



दिल्ली विधान सभा सचिवालय  
**DELHI LEGISLATIVE ASSEMBLY**

लोक लेखा समिति  
**PUBLIC ACCOUNTS COMMITTEE**

आठवां प्रतिवेदन  
**EIGHTH REPORT**

राज्य उत्पाद, मनोरंजन एवं विलासिता कर विभाग पर प्रतिवेदन  
**REPORT ON EXCISE, ENTERTAINMENT AND LUXURY TAX  
DEPARTMENT**

दिनांक 11 सितंबर 2008 को प्रस्तुत  
Presented on 11 September 2008

दिल्ली विधान सभा सचिवालय, विधान सभा भवन, पुराना सचिवालय, दिल्ली - 110054  
Delhi Legislative Assembly Secretariat, Vidhan Sabha Bhawan, Delhi - 54

## **COMPOSITION OF THE COMMITTEE**

- |    |                          |          |
|----|--------------------------|----------|
| 1. | Shri Vijay Singh Lochav  | Chairman |
| 2. | Shri Charan Singh Kandra | Member   |
| 3. | Shri Rajesh Jain         | Member   |
| 4. | Shri Veer Singh Dhingan  | Member   |
| 5. | Shri Rajesh Liloithia    | Member   |
| 6. | Shri Vinay Sharma        | Member   |
| 7. | Shri S P Ratawal         | Member   |
| 8. | Shri Subhash Sachdeva    | Member   |
| 9. | Shri Vijay Jolly         | Member   |

### **Special Invitees:**

- |   |                 |   |
|---|-----------------|---|
| 1 | Shri P K Mishra | Accountant General (Audit)<br>Delhi.                  |
| 2 | Shri V V Bhat   | Principal Secretary (Finance)<br>Government of Delhi. |

### **Assembly Secretariat:**

- |   |                     |                 |
|---|---------------------|-----------------|
| 1 | Shri Siddharath Rao | Secretary       |
| 2 | Shri GS Rawat       | Joint Secretary |
| 3 | Shri S K Sikdar     | Under Secretary |

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## **Introduction**


I, Vijay Singh Lochav, Chairman of the Public Accounts Committee of the Delhi Legislative Assembly, having been authorised by the Committee to present its Report, do hereby present the Report of the Committee relating to examination of Paras pertaining to the Excise, Entertainment and Luxury Tax Department as appearing in the Comptroller and Auditor General's report for the year ended March 2004, 2005 and 2007.

The Committee in its meetings held on the 02 July 2008 had considered these Paras. The Committee held extensive deliberations and the Departmental Representatives were also given adequate opportunity to submit written replies and to present their views in the meeting. The report of the Committee was adopted in its meeting held on 09 Sept. 2008.

The Committee appreciates the co-operation and guidance extended to it by Shri PK Mishra, Accountant General (Audit), Delhi and VV Bhat, Principal Secretary, Finance Department, Government of Delhi. The Committee also wishes to place on record its appreciation of the valuable assistance rendered by the Officers and Staff of the Assembly Secretariat during its meeting as also in the preparation of the Report.

Delhi.

Date: 09 September 2008

  
**(Vijay Singh Lochav)**  
**Chairman**  
**Public Accounts Committee**



**REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON  
THE EXCISE, ENTERTAINMENT AND LUXURY TAX  
DEPARTMENT**

**5.28 Failure to levy Entertainment Tax on complimentary tickets issued by the Delhi District Cricket Association for cricket matches led to revenue loss of Rs. 3.11 crore.**

*(Excerpts from the Report of the C&AG as appearing in the Report for the year ended 2006.)*

Section 6(4) of the Delhi Entertainment and Betting Tax Act, 1996, provides that if any person is admitted free of charge or on a concessional rate to any entertainment, the same amount of tax shall be payable as if such person was admitted on full payment. Further Section 9 of the Act, stipulates that no unauthorized person shall be admitted to any entertainment except with a ticket in the prescribed form denoting that the proper tax has been paid. If any proprietor fails to pay tax due as required under the provision of this Act, he shall, in addition to tax (including any penalty) due, be liable to pay simple interest at the rates prescribed.

