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**Report of the  
Comptroller and Auditor General of India  
on  
Pricing of Production and Sale of Liquor  
(State Excise Department)**

**for the year ended 31 March 2018**

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## *Preface*

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2018 contains the results of Audit of 'Pricing of Production and Sale of Liquor'. It has been prepared for submission to the Governor of Uttar Pradesh under Article 151 of the Constitution of India.

The report emanates from the scrutiny of files and documents pertaining to the State Excise Department. Excise Policies of the neighbouring states of Uttar Pradesh viz. Uttarakhand, Rajasthan, etc. were also referred to for drawing out comparisons and in arriving at conclusions and recommendations. For benchmarking purposes, the excise policies of States such as Karnataka, Telangana and Tamil Nadu were also referred to.

The instances mentioned in this Report are those, which came to notice in the course of test audit of the State Excise Department of Government of Uttar Pradesh (GoUP) for the period 2008-18.

The Audit has been conducted in conformity with the Regulations on Audit and Accounts and the Auditing Standards issued by the Comptroller and Auditor General of India.



## EXECUTIVE SUMMARY

This Audit Report brings out points emerging from the audit of implementation of excise policy in the State of Uttar Pradesh over the last decade (2008-09 to 2017-18). The Report brings out that the Excise Department allowed the distilleries and breweries to fix arbitrarily high Ex-Distillery and Ex-Brewery Prices of Indian Made Foreign Liquor (IMFL) and Beer being sold in the State during the period, when compared to the EDPs/ EBPs of identical/similar brands being offered in the neighbouring states. This had two impacts:

(i) Such high EDPs/ EBPs led to a situation where high margins were accruing to the distilleries/breweries, wholesalers and retailers, at the cost of the State exchequer as the consumers were paying a much higher price than the consumers in the neighbouring states. If indeed the consumers had to pay much higher prices, then these margins could have been levied and collected as excise revenue, by increasing the excise duty, benefitting the state rather than private distillers/brewers;

and

(ii) The much higher Maximum Retail Prices in all likelihood acted as incentive for liquor getting smuggled from neighbouring states where the prices were much lower. Thus, while the State Government claimed to create a special zone to prevent smuggling of liquor from other states into Uttar Pradesh, this actually led to a situation which encouraged smuggling into state because of the high price differential. Nothing else would seem to explain the decline in liquor in the state.

The State Government did not make any efforts to arrest the decline in the sales of IMFL and investigate the root cause for such decline with a view to safeguard the revenue interests of the state. It was only in 2018-19 that the State Government introduced a provision in the policy that capped the EDP/ EBP being offered by the distilleries and breweries not above that offered in the neighbouring states. The policy intervention led to a sharp increase in the excise revenue by 47.84 per cent (from ₹ 12,652.87 crore to ₹ 18,705.61 crore) during the period from April 2018 to January 2019 compared to the same period in the previous year, clearly establishing that the policies in the earlier years had resulted in extending a huge financial benefit to the Distilleries, Breweries, Wholesalers and Retailers at the expense of both the consumers and the state exchequer.

Audit also noted other irregularities in levy and collection of excise revenue. The total financial implication of this Audit based on a test check of 13 distilleries/breweries and nine bonds in Uttar Pradesh is ₹ 24,805.96 crore. Some of the major findings are detailed below:

<b>Irregular creation of Special Zone</b>	As per the Excise policy 2009-10, a special zone (Meerut) was created to check smuggling of liquor into the state from the neighbouring states. However, two border districts (Aligarh and Mathura) were not included and seven districts which did not share borders with any of the neighbouring states were included in the special zone. Therefore, creation of the special zone was not based on any clear criteria.
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Moreover, creation of special zone did not have desired impact, yet it continued over next nine years.

(Paragraph 2.2)

**Licensing of retail shops** Licenses for retail shops in all the four zones were renewed continuously for nine years (2009-18) without resorting to any form of open tendering on annual basis eliminating any possibility of competition in production and sale of liquor at reasonable rates.

(Paragraph 2.2)

**Excess fixation of EDP/EBP** The State Excise Policies (2008-18) allowed unchecked discretion to the distilleries/ breweries in determining the *ex-distillery* and *ex-brewery price* of IMFL and Beer, allowing them to inflate the *ex-distillery* and *ex-brewery price* of both the *identical* and the *similar* brands of liquor (IMFL and Beer) much higher (46 and 135 *per cent*) as compared to the neighbouring states leading to accrual of undue gains to them to the tune of ₹ 5,525.02 crore during 2008-18 at the cost of the State Exchequer/consumers. Undue advantage also accrued to the wholesalers and the retailers (in case of IMFL) to the tune of ₹ 1,643.61 crore due to higher EDP.

(Paragraphs 4.1.1, 4.1.2 and 4.1.4)

**Undue benefit to distillers** During 2008-18, the distilleries wrongly calculated the EDP of IMFL bottle sizes of 180 ml and 90 ml at 187.5 ml and 93.75 ml respectively. The Excise Duty was however calculated by the Excise Commissioner at the rates for 180 ml and 90 ml only. The Excise Department could not detect this malpractice for 10 years and lost Additional Excise Duty worth ₹ 227.98 crore during 2008-18.

(Paragraph 4.2.1)

**Incorrect computation of Maximum Wholesale Price of IMFL** Incorrect computation of MWP of IMFL by a distiller could not be detected by the Excise Department resulting in short realisation of additional excise duty of ₹ 4.85 crore during 2013-14 on sale of 97.15 lakh bottles.

(Paragraph 4.2.3.1)

**Short fixation of Minimum Guaranteed Quantity (MGQ) of Country Liquor** Short fixation of MGQ of country liquor during 2011-18 led to potential revenue loss of ₹ 3,674.80 crore.

(Paragraph 5.1)

**Non-fixation of MGQ of IMFL and Beer** Unlike country liquor, the Excise Department did not fix MGQ of lifting of IMFL and Beer leading to potential revenue loss amounting to ₹ 13,246.97 crore.

(Paragraph 5.2)

### Impact of Audit Observations

During the scrutiny of Excise Policies of different years, it was found that the Department had taken action to rectify some of the irregularities pointed out by the audit during the course of audit, and also in the previous years' reports. The status is depicted in the following Table:

Chapter No.	Title of the Chapter	Para No.	Audit observation	Action taken by the Department
3	Licensing of Retail Shops	3.1	Irregular creation of Special zone	Special Zone was abolished by the department from the year 2018-19
		3.2	Non-achievement of objectives of creation of the Special Zone	-do-
4	Pricing of Liquor	4.1	Discretionary determination of EDP/ EBP for IMFL and Beer	As per Note 1 of para 2.5 and 4.5 of excise policy for the year 2018-19 EDP/ EBP of any brand should not be more than EDP/EBP of neighbouring states.  As per Para 2.2.6 of Excise Policy 2019-20, if certificate of CA regarding EDP was found false, ₹ one lakh from the security should be forfeited along with cancellation of brands registration.
		4.1.1	Fixation of EDP of IMFL	-do-
		4.1.2	Fixation of EBP of Beer	As per Note 1 of para 4.5 of excise policy for the year 2018-19 EDP/ EBP of any brand should not be more than EDP/EBP of neighbouring states.
		4.1.4	Benefit to Wholesalers and Retailers	-do-  As per Para 2.2.6 of Excise Policy 2019-20, if certificate of CA regarding EDP was found false, Rupees one lakh from the security should be forfeited along with cancellation of brands registration.



Chapter No.	Title of the Chapter	Para No.	Audit observation	Action taken by the Department
		4.2	Loss of additional excise duty due to wrong computation of EDP, wholesalers'/ retailers' margin and wrong computation of maximum whole sale price of small bottles of IMFL	As per Note 3 of Para 2.2.6 of Excise Policy 2019-20, system of calculation of EDP of 375 ml and 180 ml were corrected as per audit observation.
		4.3	Undue benefit to the distilleries/breweries by fixing higher additional costs of bottles/ cans, labels and PP (Pilfer Proof) Caps for small packs of Indian Made Foreign Liquor (IMFL)/ Beer	No additional amount was awarded for PP cap of small bottles in the excise policy of the year 2019-20 for IMFL.
5	Minimum Guaranteed Quantity (MGQ)	5.1	Short fixation of MGQ of Country Liquor	As per para 1.9 of Excise Policy of 2018-19, if MGQ of CL shops were more than six <i>per cent</i> of previous years MGQ, shops can be renewed. No rationalization of enhancement of MGQ was provided in the Excise Policy.
		5.2	No provision of Minimum Guaranteed Quantity (MGQ) for IMFL and Beer	<b>IMFL</b> As per para 2.4 of Excise Policy of 2018-19, if consideration fee of IMFL shops were more than 40 <i>per cent</i> of previous years' consideration fee, shops can be renewed. This shows that there is a provision of indirect fixation of minimum guaranteed quantity (MGQ). <b>Beer</b> As per para 4.4 of Excise Policy of 2018-19, if consideration fee of Beer shops were more than 30 <i>per cent</i> of previous years' consideration fee, shops can be renewed. This shows that there is a provision of indirect fixation of minimum guaranteed quantity (MGQ).

**Summary of Recommendations:**

- Specific measures and suitable provisions may be included in the Excise policies in future to regulate ex-distillery/ ex-brewery price of IMFL and Beer by comparing policies and procedures adopted in this regard by various states.
- Undue benefit to distilleries/breweries, wholesalers and retailers on account of higher EDP/ EBP was worked out by Audit for identical/ similar brands of IMFL/ Beer sold by test-checked distilleries/breweries. The Department needs to assess and recover the actual amounts involved through a thorough investigation and also fix the accountability of those responsible for allowing undue benefit to the distilleries/breweries, wholesalers and retailers at the cost of the state exchequer.
- The Department should consider fixing MGQs for IMFL and Beer in the forthcoming excise policies.
- Internal Audit and Vigilance Wings should be strengthened to ensure reasonable and effective checks as part of a more robust internal control structure.



## CHAPTER-1: GENERAL

### 1.1 Introduction

Excise revenue constituted 14.78 *per cent* of the total revenue raised by the State Government in 2017-18. Our audit aimed at assessing whether the State Excise Department was able to safeguard revenue interests of the State.

This Chapter presents an overview of the trend of the excise receipts raised by the Government of Uttar Pradesh, the audit objectives, the audit criteria and the scope and methodology adopted in the present report. Chapter 2 and 3 highlights deficiencies in excise policies and irregular creation of special zone. Chapter 4 deals with Pricing of Liquor, other irregularities in calculations and its impact on receipts. Chapter 5 deals with short realisation of excise revenue on account of Minimum Guaranteed Quantity (MGQ).

### 1.2 Trend of State Excise Receipts

The details of both the State Excise revenue budget estimates and the revenue realised there against during 2008-18 are indicated in **Table - 1.1** below:

Table -1.1

(₹ in crore)				
Year	Budget estimates fixed by the Finance Department	Actual receipts	Percentage of excess (+)/ shortfall (-) between budget estimate and actual receipts	Percentage of variation over actual receipts of previous years (excess)
2008-09	5,040.00	4,720.01	(-) 6.35	16.47
2009-10	5,176.45	5,666.06	(+) 9.46	16.73
2010-11	6,763.23	6,723.49	(-) 0.59	16.26
2011-12	8,124.08	8,139.20	(+) 0.19	15.47
2012-13	10,068.28	9,782.49	(-) 2.84	20.19
2013-14	12,084.00	11,643.84	(-) 3.64	19.03
2014-15	14,500.00	13,482.57	(-) 7.02	15.79
2015-16	17,500.00	14,083.54	(-) 19.52	4.46
2016-17	19,250.00	14,273.49	(-) 25.85	1.35
2017-18	20,593.23	17,320.27	(-) 15.89	21.35

Source: Finance Accounts of the Government of Uttar Pradesh.

The above table indicates that the variation between the actual receipts and the budget estimates ranged between (-) 25.85 *per cent* (in 2016-17) and (+) 9.46 *per cent* (in 2009-10) during the period 2008-18. The State Excise Department stated (September 2018) that the Budget Estimates could not be achieved during 2017-18 due to substantial smuggling from the neighbouring states on account of higher maximum retail price (MRP) of IMFL and Beer in UP in comparison to that in the neighbouring states, and due to non-operation of liquor shops located near the Highways.

The rationale for such inflated projections (revenue estimates) in successive annual Budgets could not be analysed due to non-production of relevant records by the Finance Department, Government of Uttar Pradesh despite repeated requisitions, and a meeting with the Additional Chief Secretary, Finance (July 2018). The matter was also brought to the notice of the Chief Secretary, UP (August 2018). However, audit could not access the relevant records of the Finance Department to ascertain rationale for budget estimates.

### **1.3 Audit objectives**

Audit aimed to ascertain:

1. Whether the State Government was able to safeguard its revenue interest, compared to other states of the country;
2. Whether the existing internal control mechanism in the State Excise Department was effective enough to ensure the genuineness of EDP/ EBP being offered by the distilleries/breweries, and whether the calculations of EDP/ EBP, wholesalers' margins, retailers' margins, and additional excise duty were reasonable; and
3. Whether the Excise Department had adequate and sufficient procedures for allotment of minimum guaranteed quantity (MGQ) of country liquor, IMFL and Beer, and for ensuring correct realisation of the due excise duty.

### **1.4 Audit criteria**

Audit sourced the audit criteria from the UP Excise Act, 1910 and the rules made there under, the State Excise Policy as amended from time to time, notifications, circulars and government orders issued by the State Government and the Excise Department from time to time, the Excise Policies of states such as Rajasthan, Uttarakhand, Delhi, Punjab, Haryana, Madhya Pradesh, Karnataka, Tamil Nadu and Telangana, EDP/ EBP of identical/ similar brands of IMFL and Beer in both Uttar Pradesh and in the neighbouring states<sup>1</sup> during the period 2001-18.

### **1.5 Audit scope and methodology**

- Audit compared the excise policies of UP with those of its neighbouring states (Rajasthan, Uttarakhand, Delhi, Haryana, Punjab and Madhya Pradesh) as well as with those of some southern states (Karnataka, Tamil Nadu and Telangana) to ascertain any revenue loss to the State Government due to formulation of inappropriate policies and presence of systemic deficiencies which were prejudicial to the revenue interest of the State.

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<sup>1</sup> For the purpose of audit examination, the minimum of EDP/EBP of a particular brand in the neighbouring states was used for comparison with the EDP/EBP of the identical/similar brands in Uttar Pradesh.



- Audit scrutinised the records of the offices of the Principal Secretary, Excise, and of the Excise Commissioner (EC) for 2008-18 and of 13 distilleries/ breweries units<sup>2</sup> and nine bonds<sup>3</sup>.
- Audit also collected the information and records related with the balance sheets of one distillery from the State Excise and the Commercial Tax Departments.
- The objectives, scope and methodology of Audit were discussed with the Principal Secretary, State Excise Department in an entry conference held on 4 April 2018. Audit findings were also discussed with the Principal Secretary, State Excise Department and the Excise Commissioner on 13 July 2018 to ascertain the views of the State Government. However, they have not ratified the minutes of the meetings till date (March 2019). The draft report was forwarded to the State Government and the Commissionerate in June 2018 and March 2019. Their replies have not been received as yet (March 2019).

