

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-4/GAD/56/2868

Dated : 27.04.2002

CIRCULAR

(LIT. NO. 78)

Sub : Provisions of Indian Recovery Act, 1890 applicable for the cases lodged U/s 32(G) but assets of borrower/guarantors are situated to other District.

Corporation has been filing application U/S 32(G) of State Financial Corporations Act, 1951 before concerned Collector (Recovery) for recovery of our dues as an arrear of Land Revenue. We have received many references from filed offices stating that assets of borrower/ guarantor are situated to other District / State as such the Collector (Recovery) shows its inability to take further action and return our claim on one or the other grounds.

The matter has been examined in the light of provisions contained in Indian Recovery Act, 1890 and the procedure to be followed in such type of cases are enclosed as per Annexure 'A' & 'B' .

The Branch Officers are therefore advised to go through the said provisions and use the same as & when needed.

Sd/-

EXECUTIVE DIRECTOR

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. Western & Eastern Zones of A&I
3. Jodhpur WZ Office.
4. Standard Circulation at Head Office

ANNEXURE 'A'

PROVISIONS- INDIAN REVENUE ACT

Section – 3:

Recovery of public demands by enforcement of process in other districts than those in which they become payable :

1. Where an arrear of land revenue or a sum recoverable as an arrear of land revenue is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the Schedule, stating -
 - a) the name of the defaulter and such other particulars as may be necessary for his identification, and
 - b) the amount payable by him and the account on which it is due.
2. The certificate shall be signed by the Collector making it (or by any officer to whom such Collector may, by order in writing, delegate this duty), and save as otherwise provided by this act, shall be conclusive proof of the matters therein stated.
3. The Collector of the other district shall, on receiving the certificate proceed to recover the amount stated therein as if it were an arrear of land revenue which had accrued in his own district.
 - a) Inserted by the Decentralization Act, 1914 (4 of 1914) Section 2 and Schedule, Part I.

Section -5 :

Recovery by Collector of sums recoverable as arrears of revenue by other public officers or by local authorities -

Where any sum is recoverable as an arrear of land revenue by any public

officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situated shall, on the request of the officer of authority, proceed to recover the sum as if it were an arrear of land revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act, as if the sum were payable to himself.

* * *

ANNEXURE 'B'

CERTIFICATE

From :

The Collector of _____

To,

The Collector of _____

Dated the _____ of _____ 19____

The sum of Rs. _____ is payable
on account of _____
by _____ son of _____
resident of _____
who is believed (to be at _____)
(to have property consisting of _____
at _____) in your district.

Subject to the provisions of the Revenue Recovery Act, 1890, the said sum is recoverable by you as if it were an arrear of land revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit if to my officer at _____.

Collector of

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3(LPM(20)/4557

Dated : 13/14th Nov.,2002

CIRCULAR
(Lit. Circular No. 85)

Sub : Guarantee in the cases of Partnership Firms

Reference are being received from the filed offices that in the civil suits courts are not counting the limitation for filing of suit after the sale of assets is made and recovery action for the amount of deficit is initiated by serving a legal notice, the 3 years of 12 years of limitation are being counted by the Courts from the date of each installments fallen due. In the case of M/s. Tony Conductors, the Hon'ble Rajasthan High Court has considered and decided that limitation in the cases filed U/S 31(1) of SFCs Act for taking recovery action through Court is 12 years as the proceedings under the above section are post decreetal proceedings (copy of Circular dated 14.08.1997 alongwith copy of Judgement is enclosed).

Accordingly, it has been decided that henceforth the Corporation will take guarantee from all the partners of the firm for repayment of loan. The partners shall be held responsible for repayment of loan of the Corporation jointly and severally for which a condition may be stipulated in the sanction letter and accordingly in compliance of the same Guarantee Deed may be got executed from all the partners on the requisites stamp. The format of

Guarantee Deed, which is being taken in the company cases, may be used in the cases of partnership firm after making suitable amendments.

All concerned are advised to take note of above and to ensure compliance.

Sd/-
(J.P.VIMAL)
EXECUTIVE DIRECTOR

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. Western & Eastern Zones of A&I
3. Jodhpur WZ Office.
4. Standard Circulation at Head Office

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3LPM/23/6116

Dated : 16th June, 2003

CIRCULAR

(LIT. NO. 89)

Reg : Priority of charge of the Secured Creditors over the Excise Dues & Income Tax Dues.

Recently, the matter regarding priority of charge of Secured Creditors to recover its dues over the dues of other Government Departments like Income Tax Department, Excise Department etc. has been examined thoroughly and legal opinion of Shri Dinesh Mehta, Advocate, Rajasthan High Court, Jodhpur has also been obtained (copy enclosed).

The Advocate has clearly opined that the provisions contained in Income Tax Act, 1961 does not create any over riding effect in respect of the dues under the Income Tax Act nor it gives any precedence or priority/ pre-emptive right over the other dues including the dues of the Corporation.

It has been opined that in view of the legal matrix, the provisions of the State Financial Corporations Act, 1951 has an over riding effect over the other Acts as it has been enacted by the Act of parliament. The law exists that in absence of non-obstente clause or any over riding effect giving in the Income Tax Act, 1961, the income Tax liability or any other liability under the Income Tax Act, 1961 does not have any priority rights over the properties mortgaged with the Corporation.

Similarly Section 11 of the Central Excise Act, 1944 which deals with the power of recovery of the demand under the said Act also does not have any non-obstente clause nor does it provide any precedence to the demand under the said Act over other liabilities of the unit.

Earlier the Hon'ble Andhra Pradesh High Court in the matter of M/s. Sitani Textiles and Fabrics (P) Vs. Asstt. Collector of Customs and Central Excise and Ann. (judgement) was circulated vide Lit. Circular No. 52 dated 18.09.1999) has held as under :-

Contd...2

: 2 :

“ In the case of secured debt, the rights of secured creditor prevail over the excise dues of the Excise Department. The secured creditor will have preferential claim even against the demand of Central Excise duty by the Government.”

All concerned are advised to make a note of the above and while receiving references from the departments of Central Government, reply need to be made on the lines stated above. Our panel advocates may also be informed about the decision and enclosed opinion for taking use of the same.

Sd/-

EXECUTIVE DIRECTOR

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. General Manager (WZ) , Jodhpur
3. DGM(A&I) WZ, Ajmer
4. Standard Circulation at Head Office

Dinesh Mehta, Advocate
Rajasthan High Court, Jodhpur

LEGAL OPINION

The querist Rajasthan Financial Corporation has sought my legal opinion about the right of Recovering the dues of the Corporation in respect of the assets etc. of a unit, to which the Corporation had granted loan vis-à-vis the recovery of Income Tax Department and Central Excise Department particularly when the properties of the loanee are mortgaged with the Corporation .

The facts which have been stated by the Corporation and which emanate from the perusal of the record shown to me shows that one M/s Sushant Overseas Limited, Jaipur had taken a loan from Rajasthan Financial Corporation. The Tax Recovery Officer, Jaipur of the Income Tax Department has issued an order of attachment of the immovable property in

prescribed Form 16 under Rule 48 of the Second Schedule to the Income Tax Act, 1961 where by attaching the factory, its building, plant and machinery including all other items situated at Plot at H-102, RIICO industrial Area, Bandayaka, Jaipur vide order of attachment dated 8/1/2003.

Though the letter dated 11.03.2003, issued by the Deputy Manager (Litigation), whereby my opinion has been sought, does not clearly state as to whether the querist (RFC) has taken over the possession of the factory, land & building and plant & machinery etc., while exercising the powers under Section 29 of SFC Act, but as per the oral information given by Shri Pankaj Purohit, Deputy Manager (Legal), Rajasthan Financial Corporation, Jodhpur, I proceed on the assumption that the Corporation has already taken over the possession of the unit in question namely M/s Sushant Overseas Private Limited, Jaipur.

Section 29 of SFC Act and particularly Sub-section 4 of Section 29 of SFC Act creates a first charge and gives priority to the dues of Corporation over all other dues of the defaulter. Once a Notice/ Order under Section 29 of SFC Act is issued an possession is taken over, the Corporation takes over the management or possession or both, of the industrial concern and the Corporation becomes the owner of the defaulting unit for all practical purpose . Sub-section 4 prescribes the order of payment from the realization of the proceeds of the sale of the assets of the defaulting unit, according to which, the dues of the Corporation shall be realized prior to the other dues. As such, if the Corporation has taken over the possession of the unit, the Corporation shall have the first right to recover its dues.

The Tax Recovery Officer, Jaipur has issued the notice dated 8/1/2003 , under Rule 48 of the Second Schedule of the Income Tax Act, 1961 , attaching the immovable property of the defaulting unit, M/s Sushant Overseas Pvt. Ltd., Jaipur. Rule 48 of Second Schedule to the Income Tax Act is reproduced hereunder :-

Rule 48 Attachment :-

Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking under such transfer or charge.

A perusal of the above Rule 48 suggests that it simply autorises the Tax Recovery Officer to attach the immovable property, as a result whereof

the defaulter is prohibited from transferring or charging the property in any way.

A Notice / Order of attachment is simply an order of prohibition restraining the defaulter from transferring the property mentioned in the notice. Such an order ipso facto does not transfer the property in the Income Tax Department. As such, merely by issuance of the Notice dated 8/1/2003, the factory, building etc. of M/s Sushant Overseas Pvt Ltd., Jaipur does not vest in the Income Tax Department.

Besides this, if the querist (RFC) has taken over the possession of the assets of the defaulting unit, the order of attachment given under Rule 48 is of little avail in as much as the property does not belong to the defaulting unit and therefore the order of attachment issued on 8/1/2003 does not have any meaning or legal force.

A perusal of the provisions contained in Income Tax Act, 1961 reveals that the Act of 1961 does not create any over riding effect in respect of the dues under the Income Tax Act, 1961 nor it gives nay precedence or priority / pre-emptive right over the other dues including the dues of Corporation.

In this view of the factual and legal matrix, the provisions contained in Section 29 of SFC Act, which has been enacted by the Act of Parliament, has an over riding effect over the order of attachment dated 8/1/2003, which has been issued under Rule 48 of the Second Schedule of the Income Tax Act, 1961.

In absence of non-obstente clause or any over riding effect given in the Income Tax Act, 1961 the income tax liability or any other liability under the Income Tax Act, 1961 does not have any priority rights over the properties mortgaged with the Corporation.

Similarly Section 11 of the Central Excise Act, 1944 which deals with the power of recovery of the demand under the said Act also does no have any non-obstente clause nor does it provide any precedence to the demand under the said Act over other liabilities of the unit.

(b) In respect of the quarry raised in Para No. (b) of the letter dated 11/3/2003 , suffice it to say that the matter is pending consideration before

Hon'ble Rajasthan High Court, the case filed by the department is fairly arguable and likely to succeed as there is apparent repugnancy between the provisions of SFC Act and Section 50 of Rajasthan Sales Tax Act, which is a State Act. It is settled that in case of repugnancy between two Acts, one existing Law enacted by the Parliament and other enacted by the States Legislature, the Law enacted by the Parliament shall be applicable as per Article 254(2) of the Constitution of India, if the law so made by the legislature of such state has not received the assent of the President of India.

Sd/-
(DINESH MEHTA)
ADVOCATE

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3(LPM(11)/7688

Dated : 19.01.2004

CIRCULAR

(Lit. Circular No. 96)

Sub : Compliance of court orders.

The State Govt has observed that the orders made by the H'ble High Court/Supreme Court are not complied with expeditiously which leads to contempt proceedings against the higher officers and also leads unnecessary litigation.

It has been decided that the orders passed by the H'ble High Court / Supreme Court up to 31-12-2003 should be complied with before February, 2004 if there is no stay in the appeal or no appeal is preferred. All concerned are advised to review their cases and ensure compliance of court orders passed up to 31-12-03 immediately and in case any appeal is filed against any order and higher court has not granted any stay, the same order should be complied with immediately.

All concerned are advised to send a No Dues Certificate stating that no order of H'ble High Court/ Supreme Court passed upto 31-12-03 is pending for implementation . A note dt. 9-1-2004 so received from Principal Secretary Industries, GOR, Jaipur is enclosed for ensuring compliance with regard to court orders.

The No Dues Certificate must reach this office latest by 31-1-2004. Non compliance will be viewed seriously.

**Sd/-
(J.P.VIMAL)
EXECUTIVE DIRECTOR**

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. Standard Circulation at Head Office

**RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)**

Ref. No. : RFC/F.Law-3(LPM(21)/8064

Dated : 05 March, 2004

CIRCULAR
(Lit. Circular No. 100)

**Sub : Recovery of dues of the Corporation under the provision of
Sec. 32-G of SFCs Act, 1951.**

We wish to draw your attention towards earlier Litigation Circular No. 97 dated 28.01.2004 on the subject referred to above.

Now the Revenue Board, Ajmer has reconsidered the issue on the request of the Corporation and has with drawn orders dated 28.10.2003 .The Board further issued directions to all the Collectors through their letter No. P.12/Misc./2002-2003/2730-2761 dated 04.03.2004(copy overleaf) that dues of Rajasthan Financial Corporation can be recovered as an arrear of land revenue under the Land Revenue Act, 1956 in terms of powers conferred to the Financial Corporation u/s 32-G of the SFCs Act and procedure laid down by the State Govt. vide Notifications No. F.10(8)Ind.2/84 dated 30.01.1992 and 28.11.1995.

All concerned are advised to ensure recovery of dues as an arrear of land revenue under the provisions of Land Revenue Act, 1956 and Section 32-G of the SFCs Act and also resubmit those claims which had been returned back by the Collectors earlier.

Please adhere the above directions and pursue all the cases as per above instructions. This may be brought to the notice of all officials and panel Advocates of the Corporation.

Sd/-
(J.P.VIMAL)
EXECUTIVE DIRECTOR

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. GN(WZ),Jodhpur/DGM(A&I), WZ, Ajmer
3. Standard Circulation at Head Office

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3(LPM(11)/34

Dated : 07th April, 2004

CIRCULAR
(Lit. Circular No. 102)

The State Government vide its Circular dated 04.03.2004 has desired that replies on behalf of the State Government in the court cases must be filed without any delay. Copy of the circular so received from the Govt., is given overleaf.

All concerned are advised to ensure that replies on behalf of the State Government as well as the Corporation are filed without delay. In case of delay, necessary disciplinary action will be initiated against the concerned erring employee/officer.

Sd/-
(SANJAY DIXIT)
CHAIRMAN & MANAGING DIRECTOR

Copy to :

1. All ROs /Bos /Sos.
2. Standard Circulation at Head Office
3. Dy. Secretary, Industries (Gr. I) Deptt., GOR, Jaipur in reference to their letter No. P.7(9) Industries/1/2002 dated 24.03.2004.

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3 (28)/704

Dated : 20.02. 2004

CIRCULAR
(Lit. Circular No. 105)

Sub : Follow-up of court cases, change/ appointment of OICs.

Kind attention is invited to O&M Circular No. 340/94, dated 21.01.1994, No. RFC/F/Law-3(28)/585 dated 27.09.2000 and No. 556 dated 13.06.2001 on the subject cited above which provides that in case of transfer of Officer-Incharge, he shall handover the brief of the case alongwith entire record of the case to his/her successor under intimation to Law Section and the successor shall be deemed to be OIC of the case.

Inspite of the fact that guidelines exist on the subject, references are being made for change of OICs to Law Section on their transfer from one office to another office or change of work at the same office.

To ensure speedy follow-up and timely action in court cases, it is further reiterated that in case of transfer or change of work by competent authority, the file/record of court cases and brief note about the case with present status of the case and next date fixed by the court be communicated to the successor.

It is further clarified that in the event of transfer of an OC without his/her replacement by the successor, he/she will handover the charge of court cases assigned to him/her alongwith brief facts and next date in the case and entire record of the cases to such an officer who is nominated by the controlling officer as his/ her successor and a copy of such handing over/taking over report duly signed by both the officers will be provided to the controlling officer. The controlling officer will send a consolidated information about changed OIC in pending cases to HO(Law) for perusal and record.

All concerned are advised to make a note of above guidelines on the

subject for strict compliance.

Sd/-
(NAVEEN MAHAJAN)
EXECUTIVE DIRECTOR

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. GM(WZ),Jodhpur/DGM(A&I), WZ, Ajmer
3. Standard Circulation at Head Office

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3(LPM-20)/778

Dated : 31st, July 2004

CIRCULAR
(Lit. Circular No. 106)

Sub : Appeal against the Order of District Judge passed on application of the Corporation filed U/S 31 of the State Financial Corporations Act, 1951.

It has been observed that in respect of Order/Judgement of Lower Courts passed in the application filed U/S 31 of the State Financial Corporation Act which are considered detrimental to the interest of the Corporation, the Advocates/ OICs/ Branch Managers commits delay in forwarding the certified copy of Judgement /Order for appeal before the Hon'ble High Court and sometimes the limitations prescribed U/S 32(9) of the aforesaid Act stand lapsed.

In this context , it is made clear that if the appeal against the order passed in the civil suits filed by the Corporation under the provisions of Civil Procedure Code the limitation is ninety days whereas in the application filed by the Corporation U/S 31 of the SFCs Act the limitation for filing appeal against this order is only thirty days. The provisions of Section 32(9) of the SFCs Act is reproduced below for ready reference :-

Sec. 32(9)- “ Any party aggrieved by an order (under sub- section (4A), Sub-section (4) or sub-section (7) may, within thirty days from the date of the order, appeal to the High Court, and upon such appeal the High Court may, after hearing the parties, pass such orders thereon

as it thinks proper.”

According to the inbuilt provision U/S 31 (1) of SFCs Act an Application U/S 31 which also includes Section 31(1)(aa) is always filed with the Distt. Judge concerned within the limitations of whose jurisdiction the industrial concern carries on the whole or a substantial part of its business.

To ensure that appeal is filed within limitation period all concerned are advised to take care that following documents/papers are advised to take care that following documents/papers be sent to head office as and when they consider it proper to file appeal against the Order/Judgement :-

While recommending any order for appeal passed by the Distt. Court U/S 31 it should be kept in mind that the limitation for filing appeal before the High Court is only thirty days and not ninety days as provided in the Limitation Act.

Original Certified true copy of Order/Judgement against which appeal is recommended.

Complete file of the advocate who has contested the case in Court on behalf of the RFC.

Opinion of the Advocate alongwith grounds on which appeal can be preferred.

Relevant record of the branch office pertaining of the case.

Statement of loan account duly certified and signed by the Manager/ Incharge branch.

A brief but self contained note on the background of the case alongwith date-wise events of the case and also the comments/ recommendation.

All concerned are advised to ensure compliance and to see that Corporation may not have to face dismissal of Appeal on the ground of limitation or because of not providing proper assistance to this office/OIC and the Advocates contesting the cases before Hon’ble High Court, Jodhpur and bench at Jaipur.

Sd/-
(NAVEEN MAHAJAN)
EXECUTIVE DIRECTOR

Encl : As above.

Copy to :

1. All ROs /Bos /Sos.
2. GM(WZ),Jodhpur
3. DGM(A&I), WZ, Ajmer
4. Standard Circulation at Head Office

RFC/O&M/620./04

RAJASTHAN FINANCIAL CORPORATION
H.O.:Udyog Bhawan,Tilak Marg,C-Scheme,Jaipur-5.

Ref.No.RFC/F.Law-3/LPM/61/1797/

Dated: 16th Nov.2004

CIRCULAR
(Lit. Circular No. 111)

Sub:- **Payment of fees to Advocates.**

The fee structure of the Advocates as laid down in earlier circulars No. O&M/212 dated 06.01.1990, O&M/364 dated 04.03.1995 & O&M/390 dated 21.05.1996 has been revised w.e.f. 01.11.2004. The revised fee structure is as under:-

S. No.	Type of case	Name of Court	Amount Involved in application (Rs.)	Limit of fee (Rs.)
1.	Application u/s.31 of the SFCs Act	Civil Court	a) Upto 5 lacs	2000/-
2.	Execution of Decree	- do -	a) Upto 5 lacs b) Above 5 lacs	1000/- 2000/-
3.	T.I. & Suit	Munsif Magistrate		1000/-

4.	Misc. Suit/Appeal	CJM/ADJ/DJ		2500/-
5.	Criminal case	Lower Court		1500/-
6.	Application/Revision/ Writ Petition/Appeal	High Court, Jodhpur & Jaipur		4500/-
7.	S.L.P.	Supreme Court	On negotiation basis, however presently 3300/- per appearance.	
8.	Application/Suit	DRT, Jaipur		3300/-
9.	Application/Suit	Labour Court		1500/-
10.	Application	Distt. Consumer/ Forum		1500/-
11.	Application/Appeal	State Commission		3300/-

NOTES:

1. In addition to above fees, clerkage & 10% of the fee admissible shall be paid.
2. Expenditure incurred shall be paid on actual basis.
3. 50% of fee & clerkage shall be payable after filing reply & balance 50% shall be paid only when case is finally decided and certified copy of court order alongwith comments of Advocates for further action which includes filing of appeal/revision is received by the Corporation.
4. The fee for the cases contested out of State of Rajasthan shall be paid as per present/existing system/negotiable basis.
5. Any relaxation in the above fees would require prior written approval of CMD.

