

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2006-2008)**

SEVENTH REPORT

(Presented on 18th October, 2006)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2006**

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2006-2008)**

SEVENTH REPORT

On

**Action taken by Government on the Recommendations contained
in the Hundred and Twentieth Report of the Committee
on Public Accounts (2001)**

CONTENTS

	<i>Page</i>
Composition of the Committee ..	v
Introduction ..	vii
Report ..	1
Appendix :	
I Summary of main Conclusion/Recommendation ..	12
II Statement showing the difference between the actual stock and stock register with Bill register of KSBC, Kottayam	13
III Copy of chalan No. 3450 ..	14
IV Copy of chalan No. 3451 ..	15

COMMITTEE ON PUBLIC ACCOUNTS (2006-2008)

Chairman :

Shri Aryadan Muhammed.

Members :

- Shri C. T. Ahammed Ali
” Alphons Kannanthanam
” P. Jayarajan
” K. M. Mani
” K. P. Mohanan
” C. K. P. Padmanabhan
” M. Prakashan Master
” Thiruvanchoor Radhakrishnan
” N. Rajan
” A. K. Saseendran.

Legislature Secretariat :

- Dr. M. C. Valson, Secretary
Shri K. Ravikumar, Deputy Secretary
Smt. M. T. Eleykutty, Under Secretary.

INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report on their behalf, present the Seventh Report on Action Taken by Government on the Recommendations contained in the Hundred and Twentieth Report of the Committee on Public Accounts (2001).

The Committee considered and finalised this report at the meeting held on 11th October, 2006.

ARYADAN MUHAMMED,

Thiruvananthapuram,
18th October, 2006.

*Chairman,
Committee on Public Accounts.*

REPORT

This Report deals with the action taken by Government on the recommendations contained in the One Hundred and Twentieth Report of the Committee on Public Accounts (2001).

The 120th Report of the Committee on Public Accounts (2001) was presented to the House on March 2, 2001 and it contained 11 recommendations relating to Taxes department. Government were addressed to furnish the statement of action taken on the recommendations contained in the Report on 31st March, 2001 and the final reply was received from government on 1-3-2004.

The Committee examined the statements at its meetings held on 3-6-2003 and 6-4-2004 and was not satisfied with the statement of action taken on the recommendation Nos. 5 and 6 (Para Nos. 16 and 17) and decided to pursue it further. Those recommendations, replies and the further recommendations are included in Chapter I of this Report.

The Committee decided not to pursue further the remaining recommendations in the light of the replies furnished by Government. Such recommendations and their replies are incorporated in Chapter II of the Report.

CHAPTER I

Recommendations in respect of which the action taken by the Government is not satisfactory and which require reiteration

TAXES DEPARTMENT

Recommendations

(Sl. Nos. 5 & 6 Para Nos. 16 & 17)

1.1 The Committee observes that the rate of yield prescribed by Central Molasses Board as 373.5 litres per tonne is very low when compared to 475 litres per tonne stipulated in the State Excise Manual. The Committee notes that the Government of Kerala have not fixed any specific norms for the out-turn of spirit from different grades of molasses rather than the attenuation of the wash. The Committee expresses deep concern over the inclusion of a provision in the State Excise Manual, which is not being implemented and opine that if the rules are ambiguous leading to misinterpretations and affecting prejudicially to Government interest, should be amended. The Committee underlines the necessity of amending the Distillery Rules to make it timely and comprehensible, if the norms prescribed even by the Central Board of Molasses cannot be attained in the existing conditions.

1.2 The Committee would like to be intimated whether any action was taken by Government for amending the Distillery and Warehouse Rules to prevent the leakage of excise duty involving huge amount.

1.3 The Committee desire to be furnished with a detailed report on the out turn of spirit from molasses in private sector and public sector distilleries in our State as well as other States in India. The Committee expresses strong displeasure over the action of the witness, who had failed to submit a detailed report of this issue within one month as promised to the Committee. The Committee wants the report to be submitted before the Committee within one month.