## 1.6 Acknowledgement

Audit acknowledges the cooperation extended by the State Excise Department in providing necessary information and records.

## 1.7 Coverage of this Report

This Report contains five chapters on “Pricing of production and sale of liquor” involving financial effect of ₹ 24,805.96 crore. These are discussed in the succeeding Chapters 2 to 5.

<sup>2</sup> **Aligarh** (Wave Distillery & Breweries Ltd.-Distillery, Wave Distillery and Brewery Ltd.-Brewery), **Ghaziabad** (Modi Distillery, Modinagar-Distillery; Mohan Meakin Ltd., Mohan Nagar-Distillery; Mohan Meakin Ltd., Mohan Nagar-Brewery, **Gorakhpur** (Saraya-Distillery), **Meerut** (United Sprit Ltd. Unit-Distillery, Daurala Chini Mills-Distillery, Sab Miller-Brewery), **Rampur** (Radico Khaitan Ltd.- Distillery), **Shahjahanpur** (United Sprit Ltd. Unit Roja-Distillery), **Unnao** (Unnao Distillery & Breweries Ltd.-Distillery, Mohan Gold Water-Brewery).

<sup>3</sup> **Ghaziabad** Beam Global Sprints & Wine India Pvt. Ltd. Alwar Rajasthan-BWFL 2A, Bacardi India Pvt. Ltd. Karnataka-BWFL 2A, Bacardi India Pvt. Ltd. Udham Singh Nagar Uttarakhand-BWFL 2A, United Sprints Ltd. Lessee of Chandigarh distillery and Bottlers Ltd Bannaor, Punjab-BWFL 2A, United Sprints Ltd. Lessee of Moonak distillery and Bottlers Ltd Moonak, Punjab-BWFL 2A **Lucknow** Pernod Ricard India Pvt. Ltd. Gwalior-BWFL 2A, Doon Valley Breweries Ltd. Aurangzebpur, Roorkee, Haridwar-BWFL 2B, Basantar Breweries Ltd. Samba Jammu, -BWFL 2B, Deewan Modern Breweries Ltd. Rajasthan-BWFL 2B. **(Bonds are where bottled stocks of IMFL and Beer are kept in the Uttar Pradesh without paying duties).**

## CHAPTER-2: EXCISE POLICY

### 2.1 Introduction

The annual Excise Policy is formulated by the Excise Commissioner and the Principal Secretary, Excise Department, the Head of the Department for administering the production, pricing and sale of liquor during a given year. The draft policy is then submitted to the Cabinet for approval. Upon approval by the Cabinet, the Excise Policy is issued by the Principal Secretary.

The Excise Policies announced during the period (2001-18) mainly contained provisions related to determination of the Ex-distillery price (EDP)/ Ex-brewery price (EBP) for IMFL and Beer, excise duty, additional excise duty, Wholesalers' and Retailers' margins, penal provisions to enforce excise policies, settlement of liquor shops, fixation of minimum guaranteed quantity (MGQ) of country liquor, creation of a special zone, etc.

### 2.2 Implementation of excise policies of Uttar Pradesh (2001-02 to 2019-20)

Audit reviewed the excise policies of the State of Uttar Pradesh which were implemented between 2001-02 and 2019-20. The review revealed the following:

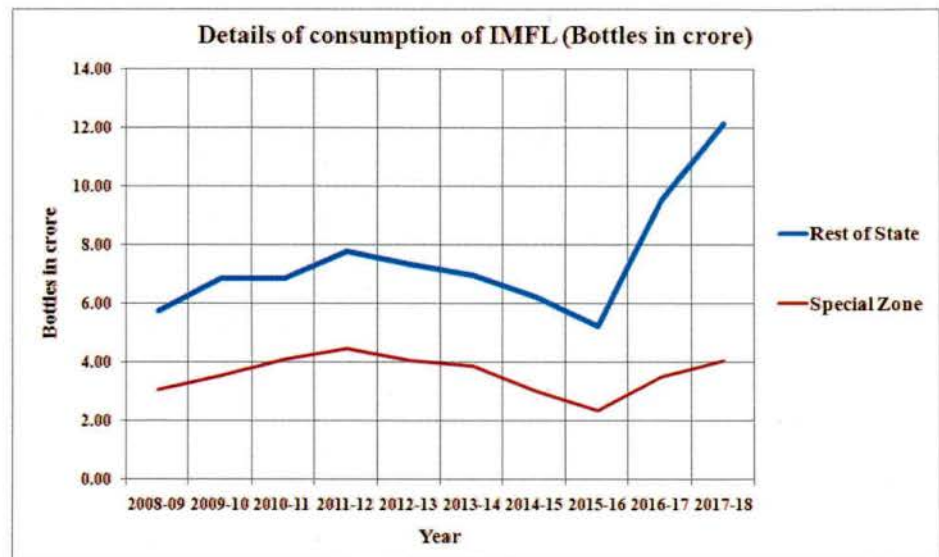
1. Excise Policy (April 2001) aimed at opening the entry of new liquor professionals with a view to end the monopoly of the liquor syndicates. This measure was however subsequently reversed completely in the Excise Policy of 2009-10. The 2009-10 policy also introduced a zonal system for settlement of wholesale of Country Liquor and retailing licensing rights of all the liquors in special zone. Under the new system, the state was divided into two zones viz. a special extended zone of Meerut comprising districts of the Meerut Zone and of the Bareilly Commissionerate, and other zones in the rest of the state which included four administrative zones of Varanasi, Gorakhpur, Lucknow and Agra.
2. The objective of creation of the Special Zone (2009-10) was to check smuggling of liquor into the state from the neighbouring states. The special zone consisted of 15 districts (finally 18 districts due to creation of three new districts carved out of erstwhile districts of Ghaziabad, Moradabad and Muzaffarnagar). However, out of 13 western border districts of the state, only 11 districts were included in the special zone. Two districts (Aligarh and Mathura bordering Haryana and Rajasthan) were not included, the reasons for which are not on record. Further, *seven* districts, which did not share borders with any of the neighbouring states, were included in the special zone. It is not clear how the exclusion of two border districts in the special zone helped in checking liquor smuggling. Therefore, the creation of the Special Zone was not based on any clear criteria.
3. As per the Excise policy 2009-10, the retail rights over all shops in the Special Zone (Meerut) which totalled 22 *per cent* of total liquor shops in the state, were exclusively given to a single player (*Ms Amethyst Town Planners Pvt. Ltd* which had a joint venture with the Uttar



*Pradesh Sahkari Chini Mills Sangh Ltd., subsequently Ms Accurate Foods and Beverages Pvt. Ltd. in the year 2011-12). In other zones, multiple players were allowed (based on public lottery) to operate in the retail sale of liquor. The creation of monopoly in the wholesale trade of Country Liquor at the zonal level in the entire state and monopoly of retail sale of liquor in the special zone was against the principles of fair play and transparency.*

4. We further noted that the creation of a special zone did not meet the stated objectives as the consumption of IMFL declined continuously from 12.20 crore bottles in 2011-12 to 7.5 crores bottles in 2015-16 (decrease of 38.52 per cent). Similarly, consumption of beer also declined from 27.16 crore bottles in 2015-16 to 25.35 crore bottles in 2016-17 (decrease of 6.66 per cent). The revenue realised from IMFL declined from ₹ 3,672.32 crore to ₹ 3,292.96 crore during 2013-14 to 2015-16. A chart showing trend of consumption of IMFL during the period 2008-09 to 2017-18 in the special zone and in the rest of the state is given below:

**Chart 2.1**



The trends of consumption of IMFL in both the Special Zone and the Rest of the State mirror each other till 2015-16. 2016-17 onwards, the increase in consumption of IMFL in the rest of the State was much higher than in the Special Zone. The consumption of IMFL in the special zone during 2010-11 and 2017-18 remained static at an average of four crore bottles with slight variations during the period. Contrary to this, consumption in rest of the state during the same period enhanced from seven crore bottle to 12 crore bottles. Thus, creation of a Special Zone did not have much impact on sales, and consequently upon the revenues during the period it was in existence. In fact, the period saw continuous decline in sale of IMFL across the state till 2015-16. This hints at large scale smuggling in the earlier years.

5. Further, licenses for retail shops in all the four zones were renewed continuously for nine (2009-18) years without resorting to any form of open tendering on annual basis eliminating any possibility of

competition in production and sale of liquor at reasonable rates which also compromised with the financial interest of the state as is evidenced in persistent failure to achieve Budget Estimate targets during 2012-18.

6. In the Excise Policy of 2018-19, the Excise Department accepted the fact that licensing system of retail shops in the special zone and zone-wise wholesale licensing system of country liquor had lost its relevance due to poor revenue growth in the year 2015-16 and 2016-17 and therefore, this system was abolished. Thus, the intended benefit of creation of special zone for retail and zone-wise wholesale licensing system of country liquor could not be achieved but instead created monopoly in retail sale of liquor in the Special Zone.

Besides the failure of the special zone, other deficiencies in the Excise policies and procedures of the Excise Department during 2008-18 were also noticed in audit. These have been discussed in the following Chapters 3 to 5.

#### **Follow up action by the State Excise Department on Audit Observations**

The Excise Policies of 2018-19 and 2019-20 provided for the following measures, which address some of the audit concerns:

1. Those shops, whose consumption had enhanced during 2018-19 over previous year by 40 *per cent*, 30 *per cent* and 6 *per cent* for IMFL, Beer and Country Liquor shops, were eligible for renewal in 2019-20. This, in a way, indirectly provides for MGQ for IMFL and Beer at the individual shop level.
2. EDP/EBP of IMFL and Beer should not be more than EDP/EBP of the same brand in the neighbouring states. If they failed to do so, the said brand would be cancelled (Excise Policy of 2018-19) and the security of ₹ one lakh would be forfeited (Excise Policy of 2019-20).
3. Allowance of additional cost for pilfer proof cap for small packs of IMFL was disallowed in the Excise Policy 2019-20.
4. Allowances of additional cost of 7.50 ml for 180 ml and 3.75 ml for 90 ml small bottles of IMFL were stopped in the Excise Policy 2019-20.





## CHAPTER-3: LICENSING OF RETAIL SHOPS

A Special Zone, Meerut<sup>1</sup>, was demarcated<sup>2</sup> in the State for licensing of liquor shops (February 2009) under Rule 3 of the 'Uttar Pradesh Demarcation and Regulation of Special Zone for Exclusive Privilege of Excise Shops Rules, 2009'. It comprised 15 districts<sup>3</sup> (subsequently 18 districts<sup>4</sup> due to creation of three new districts carved out from former Ghaziabad, Moradabad and Muzaffarnagar districts). Under these Rules, the Excise Commissioner got the power to grant a license to any person for the exclusive privilege of selling by retail of any liquor<sup>5</sup> within that zone. Settlement of retail shops of Country Liquor in this special zone was also to be carried out in a manner so that the MGQ was more by one *per cent* in the zone in comparison to other regions of the state. This was done with the objective of realising higher revenue in proportion to the rest of the regions of the state. For this purpose, additional one *per cent* of MGQ of Country Liquor was also allotted to the districts covered in the special zone for the year 2009-10.

### 3.1 Irregular creation of the Special Zone

One of the objectives for creating a special zone was to prevent cross border smuggling of liquor with the neighbouring states. However, audit observed that

- seven districts<sup>6</sup> (shaded Yellow in the map) included in the special zone did not share borders with any of the neighbouring states.
- 25 other districts<sup>7</sup> (including two districts of Aligarh and Mathura which shared borders with Haryana and Rajasthan - shaded in red) - shaded in magenta in the map - which shared borders with the neighbouring states were not included in the special zone

The districts covered in the special zone shaded with green and yellow and rest of the districts excluded from special zone (light blue) are depicted in the map shown in **Chart - 3.1**.

<sup>1</sup> Budaun, Baghpat, Bareilly, Bijnore, Bulandshahar, Ghaziabad, Gautam Buddha Nagar, Jyotiba Phule Nagar, Meerut, Moradabad, Muzaffarnagar, Pilibhit, Rampur, Saharanpur and Shahjahanpur.

<sup>2</sup> Notification No. 25480/ten-license-151/special zone/2009-10, Allahabad dated 12 February, 2009.

<sup>3</sup> Budaun, Baghpat, Bareilly, Bijnore, Bulandshahar, Ghaziabad, Gautam Buddha Nagar, Jyotiba Phule Nagar, Meerut, Moradabad, Muzaffarnagar, Pilibhit, Rampur, Saharanpur and Shahjahanpur.

<sup>4</sup> Bhim Nagar (Sambhal), Punsheel Nagar (Hapur) and Prabuddha Nagar (Shamli) were carved from Moradabad, Ghaziabad and Muzaffarnagar respectively in the month of September 2011.

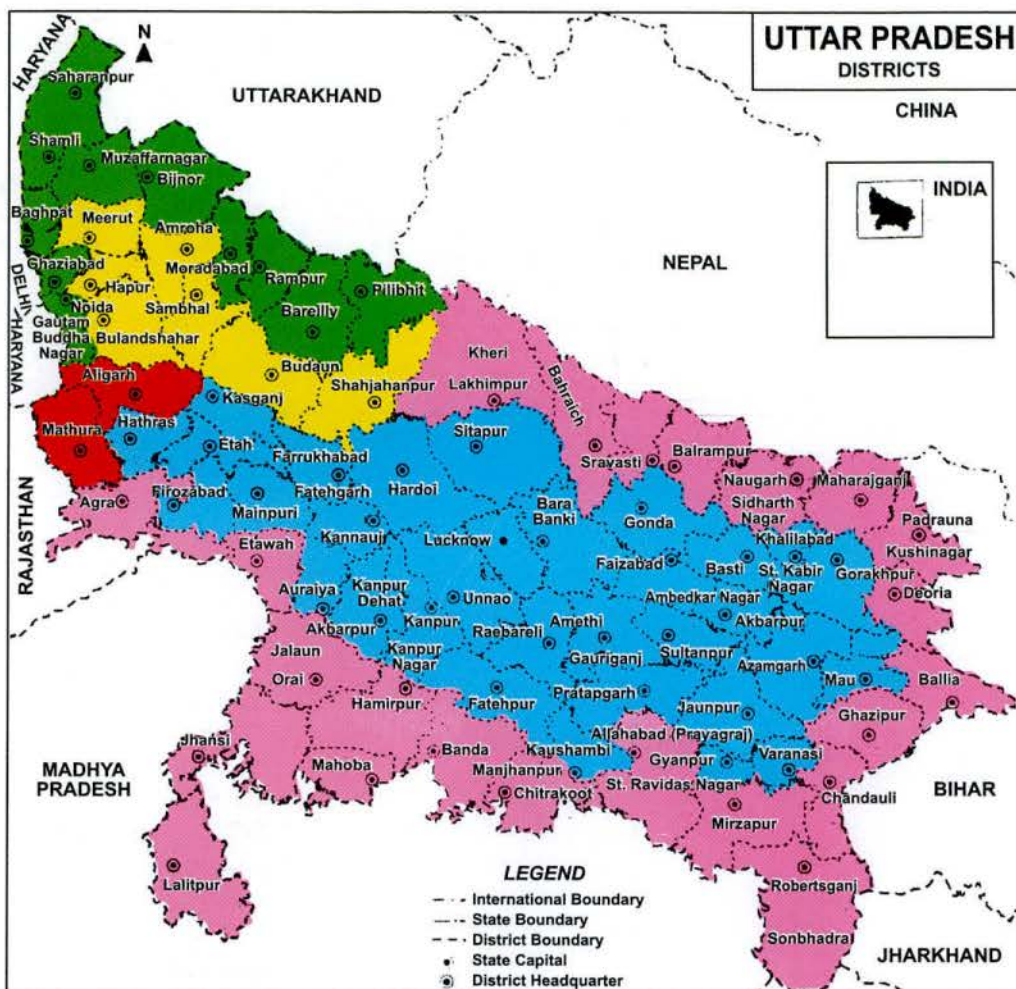
<sup>5</sup> It includes Country liquor, IMFL and Beer.