AUTHORITY FOR APPROVAL OF FEES

Authority for approval of fees of Advocates will be as under:-

Manager/Dy.Manager/Incharge is authorized to pass and pay the fees as per above norms upto the level of Court of District Judge excluding case pending before Hon'ble Supreme Court, High Court, DRT & State Commission.

The payment of the revised fees shall be applicable on the fresh cases only from the date of issue of this circular. No enhanced fee is to be paid in existing cases.

The fee, which also includes legal advice in the cases of Supreme Court, High Court and DRT shall be approved and paid as under:-

DGM(Law)	Upto Rs. 3300 + 10% Clerkage + actual expenditure
DGM(R),Jodhpur	Upto Rs. 4500 = 10% Clerkage + actual expenditure
GM(P&A)/ED	Upto Rs. 4500 + 10% Clerkage + actual expenditure
CMD	Above Rs. 4500 + 10% Clerkage + actual expenditure.

Sd/-
(SANJAY DIXIT)
CHAIRMAN & MANAGING DIRECTOR

Copy to:-

1. All ROs/BOs/SOs.
2. WZ, Jodhpur/Eastern & Western Zones of A&I.
3. Standard Circulation at HO.

RAJASTHAN FINANCIAL CORPORATION
HEAD OFFICE: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005.

Ref.No.RFC/F.Law-3/LPM(27)/ 2761

Dated: April 16,2005

CIRCULAR
(Litigation Circular No. 114)

Sub: Follow up of Court Cases.

While undertaking review of the litigation matters by the Hon'ble CMD following observations were made for compliance and early action:-

In all cases at HO/BO level where show cause notices alongwith paper book of writ petition and stay application or suit are served, such matter be persuaded at top priority by appointing OIC and Advocate out of panel and filing reply of writ/suit/stay application as soon as possible.

In the cases where expartee stay/status quo order is granted by Hon'ble Court without effecting the service upon the Corporation, the Corporation should immediately on receipt of copy of such expartee order ask our Panel Advocate to collect the copy of writ petition and stay application either from the Court or from petitioner's Advocate and file the reply alongwith an application under article 226(3) of Constitution of India for vacation of expartee stay order or should file application for early hearing.

It has also been noticed that inspite of issue of necessary guidelines earlier vide Litigation Circular No. 63 dated 30.11.2000, the branches are not adhering to the guidelines and not intimating the correct position of stay cases in the prescribed format already circulated on monthly basis. In future any lapse on the part of Branch Manager/OIC in the case in sending the progress of stay cases in the prescribed format to HO (Law) will be viewed seriously.

DGM(Law) in HO level cases, DGM(R) in RO level cases and the Branch Manager in BO level cases should also review and monitor all stay cases every month and also direct OICs as well as Panel Advocates to take action immediately for getting the stay vacated.

Immediately on vacation of stay order certified copy of court order be obtained by the OIC's from our panel advocate alongwith his written legal opinion about further course of action to be taken by the Corporation and send a copy thereof to the DGM(Law), concerned DGM(FR) at HO level/DGM(R) at branch level.

The OICs appointed in pending court cases at HO/RO/BO levels should ensure the due compliance of duties on their part as stipulated in their appointment letter as well as guidelines already circulated vide

Litigation Circular No. 16/97-98 dated 30.05.1997. Any lapses in the performance of duties on their part will be viewed seriously.

All concerned are advised to make a note of the above instructions and ensure compliance strictly in each and every case without any lapse.

Sd/-
(ASHWINI BHAGAT)
EXECUTIVE DIRECTOR

Copy with advise to please also circulate this Circular to all the OICs working at HO/RO/BO :

1. All ROs/BOs/SOs
2. Western Zone, Jodhpur/DGM(A&I) Ajmer
3. OICs in Court Cases
4. Standard Circulation at HO

Sd/-
(G.S.YADAV)
Dy.Gen. Manager(Law)

RAJASTHAN FINANCIAL CORPORATION
H.O.: Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-5.

Ref.No.RFC/F.Law-3/LPM/61/2770/

Dated: 19th April, 2005

CIRCULAR
(Lit. No. 116)

Sub:- Payment of fees to Advocates.

In continuation to O&M Circular No.620/04 (Lit. 111) issued under Ref.No.RFC/F.Law-3/LPM/61/1797 dated 16.11.2004 with regard to fees structure for the Advocates following addition is made at Sr. No. 1 of the Circular by adding sub-clause (b) that above Rs.5.00 lacs limit of fee shall be Rs. 4,000/-. After addition Sr. No. 1 of the above Circular shall be read as under:-

Sl. No.	Type of case	Name of Court	Amount Involved in application (Rs.)	Limit of fee (Rs.)
1.	Application u/s. 31 of the SFC's Act	Civil Court	a) Upto 5.00 lacs b) Above 5.00 lacs	2,000/- 4,000/-

Rest of the contents of the said Circular shall remain the same.

All concerned are advised to make a note of it.

Sd/-
(KARNI SINGH RATHORE)
CHAIRMAN & MANAGING DIRECTOR

Copy to:

1. All ROs/BOs/SOs.
2. WZ Jodhpur/Eastern & Western Zones of A&I.

3. Standard Circular at HO.

Sd/-
(G.S.YADAV)
DY.GEN.MANAGER(LAW)

**RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MAG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM(20)/2827

Dated 26.04. 2005

**CIRCULAR
(Lit. Circular No.117)**

Reg: Payment of balance fees to Advocates in the cases where legal action Initiated U/S 31(1)aa of SFCs Act and shifted to other Sections of said Act.

Attention is invited towards FR Circular No. 332 dated 18.02.05 vide which Branches were directed to review each and every case filed under the provisions of Sec. 31(1)(aa) of SFCs Act and if needed then application be moved for withdrawal of case and action for recovery be shifted to other Sections of SFCs Act i.e. Section 29/30 or 32-G as think appropriate.

References are being received from the Branches that in light of directions given in the above Circular that in the cases in which application filed U/S 31(1)(aa) of SFCs Act is withdrawn, Advocates are asking for release of balance 50% of fees which is payable as and when case is decided.

The matter has been reviewed and it has been decided that decision to withdraw the cases filed U/S 31(1)(aa) has been taken by the Corporation for its convenience and speedy recovery and thus we can not retain payment of balance 50% fees payable to our Panel Advocates as per prevailing norms.

All concerned are advised to take note of above and payment of balance 50% of fees to the Advocates be made as per norms.

Sd/-
(KARNI SINGH RATHORE)
CHAIRMAN & MANAGING DIRECTOR

COPY TO:

All ROs/BOs/SOs

WZ, Jodhpur/WZ A&I, Ajmer

Standard Circulation at HO

Sd/-
(G.S.YADAV)
DGM(Law)

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302 005

Ref.No.RFC/F.Law-3/LPM(21)/3728

Dated:16 August,2005

CIRCULAR
(Lit. Cir No. 120)

It has come to our notice that while undertaking recovery recourse U/S 32-G of the State Financial Corporations Act, 1951, the notices recalling the dues of the Corporation are also being issued to the promoters/partners/sureties who have retired with the approval of the competent authority by the Corporation.

Issue of notice or taking recovery recourse against such persons is not tenable in the eye of law and creates litigation to the Corporation. It is enjoined upon all concerned to ensure that no notice/recovery proceeding is initiated against any of the persons whom retirement or release of charge has been allowed by the competent authority of the Corporation.

All concerned are advised to make note of it and ensure compliance.

Sd/-
(Karni Singh Rathore)
Chairman and Managing Director

Copy to:

1. All ROs/BOs/SOs
2. Standard Circulation at HO
3. Western Zone of A&I, Ajmer

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005
(Law-Section)

Ref.No. RFC/F.Law-3/LPM/(28/3876

Dated: 30.08.2005
01.09.2005

CIRCULAR
(Lit. Cir. No. 122)

Sub: Follow up of Court Cases – Change of OIC

The attention is invited to last O&M Circular No. 612 dated 20.07.2004 issued in continuation of the earlier Circulars O&M 340/94 dated 21.01.94 , 04.01.96,27.09.2000 & O&M 556 dated 13.06.2001 on the subject.

The guidelines exists that in case of transfer of Officer-in-charge, he shall hand over with the brief of the case alongwith entire record of the case to his/her successor under intimation to Law Section and the successor shall be deemed to be the OIC of the case.

It is reiterated that procedure laiddown in the O&M Circular No. 212/90 dated 06.01.1990 and the duties cast upon the Officer-In-charge are required to be strictly adhered to so as to ensure that no case remains unattended.

It is further clarified that in the event of transfer of an OIC without his/her replacement by the successor, he/she will handover the charge of Court Cases assigned to him/her alongwith brief facts and next date in the case and entire record of the cases to such an officer who is nominated by the controlling officer as his/her successor and copy of such handing over/taking over report duly signed by both the officer will be provided to the controlling officer. The controlling officer will send a consolidated information about changed OIC in pending cases to Law Section for perusal and record.

All concerned are advised to make a note of the above and any

laxity in complying of the duties of OIC shall be viewed seriously.

Sd/-
(Karni Singh Rathore)
Chairman & Managing Director

Copy to :-

1. All ROs/BOs/SOs
2. Western Zone of A&I
3. Standard Circulation at HO

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No. RFC/F.Law-3/LPM/(11)/3956

Dated: 14th Sept., 2005

CIRCULAR
(Lit. Cir. No. 123)

Enclosed is the Circular dated 04.08.2005 issued by the PSI, Govt. of Rajasthan, Jaipur with regard to compliance of the decision of Hon'ble Rajasthan High Court. The contents of Circular may be noted and compliance of the same relating to their Branches may be ensured in letter and spirit and information in the format prescribed be forwarded to this office without delay.

Sd/-
(Anand Kumar)
Executive Director

Encl . As above.

Copy to :-

1. All ROs/BOs/SOs
2. Western Zone of A&I
3. Standard Circulation at HO

GOVERNMENT OF RAJASTHAN
Industries & Public Enterprises Department

No.

Dated : August 04, 2005

To,

SUBJECT : Compliance of decisions of the Hon'ble Rajasthan High Court.

Dear Sir,

The issue regarding compliance of the various decision of the Hon'ble Rajasthan High Court has been engaging the attention of the State Government for quite some time. The position is being reviewed every month by the Chief Secretary. Chief Secretary has directed that all the decision of the Hon'ble Rajasthan High Court should be fully complied with without any loss of time. It has to be ensured that all the pending decisions of the High Court are complied with immediately, **but in any case not later than 15 days from the receipt of this letter.**

In all those cases where a stay order has not been granted by the Division Bench of the Rajasthan High Court or the Hon'ble Supreme Court of India the orders have to be complied with **without any exception.**

If an Appeal/ SLP has been filed but stay has not been granted therein, the order has to be complied with subject to the final decision in the pending Appeal/SLP.

In case there is any specific case wherein a decision is required at the level of the State Government (Industries Department/ Law Department/ Finance Department) a detailed reference may be immediately made to the undersigned by name so that the matter could be got examined and the decision of the State Government could be communicated to you at the earliest possible.

You are requested to furnish information in the enclosed formats regarding all those cases where compliance of High Court Orders has still not been made . The information may be submitted to this Department within 10 days from the receipt of this letter. In this connection your attention is invited to the following salient points :-

1. Information is to be furnished only in respect of orders of Hon'ble Rajasthan High Court . Information relating to cases decided by other lower courts is not required.
2. Information is also not required to be furnished in respect of those orders of the Hon'ble Rajasthan High Court which have been already complied with.
3. Information is required to be submitted only in respect of those orders of the High Court whereby Hon'ble High Court has decided the case against the State Government and now the State Government has to take action for compliance of the order of the Hon'ble High Court. In other words, information any not be submitted about those Writ petitions which were filed against the State Government and have been dismissed by the Hon'ble High Court. Similarly, if the Appeal filed by the State Government has been allowed by the Division Ben / Hon'ble High Supreme Court such cases are not to be included in the information to be submitted to this Department.
4. The information is to be submitted separately for those orders in respect of which contempt petition have been filed and the Orders in respect of which contempt proceedings have not been initiated as yet. The cases in which stay orders have been obtained from the Division Bench of the Rajasthan High Court or the Hon'ble Supreme Court should be mentioned separately at the end of each of the two lists. Copies of the stay orders should also be forwarded along with the lists of cases.

5. A short note may be got prepared in respect of each of those orders which are now pending for compliance at your level,. Gist of the order of the Hon'ble High Court indicating the action required to be taken in compliance of the order of the Hon'ble High Court should be clearly mentioned in this note. In the "Remarks Column" information may be furnished with regard to the action already taken/ proposed to be taken and the likely date by which the order will be complied with,. In case there is any specific problem in complying with any order of the Hon'ble High Court, the same should be mentioned in brief. Copies of the relevant orders of the Hon'ble High Court may also be enclosed.

I would like to make it very clear that the responsibility for ensuring full and final compliance of al the pending decisions of the Hon'ble Rajasthan High Court shall rest squarely with you.

Yours faithfully,
Sd/-
(**Ashok Sampatram**)
Principal Secy. to Government

RAJASTHAN FINANCIAL CORPORATION
Head Office, Udyog Bhawan, Tilak Marg, Jaipur – 302 005
(Law Section)

Ref. No. : RFC/F.Law-3/LPM/27/4940

Dated : 27.12.2005

CIRCULAR
(Lit. Circular No. 127)

Sub : Criminal action in the cases where cheques have been dishonored.

Attention is drawn towards O&M Circular No. 428 dt. 02.07.1997 (Litigation Circular No. 20/97-98) vide which detailed guidelines were issued for initiating action under the provisions of Negotiable Instruments Act, 1881 in the cases where cheque has been dishonored on account of insufficiency of funds.

Recently, on account of substantial amendments in the provisions of aforesaid Act substituted by the Act 55 of 2002 w.e.f. 06.02.2003 and on

examination of these provisions, it reveals that dishonoring of the cheques for insufficiency of funds in the account has been considered as an offence and person who has issued the cheque can be penalized for which a punishment for imprisonment for a term which may extend to two year or with fine which may extend to twice the amount of the cheque or with both.

The extracts of Section 138 to 147 of the Act are reproduced below –

CHAPTER XVII –Of Penalties in the case of Dishonour of Certain Cheques for Insufficiency of Funds in the Accounts –

138. Dishonour of cheque for insufficiency. Etc., of funds in the accounts.

Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for (a term which may be extended to two year), or with fine which may extend to twice the amount of the cheque, or with both :

Provided that nothing contained in this section shall apply unless-

- (a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier.
- (b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing , to the drawer of the cheque (within thirty days) of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and
- (c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation – For the purpose of this section, “debt or other liability” means a legally enforceable debt or other liability.

139. presumption in favour of holder –

It shall be presumed, unless the Contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, or any debt or other liability.

140. Defense which may not be allowed in any prosecution under section 138-

It shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonored on presentment for the reasons stated in that section.

141. Offences by companies -

(1) If the person committing an offence under section 138 is a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

Provided further that where a person is nominated as a Director of a Company by virtue of his holding any office or employment in the Central Government or State Government or a Financial Corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.

(2) Notwithstanding anything contained in sub-section (1) where any offence under this Act has been committed by a company and it is proved

that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any Director, Manager, Secretary or other officer of the Company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation – For the purpose of this section –

(a) “ Company” means any body corporate and includes a firm or other association of individuals; and

(b) “ Director: , in relating to a firm, means a partner in the firm.

142. Conqnozance of offences==

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) –

(a) no court shall take conqnoznce of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque :

(b) Such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:

Provided that the conqnoznce of a complaint may be taken by the Court after the prescribed period, if the complaint satisfies the Court that he had sufficient cause for not making a complaint within such period.

(c) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.

143. Power of Court to try cases summarily -

(1) Notwithstanding anything contained in the Code or Criminal Procedure, 1973 (2 of 1974), all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of Sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials :

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees :

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

(2) The trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until this conclusion, unless the Court finds the adjournment of the trial beyond the following days to be necessary for reasons to be recorded in writing.

(3) Every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.

144. Mode of service of summons -

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2) of 1974, and for the purpose of this Chapter, a Magistrate issuing a summons to an accused or a witness may direct a copy of summons to be served at the place where such accused or witness ordinarily resides or carries on business or personally works; for gain, by speed post or by such courier services as are approved by a Court of Session.

(2) Where an acknowledgement purporting to be signed by the accused or the witness or an endorsement purported to be made by any person authorised by the postal department or the courier services that accused or the witness refused to take delivery of summons has been received, the Court issuing the summons may declare that the summons has been duly served.

145. Evidence on affidavit –

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) , the evidence of the complaint may be given by him on affidavit and may, subject to all just exceptions be read in evidence in any enquiry, trial or other proceeding under the said Code.

(2) The Court may, if it thinks fit, and shall on the application of the prosecution or the accused, summons and examine any person giving evidence on affidavit as to the facts contained therein.

146. Bank's slip prima facie evidence of certain facts-

The Court shall, in respect of every proceeding under this Chapter, on production of bank's slip or memo having thereon the official mark denoting that the cheque has been dishonoured, presume the fact of dishonour of such cheque, unless and until such fact is disproved.

147. Offence to be compoundable –

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.

It is enjoined upon all the filed officers that the matter with regard to dishonour of cheques should be taken seriously and they may file complaint before the Judicial Magistrate (first class) of the areas, who has been empowered to entertain such complaints under the aforesaid act in the following manner :-

- a) In cases where cheques have been sent for clearance to the bank these should be properly monitored and Branch Manager should immediately take note of the cheques which had been returned and dishonoured.
- b) A Regd. A.D. notice to the party who has issued the cheque should be sent on the vary day or it the most next working day when dishonoured cheque has been received from our bankers. The format of notice is enclosed (Annexure-A).
- c) In this notice the Branch Manager should give fifteen days time for repayment of amount of cheques
- d) In case the drawer of such bank fails to make the payment of said

amount of money within fifteen days of receipt of notice, a complaint has to be filed within one month before Judicial Magistrate (1st class) through our Advocates.

e) Following documents will be required for filing complaint u/s 138 of the Negotiable Instruments Act :-

- (i) The covering letter received from bank covering dishonour of the cheque for insufficiency of funds in the account.
- (ii) A copy of notice sent to the party.
- (iii) Registered AD Postal Receipt and the acknowledgement thereof.

f) There may be cases in which prescribed period has already expired. In such cases cheques can be again presented before the given period of six months and on receipt of information regarding return of cheque dishonoured for insufficiency of funds in the bank account , branch may give notice in writing as suggested above, and on failure to make payment Branch may file complaint within one month.

g) Although as per provisions of the Negotiable Instruments Act offence committed is compoundable but Branch Office will not withdraw the complaint till account is squared up and/ or prior approval from the CMD of the Corporation is obtained.

It is, therefore, enjoined upon all the Branch Managers to send the information of complaints filed u/s 138(b) of N.I. Act on quarterly basis to their concerned DGM® and DGM® in turn should send a consolidated statement to DGM(Law) in HO on quarterly basis. The information be furnished in the appended format marked as Annexure –“B”.

Sd/-

(KARNI SINGH RATHORE)
CHAIRMAN & MANAGING DIRECTOR

Encl : As above

Copy to :

1. All ROs /Bos /Sos.
2. WZ, Jodhpur/EZ & WZ of A&I
3. Standard Circulation at Head Office

BY REGISTERED A.D. POST

ANNEXURE –A

**RAJASTHAN FINANCIAL CORPORATION
BRANCH OFFICE _____**

Ref. No. :RFC/F.

Dated :_____

M/s _____,
_____,
_____.

Reg : Notice U/S 138(b) of Negotiable Instrument Act, 1881 for dishonour of Cheque.

Dear Sir,

It is to inform you that the Cheque No. _____ Dated _____ Drawn on _____
(Name of Bank)

For Rs. _____(Rupees_____ only)given to the corporation towards the payment of installment of loan and interest thereon has been returned from our bankers as same has not been cleared because of insufficient funds in your account.

We, therefore, advice you to please remit the amount of dishonored cheque within fifteen days of this notice failing which the corporation shall be compelled to file a complaint U/S 138 of the aforesaid Act for punishment and fine as provided under the Act.

An early remittance of the dishonored cheque is solicited.

Thanking you,

Yours faithfully,

BRANCH MANAGER

Annexure –B
(To be send on quarterly basis from 01.10.2005)

RAJASTHAN FINANCIAL CORPORATION

Branch Office _____

Statement showing the Name of Units against which complaint lodged U/s 138(b) of N.I. Act for bouncing of cheques.

S.No.	Name of Unit	Amount of Cheque	Date of dis- honour	Whether payment of bounced cheque received or not.	Date of lodging complaint & Name of court.	Present position if any	Remarks
1.	2.	3.	4.	5.	6.	7.	8.