Test check of records of the office of the Commissioner of Entertainment, Betting & Luxury Tax relating to the one day International Cricket Match between India and England held on 31 January 2002, the Cricket Test Match between India and Zimbabwe held from 28 February 2002 to 4 March 2002 and the one day International Match between India and New Zealand held on 17 November 1999 conducted by the Delhi District Cricket Association (DDCA) revealed in June 2004 that 51,582 tickets were issued as complimentary for which

neither any entertainment tax was charged nor any application for exemption of tax was made by DDCA. The match-wise details of complimentary tickets issued were as under:-

(Rupees in lakh)

Name of the match	No. of tickets issued as complimentary	Rate in Rs.	Amount receivable	Entertainment tax due	Total interest	Total amount due
One-day international India Vs England held on 31.1.2002	12,486	2,000	249.72	49.94	29.71	79.65
	4,500	250	11.25	2.25	1.34	3.59
Test Match India Vs Zimbabwe (28.2.2002 to 4.3.2002)	1,786	5,000	89.30	17.86	10.98	28.84
	11,200	1,500	168.00	33.60	20.66	54.26
	2,250	250	5.63	1.13	0.69	1.82
	2,250	50	1.13	0.23	0.14	0.37
One day International India Vs New Zealand held on 17.11.1999	1,810	7,000	126.70	25.34	29.77	55.11
	8,400	2,000	168.00	33.60	39.48	73.08
	2,400	1,000	24.00	4.80	5.64	10.44
	4,500	200	9.00	1.80	2.12	3.92
<b>Total</b>	<b>51,582</b>		<b>852.73</b>	<b>170.55</b>	<b>140.53</b>	<b>311.08</b>

Failure to levy entertainment tax in accordance with the provision of the Act resulted in loss of revenue of Rs. 1.71 crore. In addition, interest amounting to Rs. 1.41 crore till 31 October 2004 was also liable to be recovered from DDCA.

The matter was referred to the Government in June 2004. The office of the Commissioner of Entertainment and Betting tax replied in September 2004 that exemption from payment of entertainment tax on the complimentary tickets had been granted for the one day International match played between India and New Zealand on 17 November 1999 while notice had been issued to DDCA to deposit Rs. 91.77 lakh along with interest in the cases of other two matches, failing which recovery proceedings will be initiated.

Re-examination of ticket accounts for the first two matches revealed that the entertainment tax due worked out to Rs. 1.05 crore instead of Rs. 91.77 lakh. The discrepancy needs to be reconciled.



Further scrutiny of the records relating to the grant of exemption from payment of entertainment tax for the one day International between India and New Zealand revealed that exemption from payment of tax on the complimentary tickets valued at Rs. 3.28 crore had neither been sought nor granted. The exemption of entertainment tax granted pertained to sale of tickets and not for complimentary tickets.

### **REPLY OF THE DEPARTMENT**

In the Action Taken Note and submissions before the Committee in the meeting held on 02.07.2008, the department clarified that the government approved exemption from payment of entertainment tax on the sale of tickets and also on complimentary tickets for all the three cricket matches.

Regarding the undertaking given by the DDCA to donate the entire gross proceeds from the sale of tickets in the Gujarat Earthquake Relief Fund, the department pointed out that the DDCA as a trust was prohibited by law to donate the proceeds to another trust. As such the exemption given stood nullified and accordingly the recovery has been made.

### **OBSERVATION AND RECOMMENDATIONS OF THE COMMITTEE**

**The Committee notes it with grave concern that the government has not yet framed any policy guidelines to govern grant of such exemptions from paying entertainment tax. As a result of which one of the richest cricketing body like DDCA got undue exemptions that caused substantial loss of revenue. The Committee feels that this was not an isolated case because many**

**multinational companies and rich organizations manage to get exemptions in the absence of any clear cut guidelines to regulate such exemptions.**

**The Committee strongly recommends that the department should examine the relevant laws and frame guidelines to effectively control the grant of exemptions. The Committee suggests the following points for inclusion in the guidelines:**

