

THIRTEENTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2014-2016)**

ONE HUNDRED AND SIXTH REPORT

(Presented on 15th December, 2015)



**SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM**

2015

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**COMMITTEE
ON
PUBLIC ACCOUNTS
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ONE HUNDRED AND SIXTH REPORT

on

**Action Taken by Government on the Recommendations
contained in the 86th Report of the Committee
on Public Accounts (2004-2006)**

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the 106th Report on Action Taken by Government on the Recommendations contained in the 86th Report of the Committee on Public Accounts (2004-2006).

The Committee considered and finalised this Report at the meeting held on 24th November, 2015.

Thiruvananthapuram,
15th December, 2015.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the Action Taken by Government on the recommendations contained in the 86th Report of the Committee on Public Accounts (2004-2006).

The 86th Report of the Committee on Public Accounts (2004-2006) was presented to the House on 7th July, 2005. The Report contained nine recommendations relating to Taxes (Excise) Department. The Government was addressed on 30th August, 2005 to furnish the Statement of Action Taken on the recommendations contained in the Report and the final copies were received on 19th December, 2014.

The Committee considered the Action Taken statements in its meetings held on 2-1-2013 and on 28-1-2015. The Committee was not satisfied with the Action Taken by Government on the recommendations in Sl. Nos. 2 and 9 (Para Nos. 8 and 32) and decided to pursue them further. Such recommendations, replies furnished thereon and further recommendations of the Committee are included in Chapter I of the Report.

The Committee decided not to pursue further action on the remaining recommendations in Sl. Nos. 1, 3, 4, 5, 6, 7 and 8 (Para Nos. 7, 12, 16, 21, 25, 27 and 28) in the light of the replies furnished by the Government. The recommendations of the Committee and the Action Taken by Government are included in Chapter II of this Report.

CHAPTER I

RECOMMENDATIONS IN RESPECT OF WHICH ACTION TAKEN BY
GOVERNMENT ARE NOT SATISFACTORY AND WHICH
REQUIRE RETERRATION

TAXES (G) DEPARTMENT

Recommendation

(Sl. No. 2, Para No. 8)

1-1 The Committee also notes that the Department had failed to take RR action promptly for the collection of arrear amount of the permit fee for the transportation of toddy. The Department could have started RR action when the stay on OP was vacated in 1997. The Committee requires the Department to furnish an up-to-date account of the arrears collected.

Action Taken

1-2 The Audit observation is related to Ernakulam and Palakkad Excise Divisions. The up-to-date collection details are as follows:

Palakkad Excise Division

Total numbers of arrear case in transportation of toddy is 77. Out of this 38 cases remitted their entire arrears as per the amnesty scheme declared by the Government as detailed below:

<i>Principal</i>	<i>Interest</i>	<i>Total Collection</i>
₹ 1,08,72,303	₹ 9,24,215	₹ 1,17,96,518

Out of the remaining 39 cases, 20 cases are stayed by the Hon'ble Supreme Court and High Court. Total arrears of the 20 cases up to 31-12-2012 are as follows:

<i>Principal</i>	<i>Interest</i>	<i>Total Collection</i>
₹ 37,88,478	₹ 86,96,025	₹ 1,24,84,503

RR action is in progress for the remaining 19 cases. Total arrear pending in this regard up to 31-12-2012 is as follow:

<i>Principal</i>	<i>Interest</i>	<i>Total Collection</i>
₹ 46,12,182	₹ 1,23,14,455	₹ 1,69,26,637

Ernakulam Excise Division

Total no. of case is 20. Out of this 19 persons/cases remitted the entire arrears. The details of collection are as follows:

<i>Principal</i>	<i>Interest</i>	<i>Total Collection</i>
₹ 11,95,892	₹ 2,02,132	₹ 13,98,024

Remaining one case is pending and the landed property of the defaulter i.e. 01.6246 hectores of wetland in Nattakam Village has been taken as 'bought in land' for ₹ 1 to Government by the Revenue Divisional Officer, Kottayam on 23-2-2001. Hence this para may be dropped.

Further Recommendation

- 1.3 The Committee directs to furnish the details regarding the cases under court stay and to report the reason for the slow progress of RR proceedings.