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No. RFC/F.Law-3/LPM/(27)/400

Dated: 21st Feb., 2005

CIRCULAR
(Lit. Cir. No. 130)

Reg : Receipt of Court Notices by the Advocates.

It has come to the notice of the Corporation that some Advocates are taking the Court Notices directly from the Court at their own level which causes inconvenience to the Corporation in allotting the cases according to their merits and gravity.

In view of above, I have been directed to advise all the panel Advocates that they may not take Court Notices from the Court at their own level directly and without the permission of the Corporation.

Sd/-
(DHARAM VEER)
INCHARGE (LAW)

Copy to :-

1. All ROs/BOs/SOs with the direction to circulate this Circular to all the panel Advocates of the area of their jurisdiction immediately and ensure its strict compliance.
2. All the Panel Advocates of High Court, Jaipur through HO(Law Sec.) and Panel Advocates of High Court, Jodhpur through RO, Jodhpur.

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No. RFC/F.Law-3/LPM/(27)/608

Dated: 09 March, 2006

CIRCULAR
(Lit. Cir. No. 132)

Reg : Information of court proceedings.

It has come to the notice of the Corporation that sometimes in the cases relating to the RFC, the Hon'ble Court issue some directions/order to the Counsel of the Corporation in the Court. But due to lack of communication/co-ordination between the Counsel & Officer-Incharge of the Corporation, the court order/directions are not being informed to concerned Officials timely,. Even in some matter stay/status quo orders of the Court are not being communicated timely/immediately and the Corporation takes possession or proceeds for sale of the assets of the unit in a normal course in which matter is subjudice. This action of the Corporation ultimately made ground for contempt of court.

In view of above, I have been directed to advise all learned counsel/OIC's of the Corporation to inform the concerned Officials soon after the court passes any order/direction with regard to any pending court case so that the direction of the court be honored in its true spirit and no course of action be made out for contempt of court by the Corporation.

**Sd/-
(DHARAM VEER)
INCHARGE (LAW)**

Copy to :-

1. All ROs/BOs/SOs with the direction to circulate this Circular to all the panel Advocates of the area of their jurisdiction immediately and ensure its strict compliance.
2. All the Panel Advocates of High Court, Jaipur through HO(Law Sec.) and Panel Advocates of High Court, Jodhpur through RO, Jodhpur.
3. The DGM(A&I), Western Zone, Ajmer
4. Standard Circulation at H.O.

RFC/ O&M/ ...646/06

**RAJASTHAN FINANCIAL CORPORATION
H.O. : Udyog Bhawan, Tilak Marg, 'C' Scheme, Jaipur- 5**

Ref. No. : RFC/F.Law-3/LPM/61/ 1459

Dated : 09th /12th June, 2006

**CIRCULAR
(Lit. Circular No.134)**

Sub : Payment of fees to Advocates.

In continuation to O&M Circular No. 620/2004 (Lit. 111) issued under Ref. No. RFC/F.Law-3/LPM/61/1797 dated 16.11.2004 and further O&M Circular No. 626/2005 dt. 19.04.2005 (Lit. 116) with regard to fees structure for the Advocates, the following additions are made:-

S.No.	Type of case	Name of Court	Amount Involved in application (Rs.)	Limit of of fee. (Rs.)
12.	Application/ Appeal.	Revenue Appellate Authority.	-	1,500/-
13.	Application/ Revision/Appeal.	Revenue Board Ajmer.	-	2,500/-

The fee shall be released by the Concerning Branches and rest of the contents of the O&M Circular No. 620/2004 dt. 16.11.2004 (Lit. No.111) shall remain the same.

All concerned are advised to make a note of it.

Sd/-
(KARNI SINGH RATHORE)
CHAIRMAN AND MANAGING DIRECTOR

Copy to :-

1. All ROs/ BOs/ SOs
2. A&I Western Zones Ajmer.
3. Standard Circulation at H.O.

Sd/-
(DHARAM VEER)
INCHARGE (LAW)

RFC/ O&M/ ...650 /06

RAJASTHAN FINANCIAL CORPORATION
H.O. : Udyog Bhawan, Tilak Marg, 'C' Scheme, Jaipur- 5

Ref. No. : RFC/F.Law-3/LPM/27/1795

Dated : 24th July 2006

CIRCULAR
(Lit. No. 135)

Sub : Criminal action in the cases where cheques have been dishonored.

Attention is drawn towards O&M Circular No. 640/2005 dt. 27.12.2005 (Lit. Circular. No. 127) vide which detailed guidelines were issued and stress was given for initiating an immediate action in case of bouncing of cheque . As per section 147 of N.I. Act there is a provision for compounding of the offence and as per clause “g” of aforesaid circular in which it is mentioned “ that although as per the provisions of Negotiable Instrument Act offence committed is compoundable but Br. office will not

withdraw the complaint till account is squared up and / or prior approval of the CMD of the corporation is obtained.”

In spite of above detailed circular and guidelines field offices are sending the references for withdrawal of complaint on one and other reasons. Therefore, for the convenience of the branches the following guidelines are issued :-

1. After squaring up all the loan accounts of the party, branch shall file an application in the court mentioning that loan account/accounts have squared up as such corporation do not want to press the complaint & case may be compounded.
2. The branch shall recover all the expenditure incurred, from the loanee/ the person against whom complaint was made prior to filing the application before the court.
3. The cases settled under OTS and if the party has paid the entire settlement amount then Br. office shall file an application for withdrawal of complaint, however Br. will ensure that entire expenditure incurred including litigation charges are to be recovered first .

Contd....2/-

- 2 -

4. The Br. will not withdraw the complaint only on payment of the bounced cheques or clearing the overdues only .
5. After lodging the complaint if unit is sold on mutual consent basis even then no action for withdrawal of complaint shall be taken.
6. In other cases for withdrawal of criminal complaint the prior approval of CMD would be required and branch will refer only exceptional cases alongwith the justification / genuine reasons with the recommendation of the Br. Manager.

All concerned are directed to adhere the aforesaid guidelines strictly.

All other contents of the aforesaid circular No. O&M 640/2005 dt. 27.12.2005 (Lit. Circular No. 127) shall remain same.

Sd/-
(KARNI SINGH RATHORE)
CHAIRMAN AND MANAGING DIRECTOR

Copy to :-

1. All ROs/ BOs/ SOs
2. A&I Western Zones Ajmer.
3. Standard Circulation at H.O.

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No. RFC/F.Law-3/LPM/28/1933

Dated: 10th Aug.,2006

CIRCULAR
(Lit. Cir. No. 136)
Sub: Follow up of Court Cases – OICs

In continuation to Lit. Circular No. 122 dated 01.09.2005 and for early disposal of court cases pending before the Hon'ble High Court, Jaipur Bench it has been decided that-

- i) In all the new cases in which summons are being issued by the Hon'ble High Court, the OIC will be appointed from the Law Section and one Addl. OIC will be appointed from the concerned sections viz FR, ARRC, Finance at HO. The Addl. OIC will be responsible for getting the reply prepared and filed through our counsel in the Hon'ble High Court and thereafter the OIC appointed from Law Section will be responsible for further follow up of the cases on day to day basis and he will make his best efforts for early disposal of the cases.
- ii) In case of any further assistance is required by the main OIC, then only he will require the services of the Addl. OIC of the other section.
- iii) In all the present pending cases before the Hon'ble High Court in which OICs had already been appointed by the Corporation, they shall continue to perform their duties as OIC and will comply with the guidelines already circulated vide Lit. Circular No. 122 dated 1st Sept., 2005.

All concerned are advised to make a note of the above guidelines with immediate effect.

Sd/-
(Karni Singh Rathore)
Chairman & Managing Director

Copy to :-

1. All ROs/BOs/SOs
2. Western Zone of A&I, Ajmer
3. Standard Circulation at HO

jktLFkku foRr fuxe
eq[;ky;] m|ksx Hkou] fryd ekxZ] t;iqj
¼fyfVxs'ku ifji= dzekad-138-½

dzekad%fof/k&fyfVxs'ku@,y-ih-,e-@11@2367

f fnukad% 13-09-2006

jktLFkku ljdkj fof/k ¼iz-5½ foHkkx ls izkIr ifji=
dzekad i-1¼327½fof/k&5@2006tsMhvkj] t;iqj fnukad 21
vxLr 2006 }kjk ;g lwfpr fd;k x;k gS fd jkT; ljdkj ls lacaf/kr
U;kf;d fu.kZ;ksa ds fo:) vihy@fjohtu@fjV bR;kfn djus esa
lacaf/kr i=kofy;ka iw.kZ vfHkys[k lwpukvksa ds lkFk ugha
fHktok;s tkrs gSa A

jkT; ljdkj }kjk izsf"kr ifji= dh izfr layXu dj vis{kk
dh tkrh gS fd fuxe ls lacaf/kr U;kf;d izdj.kksa esa tgka jkT;
ljdkj Hkh ,d i{kdkj gS] U;kf;d ekeyksa esa Rofjr dk;Zokgh
dh tkdj U;kf;d i=kofy;ksa dk iw.kZ la/kkj.k fd;k tkos A
tgka vihy@fjohtu@fjV@fo'ks"k vihy bR;kfn nk;j dh tkuh
gS] jkT; ljdkj dks okafNr lwpuk fHktokbZ tkosA

jkT; ljdkj ds funsZ'kksa dh vuqikyuk lqfu'fpr
djksa A

g0
¼dj.kh flag jkBkSM½
v/;{k ,oa izca/k funs'kd

izfrfyfi%&

1-eq[;ky; esa ekud ifjpkyu

2-leLr 'kk[kk dk;kZy;@{ks=h; dk;kZy; jkt-foRr fuxe

jktLFkku foRr fuxe] t;iqj

dzekad% vkj,Qlh@fof/k@3@11@2426
09-2006

18-

ifji=
 $\frac{1}{4}$ fyfVxs'ku ifji= dzekad-140- $\frac{1}{2}$

fo" k; %U;k;ky;ksa ds fu.kZ;ksa ds fo:}
vihy@fjohtu@fjV@
fo'ks"k vihy@fo'ks"k vuqefr ;kfpdk djus vFkok ugha
djus ds fu.kZ; ls lacaf/kr i=kofy;ka iw.kZ vfHkys[k@
lwpukvksa ds lkFk fof/k foHkkx dks izsf"kr djus ckcr-

mijksDr fo"k;kUrxZr lgk;d 'kklu lfpo] m|ksx (xzqi&2) foHkkx]
jktLFkku ljdkj ls izkIr i=kad i02&21(2) m|ksx@2@fofo/k@2004
fnukad 11-09-06] ifji= dzekad i-1(327)fof/k &5@2006@tsMhvkj
t;iqj fnukad 21-08-06 dh vuqikyuk esa funsZf'kr fd;k tkrk gS fd
Hkfo"; esa U;k;ky;ksa ds fu.kZ;ksa ds fo:} vihy@fjohtu @ fjV
@fo'ks"kvihy@fo'ks"k vuqefr ;kfpdk djus vFkok ugha djus ds
fu.kZ; ls lacaf/kr i=kofy;ka iw.kZ vfHkys[k@lwpukvksa ds lkFk
fuxe ds fof/k foHkkx dks izsf"kr dh tk;sA lkFk gh mlesa fuEu
fcUnqokj fVli.kh Hkh fn;k tkuk lqfuf'pr djsa%&

1& laf{kIr rF;

2& fookfnr fcUnq

- 3& fookfnr fcUnq ij U;k;ky; esa izLrqr laf{kIr tokc
 4& fu.kZ; dk lkj
 5& jkgr iznku dh tk ldrh gS vFkok ugha & ij jk;] fu;e dk Li"V
 mYys[k djrs gq, rFkk fu;e dh QksVksizfr ds lkFkA
 6& vihy djus vFkok ugha djus ds laca/k esa Li"V vfHker e;
 vfHkHkk"kd dh jk; dsA

mijksDr funsZ'kksa dh vuqikyuk lqfuf'pr djsaA

v/;{k ,oa izcU/k funs'kd

layXu% ifji= dh izfrA

izfrfyfi%

- & leLr {ks=h;@'kk[kk@mi 'kk[kk dk;kZy;] jkt0foRr fuxe
 & leLr vuqHkkxk/;{k] jkt0 foRr fuxe] eq[;ky;

/RFC/O&M/653/06/

rfc

**RAJASTHAN FINANCIAL CORPORATION
 HEAD OFFICE: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005.**

Ref.No.RFC/F.Law-3/LPM(27)/..

Dated: 26th Oct., 2006

CIRCULAR

It has been observed that the branches are sending the matters related to FR/ARRC/Loans and other Sections directly for opinion to the Law Section, HO without getting the matter examined at BO level and by concerned Section of Head office which leads to delay and complications in the matter.

It is, therefore, enjoined upon all the field offices that in case any legal opinion

is required, first the matter will be got examined by the Law Officer posted in the Branch/RO and thereafter if required, Branch Incharge will refer the matter with his specific recommendations/comments to the concerning Section at HO. The concerning Section of HO will further examine the matter in light of the policies, practices and procedure prescribed thereof and in case they need further examination of issue by Law Section then they will frame the specific points on which legal opinion is required and then send it to Law Section for opinion. The Law Section of Head Office will not entertain any matter of opinion directly from field offices.

Any laxity in this regard will be viewed seriously.

All concerned are advised for strict compliance of the above.

Sd/-
(Karni Singh Rathore)
Chairman & Managing Director

Copy to:

1. All ROs/BOs/SOs/WZ (A&I)Ajmer
2. Standard Circulation at HO

RFC/O&M/656/06

RAJASTHAN FINANCIAL CORPORATION
HO : Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No.RFC/F.Law-3/LPM/27/3080

Dated: 04.12.2006

CIRCULAR
(Lit. No. 141)

**Sub:- Criminal action in the cases where cheques
have been dishonoured**

Attention is drawn towards O&M Circulars No. 428/1997 dt. 02.07.1997, No. 640/2005 dt. 27.12.2005 and No. 650/2005 dt. 24.07.2006 vide which detailed guidelines were issued on the aforesaid subject from time to time. The matter has been re-examined in light of provisions of Sec. 147 of the Negotiable Instruments Act, 1881 (N.I. Act), the offence punishable under this Act is 'compoundable'. Accordingly, now it has been decided to substitute Clause 4 of O&M Circular No. 650/2005 dt. 24.07.2006 as under with immediate effect:-

Clause-4

After satisfying about the genuine & justified reasons for dishonour of cheque(s) for which criminal complaint U/S 138(b) of N.I. Act has been lodged by the Corporation, the powers for withdrawal/compounding of such complaints have been delegated as under subject to depositing of the amount of the bounced cheque plus cheque return charges of Rs.1,000/- plus Service Tax and all the litigation expenses incurred by the Corporation:-

- (i) Branch Manager concerned shall be empowered to withdraw/compound the 'First Complaint' lodged under the Act against the cheque signatories of loanee concern;
- (ii) DGM(R) concerned shall be empowered to allow the withdrawal/compounding of the 'Second Complaint' lodged

under the Act against the cheque signatories of the loanee concern;

- (iii) GM(Dev.),HO shall be empowered to allow withdrawal/compounding of the 'Third Complaint' lodged under the Act against the cheque signatories of the loanee concern.

However, the Branches/ROs may refer the exceptional cases alongwith the justified reasons and clear-cut recommendations for relaxation in the above norms for seeking approval of the higher authorities for withdrawal of criminal complaints lodged under the Act. Inspite of above sympathetic consideration if the cheques of the borrower concern are dishonored thereafter, then the Corporation shall be left with no alternative except to proceed further under the provisions of the Act.

It is also directed that in future only cheques issued by borrower party be accepted towards repayment of corporation's dues so as to attract the provisions of the N.I. Act and no third party cheques be accepted on behalf of the loanee concern.

Rest of contents of earlier issued O&M Circulars referred to above shall remain unchanged. All concerned are advised for strict compliance of the above.

Sd/-
(B.N.SHARMA)
Chairman & Managing Director

Copy to:

1. All ROs/BOs/Sos.
2. A & I Western Zone, Ajmer.
3. Standard Circulation at H.O.

RAJASTHAN FINANCIAL CORPORATION
(Law Section)

LIST OF ADVOCATES
(As on 03.01.2007)

<u>S.NO.</u>	<u>PLACE</u>	<u>NAME OF ADVOCATES</u>	<u>YEAR OF APPOINTMENT</u>
---------------------	---------------------	---------------------------------	-----------------------------------

1. DELHI SUPREME COURT

- | | | | |
|----|--------------------------------|---|------|
| 1. | Sh. Sushil Kumar Jain | : | 1982 |
| 2. | Sh. Sujit Kishore Bhattacharya | : | 1998 |

2. DELHI- HIGH COURT

- | | | | |
|----|--------------------|---|------|
| 1. | Sh. Shyam Moorjani | : | 1982 |
| 2. | Sh. Aditya Madan | : | 1998 |
| 3. | Sh. Manish Kumar | : | 2003 |
| 4. | Sh. A.P.Dhamija | : | 2003 |

3. JAIPUR-HIGH COURT

- | | | | |
|----|--------------------------|---|------|
| 1. | Sh. V.S.Yadav | : | 1998 |
| 2. | Sh. R.D.Rastogi | : | 1987 |
| 3. | Sh. G.C.Garg | : | 1992 |
| 4. | Sh. Kamlakar Sharma | : | 1993 |
| 5. | Sh. Saket Pareek | : | 1998 |
| 6. | Sh. Pratap Singh Arya | : | 1999 |
| 7. | Sh. Ashok Kumar Bansal | : | 2000 |
| 8. | Sh. Narendra Singh Yadav | : | 2000 |
| 9. | Smt.Anupama Chaturvedi | : | 2000 |

10.Sh. Arjun Singh Khangarot	:	2000
11.Sh. N.A.Naqvi	:	2001
12.Sh. K.K.Sharma	:	2003
13.Smt.Saroj Choudhary	:	2003
14.Sh. R.P.Vijay	:	2003
15.Smt.Namita Parihar	:	2004 (O&M 611)
16.Sh.Dinesh Kaushik	:	2004 (O&M 614)
17.Sh.R.N.Mathur	:	2004 (O&M 617)
18.Sh.Ajit Kumar Sharma	:	2004 (O&M 617)
19.Sh.Prahalad Singh	:	2004 (O&M 617)
20.Sh.Ashok Gaur	:	2004 (O&M 617)
21.Ms. Naina Saraf	:	2004 (O&M 617)
22.Sh.Deepak Goyal	:	2005 (O&M 623)
23.Sh.V.B.Sharma	:	2005 (O&M 623)
24.Sh.Virendra Lodha	:	2005 (O&M 625)
25.J.K.Singhi	:	2005 (O&M631)
26.Sh. Ghanshyam Singh Rathore	:	2005 (O&M 631)
27.Sh. Himanshu Agnihotri	:	2006 (O&M 645)

4. JAIPUR-LOWER COURT

1. Sh. Roshan Sethi	:	1993
2. Sh. Rishi Pal Agalwar	:	1993
3. Sh. Shashi Shekhar Gaur	:	1995
4. Sh. S.C.Mittal	:	1993
5. Sh. Anil Sharma	:	1995
6. Sh. B.S.Ratnu	:	1983
7. Sh.S.K.Singhal	:	1985
8. Sh. Ghanshyam Singh Rathore	:	1994
9. Ms. Anila Khanna	:	1998
10. Sh.J.A.Khan	:	1999
11. Sh. B.K.Goyal	:	2000
12. Sh. Giriraj Pd.Sharma	:	2000
13. Sh.D.P.Sharma	:	2002
14. Sh. Mohd. Hanif Khan	:	2003
15. Ms. Asha Bhansali	:	2003
16. Sh. Anand Kumar Sharma	:	2004 (O&M 603)
17. Sh. Aditya Choudary	:	2004 (O&M 606)
18. Sh. Manish Chandra	:	2005 (O&M 631)
19. Sh. Jai Deep Dhillon	:	2006 (O&M 645)

20. Sh. Sandeep Singh Hora : 2007 (O&M 659)

5. JODHPUR HIGH COURT

1. Sh. Shravan Ojha : 1996
2. Sh. N.M.Lodha : 1985
3. Sh. M.R.Singhvi : 1985
4. Sh.Sangeet Lodha : 1999
5. Sh. Anil Upadhyaya : 2000
6. Sh. Dinesh Mehta : 2003
7. Sh.B.M.Bhojak : 2004 (O&M 603)
8. Sh.Rajesh Joshi : 2004 (O&M 605)
9. Sh.Dalip Singh Rajvi : 2004 (O&M 608)
10. Sh.Rajeev Purohit : 2005 (O&M 619)