<sup>6</sup> Budaun, Bhim Nagar (Sambhal), Bulandshahar, Jyotibaphule Nagar, Meerut, Punsheel Nagar (Hapur) and Shahjahanpur.

<sup>7</sup> Agra, Allahabad (Now Prayagraj) –(Uttar Pradesh Government Gazette Notification of *Rajasave Anubhag-5*, No.-76/2018/1574/1-5-2018-72/2017 Lucknow dated 18 October 2018. Further used as Allahabad), Aligarh, Bahraich, Balrampur, Ballia, Banda Chandauli, Chitrakoot, Deoria, Etawah, Ghazipur, Hamirpur, Jalaun, Jhansi, Kushinagar, Lalitpur, Lakhimpur, Mahoba, Maharajganj, Mathura, Mirzapur, Siddharth Nagar, Sonebhadra and Shrawasti.



Chart - 3.1



Source: Information available on the basis of audit findings.

The inclusion of seven districts with no state borders in the special zone and non-inclusion of 25 border districts in the special zone was justified by the Excise Department on the ground that it was an innovative experimental special policy being proposed for the first time.

Audit scrutiny of the policy files of Excise Department revealed that the reasoning behind the decision to include in or exclude districts from the Special Zone was that if the policy of creation of special zone was found successful, other districts would be considered for inclusion in the special zone. Although creation of special zone was declared successful in the proposal of the Excise Policy 2010-11, no district was either included in the special zone nor excluded from it during the period from 2010-11 to 2017-18.

### 3.2 Non-achievement of the objectives of creation of the Special Zone

The creation of special zone had certain objectives as laid out in the excise policy proposal (February 2009). The status of attainment of these objectives is summarised in **Table - 3.1**.



**Table - 3.1**  
**Details of attainment of objective of creation of special zone**

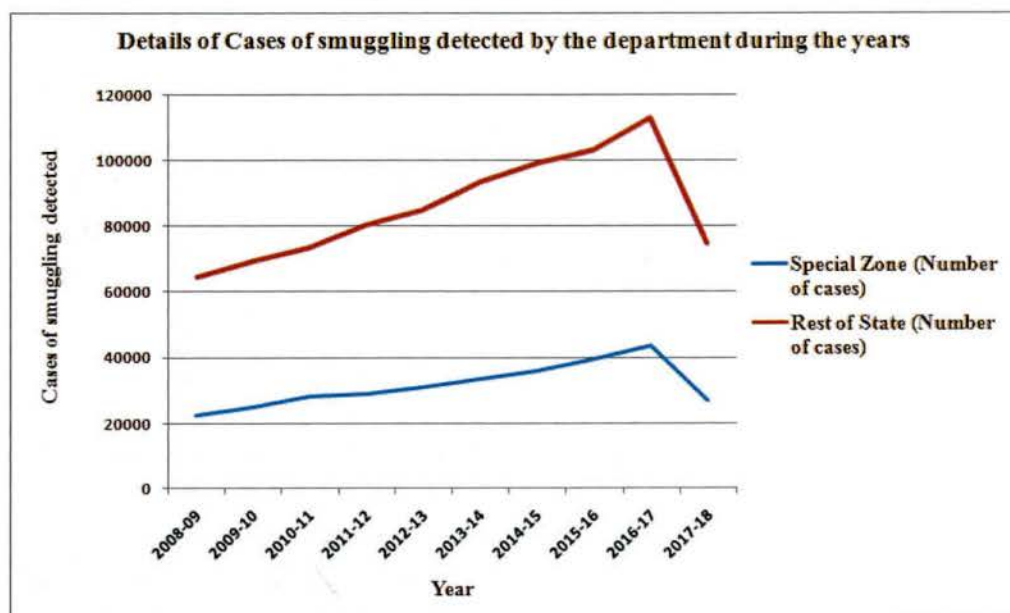
Objective	Audit observation
<p><b>Public health, safety and public order:</b>            Illegal centres of liquor are developed due to smuggling of low cost liquors from Haryana, Delhi and Uttarakhand. Sometimes due to mixing of methyl alcohol in such liquor, there were casualties of human lives. This causes law and order issues.</p>	<p>No justification was available for allowing exclusive privileges of whole sale of Country Liquor and retail selling of liquors to a single licensee within the special zone and how such a measure would reduce the illicit trade in liquor. The details of smuggling cases are depicted in Chart 3.2 below the table:</p>
<p><b>Public interest:</b>            Due to smuggling of illegal liquor, there was shortfall in revenue realised from sale of liquor in comparison to budget estimates which adversely affected the public welfare schemes.</p>	<p>Audit noticed that the consumption of IMFL declined continuously from 2012-13 to 2015-16. (from 12.20 crore bottles in 2011-12 to 7.5 crores bottles in 2015-16). Similarly, consumption of beer also declined from 27.16 crore bottles in 2015-16 to 25.35 crore bottles in 2016-17. The revenue realized from sale of IMFL declined from ₹ 3,672.32 crore to ₹ 3,292.96 crore during 2013-14 to 2015-16. Thus, the creation of Special Zone and allowing a single licensee in this zone neither had any improvement in sale of liquor nor in the revenue realized from the sale of liquor in this zone. The details of trend of consumption of IMFL are depicted in Chart 2.1 in Chapter 2.</p> <p>Further, the proportion of smuggling cases detected in the rest of the state were the same as detected in the Special Zone. The trends are depicted in chart 3.2 following this table.</p>
<p><b>Financial:</b>            MGQ of Country Liquor was required to be fixed at a higher percentage in the special zone compared to rest of the state.</p>	<p>Additional one <i>per cent</i> MGQ was raised in the special zone during the year 2009-10 (First year of the creation of the special zone) due to which revenue increased. From the next year onwards, however, no extra percentage of MGQ was assigned to the special zone. Even average enhancement of 6.35 <i>per cent</i> MGQ over the year was not done and, it was raised by only three <i>per cent</i> in 2010-11 and by one <i>per cent</i> in 2011-12 as compared to 7.05 <i>per cent</i> increase during 2009-10.</p> <p>The provision for additional MGQ, as envisaged in the policy, was not implemented in the special zone except in the very first year of implementation in spite of its visible effectiveness, without assigning any justifications/ reasons.</p>
<p><b>Jurisdiction:</b>            Special zone was created by including districts covered in Meerut Zone and Bareilly Charge. The reason behind this was mentioned as the districts bordering with Delhi, Uttarakhand and Haryana are sensitive and smuggling prone areas, hence included in the special zone.</p>	<p>The inclusion of seven districts with no state borders in the special zone and non-inclusion of 25 border districts including Aligarh and Mathura-bordering Haryana in special zone signifies lack of coherent criterion for demarcation. (commented upon in detail in para 3.1)</p>



Objective	Audit observation
<p><b>Experimental basis:</b> This special zone was created on experimental basis and it was required to be reviewed on the basis of its success or failure</p>	<p>The retail license to a single company was extended on a yearly basis from 2009-10 to 2017-18 by the Government in the excise policies of different years without any justification/statistics for the same available in the concerned files at the Government/ Department level.</p> <p>Proposal submitted for the excise policy of 2010-11 stated that this policy was successful. However, it was not extended to the rest of Uttar Pradesh.</p>

Source: Information available on the basis of audit findings.

**Chart - 3.2**



Scrutiny of files related to the Excise Policy 2018-19 revealed that the Department had decided (January 2018) not to extend the scheme of special zone any further owing to poor revenue growth in the State.

Audit reported the matter to the Department and the Government (June 2018 and March 2019). In the exit conference, the Government and the Department stated (July 2018) that due to the above mentioned reasons, the system of special zone was not found fit and was abolished in the Excise Policy issued by the Government for the year 2018-19<sup>8</sup>. However, the Government and the Department remained silent on why the special zone was not abolished earlier, if its objectives were not being achieved.

<sup>8</sup> Para 2(1) of the excise policy for the year 2018-19.

## CHAPTER-4: PRICING OF LIQUOR

### 4.1 Discretionary determination of Ex-Distillery Price (EDP)/ Ex-Brewery Price (EBP) of Indian Made Foreign Liquor (IMFL) and Beer

The Excise Policy from 2008-18 left determination of EDP/ EBP at the discretion of the distilleries and the breweries leading to excess fixation of EDP/ EBP of IMFL/ beer by the distilleries/ breweries in Uttar Pradesh. Comparison of EDP/ EBP of identical and similar brands of IMFL/ Beer in the test checked distilleries/ breweries of Uttar Pradesh with neighbouring states revealed that due to excess fixation of EDP/ EBP, undue benefit of ₹ 7,168.63 crore was allowed to distilleries/ breweries, wholesalers and retailers during the years 2008-18 at the cost of the consumers and the State Exchequer.

Determination of EDP/ EBP is an important responsibility of the Excise Department for ensuring both the availability of liquor at reasonable prices and adequate revenue collection from liquor sale. The key elements of pricing of liquor (MRP calculation) are as depicted in the **Table - 4.1**:

**Table - 4.1**

Sl. No.	Elements	Basis of calculation
1	Ex-distillery price/ Ex-brewery price (EDP/ EBP)	EDP and EBP is the price at which the manufacturers supply IMFL <sup>1</sup> and Beer <sup>2</sup> respectively to wholesalers before adding excise duty, profit margins of wholesalers and retailers. EDP/ EBP is offered by the distilleries/ breweries and approved by the Excise Commissioner.
2	Excise duty	This is periodically fixed by the State Government as a percentage of EDP/ EBP on different categories <sup>3</sup> of IMFL/ Beer.
3	Wholesalers' margin	Wholesalers' margin is periodically fixed by the State Government as a percentage of EDP on different categories of IMFL. In case of Beer, the margin is fixed for different categories.
4	Maximum whole sale price	EDP/ EBP + excise duty +wholesalers' margin
5	Retailers' margin	Retailers' margin is periodically fixed by the State Government as a percentage of EDP on different categories of IMFL. In case of Beer, the margin is fixed for different categories.
6	Maximum Selling Price (MSP)	Maximum whole sale price + Retailers' margin
7	Maximum Retail Price (MRP)	EDP/ EBP + excise duty + wholesalers' margin + retailers' margin + AED which is rounded off to next five rupees.
8	Additional Excise Duty (AED)	MRP - MSP

Source: Excise policy, Government of Uttar Pradesh.

<sup>1</sup> IMFL includes Spirit or liquors made in India, and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India and includes Malt Spirit, Whisky, Rum, Brandy, Gin, Vodka and Liquors.

<sup>2</sup> Beer includes ale, stout, porter, cider and all other fermented liquors made from malt having alcoholic strength from three *per cent* volume by volume up to eight *per cent* volume by volume.

<sup>3</sup> On the basis of EDP of IMFL and EBP and strength in case of Beer.



Audit compared the excise policies of the UP Government with those of the excise policies and internal procedures of the neighbouring states viz., Uttarakhand, Rajasthan, Punjab, Delhi, Haryana and Madhya Pradesh as well as of states such as Karnataka, Tamil Nadu and Telangana. A comparative picture of the key provisions and parameters of excise policies of some of the states vi-a-vis the provisions in UP excise policies is depicted in **Table - 4.2** below:

**Table - 4.2**

<b>Comparative Analysis of Excise Policies in UP and other states</b>				
<b>Details of system</b>	<b>Uttarakhand</b>	<b>Rajasthan</b>	<b>Telangana</b>	<b>Uttar Pradesh</b>
Mode of proposing EDP/ EBP by the distillery/ brewery.	Proposed directly by the distilleries/ breweries to the Excise Commissioner.	Proposed directly by the distilleries/ breweries to the Rajasthan State Beverages Corporation Limited, (RSBCL) a state owned company.	Proposed directly by the distilleries/ breweries to the Telangana State Beverages Corporation Limited, a state owned company.	Proposed by the distilleries/ breweries to the Excise Commissioner through the Excise Officer-in-charge posted in the distillery/ brewery.
Provision regarding EDP/ EBP being offered.	Should not be more than that in the neighbouring states.	Should not be more than that in the neighbouring states.	Rates are finalized by a high level three member committee consisting of a Retired Judge of the State High Court as Chairman, a Chartered Accountant and a senior Retired IAS officer as members <sup>4</sup> .	No such provision existed till 2017-18.
Checking of the detailed cost sheets <sup>5</sup> in support of EDP/ EBP being offered.	No detailed cost sheet is required to be submitted.	Detailed cost sheet is sought in case of any doubt regarding basis of EDP/ EBP being offered.	Basic price includes Ex-factory price, Cost of Bottles, cost of packing material, freight, insurance, handling charges and import fee, if any.	Such analysis of costing behind fixing of EDP/ EBP is not in existence.
Penal Provisions in Excise Policies if EDP/ EBP are found to be erroneous.	The security deposited by the distillery/ brewery would be forfeited, the excess amount of EDP/ EBP being charged would be recovered and legal action would be taken for each violation (Para No. 22 of the Excise Policy 2016-17).	EDP/ EBP are submitted on ₹ 500 non-judicial stamp paper. However, penal provisions have not been prescribed.	No penal provision has been prescribed.	No such provision existed till 2017-18.

<sup>4</sup> The Committee holds series of negotiations with the suppliers and recommends basic prices for acceptance by the Board of Directors. The Board of Directors, after careful examination of the Committee recommendations, sends a detailed report to the Government along with remarks/modifications, if necessary, for its approval by the Government.

<sup>5</sup> Cost sheet includes cost of raw material, blending material, packing material, etc.

The above table clearly indicates that the other states, including the neighbouring ones, strove to ensure reasonable EDP/ EBP through policy interventions (as in Uttarakhand and Rajasthan<sup>6</sup>) by incorporating suitable penal clauses<sup>7</sup> in their respective excise policies. Other states such as Delhi and Punjab put in place reasonable procedural checks to keep the EDP/ EBP at reasonable levels despite not having specific penal clauses in their respective excise policies.