Action Taken

1.4 The subject was examined with reference to the relevant provisions of Kerala Distilleries and Ware House Rules, 1968, reports of field officers, experts and the Rules of Karnataka State. The Deputy Commissioners (Central Zone and South Zone) have reported that the out turn of rectified spirit from molasses during distillation in public sector distilleries and private sector distilleries have visible differences. Details have also been collected from the Professor and Head of Sugarcane Institute of Kerala University in the above

subject and verified the Karnataka Excise (Regulation of Yield, Production and Wastage of spirit, beer, wine or liquors) Rule,1998 the report from Tamilnadu is yet to be received.

1.5 The attenuation factor is used to calculate the recovery of spirit in each batch of distillation as per Rule 93(8) of the Kerala Distillery Ware House Rules, 1968. This was followed in all the distilleries in Kerala. The out turn of the spirit from each set of wash for distillation is below the average recovery of spirit in each case. Whenever the out turn of the spirit from each set of wash for distillation is below the average attenuation point, Excise duty is being collected for below the average recovery of spirit in each case. Whenever the out turn of the spirit is consistently low and there is no apparent cause, officers should take samples of spent wash as it leaves in the still and forward to the Chemical Examiner, for further verification.

Statement showing the yeild of rectified spirit from molasses

<i>Sl. No</i>	<i>Name of Institution</i>	<i>Average Quantity of Molasses</i>	<i>Production of Rectified Spirit</i>
1.	MC Dowell Distillery Cherthalai. (Pvt. Sector)	1 Metric Tonne	227.95B.L (378.404 P.L)
2.	Kaycee Distilleries Potheads (Pvt. Sector)	1 Metric Tonne	169.40 B.L. (278 P.L)
3.	Travancore Sugars & Chemicals (Public Sector)	1 Metric Tonne	207 B.L (342 P.L)
4.	Chicops Distillery Palakkad (Public Sector)	1 Metric Tonne	206 B.L. (339 P.L)
5.	Kerala Agrl. University and Research Station	1 Metric Tonne	225 B.L. (371 P.L)
6.	Karnataka State	1 Metric Tonne	
		(Grade-1)	220 B.L. (365 P.L)
		(Grade-II)	200 B.L. (330 P.L)
		(Grade-III)	180 B.L. (300 P.L)

1.6 In the case of Distilleries in Karnataka, the average recovery of spirit from Grade I Molasses is 220 Bulk Litres (365 P.L), Grade II is 200 B. L (330 P. L) and Grade III is 180 B.L (300 P. L). The Professor and Head of Kerala Agricultural University has reported that the yield of alcohol is 225 B. L (371 P.L) per Metric Tonne of Molasses.

1.7 When compared to the above data, the recovery from MC Dowell Distillery, Cherthala is 378 Proof Litres /metric Tonne, Travancore Sugars and Chemicals-342 P.L; Chicops Distillery-339 P.L. Hence the yield of the rectified spirit is more than that of Karnataka State. Grading of Molasses is not done in Kerala. So the stipulation in the Excise Manual regarding the yield of 475 P. L/Metric Tonne of Molasses may not be feasible.

1.8 The above illustration of recovery of spirit per tonne of molasses has conceded rule 93(8) of Kerala Distillery and Ware House Rules 1968. So, the attenuation point for calculating the recovery of spirit is found to be reliable and no change is required.

Further Recommendation

1.9 The Committee notes that the reply was silent about whether any action was taken by Government for amending the Kerala Distillery and Warehouse Rules by incorporating specific norms for the out-turn of spirit from different grades of molasses. The Committee also desires to get a more detailed reply showing the yield of rectified spirit from molasses by including details from more States.