Recommendation

(Sl. No. 9, Para No. 32)

- 1.4 The Committee desires to get the latest position of the cases.

Action Taken

- 1.5 In case of FL-1 shops, all arrear amount has been realized from Thrissur Division and Deputy Excise Commissioner, Thrissur reported that Shri P. K. Balan, Puzhakkadavil, Thrissur, the licensee of T. S. No. 1 to 81/97, 2000 of Kunnamkulam has defaulted an amount of ₹ 6,73,35,325 as principal plus interest plus demand notice fee ₹ 2 as arrears. In addition to the above he is also liable to remit an amount of ₹ 1,45,791 as kist plus interest. RR action is in progress for recovering the amount. An amount of ₹ 35,63,272 has been realized from the defaulter by selling the landed property of the licensee at Kodungallur Taluk. An amount of ₹ 6,74,81,118 as principal plus interest and ₹ 2 as demand notice fee is still pending as arrears against the defaulter.

Further Recommendation

- 1.6 The Committee directs the Taxes Department to furnish present status of RR action initiated by the department and details of landed property owned by the defaulter.

CHAPTER II

RECOMMENDATIONS IN RESPECT OF WHICH THE COMMITTEE DO NOT
DESIRE TO PURSUE ACTION IN THE LIGHT OF THE REPLIES FURNISHED
BY GOVERNMENT

TAXES (G) DEPARTMENT**Recommendation**

(Sl. No. 1, Para No. 7)

2.1 The Committee notes with concern the failure on the part of the department in furnishing replies to the audit paragraphs. The Statement of Remedial Measures Taken on audit paragraphs in the Audit Report presented in 1999 was furnished only in 2003. The Committee urges the department to avoid such delay and to adhere strictly to the time limit act for furnishing the statements.

Action taken

2.2 The delay in submitting replies to Audit observations may be condoned. Strict instructions were already issued to avoid delay in future and time limit for furnishing the Statements will be strictly adhered to. In the above circumstances it is most humbly submitted that further action in this regard may kindly be dropped.

Recommendation

(Sl. No. 3, Para No. 12)

2.3 The Committee observes that there is a strong possibility of manipulation in the attenuation factor system presently being followed in the distilleries of the State, especially in the absence on proper supervision. The Committee also observes that the figures now prescribed for output of spirit from molasses are also not reasonable. Therefore, the Committee would like to reiterate its earlier recommendation for an amendment in the Manual, after examining the issue in detail. If necessary an expert Committee may be appointed at the earliest to study the matter.

Action taken

2.4 Government have already amended the Distillery and Warehouse Rules, 1968 as per G.O.(P) No. 154/09/TD dated 24-8-2009 (Copy enclosed).

Recommendation*(Sl. No. 4, Para No. 16)*

2.5 The Committee desires to know whether the amount has already been realised by Government. If so, the details should be furnished.

Action taken

2.6 In all additional fee arrear cases, Revenue Recovery action has been initiated by adopting the principle liquidating interest first.

Recommendation*(Sl. No. 5, Para No. 21)*

2.7 The Committee understands that the Government proposes to amend the rules for the speedy disposal of vehicles involved in excise offences without waiting for the finalisation of confiscation procedure. Appreciating this move which is in line with the recommendation made by erstwhile Committee on Public Accounts, the Committee stresses the need for the speedy implementation of the same.

Action taken

2.8 On the basis of the judgment of the Honourable High Court of Kerala dated 1-12-2009 in WP(c) No. 32285/09, a Circular was issued to the authorized officers and other officers concerned, for the speedy disposal of the vehicles involved in Abkari cases.

Recommendation*(Sl. No. 6, Para No. 25)*

2.9 The Committee expresses dissatisfaction over the arbitrary decision made by the Joint Excise Commissioner to release the vehicle in Kannur Division for ₹ 25,000 which is far below the fair value. The Committee recommends action against the erring official. The Committee also desires to get the latest position of the O.P. filed in the Court.

