Government of Orissa
Co-operation Department

No.II-Legal-105/99/ 15795 /Coop. Date : 6.11.2001

From : Sri B.B.Jagadev,
Under Secretary to Government.

The Auditor General of Cooperative Societies, Orissa, Bhubaneswar.

Sub : Clarification regarding initiation of surcharge proceedings under section 67 of the C.C.S. Act, 1962, against the legal heirs/representative of deceased person, Late Jayadev Biswal, Ex-Chief Marketing Manager of MARKFED, Bhubaneswar.

Sir,

I am directed to invite a reference to your letter No.7417 dt.6.9.2000 and No.9139 dt29.11.2000 on the subject noted above and to say that the matter was referred to the Law Deptt. for their opinion, regarding the validity of the surcharge proceedings initiated under section 67 of the O.C.S. Act, 1962 against the legal heirs of the deceased employee/officer, who have opined that order 22, Rule 4 of C.P.C. relating to substitution of the Legal Representatives of defendants, is applicable when the defendant/defendants die during the pendency of the proceeding. The said Rule is not applicable if the suit is instituted against a dead man. They have also opined that the provisions of Order 22 Rule 4 of C.P.C. is not applicable to a surcharge proceeding U/s 67 of the Act in application of section 120 of the Act as the same is not in confirmity with the provisions of section 120 of the O.C.S. Act, 1962. It is manifest from Section 120 of the O.C.S. Act that the Auditor General while conducting a surcharge proceeding shall have the powers of Civil Court under C.P.S. in respect of four provisions enumerated in the sub-section(1) of said section as (a), (b), (c) and (d). It does not comprehend the provisions or Order 22 of C.P.C. (i.e. Death, Marriage and Insolvency of Parties). So the Auditor General can not resort to Order 22 of C.P.C., as that has not been stated in section 120 of the O.C.S. Act, 1962. They have also reiterated their earlier views which have been communicated to you in this Department letter No.14362 Coop. dt.6.9.2000.

You are therefore requested to take necessary action in the matter accordingly.

Yours faithfully

Government of Orissa
Cooperation Department.

11362 /Coop., dated 6.9.2000

IL-ga(L)-105/99

Sri B.B.Jagdev,
Under Secretary to Government.

To

The Auditor General,
Cooperative Societies, Orissa, Bhubaneswar.

Sub:- Clarification regarding initiation of surcharge proceedin under Section 67 of the O.C.S.Act, 1962 against the legal heirs of the deceased person, Sri Jayadev Biswal, Marketing Manager of MARKFED, Bhubaneswar.

I am directed to invite a reference to your letter no. 1225 dt. 13.8.99 on the subject noted above and to say that the matter was referred to the Law Department for their opinion regarding initiation of surcharge proceedings under Section 67 of the O.C.S.Act, 1962 against the legal heirs of the deceased persons Sri Jaydev Biswal who have opined that surcharge proceedings under Section 67 of the said Act can not be initiated against legal heirs of the deceased employees/Officer of the concerned Society.

You are, therefore, requested to take necessary action accordingly.

Yours faithfully,

Under Secretary to Government.

Memo No. /Coop., dated

Copy forwarded to the Registrar of Cooperative Societies Orissa for information.

Under Secretary to Government.