CHAPTER II

Recommendations which the committee does not desire to pursue in the light of the replies received from government

TAXES DEPARTMENT

Recommendation*(Sl. No.1 Para No. 4)*

2.1 The Committee observe that even though error was noticed in the stock register regarding the entries made in the closing balance and opening balance of foreign liquor as on 31st March 1991 in the bonded warehouse at Kottayam, the Department failed to clear the objection by a convincing reply rather than stating that it was due to a clerical error. The most disappointing fact noticed by the Committee during evidence was that the Principal Secretary, Taxes Department was not in a position to explain the actual reason for the variations, as pointed out by audit, in the stock register. The Committee opine that there had been several occasions to the Department to rectify this defect even before the presentation of the Audit Report during 1993. The Committee express their displeasure on the attitude of the witness who had failed to submit a detailed report on the issue within one month as promised before the Committee. The Committee urge the Government to submit a detailed report on this issue to the Committee within one month, after the presentation of this Report.

Action Taken

2.2 The Audit Party for 1990-91 had computed a short accounting of Indian made Foreign Liquor to 20023.87 P/L and directed to realise Rs. 2,80,334. Even though notice has been issued to the Corporation, they declined to remit the amount stating that there is not that much shortage. The Deputy Excise Commissioner, Southern Zone, Thiruvananthapuram deputed an Excise Inspector for the verification of the short accounting from the beginning of the bonded warehouse itself. As a result of the joint physical verification, it was found that there is shortage of 17,598 bottles of 750 ML and 25,164 bottles of 375 ml, thus there is a shortage of 16,971 P/L for which duty amounting to Rs. 2,37,594 has to be realised. This amount was remitted as per TR. No. 3450 dated, 25-7-1996 and the interest thereon amounting to Rs. 2,28,090 has been remitted as per TR. No. 3450 dated. 25-7-1996.

2.3 It is also reported that the duty remitted was for the entire actual shortage from the beginning of the bonded warehouse till 31-3-1996. It is

therefore submitted that the objections in this para may kindly be dropped. A copy of the statement showing the difference between the actual stock and stock register with Bill register of KSBC, Kottayam for the period from 1990-91 to 30-3-1996 together with copies of chalan are also included as Appendix-II, III and IV.

Recommendation

(Sl. No. 2 Para No. 5)

2.4 The Committee understand that the Department had collected Excise duty only to 16971 proof litres of IMFL instead of 20,023.87 proof litres which was found short accounted during audit. The Committee cannot find any justification to cover up the lapses brought to notice by audit. Instead of initiating corrective steps and timely action the Department tries to express contradictory views to audit and to the Committee on the matter which they themselves had admitted earlier. The Committee, therefore recommended that the reason for short levy should be called for from the officers in this regard. The Committee would also like to know the present position regarding the collection of Excise Duty of the remaining 30, 52.87PLS.

Action Taken

2.5 Even though demand notice was issued to the Corporation they declined to remit the amount stating that there is not that much shortage as KSB (M&M) Corporation is a Government owned one. The Excise Commissioner, Southern Zone, Thiruvananthapuram decided to conduct a joint physical verification from the beginning of the Bond till 31-3-1996. As a result of the joint physical verification the actual loss of Excise duty was found out and the amount was realised with interest from the Corporation. It is pointed out that the issue has been settled and no loss had been sustained to Government. Corrective steps were not initiated by the Excise Department as the Corporation is owned by Government.

Recommendation

(Sl. No. 3 Para No. 10)

2.6 Regarding the offences compounded under the provisions of Abkari Act (1 of 1077) and the cases relating to it, the Committee notice that the Department has followed the practice of collecting fees fixed for each offence irrespective of the number of persons involved in the case, instead of compounding fee from each offender when the offence was committed by more than one person. The Committee was informed that all action of realising short

levy of compounding fee was dropped based on the clarification obtained from the Law Department that the power of compounding exercised by the Assistant Excise Commissioner is only a quasi judicial nature of work and without amending the provisions of the Act, the action of the officer within the limit fixed by statute cannot be treated as short levy. The Committee find that there was flaxity on the part of the Department to consult the Advocate General in this regard before arriving at a decision at Government level since the decision is not at all beneficial to the tax structure of the State. Therefore, the Committee suggest that when opinion on such important matters relating to taxes are sought, the Government should not be satisfied only with the findings of the Law Department but should hear the opinion of the Advocate General also.