- (i) There should be a complete ban on grant of exemptions to rich and profit making organizations.**
- (ii) No exemption should be granted for any promotional campaign and other commercial events which are beyond the reach of common man and not directly linked with the promotion of sports, art or culture.**
- (iii) Exemptions should be granted only in deserving cases, especially to the newly formed organizations / associations which are genuinely engaged in the promotion of sports, arts and culture and facing financial crunch and need state support.**

**The Committee also strongly recommends that there must be a complete accountability so far as grant of exemptions is concerned. The government must inform the Legislature about granting of exemptions and the reasons thereof. The exemptions should be quantified and it must be ensured that the basic objectives behind giving such exemptions are achieved invariably and the proceeds realized from those events are utilized for the cause for which the exemptions were claimed.**

**The Committee desires that the guidelines to govern the grant of exemptions should be formulated and laid down as soon as possible.**



**Audit Paragraph 3.2 to 3.5 of the C&AG's Report for  
the year ended March 2005**

- 3.2 Loss of vend fee**
- 3.3 Loss due to short supply of country liquor**
- 3.4 Loss due to reduction in element of excise while fixing retail price of country liquor**
- 3.5 Loss due to delayed implementation of reduced export pass fee**

*Para 3.2 to 3.5 as mentioned above were examined together by the Committee as these were found mainly related to loss of revenue due to non/short levy of fee / tax. The Committee observes that although the department has taken remedial measures but still there is much scope for improvement in the system. The Committee suggests that the existing policy of the department concerning procurement of country liquor and fixing of its retail price etc. needs to be reviewed thoroughly for bringing about desired changes to make the system better, leaving no room for any loss to the government.*

*Excerpts of para 3.2, 3.3, 3.4 and 3.5 involving Rs. 4.77 crore as appearing in the Report of C&AG for the year ended 2005, replies of the Department and observations and recommendations of the Committee are given in the following paragraphs.*

**3.2 Loss of vend fee**

Grant of licence for sale of Indian made foreign liquor (IMFL), and conditions relating thereto, are fixed and issued by excise department every year. The lowest Ex Distillery Price (EDP) net of all duties/fees,



discounts/commissions of whatsoever nature allowed in respect of any market in India forms the basis for fixation of wholesale price for NCT Delhi.

As per terms and conditions fixed by excise department for the grant of licence for the year 2003-04, maximum wholesale price of cheaper brand of IMFL was to be fixed upto Rs.20 per quart. However a distillery quoted Rs.18.48 per quart for its cheaper brand, against which, the department allowed Rs.20 per quart. This resulted in short realisation of Government revenue by Rs.4.02 lakh on sale of 2.65 lakh quarts sold as cheaper brand.

### **REPLY OF THE DEPARTMENT**

The department in its Action Taken Note (ATN) / Revised Action Taken Note mentioned that recovery of Rs.4,02,378 has been made and deposited vide TR No. 202 dated 19.12.05.

The department admitted before the Committee in the meeting held on 02.07.2008 that it was definitely an error on its part to allow Rs. 20 per quart, whereas the distillery concerned quoted only Rs. 18.48 per quart. When it is pointed out by the Audit, the department realized the mistake and accordingly recovered the amount.

### **3.3 Loss due to short supply of country liquor**

The terms and conditions for the grant of L-9 licence stipulate inter alia that if the quantity ordered by the Collector on monthly basis is not supplied by the licensee by the last date by which the supplies should have been made, the Collector shall procure such quantities of country liquor of a comparable quality from a readily available alternative source at the risk and expense of the licensee without giving any further opportunity to the licensee.

Test check of the records relating to the State Excise Commissioner between February and March 2005 revealed that a distillery defaulted by short supply of 1,16,448 cases as depicted in the supply table position at the end of each of the months from June 2003 to 15 May 2004. The department however procured only 74,949 cases at the risk and expense of the distillery. Non procurement of balance 41,499 cases led to revenue loss of Rs.1.16 crore based on the procurement at the highest accepted rate of Rs.129.50 per case.

The department stated in July 2005 that the distillery was asked to supply 4,74,300 cases of which they supplied 3,92,951 cases. The balance quantity of 81,349 cases was subsequently purchased at the risk and cost of the distillery. The reply was not tenable as the distillery was asked to supply 4,87,800 cases during June 2003 to 15 May 2004 and not 4,74,300 cases and they supplied 3,71,352 and not 3,92,951 cases during this period. The default quantity of 41,499 cases was not procured by the Collector which resulted in the revenue loss pointed out in audit.