Action Taken

2.10 The RC owner of the seized vehicle Shri Sunil Thandakulam filed O.P. and the Court dismissed the same. Meanwhile the landed property of Shri Sunil Thandakulam was transferred to Shri Edachilakath Mathew. But this action has cancelled and Revenue Recovery proceedings has been initiated to recover the loss sustained to Government by the Tahasildar, RR Thalassery.

The Revenue Recovery action has been interrupted by the WP(c) 4726/11 filed by Shri Mathew Edachilakath, the present owner of the land, sold by Shri Sunil Thandamkulam. The WP(c) 4726/11 is pending before the Hon'ble High Court and last posting date was on 8-4-2011. As the case is still pending before the Court. Government is not in a position to take action against the erring official, Shri Netto Desmond, IPS, the then Joint Excise Commissioner.

Recommendation

(Sl. No. 7, Para No. 27)

2.11 The Committee observes that there are many cases of loss of 'thondy' articles. The reasons adduced by department are often flimsy and lack credibility. There are also cases of disappearance of thondy articles which leave behind grounds for suspicion of motivated acts. The Committee recommends that a thorough probe into the reasons attributed for loss, theft and disappearances be carried out, atleast on random basis.

Action Taken

2.12 There are only a few number of theft cases. In the case of thondy spirit, lack of storage facility is one of the main reasons for the loss of the same. The breakage and leakage of low quality Can are other reasons. Now the procedure for the disposal of the spirit has been fastened.

Recommendation

(Sl. No. 8, Para No. 28)

2.13 The Committee also observes that there are no adequate storage facilities for some vulnerable articles like seized spirit. The Committee recommends that Government should bestow more attention for the speedy disposal of seized spirit, confiscated vehicles and other articles.

Action Taken

2.14 A new section, 53 A, regarding pre trial disposal of thondy articles, has been incorporated in the Abkari Act with effect from 3-9-2002 inserted by Act 1 of 2003. Moreover, necessary instructions have been given to all Deputy Commissioners of Excise for the speedy disposal of Spirit and other articles.

Thiruvananthapuram,
15th December, 2015.

DR. T. M. THOMAS ISAAC,
Chairman,
Committee on Public Accounts.

APPENDIX I

SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

<i>Sl. No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusion/Recommendation</i>
1	1.3	Taxes	The Committee directs to furnish the details regarding the cases under court stay and to report the reason for the slow progress of RR proceedings.
2	1.6	„	The Committee directs the Taxes Department to furnish present status of RR action initiated by the department and details of landed property owned by the defaulter.



Government of Kerala
കേരള സർക്കാർ
2009

Reg.No. രജി.നമ്പർ
KL/TV(N)/12/2009-2011

KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണ

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Taxes (G) Department

NOTIFICATION

G.O(P)No. 154/2009/TD.

Dated, Thiruvananthapuram, 24th August 2009

S.R.O. No. 710/2009 – In exercise of the powers conferred by sections 24 and 29 of the Abkari Act, 1 of 1077, the Government of Kerala, hereby making the following rules further to amend the Kerala Distillery and Warehouse Rules, 1968, issued under G.O.(Ms)No. 75/68/FD. Dated 1st February 1968 and published as S.R.O No. 112/69 in the Kerala Gazette No. 11 dated 18th March, 1969, namely:-

RULES

1. Short title and commencement – (1) These rules may be called the Kerala Distiller and Warehouse (Amendment) Rules, 2009.

(2) They shall come in force at once.

2. Amendment of the Rules – In the Keralas Distillery and Warehouse Rules, 1968-

(1) in Part I, in rule 2, after clause (c), the following clause shall be inserted, namely:-

“(ca) “Molasses” means heavy dark coloured residual syrup drained away in the final stage of manufacture of gur or sugar, containing in solution of suspension sugars which can be fermented”;

(2) in part II,

(a) rule 92 and sub-rules (6), (7) and (8) of rule 93 shall be omitted;

(b) after rule 93, as so amended the following rules shall be inserted, namely:-

“93 A. *Minimum yield of rectified spirit/Extra Neutral Alcohol* – The production or yield of rectified spirit/Extra Neutral Alcohol from molasses used in a distillery shall be based on the Total Reducing Sugar (TRS) percentage of the molasses used and it shall not be less than the quantity specified in sub-rule (3) of rule 93 B.