With specific respect to the neighbouring states, the results of a comparison of relevant provisions regarding determination of EDP/ EBP are depicted in **Table - 4.3** below:

Table - 4.3

State	EDP/ EBP
Uttarakhand	EDP/ EBP of the same brand will not be more than that of brands supplied in Delhi/ other states.
Delhi	EDP/ EBP of the same brand will not be more than that of brands supplied in rest of India, if the EDP/ EBP is less than a certain limit. If the EDP/ EBP is more than that limit, distilleries/ breweries are free to fix the EDP/ EBP. Despite this, Delhi has managed to keep the EDP/ EBP prices lower in comparison to Uttar Pradesh.
Rajasthan	The RSBCL has, in its policy, provided for a specific provision to ensure that the EDP/ EBP of the same brand will not be more than that of brands supplied in other states. Details of cost sheets underlying EDP/ EBP were also required to be submitted along with the proposals of the EDP/ EBP of IMFL/ Beer in case of doubt.
Punjab	Without any specific provision in the excise policy, Punjab has managed to keep the EDP/ EBP prices at a lower level compared to Uttar Pradesh.

Audit scrutiny of UP Excise Department's Manuals, Circulars, and Excise Policies in light of the above comparison revealed that:

1. During 2008-18, the Excise Department did not seek costing details from the distilleries and breweries on a single occasion while determining the EDP/ EBP of IMFL and Beer unlike in Rajasthan where, in case of any doubt, the Rajasthan Beverages Corporation Ltd. (PSU) sought for its examination, submission of details of costing of production of IMFL/ Beer by the concerned distillery/ brewery.
2. Further, the State Excise Department did not prescribe any reasonable checks to ascertain reasonability of costing of the liquor production unlike Rajasthan where the Rajasthan State Beverages Corporation Ltd (RSBCL) had the authority to obtain and examine the detailed costing underlying EDP/ EBP proposed by distillery/ brewery.
3. Since April 2018, the State Excise Department has incorporated a requirement in its Excise Policy that mandatorily requires the distilleries/ breweries to submit a certificate regarding correctness of the EDP/ EBP

<sup>6</sup> Policy framed by the Rajasthan State Brewery Corporation Ltd., the state PSU in charge of wholesale of liquor in the State.

<sup>7</sup> Penal provisions include forfeiture of the security deposited by the distillery/ brewery, recovery of the excess amount of EDP/EBP being charged, legal action for each violation, blacklisting of the brand, etc. in case of Uttarakhand.



from a Cost Accountant, appointed and paid for by the distilleries/ breweries, while offering EDP/ EBP to the Department. The Department, based on the certificate of Cost Accountant, approves the EDP/ EBP, and thereafter determines the excise duty, the additional excise duty, and the wholesalers' and retailers' margin.

In other words, the Department is still fully dependent on the certificate of the Cost Accountant without having any commensurate independent checks to verify/ determine the EDP/ EBP either by itself or through an independent agency. Thus, the system is still open to abuse by the distilleries and the breweries.

Thus compared to other states, the State excise policies over the years gave the distilleries and breweries, a *carte blanche* in determining the EDP/ EBP without putting in place, adequate safeguards, both at the policy as well as at the procedural levels, thereby benefitting the private players viz. the distilleries/ breweries, the wholesalers and the retailers at the cost of both the consumers and the State Exchequer.

This became evident when the State Government, in April 2018, introduced a rider (similar to Uttarakhand) in its policy whereby the distilleries and the breweries were required to offer EDP/ EBP not above that offered in its neighbouring states. The policy intervention led to a sharp increase in the excise revenue by 47.84 *per cent* (from ₹ 12,652.87 crore to ₹ 18,705.61 crore) during April 2018 to January 2019 compared to the same period in the previous year.

If the increase of ₹ 6,052.74 crore achieved in the ten months (April 2018 to January 2019) period is extrapolated<sup>8</sup>, the state had allowed the private distilleries/ breweries to potentially earn undue profits in excess of ₹ 7,263.28 crore in 2017-18 alone, and significantly more during the period 2001-18.<sup>9</sup>

The actual loss to the State Exchequer on account of lack of adequate checking of EDP/ EBP being offered by the distilleries/ breweries during 2008-18 is established in the following illustrative cases:

#### **4.1.1 Fixation of EDP of IMFL**

Audit compared the MRP of one case of quarts<sup>10</sup> (12 no. of 750 ML packs) of McDowell's No. 1 Celebration XXX Rum sold in both UP and Rajasthan during 2016-17 as detailed **Table - 4.4** below:

<sup>8</sup> Also considering that EDP/EBP price of IMFL/Beer in Uttar Pradesh was 46 *per cent*/135 *per cent* higher than in Delhi, Rajasthan and Uttarakhand in 2008-18 alone.

<sup>9</sup> Any difference between the extrapolation of ₹ 7,263.28 crore for 2017-18 given here and that arrived at in the succeeding paragraphs can be attributed to the possibility that more IMFL/Beer would have been consumed in UP during 2001-18 had the EDP/EBP of IMFL/Beer, and consequently the MRP, been lower.

<sup>10</sup> IMFL Bottle/pack of 750 ml capacity.

Table - 4.4

Components	Amount levied (per bottle of 750 ml) (in ₹)		Difference of amount (in ₹)
	In Rajasthan	In Uttar Pradesh	
EDP	49.98	111.57	61.59
Wholesalers' margin	0.68	6.54	5.86
Retailers' margin	41.33	76.16	34.83
<b>Total</b>	<b>91.99</b>	<b>194.27</b>	<b>102.28</b>

Thus, for one bottle (750 ml) of IMFL, the distillery, Wholesaler and retailers in UP got ₹ 102.28 more than in Rajasthan. During 2016-17, M/s USL Distillery, Meerut sold 20,457 cases (2,45,484 bottles) and realised an additional profit of ₹ 1.51 crore due to excess EDP. Further, the consumers had to bear additional burden of ₹ one crore on account of Wholesalers' and Retailers' margins as compared to Rajasthan. Had the EDP of UP been fixed at the same level per bottle as that in Rajasthan, the differential amount of ₹ 102.28 per bottle (2016-17) could have been recovered by the government by increasing the excise duty itself.

If we extrapolate the above difference of ₹ 102.28 per bottle (750 ml) assuming that all IMFL brands had been sold in the bottle size of 750 ml, the potential revenue loss for selling 108.25 crore 750 ml bottles, was to the tune of ₹ 11,071.81 crore during 2008-18 due to excess EDP, Wholesalers' and Retailers' margin compared to Rajasthan. Considering that the State Government would not have incentivised the consumption of liquor, being a social evil, by lowering the MRP, this difference of ₹ 11,071.81 crore could have accrued to the State Exchequer in the form of Excise Duty.

Audit further analysed the extent to which the MRP/ EDP of given brands of IMFL was higher in UP than in a neighbouring state. Actual audit observations arising out of the examination are discussed below:

#### 4.1.1.1 Identical brands of IMFL- Price variations between the States

Audit noted that for different bottle capacities (90 ml to 750 ml) of different 'identical' brands of IMFL sold in UP during 2008-18, the EDP ranged between ₹ 7.50 to ₹ 1,097.42 per bottle. In comparison, the EDP of the identical brand in the neighbouring States was much lower, by ₹ 0.02 to ₹ 334.62 per 'identical' IMFL bottle.

Illustrative examples showing higher MRP/EDP in respect of five identical brands of IMFL in UP in the year 2016-17 in comparison to two neighbouring States are given in **Table - 4.5**.



Table - 4.5

Name of Distillery	Name of Brand (750 ml)	Neighbouring State	Per bottle MRP/EDP (in ₹)			Difference (5-6) (in ₹)	Quantity consumed in UP (B.L. in lakh)	Total MRP/EDP for UP distillery (in ₹ crore)	Total MRP/EDP for distillery of neighbouring State (in ₹ crore)	Total excess MRP/EDP of UP realised by distillery (in ₹ crore)
			MRP/EDP	UP	Neighbouring State					
1	2	3	4	5	6	7	8	9	10	11
M/s United Spirits Ltd. Meerut	McDowell's No. 1 Celebration XXX Rum	Rajasthan	MRP	490.00	301.00	189.00	1.84	12.02	7.38	4.64
			EDP	111.57	49.98	61.59		2.74	1.23	1.51
M/s Pernod Ricard India Pvt. Ltd. FL 3A Daurala Distilleries Meerut	Seagram's 100 Pipers Deluxe Blended Scotch Whisky	Uttarakhand	MRP	1,570.00	1,310.00	260.00	1.94	40.61	33.89	6.72
			EDP	696.02	462.25	233.77		18.01	11.96	6.05
M/s United Spirits Ltd. Meerut	Bagpiper Superior Whisky	Uttarakhand	MRP	410.00	340.00	70.00	4.93	26.95	22.35	4.60
			EDP	91.38	51.25	40.13		6.01	3.37	2.64
M/s United Spirits Ltd. Meerut	Royal Challenge Classic Premium Whisky	Rajasthan	MRP	595.00	490.00	105.00	12.39	98.29	80.95	17.34
			EDP	165.31	125.00	40.31		27.31	20.65	6.66
M/s United Spirits Ltd. Meerut	McDowell's Green Label The Rich Blend Whisky	Rajasthan	MRP	420.00	305.00	115.00	4.52	25.31	18.38	6.93
			EDP	99.95	51.16	48.79		6.02	3.08	2.94
<b>Total</b>						<b>MRP</b>	<b>25.62</b>	<b>203.18</b>	<b>162.95</b>	<b>40.23</b>
						<b>EDP</b>		<b>60.09</b>	<b>40.29</b>	<b>19.80</b>

Source: Records of the State Excise Department.

The difference in EDP led to a MRP difference ranging between ₹ 70 and ₹ 260 in the five identical brands of IMFL, as illustrated in **Table - 4.5**.

Audit obtained details of various brands of IMFL sold by test-checked distilleries and compared the same with EDPs of identical brands of IMFL being sold in neighbouring states<sup>11</sup>. We noted that the EDPs of different brands of IMFL of different capacities (90 ml to 750 ml) were being determined at a much higher rate in UP as compared to the EDPs of the identical brands approved in the neighbouring states during the period from 2008-09 to 2017-18. In this way an undue profit of ₹ 851.63 crore accrued to test-checked distilleries in respect of identical brands of IMFL alone as detailed in **Table - 4.6**:

<sup>11</sup> EDP of a particular brand was compared with the EDP of the same brand found lowest amongst all the neighbouring states.

Table - 4.6

(₹ in crore)				
Year	Quantity issued from distilleries in B.L. (in crore)	EDP realised by the distilleries in UP	EDP realised for identical brands of IMFL by distilleries in neighbouring States	Undue profit to distilleries
2008-09	1.20	111.83	102.07	9.76
2009-10	1.82	186.82	159.57	27.25
2010-11	0.98	104.65	89.74	14.91
2011-12	2.57	328.78	257.36	71.42
2012-13	1.89	277.62	193.44	84.18
2013-14	0.94	201.86	150.02	51.84
2014-15	1.26	275.06	197.42	77.64
2015-16	1.30	292.65	214.37	78.28
2016-17	2.90	671.37	497.56	173.81
2017-18	4.03	894.35	631.81	262.54
<b>Total</b>	<b>18.89</b>	<b>3,344.99</b>	<b>2,493.36</b>	<b>851.63</b>

#### 4.1.1.2 *Similar* brands of IMFL- Price variations between the States

Audit noted that for different bottle capacities (90 ml to 750 ml) of different '*similar*'<sup>12</sup> brands of IMFL sold in UP during 2008-18, the EDP ranged between ₹ 8.75 to ₹ 966.08 *per* bottle. In comparison, the EDP of neighbouring States was much lower, by ₹ 0.36 and ₹ 276.43 *per* '*similar*' IMFL bottle.

Illustrative examples showing higher MRP/EDP in respect of five similar brands of IMFL in UP in the year 2016-17 in comparison to two neighbouring States are given in **Table - 4.7**.

<sup>12</sup> Audit has used the term '*similar*' for brands having slight difference in name but being essentially identical (the composition of IMFL/ Beer brands was not available with the State Excise Department). For instance, Bagpiper **Superior** Whisky brand is sold in Uttar Pradesh and Bagpiper **Classic** Whisky is sold in Rajasthan; similarly, Kingfisher Strong Premium Beer brand is sold in Uttar Pradesh and Kingfisher **Super** Strong Premium Beer is sold in Rajasthan. The Excise Policies of Uttarakhand from 2014-15 onwards stipulated by example that if any brand was sold in the name of XXX Classic Whisky, the name would be considered as only "XXX" for identifying the brands as the same.



Table – 4.7

Name of Distillery	Name of Brand		Neighbouring State	MRP/EDP per bottle (in ₹) (750 ml)			Difference (in ₹) (6-7)	Quantity consumed (B.L. in lakh)	Total MRP/EDP for UP distillery (₹in crore)	Total MRP/EDP for distillery of neighbouring State (₹in crore)	Total excess MRP/EDP realised by the UP distillery (₹in crore)
	in Uttar Pradesh	in neighbouring State		MRP EDP	in Uttar Pradesh	in neighbouring State					
1	2	3	4	5	6	7	8	9	10	11	12
M/s Radico Khaitan Ltd. Rampur	Magic Moments Premium Vodka	Magic Moments Smooth Grain Vodka	Rajasthan	MRP	530.00	400.00	130.00	2.93	20.71	15.63	5.08
				EDP	132.27	83.75	48.52		5.17	3.27	1.90
M/s Pernod Ricard India Pvt. Ltd Meerut	Seagram's Royal Stag Reserve Whisky	Royal Stag Deluxe Whisky	Rajasthan	MRP	595.00	483.00	112.00	19.62	155.65	126.35	29.30
				EDP	165.30	120.92	44.38		43.24	31.63	11.61
M/s Radico Khaitan Ltd. Rampur	8PM Special Rare Blend of Indian Whisky & Scotch	8 PM Classic Whisky	Rajasthan	MRP	410.00	287.00	123.00	12.83	70.14	49.10	21.04
				EDP	91.38	46.58	44.80		15.63	7.97	7.66
M/s USL Roja Shahjahanpur	McDowell's No 1 Select Whisky	McDowell's No.1 Deluxe Whisky	Rajasthan	MRP	530.00	391.00	139.00	10.54	74.48	54.95	19.53
				EDP	132.27	80.00	52.27		18.59	11.24	7.35
M/s Pernod Ricard India Pvt. Ltd Meerut	Seagram's Imperial Blue Blended Grain Whisky	Imperial Blue Superior Grain Whisky	Uttarakhand	MRP	545.00	415.00	130.00	8.98	65.25	49.69	15.56
				EDP	139.93	77.83	62.10		16.75	9.32	7.43
<b>Total</b>				<b>MRP</b>				<b>54.90</b>	<b>386.23</b>	<b>295.72</b>	<b>90.51</b>
				<b>EDP</b>					<b>99.38</b>	<b>63.43</b>	<b>35.95</b>

Source: Records of the State Excise Department.