Thus, failure of the department to procure 41,499 cases of country liquor at the risk and cost of the defaulting supplier resulted in revenue loss of Rs.1.16 crore.

### **REPLY OF THE DEPARTMENT**

The Department in its ATN / Revised ATN and submissions before the Committee reiterated that the actual defaulted quantity was 81,349 and not 1,16,448 cases as pointed out by the Audit. In support of their contention the department presented the month wise details of the actual defaulted quantity which was procured at the risk and cost of the defaulting distillery, i.e., Som Distillery Ltd. The month wise details of the defaulted quantity of 81,349 cases for which the department claimed to have made risk purchase is reproduced below.



<b>Month</b>	<b>Actual defaulted quantity (in cases)</b>
May 2003	800
July 2003	3600
August 2003	5200
September 2003	5200
October 2003	8200
November 2003	36000
December 2003	16175
Total	75175
Less seized cases of September 03 default released by P.S. Moti Nagar	(-) 2000
Balance Actual default	73175
January 2004	1774
Total upto January 2004	74974
March 2004	6400
Total default up to March 2004	81349

The details of the amount of penalty imposed under clause 21 for delay in supply during the period June 2003 to March 2004 as presented by the Department is also reproduced below.

<b>Month</b>	<b>Penalty imposed (Rs.)</b>
June 2003	42500
July 2003	152250
September 2003	231500
October 2003	88260
November 2003	253800
December 2003	180747
January 2004	3450
March 2004	12800

With the help of above details, the department tried to prove its point that there was no loss of revenue on account of non-procurement of defaulted quantity.

The department also pointed out that there was no default in the month of April 2004. During the period 01.05.2004 to 15.05.2004, there was a default of 200 cases only and as per record import permits of these 200 cases were revalidated.

### **3.4 Loss due to reduction in element of excise while fixing retail price of country liquor**

Tenders are invited every year by the Excise Commissioner for wholesale supply of country liquor through licensed vendors in NCT of Delhi. In March 2003, sealed tenders were invited for procurement of 400-500 lakh bulk liters of country liquor for the year 2003-2004, i.e. from 1 May 2003 to 31 March 2004. In response, 15 tenders were received which were considered by the negotiation committee in April 2003. As the lowest tenderer was not in a position to supply the entire required quantities, Government decided to place orders for procurement of country liquor with eight wholesalers at varying rates as follows:

<b>Rates per case (Rs.)</b>	<b>No. of suppliers</b>	<b>Percentage quantity to be supplied</b>
119.50	1	9
128.50	2	28
129.00	2	27
129.50	3	36

Test check of records of the office of Commissioner of State Excise between February and March 2005 revealed that in order to fix a uniform selling price of Rs.40 per bottle, the department reduced the excise



component from Rs.10.84 to Rs.10.04 per bottle to maintain the price line. This resulted in loss of revenue of Rs.3.44 crore. It was observed in audit that such reduction in the excise element was both unnecessary as well as unjustified as the impact of maintaining the excise component to avoid the revenue loss would have been only a marginal rise in the selling price per bottle from Rs.40 to Rs.41 which could have been absorbed by the consumers.

The department stated in July 2005 that the negotiating committee had fixed the price and the quantities to be ordered from each supplier after considering all the factors and that there was no departure from the prescribed procedure. The reply does not address the point of reduction in the excise element while fixing the prices. This reduction in excise element was clearly not in the interest of revenue as it resulted in loss of state excise of Rs.3.44 crore.

### **REPLY OF THE DEPARTMENT**

In the ATN/Revised ATN and submissions before the Committee in the meeting, the Department stated that the retail price of country liquor is fixed after taking into consideration various factors and there was no departure from the prescribed procedure in the instant case.

When the lowest tenderer (L-1) is not in a position to supply the entire required quantity of country liquor, the negotiating committee negotiates rates with the other tenderers, lowest in ascending order and place orders for procurement of country liquor, over and above the quantity which L-1 tenderer is able to supply, in order to ensure that procurement of entire required quantity. The negotiating committee cannot compel the other tenderers to bring down their rates to the level of L-1 as the retail vend price of different supplier differs on account of

various factors like distance of the distillery, transportation cost, export duty, etc.