6. JODHPUR-LOWER COURTS

1. Sh. H.N.Kalla : 1985
 2. Sh. R.K.Mehta : 1985
 3. Sh.Subash Purohit : 1995
 4. Smt.Vinita Joshi : 1995
- (not to allot any fresh case till further order as per order at para 259/N of Gen. file of Jodhpur)
5. Sh.A.K.Changani : 1995
 6. Sh.L.K.Purohit : 1995
 7. Sh.J.L.Daga : 1989
 8. Sh.Manish Sosidia : 2001

7. AJMER

1. Sh. G.L.Agarwal : 1993
2. Sh.C.K.Agarwal : 1994
3. Sh. Tej Bhan K.Bhagtani : 1993
4. Sh. L.S.Mathur : 1995
5. Sh. T.N.Saxena : 1995
6. Sh. Randhir Singh Mirdha : 2000
7. Sh. Manmeet Kapoor : 2004 (O&M 606)

8. BEAWAR

1. Sh. T.C.Shivnani : 1989
2. Sh. Paras Ram Chandwani : 2006 (O&M 641)

9. KISHANGARH

1. Sh.G.L.Agarwal
2. Sh.L.S.Mathur
3. Sh.Tej Bhan K.Bhagtani
4. Sh. T.K.Ramchandani

10. MAKRANA

1. Sh. R.C.Parakh : 1989
2. Sh.K.K.Acharya : 1985

11. ALWAR

1. Sh.K.N.Bhargava : 1979
2. Sh. G.S.Mathur : 1989
3. Sh.J.K.Gupta : 1990
4. Sh.R.P.Yadav : 1993
5. Sh.J.K.Gupta : 1990
6. G.D.Bhargava
7. Sh.Rajiv Bhargava

12. BHIWADI

1. Sh.Kailash Nath Bhargava : 1982
2. Sh.K.C.Agarwal (Tijara)
3. Sh.R.P.Yadav
4. Sh.Atulya Mathur :
5. Sh. Rangrao Yadav
6. Sh.Vinod Kumar (Behror)

13. BHILWARA

1. Sh. R.L.Gupta : 1985
2. Sh. R.S.Bhati : 1993

3. Sh. R.S.Vijayavargiya : 1999
4. Sh. Shyam Lal Vaid : 1999
5. Smt.Savita Sharma : 2004 (O&M 606)
6. Sh. Ladu Lal Somani : 2006 (O&M 641)

14. BIKANER

1. Sh. V.C.Goyal : 1985
2. Sh. Moti Singh : 2003
3. Sh. H.K. Malhotra : 2003
4. Sh. Chunni Lal Baror : 2003
(Nokha, Bikaner)
5. Sh. Prem Shanker Madan : 2004 (O&M 619)

15. CHURU

1. Sh. Nand Ram Rahad : 1993
2. Sh. O.P.Panwar : 1999
3. Sh.S.K.Sharma : 1999
4. Sh. Moinul Haque Nizami : 2000
(Sadulpur- Churu)
5. Sh. Sanwar Mal Swami : 2003

16. SRIGANGANAGAR

1. Sh. I.B.Gupta : 1982
2. Sh. P.S.Sandhu : 1985
3. Sh.S.C.Jain : 1982
4. Sh.K.S.Chhabra : 1990
5. Sh. P.D.Luthra : 2005 (O&M 638)

17. HANUMANGARH

1. Sh. Kailash Chand Yadav : 1999
2. Sh. Jagdish Prasad Pareek : 2006 (O&M 652)
3. Sh. Ramesh Kumar Modi : 2006 (O&M 652)
4. Sh.Rajendra Singh Shekhawat : 2006 (O&M 652)

18. NAGPUR

- | | | | |
|----|--|---|------|
| 1. | Sh. D.M.Singhvi | : | 1985 |
| 2. | Sh.Arjun Das | : | 1985 |
| 3. | Sh.K.K.Acharya | : | 1989 |
| 4. | Sh.Vimal Chand Jain
For Merta City) | : | 1998 |
| 5. | Sh. Thakur Prasad Rath | : | 2003 |

19. BHARATPUR

- | | | | |
|----|-------------------------|---|----------------|
| 1. | Sh. Rajendra Singh | : | 1989 |
| 2. | Sh. R.P.Upadhyay | : | 1999 |
| 3. | Sh. Ashok Chaturvedi | : | 2005 (O&M 623) |
| 4. | Sh. Pramod Kumar Sharma | : | 2005 (O&M 623) |
| 5. | Sh. Rajeev Gothi | : | 2006 (O&M 642) |

20. DAUSA

- | | | | |
|----|-------------------------|---|------|
| 1. | Sh. R.K.Jain | : | 1993 |
| 2. | Sh. Vinod Behari Sharma | : | 2000 |
| 3. | Sh. Babu Lal Hada | : | 2000 |

21. DHOLPUR

- | | | | |
|----|-------------------------|---|------|
| 1. | Sh. N.L.Sharma | : | 1985 |
| 2. | Sh. V.N. Budhiraja | : | 1989 |
| 3. | Sh. S.C.Modi | : | 1989 |
| 4. | Sh.Prem Narain Parashar | : | 2000 |

22. SIKAR

- | | | | |
|----|---------------------|---|----------------|
| 1. | Sh. Jai Narain Soni | : | 1982 |
| 2. | Sh. A.K.Bhargava | : | 1985 |
| 3. | Sh. S.K.Bhargava | : | 1993 |
| 4. | Sh. K.D.Kavia | : | 2003 |
| 5. | Sh. Zakir Hussain | : | 2006 (O&M 645) |

23. TONK

1. Sh. R.S.Garg : 1982

24. JHUNJHUNU

1. Sh. Gokul Prasad Sharma : 1985
2. Sh. V.B.Jain : 1993
3. Sh. M.K.Jain : 1985
4. Sh. Meha Singh Rao : 1985
5. Sh. Ranjan Kumar Verma : 2000
6. Sh. Rajendra Singh Abusaria : 2000
7. Sh. Narottam Lal Sharma : 2000

25. KOTA

1. Sh. M.P.Mittal : 1993
2. Sh. Bhim Singh Yadav : 1993
3. Sh. Arvind Kr. Sahani : 1993
4. Sh. Santosh Kr. Sharma : 1993
5. Sh. Sachindra Nath Saxena : 1995
6. Sh. Dharmendra Kr. Tyagi : 1999
7. Sh. Virendra Kr. Saxena : 1999
8. Sh. Sanjeev Jain : 1999
9. Sh. Shyam Behari Maheshwari : 1999
(Ramganjmandi, Kota)
10. Sh. Vivek Kumar Nandwana : 2005 (O&M 625)

26. BARAN

1. Sh. Rajendra Kabra : 1995
2. Sh.Mahesh Prakash Gautam : 2005 (O&M 622)
3. Sh. Jagdish Prasad Agarwal : 2005 (O&M 622)

27. BUNDI

1. Sh. S.L.Jain : 1985
2. Sh. T.M.Jain : 1989
3. Sh. K.C.Gupta : 1993
4. Sh. V.N.Mehra : 1995
5. Sh. Arvind Prakash Sharma : 2003

28. SAWAIMADHOPUR

1. Sh. Kripa Shanker Sharma : 1985
2. Sh. R.C.Verma : 1993
3. Sh. Dwarka Lal Gupta : 1989
4. Sh. Kishan Lal Sharma : 1989
5. Sh. D.S. Sharma : 1996
6. Sh. Ram Kishore Goyal : 1996
7. Sh. Bal Kishan Upadhayay : 2004 (O&M 605)

29. JHALAWAR

1. Sh. G.R.Jain : 1985
2. Sh. Vijay Kumar Jain : 1996
3. Sh. K.C.Jain (Bhawanimandi) : 2003

30. PALI

1. Sh. L.N.Purohit : 1985 (expired on 18.10.06)
2. Sh. M.L.Daga : 1985
3. Sh. P.M.Mehta : 1993
4. Sh. Mahendra Kumar Vyas : 2006 (O&M 658)
5. Sh. Shree Vallabh Dave : 2006 (O&M 658)
6. Sh. Deepa Ram Parmar : 2006 (O&M 658)

31. ABU ROAD

1. Sh. S.C.Surana : 1993
2. Sh. Shankar Nath Singh : 1993
3. Sh. Mahendra Sharma : 1993
4. Sh. Jitendra Surana : 2006 (O&M 641)
(Revenue Cases only)
5. Sh. Mahendra Kr. Vyas : 2006 (O&M 658)
6. Sh. Shree Vallabh Dave : 2006 (O&M 658)
7. Sh. Deepa Ram Parmar : 2006 (O&M 658)

32. JALORE

1. Sh. M.L.Daga : 1993
2. Sh. Parmanand Sharma : 2003
3. Sh. Madhu Sudan Vyas : 2003
4. Sh.Surendra Kumar Dave : 2003

33. SIROHI

1. Sh. Praveen K.Shah : 1993
2. Sh. Suresh Chand Bafna : 1993
3. Sh. Dinesh Chand Surana : 1993

34. UDAIPUR

1. Sh. Ramesh Chand Vyas : 1982
2. Sh. M.S.Chouhan : 1985
3. Smt. Pramodini Baxi : 1993
4. Sh. Kesri Mal Sethi : 1982
5. Sh. Ajesh Sethi : 1999
6. Sh. R.K. Jain : 1999
7. Sh. S.L.Kothari : 1999

35. BANSWARA

1. Sh. S.K.Gupta : 1985
2. Sh. S.L.Gupta : 1985
3. Sh. H.L.Jain : 1989

36. DUNGARPUR

1. Sh. B.L.Gandhi : 1985
2. Sh. N.L.Mehnot : 1985
3. Sh. L.L.Jain : 1985

37. RAJSAMAND

1. Sh. K.M.Sethi : 1982
2. Sh. Mahesh Pagaria : 2006 (O&M 642)
3. Sh. Sunil Jain (Bohra) : 2006 (O&M 642)
4. Sh. Bharat Paliwal : 2006 (O&M 642)

38. CHITTORGARH

- | | | | |
|----|-----------------|---|------|
| 1. | Sh. S.M.Rajora | : | 1980 |
| 2. | Sh. P.C.Jagetia | : | 1993 |
| 3. | Sh. D.K.Jain | : | 2002 |

39. KARAULI

- | | | | |
|----|--------------------------|---|------|
| 1. | Sh. Hazari Lal Agarwal | : | 2000 |
| 2. | Sh. Brijendra Pd. Sharma | : | 2000 |

40. BALOTRA

- | | | | |
|----|--------------------------|---|------|
| 1. | Sh. Candra Prakash Gupta | : | 1999 |
| 2. | Sh. Chela Ram Kumawat | : | 1999 |

41. HINDAUNCITY

- | | | | |
|----|--------------------------|---|------|
| 1. | Sh. Ram Dayal Gupta | : | 2000 |
| 2. | Sh. Mahesh Kumar Singhal | : | 2000 |
| 3. | Sh. Rameshwar Lal Goyal | : | 2000 |

42. BARMER

- | | | | |
|----|--------------------|---|------|
| 1. | Sh. Ratan Lal Soni | : | 2002 |
|----|--------------------|---|------|

The empanelment of the Advocates have been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Incharge of Law Section, RFC, H.O. Jaipur to the extent that they will not accept/ undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Copy to :-

Sd/-
(DHARAM VEER)
INCHARGE (LAW)

1. All RO's/ BO's/SO's
2. Slandered Circulation in H.O.
3. Advocates concerned.

RAJASTHAN FINANCIAL CORPORATION
HO : Udyog Bhawan, Tilak Marg,C-Scheme,Jaipur-302005

Ref.No.RFC/F.Law-3/LPM/27/325

Dated: 26 Feb.,2007

CIRCULAR
(Lit. No. 144)

Sub: Follow-up of Court Cases

Litigation cases of the Corporation have been reviewed and it has been observed that the cases need to be followed up vigorously so that recovery of the Corporation's dues can be improved.

In order to speedy disposal of the court cases a meeting of panel Advocates was convened on 10th Feb., 2007 at HO and deliberations were made. Accordingly, following directions are made for speedy disposal and effective monitoring of the cases pending in the court:

- i) Where the legal notices have been issued by the BO and the BO feels that heavy financial stakes are involved in the cases and loanee may obtain ex-parte stay order from the Court, Caveat must be filed on the merit of the case.
- ii) Where the loanee party has filed any court case against the Corporation and no stay is in operation, immediate suitable action for recovery must be taken.

In some cases where the decree has been obtained by the Corporation and the party has filed appeal before Hon'ble High Court and no stay has been granted immediate action for execution of decree must be undertaken by the filed offices.

If any court order exists in the case the BO must study it properly for compliance.

Contd...2

- iii) After issuing legal notice or any notice to the party for effecting the recovery if loanee party makes any representation or gives any legal notice through his Advocate the same should be processed and parawise reply should be sent to the party as per rules and regulations of the Corporation under intimation to the concerning sections at HO and RO.
- iv) The BOs may take action for recovery of dues within the prescribed limitation period and should not wait for exhausting of limitation period because the courts are not allowing the Corporation to take action in time bar cases.
- v) Where the cases are pending in the High Court/DRT/Consumer Forums/Other Courts & Commissions the BOs will inform the latest development of the case to the OIC and in such cases quarterly statement of A/cs should be sent to the OIC concerned so that court may be informed accordingly through our Advocate.
- vi) The OICs have to attend each and every hearing of the case in the court alongwith Advocate. The OICs will also collect the entire record of the case and will file reply before the court without any delay so that no stay order is issued in such cases against the Corporation. The OIC has to maintain proper co-ordination with Advocates. If any complaint received from the Advocate strict action shall be taken against the OICs.

In case of transfer of the OIC, he will handover the charge of entire cases alongwith all records to his successor and the controlling officer at the time of issue of his relieving order will ensure that all such cases have been handed over by the relieving officer under intimation to Law Section HO. If the transferor officer has not handed over such cases in which he was appointed as OIC he will continue to be the OIC till further specific order. Lit.Circular No. 122 dated 01.09.2005 already exists in this regard.

Contd...3

- vii) In some cases where the Corporation has filed the case or appeal where loanee have demised and court has order to implead the legal heirs on record the BO will immediately search out the names and details of the legal heirs and intimate the same to the Advocate so that the same may be brought on record of the court within limitation period.
- viii) BOs will prepare the legal MIS of all the pending court cases in the enclosed format and submit details of the pending court cases every month so as to reach HO latest by 7th every month.

All concerned are advised for strict compliance of the above and any laxity in compliance of the above will be viewed seriously.

Sd/-
(B.N.Sharma)
Chairman & Managing Director

rfc

RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/30

Dated: 04th April, 2007

CIRCULAR
(Lit. Cir. No. 145)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 659 dated 03.01.2007 the names of following Advocates have been included on Panel of Advocates of the Corporation for the courts and places indicated against their name:-

S.No.	NAME & ADDRESS OF ADVOCATES	NAME OF PLACE/ COURT
1	Sh. Shiv Kumar Vyas 'YUG Niwas', Inside Jalori Gate Opp. Pushtikar School JODHPUR -342 001 (Rajasthan) Ph.(O) 291-2545565 (R) 291-2639166 (M) 98290 21106	High Court, Jodhpur
2	Sh. Indresh Kumar Ramchandani Diwan Ji Ka Mohalla, Kishangarh, Distt. Ajmer-305802 Phone: 1463-245933 (M) 98299 54454	Courts at Kishangarh/ Ajmer

The empanelment of the Advocates has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-

(S.K. AGARWAL)
EXECUTIVE DIRECTOR

Copy to:

1. RO/BO/SOs
2. Standard Circulation at HO
3. Advocates concerned.

rfc**RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MARG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/ 679

Dated: 26.06 2007

**CIRCULAR
(Lit. Cir. No. 146)****Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 661 dated 04.04.2007 the name of following Advocate has been included on Panel of Advocates of the Corporation for the courts and places indicated against his name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1	Sh.Kumar Kartikay Room No. 12, Bikaner House, Shahjahan Road, India Gate, New Delhi-110011 (M) 098181-37058 Phone 011-20036242	Supreme Court/Other Courts at Delhi

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-

(B.N.Sharma)**Chairman & Managing Director****Copy to:**

1. RO/BO/SOs
2. Standard Circulation at HO
3. Advocate concerned.

rfc

**RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MARG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 23rd Aug., 2007

**CIRCULAR
(Lit. Cir. No. 147)**

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 662 dated 26.06.2007 the name of following Advocate has been included on Panel of Advocate of the Corporation for the courts and place indicated against his name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. Ashok Sharma 7/190, Malviya Nagar, Jaipur Tel. 0141-2552947 (R) Mob.94140-46284 / 98283 98656	Lower Courts at Jaipur

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

**Sd/-
(B.N. SHARMA)
Chairman & Managing Director**

Copy to:

1. BOs/SOs
2. Central/Western Zones of A&I
3. Standard Circulation at HO
4. Advocate concerned.

RAJASTHAN FINANCIAL CORPORATION

CIRCULAR
(Lit. Cir No. 148)

Sub: Important Judgement – RFC,
Sirohi Vs. Shri Ramesh Kumar

The learned Chief Judicial Magistrate, Sirohi in the matter of RFC Vs. Shri Ramesh Kumar - Criminal Misc. Case No. 383/2005 has passed a judgement on 28.06.2007 u/s 138 of the Negotiable Instrument Act against Sh. Ramesh Kumar punishing him simple imprisonment of one year alongwith fine of Rs. 50,000/-. On failure of making the payment of fine Sh. Ramesh Kumar will be liable for further imprisonment of 3 months. The judgement of learned court is enclosed as **Annexure-“A”**.

In view of aforesaid judgement of the learned court, it is enjoined upon all the field offices to take use of the judgement effectively to fetch maximum amount from the cases where cheques have been dishonoured. Borrowers may also be made known about the aforesaid judgement.

The field offices accordingly are advised to review all such cases for taking immediate action.

Sd/-
(B.N. Sharma)
Chairman & Managing Director

Encl: a/a

Copy to:

- 1.All the field offices
- 2.Standard Circulation at HO

rfc
RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302 005

Ref.No.RFC/F.Law-5/HO/1886/4255

Dated: 26.09.2007

CIRCULAR
(Lit. Cir No. 149)

Sub: Important Court Decision- M/s. Yusuf Brothers
Vs. RFC - Distt. Consumer Forum, Churu.

The Distt. Consumer Forum, Churu vide its order dated 21.08.2007 has held that the Corporation is justified in recalling the subsidy amount with interest once the unit has not run for 5 years, thus the Corporation action to withhold the original titles has been upheld by the Hon'ble Forum. The Distt. Forum has held that it is the right of the Corporation to call back the subsidy amount with interest.

A photo copy of the order referred to above is enclosed for reference which may be used in the cases pending before the District Consumer Forums. The field officers are advised to make use of the ruling in the cases filed against the Corporation.

Sd/-
(S.K.Agarwal)
Executive Director

Encl: a/a

Copy to: All the field offices

rfc

**RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MARG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 29th Feb., 2008

**CIRCULAR
(Lit. Cir. No. 150)**

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 664 dated 23.08.2007 the name of following Advocate has been included on Panel of Advocate of the Corporation for the courts and place indicated against his name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. Naresh Kumar Sharma Shree Ram Krapa, 62-A, Padmawati Colony "A", Kings Road, Jaipur Tel. 0141-2810910 (R) Mob.94133-34100 / 98290-61868	Lower Courts at Jaipur

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

**Sd/-
(B.N. SHARMA)
Chairman & Managing Director**

Copy to:

1. All BOs/SOs
2. Central/Western Zones of A&I
3. Standard Circulation at HO
4. Advocate concerned.

rfc**RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MARG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 01.03.2008

**CIRCULAR
(Lit. Cir. No. 151)****Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 668 dated 29.02.2008 the name of following Advocate has been included on Panel of Advocate of the Corporation for the courts and place indicated against his name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. Nitin Jain NITIN JAIN & ASSOCIATES 368, Mahaveer Nagar, Tonk Road, Jaipur-302018 (Rajasthan) Tel. 0141-2551053 (Off.) Mob. 98293-78798	Lower Courts at Jaipur

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

**Sd/-
(B.N. SHARMA)
Chairman & Managing Director**

Copy to:

1. All BOs/SOs
2. Central/Western Zones of A&I
3. Standard Circulation at HO
4. Advocate concerned.

RFC/O&M/670/08

rfc

**RAJASTHAN FINANCIAL CORPORATION
UDYOG BHAWAN, TILAK MARG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 12th March,2008

**CIRCULAR
(Lit. Cir. No. 152)**

CORRIGENDUM

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

This is in continuation to earlier O&M Circular No. 669 dated 01.03.2008 vide which name of Sh. Nitin Jain, Advocate was included on Panel of Advocates of the Corporation for the lower courts at Jaipur. Now, he has been empanelled on the Panel of Advocates of the Corporation for all the Courts at Jaipur.

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

**Sd/-
(B.N. SHARMA)
Chairman & Managing Director**

Copy to:

1. All BOs/SOs
2. Central/Western Zones of A&I
3. Standard Circulation at HO
4. Advocate concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg,C-Scheme, Jaipur – 302 005.

