

RAJASTHAN FINANCIAL CORPORATION
(FR-ARRC)

Ref. RFC/F./HO/FR-ARRC/ 1159

Dated: 07.01.2009
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(ARRC Circular No. 164)

Various representations are being received by Branch Offices, from the original borrower/ promoter whose unit has been sold in surplus to refund the surplus amount. The surplus amount is liability of the Corporation. To reduce the liability, norms for refund of surplus amount need to be changed.

Present norms for refund of surplus amount are as under:

"Units sold in surplus prior to 5.2.97

In case where the sale price is in excess of the outstanding amount the surplus amount is to be paid as per provisions of sub-section (4) of Sec. 29 of SFCs Act to the parties and in order as mentioned at para 5(iv) (PG Chapter ARRC-2). As the sale is on deferred payment by RFC, only a part amount is received in cash initially and the balance is to be recovered in future. The policy and procedure for payment of surplus amount would be as under :

- i) If the surplus after accounting for Corporation's dues is 10% or less it would be paid in the beginning to the persons entitled thereto as per their priority out of the part amount received from the party in cash.
- ii) If the surplus is to be in excess of 10% of outstanding the surplus amount upto 10% of outstanding may be paid in the beginning to the persons entitled thereto as per their priority. The remaining surplus amount should be paid after realization of Corporation's dues from the purchaser. However, the interest received from the purchaser on surplus amount should be paid to the original party after retaining a margin of 2% of interest rate (to meet the cost of recovery etc.)

Note: Actual payment of interest is to be made only after it has been recovered from the purchaser (new loanee) amount of penal interest is not to be considered for payment to any party.

UNITS SOLD IN SURPLUS AFTER 5.2.97

The surplus will be paid by the Corporation only when entire sale price realised and therefore, no part of the surplus shall be passed on to the original party till the entire sale price is recovered.

CIRCULAR

The matter was placed before the Board in its meeting held on 8.12.08 and it has been approved by the Board that:

"After recovery of total outstanding balance including interest for possession period from the purchaser party, if Corporation recovers some amount towards surplus from the purchaser party, then Corporation may refund the surplus amount recovered in a financial year, on year to year basis, to the original promoter. Payment of interest may also be made to original promoter after retaining a margin of 2% in interest rate (to meet the cost of recovery etc.). However, amount of penal interest is not to be considered for payment to any party. However, it was directed by the Board that a system / mechanism is to be evolved to ensure payment of liabilities of other Govt. Departments and other statutory liabilities before releasing the surplus. The party shall also be required to furnish indemnity Bond in this regard."

Accordingly, in ARRC Chapter-2 point No. 5 & 8 may be replaced as under:

Point No.5 :

Appropriation of sale proceeds :

In view of the provisions contained in sub section (4) of section 29 of the SFCs Act, 1951 the appropriation of sale proceeds will be in the following order subject to any contract to the contrary :

- i) Payment of cost charges and expenses incurred by RFC on watch & ward (after take over of assets) and sale (on auction etc).
- ii) Amount due to RFC including principal, interest and other expenses as on date of sale (as per Board decision no interest is to be realised after take over of assets but interest prior to that, if not already debited, shall have to be debited).
- iii) Interest during possession period shall also be charged in cases where assets are sold in surplus on or after 5.2.97.
- iv) If there is any surplus after accounting for Nos. (i), (ii) & (iii) the remaining shall be paid only after recovery of total outstanding balance including interest for possession period from the purchaser party in the following order:
 - a) Dues of Govt. Departments provided they have sent requisition well in time and have statutory powers to attach such amount / property.
 - b) To Bank or other institutions having second charge on the assets.
 - c) To secure creditors having subsequent charge over assets in the order of their creation of charges.
 - d) In satisfaction of court decree / orders.
 - e) Payment to principal borrower.

POINT NO.8 :

UNITS SOLD IN SURPLUS

"After recovery of total outstanding balance including interest for possession period from the purchaser party, if Corporation recovers some amount towards surplus from the purchaser party, then Corporation may refund the surplus amount recovered in a financial year, on year to year basis, to the original promoter. Payment of interest may also be made to original promoter after retaining a margin of 2% in interest rate (to meet the cost of recovery etc.). However, amount of penal interest is not to be considered for payment to any party.

As per the guidelines outstanding dues of Govt. Departments should be ascertained. BO is required to maintain a register for information regarding sold unit-wise details of Govt. Departments dues.

Before release of surplus amount BO may ensure that payment of Govt. Departments dues has been made as per 70:30 policy. If the Govt. Departments dues are more than 30% then BO may remit the balance amount to the concerned Department from the surplus amount. If Branch Office receives any information from Govt. Departments mentioned in ARRC Circular No. 50 dated 6.7.2002 and ARRC Circular No.61 dated 6.3.2003 then BO may also remit the amount to such Department from the surplus amount.

70:30

The Branch Office may ensure strict compliance of 70:30 policy and Point No. 5 of PG Chapter ARRC-2.

The original borrower shall also be required to furnish indemnity Bond before release of surplus amount.

All concerned are advised to make note of the above for compliance.

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(A.K. Garg)
Chairman & Managing Director

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