The department further clarified the following points relating to policy and procedure of procurement of country liquor.

- (i) the retail sale price of country liquor is not fixed by the negotiating committee, which is meant only for negotiating the rates and quantity with the tenderers. Any change in the retail sale price is decided by the government in its policy taking into consideration various factors like the excise policy on sale of country liquor in the neighbouring states, their retail sale price etc. The component of excise depends upon the wholesale price. The higher the wholesale price, the lower the excise component and vice versa.
- (ii) The sale price per bottle in Delhi is always kept low by the government to avoid burden on consumers who belong to lower strata of society. Even a marginal increase in retail price adversely affects the sale of country liquor in Delhi and gives impetus to smuggling and sale of illicit liquor.
- (iii) The maximum retail sale price is fixed by the government taking into consideration various factors and therefore it is not frequently changed. The MRP of Rs. 40 / Rs. 20 / Rs. 10 for quarts, pints and nips respectively was fixed in the year 1997-98 and it remained same up to the year 2004. The government revised the rates w.e.f. 13.07.2004 from Rs. 40/ Rs.20/ Rs. 10 to Rs. 50/ Rs. 25/ Rs. 15 per quart, pint and nip respectively.
- (iv) The government takes a conscious decision to keep the retail price level of the country liquor uniform through out Delhi



and any slight reduction on the excise duty due to slight differentials in wholesale price are not passed on to the consumer keeping above principal in mind.

The department reiterated that acceptance of different rates of wholesale supply of country liquor was purely as per the instructions and guidelines of the Central Vigilance Commission (CVC) and hence it cannot be said that there was loss of revenue on this account.

### **3.5 Loss due to delayed implementation of reduced export pass fee**

Government of NCT of Delhi imports Indian made foreign liquor (IMFL) from Punjab distilleries every year. The export pass fee payable to Punjab State constitutes a component while fixing the wholesale price/retail price of country liquor in Delhi.

Test check of records of the excise department during February and March 2005 revealed that the Punjab Government reduced the export pass fee from Rs.13.50 to Rs.1.69 per case w.e.f. 1 April 2004. The excise department however revised the price structure with effect from 4 June 2004 instead of 1 April 2004 and continued to pay export pass fee at pre revised rates during the intervening period in which 1,07,956 cases of country liquor obtained from five Punjab distilleries were sold in Delhi. This resulted in higher wholesale price to the distilleries and loss of revenue of Rs.13.37 lakh to Government.

After this was pointed out, the department confirmed a recovery of Rs.10.25 lakh made from the distilleries. Further position of recovery has not been intimated as of December 2005.

## **REPLY OF THE DEPARTMENT**

The department in its ATN/revised ATN and submissions before the Committee made it clear that actual recovery to be effected from five Punjab distilleries was Rs. 10.25 lac and not Rs. 13.37 lac as worked out by the Audit. Audit party worked out the figure of Rs. 13.37 lac on the basis of total sales made during the period 01.04.2004 to 02.06.2004. The opening stock as on 01.04.2004 was included in this total sales on which pre-revised Export Pass Fee was applicable. Thus actual sales pertaining to the said period were less than the figures pointed out by the Audit. On actual sales differential amount was Rs. 10,25,083. The department reiterated that a recovery of Rs.10.25 lac has been made and deposited in the government account.

## **OBSERVATION AND RECOMMENDATIONS OF THE COMMITTEE**

**The Committee after considering the issues involved in Audit paragraphs (3.2 to 3.5 of the year 2005), written replies, ATNs/Revised ATNs and submissions of the department strongly feels that the present law or policy relating to fixing of wholesale price of cheaper brand of Indian Made Foreign Liquor (IMFL), procurement of country liquor from L-9 licencees and fixing of wholesale/retail price of country liquor in Delhi is full of ambiguities and fraught with complications. It is strange that the incidence of taxation is higher on suppliers who offer cheaper prices of liquor than those who supply it at a higher rate and this is one of the anomalies of the prevailing policy.**