Ref.No.RFC/F./Law-3/LPM/26/ 5603

Dated: 26th April, 2008

CIRCULAR
(Lit. Cir. No. 155)

**Sub: Panel of Advocates for defending the cases filed
 by and against the Corporation.**

In continuation to earlier O&M Circular No. 669 dated 01.03.2008 the name of following Advocate has been included on Panel of Advocate of the Corporation for the courts and place indicated against his name :-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Shri Lal Chand Suthar Shri Laxmi Kunj, Near Maheshwari Bhawan, Inside Vishwakarma Gate, Bikaner – 334 004. Mob. 09414445221	Courts at Bikaner

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C.- Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(B.N.SHARMA)
 Chairman & Managing Director

Copy to:

- i) All BOs/Sos.
- ii) Central/Western Zones of A&I.
- iii) Standard Circulation at HO.
- iv) Advocate concerned.

RFC/O&M/ 672/08
rfc
RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 31.05.2008

CIRCULAR
(Lit. Cir. No. 156)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 671 dated 26.04.2008 the name of following Advocate has been included on Panel of Advocate of the Corporation for the court and place indicated against his name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. Prashant Bhagwati 62, South Side, S-3, 2 nd Floor, Masjid MothVillage, Near Neeti Bagh, New Delhi- 110049 Tel. 011-26264300 Mob. 099998-19190	Supreme Court, New Delhi

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(B.N. SHARMA)
Chairman & Managing Director

Copy to:

1. All BOs/SOs
2. Central/Western Zones of A&I
3. Standard Circulation at HO
4. Advocate concerned.

rfc
RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg,C-Scheme, Jaipur – 302 005.

Ref.No.RFC/F./Law-3/LPM/26/

Dated: 18th June, 2008

CIRCULAR
(Lit. Cir. No. 157)

Sub: Panel of Advocates for defending the cases filed by and against the Corporation.

In continuation to earlier O&M Circular No. 672 dated 31.05.2008 the name of following Advocate has been included on Panel of Advocate of the Corporation for the courts and place indicated against his name :-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Shri Devendra Singh Raghava 60/34, Rajat Path, Mansarovar, Jaipur – 302 020. Ph.No. 0141 - 2782277 Mob. 94601 91101	Rajasthan High Court, Jaipur Bench, Jaipur.

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C.- Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(B.N.SHARMA)
Chairman & Managing Director

Copy to:

1. All BOs/Sos.
2. Central/Western Zones of A&I.
3. Standard Circulation at HO.
4. Advocate concerned.

RFC/O&M/ 675 /08
rfc
RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 15.07.2008

CIRCULAR
(Lit. Cir. No. 158)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 674 dated 18.06.2008 the name of following Advocates have been included on Panel of Advocates of the Corporation for the court and place indicated against his/her name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. Satish Chandra Mittal 152/61, Shipra Path, Mansarovar Jaipur-302 020 Ph. 0141-2395638, 2396473 Mob. 98281-15638	Rajasthan High Court, Jaipur
2.	Mrs. Manjeet Kaur 4, Ajmera Garden, Kings Road, Ajmer Road, Jaipur Ph. 0141-2810962Mob. 98292-39303	Rajasthan High Court, Jaipur

The empanelment of the Advocates have been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

The name of Shri S.C.Mittal, Advocate which was inserted vide O&M Circular No. RFC/O&M/324/93 dated 28.05.1993 for Lower Courts, Jaipur is hereby deleted for the purpose of assigning new lower court case with immediate effect.

Sd/-
(A.K.Garg)
Chairman & Managing Director

Copy to:

1. All BOs/SOs/Central & Western Zones of A&I
2. Standard Circulation at HO
3. Advocates concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/ 1062

Dated: 17th June, 2009

CIRCULAR
(Lit. Cir. No. 165)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 679 dated 02.03.2009 the name of following Advocate have been included on Panel of Advocates of the Corporation for the court and place indicated against his name:-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	M/s. R.P.Agarwal & Co. C-43, LGF, Jangpura Extension, New Delhi-110 014 Mob. 093122-36537 Phone (Off.) 011-41823699 (Res.) 011-22715225	High Court/DRT/DRAT/ National Consumer Commission BIFR/AAIFR & Lower Courts at Delhi.
2.	Mrs. Parinitoo Jain 52/04, Shipra Path, Anand Shree Marg, Mansarover, Jaipur Phone 0141-2785204 Mob. 98290-56353	Rajasthan High Court, Jaipur
3.	Mr. Ghanshyam Singh Lakhawat 134/10, Civil Lines, Ajmer Mob. 94140-06863 Phone: 0145-2424863	Lower Courts/Revenue Courts at Ajmer
4.	Mr. Suresh Kumar Bohara Akshay Villa B-2/140, Shrimal Nagar, Opp. Krishi Mandi, Ramseen Road, Bhinmal-343029, Distt. Jalore. Mob. 94144-24068 Phone: 02969-221605	Lower Courts at Bhinmal, Distt. Jalore

The empanelment of the Advocate have been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(Atul Kumar Garg)
Chairman & Managing Director

Copy to:

1. All BOs/SOs/Central & Western Zones of A&I
2. Standard Circulation at HO
3. Advocate concerned.

RAJASTHAN FINANCIAL CORPORATION
H.O. : Udyog Bhawan, Tilak Marg, Jaipur – 302 005.

Ref.No.RFC/F.Law-3/LPM/27/1061

Dated: 17th June, 2009

CIRCULAR
(Lit. No. 166)

Sub: Follow up of court cases pending in Rajasthan High Court, Jodhpur (in Bench at) Jaipur, and other various courts.

At the time of follow up and arguments related to the court cases various information regarding concerned units are required and for that matter is being dealt with related Branch at 11th hour, to avoid this situation it has been decided that while sending the parawise reply of the facts of the writ/appeal etc., Branches should also send the brief about facts of the concerned unit in the enclosed performa, in future cases, the information is to be sent on priority and in existing cases the information to be sent by 10.07.2009, so that copies may be handed over to concerned Advocate/OIC/Addl. OIC of the case for better monitoring of the case.

Sd/-
(Pawan Arora)
Executive Director

Encl: As above.

Copy to:

1. All BOs/SOs.
2. A & I Eastern/Western Zone.
3. Standard Circulation at HO.

SBCWP/SBCMA/DB Spl. Appeal No._____

BRIEF FACTS OF THE CASE

1. Name of the Unit : _____
2. Address of the Unit : _____

3. Name of Prop./Partners/ : _____
Directors & Address . : _____

4. How many Loan A/cs
Are there with A/c Nos. _____
5. Date and Amount of : _____
Loans Sanctioned. _____
6. Date of Execution of : _____
Loan agreements.
7. Total Amounts Disbursed: _____
A/c wise.
8. Last Date of Disbursement _____
A/c wise.
9. In Company case : _____
Date of Registration of
Charge with ROC
10. Type of Security :-
(A) Collateral : Yes / No.
(B) Personal Guarantee : Yes / No.
(C) Details of Properties and
Prime Security. :

- 2 -

- (D) Details of Collateral Security. :
- (E) Name of Guarantors & their addresses.
11. Repayment Period (With LDR) :
(A/c wise)
12. Interest Rate with Default Rate of interest. :
- 13. Brief about initiation of Legal action :-**
- (A) Date of issue of L/N (Legal Notice)U/S 30 of SFC Act To Promoter & Guarantors:
- (B) Date of issue of L/N U/S 31 (1) /32-G. of SFC's Act. To promoter & Guarantors:
- (C) Date of take over of Possession. :
- (D) Date of issue of Sale Approval letter and Sale consideration :
With Mode.
Land & Building :
Plant & Machinery :
14. If Deficit, Amount of Deficit :
15. If Unit sold in Surplus Amount of Surplus. :
Whether surplus amount Is still with corporation : Yes / No.
(How much as on) :

16. Dues of RSEB/Sales Tax/: _____
Central Excise/ RIICO/ _____
(Separately) _____
17. Brief about the court case at Civil (Lower Court) Court (If
Applicable with Prayer and Brief about Judgement.)
18. Whether Stay/ Status quo order passed at Lower Court then Date of
such Order with Present position.

Name and Phone /Mobile No. of Advocate of Corporation at Lower
Court.

19. Brief about the Court case at appellate court in DJ Court (If
applicable.)

Name and Phone /Mobile No. of Advocate of Corporation at
Appellate Court.

20. Brief about the SBCWP/ SBCMA/ DB Spl. Appeal filed in Rajasthan
High Court with Prayer whether stay / status quo order exist.

21. Account Position of the Unit (if not sold)

As on : 01.04.2009	:	_____
Principal Not Due	:	_____
Principal Over Due	:	_____
Interest	:	_____
Other Money	:	_____
Total	:	_____

22. Total amount Deposited by the borrower in Loan Account since beginning (Rs. in lacs. _____)
(A/c wise)

23. Whether Second charge given if yes

Name of Bank	:	_____
Date of T.P. Agreement	:	_____

24. Whether Borrower approached for O.T.S. if yes Brief about decision on OTS proposal and recovery of amount as per OTS alongwith repayment behavior of borrower on OTS.

25. Any other information which is relevant or important looking to the facts of the case and which may help corporation to plead its case before Court / Tribunals may be provided here.

BRANCH (INCHARGE)

RFC/O&M/698/2010

rfc

**RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/2787

Dated: 23.03.2010

**CIRCULAR
(Lit. Cir. No. 177)**

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 697 dated 10.03.2010 name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
Sh. Om Prakash Jain, Advocate 61/152, Pratap Nagar, Sanganer, Jaipur Mob. 98284-79845	Lower Courts, Jaipur

The empanelment of the above Advocate has been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur, to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

sd/-

(Ravi Mathur)

Chairman & Managing Director

Copy to:

1. All BOs/SOs/Central & Western Zones of A&I
2. Standard Circulation at HO
3. Advocate concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/

Dated: 21.04.2010

CIRCULAR
(Lit. Cir. No. 179)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 698 dated 23.03.2010 name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against her name:-

NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
Mrs. Manju Jain, Advocate 70, Sunder Nagar, Opposite Five Star Hotel Clarks, Malviya Nagar, Jaipur-302017 Mob. 98290-67728 Ph. 2548728	High Court, Jaipur

The empanelment of the above Advocate has been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to her as per fee structure laid down by the Corporation from time to time. She is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur, to the extent that she will not accept/undertake any case against the Corporation in any Court of Law during her empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

sd/-

(G.S. Sandhu)

Chairman & Managing Director**Copy to:**

1. All BOs/SOs/Central & Western Zones of A&I
2. Standard Circulation at HO
3. Advocate concerned.

rfc
RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/ 532

Dated: 25th June, 2010

CIRCULAR
(Lit. Cir. No. 180)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 699 dated 21.04.2010 name of following Advocates has been included on the Panel of Advocates of the Corporation for the courts and place indicated against their name:-

Sr.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Sh. Sita Ram Gurjar, Advocate Behind Abhay Vidhya Mandir, Abhay Nagar, Hindaun-City, Distt. Karauli, Pin - 322230 Mob. 94144-86710	Lower Courts, Hindaun-City
2.	Sh. Munavvar Hussain, Advocate Near Bus Stand, Sirohi Mob. 96021-22773, 93514-20740	Lower Courts, Sirohi

The empanelment of the above Advocates has been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per the fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur, to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Further, the name of following Advocates is hereby depanelled from the list of Panel of Advocates with immediate effect:-

- | | | | |
|----|--------------------------|---|--------------|
| 1. | Sh. Ram Dayal Gupta | : | Hindaun-City |
| 2. | Sh. Mahesh Kumar Singhal | : | Hindaun-City |
| 3. | Sh. Rameshwar Lal Goyal | : | Hindaun-City |
| 4. | Sh. Paras Mal Mehta | : | Pali |

Sd/-
(Dr. Mohan Lal Yadav)
Executive Director

Copy to:

1. All BOs/SOs/Central & Western Zones of A&I
2. Standard Circulation at HO
3. Advocates concerned.

RFC/O&M/702/2010
rfc
RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/593

Dated: 05.07.2010

CIRCULAR
(Lit. Cir. No. 181)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 701 dated 25.06.2010 name of following Advocate has been included on the Panel of Advocates of the Corporation for the courts and place indicated against his name:-

Sr.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Sh.Kanwar Lal Sharma, Advocate Old Lane, Gangashahar, Bikaner (Rajasthan) Mob. 94600-00055	Lower Courts, Bikaner

The empanelment of the above Advocate has been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(Dr. Mohan Lal Yadav)
Executive Director

Copy to:

1. All BOs/SOs/Central & Western Zones of A&I
2. Standard Circulation at HO
3. Advocate concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur – 302 005.

Ref.No.RFC/F./Law-3/LPM/26/

Dated: 24.09.2010

CIRCULAR
(Lit. Cir. No. 182)

Sub: Panel of Advocates for defending the cases filed by and against the Corporation.

In continuation to earlier O&M Circular No. 702 dated 05.07.2010 the names of following Advocates have been included on Panel of Advocate of the Corporation for the courts and place indicated against their name :-

S.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Shri Manoj Kumar Sharma, 20, Mohalla Maliyon Ka, out of Chandpole Gate, Jaipur (Rajasthan) Mob. 9982684499	Lower Court, Jaipur
2.	Shri Gajendra Singh Chouhan, A-99, Sunder Nagar, 200 feet Bye-pass crossing, Ajmer Road, Jaipur. Ph. : 2812399 (R) Mob. 94143365400	Lower Court, Jaipur
3.	Shri Karan Singh Tanwar, 6 (Kh) 11, South Extension, Pawanpuri, Bikaner (Rajasthan) Ph. : (0151) 2240879 (R) (0151) 3297413 (O) Mob. 98299-95717	Lower Court, Bikaner
4.	Shri Bhagwati Puri, 1-J-30, Moti Kunj, Keshav Nagar, Housing Board, Banswara (Rajasthan). Mob. No. 94141 01712	Lower Court, Banswara

The empanelment of the Advocate has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C.- Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(Dr. Mohan Lal Yadav)
Executive Director

Copy to:

1. All BOs/SOs/Central/Western Zones of A&I, Ajmer & Jodhpur respectively.
2. Standard Circulation at HO.
3. Advocate concerned.

rfc
RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur – 302 005.

Ref.No.RFC/F./Law-3/LPM/26/1273/

Dated: 19.10. 2010

CIRCULAR
(Lit. Cir. No. 183)

Sub: Panel of Advocates for defending the cases filed by and against the Corporation.

In continuation to earlier O&M Circular No. 704 dated 24.09.2010 the names of following Advocates have been included on Panel of Advocate of the Corporation for the courts and place indicated against their name :-

S. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Shri Ramesh Kumar Sharma, C-246, Malviya Nagar, Jaipur (Chamber No. 127, Sessions Court, Jaipur) Ph: (R) 2522511 (O) 4023598	Lower Court, Jaipur
2.	Shri Ramandeep Singh Sidhu 97, Central School Scheme, Kharlia House, Air Force Area, Jodhpur Ph. : 0291-2670097 & 2671097 Mob. 98282-32097	High Court, Jodhpur

The empanelment of the above Advocates have been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C.-Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(Dr. Mohan Lal Yadav)
Executive Director

Copy to:

1. All BOs/SOs/Central/Western Zones of A&I.
2. Standard Circulation at HO.
3. Advocates concerned.

rfc
RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg,C-Scheme, Jaipur – 302 005

Ref.No.RFC/F./Law-3/LPM/26/1324

Dated:28.10.2010

CIRCULAR
(Lit. Cir. No. 184)

**Sub: Panel of Advocates for defending the cases filed
by and against the Corporation.**

In continuation to earlier O&M Circular No. 706 dated 19.10.2010 the names of following Advocate has been included on Panel of Advocates of the Corporation for the courts and place indicated against his name :-

NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
Shri Ankur Rastogi, Office: 192, Devi Nagar, New Sanganer Road Jaipur (Chamber No. 05, "B" Block Basement, Rajasthan High Court, Jaipur) Ph:(R) 2441002 (M) 94140-23422/93146-23422	High Court, Jaipur

The empanelment of the above Advocate has been made on the terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to his as per fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C.-Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(Dr. Mohan Lal Yadav)
Executive Director

Copy to:

1. All BOs/SOs/Central/Western Zones of A&I.
2. Standard Circulation at HO.
3. Advocate concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg,C-Scheme, Jaipur – 302 005.

Ref.No.RFC/F./Law-3/LPM/26/1730 Dated: 7th Feb., 2011

CIRCULAR
(Lit. Cir. No. 185)

**Sub: Panel of Advocates for defending the cases
filed by and against the Corporation.**

In continuation to earlier O&M Circular No. 707 dated 28.10.2010 the names of following Advocates have been included on Panel of Advocates of the Corporation for the courts and places indicated against their name :-

S. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Shri Bhanu Pratap Bohra C-22, Krishna Nagar Pali road, Jodhpur Ph: 0291-2725605 Mob : 94142-36693	High Court, Jodhpur
2.	Shri Nadish Singhvi Gokul Vihar, Arihant Nagar, Gouron ka Talab Road, Jodhpur Ph. : 0291-2758080 Mob. 094143-01393	High Court, Jodhpur
3.	Shri Vijay Kumar Vyas 71-A, Nathawat Niwas Bachraj Ji Ka Bagh, Sardarpura, Chopasani Road, Jodhpur Ph.: 0291-2610671 Mob. 94141-34353	High Court, Jodhpur
4.	Shri Megh Singh Beniwal Plot No. 9, Jogmaya Colony, Bhagat ki Kothi, Jodhpur	Lower Courts, Jodhpur

	Mob. 94130-83999	
5.	Shri Abhinandan Jain 669, 12th C Road, Sardarpura, Jodhpur Mob. 094600-07010	Lower Courts,Jodhpur
6.	Shri Ghisa Ram Choudhary Adarsh Nagar, Behind Hauz No. 2, Kudi Bhagtasani, Jodhpur Ph: 0291-2730084 Mob. 94600- 48352	Lower Courts,Jodhpur
7.	Shri Madan Lal Balai F-2, U.I.T. Colony, Near Old Jodhpur Dairy Pratap Nagar, Jodhpur Mob. 98294-84391	Lower Courts,Jodhpur
8.	Shri Vinesh Raj Borana C-581, Saraswati Nagar, Near Rajasthan Bank, Basni, First Phase, Jodhpur Mob. 94147-00686	Lower Courts,Jodhpur
9.	Shri Anil Dadhich Plot No. 275, Parihar Nagar Opp. Mahadev Temple, Bhadvasia, Jodhpur Mob.	Lower Courts,Jodhpur
10	Shri Rajesh Parihar House No. B-34, Mahaveer Colony, Near Bhaskar Circle, Ratanada, Jodhpur Mob. 94144-05099	Lower Courts,Jodhpur

The empanelment of the Advocates has been made on the same terms & conditions as had been prescribed in O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C.- Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(Arjun Ram Choudhary)
Executive Director

Copy to:

- 1. All BOs/SOs/A&I, Ajmer & Jodhpur**
- 2. Standard Circulation at HO**
- 3. Advocate concerned**

RFC/O&M/710/2011
rfc
RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/2636/

Dated: 18.08.2011

CIRCULAR
(Lit. Cir. No. 186)

**Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.**

In continuation to earlier O&M Circular No. 708 dated 07.02.2011, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

Sr.No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. Anoop Dhand, Advocate Dhand & Associates, 253, Devi Nagar, New Sanganer Road (Sodala) Jaipur (Rajasthan) Mob.94142-60497 Ph.0141-229688,2293405	High Court, Jaipur

The empanelment of the above Advocate has been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(A.R.Choudhary)
Executive Director

Copy to:

- i) All BOs/SOs/Central & Western Zones of A&I
- ii) Standard Circulation at HO
- iii) Advocate concerned.

RFC/O&M/711/2011
rfc
RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/102/

Dated: 18th Oct.,2011

CIRCULAR
(Lit. Cir. No. 187)

Reg: Panel of Advocates for defending the
Cases filed by and against the Corpn.

