops, 463 sub-shops and 581 Foreign Liquor shops in the state. Revenue of Rs. 864.46 Crores was received from auction of these shops in the year 2003-04. Revenue of Rs.***

**968 Crores is estimated in the first year of the new arrangement.** For this, the department would have to further strengthen the enforcement system. The sanctioned for filling up about 300 vacancies of excise sub inspector/constable, to provide new arms and ammunition to them and to permit them to hire additional vehicles as and when required. This is likely to entail a maximum expenditure of Rs. 6 Crores in a year. This would not only lead to increase in revenue but would also help curb excise offence and more efficient implementation of the new arrangement would be ensured.

As per the notification of the government of India, directives have been given for supply of petrol/products by mixing 5% Denatured (Power Alcohol or Ethanol.) The Madhya Pradesh government has issued a notification to this effect on 4<sup>th</sup> February and the Excise Commissioner has been authorized to issue license to the petrol companies for this. As the state has shortage of molasses and it is imported from outside to make liquor, the distilleries of the state have no arrangement for making power alcohol, which are likely to be established gradually. For the time being the petrol companies would import denatured sprit from Maharashtra, Gujarat, utter Pradesh and Bihar. For this, license fee, import permit fee etc are being fixed. This mixture combination would not only save 5% Petrol but would also reduce the level of air pollution caused by petrol vehicles.

**As per dissection in above chapter, the total revenue collected from under mentioned head of revenue**

- Income from sale of shops /disposal of shops (action),
- Income from fixed license of annual license fee of Foreign Liquor,
- Income from under M and TP Act Licenses (other annual license fees)
- Excise duty is levied on manufacture /retail sale\use of intoxicant.
- Import/export fee/permit fee etc. On transport intoxicants

### ***Income From Sale or Disposal of Shops (Auction Amount)***

According to present excise policy, Country and Foreign Liquor retail shops are disposed of by inviting renewal applications. Remaining shops are disposed by tender or by auction. It is very major source of revenue. Revenue received in last 5 year with increasing trends is showing under mentioned table and figure-3.

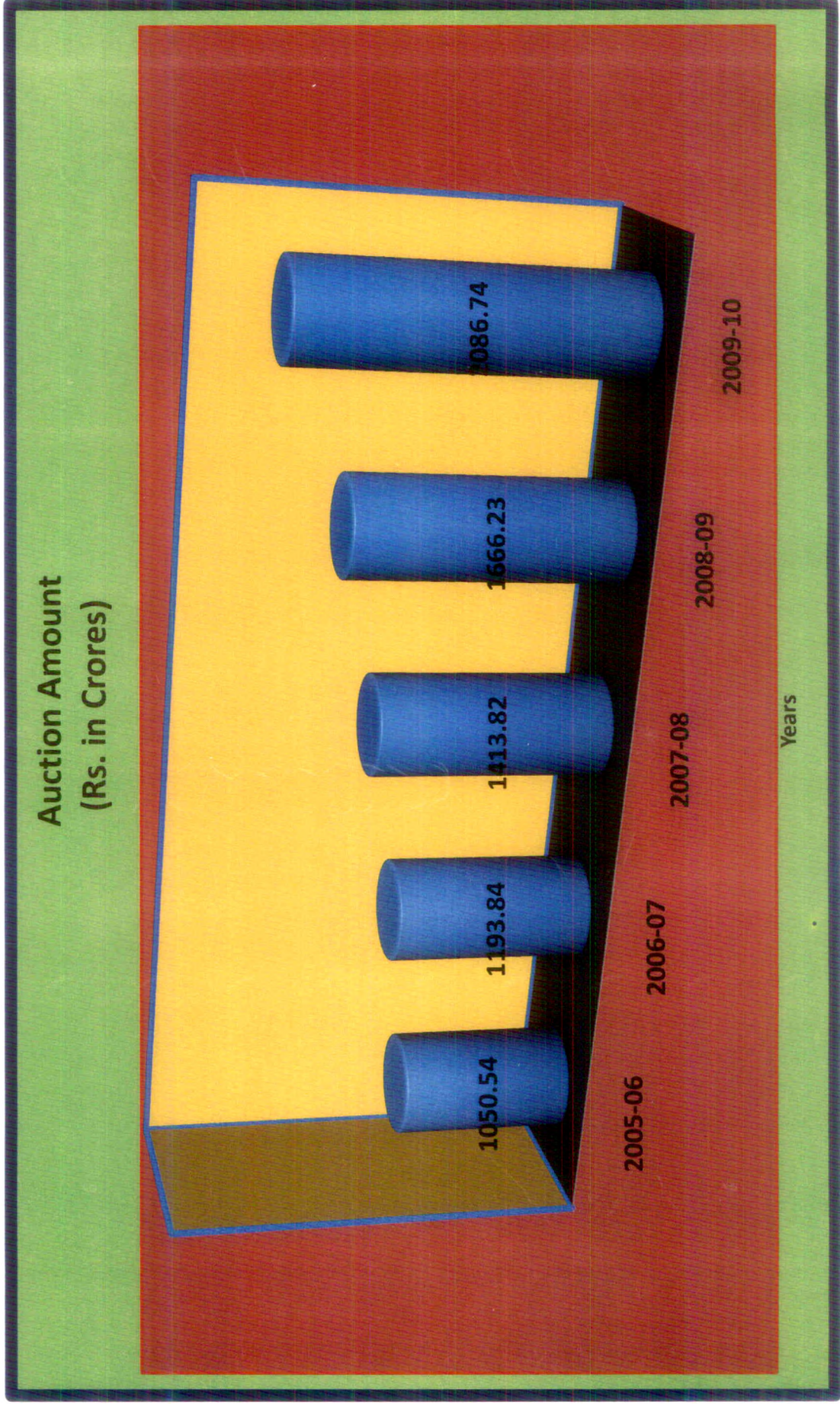
(Rs. In Crores)

Items /years	2005-06	2006-07	2007-08	2008-09	2009-10
Country and Foreign Liquor	1015.6	1152.92	1366.18	1612.92	2027.49
Toddy	1.45	1.31	1.43	2.12	2.24
Bhang	4.58	4.4	4.68	5.11	5.59
Poppy Straw	28.91	35.21	41.53	46.08	51.42
Total	1050.54	1193.84	1413.82	1666.23	2086.74

***Table 11: Income From Sale or Disposal of Shops (Auction Amount)***

Source: [www.mpexcise.org](http://www.mpexcise.org)

**INCOME FROM SALE OR DISPOSAL OF SHOPS (AUCTION AMOUNT)**



**Figure 3: Income from Sale or Disposal of Shops (Auction Amount)**



### ***Income From Fixed License of Annual License Fee of Foreign Liquor***

The Government of MP issued more than 10 types of licenses for sale of Foreign Liquor on the basis of fixed license of annual license fee. Total revenue collected of Rs.1727.34 Lac in FY 2009-10 by way of fixed annual license fee and Rs. 0.12 Lac for other license fee are showing as under

(Rs. In Lac)

S.N.	Items/year	2005-06	2006-07	2007-08	2008-09	2009-10
1	FL-1B	0.00	111.75	208.66	242.24	238.93
2	FL-2	9.00	123.01	176.41	79.14	107.16
3	FL-3	0.00	446.61	585.51	671.14	709.92
4	FL-3A	0.00	0.00	0.00	0.00	4.20
5	FL-4	3.25	5.25	6.15	6.00	6.80
6	FL-4A	16.50	20.50	27.50	25.50	28.00
7	FL-5	0.00	1.91	9.47	3.82	8.03
8	FL-6	0.40	0.40	0.40	0.40	0.40
9	FL-7	0.00	1.02	2.86	0.99	1.00
10	FL-8	0.01	0.01	0.01	0.01	0.01
11	FL-9	110.00	97.00	103.00	111.00	138.00
12	FL-9A	0.00	0.00	0.00	0.00	6.30
13	FL-10A	16.00	0.00	14.40	14.60	18.60
14	FL-10B	0.00	0.00	0.00	0.00	5.00
	<b>Total</b>	<b>160.46</b>	<b>815.66</b>	<b>1134.36</b>	<b>1154.84</b>	<b>1272.34</b>

**Table 12: Income From Fixed License of Annual License of Foreign Liquor**

Source: [www.mpexcise.org](http://www.mpexcise.org)

### **Income from under M & TP Act, (Annual License Fees)**

(Rs. In Lac)

Items/ year	2005-06	2006-07	2007-08	2008-09	2009-10
I-1	0.02	0.02	0.02	0.02	0.02
I-2	0	0.11	0.10	0.10	0.10
<b>Total</b>	<b>0.02</b>	<b>0.13</b>	<b>0.12</b>	<b>0.12</b>	<b>0.12</b>

**Table 13: Income From Under M And TP Act ,(Annual License Fees)**

Source: [www.mpexcise.org](http://www.mpexcise.org)

**\*\*\*\*\***

*“After reviewing state excise revenues and methods of taxation in brief we understand, methods of taxation of excise duty on sale and manufacture of intoxicants items in MP and total revenue collected by Government of MP.*

*Now we move to the next chapter that relates to our objective i.e. Import, export, production, and consumption of excisable articles. So that we can understand & find out how much intoxicants are imported, exported, produced and consumed in MP.*

*Further we will also study the rates of duties on production, sale, import, export and transport of intoxicants items (Liquor, Country Sprit, Tari, Bhang and Poppy Straw) which is very necessary, part of our study”.*

**\*\*\*\*\***

***CHAPTER-VI***  
***IMPORT, EXPORT, PRODUCTION***  
***AND CONSUMPTION OF EXCISABLE***  
***ARTICLES***

## Chapter-VI

### Import, Export, Production, and Consumption of Excisable Articles

#### IMPORT AND EXPORT OF EXCISABLE ARTICLES

##### *6.1 Restriction on Import and Export*

Without the sanction of the State Government no intoxicant is allowed to be imported or exported or transported except-

- After payment of any duty to which it may be liable under the mp excise act or on execution of a bond for such payment.
- On compliance with such condition, as the State Government may impose.

##### *6.2 Import of Intoxicants*

###### *a. Foreign Liquor Imported from Abroad*

Foreign Liquor other than Rectified Sprit, absolute alcohol and denatured sprit, imported from abroad and on which duty of custom has been levied and paid under Indian custom and central excise tariff act, is exempted from duty Regarding is import into the territory of the state<sup>2</sup>.

“Excise Commissioner or an officer authorised by him may permit any licensee, to import Foreign Liquor imported from outside India, subject to prepayment of the prescribed import fee and bottle fee. An FL-9 or FL-9A licensee may be permitted by the Excise Commissioner to import Foreign Liquor manufactured outside India in bulk for the purpose of blending on

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<sup>2</sup> Authority as per Rule 10 under M.P. Foreign Liquor Rules 1996.

payment of import fee. For this purpose no-objection certificate shall be in form FL-20”.

***b. Foreign Liquor Imported in MP***

No Foreign Liquor shall be imported into Madhya Pradesh without prepayment of duties except under and in accordance with a no-objection certificate and or a permit to be obtained or issued by Excise Commissioner or an office authorised by him subject to prepayment of import fee or bottle fee or both as the case may be at the prescribed rate in the treasury of his district in accordance with the ***MP Foreign Liquor Rules 1996***. Import of only those labels of Foreign Liquor shall be permitted which are registered with the Excise Commissioner<sup>3</sup>.

The Excise Commissioner may authorise import of such ‘special liquors’ as ingredients for blending purpose by an fl9 or fl9a licensee as he may deem fit without payment of any duty or import fee.

***Explanation – the word “special liquors” shall include high bouquet sprit, cane juice sprit, sherry grape sprit, and malt sprit of varying strength and other specially flavoured sprit for blending purpose.***

***c. Denatured Sprit***

Denatured Sprit may be imported from other states provided that there is sufficient guarantee that the sprit imported has been adequately denatured in the manufacturing state. All import of denatured sprit can be under a pass granted by the Collector. The importer is liable to pay the permit fee at the rate prescribed from time to time by government. No permit fee is charged on imports of denatured sprit to military installations and units

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<sup>3</sup> Authority as per the Rules 10 under Madhya Pradesh Foreign Liquor Rules 1996 effective from April, 1996.

belonging to the Indian armed forces. Permit fee is also not charged on imports of special denatured sprit required in soap making.

***d. Rectified Sprit***

Indian made Rectified Sprit may be imported into the state from any distillery, bonded warehouse or bonded laboratory situated in other states in India on prescribed conditions on prepayment of prescribed duty thereon in Madhya Pradesh. The Indian made Rectified Sprit may also be imported from any distillery, bonded warehouse etc.

Rectified Sprit imported by sea or land into India, may be imported from other parts of India without payment of duty. But in such cases, proof for the payment of duty under the tariff act or the sea customs act will have to be produced together with the import permit from the Collector or any-officer duly authorised for this purpose.

***e. Country Sprit***

No Country Sprit shall be imported into the state without authorisation from the Excise Commissioner. The Excise Commissioner may prescribe the conditions and the form of the pass under which such Country Sprit may be imported.

***f. Tari***

Import of Tari in the state is strictly prohibited<sup>4</sup>.

***g. Poppy Straw***

A licensee holding license in form ps. li only may import interstate Poppy Straw in accordance with a pass granted by the licensing authority, or any

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<sup>4</sup> Authority Rule 7 of Madhya Pradesh Country Sprit Rules 1995 Tari

officer duly authorised by him. The import interstate pass shall be in form P S.IV.<sup>5</sup>

#### ***h. Bhang***

The import of bhang, unless in the personal possession of the importer and in quantities not exceeding those which may be possessed without license, is prohibited except on behalf of the State Government. Bhang may be imported to Khandwa storehouse under the orders of the Excise Commissioner. The import of Charas by any person is absolutely prohibited<sup>6</sup>.