So far as loss of vend fee resulted due to allowing Rs. 20 per quart to a distillery against its quoted price of Rs. 18.48 per quart for cheaper brand of IMFL is concerned, the Committee views that although the department after realizing the mistake has recovered the whole amount of Rs.4.02 lac but the basic issue relates to the policy which governs the fixation of wholesale price of cheaper price of IMFL price for Delhi on the basis of lowest Ex Distillery Price (EDP) net of all duties / fees, discounts / commission of whatsoever nature allowed in respect of any market in India. The Committee suggests that a simplified policy should be put in place to remove any possibility of error in fixing the price and to avoid resultant loss of revenue.

In the case of loss on account of short supply of liquor, the Committee agrees with the contention of the department to the extent that they have purchased country liquor equal to the quantity short supplied at the risk and cost of the defaulting distillery as per the stipulated terms and conditions for the grant of L-9 licence. But at the same time, the Committee notes it with regret that the department is not equipped with any mechanism to enforce such terms of the contract. The provision of security deposit of 5% as per the existing policy is not at all adequate by any standards in the present day situation.

The Committee recommends that there must be a provision to obtain sufficient amount of security deposit from the licencees in the form of registration cost or bank guarantee etc. This will work as an effective tool in the hands of the government to enforce the terms of agreement and chances of loss of revenue due to short supply of liquor will be minimized.

**Loss due to reduction in the element of Excise while fixing retail price of country liquor is also a policy related issue. The Committee agrees with the contention of the department that they had taken all the relevant factors into consideration as per the existing policy and made no departure from the prescribed procedure. But the Committee feels that there is an immediate need for modifications in the present policy and procedure which the department is following to fix the retail price of country liquor and therefore, it strongly recommends that the government should bring a new law in the interest of revenue and while formulating such law it should always be kept in mind that there should be no room for any confusion, ambiguity and complications in the new policy.**

**In the matter of loss due to delayed implementation of reduced export pass fee, the Committee agrees with the contention of the department that the actual amount recoverable was Rs. 10.25 lakh only which the department has already recovered. Another contention of the department that policy decision to revise excise levies during the currency of a particular year are taken by the state governments having the source of supply and hence cannot be foreseen, also appears to be correct. No action is pending on the part of the department so far as this para (3.5 of 2005) is concerned.**

### **3.6 Non recovery of entertainment tax**

*(Excerpts from the Report of the C&AG as appearing in the Report for the year ended 2005.)*

**Rule 26 of the Delhi Entertainments and Betting Tax Rules, 1997 stipulates that every cable television operator shall file a monthly return in Form 10 showing the number of subscribers and the tax due from**



them. Section 15 of the Delhi Entertainments and Betting Tax Act, 1996, provides inter alia that in case the operator fails to submit his monthly returns, the assessing authority may finalise the assessment. Any demand of tax not paid by the operators within the prescribed time period is recoverable under the Act *ibid* as arrears of land revenue under the Delhi Land Reforms Act, 1954.

Audit of the office of the Commissioner of Entertainment and Luxury Tax revealed that three cable operators did not file their monthly returns. Of these, two operators had not obtained any permission for conducting the business while the third operator had obtained permission in 2002 and paid Rs.0.44 lakh. None of the operators were however assessed till October 2002 to January 2003 when complaints were received against the operators though the operators were stated to be in operation since 1 April 1998, i.e. after a lapse of four to five years. The tax due from the above operators amounted to Rs.68.54 lakh.

As the operators failed to pay the amount, the department initiated certificate proceedings against them in December 2002 and March 2003. However, it failed to effectively pursue the recovery certificates as envisaged in the Act other than routinely reminding the concerned deputy commissioner. This lack of action on the part of department resulted in non realisation of Government dues of Rs.68.54 lakh.

### **REPLY OF THE DEPARTMENT**

The department in its ATN/Revised ATN and submissions before the Committee stated that the recovery proceedings towards M/s. Friends Cable Television for a recoverable amount of Rs. 36.63 lac and towards M/s. Raja Cable Television for an amount of Rs.20.29 lac are

under progress. So far as dues of Rs. 11.62 lac as assessed against M/s. Raj World Vision Cable Network is concerned, the proprietor filed appeal before the appellate authority, who set aside the assessment order and remanded it back to the assessing authority for making fresh assessment which is under progress.