The difference in EDP led to a MRP difference ranging between ₹ 112 and ₹ 139 in the five similar brands of IMFL, as illustrated in **Table - 4.7**.

Audit obtained details of various brands of IMFL sold by test-checked distilleries and compared the same with EDPs of similar brands of IMFL being sold in neighbouring states<sup>13</sup>. We noted that EDPs of different brands of IMFL of different capacities (90 ml to 750 ml) were being determined at a much higher rate in UP as compared to the EDPs of the similar brands approved in the neighbouring states during the period from 2008-09 to 2017-18. In this way an undue profit of ₹ 1,968.86 crore accrued to test-checked distilleries in respect of similar brands of IMFL alone as detailed in **Table - 4.8**:

<sup>13</sup> EDP of a particular brand was compared with the EDP of the same brand found lowest amongst all the neighbouring states.

Table – 4.8

Year	Quantity issued from distilleries in BL (in crore)	EDP realised by the distilleries in UP	EDP realised for similar brands of IMFL by distilleries in neighbouring States	(₹ in crore)
				Undue profit to distilleries
2008-09	0.44	38.38	31.86	6.52
2009-10	0.63	69.71	56.11	13.60
2010-11	2.94	275.42	202.86	72.56
2011-12	3.13	332.46	248.52	83.94
2012-13	4.88	660.47	456.91	203.57
2013-14	5.58	849.13	537.61	311.51
2014-15	4.31	733.81	461.07	272.74
2015-16	3.20	589.09	367.44	221.65
2016-17	5.47	1,010.39	612.83	397.56
2017-18	5.91	1,065.12	679.91	385.21
<b>Total</b>	<b>36.49</b>	<b>5,623.98</b>	<b>3,655.12</b>	<b>1,968.86</b>

Thus, the Excise Department allowed the private distilleries to earn undue profits amounting to ₹ 2,820.49 crore (*'identical'* brands: ₹ 851.63 crore + *'similar'* brands: ₹ 1,968.86 crore) between 2008-09 and 2017-18. The overall EDP of IMFL in the State was 46 *per cent* higher as compared to the EDP being paid in the neighbouring states like Rajasthan and Uttarakhand.

The following illustration indicates how the policy intervention in 2018-19 allowed a reduction in the liquor prices (due to reduction in EDP) in UP with corresponding increase in revenue:

Audit noticed in cases of five selected popular brands of IMFL that the EDPs of these brands had continuously increased up to 2016-17, remained constant in 2017-18 and dropped by ₹ 16.17 to ₹ 37.10 *per* quart of these brands in 2018-19 in comparison to their respective EDPs in 2017-18, a sharp decline of 18 *per cent*. The details are shown in the **Table – 4.9**:



**Table – 4.9**

Year	(In ₹)										Total EDP	Increase over previous year (in per cent)
	Bagpiper Superior whisky		Raffles Matured Rum		M2 Magic Moments Orange Vodka		Seagram Blenders Pride Rare Premium Whisky		Antiquity Blue Ultra-Premium Whisky			
	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)	EDP	Increase over previous year (in per cent)		
2008-09	43.50		52.08		84.00		163.12		255.67		598.37	
2009-10	48.25	10.92	48.25	-7.35	130.00	54.76	170.00	4.22	252.08	-1.40	648.58	8.39
2010-11	48.25	0.00	48.25	0.00	105.80	-18.62	170.00	0.00	257.08	1.98	629.38	-2.96
2011-12	61.90	28.29	61.90	28.29	110.97	4.89	213.39	25.52	259.75	1.04	707.91	12.48
2012-13	80.11	29.42	80.11	29.42	127.24	14.66	224.11	5.02	264.29	1.75	775.86	9.60
2013-14	82.74	3.28	89.42	11.62	136.91	7.60	228.18	1.82	268.69	1.66	805.94	3.88
2014-15	88.86	7.40	88.88	-0.60	148.40	8.39	233.54	2.35	275.00	2.35	834.68	3.57
2015-16	90.95	2.35	90.94	2.32	152.02	2.44	249.50	6.83	286.74	4.27	870.15	4.25
2016-17	91.38	0.47	91.38	0.48	152.62	0.39	249.50	0.00	286.98	0.08	871.86	0.20
2017-18	91.38	0.00	91.38	0.00	152.62	0.00	249.50	0.00	286.98	0.00	871.86	0.00
2018-19	54.28	-40.60	54.28	-40.60	122.50	-19.74	233.33	-6.48	250.00	-12.89	714.39	-18.06

Source: Records of the State Excise Department.

In all the instances, Audit noticed, on the basis of scrutiny of the relevant files in the Department, that the EDPs, as determined by the respective distilleries and forwarded to the Excise Department of the state for approval, were approved by the Department without any checking or verification of their reasonability at any stage<sup>14</sup>.

#### 4.1.2 Fixation of EBP of Beer

Like in case of IMFL, Audit compared Ex-brewery price for the production, pricing and sale of a can (500 ml) of Tuborg Strong Beer sold in UP and Rajasthan during 2016-17 which is detailed in **Table – 4.10** below:

**Table – 4.10**

Components	Amount levied (per can of 500 ml) (in ₹)		Difference of amount (in ₹)
	In Rajasthan	In Uttar Pradesh	
1	2	3	4
EBP	16.80	44.91	28.11
Wholesalers' margin	0.18	1.35	1.17
Retailers' margin	11.94	12.31	0.37
<b>Total</b>	<b>28.92</b>	<b>58.57</b>	<b>29.65</b>

The above table indicates that had the EBP of UP been fixed at the same level as Rajasthan per can, the differential amount of ₹ 29.65 per can could have been recovered by the government in 2016-17 by increasing the excise duty

<sup>14</sup> Before approving the MRP, its details are required to be checked by the License Section in the Excise Department, subsequently checked by the Joint Excise Commissioner, Headquarters and finally approved by the Excise Commissioner.

itself. The breweries in UP got ₹ 28.11 more for one can (500 ml) of Beer than in Rajasthan. During 2016-17, M/s Mohan Goldwater Breweries Ltd, Unnao sold 24,74,777 cases<sup>15</sup>(500 ml cans) of Tuborg Strong Beer and realised additional profit of ₹ 166.96 crore due to excess EBP. Further, consumers had to share additional burden of ₹ 9.15 crore on account of Wholesalers' and Retailers' margin compared to Rajasthan.

Based on the above, if we extrapolate the potential loss of excise revenue during 2013-18, from actual total sales of 11.92 crore cases of beer relating to all brands, the same would work out to ₹ 5,513.42 crore for 650 ML bottles (difference of ₹ 38.55 between UP and Rajasthan).

This extra benefit accrued to the breweries, wholesalers and retailers at the cost of both the consumers as well as the State Exchequer.

Audit further analysed the extent to which the EBP of a given brand of Beer was higher in UP than in a neighbouring state. Observations arising out of the examination are discussed below:

#### **4.1.2.1 Identical brands of Beer- Price variations between UP and the neighbouring states**

Audit noted that for different bottle capacities (325 ml to 650 ml) of different 'identical' brands of Beer sold in UP during 2013-18, the EBP ranged between ₹ 27.08 to ₹ 72.62 per bottle/ can. In comparison, the EBP of neighbouring States was much lower, by ₹ 16.01 to ₹ 52.12 per 'identical' bottle/ can.

Illustrative examples showing higher MPR/EBP in respect of five identical brands of Beer in UP in the year 2016-17 in comparison to two neighbouring States are given in **Table - 4.11**:

<sup>15</sup> 24 cans in a case.



Table – 4.11

Name of Brewery	Name of Brand	Neighbouring State	MRP/EBP per bottle/ can (in ₹)			Difference (5-6) (in ₹)	Quantity (B.L.in lakh)	MRP/EBP realised by the breweries (₹ in crore)	MRP/EBP of Beer issued as per neighbouring State EBP (₹ in crore)	Excess MRP/EBP realised by the Breweries (₹ in crore)
			MRP EBP	In Uttar Pradesh	In neighbouring State					
1	2	3	4	5	6	7	8	9	10	11
M/s United Breweries Ltd. FL 3 A Wave Distilleries & Breweries	Kingfisher Premium Lager Beer (650 ml)	Rajasthan	MRP	130.00	89.00	41.00	7.77	15.54	10.64	4.90
			EBP	52.69	20.82	31.87		6.30	2.49	3.81
M/s United Breweries Ltd. FL 3 A Wave Distilleries & Breweries	Kingfisher Premium Lager Beer (500 ml)	Rajasthan	MRP	105.00	78.00	27.00	11.56	24.28	18.03	6.25
			EBP	45.53	18.51	27.02		10.53	4.28	6.25
Wave Distillery and Brewery Ltd.	Wave Premium Beer Strong (650 ml)	Uttarakhand	MRP	135.00	120.00	15.00	16.51	34.29	30.48	3.81
			EBP	51.88	23.00	28.88		13.18	5.84	7.34
M/s United Breweries Ltd. FL 3 A Wave Distilleries & Breweries	Kingfisher Strong Premium Beer (650 ml)	Rajasthan	MRP	140.00	94.00	46.00	244.19	525.95	353.14	172.81
			EBP	52.54	22.12	30.42		197.38	83.10	114.28
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Tuborg Strong Premium Beer (500 ml)	Rajasthan	MRP	110.00	83.00	27.00	296.97	653.33	492.97	160.36
			EBP	44.91	16.80	28.11		266.74	99.78	166.96
<b>Total</b>						<b>MRP</b>	<b>577.00</b>	<b>1,253.39</b>	<b>905.26</b>	<b>348.13</b>
						<b>EBP</b>		<b>494.13</b>	<b>195.49</b>	<b>298.64</b>

Source: Records of the State Excise Department.

The difference in EBP led to a MRP difference ranging between ₹ 15 and ₹ 46 in the five identical brands of Beer, as illustrated in **Table No. 4.11**.

Audit obtained details of various brands of Beer sold by test-checked breweries and compared the same with EBP of identical brands of Beer being sold in neighbouring states<sup>16</sup>. We noted found that EBPs of different brands of Beer of different capacities (325 ml to 650 ml) were being determined at a much higher rate in UP as compared to the EBPs of the identical brands approved in the neighbouring states during the period from 2013-14 to 2017-18. In this way an undue profit of ₹ 1,500.48 crore accrued to test-checked breweries in respect of identical brands of Beer alone, which is detailed in **Table - 4.12**:

<sup>16</sup> EBP of a particular brand was compared with the EBP of the same brand found lowest amongst all the neighbouring states.

Table – 4.12

Year	Quantity issued from breweries in crore bulk litres	EBP realised by breweries in UP	EBP realised for identical brands of Beer by breweries in neighbouring States		Undue profit to breweries
2013-14	3.84	292.89	111.74		181.15
2014-15	6.37	507.94	222.03		285.91
2015-16	4.44	366.20	151.28		214.92
2016-17	6.09	523.05	208.61		314.44
2017-18	10.03	919.11	415.05		504.06
<b>Total</b>	<b>30.76</b>	<b>2,609.19</b>	<b>1,108.71</b>		<b>1,500.48</b>

#### 4.1.2.2 'Similar' brands of Beer- Price variations between the States

Audit noted that for different bottle capacities (325 ml to 650 ml) of different 'similar' brands of Beer sold in UP during 2013-18, the EBP ranged between ₹ 42.95 to ₹ 89.40 per bottle/ cans. In comparison, the EBP of the similar brands of Rajasthan was much lower, by ₹ 24.46 to ₹ 59.50 per 'similar' bottles/ can.

Illustrative examples showing higher MRP/EBP in respect of five similar brands of Beer in UP in the year 2016-17 in comparison to Rajasthan are given in Table - 4.13:

Table – 4.13

Name of Brewery	Name of Brand		Name of Neighbouring State	MRP/EBP per bottle/ can (in ₹)			Difference (6-7) (in ₹)	Quantity (B.L.in lakh)	MRP/ EBP realised by the breweries(₹ in crore)	MRP/EBP of Beer issued as per neighbouring State EBP (₹ in crore)	Excess MRP/ EBP realised by the brewery (₹ in crore)
	In Uttar Pradesh	In neighbouring State		MRP EBP	In Uttar Pradesh	In neighbouring State					
1	2	3	4	5	6	7	8	9	10	11	12
M/s Sab Miller India Ltd. Unit Central Distillery & Breweries Meerut	Hayward's 5000 Extra Super Strong Beer (650 ml)	Hayward's 5000 Super Strong Beer	Rajasthan	MRP	135.00	94.00	41.00	54.60	113.40	78.96	34.44
				EBP	51.85	22.12	29.73		43.56	18.58	24.98
M/s United Breweries Ltd. FL 3 A M/s Wave Distilleries and Breweries Ltd.	Kingfisher Strong Premium Beer (500 ml)	Kingfisher Super Strong Premium Beer	Rajasthan	MRP	110.00	84.00	26.00	618.76	1,361.27	1,039.52	321.75
				EBP	45.42	19.81	25.61		562.08	245.15	316.93
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Tuborg Strong Export Premium Beer (650 ml)	Tuborg Strong Premium Beer	Rajasthan	MRP	135.00	94.00	41.00	87.82	182.40	127.00	55.40
				EBP	51.88	22.12	29.76		70.09	29.88	40.21



Name of Brewery	Name of Brand		Name of Neighbouring State	MRP/EBP per bottle/ can (in ₹)			Difference (6-7) (in ₹)	Quantity (B.L.in lakh)	MRP/ EBP realised by the breweries(₹ in crore)	MRP/EBP of Beer issued as per neighbouring State EBP (₹ in crore)	Excess MRP/ EBP realised by the brewery (₹ in crore)
	In Uttar Pradesh	In neighbouring State		MRP EBP	In Uttar Pradesh	In neighbouring State					
1	2	3	4	5	6	7	8	9	10	11	12
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Carlsberg Elephant Strong Super Premium Beer (650 ml)	Carlsberg Elephant Classic Strong Super Premium Beer	Rajasthan	MRP	185.00	129.00	56.00	4.99	14.20	9.90	4.30
				EBP	70.55	30.93	39.62		5.41	2.37	3.04
Carlsberg India Pvt. Ltd. Alwar Rajasthan FL-3A M/s Mohan Gold water Breweries Ltd, Unnao	Tuborg Green Beer (650 ml)	Tuborg Premium Beer	Rajasthan	MRP	130.00	89.00	41.00	3.63	7.26	4.97	2.29
				EBP	52.69	20.82	31.87		2.94	1.16	1.78
<b>Total</b>				<b>MRP</b>				<b>769.80</b>	<b>1,678.53</b>	<b>1,260.35</b>	<b>418.18</b>
				<b>EBP</b>					<b>684.08</b>	<b>297.14</b>	<b>386.94</b>

Source: Records of the State Excise Department.

The difference in EBP led to a MRP difference ranging between ₹ 26 and ₹ 56 in the five similar brands of Beer, as illustrated in **Table - 4.13**.