Action Taken

2.7 The Advocate General will be consulted when such occurrence come in future.

Recommendation

(Sl. No. 4 Para No. 15)

2.8 The Committee understand that the average yield of spirit from every tonne of molasses in our State is far below the expected rate of yield prescribed by the Kerala Excise Manual, Vol. II and norms fixed by the Central Board of Molasses and notice vide variations in the outcome of spirit in various distilleries. The Committee find that low yield of spirit attributed to the quality of wash was baseless in the absence of any report on the chemical examination of the spent wash. The Committee are at a loss to understand why the officer in charge of distillery had not even brought to the notice of the Excise Authorities nor thought it necessary to arrange for chemical examination of the wash as stipulated in Rule 93(8) of the Distilleries and Warehouse Rules 1968. The Committee are inclined to believe that the plea of low yield was for the purpose of evading excise duty.

Action Taken

2.9 As per the Kerala Distilleries and Warehouse Rules 1968 the attenuation method has to be followed to find out the yield of spirit while distilling molasses. As such the officers in charge of the distilleries has to follow the above method and they are not at liberty to follow "Pertonne" method at present. As per Rule 93 of the K.D and W Rules 1968, instructions are given to fill up D3(b) register which contains the details of wash made and spirit made there from. In rule 93 (8) "Attenuation" of wash is described and

method to find out the attenuation of wash is given there. "Attenuation" is the difference of initial and final gravity of wash. With fermentation the gravity of wash rapidly falls due to disappearance of sugar and fermentation of alcohol. At the end, gravity will be at a stationary point. It is stated in the rule that where work is satisfactory and the wash thoroughly exhausted of its spirit, the result in the attenuation fact will invariably be between 4 and 5 and never be above the later figure. In other words the output should never be the minimum yield of 5. The rules specifically instruct to follow this method and the D3 (6) register is also made to find out the yield by the attenuation factor.

2.10 In 1994-95 according to D3 (b) Register the company have achieved the yield satisfactorily as per the attenuation method. The audit party has taken account of "Pertonne method" where by a minimum yield of 373.5 litres of spirit to be obtained from one MT of molasses. The officers in charge of the distillery have not deviated from the K. D and W Rules 1968. As per the directions from this office, spent wash is being got analysed at the chemical laboratory now.

Recommendation

(Sl. Nos. 7 & 8 Para Nos. 19 & 20)

2.11 The Committee cannot find any justification for delay in issuing orders for fixing the vending fee till the end of the financial year and permitting the Kerala State Beverages Corporation to keep the amount with them indefinitely. The Committee recommend that the Government should issue the orders well in advance to collect the vending fee monthly or quarterly.

2.12 The Witness, Principal Secretary, Taxes Department assured before the Committee that a detailed report explaining the reason for delay in issuing Government order fixing vending fee would be furnished. The Committee desire that the details required during the examination of the audit paragraphs should be furnished at the earliest.

Action Taken

2.13 As per rule 15 A of the Foreign Liquor Rules, the Government are competent to collect gallonage fee on the IMFL including Beer sold by the FL9 licensee at such rate as may be fixed by Government from time to time. Once gallonage fee is fixed, it is normally paid within that financial year itself. Moreover there is already a provision for payment of interest for delayed remittance of gallonage fee beyond 10th of April. So gallonage fee can be collected even without making it quarterly or monthly and without incurring any loss to Government. Gallonage fee is fixed considering the overall sale of

IMFL and Beer by the FL9 licensee for a particular period. So before fixing gallonage fee, the details of sales have to be collected and processed. The delay in the fixation of gallonage fee is purely administrative and not out of any negligence or lapses on the part of the officers.

Recommendation

(Sl. No. 9 Para No. 24)

2.14 The Committee understand that the remittance towards kist arrears were credited against the principal first instead of liquidating the interest portion which resulted in a loss of Rs. 1.83 lakhs to the exchequer. The Committee also note that on recalculation the amount due from the contractor was more than the amount pointed out during audit and desired to know whether any action was initiated against the officers who wrongly credited the amount. The witness admitted that the entry was erroneous and assured that strict action would be initiated against the delinquent officers after verifying the records.

2.15 The Committee would like to be intimated of the present position with regard to the action taken against the delinquent officers.