The department also clarified its position with regard to registration of cable operators, assessment and collection of tax and recovery of outstanding dues as under :

- (i) The cable operators are registered under the Cable Television Network Regulation Act, 1995 with the Post Office of the area. The Entertainment and Betting Tax department issues permission letter to the cable operators for collecting entertainment tax from the cable subscribers and deposit the same with the department as per prescribed procedure.
- (ii) There is no established system by which the department could automatically get information about a cable operator working in a particular area. It is only when field inspectors come to know of a new cable operator or a complaint is received, the department comes to know of such an unregistered cable operator. Such cable operators are then directed to get permission letter from the department to collect and deposit the cable tax by submitting prescribed documents.
- (iii) The assessment is done by the assessing authorities as per the provisions of DEBT Act to ascertain the actual tax liability on the basis of survey reports and date of registration with the Post Office of such cable operators.



- (iv) The department has also taken up the matter of cable operators with the postal authorities concerned to obtain updated list of cable operators registered with the Post Offices in the NCT of Delhi.
- (v) The department has been on its own level also conducting regular field inspections to detect unregistered cable operators and to make them registered.
- (vi) The department has been continuously making efforts to recover the dues as per the provisions of law and constantly reminding the revenue authorities concerned for the purpose.

<p style="text-align: center;"><b>OBSERVATION AND RECOMMENDATIONS OF THE COMMITTEE</b></p>
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The Committee after considering the whole issue at length views that it is a strange that no effective system has so far been put in place to detect the actual number of cable operators working in a particular locality and the exact number of subscribers to whom they are providing the cable connections. It is a matter of serious concern that the department has no alternative except to rely upon the monthly returns as filed by the registered cable television operators, showing therein the number of subscribers and the tax due from them. The Committee observes that the present system of detecting unregistered cable operators mainly through the field inspectors is not at all effective and due to this there has been a large gap between the number of cable operators actually operating and those who are registered with the department. Failure to detect unregistered cable operators in an effective manner and the lack of information about the actual number of cable connections

being provided by the registered operators are the major causes responsible for loss of revenue. Moreover, the manner in which the department is launching and pursuing recovery proceedings against the defaulting cable operators is also not impressive at all. The Committee feels that there have been undue delays in enforcing the provisions of the act and such delays complicates the proceedings and reduces the probability of recovery.

The Committee notes it with regret that the department is yet to bring the big companies which are operating in this field and engaged in providing DTH (Direct To Home) service through dish under the purview of Cable Tax Act.

The Committee strongly recommends that the department bring a comprehensive law or propose necessary amendments in the existing act to make the system more effective in the interest of revenue. The big operators, distributors, DTH service providers and MSOs (Multiple System Operator) should be brought under the tax net instead of targeting the small cable operators only. These operators / service providers should be kept under close monitoring and surveillance in order to minimize the scope of evasion of tax. The Committee also intends to make it clear that till such law is formulated or amendments in the existing act are made effective, it will be the onus of the department to ensure that the government does not lose revenue. The department should make sincere efforts to recover the dues and augment the collection of tax as much as possible.



### **3.2 Non-recovery of licence fee/additional licence fee**

*(Excerpts from the Report of the C&AG as appearing in the Report for the year ended 2007.)*

Under the Delhi Liquor Licence Rules 1976, L-4 licence is issued for service of Indian made foreign liquor/beer in an independent restaurant on payment of prescribed licence fee. The Commissioner of Excise issued directions in December 2005 to all the restaurants to apply for grant of L-4 licence for serving imported foreign liquor (IFL) in their restaurants with effect from 28 December 2005. These restaurateurs were required to pay an additional licence fee of 10 per cent on prorata basis over an above their normal licence fee. Further, the restaurateurs were required to submit the consumption statement of liquor for the previous year along with the other documents.