Audit obtained details of various brands of Beer sold by test-checked breweries and compared the same with EBPs of similar brands of Beer being sold in neighbouring states<sup>17</sup>. We noted that EBPs of different brands of Beer of different capacities (325 ml to 650 ml) were being determined at a much higher rate in UP as compared to the EBPs of the similar brands approved in the neighbouring states during the period from 2013-14 to 2017-18. In this way, an undue profit of ₹ 1,204.05 crore accrued to test-checked breweries in respect of similar brands of Beer, which is detailed in **Table - 4.14**:

**Table - 4.14**

Year	Quantity issued from breweries in bulk litre (In crore)	EBP realised by the breweries in UP	₹ in crore	
			EBP realised for similar brands of Beer by breweries in neighbouring States	Undue profit to breweries
2013-14	4.79	393.14	156.52	236.62
2014-15	2.67	236.39	105.76	130.63
2015-16	4.66	404.42	176.93	227.49
2016-17	7.72	686.88	297.99	388.89
2017-18	4.73	386.97	166.55	220.42
<b>Total</b>	<b>24.57</b>	<b>2,107.80</b>	<b>903.75</b>	<b>1,204.05</b>

Thus, the Excise Department allowed test-checked breweries to earn undue profits amounting to ₹ 2,704.53 crore ('Identical' brands: ₹ 1,500.48 crore +

<sup>17</sup> EBP of a particular brand was compared with the EBP of the same brand found lowest amongst all the neighbouring states.



'similar' brands: ₹ 1,204.05 crore) between 2013-14 and 2017-18 at the cost of its own revenue and consumers.

The overall EBP of Beer in the State was 135 per cent higher as compared to the EBP being paid in the neighbouring states like Delhi, Rajasthan and Uttarakhand.

As in the case of IMFL, EBP of beer continued to increase from 2013-14 to 2016-17, remained constant in 2017-18, and on introduction of new Excise Policy in 2018-19, fell sharply by 43.62 per cent in 2018-19, as illustrated in the Table – 4.15:

Table – 4.15

Year	Kingfisher Extra Strong Premium Beer		Carlsberg Elephant Strong Super Premium Beer		Tuborg Strong Export Premium Beer		Foster's Classic Premium Lager Beer		Tuborg Green Beer		Total EBP	Percentage of increase
	EBP	Percentage of increase	EBP	Percentage of increase	EBP	Percentage of increase	EBP	Percentage of increase	EBP	Percentage of increase		
	2013-14	49.34		70.11		49.34		61.75		67.16		
2014-15	51.05	3.47	70.39	0.40	51.06	3.49	62.24	0.79	51.95	-22.65	286.69	-3.70
2015-16	51.85	1.57	70.09	-0.43	51.85	1.55	64.43	3.52	52.69	1.42	290.91	1.47
2016-17	51.88	0.06	70.55	0.66	51.88	0.06	64.43	0.00	52.69	0.00	291.43	0.18
2017-18	51.88	0.00	70.55	0.00	51.88	0.00	64.43	0.00	52.69	0.00	291.43	0.00
2018-19	30.84	-40.56	43.89	-37.79	30.84	-40.56	30.13	-53.24	28.61	-45.70	164.31	-43.62

Source: Records of the State Excise Department.

In all the instances, audit also noticed, on the basis of scrutiny of the relevant files in the Department, that the EBPs, as determined by the respective breweries and forwarded to the Excise Department for approval, were approved by the Department without any checking or verification of their reasonability by the departmental authorities at any stage<sup>18</sup>.

### 4.1.3 Suspected enrichment of wholesalers through discounts

Undue benefit to distilleries/breweries due to inflated EDP/EBP to the tune of ₹ 5,525.02 crore has been mentioned in Para No. 4.1.1 and 4.1.2. It was further ascertained from the Balance Sheets of one of the distillers – Radico Khaitan Ltd., Rampur, a distillery which produces and sells country liquor/IMFL in the State, that the distiller had paid ₹ 426.45 crore in the form of rebates, discount and allowances during the period 2008-09 to 2017-18. As the distilleries sell IMFL to the wholesalers, the possibility that not only the distilleries/breweries but also the wholesalers benefited from the inflated EDP/EBP through discounts, cannot be ruled out. The case merits an investigation from vigilance angle by the State Government as the wholesalers were already getting wholesalers' margin based on the inflated EDP/EBP.

<sup>18</sup> Before approving the MRP, its details are required to be checked by the License Section in the Excise Department, subsequently checked by the Joint Excise Commissioner, Headquarters and finally approved by the Excise Commissioner.



#### 4.1.4 Benefit to the Wholesalers and the Retailers

As per the Excise Policies of 2008-18, in the case of IMFL, Wholesalers' and Retailers' margins are calculated separately as a percentage of the EDP. As a result, the higher EDPs as explained in Paragraphs 4.1.1 and 4.1.2 translated into higher margins to both the wholesalers and retailers at the expense of the State Exchequer and consumers.

Excessive margins of ₹ 1,643.61 crore were allowed to the wholesalers and the retailers on identical and similar brands of IMFL in the test-checked distilleries during 2008-18, as detailed in **Table - 4.16**:

Table - 4.16

(₹ in crore)				
Year	Quantity of IMFL in bulk litre (crore)	Excess Wholesalers' Margin allowed	Excess Retailers' Margin allowed	Total Financial Implication (3+4)
1	2	3	4	5
2008-09	1.64	0.86	14.16	15.01
2009-10	2.45	1.54	25.58	27.13
2010-11	3.93	4.34	68.29	72.63
2011-12	5.70	6.58	102.90	109.48
2012-13	6.78	13.09	190.76	203.85
2013-14	6.52	8.49	70.58	79.07
2014-15	5.56	8.28	59.55	67.84
2015-16	4.49	4.92	42.90	47.82
2016-17	8.37	12.49	53.66	66.15
2017-18	9.94	39.12	915.51	954.63
<b>Total</b>	<b>55.38</b>	<b>99.71</b>	<b>1,543.90</b>	<b>1,643.61</b>

Audit compared the wholesale liquor sale scenario of UP with that of the other states and noticed that states like Rajasthan and Telangana have entrusted wholesale liquor trade to state owned beverages corporations, which enabled them to earn additional resources on wholesaler's margin in addition to the excise duty and the additional excise duty. However, in UP, the State Government has not created any corporation on the lines of Rajasthan and Telangana, for mopping additional resources through wholesale of liquor.

Audit however noticed that in the case of beer, in total contrast to that of IMFL, the Excise Policies during 2013-18 provided for fixed Wholesalers' and Retailers' margins irrespective of the EBP. Thus, there was no adverse financial impact on the margins on account of inflated EBPs. If the State Government had incorporated a similar provision in the case of IMFL too in its successive excise policies (i.e. having fixed Wholesalers' and Retailers' margins instead of percentages of the EDP offered by the distilleries), the State Government could have earned more Excise duty without enhancing the MRP of the liquor in the state.

**In conclusion, by allowing inflated EDP/ EBP not supported by any detailed justification or costing, and absence of checking at any level in the Department, the Department allowed an undue benefit of ₹ 5,525.02 to Distilleries/ Breweries and an additional ₹ 1,643.61 crore to the**



### **Wholesalers and Retailers in the form of excessive margins on actual sales during 2008-18.**

The Department announced the new Excise Policy for the year 2018-19 and 2019-20 on 25 January 2018 and 25 December 2018 respectively. The policy inter alia prescribed that the costing of the EDP/ EBP for IMFL/ Beer will have to be submitted along with a Certificate by a Cost Accountant (appointed and paid by the distilleries/ breweries) and an affidavit affirming that the EDP/ EBP is equal or less than that allowed in the neighbouring States. False affidavits would result in cancellation of the brand registration of the said IMFL/ Beer<sup>19</sup>. In the exit conference, the Department further stated that the forthcoming excise policy would contain necessary provisions on penalty. Provisions for recovery of excess EDP/ EBP and forfeiture of security of ₹ one lakh in case of IMFL will be introduced in the Excise Policy for the 2019-20.

While audit agrees that the stated policy interventions, if implemented, would improve the level of compliance in the State, better controls need to be designed by the Department after examining the best practices in use in some of the states for ensuring effective enforcement.

#### **Recommendations:**

- **Specific measures and suitable provisions may be included in the Excise policies in future to regulate ex-distillery/ex-brewery price of IMFL and Beer by comparing policies and procedures adopted in this regard by various states.**
- **Undue benefit to distilleries/breweries, wholesalers and retailers on account of higher EDP/EBP was worked out by Audit for identical/similar brands of IMFL/Beer sold by test-checked distilleries/breweries. The Department needs to assess the actual amounts through a thorough investigation and also fix the accountability of those responsible for allowing undue benefit to the distilleries/breweries, wholesalers and retailers at the cost of the state exchequer.**

#### **4.2 Loss of additional excise duty due to wrong computation of EDP, wholesalers'/ retailers' margins, and wrong computation of the Maximum Wholesale Price of small bottles of IMFL**

Maximum Retail Prices (MRP) of IMFL are determined as per the formulae provided in the excise policies issued by the Government from year to year. Irregularity at any stage of computation/ adding of different components of MRP (EDP, ED, wholesalers'/ retailers' margins, additional excise duty) leads to irregular fixation of MSP which subsequently affects the additional excise duties which may accrue to the state exchequer from rounding off the MSP to the next higher five rupees. The observations are detailed below:

<sup>19</sup> Note 1 of Para No. 2.5 of UP Excise Policy issued by the Government dated 25 January 2018 for the year 2018-19.



### 4.2.1 Undue profit to the distillers

**Short levy of additional excise duty ₹ 227.98 crore during the year 2008-09 to 2017-18 on the sale of 208.61 crore small bottles of IMFL by the distilleries, due to wrong computation of EDPs of smaller bottles of IMFL.**

In terms of the excise policy (2008-18), EDP is to be calculated on the actual quantity of IMFL in the bottles. Audit observed that contrary to the above requirement, the distilleries proposed the EDP calculation on 187.5 ml and 93.75 ml but calculated the applicable Excise Duty on the actual bottle size of 180 ml and 90 ml respectively by misinterpreting the excise policy provisions.

This practice had long ranging effects, since it unduly increased the profits of the private distillers and deprived the State exchequer of commensurate additional excise duty.

Audit revealed that the distillers were deliberately resorting to wrong calculation of EDP on 180 ml and 90 ml bottles while fixing EDP leading to short collection of Additional Excise Duty (AED) to the tune of ₹ 227.98 crore.

Illustrative examples of such manipulation in the case of 180 ml and 90 ml bottles relating to five brands are given below in **Table – 4.17**:

**Table - 4.17**

													(In ₹)	
Year	Name of distillery	Name of brand	Observation	Capacity in ml	EDP (per bottle)	Excise duty (per bottle)	Wholesalers' margin	Retailers' margin	Maximum retail price (without rounding)	MRP rounded to next five rupees	Additional excise duty due	Quantity dispatched in bottle (in crore)	Additional excise duty (₹ in crore)	
2016-17	M/s Radico Khaitan Ltd., Rampur	8PM Special Rare Blend of Indian Whisky & Scotch	Levied	180	24.35	57.32	1.37	16.81	99.85	100.00	0.15	5.41	0.81	
			Due	180	23.37	57.32	1.37	16.81	98.87	100.00	1.13	5.41	6.11	
			Additional excise duty short levied										0.98	5.41
2016-17	M/s Pernod Ricard India Pvt. Ltd.	Seagram's Royal Stag Reserve Whisky	Levied	180	42.83	81.72	1.83	19.57	145.95	150.00	4.05	2.61	10.57	
			Due	180	41.11	81.72	1.83	19.57	144.23	150.00	5.77	2.61	15.06	
			Additional excise duty short levied										1.72	2.61
2016-17	M/s USL Meerut	Royal Challenge Classic Premium Whisky	Levied	180	42.83	81.72	1.83	19.57	145.95	150.00	4.05	1.83	7.41	
			Due	180	41.11	81.72	1.83	19.57	144.23	150.00	5.77	1.83	10.56	
			Additional excise duty short levied										1.72	1.83
2015-16	M/s USL Meerut	Mc Dowell's No. 1 Platinum Luxury	Levied	90	19.75	58.10	0.93	11.22	90.00	90.00	0.00	0.32	0.00	
			Due	90	18.96	58.10	0.93	11.22	89.21	90.00	0.79	0.32	0.25	
			Additional excise duty short levied										0.79	0.32
2015-16	M/s Radico Khaitan Ltd. Rampur	M2 Magic Moments Remix Smooth Flavoured Vodka Green Apple	Levied	90	19.75	58.10	0.93	11.22	90.00	90.00	0.00	0.18	0.00	
			Due	90	18.96	58.10	0.93	11.22	89.21	90.00	0.79	0.18	0.15	
			Additional excise duty short levied										0.79	0.18

Source: Records of the State Excise Department.



This practice of systemic deficiencies in the calculation of EDP for smaller bottles was noticed across all the brands test checked by audit for the period 2008-09 to 2017-18 as per the details in **Table – 4.18**:

Table – 4.18

Year	Range of additional amount allowed to distillers (in ₹)	Number of small bottles (180/90 ml) sold by the distilleries (in crore of bottles)	Short realisation of additional excise duty (₹ in crore)
2008-09	0.30 to 2.61	11.19	6.05
2009-10	0.35 to 2.57	11.11	7.68
2010-11	0.30 to 1.75	13.97	9.76
2011-12	0.43 to 5.68	22.03	18.24
2012-13	0.50 to 10.54	24.24	23.94
2013-14	0.82 to 6.17	21.85	25.33
2014-15	0.34 to 9.71	20.54	24.86
2015-16	0.35 to 9.72	18.63	22.34
2016-17	0.46 to 9.72	26.96	38.25
2017-18	0.46 to 9.95	38.08	51.53
	<b>0.30 to 10.54</b>	<b>208.61</b>	<b>227.98</b>

Thus, by allowing additional amount of EDP<sup>20</sup> in favour of distillers instead of levying additional excise duty (AED) in all 180 ml and 90 ml bottles, the Department permitted short levy of additional excise duty resulting in undue benefit of ₹ 227.98 crore on the sale of 208.61 crore small bottles of IMFL to both distilleries and bonds.

Audit reported the matter to the Department (June 2018 and March 2019). In the exit conference, the Department assured (July 2018) that the anomaly would be removed through an amendment in the Excise Policy. But nothing was stated about the loss of additional excise duty due to this irregularity that could have otherwise accrued to the State Exchequer.

#### **Recommendation:**

**The Department should take action under Section 39 of the UP Excise Act, 1910 to recover the loss of additional excise duty of ₹ 227.98 crore for the period 2008-18. The Department should also ensure that the quantity taken for calculation of EDP and for excise duty shall be the same.**

#### **4.2.2 Incorrect calculation of Wholesalers' and the Retailers' margin on account of enhanced EDPs of small bottles**

Audit examined the excise policies and pricing files for the year 2008-13 in the Office of the Excise Commissioner and in the concerned distilleries and bonds of Uttar Pradesh. Audit noticed that wholesalers' and retailers' margins of 375 ml, 180 ml and 90 ml bottles of IMFL were calculated on the basis of enhanced EDPs<sup>21</sup> instead of calculating the same on normal EDPs<sup>22</sup>. However, excise duties were calculated only on the basis of normal EDP. Further, Audit also noticed that the Wholesalers' and Retailers' Margins in case of small bottles of IMFL were computed by the Department in excess of the margins calculated as per the provisions of the Policy.