### ***6.3 Export of Intoxicants***

#### ***a. Foreign Liquor***

Export of only those labels of Foreign Liquor shall be permitted which are registered with the Excise Commissioner. The exporter (only FL-9 or FL-9A Licensee) shall be permitted to export Foreign Liquor on payment of the prescribed export fee in advance in the treasury of the district. The exporter shall also deposit the prescribed duty liveable on the full quantity of Foreign Liquor to be exported, or furnish a bank guarantee for an equal amount from a local branch of a nationalised bank or execute a bond with adequate solvent sureties for the amount in Form FL -23. After the receipt of the verification report in respect of the dispatched consignment from the officer in charge of the importing unit, further consignment of Foreign Liquor involving the same or lesser amount of duty may be exported on the

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<sup>5</sup> Authority:- Rule 37 F of Poppy straw Rules as amended vide notification No. 1818-B-1-67-5-SR 85 dated 23/04/ 1986 as published in M.P. Gazette on 8-4-86.

<sup>6</sup> Authority :-Notification No. 3570-B-1 (43) 1983-Five-SR dated 12th August 86 as published in M.P. Gazette on 14 August 86.

strength of the same cash deposit or bank guarantee or bond. The exporter shall obtain a verification report from the officer in charge of the importing unit and furnish it to the authority who issued the export permit within 21 days of the expiry of period of permit. If the exporter fails to do so, the liveable duty on the Foreign Liquor exported shall be recovered from deposits made, bank guarantee furnished or the security bond executed. This shall be in addition to any other penalty which may be imposed under Rule 19. In case the Foreign Liquor is exported to another country, the licensee exporting the liquor shall furnish documentary evidence that the consignment has actually left the country<sup>7</sup>.

***b. Denatured Sprit***

An exporter who intends to export the denatured sprit outside the state should obtain a pass in D-5 from Collector and credit into the treasury situated in the district from which export is to be made, a permit fee at the rate per bulk litre prescribed by the government from time to time.

***c. Rectified Sprit***

Indian made rectified sprit may be exported from a distillery or a bonded warehouse in this state subject to the payment of duty at the rates in force in the place of import and on obtaining import permit issued by the competent authority of the government of the state concerned, with the consent of the government of MP. The exporter is also required to pay export fee on the quantities of rectified sprit which he intends to export.

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<sup>7</sup> Authority Rule 12-13 of M.P. Foreign Liquor Rules 1996.



#### ***d. Country Sprit***

No Country Liquor can be exported from this state unless the application for export is accompanied with a permit or 'no-objection certificate' from the excise authorities of state of import<sup>8</sup>. Export pass (on the form containing such 46 conditions as prescribed by the Excise Commission under his authority) shall be issued upon proof of payment of export fee @ 30 Paise per Proof Letters.

#### ***Tari***

Export of Tari from mp state is prohibited.

#### ***e. Poppy Straw***

No person except holding license in form PS-2 can export Poppy Straw inter- state. The PS- 2 licensee intends to export Poppy Straw shall apply for an export pass to the DEO. The application shall be supported by no objection certificate issued by the excise authority of importing state according to which it will be certified that the imported Poppy Straw will be used for medical and scientific purposes. On receipt of application supported by the NOC the licensing authority or officer authorised by him may issued an export pass in form PS-4 for the quantity specified therein. The export pass in form PS-4 cannot be issued until the export fee of Poppy Straw at the rate of 10 per Kilogramme is deposited by the PS-2 licensee<sup>9</sup>.

#### ***f. Bhang***

The export of intoxicating drugs specified in sub clause (i) (ii) and (iii) of clause 12 of section 2 of the act is prohibited except on behalf of the State Government. The export is to be covered under a pass in **Form HD-6**

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<sup>8</sup> Authority Rule 8 of the Madhya Pradesh Country Sprit Rules 1995.

<sup>9</sup> Authority- Rule 37-G of NDPS (M.P.) Rules, 1985

#### 6.4 Import, Export, Permit and Transport Fee of Intoxicants

Every year Government of MP revises the Excise Policy and revised rates of export fee, import fee and transport fee for export or import of the intoxicants which rates are showing as under-

<b>i. Country Liquor</b>		
<b>S. N.</b>	<b>Intoxicants</b>	<b>Prescribed Rate</b>
1	Export fee	Rs. 0.30 per Proof Litters
<b>ii Foreign Liquor</b>		
<b>S. N.</b>	<b>Intoxicants</b>	<b>Prescribed Rate</b>
A	Export Fee Sprit	Rs. 0.50 per P.L.
B	Export Fee Beer	Rs. 0.30 per Quart Bottle
C	Import Fee Sprit	Rs. 30.00 Per P.L.
D	Import Fee Wine	Rs. 7.00 per P.L.
E	Import Fee Beer	Rs. 15.00 per B.L.
F	Transport Fee IMFL from W.H.	Rs.8 % Of Ex. W. H. Price
G	Label Registration fee	Rs. 50000 per label for Sprit and Beer
		Rs. 1000 Per label For Wine
		Rs. 10000 per label per year for Sprit and Beer
H	Label Renewal fee	Rs. 100 Per label per year For Wine
I	Bottling fee for local manufacturers	
	1.Sprit	Rs.10.00 P.P.L.
	2. Beer (for sale in M.P.)	Rs.05.00 P.B.L.
	3.Beer Brand to be sold out of M.P.	Rs. 0.25 per Quart Bottle
J	Bottling fee under Franchisee system/for National Manufactures	
	1. Sprit Brands to be sold in M.P.	Rs. 20.00 Per Proof Litter
	2. Sprit Brands to be sold out of M.P.	Rs. 2.00 Per Proof Litter
	3. Beer to be sold in of M.P.	Rs. 10.00 per B.L.
	4. Beer to be sold out of M.P.	Rs. 0.25 per Quart Bottle
K	Bottle fee (Sprit and Wine)	Rs. 4.00 per Quart Bottle
	(only for F.L. 7 and F.L. 8 License)	
L	Bottle fee(Beer)	Rs. 1.50 per Quart Bottle
	(only for F.L. 7 and F.L. 8 License)	
M	Bottle Fee [Imported Foreign Liquor (BIO)]	
	Sprit--	Rs.400.00 per Quart Bottle

	Wine--	Rs. 40.00 per Quart Bottle
	Malt--	Rs. 50.00 per Quart Bottle
<b>III. Rectified Sprit</b>		
S.	Intoxicants	Prescribed Rate
1	Export Fee	Rs. 0.30 per B.L.
2	Import Fee	Rs. 5.00 per B.L. for C.L./IMFL manufacturing
3	Transport Fee	Rs. 2.50 per B.L. for CL/IMFL Manufacturing
<b>IV. Rectified Sprit for Industrial purpose</b>		
S. N.	Intoxicants	Prescribed Rate
1	Export Fee	Rs. 1.00 per B.L.
2	Import Fee	Rs. 2.50 per B.L.
3	Transports Fee	Rs. 2.50 per B.L.
<b>V. Special Denatured Sprit for mixing in petrol</b>		
S. N.	Intoxicants	Prescribed Rate
A	Export fee	Rs. 1.50 Per B.L.
B	Import fee	Rs. 1.00 Per B.L.
C	Transport fee	Rs. 0.30 Per B.L.

**Table 14: Import, Export, Permit and Transport Fee of Intoxicants**

Source: [www.mpexcise.org](http://www.mpexcise.org)

### 6.5 Import and Export of Liquor from MP

Import and export of liquor are doing very controlled manner but in MP having very good capacity for production of liquor .the under mention table and figure-4 are showing export is much greater than import with very good increasing trend and earned much revenue.

Year	Import			Export	
	IMFL	Beer	Wine	IMFL	Beer
	(in Lac Proof Litters)	(in Lac Bulk Litters)		(in Lac Proof Litters)	(in Lac Bulk Litters)
2005-06	-----	-----	-----	124.49	125.71
2006-07	-----	-----	-----	127.81	167.7
2007-08	----	-----	-----	148.45	128.25
2008-09	3.31	31.79	0.04	215.20	156.49
2009-10	3.4	36.96	0.03	33.92	194.63

**Table 15: Import and Export of Liquor**

Source: [www.mpexcise.org](http://www.mpexcise.org)

Export From MP

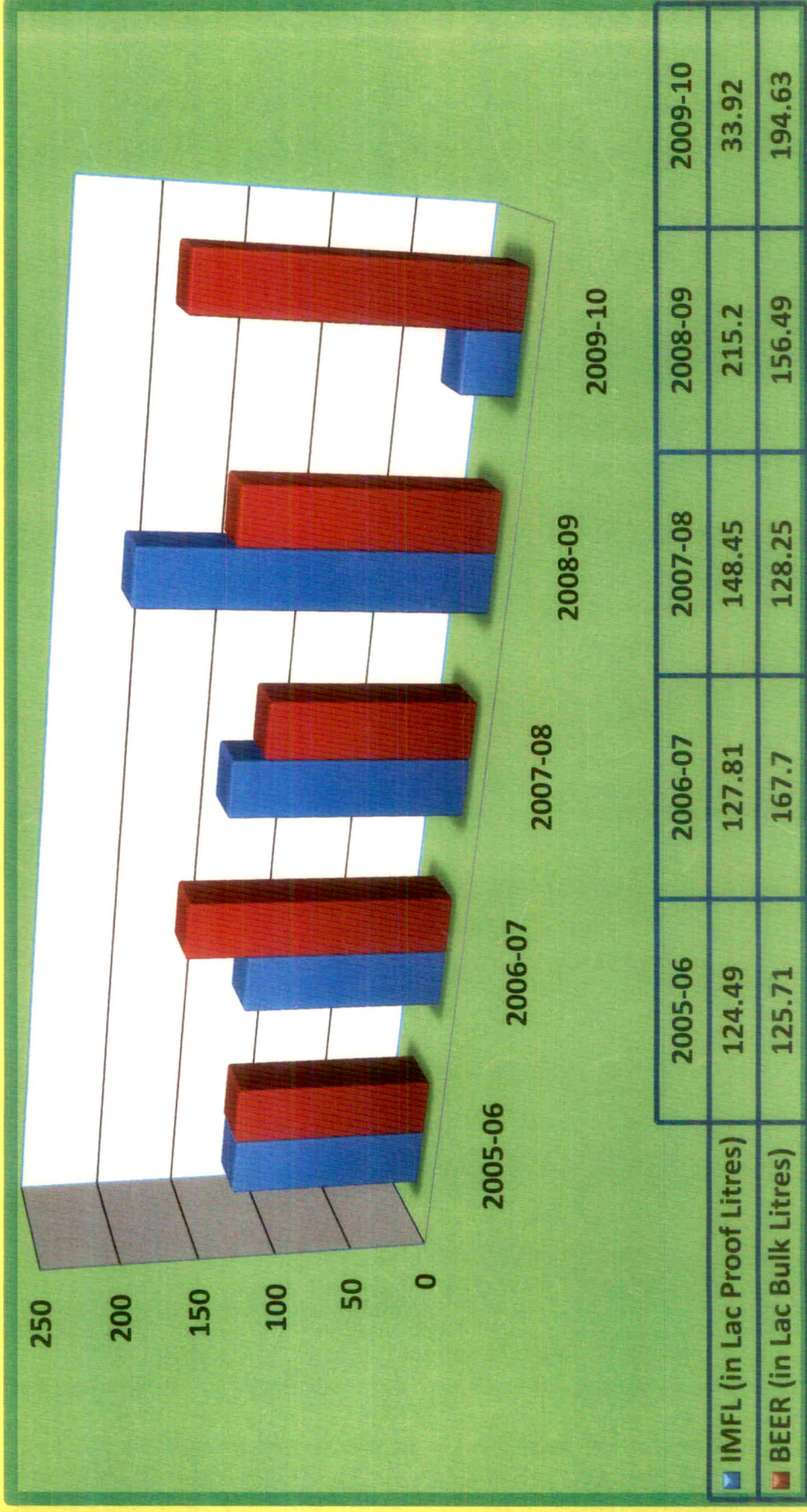


Figure 4: Export of Liquor

## **PRODUCTION AND CONSUMPTION**

### ***6.6 Production Units Establishment in MP***

The alcoholic liquor is manufactured in the state by the private setor under license. A senior excise officer posted in the manufacturing units supervises the manufacturing and controls the removal of the liquor from the factory. The liquor removed from the manufacturing/bottling units is stored in the warehouses managed by the excise department from where the liquor is issued to the licensees of retail shops .

the Country Liquor is now being bottled by the private sector. The department selects the supplier for each district through tender and the supplier is required to supply the bottled liquor to the licensees of the retail shop at the price determined through the tender. The Foreign Liquor is stored by the manufacturers in the warehouses managed by the department from where it is issued to the licensees of the retails shops . The price of the bottled liquor is determined by the private supplier and intimated to the retail licensees by the Excise Commissioner . The retail shops can sell the bottled liquor at any price between minimum sale price and maximum retail price communicated by the Excise Commisioner.