Action Taken

2.16 As Group III/1995 –1996 of Neyyattinkara Range was bid for Rs. 70,00,000 Four Arrack shops were closed from 11-7-1995 to 11-10-1995 as per the orders of the District Collector, Thiruvananthapuram. As per order No. XA2-23864/95 dated 3-2-1996 of the Board of Revenue (Excise) an amount of Rs. 10,82,867 was waived. But as per Government letter No. 22639/A2/95/TD. dated 25-11-1997 Government rejected the orders of the Board of Revenue (Excise). Besides there was stay orders from the Honourable High Court of Kerala against the recovery proceedings in O. P No. 13605/95. In the light of the above facts the Circle Inspector of Excise, Neyyattinkara was not able to prepare the revised D.C.B pointed out by the Accountant General. It may be seen that up to 25-11-1997 (Date of Government Order) the issue was not settled and the D. C. B was not finalised. The Assistant Excise Commissioner, Thiruvananthapuram has reported that no purposeful omission or delay could be attributed in this case against the Circle Inspector of Excise, Neyyattinkara. Soon after the issuance of Government Order dated 25-11-1997 revised D.C.B was prepared. As per the D.C.B a sum of Rs. 17,24,403 with future interest at the rate of 18% on Rs. 16,50,140 from 1-4-1996 was recommended for collection under R. R Act. In the light of the report of the Assistant Excise Commissioner,

Thiruvananthapuram no disciplinary action was taken against the Circle Inspector of Excise, Neyyattinkara.

Recommendation

(Sl. No. 10 Para No. 25)

2.17 The Committee note with serious concern that a sum of Rs. 17,24,203 with interest towards kist arrears are pending for collection against revenue recovery proceedings. Details of revenue recovery proceedings as well as action against the officers responsible for the huge loss to the exchequer should be informed to the Committee.

Action Taken

2.18 The landed property of the defaulter was attached by the revenue authorities and was auctioned for Rs. 3,63,000 and this amount was remitted as per TR. No. 803 dated 15-10-1999 at Sub Treasury, Neyyattinkara.

2.19 Due to the closure of four arrack shops from 11-7-1995 to 11-10-1995 as per the orders of District Collector, Thiruvananthapuram the licensee claimed remission of kist amount. The recovery proceedings were stayed by the Honorable High Court of Kerala in O. P. No. 13605/96. The Government issued a final order in this regard on 25-11-1997. Hence the Circle Inspector of Excise, Neyyattinkara was able to revise the D. C. B. as pointed out by the Accountant General only after 25-11-1997. The Assistant Excise Commissioner, Thiruvananthapuram has reported that there was no inordinate delay on the part of the Circle Inspector of Excise, Neyyattinkara and hence no disciplinary action was taken against him.

Recommendation

(Sl. No. 11 Para No. 27)

2.20 The Committee do not understand the reason for the delay on the part of the Department in realising the dues in respect of the dearness allowance at the revised rate from the licensees in time. However the witness failed to explain the reason for the delay though the amount was collected on 16-6-1997. Therefore, the committee urge that the reason for the failure of timely collection of the dues in respect of dearness allowance should be furnished to the committee at the earliest.

Action Taken

2.21 The D. A arrears at the revised rates as per Pay Revision order amounting to Rs. 1,47,102 has been remitted by the Distillery authorities

(Chicops Distillery, Chittur, Palakkad) on 16-6-1997. When pointed out the matter by the Accountant General the Circle Inspector of Excise has issued a Notice to the Distillery authorities on 18-11-1995 for realising the D. A. arrears. In turn on 20-12-1995 they have intimated the Circle Inspector of Excise that they were required to pay only the cost of establishment of Excise Supervisory Staff actually worked, since the sanctioned strength of the staff has not worked at the Distillery through out and they are not bound to remit the arrear D. A. as demanded. Later in their letter dated 13-3-1996 it was informed that they have sought for clarification from the then Board of Revenue (Excise); whether the claim of the arrear D. A. can be allowed and remitted in accordance with the notice dated 18-11-1995 of the Circle Inspector of Excise.