In continuation to earlier O&M Circular No. 710 dated 18.08.2011, name of following Advocates have been included on the Panel of Advocates of the Corporation for the court and place indicated against their name:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
1.	Sh. VIPIN SIDH, Advocate 139/3, Shankar Colony SRIGANGANAGAR-335 001 Mob. 94142-98157	Lower Courts, Sriganganagar
2.	Sh. RAKESH TRIPATHI, Advocate 259-C, Dr. Radha Krishna Colony BHILWARA - 311 001 Mob.94137-68458 / Phone No. 01482-236238	Lower Courts, Bhilwara

The empanelment of the above Advocates have been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per the fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Manager(I/C-Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

Sd/-
(A.R.Choudhary)
Executive Director

Copy to:

- 1) All BOs/SOs/Central & Western Zones of A&I
- 2) Standard Circulation at HO
- 3) Advocates concerned.

rfc
RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No. RFC/F.Law-3/LPM/28/ 466 Dated: 16th Jan., 2012

CIRCULAR
(Lit. Cir. No. 188)
Sub: Follow up of Court Cases of Hon'ble High
Court,
Jodhpur – Appointment of Addl. OICs

Presently, all the cases pertaining to the Hon'ble High Court, Jodhpur are being looked after by one Dy.Manager(Law) posted at BO, Jodhpur as OIC. These cases belong to different branches falling within the jurisdiction of Hon'ble High Court Jodhpur, and therefore, for proper follow-up and early disposal of cases it has been decided that:-

- i) DGM(Operations) concerned will review all the cases within his jurisdiction and will nominate one officer, preferably Branch Manager or Dy. Manager, from the concerned branch to work as Addl. OIC in these cases.
- ii) Addl. OICs will go through the entire facts of the case and will prepare and file the reply timely in consultation with OIC/Advocate in the case. He will keep close follow-up of the case for early disposal and if there is any stay order against the interest of the Corporation then he will vigorously follow-up and take needful action to get the stay order vacated at the earliest possible through the counsel of the case.

All concerned are advised to make a note of the above guidelines with immediate effect.

Sd/-
(Yaduvendra Mathur)
Chairman & Managing Director

Copy to :-

1. All BOs/SOs
2. A&I, Jodhpur, Ajmer
3. Standard Circulation at HO

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: UDYOG BHAWAN, TILAK MARG, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/ 1156

Dated: 26th July, 2012

CIRCULAR
(Lit. Cir. No. 192)

**Reg: Panel of Advocates for defending the cases
 filed by and against the Corporation**

In continuation to earlier O&M Circular No. 716 dated 04.05.2012, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/ COURT
Sh. Sandeep Singh Shekhawat Office & Resi:- B-155, Ramayan Marg, Hanuman Nagar, Vaishali Nagar, Jaipur-302021 Mob. 097727-77774	Lower Courts, Jaipur

The empanelment of the above Advocate has been made on the same terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation from time to time.

AS
 25/7/12
(A.R.Choudhary)
Executive Director

Copy to:

1. All BOs/SOs
2. Central & Western Zones of A&I
3. Standard Circulation at HO
4. Advocate concerned.

145

rfc
RAJASTHAN FINANCIAL CORPORATION
HO : Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No.RFC/F.Law-3/LPM/27/...597

Dated: 23rd Feb., 2012

CIRCULAR
(Lit. No. 190)

**Sub: Submission of acceptance/consent/assurance
before Hon'ble High Court/Other courts on
behalf of Govt./RFC**

The State Govt. vide its Circular No. P.12(9)Raj/Vaad/07 dated 18.01.2012 has directed that whenever any officer of the State Govt. is personally summoned to be appeared before the Hon'ble High Court in any case, he will not submit any acceptance/consent as well as any assurance on behalf of the State Govt. without having prior approval from the competent authority of the State Govt. (copy of circular overleaf).

In the light of above said circular all the officers of the Corporation are directed that whenever any officer of the Corporation is personally summoned to be appeared in any case before the Hon'ble High Court & other courts, he will not submit any acceptance/consent as well as any assurance on behalf of the Corporation/State Govt. without having prior approval from the competent authority.

All concerned are advised to note the above for strict compliance and any laxity will be viewed seriously.



(Yaduvendra Mathur)
Chairman & Managing Director

Copy to:

1. All BOs/Sos
2. A&I, Ajmer/Jodhpur
3. Standard Circulation at H.O.

PTo



राजस्थान सरकार
विधि एवं विधिक कार्य विभाग
(राजकीय वादकरण)

D-431
25/1/12

क्रमांक प0 12 (9) राज/वाद/07

जयपुर दिनांक: 18.01.12

:: परिपत्र ::

विषय :- माननीय उच्च न्यायालय में राज्य सरकार की ओर से स्वीकारोक्ति/सहमति नहीं देने के संबंध में।

DS-2/2/583

राज्य सरकार के सभी अधिकारीगण जिन्हें माननीय उच्च न्यायालय द्वारा किसी प्रकरण में जब भी व्यक्तिगत तलब किया जाये, वे उनके विभाग के किसी भी प्रकरण में बगैर राज्य सरकार की पूर्वानुमति के अपनी स्वीकारोक्ति/सहमति नहीं देंगे और न ही वे माननीय न्यायालय में किसी प्रकार का आशवासन देंगे जब तक उन्हें इस प्रकार की अनुमति न मिल जावे। इस परिपत्र की कठोरता से पालना की जावे/कराई जाये।

मुख्य सचिव

प्रतिलिपि निम्न को अग्रिम आवश्यक कार्यवाही हेतु प्रेषित है:-

1. समस्त अतिरिक्त मुख्य सचिवगण।
2. समस्त प्रमुख शासन सचिवगण/शासन सचिवगण/विशिष्ट शासन सचिवगण।
3. समस्त विभागाध्यक्ष।
4. रक्षित पत्रावली।

HLA
23/1/12

प्रमुख शासन सचिव, विधि

RAJASTHAN FINANCIAL CORPORATION

CONSOLIDATED LIST OF PANEL ADVOCATES (AS ON 14.03.2013)

S.No.	NAME OF PLACE/BO	NAME OF ADVOCATE (Mr/Ms)	
1	SUPREME COURT DELHI	1	Sh. Sushil Kumar Jain
		2	Sh. Sujit Kishore Bhattacharya
		3	Sh. Kumar Kartikya (also other courts at Delhi)
		4	Sh. Prashant Bhagwati
2	DELHI HIGH COURT	1	Sh. Shyam Moorjani
		2	Sh. Aditya Madan
		3	Sh. Manish Kumar
		4	Sh. A.P.Dhamija
		5	M/s.R.P.Agarwal & Co.
			(also DRT/DRAT/NCC/BIFR/AAIFR & Lower Courts at Delhi)
		6	Sh. Sanjeev Kumar (also DRT at Delhi)
3	JAIPUR - HIGH COURT	1	Sh. R.D.Rastogi
		2	Sh. G.C.Garg
		3	Sh. Paras Sharma
		4	Sh. V.S.Yadav
		5	Sh. Kamlakar Sharma
		6	Sh. Pratap Singh Arya
		7	Sh. Ashok Kumar Bansal
		8	Sh. Narendra Singh Yadav
		9	Smt.Anupama Chaturvedi
		10	Sh. Arjun Singh Khangarot
		11	Sh. N.A.Naqvi
		12	Smt.Saroj Choudhary
		13	Sh. R.P.Vijay
		14	Smt.Namita Parihar
		15	Sh. Dinesh Kaushik

		16	Sh. R.N.Mathur
		17	Sh. Ajit Kumar Sharma
		18	Sh. Prahalad Singh
		19	Ms. Naina Saraf
		20	Sh. Deepak Goyal
		21	Sh. V.B.Sharma
		22	Virendra Lodha & Associates
		23	Sh. J.K.Singhi
		24	Sh. Ghanshyam Singh Rathore
		25	Sh. Himanshu Agnihotri
		26	Sh. Sandeep Singh Hora
		27	Sh. Nitin Jain
		28	Sh. Devendra Singh Raghava
		29	Sh. Satish Chandra Mittal
		30	Mrs.Manjeet Kaur
		31	Dr. Mahesh Sharma
		32	Mrs.Parinitoo Jain
		33	Ms. Nivedita R. Sharda
		34	Sh. Bharat Yadav
		35	Smt. Chitra Goyal
		36	Sh. Ashwani Chobisa
		37	Sh. Suresh Kumar Sharma
		38	Sh. Alok Garg
		39	Sh. Om Prakash Jain
		40	Smt. Manju Jain
		41	Sh. Ankur Rastogi
		42	Sh. Anoop Dhand
		43	Sh. Ajay Tyagi
		44	Dr. Meenakshi Sharma
		45	Mrs. Alankrita Sharma
4	JAIPUR-LOWER COURT	1	Sh. Roshan Sethi
		2	Sh. Rishi Pal Agarwal
		3	Sh. Shashi Shekhar Gaur
		4	Sh. Anil Sharma
		5	Sh. B.S.Ratnu

		6	Sh. S.K.Singhal
		7	Ms. Anila Khanna
		8	Sh. J.A.Khan
		9	Sh. B.K.Goyal
		10	Sh. Giriraj Pd.Sharma
		11	Sh. D.P.Sharma
		12	Sh. Mohd. Hanif Khan
		13	Ms. Asha Bhansali
		14	Sh. Anand Kumar Sharma
		15	Sh. Aditya Choudary
		16	Sh. Manish Chandra
		17	Sh. Jai Deep Dhillon
		18	Sh. Ashok Sharma
		19	Sh. Naresh Kumar Sharma
		20	Sh. Sunil Makkar
		21	Sh. Nayan Joshi
		22	Sh. Saurabh Saraswat
		23	Sh. O.P.Jain
		24	Sh. Manoj Kumar Sharma
		25	Sh. Gajendra Singh Chouhan
		26	Sh. Ramesh Kumar Sharma
		27	Sh. Ghanshyam Vyas,
		28	Sh. Shyam Kant Sharma
		29	Sh. Sandeep Singh Shekhawat
		30	Sh. Vivek Aswal
5	JODHPUR HIGH COURT	1	Sh. Shravan Ojha
		2	Sh. N.M.Lodha
		3	Sh. M.R.Singhvi
		4	Sh.Sangeet Lodha
		5	Sh. Anil Upadhyaya
		6	Sh. Dinesh Mehta
		7	Sh.B.M.Bhojak
		8	Sh.Rajesh Joshi
		9	Sh.Dalip Singh Rajvi
		10	Sh.Rajeev Purohit

		11	Sh. Shiv Kumar Vyas
		12	Sh. Mahesh Thanvi
		13	Sh. Mali Ram Pareek
		14	Sh. Ramandeep Singh Sidhu
		15	Sh. Bhanu Pratap Bohra
		16	Sh. Nadish Singhvi
		17	Sh. Vijay Kumar Vyas
6	JODHPUR-LOWER COURTS	1	Sh. H.N.Kalla
		2	Sh. R.K.Mehta
		3	Sh. Subash Purohit
		4	Sh. A.K. Changani
		5	Sh. L.K. Purohit
		6	Sh. J.L. Daga
		7	Sh. Manish Sisodia
		8	Sh. Megh Singh Beniwal
		9	Sh. Abhinandan Jain
		10	Sh. Ghisa Ram Choudhary
		11	Sh. Madan Lal Balai
		12	Sh. Vinesh Raj Borana
		13	Sh. Anil Dadhich
		14	Sh. Rajesh Parihar
		15	Sh. Anil Kumar Bissa
		16	Sh. Dinesh Kumar Joshi
7	ABU ROAD	1	Sh. S.C. Surana
		2	Sh. Shankar Nath Singh
		3	Sh. Mahendra Sharma
		4	Sh. Jitendra Surana (Revenue Cases only)
		5	Sh. Mahendra Kr. Vyas
		6	Sh. Shree Vallabh Dave
		7	Sh. Deepa Ram Parmar
		1	Sh. G.L. Agarwal
	AJMER	2	Sh. C.K. Agarwal
		3	Sh. Tej Bhan K. Bhagtani

8		4	Sh. L.S.Mathur
		5	Sh. T.N.Saxena
		6	Sh. Randhir Singh Mirdha
		7	Sh. Manmeet Kapoor
		8	Mr. Ghanshyam Singh Lakhawat
			(also Revenue Court at Ajmer)
9	ALWAR	1	Sh.K.N.Bhargava
		2	Sh. G.S.Mathur
		3	Sh.J.K.Gupta
		4	Sh.R.P.Yadav
		5	G.D.Bhargava
		6	Sh.Rajiv Bhargava
10	BALOTRA	1	Sh. Candra Prakash Gupta
		2	Sh. Chela Ram Kumawat
		3	Sh. Nema Ram Choudhary
11	BARAN	1	Sh. Rajendra Kabra
		2	Sh.Mahesh Prakash Gautam
		3	Sh. Jagdish Prasad Agarwal
12	BARMER	1	Sh. Ratan Lal Soni
		2	Sh. Nema Ram Choudhary
13	BEAWAR	1	Sh. T.C.Shivnani
		2	Sh. Paras Ram Chandwani
14	BANSWARA	1	Sh. S.L.Gupta
		2	Sh. H.L.Jain
		3	Sh. Raj Kumar Jain
		4	Sh. Bhagwati Puri
15	BHARATPUR	1	Sh. Rajendra Singh
		2	Sh. R.P.Upadhayay

		3	Sh. Ashok Chaturvedi
		4	Sh. Pramod Kumar Sharma
		5	Sh. Rajeev Gothi
		6	Sh. Amit Kumar
16	BHILWARA	1	Sh. R.L.Gupta
		2	Sh. R.S.Bhati
		3	Sh. R.S.Vijayavargiya
		4	Sh. Shyam Lal Vaid
		5	Sh. Ladu Lal Somani
		6	Sh. Rakesh Tripathi
17	BHIWADI	1	Sh.Kailash Nath Bhargava
		2	Sh.K.C.Agarwal (Tijara)
		3	Sh.R.P.Yadav
		4	Sh.Atulya Mathur
		5	Sh. Rangrao Yadav
		6	Sh.Vinod Kumar (Behror)
18	BIKANER	1	Sh. V.C.Goyal
		2	Sh. Moti Singh
		3	Sh. H.K. Malhotra
		4	Sh. Chunni Lal Baror (Nokha, Bikaner)
		5	Sh. Prem Shanker Madan
		6	Shri Lal Chand Suthar
		7	Sh. Kanwar Lal Sharma
		8	Sh. Karan Singh Tanwar
19	BUNDI	1	Sh. S.L.Jain
		2	Sh. T.M.Jain
		3	Sh. K.C.Gupta
		4	Sh. V.N.Mehra
		5	Sh. Arvind Prakash Sharma
20	CHITTORGARH	1	Sh. S.M.Rajora
		2	Sh. P.C.Jagetia

		3	Sh. D.K.Jain
21	CHURU	1	Sh. Nand Ram Rahad
		2	Sh. O.P.Panwar
		3	Sh.S.K.Sharma
		4	Sh. Moinul Haque Nizami (also Sadulpur)
		5	Sh. Sanwar Mal Swami
22	DAUSA	1	Sh. R.K.Jain
		2	Sh. Vinod Behari Sharma
		3	Sh. Babu Lal Hada
23	DHOLPUR	1	Sh. N.L.Sharma
		2	Sh. V.N. Budhiraja
		3	Sh. S.C.Modi
		4	Sh.Prem Narain Parashar
24	DUNGARPUR	1	Sh. B.L.Gandhi
		2	Sh. N.L.Mehnot
		3	Sh. L.L.Jain
25	HANUMANGARH	1	Sh. Kailash Chand Yadav
		2	Sh. Jagdish Prasad Pareek
		3	Sh. Ramesh Kumar Modi
		4	Sh. Rajendra Singh Shekhawat
26	HINDAUN CITY	1	Sh. Sita Ram Gurjar
27	JALORE	1	Sh. M.L.Daga
		2	Sh. Parmanand Sharma
		3	Sh. Madhu Sudan Vyas
		4	Sh.Surendra Kumar Dave
		5	Sh. Suresh Kumar Bohara (for Bhinmal)
		6	Sh. Jala Ram Punia (for San chore)
28	JHALAWAR	1	Sh. G.R.Jain

		2	Sh. Vijay Kumar Jain
		3	Sh. K.C.Jain (Bhawanimandi)
29	JHUNJHUNU	1	Sh. Gokul Prasad Sharma
		2	Sh. V.B.Jain
		3	Sh. M.K.Jain
		4	Sh. Meha Singh Rao
		5	Sh. Ranjan Kumar Verma
		6	Sh. Rajendra Singh Abusaria
		7	Sh. Narottam Lal Sharma
30	KARAULI	1	Sh. Hazari Lal Agarwal
		2	Sh. Brijendra Pd. Sharma
31	KISHANGARH	1	Sh.G.L.Agarwal
		2	Sh.L.S.Mathur
		3	Sh.Tej Bhan K.Bhagtani
		4	Sh. Indresh Kumar Ramchandani
32	KOTA	1	Sh. M.P.Mittal
		2	Sh. Bhim Singh Yadav
		3	Sh. Arvind Kr. Sahani
		4	Sh. Santosh Kr. Sharma
		5	Sh. Sachindra Nath Saxena
		6	Sh. Dharmendra Kr. Tyagi
		7	Sh. Virendra Kr. Saxena
		8	Sh. Sanjeev Jain
		9	Sh.Shyam Behari Maheshwari(Ramganjmandi, Kota)
		10	Sh. Vivek Kumar Nandwana
		11	Sh. Rajendra Singh
33	MAKRANA	1	Sh. R.C.Parakh
		2	Sh.K.K.Acharya
34	NAGAUR	1	Sh. D.M.Singhvi

		2	Sh.Arjun Das
		3	Sh.K.K.Acharya
		4	Sh.Vimal Chand Jain (for Merta City)
		5	Sh. Thakur Prasad Rathi
35	PALI	1	Sh. L.N.Purohit
		2	Sh. M.L.Daga
		3	Sh. P.M.Mehta
		4	Sh. Mahendra Kumar Vyas
		5	Sh. Shree Vallabh Dave
		6	Sh. Deepa Ram Parmar
36	RAJSAMAND	1	Sh. K.M.Sethi
		2	Sh. Mahesh Pagaria
		3	Sh. Sunil Jain (Bohra)
		4	Sh. Bharat Paliwal
37	SAWAI MADHOPUR	1	Sh. Kripa Shanker Sharma
		2	Sh. R.C.Verma
		3	Sh. Dwarka Lal Gupta
		4	Sh. Kishan Lal Sharma
		5	Sh. D.S. Sharma
		6	Sh. Ram Kishore Goyal
		7	Sh. Bal Kishan Upadhayay
38	SIKAR	1	Sh. Jai Narain Soni
		2	Sh. A.K.Bhargava
		3	Sh. S.K.Bhargava
		4	Sh. K.D.Kavia
		5	Sh. Zakir Hussain
39	SIROHI	1	Sh. Praveen K.Shah
		2	Sh. Suresh Chand Bafna
		3	Sh. Dinesh Chand Surana
		4	Sh. Munavvar Hussain

[illegible]

-rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/ 240

Dated: 14th June, 2013**CIRCULAR**
(Lit. Cir. No. 198)**Reg: Empanelment on the Panel of Advocates of the Corporation**

In continuation to earlier O&M Circular No. 722 dated 17.04.2013, name of following Advocates have been included on the Panel of Advocates of the Corporation for the court and place indicated against their names:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Sh. Satish Chandra Joshi Off: E-410, Lawyers Chamber, Karkardooma Court, New Delhi-110032 Res: C-108/02, Extn.-II, Shalimar Garden, Sahibabad, Ghazial (UP) Mob.91-98717-34173	Courts at Delhi (excluding Apex Court)
2.	Sh. Ramgopal Khinchi A-151, Mandi Khatikan, Near Community Hall, Laxmi Narayanpuri, Jaipur-302002 Mob. 90240-36179	High Court, Jaipur
3.	Sh. Yash Pal Garg 22-Godown, Hawa Sarak, Near Ram Mandir, Civil Lines, Urban Co-op. Bank, Jaipur-302006 Mob. 98290-58021	High Court Jaipur
4.	Sh. Pawan Kumar Ojha C-147, Krishna Nagar, Near Pali Rod, Jodhpur Mob. 94602-16141	High Court, Jodhpur
5.	Sh. Arvind Kumar Chawla 111, Nandpuri, Lane No.7, Near 22-Godam, Hawa Sarak, Jaipur Mob. 94615-10289	Lower Courts, Jaipur
6.	Sh. Dinesh Garg 22-Godown, Hawa Sarak, Near Ram Mandir, Civil Lines, Urban Co-op. Bank, Jaipur-302 006 Mob. 98296-30030	Lower Court Jaipur
7.	Smt. Seema Bhardwaj Opp. Panchayat Samiti, New Colony, Dausa Mob. 75973-01528	Lower Courts, Dausa

Contd....(ii)

The empanelment of the above Advocates have been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per the fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


10/6/13
(A.R. Choudhary)
Executive Director

Copy to:

1. Standard Circulation at HO/All BOs/SOs/A&I Zones
2. Advocates concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/ 580

Dated: 24th Sept., 2013

CIRCULAR
(Lit. Cir. No. 199)

Reg: Empanelment on the Panel of Advocates of the Corporation

In continuation to earlier O&M Circular No. 723 dated 14.06.2013, name of following Advocates have been included on the Panel of Advocates of the Corporation for the court and place indicated against their names:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Sh. Amol Vyas, Advocate Off: B-4, Om Shree Tower, Opp. J.P.Phatak, Sehkar Marg, Near Lotus Dairy, Jaipur Phone-0141-2744792 Res: 78A, Vrindavan Colony, Jhotwara, Jaipur Mob.91-94142-22876	High Court, Jaipur
2.	Smt. Tabassum Joad, Advocate B-33, Natraj Nagar, Imli Phatak, Jaipur-302015 Mob. 91-99280-90813/95717-86333	Lower Courts, Jaipur
3.	Sh. Anil Kumar Jain, Advocate 15, Jawahar Nagar, Dausa Road, Sawai Madhopur Mob. 91-94609-90477/94629-24111	Lower Courts, Sawai Madhopur

The empanelment of the above Advocates have been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per the fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


(Pukhraj Sen)

Executive Director

Copy to:

1. Standard Circulation at HO
2. All BOs/SOs/A&I Zones
3. Advocates concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/ 630

Dated: 7-10-13

CIRCULAR
(Lit. Cir. No. 200)

Reg: Empanelment on the Panel of Advocates of the Corporation

In continuation to earlier O&M Circular No. 725 dated 24.09.2013, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
Sh. K.D.Rastogi, Advocate B-96, Opposite Rao IIT Coaching Institute, Indira Vihar, Talwandi, Kota Phone-0744-2428843 Mob. 94137-34211	All Courts, Kota

The empanelment of the above Advocate has been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


(Pukhraj Sen) 31/10/13

Executive Director

Copy to:

1. Standard Circulation at HO
2. All BOs/SOs/A&I Zones
3. Advocate concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/ 776

Dated: 26th Nov., 2013**CIRCULAR**
(Lit. Cir. No. 201)**Reg: Empanelment of Advocate on the Panel
of Advocates of the Corporation**

In continuation to earlier O&M Circular No. 726 dated 07.10.2013, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Shri Keshav Vyas New Brhampuri, Rajendra Nagar JALORE - 343001 Mob. 9460511541	All Courts, Jalore

The empanelment of the above Advocate has been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


(Pukhraj Sen)
Executive Director

Copy to:

1. Standard Circulation at HO
2. All BOs/SOs/A&I Zones
3. Advocates concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION

HO : Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No.RFC/F.Law-3/LPM/11/.823

Dated: .13. Dec., 2013

CIRCULAR
(Lit. No. 202)

**Sub: Govt. Guidelines for proper monitoring
& follow-up of Court cases**

The Chief Secretary, Govt. of Rajasthan vide Circular No. F.12(15)Raj/Vaad/08/Part-III dated 03.10.2013 has mentioned that in one case related to the State Govt., the Hon'ble Rajasthan High Court in their order dated 11.09.2013 has shown their great annoyance that **"it has been noticed by the Court that the matter filed on behalf of the State are not being pursued vigilantly after filing of the same, and they remain pending because of lethargy on the part of the concerned departments and their counsels, resulting into the loss to the Govt. exchequer"**. The Hon'ble Court has directed that **"such an approach deserves to be strongly deprecated. The Office of Govt. Pleader is expected to act in the most vigilant manner in order to see that no loss is caused to the Govt. exchequer. A serious view will be taken if such cases are repeated in future"**. Copy of the above said order is being enclosed for strict compliance of the same.