***In MP 8 Distilleries and Country Liquor bottling units, 6 Breweries Manufacturing units and 21 Foreign Liquor Bottling units are working with very good capacity which is under mentioned tables.***

**a. Distilleries and Country Liquor Bottling Units Established in MP**

(Capacity in Bulk Liters)

S. N.	Name	Kind of Production	Capacity
1	Agrawal Distilleries P. Limited, Sambalpur, Khargaoan	Rectified Sprit / Foreign Liquor	6.00
2	Associated Alcohol and Breweries Limited, Khodi, Khargaoan	Rectified Sprit / Foreign Liquor	314.00
3	Cox India Limited, Nowgoan, Chhatarpur	Rectified Sprit / Foreign Liquor / Industrial Alcohol	9.00
4	Gwalior Distillers Limited Rairu, Gwalior	Rectified Sprit / Foreign Liquor	180.00
5	Great Galleon Limited, Shejwaya, Dhar	Rectified Sprit / Foreign Liquor	19.38
6	Oasis Distilleries Limited Borali, Dhar	Rectified Sprit / Foreign Liquor	73.00
7	Som Distilleries P. Limited, Sehatganj, Raisen	Rectified Sprit / Foreign Liquor	438.00
8	Vindhyanchal Distilleries P. Limited Pilukhedi, Raisen	Rectified Sprit / Foreign Liquor / Industrial Alcohol	75.00

**Table 16: Distilleries Established in MP.**

Source: [www.mpexcise.org](http://www.mpexcise.org)

**b. Breweries Established in MP**

(In Lac Hecto Liters)

S. N.	Name	Capacity
1	Lilason`s Breweries Govindpura, Bhopal	1
2	M.P. Beer Product Pvt. Limited, Indore	2.25
3	Som Distilleries and Breweries Pvt. Limited, Rojrachak-Raisen	9.92
4	Tripti Alco Brew Limited, Village Mahtoli Banmore Dist. Morena	9.5
5	Jagpin Breweries Ltd., Nowgang, Chhatarpur	1
6	Regeant Beer and wines Ltd., Shajapur	3
	Mount Breweries Ltd. Memdi, Indore	5

**Table 17: Breweries Established in MP.**

Source: [www.mpexcise.org](http://www.mpexcise.org)

**c. Foreign Liquor Bottling Unites established in MP**

(In Lac Bulk Litter)

S. N.	Name	Capacity
1	Gwalior Distilleries Pvt. Limited, Ater Road-Bhind	7.12
2	Jubali Breweries Limited, Zirinia-Bhopal	134.14
3	MacDowell and Company Limited, Sarwar-Bhopal	29.58
4	Redson Distilleries Pvt. Limited, Jabalpur	21.19
5	Som Distilleries and Breweries Pvt. Limited, Rojrachak-Raisen	120
6	Silver Oak Kedia Ltd. Dhar	112.56
7	Mahakal Distilleries Pvt. Limited, Ujjain	22.1
8	Gwalior Distillers Rairu, Gwalior	100
9	Great Galion Ltd. Dhar	188.37
10	Associated Alcohols and Breweries Ltd., Khargone	135.59
11	Cox India Ltd., Chhatarpur	42.01
12	Oasis Distillery Ltd. Dhar	16.15
13	Som Distilleries Ltd., Sehatgang, Raisen	252
14	Vindhyachal Distilleries Ltd. Rajgarh	135
15	Narmada Distilleries Pvt.Ltd., Amar Patan, Satna	43.2
16	Vinayak Distilleries Pvt.Ltd. Gwalior	12.83
17	Surya Bottling Pvt. Ltd., Sagar	27.00
18	Golden Orange Distilleries , Chhindwara	162.00
19	United Sprit Ltd., Sarvar, Bhopal	179.62
20	Unites sprit Ltd., Goving Pura, Bhopal	62.34
21	Gold water Breweries Pt. Bhind	3.28

**Table 18: Foreign Liquor Bottling Units Established In MP**

Source: [www.mpexcise.org](http://www.mpexcise.org)



#### ***d. Distillery Wise Production of Rectified Sprit in MP***

(In Lac Proof Litters)

S. N.	Name of Distillery	2007-08	2008-09	2009-10
1	Gwalior Alco Brew Pvt.Ltd., Rairu-Gwalior	284.42	226.9	191.16
2	Kedia Great Galleon Limited, Shejwaya-Dhar	232.45	213.43	120.95
3	Associated Alcohol and Breweries Limited, Village-Khodi (Badwaha)- Khargon	298.85	246.66	137.53
4	Jagpin Breweries Ltd. Nowgaon-Chhatarpur	8.58	5.72	2.13
5	Som Distilleries Pvt. Limited, Sehatganj-Raisen	182.88	141.7	94.54
6	Agrawal Breweries and Textile Limited, Village-Sambalpur (Badwaha)-Khargon	47.49	34.56	1.91
7	Vindhyachal Distilleries Pvt. Limited, Pilukhedi-Rajgarh	133.96	101.25	114.89
8	Oasis Distilleries Limited, Borali-Dhar	133.19	12.5	38.4
	<b>Total</b>	<b>1321.82</b>	<b>982.72</b>	<b>701.51</b>

**Table 19: Distillery Wise Production of Rectified Sprit in MP**

Source: [www.mpexcise.org](http://www.mpexcise.org)

#### ***e. Production of Beer in MP***

(In Lac Bulk Litters)

S.No.	Name of Breweries	2008-09	2009-10
1	Lilason's Breweries, Govindpura-Bhopal.	111.11	120.34
2	M.P. Beer Product Pvt. Limited, Indore	107.3	121.61
3	Som Distilleries and Breweries Pvt. Limited, Rojrachak-Raisen	154.47	261.45
4	Tripti Alco brew Limited, Breweries Ltd.)Village Mahtoli (Banmore)-Dist. Morena	188.55	178.82
5	Jagpin Breweries Ltd., Nowgong, Chhatarpur	17.37	28.28
6	Regent Beer and Wine	30.09	72.15
7	Mount Everest Breweries Ltd.	0	87.56
	<b>Total</b>	<b>608.89</b>	<b>870.21</b>

**Table 20: Production of Beer in MP**

Source: [www.mpexcise.org](http://www.mpexcise.org)

## *f. Production of Foreign Liquor in MP*

(In Lac Proof Litters)

S. N.	Manufacturer /Year	2008-09	2009-10
1	Associated Alcohol and Breweries Limited, (Badwaha)-Khargon	21.52	24.63
2	Cox Distilleries Nowgawn, Chhatarpur	1.89	1.44
3	Goldwater Braveries Pvt. Limited, Bhind	0	0
4	Gwalior Distilleries Limited, Rairu-Gwalior	160.47	168.5
6	Gwalior Distilleries Pvt. Limited, Ater Road-Bhind	0	3.84
7	Jubilee Breweries Ltd. Bhopal	2.56	3.38
8	Kedia Great Galleon Limited, Shejwaya-Dhar	56.35	54.87
9	Mahakal Distilleries, Pvt. Limited, Narwar-Ujjain	0.44	0.58
10	Narmada Distilleries, Amarpatan- Satna	0	0.7
11	Oasis Distilleries Limited, Borali-Dhar	9.05	11.84
12	Rairu Distilleries Limited, Gwalior	4.88	0.29
13	Silver oak (India) Limited, Pithampur-Dhar	7.24	11.24
14	Som Distilleries and Breweries Pvt. Limited, Rojrachak-Raisen	9.19	7.53
18	Som Distilleries Pvt. Limited, Sehatganj	23.64	30.17
19	United Sprit Ltd. Govindpura-Bhopal	0	6.03
20	United Sprit Ltd. Sarwar- Bhopal	84.56	98.33
21	Vinayak Distilleries Pvt. Limited	0	3.61
22	Vindhyachal Distilleries Pvt. Limited, Pilukhedi-Rajgarh	6.22	13.96
	Total	388.01	440.94

**Table 21: Production of Foreign Liquor MP**

Source- [www.mpexcise.org](http://www.mpexcise.org)

### **6.7 Consumption of Intoxicants**

Till 2003-04, excise shops were disposed off through auction every year. The government decided to introduce the lottery system for disposal of shops in 2004-05. Under the new system, the annual value of each shop is determined keeping in view the potential for sale of alcoholic liquor from the shop and applications are invited for allotment of these shops. The licensee is selected through a lottery system. If there is no application

for the shop at the annual value determined by the govt. Then the shop is disposed off through tender. The State Government can also renew the license for the next year at a higher annual value.

Receipts from state excise have registered an impressive growth rate of 24% in this period. The very impressive growth in revenue is mainly on account of the improvement in the system for disposal of retail shops .

The department has taken up a project for computerised monitoring of manufacturing, transportation, storage and issue of liquor for retail sale.

The undermentioned table is showing very good trends for its consumption.

Year	Country Liquor	Foreign Liquor	
		Sprit	Malt
Units	Lac Proof Liter	Lac Proof Liters	Lac Bulk Liters
2005-06	511.73	167.1	313.78
2006-07	533.65	164.16	330.15
2007-08	557.56	180.83	381.69
2008-09	628.78	234.03	445.27
2009-10	696.67	310.16	618.98

**Table 22: Consumption of Liquor in MP.**

Source- [www.mpexcise.org](http://www.mpexcise.org)

**\*\*\*\*\***

*“After reviewing previous theoretical chapters in very details we learned and understand, about various provision and procedure for regulate the sale, production, import export, of intoxicant items and types of licence issuing by government. The entire chapters were based on study of act, notification, circular and other relevant books.*

*Now we should come to our main objective i.e. Analysis and comparison of excise duty of MP with other states which is study in next chapter in this chapter we will compare and analysis the various factor of excise duty and to achieve object of our study”.*

**\*\*\*\*\***

***CHAPTER-VII***  
***ANALYSIS AND COMPARISON OF***  
***EXCISE DUTY OF MP WITH OTHER***  
***STATES***

## **Chapter-VII**

### **Analysis and Comparison of Excise Duty of MP with Other States**

#### ***7.1 Introduction***

The objective of the excise department is to generate revenue resources of the state as per the excise laws of the state and as detailed in the annual excise policies (AEP) with the social values under strict vigilance on illegal production, import, possession, sale, consumption or export.

The State Government derives the power to levy and collect excise revenue under article 246(3) read with entries 51 and 66 of list ii of the seventh schedule of the constitution of India. The rate of State Excise Duty (SED) and fees are fixed by the government / board of revenue of Madhya Pradesh under Excise Act, 1915 and rules made there under and notified in the AEP of the government.

#### ***7.2 Policy Framework and Strategy***

The government formulates the AEP for each financial year. Licenses are issued to import, produce, possess and sell/export intoxicants for levy and collection of state excise duty (SED) and fees to enhance the revenue of the state as well as curbing the consumption of such intoxicants by the consume Rs. The regulatory activities are carried out by the district Excise Officers (DEO) and enforcement squads. Public awareness campaigns are also conducted involving non-government organizations, self help groups and Panchayats raj institutions to create awareness among the people about the dangers in consumption of illicitly distilled and spurious liquor.

### **7.3 Tax Administration**

The State Excise Department is working under the Commercial Tax Department of the Government of Madhya Pradesh. The Excise Commissioner (EC) is the head of the department and is assisted by Additional Excise Commissioner (AEC), Deputy Excise Commissioner (DEC), Assistant Excise Commissioner (AECS) and District Excise Officers (DEOS), both at the headquarters at Gwalior and in the districts. In the districts, the Collector heads the excise administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is responsible for realisation of excise revenue. The working of distilleries, bottling plants (Foreign Liquor) and breweries are monitored by the does with the assistance of the ADIOS.

### **7.4 Audit Objectives**

***Performance Audit (PA) on “working of excise department” was conducted to ascertain whether:***

The provision/system for regulating levy and collection of state excise duty, fee etc under the acts and rules administered by excise department were being complied with and implemented effectively.

The internal control mechanism was adequate and effective for preventing leakage of excise revenue as per the rules and regulations of the department.

### ***7.5 Audit Criteria***

The following act/rules/policies/notification/instructions etc., governing the levy and collection of excise revenue of the state were used as sources of audit criteria.

- Madhya Pradesh excise act 1915,
- MP Foreign Liquor Rules 1996.
- NDPS Rules, 1985
- Madhya Pradesh Country Sprit Rules 1995,
- Madhya Pradesh distillery Rules, 1995,
- Manta (excise duty) Act, 1955; and
- Annual Excise Policies (AEPS), circulars, notifications and instructions of the department/board/ Commissioner issued from time to time.

### ***7.6 Working of Internal Audit Wing***

An audit cell has been established in the Excise Department which is headed by a Joint Director from MP finance service. Six officials from the treasury and accounts directorate, mp has been posted on deputation basis. The work of internal audit is conducted by this cell. A roster for internal audit is prepared every year. Internal audit is generally conducted in accordance with the roster. Out of 50 units planned for internal audit 41 units were inspected during the year 2010-11.



## 7.7 Trend of Receipts

From state excise duty from intoxicants during the years 2006-07 to 2010-11 along with the total receipts of tax revenue in MP during the same period is exhibited in the following under mention table and figure-5.

(Rs. In Crores)

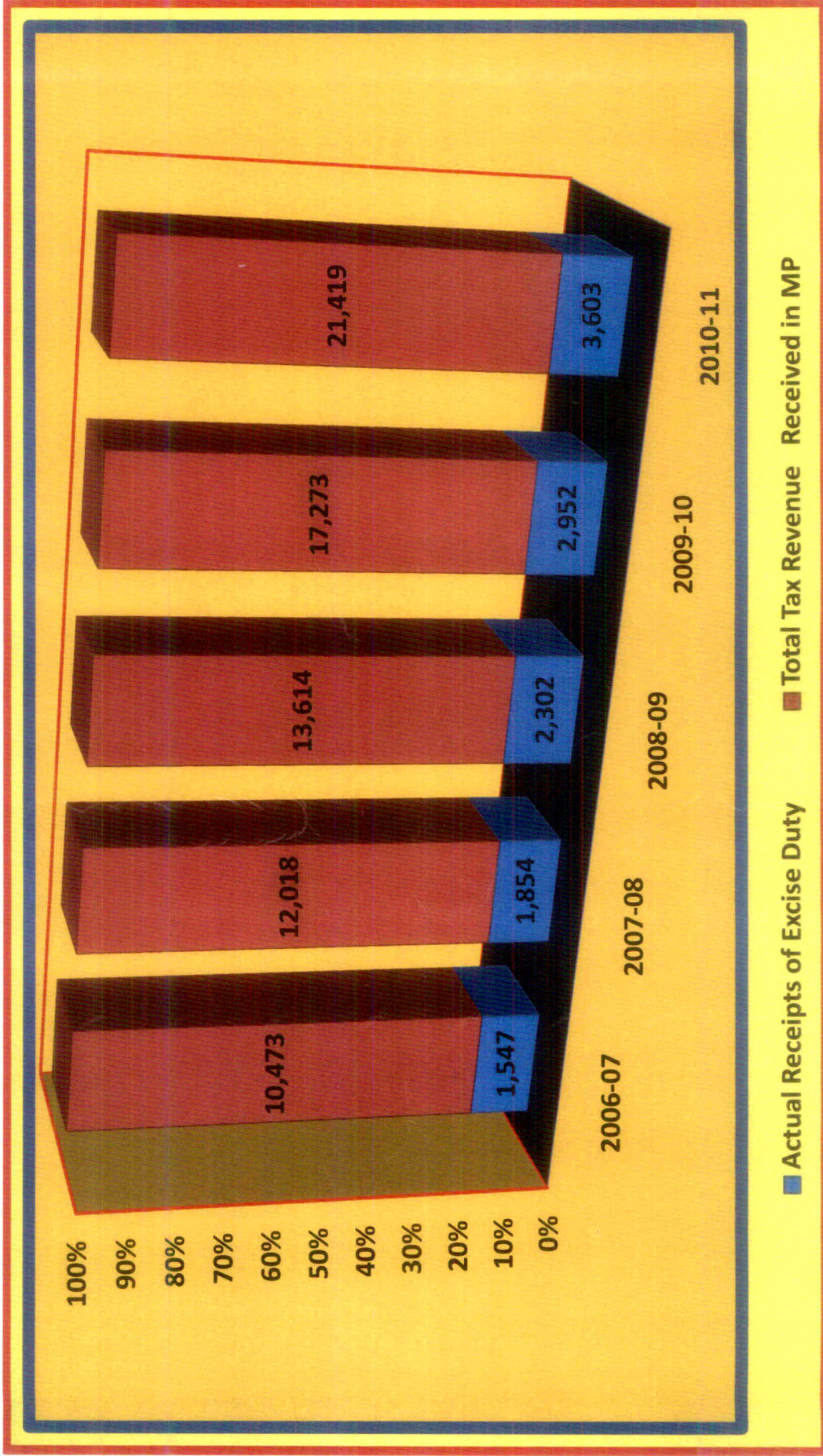
Year	Budget Estimates (a)	Actual Receipts of Excise Duty (b)	Surplus From budget c=(b-a)	Surplus from Budget (%)	Total Tax Revenue Received in MP (d)	Percentage of Excise duty from Intoxicants and Total Tax Revenue Received in MP (B/d)*100
2006-07	1,430.00	1,546.68	116.68	8.16	10,473.13	14.77
2007-08	1,750.00	1,853.83	103.83	5.93	12,017.64	15.43
2008-09	2,150.00	2,301.95	151.95	7.07	13,613.50	16.91
2009-10	2,760.00	2,951.94	191.94	6.95	17,272.77	17.09
2010-11	3,400.00	3,603.42	203.42	5.98	21,419.33	16.82