2.22 Thereafter clarification obtained and accordingly they remitted the amount of Rs. 1,47,102 on 16-6-1997. The delay caused in realising the D. A arrear was only due to the process in getting clarified the issue. Hence the above facts may kindly be accepted and the para may be dropped.

ARYADAN MUHAMMED,

Thiruvananthapuram,
October 18, 2006.

Chairman,
Committee on Public Accounts.

APPENDIX I

Summary of Main Conclusions/Recommendations

<i>Para No.</i>	<i>Department</i>	<i>Conclusions/Recommendations</i>
1.9	Taxes Department	The Committee notes that the reply was silent about whether any action was taken by Government for amending the Kerala Distillery and Warehouse Rules by incorporating specific norms for the out-turn of spirit from different grades of molasses. The Committee also desires to get a more detailed reply showing the yeild of rectified spirit from molasses by including details from more states.

(13) APPENDIX - II

Statement showing the difference in the physical stock of stock with the Book Register of K.S.P.C. Ltd. 23

Sl. No. Date 30.3.96	Actual Physical Stock found as per verification	No of Batches Short	Quantity in Bill	Quantity in PL	Remarks
1642 (1750ml)	98,832	17598	13192	9894	Duly, 2 25/10/95
14869 (275ml)	189705	25164	9437	7077	In line 22/04 7/12/95
TOTAL			<u>16971 R</u>		

Duly in PL = 14/-

16971 x 14 = 237594

one copy

date

Form 12
102 (6) & 1231

Exemption receipt for
contributions made
in Treasury

Use No.

Name of Treasury

Amount
received Rs.

Head of
Amount

Treasurer

Note—The claims receipt
from the Treasurer
will be issued only on
production of this.

Form 12, 10,000, 1000, G.P.S.

Appendix - III
GOVERNMENT OF KERALA
ORIGINAL

16/7/85

THE CIRCLE INSPECTOR GENERAL
Kottayam T. R. 12

Charter for payment of the
State Bank of India, Kottayam
No. 3 HSO

By whom paid and name
of the person or whose
behalf money is paid

Amount
(Subject
and
particulars
if any)

Order in the
book

Manager
K S B C
Kerala State Bank Corporation Ltd
(Ware House
Kottayam)

Being the value
on 16/7/85, P.L. of the
bonded warehouse
0039,105,97

Circle Inspector
S. B. C. BONDED WARE
KOTTAYAM

Signature of Treasurer
Director: Kerala State Bank Corporation Ltd
Kottayam
State Bank of India
Kottayam
Date: 13/7/85
Signature of Treasurer

Note—(1) Receipt for amount less than Rs. 2,000
will be issued only on production of this.
(2) The stamp of the Treasurer/State of contribution is not valid.

Form T. R. 12
102 (6) & 1231

Exemption receipt for
contributions made
in Treasury

Use No.

Name of Treasury

Amount
received Rs.

Head of
Amount

Treasurer

Note—The claims receipt
from the Treasurer
will be issued only on
production of this.

Form 12, 10,000, 1000, G.P.S.

Appendix - IV
GOVERNMENT OF KERALA
ORIGINAL

16/7/85

THE CIRCLE INSPECTOR GENERAL
Kottayam T. R. 12

Charter for payment of the
State Bank of India, Kottayam
No. 3 HSO

By whom paid and name
of the person or whose
behalf money is paid

Amount
(Subject
and
particulars
if any)

Order in the
book

Manager
K S B C
Kerala State Bank Corporation Ltd
(Ware House
Kottayam)

Being the value
on 16/7/85, P.L. of the
bonded warehouse
0039,800,45

Circle Inspector
S. B. C. BONDED WARE
KOTTAYAM

Signature of Treasurer
Director: Kerala State Bank Corporation Ltd
Kottayam
State Bank of India
Kottayam
Date: 13/7/85
Signature of Treasurer

Note—(1) Receipt for amount less than Rs. 2,000
will be issued only on production of this.
(2) The stamp of the Treasurer/State of contribution is not valid.