Keeping in view the directions and to avoid unpleasant situation in the court cases all the OICs and Branch Managers are directed as under:-

1. Review all the cases which are lying pending before any of the Hon'ble Court.
2. Ensure that the cases filed on behalf of State or Corporation should be pursued and attended vigilantly and remove defects (if any) and get the cases listed & heard before the Hon'ble Court through the counsel of the case immediately and ensure regular tracking & follow-up of the cases.
3. Ensure that no case is pending for reply and in future reply in all the cases is filed within 15 days positively.

Contd...(ii)

(ii)

4. Progress and proceedings of the case be intimated timely to concerned higher authorities of the State/concerning DGMs & other authorities of the Corporation, as the case may be.
5. Ensure that proper compliance of the Court Orders have been made within time.
6. Review all the decided cases and ensure that no case is left in which compliance of the court order is not made properly & timely. In case any appeal is filed against any of the order, then stay order or other appropriate order, as per requirement, has been obtained from the competent court to avoid further complications in the litigation or to avoid contempt proceedings.
7. All the OICs and Branch Managers are directed to review all the pending as well as decided cases and send the review report to their concerning DGM(Operations) and in case of staff matter to DGM(HRD) within a period of 15 days positively and maintain their own MIS, duly updated.

The DGM(Operations)/DGM(HRD) are advised to review all the court cases and ensure timely & proper compliance of the above order for the area of their jurisdiction.

All concerned are advised to note the above for strict compliance. Any laxity will be viewed seriously.



(Yaduvendra Mathur)

Chairman & Managing Director

Encl: as above

Copy to:

1. All BOs/Sos
2. A&I Zones Ajmer/Jodhpur
3. DGMs(Operation) at HO
4. Standard Circulation at H.O.

राजस्थान सरकार
राजकीय उपक्रम विभाग

क्रमांक: एफ 2(57) एसईडी/कोर्ट/10/1007

जयपुर, दिनांक 12/11/2013

1. संयुक्त सलाहकार (वित्त) राजकीय उपक्रम ब्यूरो, जयपुर।
2. वरिष्ठ विधि अधिकारी, राजकीय उपक्रम विभाग जयपुर।
3. सहायक लेखाधिकारी, राजकीय उपक्रम विभाग जयपुर।
4. सहायक, वित्तीय विश्लेषक, राजकीय उपक्रम ब्यूरो, जयपुर।
5. अध्यक्ष एवं प्रबन्ध निदेशक

राज्य वित्त विभाग

जयपुर

विषय:— निर्देशों की पालना बाबत।

महोदय,

मुख्य सचिव, विधि एवं विधिक कार्य विभाग, (राजकीय वादकरण) जयपुर। से प्राप्त एफ 12 (15) राज/वाद/08/पार्ट-III/ दिनांक 03.10.2013 की छाया प्रति संलग्न कर लेख है कि पत्र में दिये गये निर्देशों की पालना सुनिश्चित करावे।

भवदीय,

अवधेश चन्द्र शर्मा
(अवधेश चन्द्र शर्मा)
शासन उप सचिव

20 NOV 2013

used

Dr. Jyoti

21/11

Pl. circulate to
all 30
21/11/13
Sh. Anil Gani

Law/806
21/11/13

5430

4/10/13

D-5152
9/10/13

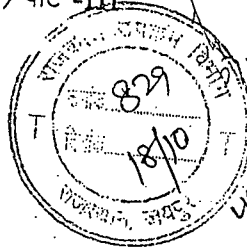
MOT. merged

54

राजस्थान सरकार
विधि एवं विधिक कार्य विभाग,
(राजकीय वादकरण)

क्रमांक: एफ 12(15) राज/वाद/08/पार्ट -III

समस्त अतिरिक्त मुख्य सचिव,
प्रमुख शासन सचिव,
शासन सचिव/विभागाध्यक्ष
राजस्थान सरकार, जयपुर।



जयपुर, दिनांक 3/10/13

Sr. L.O.

①

विषय:- एस.बी.सिविल.मिस.अपील संख्या 4603/2011 राजस्थान राज्य जरिये
जिला कलेक्टर भरतपुर बनाम श्रीमती गुलकंदी व अन्य में माननीय उच्च
न्यायालय द्वारा पारित आदेश दिनांक 11.09.13 के क्रम में।

परिपत्र

उपरोक्त विषयान्तर्गत प्रकरण में माननीय उच्च न्यायालय ने लम्बे समय तक
प्रकरण लम्बित रहने, list न होने और प्रकरण में सुनवाई न होने के तथ्य को गंभीरता
से लेते हुए, आदेश दिनांक 11.09.2013 पारित किया है, जिसका सुसंगत भाग
निम्नानुसार उद्धरित किया जा रहा है:-

"It has been noticed by the Court that the matters filed on behalf of
the State are not being pursued vigilantly after filing of the same, and
they remain pending because of lethargy on the part of the concerned
departments and their counsels, resulting into the loss to the
Govt.exchequer.

In the instant case, the order dated 01/03/2008 passed by the
Commissioner Workmen's Compensation Act, was sought to be
challenged by way of present appeal filed in July 2008, however till this
date no attempt was made by the appellants or their counsels to get the
matter listed and heard. Such an approach deserves to be strongly
deprecated. The office of Govt. Pleader is expected to act in the most
vigilant manner in order to see that no loss is caused to the
Govt.exchequer. A serious view shall be taken if such cases are repeated
in future.

Let the notice be issued to the respondents, returnable after four
weeks. Copy of this order be also sent the Chief Secretary & the Law
Secretary of the State of Rajasthan for their necessary consideration."

SLO

55-2
15-10-13

DA

rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005**

Ref.No.RFC/F.Law-3/LPM/26/ 882

Dated: 24th Dec., 2013**CIRCULAR**

(Lit. Cir. No. 203)

**Reg: Empanelment of Advocates on the Panel of Advocates
of the Corporation**

In continuation to earlier O&M Circular No. 728 dated 26.11.2013, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against her name:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Mrs. Pratibha Jain Advocate, Supreme Court of India Office : 90A, South Extension-II New Delhi-110049 Ph: 011-26258790/26258698 Chamaber: 34, Old Lawyer's Chambers Supreme Court of India New Delhi-110001 Ph: 011-23385796	Supreme Court, New Delhi

The empanelment of the above Advocate has been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to her as per the fee structure laid down by the Corporation from time to time. She is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that she will not accept/undertake any case against the Corporation in any Court of Law during her empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.

(Pukhraj Sen)
Executive Director

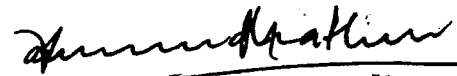
Copy to:

1. All BOs/SOs/A&I Zones
2. Standard Circulation at HO
3. Advocate concerned.

rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005**Ref.No.RFC/F.Law-3/LPM/28/1072Dated: 3rd ^{Feb.} Jan., 2014**CIRCULAR****(Lit. Cir. No. 204)****Sub: Follow up of Court Cases - Payment of
'out of pocket expenses' to OICs**

On the guidelines of State Government, prescribed by the Law & Legal Affairs department vide its Order No. F.12(15)Raj/Vad/08 Pt.7 dated 26.11.2013, it has been decided that w.e.f. 26.11.2013 all the Officer Incharge shall be paid 'out of pocket expenses' of Rs. 500/- per reply for visiting the office of Advocate and the court from time to time, if the reply is filed in the Hon'ble Court within a period of 60 days from the date when he is appointed as Officer Incharge. Branch Manager/Dy.Gen.Manager concerned is authorized to pass the 'out of pocket expenses' on receiving the claim from the OIC.



(Yaduvendra Mathur)
Chairman & Managing Director

31/1/14

Copy to :-

1. All BOs/SOs/A&I
2. Standard Circulation at HO

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/ 1137Dated: 14 Feb., 2014

CIRCULAR
(Lit. Cir. No. 205)

Reg: Empanelment on the Panel of Advocates of the Corporation

In continuation to earlier O&M Circular No. 729 dated 24.12.2013, name of following Advocates have been included on the Panel of Advocates of the Corporation for the court and place indicated against their names:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Sh. Shashank Agarwal, Advocate 50, Dhuleshwar Garden, C-Scheme, Jaipur Mob. 98290-68505 Off: 0141-2369505	Lower Courts, Jaipur
2.	Sh. Kinshuk Jain, Advocate M/s. Kinshuk Jain & Associates T-21, Mahaveer Nagar Tonk Road, Jaipur-302018 Mob. 98283-39631 Off: 0141-2554673	Lower Courts, Jaipur

The empanelment of the above Advocates have been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per the fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


(Pukhraj Sen)
Executive Director

Copy to:

1. Standard Circulation at HO
2. All BOs/SOs/A&I Zones

rfc

RAJASTHAN FINANCIAL CORPORATION

HO: Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No.RFC/F.Law-3/LPM/28/2/ 212 Dated: 27 May, 2014

CIRCULAR

(Lit. Cir. No. 206)

**Sub: Verification/Certification of bills of
Advocates by OICs**

It is enjoined upon all the OICs of the Corporation that henceforth bill of legal fee & expenses submitted by the Advocates, who are contesting/contested the cases on behalf of the Corporation, will be entertained & processed for payment after getting the same verified/certified by the concerned OIC.

Therefore, all OIC's are advised to submit the bill of legal fee & expenses of the Advocates for payment, duly certified/verified on the face of it.

All concerned are advised to make a note of above and act accordingly.



**(Ashu Chaudhary)
Executive Director**

Copy to :-

1. All BOs/SOs/A&I
2. Standard Circulation at HO

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/26/425

Dated: 9th July, 2014

CIRCULAR
(Lit. Cir. No. 208)

Reg: Empanelment on the Panel of Advocates of the Corporation

In continuation to earlier O&M Circular No. 731 dated 14.02.2014, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Sh. Mahesh Chand Gupta, Advocate 30, Gangotri Nagar, Gopalpura By Pass Road, Jaipur Mob. 98291-83256	High Court, Jaipur

The empanelment of the above Advocate has been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


(Ashu Chaudhary)
Executive Director

Copy to:

1. Standard Circulation at HO
2. All BOs/SOs/A&I Zones
3. Advocate concerned

rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005**Ref.No.RFC/F.Law-3/LPM/26/ 456

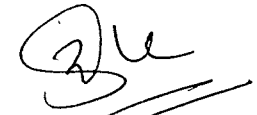
Dated: 17.07.2014

CIRCULAR
(Lit. Cir. No. 209)**Reg: Empanelment on the Panel of Advocates of the Corporation**

In continuation to earlier O&M Circular No. 734 dated 09.07.2014, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against her name:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Ms. Urmila Sharma, Advocate 1081, Uniyaro Ka Rasta, Chandpole Bazar, Jaipur (Raj.) Mob. 94142-69596 Phone: 0141-2321212	Lower Courts, & High Court, Jaipur

The empanelment of the above Advocate has been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to her as per the fee structure laid down by the Corporation from time to time. She is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that she will not accept/undertake any case against the Corporation in any Court of Law during her empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.



(Ashu Chaudhary)
Executive Director

Copy to:

1. Standard Circulation at HO
2. All BOs/SOs/A&I Zones
3. Advocate concerned

rfc

RAJASTHAN FINANCIAL CORPORATION
HEAD OFFICE: Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur

Ref.No.RFC/F.Law-3/LPM(28)/1/ 475

Dated: 21 July, 2014

CIRCULAR

(Lit. 2/0)

Sub: Presence in court cases

It has been observed that OICs are not adhering the guidelines being issued from to time and cases remained unattended due to non-appearance of Advocates on one or another reason(s).

It is, therefore, reiterated that all the OICs invariably ensure that no case is left unattended by the Advocate/OIC in the court. On every hearing dates OIC must attend the case & should submit the progress held in the court alongwith action to be taken for next date of hearing.

In case of strike of advocates or otherwise advocates are not appearing before Hon'ble Court the OIC should appear before the court with complete facts of the case. Even if OIC is on leave, he/she must ensure that some other officer from his/her Operation/Section/BO should attend the case so that no case/appeal remains unattended and no adverse order be passed by the Hon'ble Courts as ex-parte.

All concerned are advised to adhere the guidelines strictly.



(Ashu Chaudhary)
Executive Director

Copy to:-

1. All BOs/ SOs/ A&I Zones
2. Standard Circulation at HO

rfc
RAJASTHAN FINANFCIAL CORPORATION
HEAD OFFICE: Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur

Ref.No.RFC/F.Law-3/LPM(28)/1/ 847

Dated: 11 Sept, 2014

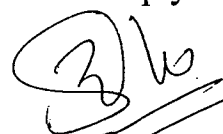
CIRCULAR
(Lit. 211)

**Sub: Non appearance of Advocates before Hon'ble
Courts due to ongoing lawyer's strike**

Reiterating the directions issued vide earlier Circular Lit. 210 dated 21.07.2014 by the Corporation and in reference to the direction issued by the Chief Secretary, Govt. of Rajasthan vide its letter No. F.12(16)Raj/Vad/08 Pt.7 dated 31.07.2014 (copy enclosed), it is directed that to avoid any ex-parte adverse observations or decisions by the Hon'ble Courts, during the ongoing lawyers' strike, it is enjoined upon all the concerned that:

1. Officer Incharge (OIC) of the case shall necessarily themselves personally appear before the Hon'ble Court;
2. OIC of the case may argue the case, for which DGM(Operation) concerned/ DGM(HRD) will have to personally brief OIC and record on file, his/her permission for OIC to argue the case.
3. In case where the issues and stakes are large, competent authority may like to consider appearing in Court themselves, to avoid getting adverse observations/decisions.
4. In case adverse outcome would have any financial implications, concerning officer may consult with the competent authorities and in personnel matter advice can be taken from HRD.

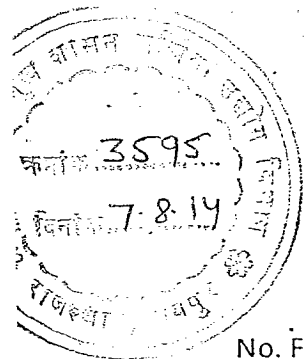
Accordingly, all concerned are advised to adhere and comply with the directions as mentioned above strictly.


(Ashu Chaudhary)
Executive Director

Encl : as above

Copy to:-

1. All BOs/ SOs/ A&I Zones
2. Standard Circulation at HO



Government of Rajasthan
Law & Legal Affairs Department

कमप्लिश करने - (77-1) दिनांक 14
शासन सं. 482346
हस्ताक्षर 482346
दिनांक 11/08/2014

No. F.12(16)Raj/Vad/08 Pt.7

Jaipur 31 July, 2014

To,

All Addl. Chief Secretaries/
Pr. Secretaries/ Secretaries,
Government of Rajasthan,
Jaipur.

Sub: Reg. non appearance of Govt. Advocates before Hon'ble Courts due to ongoing lawyer's strike.

Sir,

Reiterating the directions in the Circular No. F.12(15)Raj/Vad/08Pt.-7 dated 18.8.2013 issued by the Law & Legal Affairs Department, it is further directed that to avoid any ex-parte adverse observations, or decisions by the Hon'ble Courts, during the ongoing lawyer's strike, it is enjoined upon all concerned that:

1. Officers incharge of the case shall necessarily themselves personally appear before the Hon'ble Court;
2. Officer incharge of the case may argue the case, for which concerned Addl. Chief Secretary/Pr. Secretary/Secretary or Head of Department will have to personally brief Officer incharge and record on file, his/her permission for Officer incharge to argue the case; and
3. In cases where the issues and stakes are large, Secretaries/Pr. Secretaries may like to consider appearing in Court themselves, to avoid getting adverse observations/decisions.
4. In case adverse outcome would have any financial implications, the approving authority may also consult Finance Department. In personnel matters DOP advice can be taken.

Therefore, all Addl. Chief Secretaries/Pr. Secretaries/ Secretaries and Head of Departments are requested to please comply with the directions as mentioned above.

(Rajiv Mehrishi)
Chief Secretary

rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005**Ref.No.RFC/F.Law-3/LPM/26/ 1011Dated: 15th Oct., 2014**CIRCULAR**
(Lit. Cir. No. 212)**Reg: Empanelment on the Panel of Advocates of the Corporation**

In continuation to earlier O&M Circular No. 735 dated 17.07.2014, name of following Advocates have been included on the Panel of Advocates of the Corporation for the court and place indicated against their names:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE / COURT
1.	Sh. Vishnu Dutta Dave, Advocate Bohron Ka Bas, Brahmampuri, Jodhpur Mob. 99291-04147	Lower Courts, Jodhpur
2.	Sh. Pankaj Arora, Advocate 359, Mahaveer Nagar, Tonk Road, Durgapura, Jaipur-302018 Mob. 98297-44447	Lower Court, Jaipur
3.	Sh. Rishipal Agrawal, Advocate E-112, Siddharth Nagar, Near Sec-14, Malviya Nagar, Jaipur-302017 Ph. 0141-2545584 Mob. 98290-69784	High Court, Jaipur
4.	Sh. Kamal Kant Vyas, Advocate 8-C-34, Pratap Nagar, Tonk Phatak, Jaipur Mo. 94607-10062	Lower Court, Jaipur

The empanelment of the above Advocates have been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to them as per the fee structure laid down by the Corporation from time to time. They are required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur to the extent that they will not accept/undertake any case against the Corporation in any Court of Law during their empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


Managing Director**Copy to:**

1. All BOs/ Facilitation Centers
2. A&I Zones Ajmer/Jodhpur
3. Standard Circulation at HO
4. Advocates concerned

rfc

RAJASTHAN FINANCIAL CORPORATION**HO : Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur -302 005**Ref. No. RFC.F.Law-3/LPM/62/ 1095Dated 31 Oct., 2014**CIRCULAR****(Lit. 2/3)**

**Re: Initiation of legal action in case of
dishonour of cheque/ECS**

Attention is drawn towards various circulars issued from time to time with regard to initiation of legal action under the provisions of the Negotiable Instruments Act, 1881 as well as compounding of offences, presentation of Post Dated Cheques (PDCs) in lieu of repayments of loan(s) by the borrower to Corporation and other payments recoverable by the Corporation.