**Table 23: Receipts of Excise Duty from Intoxicants and Total Receipts of Tax Revenue in MP**

Source: Computed from collected data

Excise receipts to the total tax revenue of the state had been increasing during the period 2006-07 to 2009-10 but showed a decreasing trend in 2010-11. In 2010-11 the collection of taxes from state excise increased by 22.07% over the previous year 2009-10, which was due to the increase in auction amount.

**TREND OF RECEIPTS OF EXCISE DUTY FROM INTOXICANTS AND TOTAL RECEIPTS OF TAX REVENUE IN MP**



**Figure 5: Receipts of Excise Duty from Intoxicants and Total Receipts of Tax Revenue in MP**

### **7.8 Cost of Collection**

The gross collection in respect of state excise, expenditure incurred on collection as furnished by the department and the percentage of expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(Rs. In Crores)

Year	Total Collection	Expenditure incurred for collection of revenue	Percentage of Expenditure on Collection
2008-09	2,301.95	505.46	21.96
2009-10	2,951.94	818.34	27.72
2010-11	3,603.42	963.86	26.75

**Table 24: Cost of Collection**

Source: Computed from collected data

*The percentage of expenditure on the collection of state excise is abnormally higher than the all India average percentage. The percentage of expenditure on excise collection is 7 to 8 times higher than average percentage which is considerable.*

## **7.9 Comparison of Growth Trend of Revenue Received From Excise Duties in MP with Other States**

The gross collection in respect of state excise duty of 15 states of India during the financial years 2005-06 to 2009-10 and we are also giving information for additional two year of 2010-11 and 2011-12 for comparison of Excise duty of MP to other states are mentioned below table and figure -6.

(Rs. in Crores)

S. N.	States/ Year	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
1	Andhra Pradesh	2685	3421	4125	5752	5849	7912	9014
2	Assam	160	185	205	198	239	323	400
3	Bihar	319	400	500	679	1082	1400	1790
4	Gujarat	48	59	50	49	66	62	67
5	Haryana	1107	1200	1320	1419	2059	2200	2400
6	Karnataka	3397	4120	3300	5750	6946	8125	9115
7	Kerala	841	862	987	1398	1515	1800	2059
8	Madhya Pradesh	1370	1500	1700	2302	2952	3525	4050
9	Maharashtra	2824	3250	3500	4434	5057	5800	8500
10	Orissa	389	490	554	660	849	1000	1200
11	Punjab	1568	1600	1726	1810	2110	2640	3250
12	Rajasthan	1522	1570	1720	2170	2301	2460	2623
13	Tamil Nadu	3177	3800	4370	5756	6741	7930	10191
14	Uttar Pradesh	3089	3650	4192	4720	5666	6770	8124
15	West Bengal	743	889	1018	1083	1444	1812	2419

**Table 25: Comparison of Growth Trend of Revenue Received From Excise Duties in MP with Other States**

Source: Computed from collected data

It can be seen from the above table that the total and per capita revenues from excise duty have increased in all the states year by year. Andhra Pradesh earned an income of Rs. Crores in 2005-06, which is Rs. 9014 Crores in 2011-12(i.e.) Around 300% increase was recorded during the

period.

Maharashtra, Karnataka and Tamil Nadu, Uttar Pradesh also derived more revenue from this head which can be attributed to the reversal of prohibition policy in these states. The excise earnings in Punjab, Haryana, Madhya Pradesh and Rajasthan are not as appreciable as in other states of India. The total and per capita revenue from state excise duty were very low in Gujarat because of total prohibition. As revealed by above table the total and per capita revenues from state excise have increased in real terms also in all the states. But they have increased at a slower pace.

COMPARISON OF GROWTH TREND OF REVENUE RECEIVED FROM EXCISE DUTIES IN MP WITH OTHER STATES

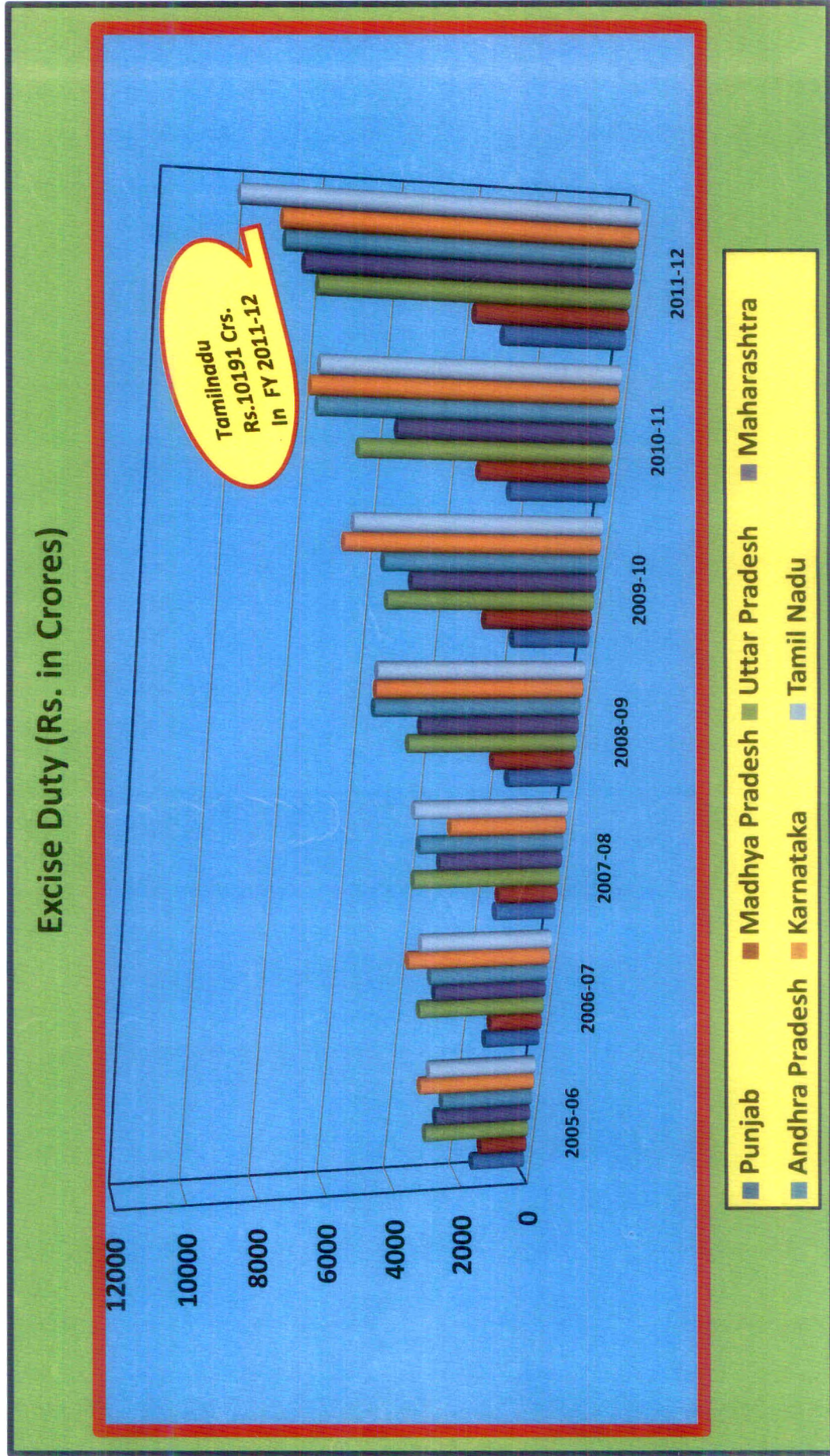


Figure 6: Comparison of Growth Trend of Revenue Received From Excise Duties in MP with Other States

## 7.10 Descriptive Statistics

Statistics	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
Mean	1452	1687.25	1829.19	2386.25	2804.75	3246.69	4075.13
SD	1188	1441.8	1533.05	2128.06	2395.72	2905.45	3560.96
Min	48	59	50	49	66	62	67
Max	3397	4120	4370	5756	6946	8125	10191
Ratio	71	69.83	87	117	105	131	152

**Table 26: Descriptive Statistics**

*Source: Computed from collected data*

With the help of above table we can identify the disparity among the states. The difference between lowest and highest revenue from excise duty has increased year by year from 2005 - 06 to 2011 -12. After 1998 - 99, the difference has fluctuated but it remains higher. The all state average per capita state excise duty has also gone up. The interstate disparity as shown by the co-efficient of variation though very high it exhibits a narrowing trend. Disparity in the per capita state excise revenue is very high, due to variations in consumption habits and tax rates.

**The graphical statistics are also showing in figure-7.**

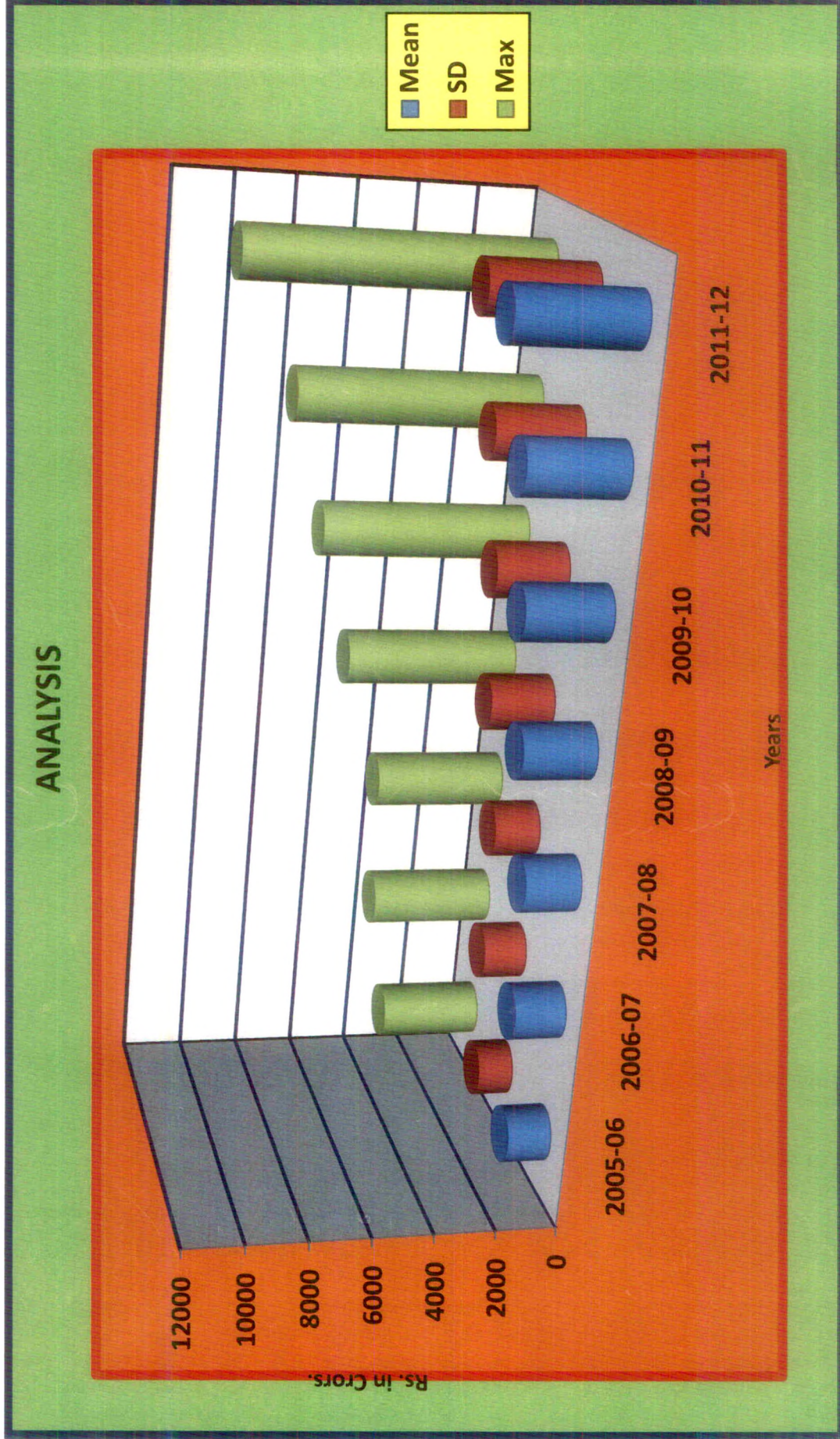


Figure 7: Descriptive Statistics



## 7.11 Percentage of Collected State Excise Duty to Total Revenue

### Of States

(In %)