Test check of the records of restaurants revealed that in 21 cases pertaining to the period 2005-06 and 2006-07, the restaurateurs did not deposit the additional licence fee of Rs.5.69 lakh. The department while renewing L-4 licence for the year 2006-07, however, failed to detect non-deposit of the additional licence fee though they had served IFL in their restaurants as was evident from their consumption statements. In three other cases pertaining to the period 2005-06, the licence fee of Rs. 3.15 lakh was short deposited by the licencees. This resulted in non/short realization of licence fee/additional licence fee of Rs.8.84 lakh.

#### **REPLY OF THE DEPARTMENT**

In the ATN / revised ATN and submissions before the Committee, the department stated that audit observation has been admitted in 15 out of 24 cases. Out of remaining nine cases, four restaurants have already deposited the fee in time, in the case of two restaurants, the

additional fee was not applicable, being located at airport. In other two cases, the liability of IFL fees not attracted as imported foreign liquor was not served during 2006-07 and in the remaining one case; there was no short deposit of fee due to adjustment of excess licence fee deposited in the previous year.

The position relating to recovery as presented by the department is as under:

Total amount assessed by audit	: Rs. 8,84,250/-
Amount disagreed by department	: Rs. 5,13,000/-
Amount agreed by department	: Rs. 3,71,250/-
Interest on agreed amount	: Rs. 73,495/-
Total amount recovered	: <b>Rs. 4,44,745/-</b>

The department further admitted that non-deposit of additional licence fee could not be detected while renewing licence for 2006-07 as the relevant TRs were inadvertently left out of record files. The department informed the Committee that the TRs are now being utilized in the EIMS at the time of licence renewals as a remedial measure.

### **OBSERVATION AND RECOMMENDATIONS OF THE COMMITTEE**

**The committee views that the discrepancies as observed by the audit in this case are of very serious nature. Failure to detect the non-deposit of the additional licence fee for serving Imported Foreign Liquor (IFL) by large number of restaurants indicates the casual approach in which the matter was dealt with by the department. Although the department has admitted the lapse in most of the cases and recovered the dues, but the Committee is not satisfied with the contention of the department that the non-deposit of additional licence fee could not be detected, while renewing L-4 licences for the year 2006-07, because of the**



**reason that the relevant Tax Returns (TRs) were inadvertently not placed on the record.**

**The Committee strongly recommends that the department should examine the issue thoroughly and try to find out the exact reasons for acting in such a negligent manner and it should take all possible remedial measures to ensure that there is no such lapse in future. The department should conduct a comprehensive study of the Delhi Liquor Licence Rules, 1976 with a view to propose amendments to make it more effective and compatible with the present situation/requirements in the interest of revenue.**

**The Committee on meticulously examining the C&AG Paras, the reply of the Department / Action Taken Notes and thoroughly considering all the relevant aspects relating to the functioning of the Department has arrived at the conclusion contained in this Report.**

**The Committee has accordingly made certain recommendations in view of the discrepancies and irregularities as pointed out by the Audit in each of the paras as discussed in detail in the preceding pages. The Committee believes that if its recommendations are implemented with sincerity, the functioning of the Department will definitely be going to improve significantly and this will also ensure that such lapses and irregularities noticed in the system will not prevail in the future.**

**The Committee expects it from the Government that it not only considers the recommendations of this Committee on a positive note, but also implements the recommendations contained in this Report in the larger public interest.**

**As one of the major revenue earning department of the government, the Excise department should endeavour to improve overall standard of functioning to achieve the revenue targets. Achieving revenue targets is vital for good governance as it ensures availability of sufficient funds with the government to implement its developmental projects and social welfare schemes which include providing adequate infrastructure, basic civic amenities, educational, medical and health care facilities etc. to the people.**

**The Committee notes it with appreciation that the government is working on a Model Excise Policy, as informed to it by the department. It strongly believes that the new excise policy would be framed visualizing the future requirements and the complications, confusions and ambiguities as exist in the present law would end. The Committee is hopeful that the new law will be simpler and more effective in enhancing the tax collection. At the same time it would benefit both the government and the tax payers.**



**The Excise, Entertainment and Luxury Tax Department should submit its Action Taken Report on the recommendations of the Committee within three months of the presentation of the Committee's Report in the Assembly.**

**Delhi**

**Date:** 09 Sept. 2008



**(Vijay Singh Lochav)**

**Chairman**

**Public Accounts Committee**