<sup>20</sup> Calculating EDP of 187.5 ml and 93.75 ml instead of 180 ml and 90 ml.

<sup>21</sup> After allowing additional cost on EDP for small bottles.

<sup>22</sup> Without allowing additional cost on EDP for small bottles.



This practice of incorrect calculations of systemic deficiencies was noticed in determining of MRPs of small bottles across various brands of IMFL during 2008-13. The details of incorrect calculation by the Department are provided in **Table – 4.19**:

**Table – 4.19**

Year	Range of additional amount allowed to wholesalers and retailers (in ₹)	Number of bottles sold by the distilleries (in crore bottles)	Short levying of additional excise duty (₹ in crore)
2008-09	0.52 to 2.18	13.88	20.29
2009-10	0.60 to 1.86	14.09	23.08
2010-11	0.82 to 1.86	17.79	28.85
2011-12	0.45 to 2.06	24.16	37.58
2012-13	0.45 to 3.06	28.42	45.20
<b>Total</b>	<b>0.45 to 3.06</b>	<b>98.33</b>	<b>155.00</b>

This resulted in the distilleries/ bonds realising an undue excess benefit on account of higher margins to the tune of ₹ 155.00 crore on sale of 98.33 crore small bottles of different brands of IMFL. Such discrepancies were not noticed by Audit from 2013-14 onwards.

Audit reported the matter to the Department (June 2018 and March 2019). In the exit conference, the Department stated (July 2018) that this irregularity had been rectified from the year 2013-14. But nothing was stated about the irregularity resulting in loss of additional excise duty that could have otherwise accrued to the State exchequer.

**Recommendation:**

**The Department should recover the amount which was irregularly allowed to both the Wholesalers and the Retailers as margins on account of enhanced EDP of small bottles.**

**4.2.3 Incorrect computation of maximum wholesale price (MWP) leading to short levy of additional excise duty**

**4.2.3.1 Incorrect computation of MWP of IMFL**

**Incorrect computation of MWP of IMFL by a distiller resulted in short realisation of additional excise duty of ₹ 4.85 crore during 2013-14 on sale of 97.15 lakh bottles.**

As described in the **Table – 4.20** below, M/s Wave Distilleries & Breweries Ltd., Aligarh incorrectly computed<sup>23</sup> the maximum wholesale price of 180 ml bottles of three brands of IMFL<sup>24</sup> for the period 2013-14 and the error was not detected by the Department. Consequently, the Department failed to levy

<sup>23</sup> The calculation of the maximum wholesale price is computed and furnished to the Department, and these details are required to be checked by the Senior Assistant of License Section in the Excise Department, verified by the Joint Excise Commissioner, Headquarters and finally approved by the Excise Commissioner.

<sup>24</sup> Evening Special Premium Whisky, Raffles Matured XXX Rum, Raffles Grain Vodka.

additional excise duty to the extent of ₹ 4.99 per bottle, resulting in total loss of ₹ 4.85 crore as additional excise duty (against sales of 97.15 lakh bottles).

Table – 4.20

(In ₹)		
	As worked out by the Department	As worked out by Audit
EDP	23.86	23.86
Excise Duty	67.82	67.82
Wholesalers' margin	1.47	1.47
<b>Maximum wholesale price (EDP+ Excise duty+ Wholesalers' margin)</b>	<b>93.14</b>	<b>93.15</b>
Add retailers' margin	16.86	16.86
Total Maximum Selling Price (1)	110.00	110.01
Maximum retail price (Rounded off to next five rupees) (2)	110.00	115.00
Additional excise duty (2) – (1)	0	4.99

Source: Records of the State Excise Department.

The Department admitted (July 2018) the audit observation, attributing it to rounding off error, and assured that measures would be undertaken to prevent such recurrences in future.

#### 4.2.3.2 Incorrect calculation of EDP of small packs

Audit examined the excise policies and pricing files for the year 2008-09 in the Office of the Excise Commissioner and in the concerned distilleries of Uttar Pradesh. Audit noticed that EDP of 375 ml and 180 ml bottles of IMFL were incorrectly calculated by the distilleries. The same was approved by the Office of the Excise Commissioner without the error being detected and rectified by the Department. Consequently, the Department failed to levy additional excise duty to the extent of ₹ 22.85 crore (against sales of 5.62 crore bottles).

#### Recommendation:

**The Department needs to adopt strict internal controls over the process of determination of various elements of pricing of IMFL/ Beer to prevent recurrence of calculation errors with revenue losses; action should be taken to recover the amount from the distillery for recoupment of such loss.**



### 4.3 Undue benefit to the distilleries/breweries by fixing higher additional costs of bottles/cans, labels and PP (Pilfer Proof) Caps for small packs of Indian Made Foreign Liquor (IMFL)/ Beer

**Due to allowance of undue benefit to the distilleries/ breweries by fixing higher additional costs of bottles/cans, labels and PP Caps for small packs of IMFL/Beer leading to excess realisation of ₹ 304.88 crore on sale of 325.51 crore bottles/cans.**

Audit noticed, upon the scrutiny of the Excise Policies of 2008-09 - 2017-18, that the formula for fixing the EDP/EBP of small packs was changed to compensate the Distillery/Brewery/bonds respectively for the additional input costs of bottles/cans, labelling and PP caps<sup>25</sup> used in small packs. The new formula, introduced in 2008-09, required that the EDPs of the small packs of IMFL was to be fixed by adding ₹ three to ₹ five to the EDP of 750 ml, dividing the total by 750 and then multiplying the result by the capacity of the packing. The above rate was subsequently raised to ₹ four<sup>26</sup> from ₹ three and to ₹ Six<sup>27</sup> from ₹ five from the year 2013-14 onwards till 2017-18. Similarly, the EBPs of the small packings of Beer were to be fixed by adding ₹ four<sup>28</sup> to ₹ five<sup>29</sup> in the EBP of 650 ml, dividing the total by 650 and then multiplying the result by the capacity of the pack in case of small packs sold as bottles. In case of small packs sold as beer cans, EBP was fixed by dividing the EBP of 650 ml with 650 and then multiplying the result by the capacity of the pack and then by adding ₹ four and ₹ five for 330 ml pack and 500 ml pack respectively.

It was also noticed that the first two proposals<sup>30</sup> regarding the draft Excise Policy for the year 2008-09 forwarded by the Excise Commissioner to the Principal Secretary did not include any provision for compensation of any additional input costs for small packs to the distilleries. However, the third proposal forwarded to the Principal Secretary (Excise) by the Excise Commissioner (25 February 2008) included a provision for allowing inclusion of additional input costs in the EDPs of small packs of IMFL. There was no justification for this subsequent incorporation either at the draft proposal stage or in the Cabinet Note put up for approval of the Policy.

Audit, however, noted that in the Excise Policy for 2018-19, these additional input costs of bottles, labels and PP Caps of small bottles of IMFL and Beer being allowed were reduced to ₹ two<sup>31</sup> and ₹ three<sup>32</sup> despite the fact that overall prices of all the inputs have gone up during the last five years. Further,

<sup>25</sup> Pilfer Proof Cap.

<sup>26</sup> For capacity of 375 ml.

<sup>27</sup> Small packs of capacity less than 375 ml.

<sup>28</sup> Small packs of capacity less than 500 ml.

<sup>29</sup> Small packs of capacity of 500 ml.

<sup>30</sup> G-274//Dus-License-367/Sujhav Abkari Niti/2008-09 dated 07 December 2007 and G-280/Dus-License-367(Khand-3)/Sujhav Abkari Niti/2008-09 dated 18 December 2007.

<sup>31</sup> For capacity of 375 ml.

<sup>32</sup> Small packs of capacity less than 375 ml.



these additional input costs were abolished from the Excise Policy 2019-20. This strengthens audit's opinion that the per unit values for compensating for the additional input costs were fixed arbitrarily and were presumably on the higher side during the years 2008-09 to 2017-18. This provision was also not available in the excise policies of other states<sup>33</sup>.

The impact of this pricing on the EDP/EBP of the small packs of IMFL/Beer is brought out in the following paragraphs.

### 4.3.1 Impact on EDP of small packs of IMFL

Audit examined the Excise Policies and the related pricing files for the years 2008-09 to 2017-18 in the Office of the Principal Secretary Excise, Excise Commissioners and in the concerned distilleries/bonds including issue details of IMFL during 2008-09 to 2017-18.

As an illustration, the impact of provision of compensation for additional input costs for the small packs issued by one distillery viz M/s Pernod Ricard India Limited (FL 3 A licensee of Daurala Distillery, Meerut) during the year 2012-13, is brought out in the **Table – 4.21**:

Table – 4.21

Details of fixing higher additional costs of bottles, labels and PP (Pilfer Proof) Caps for small packs of Indian Made Foreign Liquor

(in ₹)									
Capacity of bottle (In ml)	No. of cases <sup>34</sup> issued during the year (In cases)	Excess cost of label and PP cap of small bottles	Proportionate amount of excess charge added in EDP	Amount realised by the distillery on small packs	Excess cost of label and PP cap of small bottles as per policy of 2018-19	Proportionate amount of excess charge added in EDP	Amount due to be realised as per excise policy of 2018-19	Extra EDP of PP cap and labels on small bottles	Excess amount realised due to excess charging of PP cap
375	3,21,140	3.00	1.50	1,15,61,040	2.00	1.00	77,07,360	0.50	38,53,680
180	4,67,833	5.00	1.25	2,80,69,980	3.00	0.75	1,68,41,988	0.50	1,12,27,992
90	4,674	5.00	0.63 <sup>35</sup>	2,80,440	3.00	0.38 <sup>36</sup>	1,68,264	0.25	1,12,176
<b>Total</b>	<b>7,93,647</b>			<b>3,99,11,460</b>			<b>2,47,17,612</b>		<b>1,51,93,848</b>

Source: Information available on the basis of audit findings.

It is evident from above that in 2012-13 alone, the said distillery was benefited to the tune of ₹ 1.52 crore on account of additional input costs that were allowed as part of EDP of smaller packs of IMFL.

During 2008-09 to 2017-18, distilleries and bonds in Uttar Pradesh sold 259.26 crore small packs of IMFL in the State realising an amount of ₹ 376.50 crore as additional input costs. These costs would have been only ₹ 203.91 crore if computed on the basis of 2018-19 prices. Thus, arbitrary fixing of additional per unit input costs as part of EDP by the Department allowed the test checked distilleries/bonds to realise an additional amount of EDP to the

<sup>33</sup> Haryana, Punjab and Madhya Pradesh.

<sup>34</sup> One case contains 24 bottles of 375 ml or 48 bottles of 180 ml or 96 bottles of 90 ml.

<sup>35</sup> Actual amount is 0.625 and calculation is based on this.

<sup>36</sup> Actual amount is 0.375 and calculation is based on this.



tune of ₹ 172.59 crore which was akin to extending an undue benefit to the distilleries/ bonds.

### 4.3.2 Impact on EBP of small packs of Beer

Audit examined the Excise Policies and pricing files for the years 2013-14 to 2017-18 in the Office of the Principal Secretary Excise, Excise Commissioners and in the concerned breweries/ bonds including issue details of beer and found that during the year 2013-14 to 2017-18, breweries and bonds of Uttar Pradesh sold 66.25 crore of bottles of small packs of beer in the state. The impact of provision of compensation for additional input costs for the small packs issued by two breweries, M/s Wave Distilleries and Breweries Ltd. Aligarh and Mohan Gold Water Brewery Ltd. Unnao, during 2016-17 are summarised in the **Table – 4.22**:

**Table – 4.22**

**Details of fixing higher additional costs of bottles/Can, labels and PP (Pilfer Proof) Caps for small packs of beer**

Capacity of the pack	No of 500 ml (*24) cans in cases	Excess cost of small packs	Proportionate amount of excess charge added in EBP	Proportionate total amount of excess charge added in EBP	Excess cost of cans, small packs as per policy of 2018-19	Proportionate amount of excess charge added in EBP	Proportionate amount of excess charge added in EBP as rate provided in excise policy of 2018-19	Extra EBP of small packs	Amount excess realised due to enhanced fixing of rate of small packs
500 ml can <sup>37</sup>	55,09,558	5.00	5.00	66,11,46,960	3.00	3.00	39,66,88,176	2.00	26,44,58,784
330 ml can <sup>38</sup>	17,811	4.00	4.00	17,09,856	2.00	2.00	8,54,928	2.00	8,54,928
330 ml bottle <sup>39</sup>	10,458	4.00	2.03	5,09,514	2.00	1.02 <sup>40</sup>	2,54,845	1.02	2,54,845
<b>Total</b>	<b>55,37,827</b>			<b>66,33,66,330</b>			<b>39,77,97,949</b>		<b>26,55,68,557</b>

Source: Information available on the basis of audit findings.

It is evident from above that in 2016-17 alone, the brewery was benefited to the tune of ₹ 26.56 crore on account of additional input costs that were allowed as part of the EBP of smaller packs of Beer.

During 2013-14 to 2017-18, breweries and bonds in Uttar Pradesh sold 66.25 crore small packs of Beer in the State realising an amount of ₹ 330.37 crore as additional input costs. These costs would have been only ₹ 198.08 crore if computed on the basis of 2018-19 prices. Thus, arbitrary fixing of additional per unit input costs as part of EBP by the Department allowed the test checked breweries/ bonds to realise an additional amount of EBP to the tune of ₹ 132.29 crore which was akin to extending an undue benefit to the breweries/ bonds.

Audit reported the matter to the Department and the Government (June 2018 and March 2019). In the exit conference, the Government and the Department stated (July 2018) that this amount had been reduced to ₹ two and ₹ three respectively in the Excise Policy of 2018-19. The Government and the Department further assured that this amount would be henceforth fixed in a more logical manner in the forthcoming Excise Policy.

<sup>37</sup> Wave Distilleries and Breweries Ltd, Aligarh.

<sup>38</sup> Wave Distilleries and Breweries Ltd, Aligarh.

<sup>39</sup> Mohan Gold Water Brewery ltd., Unnao.

<sup>40</sup> Actual amount is 1.015 and calculation is based on this.



## CHAPTER-5 MINIMUM GUARANTEED QUANTITY (MGQ)

MGQ is the quantity of the liquor as fixed by the licensing authority in accordance with general or specific instructions issued by the Excise Commissioner and guaranteed by the licensee to be lifted by him for his retail shop during an excise year for the purpose of retail sale. If the licensee fails to lift the MGQ in a particular year, he is liable to deposit the consideration fee due on short lifted MGQ after completion of the year.