S. N.	States/ year	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12
1	Andhra Pradesh	13.98	13.55	13.14	17.24	14.38	16.83	19.01
2	Assam	4.95	5.19	5.07	4.77	5.52	6.49	6.09
3	Bihar	8.96	8.84	10.06	11.00	13.29	13.15	14.23
4	Gujarat	0.31	0.32	0.24	0.21	0.25	0.20	0.17
5	Haryana	12.19	11.38	10.77	12.18	14.66	13.36	12.00
6	Karnataka	15.07	17.25	12.36	20.80	23.68	22.43	20.80
7	Kerala	8.60	7.19	7.16	8.74	8.71	8.62	7.73
8	Madhya Pradesh	15.03	14.75	14.51	16.91	16.93	18.88	17.52
9	Maharashtra	8.42	8.06	7.63	8.52	9.08	9.09	10.16
10	Orissa	7.78	8.52	8.37	8.26	9.52	9.65	9.75
11	Punjab	17.44	16.40	15.87	16.23	15.23	16.19	15.93
12	Rajasthan	15.40	13.88	13.32	14.52	13.81	12.93	12.29
13	Tamil Nadu	13.62	13.55	14.10	17.09	19.04	19.14	17.05
14	Uttar Pradesh	16.38	14.97	15.08	16.47	16.07	16.00	16.14
15	West Bengal	7.15	7.09	7.14	7.51	8.54	9.06	8.74

**Table 27: Percentage of Collected State Excise Duty to Total Revenue of States**

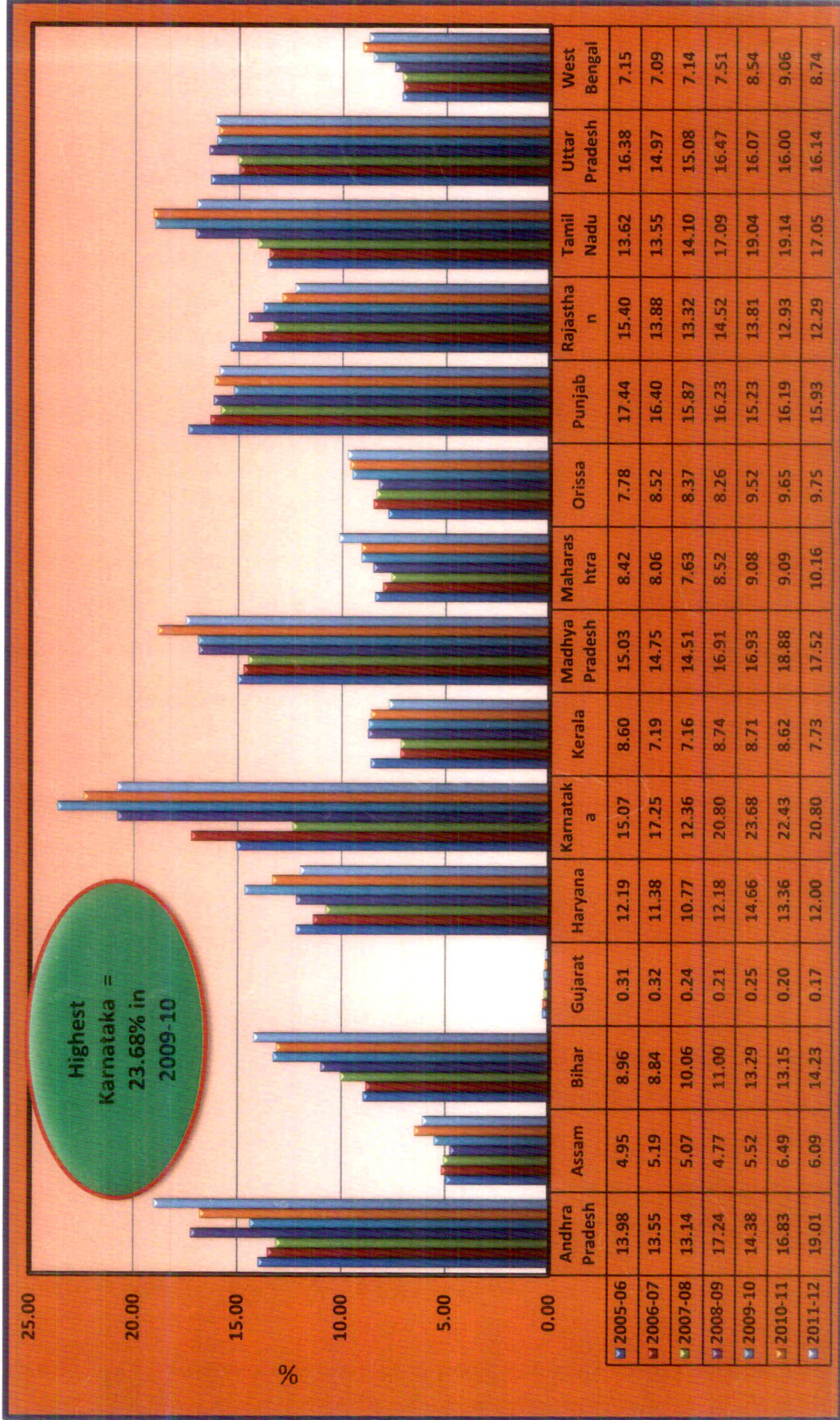
**Source: Computed from collected data**

The state excise duty revenue as percentage of state's total revenue and tax revenue is not consistent even in one state. It assumes a cyclical trend. The trend varies from state to state. In Karnataka, the share of excise revenue to total revenue and tax revenue is higher than in any other state in last four years. The reason is there is no smuggling, illicit distillation etc. Which swallow the state excise revenue? Further the percentage share of excise revenue to states own tax revenue also fluctuated year by year in all the states. But its contribution is highest in Karnataka. To this state, major part of the excise revenue comes from wine and spirits, medicinal and toilet

preparations. The contribution of revenue by state excise as percentage of all states total revenue and tax revenue almost remains constant up to 2007-08 in Madhya Pradesh. But its contribution to total tax revenue increased after that. However, it continues to be the third largest source of revenue to the states. The relative positions improved for the states of Assam, Punjab, Maharashtra, Orissa, Rajasthan and Tamil Nadu. On revenue consideration, excise duty is the sound source. It offers more revenue to the government. And so the states are not willing to give up prohibition even though the finance commission recommended for the compensation of 50% of the loss of revenue due to prohibition.

***The percentage of collected state excise duty to total revenue of 15 state of India is also showing in figure-8.***

**PERCENTAGE OF COLLECTED STATE EXCISE DUTY TO TOTAL REVENUE OF THAT STATES**



**Figure 8: Percentage of Collected State Excise Duty to Total Revenue of That States**

**\*\*\*\*\***

*“We have followed statically and analytical procedure in this chapter to reach our main object for analysis and comparison of excise duty of mp with other states by collected and using of relevant data of MP and other states from its websites and publications.*

*We compared percentages of excise duty received in MP to total revenue received, of that state and compared to other states. We found very good results from it. Further from our analysis, we found that the cost of collection of excise duty is very high in MP as compare to other states and as well as national data base.*

*Now we should come to the last chapter that is important part of our study that is non-recovery of excise duty. In this chapter we are going to study various factors for non recovery of excise duty and its reasons in MP. Further we have to study of production, capacity of distilleries and other relevant factor which is very important to our analysis and findings”.*

**\*\*\*\*\***

***CHAPTER-VIII***  
***NON-RECOVERY OF EXCISE DUTY***

## Chapter-VIII

### Non-Recovery of Excise Duty

*This chapter test-check of records of the office of the Excise Commissioner with a view to obtain assurance on:*

- a. Prompt collection of excise revenue and its remittances into the government account.
- b. Compliance of various provisions of the act, rules and procedures by departmental authorities.
- c. Adequacy of internal control in recovery of the uncollected excise revenue.

#### NON-RECOVERY OF EXCISE DUTY

##### *8.1 Position of Arrears of Excise Revenue*

Position of arrears of excise revenue the position of uncollected revenue is monitored at the ECs level through monthly returns submitted by the DEOS. Revenue of Rs. 60.22 Crores pertaining to the period from 1971-72 to 2006-07 was outstanding as on 31<sup>st</sup> March 2007.

(Rs. in Crores)

S. N.	Particulars	Amount
1.	Cases forwarded to the Government for write off	8.73
2.	Write off cases pending with EC	5.71
3.	Cases pending for decision before various courts	2.10
4.	Cases pending in the district Excise offices	43.68
	Total	60.22

**Table 28: Position of Arrears of Excise Revenue**

Source: Computed from collected data

The government stated in august 2007 that the arrears were likely to be written off as the defaulters were not traceable.

## **8.2 Non-Realisation of Excise Duty**

### **a. on Unacknowledged Export or Transport of Foreign Liquor or Beer**

We observed from export or transport permits register and excise verification certificate (EVC) received register in seven bottling units of Foreign Liquor<sup>10</sup>, three breweries<sup>11</sup> and two central godowns of outside manufacturers<sup>12</sup> of six districts<sup>13</sup> between February and December 2010 that the licensees exported or transported 888336 Proof Litters (PL) Foreign Liquor (Sprit) and 643232 Bulk Litters (BL) Beer on 338 permits between April 2009 and July 2010, which involved duty<sup>14</sup> of 24.07 Crores. Though the verification reports of receipt of quantity of liquor so exported or transported were not received from the destination units within the prescribed time limit, the department did not initiate any action for adjustment of duty against the bank guarantee or bond even after a lapse of one to 12 months after the permissible period of 40 days. This resulted in non realisation of revenue of 24.07 Crores. After we pointed out the cases, the Excise Commissioner (EC) stated (between February and April 2011) in respect of the cases of Chhatarpur and Gwalior districts that 54 verification reports had been

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<sup>10</sup> M/s Cox India Ltd., Nowgaon (Chhatarpur), Gwalior distillers Ltd, Rairu (Gwalior), M/s Redson distilleries Pvt. Ltd., Jabalpur, M/s United Sprit Ltd, Govindpura (Bhopal), M/s United Sprit Ltd, Sarvar, Bhopal, M/s Som distillery Ltd, Sehatganj, Raisen and M/s Som distillery and brewery Ltd, Raisen.

<sup>11</sup> M/s Jagpin breweries Ltd, Nowgaon (Chhatarpur), M/s Mount Everest Breweries Ltd., Indore and M/s Som distilleries and brewery Ltd., Raisen.

<sup>12</sup> M/s United Breweries Ltd, Bhopal and M/s Millennium Beer industries Ltd., Bhopal.

<sup>13</sup> Bhopal, Chhatarpur, Gwalior, Indore, Jabalpur and Raisen.

<sup>14</sup> Rate of duty - Sprit `180 and 300 per PL and Beer ` 30 per BL for the year 2009-10 2010-11. & Form of bond to be executed on \* the removal of Foreign Liquor from the licensed premises of FL9/FL9A/FL10A/FL10B/B-3 license for export/transport in Bond.

received except for one verification report of Gwalior district. The remaining AECS or DEOS stated (between February 2010 and March 2011) that 39 verification reports had been received and 24 verification report it would be submitted on their receipt. The replies are not acceptable as the duty was recoverable in all these cases as verification reports were found to have not been received within the prescribed period at the time of audit, for which the department did not take any action. We reported the matter to the EC and government between December 2010 and May 2011, their replies except that of EC in respect of Chhatarpur and Gwalior districts have not been received (March 2012).

***b. on Unacknowledged Export or Transport of Sprit***

During test check of the records of two distilleries<sup>15</sup> between May 2009 and May 2010, we observed that the licensees exported or transported 11620 Proof Litters (PL) Extra Neutral Alcohol (ENA) or Rectified Sprit (RS) on 12 permits during the period between October 2008 and march 2010 involving excise duty of 2.07 Crores without payment of duty or executing a bond in form D-2 with adequate solvent sureties. The officer-in charge (OIC) of the distilleries did not take any action to send the cases to the EC to fix the amount for execution of the bond. We further observed that though the verification reports from the destination units were not obtained and submitted to the permit issuing authority within the prescribed period of 40 days, no amount could be recovered from the licensees due to non-execution of security bond.

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<sup>15</sup> M/s Associated Alcohol and Brewery Ltd., Barwah, Khargone and M/s Gwalior Distillers Ltd. Rairu, Gwalior. Form of bond to be executed on the remove \* al of Sprit from the licensed premises of D-1 licence (licence for manufacture of Sprit in a distillery) for export/import in bond.



This resulted in non realisation of revenue of ` 2.07 Crores. After we pointed out the cases, the EC stated (May 2011) that the verification reports had been received in respect of Gwalior district. DEO, Khargone stated (December 2010) that all the verification reports have been received. The replies are not acceptable as the department failed to recover the duty on no receipt of the verification reports within the prescribed time limit as per rule.

We reported the matter to the EC and the government between November 2010 and May 2011; their replies except that of EC in respect of Gwalior district have not been received (March 2012).

### ***8.3 Non-Recovery of Excise Duty or Non-Imposition of Penalty***

#### ***a. on Inadmissible Wastage in Transport and Export of Foreign Liquor/Beer***

We observed from EVCS of four Foreign Liquor warehouses<sup>16</sup>, four distilleries<sup>17</sup>, six breweries<sup>18</sup> and one CSD<sup>19</sup>, in 10 districts<sup>20</sup> between may 2009 and February 2011 that in 3,160 cases during export/transport of Foreign Liquor or Beer, 29299.67 PL of Sprit and 111321.7 BL of Beer was shown as wastage in excess of the admissible limit by the licensees during the period between May 2008 and January 2011 on

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<sup>16</sup> Gwalior, Indore, Itarsi (Hoshangabad) and Jabalpur.

<sup>17</sup> M/s United Sprit Ltd, (Sarvar), Bhopal, M/s Oasis Distillery Ltd., Dhar, M/s Gwalior Distiller's Ltd, (Rairu), Gwalior and Associated Alcohol and Brewery Ltd, Khodigram, Khargone.