93. B *Storage of Molasses and drawal of samples of molasses:-*

(1) The Distillery Officer shall draw two samples of molasses from each consignment at the time of its arrival and one such sample shall be sent to the Chief/Regional Chemical Examiners Laboratory for ascertaining the Total Reducing Sugar percentage. The second sample shall be kept by distillery officer and shall be handed over to the distiller authorities on receipt of the report of the Chemical Examiner.

(2) One receipt of report of the Chief/Regional Chemical Examiner's Laboratory, the Distiller Officer shall calculate the minimum quantity of rectified spirit/Extra Neutral Alcohol that can be produced from the molasses on the bases of the rate specified in sub-rule (3) of this rule.

(3) The minimum quantity of rectified spirit/Extra Neutral Alcohol to be produced from different categories of molasses in a distillery shall not be less that the minimum yield shown in the Table below:-

TABLE

Total Reducing Sugar Percentage of Molasses (1)	Minimum yield/Tonne in proof litre (2)
52% and above	432
51 to 51.9	423
50 to 50.9	415
49 to 49.9	407
48 to 48.9	398
47 to 47.9	390
46 to 46.9	382
45 to 45.9	374
44 to 44.9	365
43 to 43.9	357
42 to 42.9	349
41 to 41.9	340
40 to 40.9	332
39 to 39.9	319
38. to 38.9	309
37 to 37.9	300
36 to 36.9	292
35 to 35.9	282

93.C. *Monthly stock taking*:- (1) The Distillery Officer shall assess the monthly production of spirit at the end of each month and if the production is lower than the rate prescribed, the distiller shall remit a penalty of Rs. 16 per proof litre of spirit found short in production.

(2) The Distillery Officer shall take monthly stock of molasses and if the wastage exceeds the permissible limit, a penalty of Rs. 16 per proof litre shall be imposed on the quantity of spirit that could have been produced from such molasses at the minimum rate prescribed.

93.D *Wastage* - A wastage on molasses is allowed as follows, namely:-

- (i) Storage wastage of molasses for all grades shall be half percentage
- (ii) Transit wastage of molasses of all grades if transported by road/rail shall be half percent:

Provided that if the wastage in transit is noticed above the prescribed limit, a penalty of Rs. 16 per proof litre shall be imposed on the quantity of spirit that could have been produced from such excess wastage of molasses".

(c) In the Forms-

- (i) Form D9, D9(a), D12, D13, D13A, D 13B, D13C, D14, D15 and D23 shall be omitted;
- (ii) for Form D3, D3A, and D3(b) the following forms shall respectively be substituted, namely:-

FORM D3 (b)

STATEMENT OF MOLASSES USED, WASH MADE AND SPIRIT OBTAINED THERE FROM

1	2	3	4	5	Spirit obtained					Litres of proof spirit obtained per tonne			14	15
					6	7	8	9	10	11	12	13		
Date	Number of wash back	Material Used	Date sent to still	Received Number of receiver	Temperature	Indication	Strength	Bulk Lit.	Proof Its	Minimum to be Obtained as per TRS	Actual obtained	Short production	Remarks	Initials

By order of the Governor,

P. MARA PANDYAN,

Principal Secretary to Government.

Explanatory Note

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

The Public Accounts Committee in its 19th report, 2006-2008 has pointed out that, the rate of yield of alcohol from Molasses prescribed in the Kerala Excise Manual is 475 PL/MT and that in the norms of Central Molasses Board is 373.5 PL. The rate as per the Manual is unattainable in the distilleries in Kerala and they have recommended that the Manual as well as the Kerala Distillery and Warehouse Rules has to be amended in this respect. In the report it was pointed out that the transaction of Molasses is not under the control of the state and there is every chance of misusing it for the production of unaccounted alcohol. Hence, the Public Accounts Committee has recommended to take steps to bring the transaction of Molasses under the control of the State even though it is an industrial raw material. Accordingly, Government have decided to amend the Kerala Distillery and Warehouse Rules, 1968 suitable for the purpose.

This notification is intended to achieve the above object.

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