Audit findings relating to MGQ are given below:

### 5.1 Short fixation of MGQ of Country Liquor

**Due to short fixation of MGQ of Country Liquor for the year 2011-12, the Government was deprived of excise duty of ₹ 3,674.80 crore.**

Details of rate of annual enhancement of MGQ of Country Liquor during 2004-19 are given in **Table - 5.1** below:

**Table - 5.1**

**Details of rate of enhancement of MGQ of Country Liquor over previous years MGQ**

Percentage of increase of MGQ	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	15	8.25	7	5	7	7	3	1	6	6	6	8	4	4	8

Source: Excise Policy issued by the Government.

Audit noticed that the MGQ of Country Liquor for the year 2011-12 was increased by only one *per cent*, which was the lowest increase in MGQ over the entire period.

Scrutiny of policy files for the year 2011-12 in the Department as well as the Commissionerate revealed that a draft excise policy had been submitted by the Excise Commissioner to the Principal Secretary (3 March 2011) which stated that the most popular sizes of bottles for Country Liquor were 180 ml (91 *per cent* consumption) and 200 ml (6.5 *per cent* consumption). The approved excise policy for the year 2011-12 dispensed with the 180 ml bottles. Consequently, all consumers of 180 ml bottles would have automatically migrated to the 200 ml bottles of country liquor.

Audit observed that by replacing the 180 ml bottle with 200 ml bottle, the overall sale of country liquor should have increased by 2.14 crore bulk litres<sup>1</sup> (from the base of 23.44 crore bulk litres sold in 2010-11). However, the Department increased the MGQ only by 0.23 crore bulk litre (one *per cent* increase in MGQ in 2011-12 over 2010-11). Wrong fixation of MGQ for

<sup>1</sup> As the overall consumption of 180 ml packs constituted 91 *per cent* of the overall consumption of different packs of Country Liquor in 2011-12, its replacement by a 200 ml pack would have led to an increase in the overall consumption of Country Liquor by 10.11 *per cent* [derived by dividing 20 ml (200 – 180) by 180 ml x100 i.e., 11.11 *per cent*, and multiplying this result with 91 *per cent*].



2011-12 not only impacted upon the consumption as well as revenue for the year 2011-12 but also for the subsequent years i.e., 2012-13 to 2017-18 as calculation of MGQ for these years was worked out on the base consumption of 2011-12.

Had the MGQ been enhanced at the rate of 10.11 *per cent* in the year 2011-12, additional excise duty of ₹ 3,674.80 crore would have accrued to the State Exchequer during the period 2011-12 to 2017-18 as depicted in **Table - 5.2**:

**Table - 5.2**

Year	Rate of enhancement of MGQ	Base of MGQ (in crores of bulk litre)	MGQ fixed for the year (in crore of bulk litre)	Percentage of MGQ required to be enhanced	MGQ required to be fixed in crore of bulk litre	MGQ short fixed in crore of bulk litre	Rate of basic license fee and license fee (in ₹)	Amount involved (₹ in crore)
2011-12	1	23.44	23.67	10.11	25.81	2.14	178	380.92
2012-13	6	23.67	25.09	6	27.36	2.27	181	410.87
2013-14	6	25.29	26.81	6	29.00	2.19	207	453.33
2014-15	6	26.84	28.45	6	30.74	2.29	228	522.12
2015-16	8	28.45	30.73	8	33.20	2.47	252	622.44
2016-17	4	30.79	32.02	4	34.53	2.51	251	630.01
2017-18	4	32.02	33.30	4	35.91	2.61	251	655.11
<b>Total</b>								<b>3,674.80</b>

Source: Records of the State Excise Department.

In the exit conference, the Department stated (July 2018) that this irregularity has been rectified in the Excise Policy of 2018-19. No explanation was forthcoming on the observed irregularity in the year 2011-12.

**Recommendation:**

**Since Audit has observed that the files relating to the annual excise policy provide no justification for the decisions taken, it is recommended that all policy files should contain detailed justification.**

## 5.2 No provision of Minimum Guaranteed Quantity (MGQ) for IMFL and Beer

**The Government was deprived of excise duty of ₹ 13,246.97 crore due to non-fixation of MGQ of IMFL and Beer.**

Unlike the State excise policies of the states of Haryana, Panjab, Rajasthan and Uttarakhand which prescribe MGQs for Country Liquor as well as for IMFL and Beer, the excise policies of UP do not prescribe MGQs for IMFL and Beer.

Audit scrutiny of records of the Excise Department revealed that at the time of finalising (February 2008) the excise policy for the year 2008-09, the proposal (December 2007) of the then Excise Commissioner to fix MGQ for IMFL/ Beer on the lines of MGQ for country liquor was not acted upon, citing shortage of time. Subsequent policies for the years 2009-10 to 2017-18 also did not carry any provision for fixation of MGQ of IMFL/ Beer. The impact of this exclusion of MGQ of IMFL and Beer in the state excise policies is discussed in the following paragraphs:

### 5.2.1 Impact of non-fixation of MGQ for IMFL

If the initial proposal of the Excise Commissioner for fixing MGQ of IMFL shops at the rate of 15 *per cent* higher for the year 2008-09 had been accepted, and continued in the subsequent years, MGQ would have been fixed at least 15 *per cent* higher than the actual consumption of the previous year<sup>2</sup>. In such a scenario, the consumption trend of IMFL in the state with effect from 2008-09 would have been as depicted in the following **Table - 5.3**:

<sup>2</sup> Fact is evident from the **Table – 5.3** in which actual consumption of IMFL in the year 2008-09 was 7.90 crore bottles of 750 ml. By enhancing it by 15 *per cent*, the same comes to 9.08 crore bottles of 750 ml.



Table - 5.3

Year	MGQ of current year calculated allowing an increase of 15 per cent over the previous year (bottle of 750 ml in crore)	Actual consumption of the year (bottle of 750 ml in crore)	Shortfall in consumption with respect to calculated MGQ (bottle of 750 ml in crore)	Minimum excise duty leviable per bottle (750ml) (in ₹)	Excise duty involved (₹ in crore)
2007-08	-	6.87	-	-	-
2008-09	7.90	7.84	0.06	-	-
2009-10	9.08	9.18	-0.10	-	-
2010-11	10.44	10.91	-0.47	-	-
2011-12	12.01	12.20	-0.19	-	-
2012-13	14.03	11.36	2.67	172.50	460.58
2013-14	16.13	10.80	5.33	187.50	999.38
2014-15	18.55	9.24	9.31	216.00	2,010.96
2015-16	21.34	7.55	13.79	249.00	3,433.71
2016-17	24.54	13.00	11.54	242.50	2,798.45
2017-18	28.22	16.17	12.05	242.50	2,922.13
<b>Total</b>	<b>122.81</b>	<b>68.12</b>	<b>54.69</b>		<b>12,625.21</b>

Source: Records of the State Excise Department.

The above table shows that actual percentage increase in consumption of IMFL in the years 2009-10 to 2011-12 over the previous year was higher than the proposed increase of 15 per cent.

During 2012-13 to 2015-16, however, the consumption of IMFL declined from 12.20 crore bottles in 2011-12 to 7.55 crore bottles in 2015-16 which worked out to a decline at the rate of 9.54 per cent per annum. This was much below the theoretical minimum consumption for each year as arrived by applying MGQ of 15 per cent increase annually. Lack of MGQ for IMFL thus led to short consumption<sup>3</sup> of 54.69 crore bottles during this period (even as the sale of Country Liquor consistently increased during the same period) which caused a potential revenue loss of ₹ 12,625.21 crore to the State.

### 5.2.2 Impact of non-fixation of MGQ for Beer

Had the initial proposal of the Excise Commissioner for fixing MGQ of Beer shops at the rate of 15 per cent increase for the year 2008-09 been accepted, and thereafter continued in the subsequent years, the consumption trend of Beer in the state with effect from 2008-09 would have been as depicted in Table - 5.4:

<sup>3</sup> Lack of MGQ implied that the licensee had no incentive to sell, and this coupled with higher EDP of IMFL in the State resulted in higher MRPs which possibly led to reduced sales of IMFL.

Table - 5.4

Year	MGQ of current year calculated allowing 15 per cent increase over previous year (bottle of 650 ml in crore)	Actual consumption of the year (bottle of 650 ml in crore)	Shortfall in consumption with respect to calculated MGQ (bottle of 650 ml in crore)	Minimum excise duty leviable per bottle (650ml) (in ₹)	Excise duty involved (₹in crore)
2007-08	-	6.63	-	-	-
2008-09	7.62	7.24	0.38	-	-
2009-10	8.32	9.04	-0.72	-	-
2010-11	10.39	11.72	-1.33	-	-
2011-12	13.47	14.72	-1.25	-	-
2012-13	16.93	17.96	-1.03	-	-
2013-14	20.66	20.52	0.14	26.25	3.68
2014-15	23.60	22.64	0.96	30.30	29.08
2015-16	26.04	27.16	-1.12	-	-
2016-17	31.23	25.35	5.88	47.50	279.30
2017-18	35.92	29.40	6.52	47.50	309.70
<b>Total</b>	<b>154.38</b>	<b>143.03</b>	<b>11.35</b>	<b>-</b>	<b>621.76</b>

Source: Records of the State Excise Department.

The above table shows that percentage increase in consumption of Beer in the years 2009-10 to 2012-13 and in 2015-16 over the previous year was higher than the proposed MGQ calculated on the basis of an annual increase of 15 per cent.

During 2013-14 and 2014-15, however, the growth of consumption of Beer was less than 15 per cent over the previous year's consumption. Further, in the year 2016-17, consumption declined to 25.35 crore bottles from 27.16 crore bottles. This was much below the theoretical minimum consumption for each year as arrived by applying MGQ of 15 per cent increase annually. Lack of MGQ related provision thus led to short consumption of 13.50 crore bottles during this period which caused a potential revenue loss of ₹ 621.76 crore to the State.

Audit reported the matter to the Department (June 2018 and March 2019). In the exit conference, the Department assured (July 2018) that introduction of MGQ for IMFL/ Beer would be considered for incorporation in the State excise policies in future.

Audit analysis reveals that the sale of IMFL had decreased during the period from 2012-13 to 2015-16. The Excise Commissioner, in his excise policy proposal submitted to the Principal Secretary (Excise) (29 January 2016), had mentioned low MRP of IMFL in the neighbouring states as a chief contributing factor for the decreasing trend of sale of IMFL. Further, given that the MRP of IMFL in Uttar Pradesh was much higher than that in the neighbouring states, the State was also vulnerable to increased risks of smuggling of IMFL into the state from the neighbouring states.

Audit also noticed that in order to arrest the decline in sales of IMFL, the State Government had sought to reduce the MRP of IMFL and Beer by decreasing



the excise duty on IMFL and Beer during the year 2016-17. As a result, during the year 2016-17, the sale of IMFL increased by 72 per cent but that of the Beer decreased by 6.66 per cent during the same period. Thus, while the State Government did achieve the aim of increasing the physical sales of IMFL, the over all increase in revenue was only 1.35 per cent over the previous year as the EDP was not correspondingly revised downwards. Since the average growth of revenue in the previous years during the years from 2012-13 to 2014-15 ranged from 15.79 per cent to 20.19 per cent, the State actually ended up with a net decrease of 14.44 per cent (15.79-1.35) in realisable revenue as per the observable trend over the previous years.

Had MGQ been fixed as proposed by the Excise Commissioner, the Government could have earned an additional revenue of ₹ 13,246.97 crore.

**Recommendation:**

**The Department should consider fixing MGQs for IMFL and Beer in the forthcoming excise policies.**

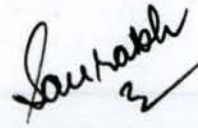
**5.3 Conclusion**

Based on the audit findings detailed in the Report, it can be concluded that the Excise Department permitted the distilleries and the breweries to fix arbitrarily high Ex-Distillery and Ex-Brewery Prices of IMFL and Beer being sold in the State during 2008-09 to 2017-18, when compared to the EDPs/EBPs of identical/similar brands being offered in the neighbouring states resulting in:

- (i) a situation where high margins were accruing to the distilleries/breweries, wholesalers and retailers, at the cost of the State exchequer as the consumers in UP were paying a much higher price than the consumers in the neighbouring states. These margins could have been levied and collected as excise revenue, by increasing the excise duty; and
- (ii) decline in the sale of liquor due to much higher MRPs in these years which perhaps also acted as an incentive for liquor getting smuggled from neighbouring states where the prices were much lower. Thus, while the State Government claimed to create a special zone to prevent smuggling of liquor from other states into Uttar Pradesh, this actually led to a situation which encouraged smuggling into state because of the high price differential.

It was only in 2018-19 that the State Government introduced a rider in its Excise Policy for the year whereby the distilleries and the breweries were now required to offer EDP/ EBP not above that offered in the neighbouring states. The policy intervention led to a sharp increase in the excise revenue by 47.84 per cent (from ₹ 12,652.87 crore to ₹ 18,705.61 crore) during the period from April 2018 to January 2019 compared to the same period in the previous year, clearly establishing that the policies in the earlier years had resulted in extending a huge financial benefit to the Distilleries, Breweries, Wholesalers and Retailers at the expense of both the consumer and the State Exchequer.

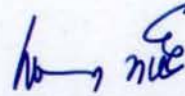
The State Government did not make any effort to arrest the decline in sales of IMFL and investigate the root cause for such decline with a view to safeguard the revenue interests of the state. The matter needs thorough investigation and fixing of accountability of those responsible for allowing undue benefit to the distilleries /breweries, wholesalers and retailers at the cost of the exchequer.



Lucknow  
The **21 APRIL 2019**

(SAURABH NARAIN)  
Accountant General  
(Economic and Revenue Sector Audit),  
Uttar Pradesh

Countersigned



New Delhi  
The **22<sup>nd</sup> April, 2019**

(RAJIV MEHRISHI)  
Comptroller and Auditor General of India





## GLOSSARY OF TERMS AND ABBREVIATIONS

<b>AED</b>	Additional Excise Duty
<b>BLF</b>	Basic Licence Fee
<b>BL</b>	Bulk Litre means a litre with reference to the bulk or quantity of the contents
<b>CL</b>	Country Liquor means plain or spiced spirit which has been made in India from material recognised as base of country spirit namely mahua, rice, gur or molasses
<b>EBP</b>	Ex-Brewery Price
<b>ED</b>	Excise Duty
<b>EDP</b>	Ex-Distillery Price
<b>EC</b>	Excise Commissioner
<b>IMFL</b>	Indian Made Foreign Liquor means spirit made in India and sophisticated or coloured so as to resemble flavour or colour of liquor imported into India
<b>MRP</b>	Maximum Retail Price
<b>MWP</b>	Maximum Wholesale Price
<b>MSP</b>	Maximum Selling Price
<b>ML</b>	Mili Litre
<b>MGQ</b>	Minimum Guaranteed Quantity
<b>Nips</b>	A bottle of IMFL having capacity of 180 ML
<b>Pints</b>	A bottle of IMFL having capacity of 375 ML
<b>Quarts</b>	A bottle of IMFL having capacity of 750 ML
<b>PAC</b>	Public Accounts Committee
<b>PSU</b>	Public Sector Undertaking
<b>PP</b>	Pilfer Proof
<b>RSBCL</b>	Rajasthan State Beverages Corporation Ltd.