<sup>18</sup> M/s Lila sons Brewery Ltd, Bhopal, M/s Jagpin Breweries Ltd, (Nowgoan), Chhatarpur, M/s M P Beer Product Ltd, Indore, M/s Mount Everest Breweries Ltd, Indore, M/s Skol Breweries Ltd, (Banmore), Morena, and M/s Som Distillery and Breweries Ltd, Raisen.

<sup>19</sup> Canteen Store Department, Jabalpur.

<sup>20</sup> Bhopal, Chhatarpur, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Morena and Raisen.

which duty/ minimum penalty of 6.71 Crores was recoverable from the licensees. However the department did not impose/recover the penalty. This resulted in non-realisation of revenue of 6.71 Crores. After we pointed out the cases, the EC stated (February 2011) in regard to Chhatarpur and Khargone district that the cases for imposition of penalty were sent to the Deputy Commissioner Excise (DC) of the concerned division and action for recovery would be taken accordingly. DEO Dhar stated (March 2011) that an amount of ` 34,365 had been recovered. ACE Jabalpur in regard to CSD and Raisen stated in December 2009 and September 2010 that the cases for imposition of penalty would be sent to the DC of the division and action would be taken as per his orders. The remaining Excise Officers stated (between April 2010 and February 2011) that the cases were sent to DC of the division for imposition of penalty and action for recovery would be taken after imposition of penalty. Further reports have not been received (march 2012). We reported the matter to the EC and government between December 2010 and May 2011; their replies except those of EC in regard to Chhatarpur and Khargone district have not been received (March 2012).

**b. on Inadmissible Wastage of Sprit or Country Liquor**

We observed from the records of EVCS in one distillery<sup>21</sup> two Country Liquor warehouses<sup>22</sup> and three DEOS<sup>23</sup> in five districts<sup>24</sup> between September 2009 and June 2010 that in 117 cases during export/ transport of ENA<sup>25</sup>, Sprit or Bottled Country Liquor, 42524.75 PL of Sprit

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<sup>21</sup> M/s Associated Alcohol and Brewery Ltd. Barwah (Khargone).

<sup>22</sup> Dabra (Gwalior) and Khargone.

<sup>23</sup> Chhatarpur, Dewas and Tikamgarh

<sup>24</sup> Chhatarpur, Dewas, Gwalior, Khargone and Tikamgarh.

<sup>25</sup> Extra Neutral Alcohol.

was shown as wastage in excess of the admissible limit by the licensees during the period between March 2009 and March 2010, on which minimum penalty of 1.91 Crores was recoverable from them. It was however, seen that the penalty was not imposed and recovered by the department. This resulted in non-realisation of revenue of 1.91 Crores after we pointed out the cases, the EC intimated (March 2011) that the recovery of 38,000 has been made by DEO Chhatarpur. ACE Gwalior stated (February 2011) that penalty of 1.73 Lac was imposed on the distiller and a notice to deposit the amount was issued (July 2010) but he did not deposit the amount as it was stayed by the EC on his appeal. He further stated that action for recovery would be taken after disposal of the case by EC. The Excise Officers dews and Khargone stated between April and June 2010 that the cases for imposition of penalty had been sent to higher authorities and recovery would be made after imposition of penalty. Further reports and replies in the remaining cases have not been received (March 2012). We reported the matter to the EC and government between December 2010 and May 2011; their replies except the reply of EC in case of Chhatarpur district have not been received (March 2012).

#### ***8.4 Non-Levy of Penalty on Shortage of Sprit/Foreign Liquor***

***During test check of the records of M/s S. G. Distilleries, Jabalpur*** in December 2010, we observed that the excise authorities in the course of physical verification of stock held by the licensee on 9<sup>th</sup> December 2010, noticed shortage of 8021.9 PL Sprit and 2479.14 PL Bottled Foreign Liquor.

As such, minimum penalty of 2.06 Crores was recoverable on 10,088.35<sup>26</sup> PL of spirit found short over the admissible limit. It was however, seen that no action was taken by the department to impose and recover the penalty. This resulted in non-realisation of revenue of 2.06 Crores. We reported the matter to the Excise Commissioner and government between March and May 2011; their reply has not been received (March 2012).

### ***8.5 Short Recovery of Annual License Fee***

During test check of the records of two district excise offices<sup>27</sup>, between August 2010 and February 2011, we observed that the license fee of six Foreign Liquor shops of six different groups for the year 2009-10 was 3.86 Crores. An adjustment of 20% of license fee of 1.11 Crores during the period from may 2009 (second fortnight) to March 2010 from eight Country Liquor shops<sup>28</sup> within the groups was allowed by ACE/DEO with the approval of DC of the division. As such, the license fee of Foreign Liquor shops for the year 2009-10 worked out to 97 Crores. It was 4.00 however, seen that license fee of 4.10 Crores only was deposited in case of Foreign Liquor shops leaving the balance of 87 Lac unrecovered. This resulted in short realisation of license fee of 87 Lac. After we pointed out the cases, the ACE Sager stated (August 2010) that the issue of liquor was obtained by the

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<sup>26</sup> Balance as per books 27,512.87 PL, balance found on physical verification 17,011.83 PL, shortage 10,501.04 PL, admissible 412.69 PL so excess 10,088.35 PL. FL 9 Licence-manufacturing and bottling \* g of Foreign Liquor by blending. \* Special Bottling licences (FL 9A) may be granted to such licensee who has been franchised (authorised/conferred franchised) for Bottling specified brand/brands of Foreign Liquor by the holder of a similar/appropriate licence in any part of the country outside Madhya Pradesh.

<sup>27</sup> DEO Hoshangabad and AEC Sagar.

<sup>28</sup> Gadakota, Devari, Mandibamora, Shahgarh of Sagar district, Pachmari and Sohagpur of Hoshangabad district. 20 Gadakota, Devari, Mandibamora, Shahgarh, Pachmari, Silari chock, Etwara and Sohagpur.

licensees as per their requirement under the maximum limit of adjustment of 20% and the prescribed license fee was deposited for the group. Hence, there is no loss to the government. DEO Hoshangabad stated (February 2011) that the adjustment of 20% was not availed by the licensees and no amount of license fee has remained unrecovered. Hence, there is no loss to the government. The reply is not acceptable as once the orders for adjustment of license fee from Country Liquor shop to Foreign Liquor shop or vice versa sought by the licensee have been passed, the licensee had to necessarily deposit the additional license fee for the shop for which quantity has been sought to be enhanced notwithstanding the fact that the licensee ultimately does not lift the enhanced quantity of the liquor for which enhancement was sought or lifts the quantity to the extent of license fee deposited for the liquor shop for which reduction was sought. We reported the matter to the Excise Commissioner and the government between January and May 2011; their replies have not been received (March 2012).

### ***8.6 Non-Realisation of Excise Duty Due to Non-Disposal of Foreign Liquor***

We observed in one Foreign Liquor bottling unit<sup>29</sup> and two Foreign Liquor warehouses<sup>30</sup> between May and June 2010 that no action was taken by the department to dispose of the stock of 12938.31 PL Bottled Foreign Liquor lying indisposed off in the Foreign Liquor warehouses and stock of 27515.97 PL lying indisposed in the bottling unit on expiry of the licenses of manufacturing units/nonrenewal of labels of liquor, after lapse of periods ranging from two to 50 months. The disposal could not be done in

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<sup>29</sup> M/s Vinayak distillery Ltd., Gwalior (F.L. 9).

<sup>30</sup> Bhopal and Gwalior.

most of the cases as orders were not released by the Excise Commissioner. This resulted in non-realisation of revenue of 79.03 Lac. After we pointed out the cases the ACE, Bhopal and Gwalior stated in June 2010 and March 2011 respectively that the proposal for disposal of Foreign Liquor had been sent (between September 2010 and March 2011) to the EC and action would be taken on receipt of the orders. Further report has not been received (March 2012). We reported the matter to the EC and the government between January and May 2011; their replies have not been received (March 2012).

### ***8.7 Non-Realisation of Duty on Irregular Issue of Liquor***

During test check of records demand and collection [register of license fee (G-2), challan and liquor issue register] of two district excise offices is (DEO)<sup>31</sup> between July and November 2010 we observed that 10 licensees of liquor shops had deposited the prescribed fortnightly license fee of 24.23 Lac after the due dates. Besides, 12 licensees of liquor shops had not deposited the last instalment of annual license fee of the year 2009-10 amounting to 26.07 Lac on or before 25<sup>th</sup> March 2010. There was delay ranging between one to six days from the prescribed date. As such, the issue of liquor was not admissible to these licensees as per rule. It was however, seen that the department issued the liquor against the amount deposited after the due date. This resulted in irregular issue of liquor involving duty of 50.30 Lac which was required to be recovered with interest. However, no action was taken by the department. We reported the matter to the EC and the government between March and May 2011; their replies have not been received (March 2012).

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<sup>31</sup> Chhindwara and Indore.

Irregular issue of Country Liquor during test check of the records of two assistant Excise Commissioner <sup>32</sup> Offices, (ACE) between July and November 2010 we observed that the licensees of seven liquor shops were allowed adjustment of security deposit of 78.02 Lac at the end of January 2010. Out of this on an amount of 76.47 Lac the issue of liquor was allowed to the licensees in 1<sup>st</sup> and 2<sup>nd</sup> fortnights of March 2010 which was in excess by 35.50 Lac from the prescribed license fee of 40.97 Lac of the fortnight. This resulted in irregular issue of liquor involving duty of 35.50 Lac. We reported the matter to the Excise Commissioner and the government between January and May 2011; their replies have not been received (March 2012).

### ***8.8 Incorrect Allowance of Wastage of Sprit and Foreign Liquor***

We observed from the records of one distillery<sup>33</sup> in December 2010 that 2.22 Lac PL of ENA was transferred from storage vats to blending vats for manufacturing Foreign Liquor in 88 cases between December 2009 and October 2010 and 886.45 PL was accounted as blending wastage in storage vats. As no blending activities were conducted in the storage vats, this wastage is not admissible. Besides, in 17 cases, 26,573.15 PL of ENA was added to the blending vats for manufacturing Foreign Liquor and 299.7 PL was shown as blending wastage, thereby, excess wastage of 33.9 PL against the permissible limit of 265.8 PL was allowed. As such total wastages of 920.35 PL of ENA/Foreign Liquor were inadmissible on which minimum penalty of 18.72 Lac was liveable. However, it was seen that no penalty was imposed and recovered by the department. This resulted in non-realisation

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<sup>32</sup> Indore and Sagar. \* Foreign Liquor manufacturing vat.

<sup>33</sup> M/s Redson Distillery (FL-9) Jabalpur.

of revenue of 18.72 Lac. We reported the matter to the EC and the government between March and May 2011; their replies have not been received (March 2012).

### ***8.9 Incorrect Fixation of Reserve Price***

As per provisions of the Madhya Pradesh Excise Act, 1915 and executive instructions issued by the EC for settlement of retail liquor shops for the year 2007-08 and 2008-09, the reserve price of a shop shall be calculated by adding 20% of annual value (basic license fee + annual license fee) of the shops received in the previous year. Further, if the shop was settled for a part of the year during the previous year, the value of the shop for the whole year is to be determined on pro rata basis and then enhanced by 20% to arrive at the reserve price.

***Test check of records of three DEOS between October and December 2008*** revealed that reserve price of 48 Foreign Liquor shops for two years between April 2007 and March 2009 was fixed by the department at Rs. 29.94 Crores. But as per instructions, it should have been Rs. 32.93 Crores after adding 20% in the value received for shops for the previous year. Besides, in Baitul district, the value of Rs. 2.25 Crores was obtained for two Foreign Liquor and one Country Liquor shops for the period from 27th April 2006 to 31<sup>st</sup> March 2007 (339 days). The reserve price of Rs. 2.70 Crores for 2007-08 and Rs. 3.24 Crores for 2008-09 was to be arrived at by increasing 20% in the value of shops by taking into account the proportionate value for the entire previous year. It was however, seen that the reserve price was fixed by the department at Rs. 2.68 Crores and Rs. 3.22 Crores for the respective years.

Thus, there was short realisation of revenue of Rs. 3.03 Crores due to incorrect fixation of reserve price. The matter was reported to the



department and the government in February 2009. The EC stated (August 2009) that the reserve price was fixed after addition of 20% in the price fixed for previous year.

The fact remains that the reserve price of shop had to be calculated by adding 20% of annual value of the shops received in the previous year, which was not done. However, the EC did not offer any comments in respect of fixation of reserve price on pro rata basis in case of a shop of Badwani district. The reply from the government has not been received (October 2009).

#### ***8.10 Non-Realisation of Excise Duty Due to Non-Disposal of Sprit or Foreign Liquor***

According to MP Country Sprit rules, Country Sprit shall be subjected to chemical analysis and if found substandard or unfit for human consumption, it shall be redistilled or rejected and destroyed as the case may be, under the orders of the EC or an officer authorised by him in this behalf.

Further, as per MP Foreign Liquor rules, the EC may order cancellation of registration of a label, if liquor sold under any such registered label is found substandard or if he is convinced that the label is obscene, outrageous or hurtful. Consequent upon such cancellation, the EC may also pass suitable orders regarding disposal of stock of the cancelled label held by the licensee.

The rules also provide that the licensee shall place the entire stock of sprit and bottled Foreign Liquor is under the control of ACE/DEO after the expiry or cancellation of the license in form FL-9/FL-9A. However, he can be permitted to dispose of such balances to any other licensee within 30

days of such expiry or cancellation, failing which the EC may ask any other licensee of the state to purchase such stock or may give necessary direction for the disposal of the stock.

***Test check of records in four district excise offices*** including one FL-9 licensee 6 between June and November 2008 revealed that in all these cases the department had not taken any step for cancellation of registration of the labels containing Foreign Liquor made from and to dispose of the stock even after lapse of one to three years. This resulted in non-realisation of revenue of Rs. 1.28 Crores.

After the cases were pointed out, the DEO, Mandla stated (October 2008) that audit would be intimated after taking action for disposal of spirit. The DEO (distillery), Dhar stated (June 2008) that action for re distillation of Foreign Liquor manufactured from RS was being taken. The DEOS, Bind and Sager stated (September and November 2008) that the renewal of licenses were under consideration in the office of the EC and the action for disposal of stock would be taken as per rule. The fact remains that action for disposal of the stock had not been taken till it was pointed out in audit. Further report has not been received (October 2009).the cases were reported to the EC and the government in February 2009; their replies have not been received (October 2009).

