

488

DIRECTORATE OF COOPERATIVE AUDIT:ORISSA:BHUBANESWAR.

No. 3282(16)/VI(I)62/99 (P-V) Audit-8-Dated: 25.5.2001
To

All the Asst. Auditors General of
Coop. Societies of Circles.

Sub: Authorisation to S.A.A.G.C.S. for
for disposal of Surcharge Proceedings.

Ref: This Directorate Circular No.7897 dt.6.12.99,
No.2772 dt.24.5.03, No.1683 dt.26.2.01,
No.8353 dt.19.7.01.

Sir,

Your attention is invited to the referred Circulars in which detail guidelines on initiation and disposal of Surcharge Proceedings have been communicated for guidance of all Asst. AGCS of Circle and their staff engaged in disposal of surcharge proceedings. In the guideline, issued is 7897 dt.6.12.99 the model format for surcharge notices and decision have also been prescribed. Of late it has come to the notice of the undersigned from the copies of decision of surcharge Proceedings U/S 67 received from Circles that the instructions not followed and decisions are not made in prescribed format mostly in cases of Balasore, Baripada & Cuttack-I-Circles. The word "Judgement" is used instead of "Decision". In some cases, the words "In the Court of" is used instead of "Before the presiding Officer Sri In Surcharge Proceeding although the conducting authority having certain powers of Civil Court under Code of CPC 1908 as provided under Section 120 and the order of Surcharge u/s 67 deemed to be a decree of a Civil Court on a Certificate signed by Registrar u/s 103 for filing execution proceeding, the Surcharge Proceeding may not be an absolute Court as defined under CPC but merely a quasi judicial proceeding. Similarly the Presiding Officer may not be a judge as defined under CPC. In absence of any such express provision in the Act. or observation of higher Courts of the State or any clear concept from Govt. in this regard u/s 137, using such words does not appear legally sound or appropriate and hence should be disposed with to avoid any complicity in future.

It is also observed that some Officers are giving long justifications, "recording" of the hearing from parties etc. running into pages in their so called "judgements". Sometimes, these

Contd...2...

189
"recordings" are inconsistent with or un-related to the Surcharge proceeding, at hand. Sometimes, various suggestions/recommendation are recorded in such orders. All this is not as per provisions of O.C.S. Act. & Rules or Circular instructions and such recordings may create legal problems. While not suggesting, at any point & by any stretch of imagination that such orders should not be 'speaking' orders which they ought to be, it is to emphasis irrelevant points/issues not related to the particular surcharge proceeding at hand, should not form a part of this "speaking order".

All Asst. A.G.C.S. of Circles & concerned SAAGCS, being authorised to dispose Surcharge proceedings, should strictly abide to by the Circular instructions in future to avoid legal complications for them & the Directorate in future.

2. In this Directorate Circular No.2772 dt.24.5.03, you have been instructed to engage 2 SAAGCS of your Circle throughout the year for disposal of surcharge proceedings exclusively. This does not mean that these two SAAGCS are to dispose all proceedings of the Circle. The statutory powers u/s 67 of O.C.S. Act. & Rule 70 of O.C.S. Rules have been delegated to A.A.G.C.S. of Circles. Just like they authorise auditors u/s 62 to cause audit, here they are to authorise SAAGCS u/s 67 to dispose off surcharge proceedings. But the original power of initiation and causing disposal of surcharge proceedings vests with Asst. A.G.C.S. and they are primarily responsible for this work of their Circles.

As the Circle Asst. A.G.C.S. are now not auditing C.C.Banks, which they were doing previously and as now the system of annual audit authorisation has been introduced due to which much time of AAGCS is saved and they are not to prepare their monthly plans and issue audit authorisation for every month, they are now required to concentrate more on supervision of Audit Work and disposal of surcharge proceedings.

You are, therefore, advised to devote atleast 10 days of each month in disposal of surcharge proceedings. The important and complicated proceedings relating to Central & bigger Coops. of your Circle and the cases of primary Coops. involving more than Rs.50000/- need be taken up by you and in case any of such cases are not possible to cover under your work schedule, such cases be referred to the SAAGCS earmarked for the purpose.

Yours faithfully,

Auditor General,
Coop. Societies, Orissa.