### ***8.11 Non-Maintenance of Minimum Stock of Spirit at Distillery***

The Madhya Pradesh distillery rules require the licensee to maintain the prescribed minimum stock of spirit at the distillery. In the event of failure, the EC may impose a penalty not exceeding Rs. 5/ PL on the quantity found short of the minimum prescribed stock. The penalty shall be payable by the

licensee irrespective of the fact whether any loss has actually been caused to the government.

***Test check of records in two distilleries in district Dhar in June 2008*** revealed that the distillers did not maintain the prescribed minimum stock of sprit on 23 occasions between January and February 2008. The DEOS, however, failed to initiate any action to take up the matter with the EC. The EC may impose maximum penalty of Rs. 1.16 Crores on 23.23 Lac PL of sprit found short of the minimum prescribed stock.

The matter was reported to the department and the government in February 2009. The EC stated (august 2009) that supply of Country Liquor to shops was not affected due to non-maintenance of minimum stock. EC further stated that the cases were under process. Further development is awaited. The reply from the government has not been received (October 2009).

### ***8.12 Non-Recovery of Excise Duty/Non-Imposition of Penalty on Inadmissible Wastage in Transport and Export of Foreign Liquor/Beer***

The Madhya Pradesh Foreign Liquor rules provide that the maximum wastage allowance for all exports of bottled Foreign Liquor/Beer shall be 0.25% irrespective of the distance and for all transports it shall be 0.1% if the selling licensee and the purchasing licensee belong to the same district and 0.25% if they belong to different districts. If wastages/losses during the export or transport of bottled Foreign Liquor/Beer exceed the permissible limit, the prescribed duty on such excess wastage shall be recovered from the licensee. Further, as per amendment made by the State Government vide notification dated 3<sup>rd</sup> October 2008, on all deficiencies in excess of the limits allowed under rules, licensee shall be liable to pay

penalty at the rate exceeding three times but not exceeding four times the maximum duty payable per PL of Foreign Liquor at that time, as may be imposed by the EC or any officer authorised by him.

***Test check of records in five Foreign Liquor manufacturing units and one brewery*** between May 2008 and March 2009 revealed that during export and transport of Foreign Liquor, 7,603.98 PL of sprit and 60,556.19 BL of Beer was shown as wastage in excess of the admissible limit by the licensees in 1,718 cases during the period between April 2007 and February 2009. As such, duty of Rs. 28.12 Lac on excess wastage of 4,746.99 PL of sprit and 55,211.69 BL of Beer up to 2<sup>nd</sup> October 2008 was recoverable from the licensees and on remaining wastage of 2,856.99 PL of sprit and 5,344.5 BL of Beer, even the minimum penalty of Rs. 56.24 Lac was not imposed on the licensees. It was, however, seen that only an amount of Rs. 6.23 Lac was recovered from the licensee in Gwalior district and no action was taken to recover the remaining amount of duty of Rs. 21.89 Lac and to impose the minimum penalty of Rs. 56.24 Lac. This resulted in no realisation of revenue of Rs. 78.13 Lac.

After this was pointed out, the EC stated in October 2009 that an amount of Rs. 11.49 Lac had been recovered in case of units of Dhar and Gwalior districts and that action for recovery of the remaining amount was in progress. The matter was reported to the government between January and April 2009; the reply has not been received (October 2009).

### ***8.13 Non-Realisation of Revenue Due to Resale of Liquor Shops***

The conditions of sale of liquor shops through tendering process during 2007-08 provide that if any highest bidder withdraws his offer, fails to pay the basic license fee/security deposit in time or breaches any condition of

sale, shop will be resold. In case of any loss suffered by the government due to resale, such loss will be recoverable from the defaulter.

***Test check of records of DEO, Damoh in August 2008*** revealed that a successful bidder failed to pay the prescribed amount of basic license fee and security deposit of three liquor shops for the year 2007-08. As a result, the shops had to be resold. The government suffered a loss of Rs. 64.57 Lac due to the resale after taking into account the forfeiture of earnest money deposit (EMD) of Rs. 3.43 Lac. However, no action was taken by the department for recovery of this amount from the defaulter resulting in no realisation of revenue of Rs. 64.57 Lac. After the case was pointed out, the EC stated in October 2009 that action for recovery was in progress.

The matter was reported to the government in January 2009; the reply has not been received (October 2009).

#### ***8.14 Short Levy of Transport Fee on Poppy Straw Due to Incorrect Application of Rates***

Rule 37-H (2) of Narcotic Drugs and Psychotropic Substances (Madhya Pradesh) Rules, 1985 provides for levy of transport fee at the rate of Rs. Five per Kg for transport of Poppy Straw from a PS-29 licensee to another PS-2 licensee. Further, transport fee at the rate of Rs. 25 per permit is chargeable when Poppy Straw is transported from farmers to wholesale licensee or transported from one go down to another go down of the same licensee.

***Test check of records of DEOS, Neemuch and Shajapur in June 2008*** revealed that 1005359 Kg. of Poppy Straw was transported from 22 wholesale licensees to other licensees. It was seen that transport fee of Rs. 9,600 at the rate of Rs. 25 per permit were levied as against Rs. 50.27 Lac

liveable at the rate of Rs. 5/Kg. The incorrect application of rates resulted in short levy of transport fee of Rs. 50.17 Lac.

The matter was reported to the department and the government in January and February 2009. The EC stated (July 2009) that transport fee at Rs. Five per Kg was liveable for transport of Poppy Straw from PS-2 production district to any other PS-2 or PS-3 licensees. The transport fee in these cases was levied at the rate of Rs. 25 per permit which was chargeable in case of transportation from one go down to other go down of the licensee. The reply is not acceptable as separate license was issued to each shop of Poppy Straw and thus it was transported from one PS-2 to another PS-2 licensee. Hence, transport fee was liveable at the rate of Rs. 5/ Kg as per rule 37 (H) of the above rules. The reply from the government has not been received (October 2009).

### ***8.15 Incorrect Allowance of Wastage of Sprit in Re-Distillation***

Madhya Pradesh distillery rules do not provide for any allowance for wastage of rectified sprit during re-distillation for manufacturing extra neutral alcohol (ENA).

***Test check of records of one distillery of Dear district in June 2008*** revealed that 16.28 Lac BL of Rectified Sprit of 66 degree Oven Proof (OP) was redistilled to produce ENA between April 2007 and April 2008 and wastage of 19,100 BL/31,707.6 PL of RS was allowed which was not admissible. This resulted in non-realisation of excise duty of Rs. 44.39 Lac.

The matter was reported to the department and the government in February 2009. The EC stated (July 2009) that the loss was less than 2% prescribed under the rules. The reply is not acceptable as the provision of wastage of 2% is applicable in the case of re-distillation of liquor not fit for human consumption but it is not applicable in the case of re-distillation of

RS for manufacture of ENA. The reply from the government has not been received (October 2009).

### **8.16 Incorrect Allowance of Loss of Molasses**

The Madhya Pradesh Excise Act and Rules made there under do not provide any allowance on wastage of Molasses in transit, storage or otherwise.

a. ***Test check of records of one distillery of Khargone district*** in May 2008 revealed that the distillery used 4,950 Quintals of Molasses containing 2,135.43 Quintals of fermentable sugar in five setups in May 2008 which according to the norms, was capable to yield 1,96,032 PL of Alcohol. However, only 1, 76,594.7 PL of alcohol was obtained on account of wastage of 495 Quintals Molasses used in setup number 32. This resulted in short recovery of Alcohol of 19,437.3 PL involving excise duty of Rs. 27.21 Lac at the rate of Rs. 140/PL of Country Spirit. The department had not initiated any action to levy/recover duty from the distiller.

The matter was reported to the department and the government in February 2009. The EC stated (July 2009) that the Panchanama was prepared on the spot and the case is under consideration. The reply, however, does not explain why proposal for levy of duty was not sent along with the 10 means the strength of proof as ascertained by skies hydrometer or by any other instrument approved by the Excise Commissioner.

b. ***Test check of records of District Excise Officer (distillery), Chhatarpur*** in March 2009 revealed that 258 Quintals of Molasses was shown to have been used in the stock register of Molasses (D-5) during 4 to 6

November 2008 by the distiller for production of alcohol. But, the distiller neither recorded the process of production of alcohol from this stock of molasses in the fermentation and distillation register (D-9), nor accounted for any quantity of alcohol produced there from. This resulted in non-accountable/production of 10,006 PL alcohol involving excise duty of Rs. 14 Lac. Thus the government was deprived of the revenue of Rs. 14 Lac.

After the case has pointed out the DEO (distillery) stated (March 2009) that the entry of molasses was recorded twice in the records due to clerical mistake, which has been rectified. The reply is not acceptable as with each entry shown in the consumption of molasses column in register D-5, the corresponding figures showing closing balance were reduced which were duly authenticated by the DEO at periodic intervals. Hence question of double entry does not arise. The matter was reported to the EC and the government in April 2009; their reply has not been received (October 2009).

### ***8.17 Inadmissible Wastage of Sprit or Country Liquor***

The Madhya Pradesh distillery rules allow wastage of 0.1 to 0.2% on account of leakage or evaporation of sprit transported or exported in tankers from a distillery or warehouse to another distillery or warehouse. The rules also allow wastage of 1.5% per quarter for racking, storage, evaporation and others during the process of distillation and bottling of Country Liquor in manufacturing warehouse. In case of wastage beyond permissible limit, the EC or the officer authorised for the purpose may impose penalty at Rs. 30/PL. Further, the MP Country Sprit rules provide that in case of wastage of bottled Country Liquor beyond permissible limit



of 0.5% during transport duty at the prescribed rates shall be recovered from the licensee.

***Test check of records of 10 excise offices between December 2007 and December 2008*** revealed that penalty of Rs. 16.17 Lac was liveable on wastage of 53,890.2 PL of sprit beyond the permissible limit during export and transport on 326 permits from the distilleries to manufacturing warehouses of five districts during the period between November 2004 and April 2008.

Further, penalty of Rs. 3.33 Lac was also liveable on the distiller on excess wastage of 11,114.26 PL of sprit in racking, storage, evaporation and others during the quarter from October to December 2007 in Country Liquor warehouse, Bhopal.

Further, in 239 cases of five districts, duty of Rs. 3.00 Lac was recoverable for excess wastage of 2,510.833 PL of Country Liquor beyond the permissible limit during transport of bottled Country Liquor from manufacturing warehouses to storage warehouses during the period September 2004 to May 2008. It was, however, seen that only an amount of Rs. 9,315 out of Rs. 1.08 Lac was recovered by the department in Panna district and no action was taken for recovery of duty and to impose penalty in the remaining cases. This resulted in non-realisation of duty/penalty of Rs. 22.41 Lac.

After the cases were pointed out, the EC intimated (October 2009) that an amount of Rs. 2.19 Lac had been recovered in respect of three offices and action was in progress in remaining cases.

The matter was reported to the government in February 2009; the reply has not been received (October 2009).

### **8.18 Loss of Revenue Due to Failure in Timely Disposal of Foreign Liquor**

Madhya Pradesh Excise Act and Rules made there under provide that bottling shall be done when liquor is required for sale. Further, the samples of every batch of Foreign Liquor manufactured and ready for bottling shall be analysed in the laboratory before it is bottled. The officer-in-charge of the manufacturing or bottling unit may stop the issue of Foreign Liquor which he considers not of good quality and may, on every such occasion, take samples at the cost of the licensee for sending them for chemical analysis/test to the departmental laboratory or any other authorised laboratory.

**Test check of records of ACE, Bhopal in September 2008** revealed that 11,002.5 PL of Foreign Liquor involving duty of Rs. 19.80 Lac was bottled in a Foreign Liquor bottling plant (**Raj Breweries Ltd., Bhopal**) between February 2001 and November 2006 and was kept in the plant even after lapse of currency of the license (March 2007). No efforts were made by the licensee/department to dispose of this liquor bottled in excess of requirement during the currency of license even after a lapse of 4 to 74 months.

However, the liquor was destroyed by the department in July 2008 at the request of the licensee on the basis of analysis report of his own laboratory without conducting chemical analysis in the departmental or any other authorised laboratory. As such, bottling of liquor in excess of requirement and failure of the department in timely disposal and irregular destruction thereof resulted in loss of excise duty of Rs. 19.80 Lac.

The matter was reported to the department and the government in February 2009. The EC stated (July 2009) that the liquor was destroyed after carrying out chemical analysis which revealed that it was unfit for human consumption. The reply is not in consonance with the provisions of

the rules which provide that the destruction should not be carried out without conducting chemical analysis in the departmental or any other authorised laboratory. Besides, the liquor was manufactured long back between

February 2001 and November 2006 and the department failed to take any action to dispose of the liquor for more than six years, which ultimately led to the loss of revenue. The reply from the government has not been received (October 2009).

### ***8.19 Non-Levy of Penalty on Short Production of Alcohol***

Madhya Pradesh Distillery Rules, 1995 require the distillers to maintain minimum fermentable and distillation efficiencies at 84% and 97% respectively. Every quintal of fermentable sugar present in molasses as per departmental laboratory reports should yield 91.8 PL of alcohol. For this purpose, composite samples of the molasses are required to be drawn by the officer-in-charge of the distillery and sent for examination to the departmental laboratory. In case the distiller failed to maintain the prescribed efficiencies and recovery of alcohol, the EC may impose maximum penalty of Rs.30/PL. Further, as per Indian standard specification (ISS) there shall be three grades of molasses with minimum sugar contents of 50%, 44% and 40%.

#### ***a. Test Check of Records of One Distillery of Chhatarpur District***

2008 revealed that the distiller used 4,395.9 Quintals of Grade-I Molasses in eight setups in the months of April 2007 and February 2008, but the composite samples were not sent to the departmental laboratory for examination of fermentable sugar present in molasses. As per ISS

norms, 4,395.9 Quintals of Molasses should yield 1, 91,683 PL of alcohol whereas only 1, 61,819 PL of alcohol was obtained. The shortfall in recovery of 29,864 PL of alcohol involved duty of Rs. 41.81 Lac. Besides, the DEO (distillery) did not refer these cases to the EC for levy of penalty. This resulted in non-realisation of penalty of Rs. 8.96 Lac.

The matter was reported to the department and the government in February 2009. the EC stated (July 2009) that the hearing of the case was pending in his court. The reply from the government has not been received (October 2009).

- b. ***test check of records of two distilleries in May and June 2008*** revealed that as per analysis reports of departmental laboratory, the production of alcohol should have been 9,91,300.7 PL from 29,700 quintals of Molasses used between September 2004 and January 2008 whereas the actual production was 9,69,664.6 PL. Thus, short production of Alcohol of 21,636.1 PL due to non-maintenance of minimum efficiency of distillation by the distillers resulted in loss of revenue of Rs. 24.64 Lac in absence of any provision in the rules to recover the same. Besides, the DEO (distillery) did not refer these cases to the EC for levy of penalty. This resulted in no realization of penalty of Rs. 6.49 Lac.

After this was pointed out in audit, ***in case of M/s AABL Distillery, the DEO, Khargone*** stated (May 2008) that show cause notice had been issued to the distiller whereas in case of ***M/s Agrawal Distillery***, it was stated (June 2008) that case was under consideration in the EC office and action would be taken after decision of the case. Further report in the matter has not been received (October 2009).

It can be seen from the above cases that the penal measure prescribed by the government i.e. Rs. 30/ PL is not sufficient to cover the revenue

loss occurring due to short production of Alcohol. Thus, government needs to revisit the penal measures in the interest of revenue.

The matter was reported to the EC and the government in January 2009; their replies have not been received (October 2009).

### **8.20 Non-Recovery of Government Dues**

According to the provisions of the Madhya Pradesh Excise Act and Rules made there under, any licensed vendor of intoxicants may be required to purchase the intoxicants left by an outgoing licensee after the expiration, suspension or cancellation of his license, on payment of such price of intoxicant as the excise officer may determine. Further, in the event of enhancement of rates of duty by the government on intoxicants covered by various licenses, the licensees are liable to pay the differential duty within 30 days in respect of the stock held by them at the close of the day immediately preceding the day from which such enhancement was applicable. Government increased the rate of excise duty on Country Liquor and Foreign Liquor by Rs. 10/PL with effect from 1<sup>st</sup> April 2006.

**Test check of records of DEOS, Datia and Damoh** in August and November 2008 revealed that 18 Country Liquor and six Foreign Liquor shops of Datia district were disposed of in favour of retail vendors after being run departmentally from April to May 2004. Intoxicants valued at Rs. 9.37 Lac were transferred to the new vendors without effecting recovery of the value from them. The department however, failed to take any action against the officers responsible for non-recovery of the revenue.

Further, there was a balance stock of 46,152.5 PL of Country Liquor and 2,352.7 PL of Foreign Liquor in possession of licensees of seven retail shops of Damoh district at the close of 31<sup>st</sup> March 2006 on which the differential

duty of Rs. 4.85 Lac was payable by the licensees. It was however, seen that Rs. 38,563 against Rs. 4.85 Lac was paid by the licensees and Rs. 4.46 Lac remained un-recovered. No action was taken by the department to realise the balance amount. This resulted in non-realisation of government dues of Rs. 13.83 Lac.

After this was pointed out, DEO, Datia stated (November 2008) that required information would be collected from the concerned officers and would be submitted to audit while DEO, Damoh stated (August 2008) that action to recover the balance amount of Rs. 4.46 Lac was being taken. Further replies have not been received (October 2009).

The matter was reported to the EC and the government in January and February 2009; their replies have not been received (October 2009).

### ***8.21 Absence of Provision for Recovery of Losses Suffered During Resale of Shops under the Lottery System***

The condition of sale of liquor shops through tendering process provides that if the highest bidder takes back his offer and fails to pay basic license fee/security deposit in time or breaches any condition of sale, the shop audit report (revenue receipts) for the year ended 31<sup>st</sup> March 2009 shall be resold. In case of any loss suffered by the government due to resale, such loss shall be recoverable from the defaulter. As per conditions for sale of retail liquor shops through lottery system for the year 2005-06, the shop which could not be sold under the lottery system is to be sold through tendering process. Conditions for sale notified by the government under the lottery system do not provide for such recovery of losses suffered by the government during resale of shops.

***Test check of records of DEO, Tikamgarh in July 2008*** revealed that an applicant was declared successful under the lottery system for allotment of three liquor shops at annual value of Rs. 28.90 Lac. The successful bidder subsequently failed to deposit the basic license fee and security deposit within the prescribed date and shops had to be resold for Rs. 18.83 Lac. In this process of resale of shops, government suffered loss of Rs. 9.84 Lac, after taking into account the forfeiture of earnest money deposit of Rs. 23,000 as there was no provision for recovery of loss suffered by the government due to resale of shops under the lottery system, no action could be taken against the defaulter to recover the differential amount of Rs. 9.84 Lac. The matter was reported to the department and the government in January 2009. The EC stated (July 2009) that there was no provision for recovery of such amount. The reply does not throw any light on the reasons for inaction of the department/government to take remedial action on this issue due to which there is recurring loss of revenue despite the fact being highlighted repeatedly by audit in consecutive audit reports for the year 2006-07 and 2007-08. The reply from the government has not been received (October 2009).

### ***8.22 Non-Recovery of Penalty Imposed For Breach of Rules***

The Madhya Pradesh Excise Act provides that the EC or the Collector, in the event of any breach or contravention of the rules or conditions of the license may impose penalty. Further, the penalty imposed is recoverable from the licensee and in case of non-deposit; it may be recovered from the security amount deposited by him.

***Test check of records of DEO, Damoh in August 2008*** revealed that penalty of Rs. 7.81 Lac was imposed by the Collector in 1,041 cases of breach of rules or conditions of license by different licensees during the

period 2005-06 to 2007-08. This amount of penalty was not recovered from the licensees even after the expiry of their licenses. The scope of recovery is remote as the security amount deposited by them was also refunded.

The matter was reported to the department and the government in February 2009. The EC stated (July 2009) that Rs. 49,250 had been recovered and action for recovery of the remaining amount is in progress. Report on recovery of balance amount and reply from the government have not been received (October 2009).

### ***8.23 Short Recovery of Basic License Fee***

As per notification issued by the State Government dated 8 January 2007, the liquor shops for the year 2007-08 were to be renewed by increasing 20% in the annual value of shops for the year 2006-07.



**\*\*\*\*\***

*“After reviewed various provisions, notification and publication relevant to our study & analysis and comparing all relevant data of excise duty and taxes levied on intoxicants items we have reach very closely to achieving our topic which is Analysis of Revenue Received From Tax and Duties Levied on Intoxicant Items in Madhya Pradesh and Probability of Its Increasing From 2005 to 2010.*

*After above study we have received some findings for less collection of excise duty in MP. Further we have gained knowledge to improve the collection of state excise duty, which is based on data collected from states publication, websites, and discussion with officers of excise department, owner of distilleries and manufactures of liquor”.*

**\*\*\*\*\***

***CHAPTER-IX***  
***FINDINGS AND SUGGESTIONS TO***  
***IMPROVE THE COLLECTION OF***  
***STATE EXCISE DUTY***

## CHAPTER-IX

### Findings and suggestions to improve the Collection of State Excise Duty

#### *9.1 Findings*

*The analysis of the working of the state excise department reveals the following points for initiating policy action by the government.*

- a.* The process of fixing the consideration money by the excise department appears to be faulty. In 2005, the State Government gave up the tender-cum-auction procedure and opted for departmental fixation of the consideration money. Country and Foreign Liquor shops would be allotted on payment of prescribed license fee after inviting applications on the basis of minimum quantity. In case of more than one application the allotment would be made through lottery. The earlier practice was more market driven than the new one. It is learnt from the field that the excise department staff estimated the consideration money without any clear database on the liquor consuming population and the extent of their consumption. Thus an independent agency is entrusted with the task of entrusting the consideration money.
- b.* The revenue collection from CS and OS shops in the state appears to be around 30 Crores in the year 2011-12. Mostly these units cater to the need of the rural people. It is suggested to adopt prohibition with regard to CS and OS liquor sale in the state as it will not be a significant revenue problem. The benefit of this policy in raising the productivity in rural areas is likely to be tremendous. The government is required to make up the collection from urban areas by imposing more duty on IMFL and Beer.
- c.* In 2010-11, the receipt of the Government from about 700 Foreign Liquor (off) shops towards consideration money amounts to Rs. 15

Crores which means each shop gives on an average 2 Lac per annum to the state. As FL-1 shops are mostly located in urban areas, a Foreign Liquor shop caters to the need of almost 8 to 10 thousand populations. The average sales of an FL shop are around Rs. 10,000/ day as observed in the field. The annual sales thus come to around Rs. 40 Lac. Thus there appears to be a scope for higher consideration money toward granting licenses to Foreign Liquor shops in the state. This can be achieved if tender-cum-auction process is practiced sincerely without any artificial restriction.

- d.* In course of field observation, it is noticed that some FL shops are trading illegal brands and items those are not rooted through OSBC thus avoiding government revenue. To check this, it is necessary to constitute civil society vigilance units (CSVU) to catch hold of these culprits. The department vigilance units are not effective due to their own involvement in these illicit trades.
- e.* Collection of license fees and duties in too many ways has been creating a lot of confusion in the Excise Policy of the state. Collecting license fee for selling units and excise duty on final products will be sufficient to check tax evasion and complication. Complicated natures of SED need to be simplified. For example LRF (label registration fee) and EALF are almost similar in nature. It could be merged into one.
- f.* Production of liquor from Mohua flower as envisaged for an out still shop needs to be centralized and sold in branded poly packs of liquor. At present, the poly packs available have no information about the content, price and date of manufacture. Such a system gives scope for adulteration and subsequently death of the persons consuming it.
- g.* It is reported by many vendors that the decision to switch over to OS liquor in 20 districts out of the 30 districts is not based on any clear

reason. In most of these districts CS liquor is also available. The vendors are not using the technique in which Mohua flower is used as the main input. Rather the earlier 'molasses' based production is continuing in most of these districts. The use of molasses violates main objectives of present Excise Policy of the State Government.

- h.* The percentage of expenditure on the collection of state excise is abnormally higher than the all India average percentage. We observed that in the finance accounts there is no separate head showing 'collection charges' as is available in case of other taxes like taxes on sales/trade, taxes on vehicles etc., and the cost of liquor paid to the manufacturers from the budget provisions for expenditure was also being booked under the head '2039-state excise' along with other expenditures. The government may consider opening a separate sub-head for collection charges as is done for other taxes for effectively monitoring the functioning and the performance of the department. This will also enable the state to compare the cost of collection position vis-a-vis the all India average percentage of expenditure on collection. Although this was pointed out earlier but no corrective measures were taken in this regard.
- i.* The ever- rising number of catches of illicit liquor trade indicates their parallel presence. What is necessary is to reduce their number by making the trade more law-abiding rather than law evading. There is a need for reforming the excise department fully with adequate infrastructure and powers to prevent the setting of illicit liquor trade in the state.

## 9.2 Results of Audit

Test check of the records of 20 units relating to state excise receipts revealed underassessment, loss of revenue, non-levy of penalty, etc. Amounting to 155.25 Crores in 14,151 cases which can be categorised as given in the following table:

(Rs. In Crores)

S. N.	Categories	No. of Cases	Amount
1	Loss of revenue due to short production of Alcohol	4,336	19.34
2	Accumulation of arrears of License fees/auction fees	37	5.10
3	Non-levy of penalty due to breach of License conditions	549	0.13
4	Non-levy of penalty/Duty on excess wastages of Sprit / Liquor	197	4.38
5	Loss of revenue due to acceptance of tenders at lower rates	2,581	0.46
6	Other observations	6,451	125.84
	<b>Total</b>	<b>14,151</b>	<b>155.25</b>

**Table-26: Results of Audit**

Source: Computed from collected data

During the course of the year, the department accepted underassessment and other deficiencies of 99.46 Crores in 9,079 cases, which were pointed out in audit during the year 2010-11. An amount of 85 Lac was realised in 731 cases during the year 2010-11.

Audit noticed that the systems instituted by the excise department for collection of excise receipts on liquor were deficient. Monitoring are the key areas such as verification reports on exported liquor, maintenance of minimum stock of sprit in distilleries, wastages during export, transport, storage and manufacture of liquor, etc. Internal audit, an important component of the internal control mechanism, was also rendered ineffective due to lack of follow up on audit observations. Additionally, the department failed to follow the provisions of the act/rules and instructions issued by the government in many areas like grant of licenses for

manufacture and sale of liquor, collection of license fee, collection of fee on transport and import of liquor or sprit etc. Resulting is significant amount of none or short realisation of excise receipts on liquor.

### **9.3 Recommendations**

***The Government may consider implementation of the following recommendations for rectifying the system and compliance issues. This recommendation based on data received from various sources and discussion with relevant people these are:***

- a.*** Prescribing the maintenance of appropriate records for monitoring of receipt of verification reports and a periodical return to be submitted to the EC for effective control and monitoring of such cases;
- b.*** Prescribing the maintenance of appropriate records and returns for effective monitoring of verification reports in such cases of transport of Foreign Liquor. It may also prescribe a time limit for the submission of verification reports to the EC regarding transport of liquor;
- c.*** Prescribing the maintenance of appropriate records for effective monitoring of wastages during transport and export of liquor. Time limit for effecting recovery of excise duty on inadmissible wastages and periodical return for monitoring at the EC level may also be prescribed;
- d.*** Prescribing a time limit for submission of cases of inadmissible wastages for levy of penalty to the competent authority. It may also prescribe maintenance of appropriate records and submission of periodical returns for effective monitoring of wastages during export of spirit;
- e.*** Prescribing the submission of periodical returns for effective control and monitoring of disposal of Foreign Liquor stock by the EC; and
- f.*** Providing for recovery of loss suffered due to resale of liquor shops from the defaulters under the lottery system.
- g.*** ***Last but importantly the cost of collection of revenue should not more than 10%. Now it is about 22% (which is very higher) is showing in Table-24.***



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only 1/2 of 2 is related to M.P. } → from O.K.S.A.  
No data from statistics Dept of Madhya Pradesh why?

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Dainik Bhaskar

Naidunia

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