Similarly, in pursuance to 'the Payment and Settlement Systems Act, 2007', which has been enacted by the Central Government and had come into force w.e.f. 12th August, 2008 after making the Payment and Settlement Systems Regulations, 2008 by the Reserve Bank of India, now installments of loan repayment, overdues, late payment charges and other charges may also be accepted from the borrowers through Electronic Clearing Service (ECS), which is a mode of electronic funds transfer from one bank account to another bank account using the services of a Clearing House. To facilitate the borrowers and to replace the system of obtaining PDCs with ECS mandate a **circular No. FMD/FC/53/563 dated 10.01.2012** has already been issued prescribing the guidelines.

Under 'the Payment and Settlement Systems Act, 2007', dishonor of an electronic fund transfer instruction due to insufficiency of funds in the account, is also an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both, as similar to the dishonor of a cheque under the Negotiable Instruments Act, 1881 and subject to complying with the procedures laid down under "the Payment and Settlement Systems Act, 2007" and criminal prosecution against the defaulter(s) can also be initiated in such cases.

As per **Section 25** of the Payment and Settlement Systems Act, 2007, where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is insufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, there is provision to prosecute such person as per the Act. For ready reference extracts of Section 25 and other important section of the **Payment and Settlement Systems Act, 2007** are being enclosed as **Annexure-‘A’**.

However, detailed guidelines regarding initiation of legal action etc. in case of dishonour of cheque under the Negotiable Instruments Act, 1881 has already been issued from time to time, which will remain continue with some amendments given hereinafter but to explain the procedure to be adopted in the case of ECS, the guidelines are being again reiterated because somehow the legal action to be initiated in case of dishonour of cheque as well as dishonour of ECS are same. Accordingly, for ready reference extracts of Chapter-XVII of the **Negotiable Instruments Act, 1881** which deals with the provisions regarding penalties in case of dishonour of cheques for insufficiency of funds in the accounts are also being enclosed as **Annexure-‘B’**.

Power to Compound Offences

The offence committed is compoundable under section 147 of the Negotiable Instruments Act, 1881 as well as under section 31 of the Payment & Settlements Systems Act, 2007, hence **in supersession to the earlier O&M Circulars No. 650 dated 24.07.2006 & 656 dated 04.12.2006**, guidelines prescribed to be followed in both the cases i.e. dishonour of cheque as well dishonour of ECS, are as under:-

- 1) After satisfying about the genuine & justified reasons for dishonour of cheque/ECS for which criminal complaint has been lodged by the Corporation, the powers for withdrawal/compounding of such complaints have been delegated as under subject to depositing of the amount of the bounced cheque/ECS plus return charges of Rs. 1,000/- plus service tax and all the litigation expenses incurred by the Corporation:-

	Power for withdrawal / compounding
First & Second Complaint	Branch Manager
Third Complaint	DGM concerned

However, still thereafter the Branch Manager/DGM concerned may refer the exceptional cases alongwith the justified reasons with clear-cut recommendations to the MD, RFC for relaxation in the above norms for seeking approval of the higher authorities for withdrawal of criminal complaints lodged under the Act.

- 2) In any other matters cases for withdrawal of criminal complaint the prior approval of MD, RFC would be required and Branch Manager/DGM concerned will refer the case alongwith the justification/genuine reasons with their clear recommendations.
- 3) In spite of above sympathetic consideration if the cheque/ECS of the borrower concern are dishonoured thereafter, then the Corporation shall be left with no alternative except to proceed further under the provisions of the Negotiable Instruments Act/Payment and Settlement Systems Act.
- 4) Third party cheques/ECS shall not be accepted on behalf of the borrower payee towards repayment of corporation's dues.

Grace Period

Further, in supersession to the FR Circular No. 683 dated 23.03.2012, it has been decided that henceforth in the cases of good borrowers on their written request, before the due date of the post-dated cheque/ECS, to the Branch Manager seeking deferment of repayment, the Branch Manager may consider their written request and may put on hold the cheque/ECS of good borrower by allowing **grace period of seven days** only in order to avoid dishonouring of cheque/ECS.

Notice for dishonour

It is enjoined upon all the concerned that on dishonour of cheque/ECS, the Corporation has to give a written notice to the issuer of the cheque/electronic fund transfer (who is the "payer") within 30 days of receiving the information of the dishonour in compliance of provisions contained in Sec. 138(b) of the Negotiable Instruments Act and Sec. 25(1)(c) of Payment and Settlement Systems Act respectively. Formats of notice are enclosed as **Annexure-'C' & 'D'**.

In the event the borrower/payer fails to honour the notice by making payment to the Corporation within 15 days of notice then the Corporation shall proceed with the legal remedies available under Sec. 138 of the Negotiable Instruments Act and Sec. 25 of the Payment and Settlement Systems Act and has full recourse in chapter XVII of the Negotiable Instruments Act, for which a complete guidelines has

already been issued vide Circular No.O&M/640' dated 27.12.2005 and other circulars issued from time to time on the subject.

Incorporation of a condition in Loan Agreement & Sanction Letter regarding charging of penalty

It is also enjoined upon that on dishonour of each cheque a sum of Rs. 1000/- is being charged as a penalty, besides initiating legal action u/s 138 of the Negotiable Instruments Act, 1881, as prescribed vide Conv. Circular No. 25 dt. 31.03.2009, Conv. Circular No. 42 dt. 24.08.2012. Now, it is further decided on the same line as being charges on dishonour of cheque that in case of dishonour of each ECS a sum of Rs. 1000/- to be charged as a penalty. Accordingly following condition will be incorporated in the Loan Agreement as well as in Sanction Letter:-

“That the borrower hereby agrees to pay a penalty of Rs. 1000/- on its every dishonored cheque/ECS given by the borrower to the Corporation and the borrower further agrees and gives its consent that in case of non-payment of above penalty by the borrower, the Corporation has every right to recover and debit the above amount in his loan account under the head of ‘other charges’ of the Corporation without prejudice to all other legal rights of the Corporation available under the provisions of the Negotiable Instruments Act/the Payment & Settlement Systems Act and/or under the provisions of all other law in force.”

It is, therefore, enjoined upon all the Branch Managers/DGMs to adhere the compliance and furnish the information of complaints filed under the provisions of the Negotiable Instruments Act as well as under the Payment and Settlement Systems Act on quarterly basis to the concerned DGM(Operation) in the appended format marked as **Annexure-‘E’** and in turn the DGM(Operation) will furnish a consolidated statement to GM(Operation), HO on quarterly basis for close monitoring of the borrower unit's account.


(Ashu Chaudhary)
Executive Director

Encls: as above

Copy to:

- 1) All BOs/Facilitation Centres
- 2) A&I Zones, Ajmer/Jodhpur
- 3) Standard Circular at HO

THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

Section 25 and other relevant sections of the Payment and Settlement Systems Act, 2007 are reproduced as below: -

Section 25: Dishonour of electronic funds transfer for insufficiency, etc., of funds in the account

- (1) Where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is insufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, **be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both:**

Provided that nothing contained in this section shall apply unless—

- (a) the electronic funds transfer was initiated for payment of any amount of money to another person for the discharge, in whole or in part, of any debt or other liability;
 - (b) the electronic funds transfer was initiated in accordance with the relevant procedural guidelines issued by the system provider;
 - (c) the beneficiary makes a demand for the payment of the said amount of money by giving a notice in writing to the person initiating the electronic funds transfer within thirty days of the receipt of information by him from the bank concerned regarding the dishonour of the electronic funds transfer; and
 - (d) the person initiating the electronic funds transfer fails to make the payment of the said money to the beneficiary within fifteen days of the receipt of the said notice.
- (2) It shall be presumed, unless the contrary is proved, that the electronic funds transfer was initiated for the discharge, in whole or in part, of any debt or other liability.

- (3) It shall not be a defence in a prosecution for an offence under sub-section (1) that the person, who initiated the electronic funds transfer through an instruction, authorization, order or agreement, did not have reason to believe at the time of such instruction, authorization, order or agreement that the credit of his account is insufficient to effect the electronic funds transfer.
- (4) The Court shall, in respect of every proceeding under this section, on production of a communication from the bank denoting the dishonour of electronic funds transfer, presume the fact of dishonour of such electronic funds transfer, unless and until such fact is disproved.
- (5) The provisions of Chapter XVII of the Negotiable Instruments Act, 1881 shall apply to the dishonour of electronic funds transfer to the extent the circumstances admit.

Explanation — For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability, as the case may be.”

Section 27. : Offences by companies

- (1) Where a person committing a contravention of any of the provisions of this Act or any regulation, direction or order made there under is a company, every persons who, at the time of the contravention, was in-charge of, and was responsible to, the Company for the conduct of business of the company, as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

- (2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any regulation, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the

contravention and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of this section-

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

Section 28 : Cognizance of offences

- (1) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorized by it in writing in this behalf, and no court, lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence:

Provided that the Court may take cognizance of an offence punishable under section 25 upon a complaint in writing made by the person aggrieved by the dishonour of the electronic funds transfer.

- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may dispense with the personal attendance of the officer of the Reserve Bank filing the complaint, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

Section 29: Application of fine

A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of, the costs of the proceedings.

Section 31: Power to compound offences

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act for any contravention, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on receipt of an application from the person committing such contravention either before or after institution of any

proceeding, be compounded by an officer of the Reserve Bank duly authorized by it in this behalf.

- (2) Where a contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention so compounded."

THE NEGOTIABLE INSTRUMENTS ACT, 1881

Chapter-XVII of the Act deals with the provisions regarding penalties in case of dishonour of certain cheques for insufficiency of funds in the accounts. Provisions of Chapter-XVII are reproduced as below:-

Section 138: Dishonour of cheque for insufficiency, etc., of funds in the account -

Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, **be punished with imprisonment for (a term which may be extended to two years), or with fine which may extend to twice the amount of the cheque, or with both:**

Provided that nothing contained in this section shall apply unless—

- (a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;
- (b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, (within thirty days) of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and
- (c) The drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation — For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability.

Section 139: Presumption in favour of holder-

It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.

**Section 140: Defence which may not be allowed in any
prosecution under section 138-**

It shall not be a defence in a prosecution for an offence under section 138 that the drawer had no reason to believe when he issued the cheque that the cheque may be dishonoured on presentment for the reasons stated in that section.

Section 141: Offences by companies-

- (1) If the person committing an offence under section 138 is a company, every persons who, at the time the offence was committed, was in-charge of, and was responsible to the Company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

Provided further that where a person is nominated as a Director of a Company by virtue of his holding any office or employment in the Central Government or State Government or a financial corporation owned or controlled by the Central Government or the State Government, as the case may be, he shall not be liable for prosecution under this Chapter.

- (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of this section-

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
(b) "director", in relation to a firm, means a partner in the firm.

Section 142: Cognizance of offences-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

- (a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;
- (b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138:

Provided that the cognizance of a complaint may be taken by the court after the prescribed period, if the complainant satisfies the court that he had sufficient cause for not making a complaint within such period.

- (c) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138.

Section 143: Power of Court to try cases summarily -

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Chapter shall be tried by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of section 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trials:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year and an amount of fine exceeding five thousand rupees:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

- (2) The trial of a case under this section shall, so far as practicable, consistently with the interests of justice, be continued from day to day until its conclusion, unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded in writing.

- (3) Every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint.

Section 144: Mode of service of summons -

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), and for the purposes of this Chapter, a Magistrate issuing a summons to an accused or a witness may direct a copy of summons to be served at the place where such accused or witness ordinarily resides or carries on business or personally works; for gain, by speed post or by such courier services as are approved by a Court of Session.
- (2) Where an acknowledgement purporting to be signed by the accused or the witness or an endorsement purported to be made by any person authorized by the postal department or the courier services that the accused or the witness refused to take delivery of summons has been received, the Court issuing the summons may declare that the summons has been duly served.

Section 145: Evidence on affidavit-

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974), the evidence of the complainant may be given by him on affidavit and may, subject to all just exceptions be read in evidence in any enquiry, trial or other proceeding under the said Code.
- (2) The Court may, if it thinks fit, and shall, on the application of the prosecution or the accused, summon and examine any person giving evidence on affidavit as to the facts contained therein.

Section 146: Bank's slip prima facie evidence of certain facts

The Court shall, in respect of every proceeding under this Chapter, on production of bank's slip or memo having thereon the official mark denoting that the cheque has been dishonoured, presume the fact of dishonour of such cheque, unless and until such fact is disproved.

Section 147: Offences to be compoundable -

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every offence punishable under this Act shall be compoundable.

rfc

RAJASTHAN FINANCIAL CORPORATION

BRANCH OFFICE : _____

BY REGISTERED A.D. POST

Ref.No. RFC/F. _____

Dated: _____

M/s. _____

**Re: Notice U/S 138(b) of the Negotiable Instruments
Act, 1881 for dishonour of cheque**

Dear Sir,

It is to inform you that cheque no. _____ dated _____
drawn on _____ (name of bank) for
Rs. _____ (Rupees _____ only)
given to the Corporation towards the payment of instalment of loan and
interest thereon has been returned from our bankers as the same has not
been cleared because of insufficient funds in your account.

We, therefore, advise you to please remit the amount of dishonoured
cheque within fifteen days of this notice, failing which the Corporation
shall be compelled to file a **complaint** u/s 138 of the aforesaid Act for
punishment and fine as provided under the Act.

An early remittance of the dishonoured cheque is solicited.

Thanking you,

Yours faithfully,

BRANCH MANAGER

rfc
RAJASTHAN FINANCIAL CORPORATION
BRANCH OFFICE : _____

BY REGISTERED A.D. POST

Ref.No. RFC/F. _____

Dated: _____

M/s. _____

Re: **Notice U/S 25(1)(c) of the Payment & Settlement
Systems Act, 2007 for dishonour of ECS**

Dear Sir,

It is to inform you that as per the information received from _____ (name and branch of bank) your installment for Rs. _____ (Rupees _____ only), which is required to be credited in our Account on _____ in pursuance to your authorization to the ECS Mandate given in favour of our Corporation towards the payment of installement of loan and interest thereon has been dishonoured as the same has not been cleared because of insufficient funds in your account.

We, therefore, advise you to please remit the amount of dishonoured ECS within fifteen days of this notice, failing which the Corporation shall be compelled to file a **complaint** u/s 25 of the aforesaid Act for punishment and fine as provided under the Act.

An early remittance of the dishonoured ECS is solicited.

Thanking you,

Yours faithfully,

BRANCH MANAGER

ANNEXURE - E
(To be sent on quarterly basis)

RAJASTHAN FINANCIAL CORPORATION

BO : _____ - DGM(Op-____)

Statement showing name of the units against which complaint lodged
under the provisions of the Negotiable Instruments Act/Payment And
Settlement Systems Act as on _____

S. No	Name of Unit	Amount of cheque/ ECS	Date of dishonour	Whether payment of bounced Cheque/ECS Recd. or not	Date of lodging complaint & Name of court	Name of advocate	Present position	Remarks if any
-------	--------------	--------------------------	-------------------	---	--	------------------	------------------	----------------

rfc
RAJASTHAN FINANCIAL CORPORATION
HO: Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur

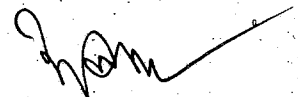
Ref.No.RFC/F.Law-5CC/HO/2094/1767 Dated: 01-01-2015

CIRCULAR
(Lit. Cir No. 214)

**Sub: Important decision pronounced by Hon'ble Rajasthan
State Human Rights Commission in favour of RFC**

Against the recovery proceedings of our Corporation, a complaint was filed by Sh. Roshan Ali, who is proprietor of one of our financed units namely M/s. Roshan PVC Industries, Balotra before the Rajasthan State Human Rights Commission, Jaipur bearing case no. 14/05/871 but the Hon'ble Chairperson of the Commission vide its Judgement dated 14.10.2014 has upheld the recovery proceedings of the Corporation, which were carried out under the provisions of the State Financial Corporations Act, 1951 and denied the complaint of the complainant.

This is a landmark Judgement of Rajasthan State Human Rights Commission, Jaipur in favour of the recovery efforts of a Financial Corporation under the provisions of Law. A Xerox copy of the order referred to above is being sent for ready reference.



(Alka Sharma)

Executive Director

Encl: a/a

Copy to:

1. All BOs/ Facilitation Centers
2. A&I Zones Ajmer/Jodhpur
3. Standard Circulation at HO



प्ररूप - च
(विनियम - 16 "क")

राजस्थान राज्य मानव अधिकार आयोग
(विधि खण्ड)

163

क्रमांक: 14/05/871/

जयपुर, दिनांक: / /20

प्रेषित: श्री रोशन अजी
आयुक्त रोशन पी.वी.सी. 205सी
समदजी जिला बागमे

संदर्भ: परिवाद द्वारा-

महोदय/महोदया,

ऊपर वर्णित परिवाद दिनांक..... प्रकरण संख्या 14/05/871 पर रजिस्टर कर लिया गया है और आयोग ने परिवाद पर विचार करके निम्नलिखित अंतिम आदेश पारित किया है:

आदेश

आदेश दिनांक 10.11.14 को

प्रति सलान कर सूचना प्रेषित है।

सलान-उपराक्तानुसार

18/11/14
18/11/14
18/11/14
18/11/14

10 (08)

7 NOV 2014

1 (OP-II)

8 NOV 2014

उभांक 14/05/871 / 115968 7.11.14 दिनांक

पुनिलिपि: कार्यकारी निर्देशक राजस्थान विन
निगम, उद्योग भवन: सिलक मार्ग
जयपुर

संस्था

OL

भवदीय
उप रजिस्ट्रार

राजस्थान राज्य मानव अधिकार आयोग, जयपुर
आदेशिका

राज्या:— 14 / 05 / 871

दिनांक:— 14.10.2014

एकलप्रीत

समक्ष:— माननीय अध्यक्ष, श्री एच.आर.कुडी

परिवादी रोशन अली ने एक परिवाद इस आशय का पेश किया है कि उसकी एक फैक्ट्री औद्योगिक क्षेत्र समदड़ी में भूखण्ड संख्या जी1:21 रोशन पी.पी.सी. इण्डस्ट्री के नाम से है जो राज्य वित्त निगम बालोतरा शाखा में बंधक रखी हुई है। उपरोक्त इण्डस्ट्री में दि० 14.10.2004 को आग लग जाने से फैक्ट्री में पड़ा माल मेटेरियल एवं मशीनरी व भवन पूर्ण रूप से नष्ट हो गये, जिससे वह बेरोजगार हो गया और वित्त निगम से लिया गया ऋण रु० 8,50,000/-रुपये का भुगतान नहीं कर सका। फैक्ट्री का बीमा नेशनल इन्श्योरेन्स कम्पनी, बालोतरा शाखा से करवा रखा था, लेकिन बीमा कम्पनी ने नुकसान राशि का भुगतान नहीं किया। प्रार्थी ने उपभोक्ता मंच बाड़मेर में परिवाद पेश किया जो दिनांक 07.11.2005 को स्वीकार किया गया। बीमा कम्पनी ने राज्य उपभोक्ता आयोग में अपील की, उनके विरुद्ध प्रार्थी ने राष्ट्रीय उपभोक्ता आयोग में अपील की, फिर माननीय सर्वोच्च न्यायालय में अपील की, जहां से हुए निर्णय के अनुसार बीमा कम्पनी रु० 5,13,908/- रुपये जिला उपभोक्ता मंच बाड़मेर में जमा करवाये। वह राशि राज० वित्त निगम ने प्राप्त कर ली। रु० 3,50,804/- की बकाया राशि प्रार्थी पूर्व में जमा करवा चुका हैं प्रार्थी वित्त निगम से समझौता करके बकाया राशि जमा करवाने को तैयार है फिर भी वित्त निगम उसकी फैक्ट्री बेचने परो उतारू है।

इस प्रकार आयोग द्वारा प्रसंज्ञान लेकर मुख्य प्रबन्ध निदेशक, राज० वित्त निगम, जयपुर से तथ्यात्मक रिपोर्ट तलब की गई। राज्य वित्त निगम ने अपनी रिपोर्ट में अंकित किया है कि बकाया राशि जमा नहीं करवाने के कारण फैक्ट्री का दिनांक 21.10.2010 एफ०एफ०सी० एक्ट की धरा 29 के तहत अधिग्रहण कर लिया गया। निलामी हेतु विज्ञापन समाचार पत्र में छपवा दिया गया है। दिनांक 28.03.2013 को निलामी में आयोग को रु० 5.70 लाख रुपये

की बोली प्राप्त हुई। फिर भी परिवादी को समझौते हेतु एक अवसर और दिया गया। परिवादी ने 12 लाख रुपये एक मुश्त भुगतान करने की स्वीकृति दी लेकिन निर्धारित तिथि दिनांक 31.08.2013 तक उसने उपरोक्त राशि अदा नहीं की। इसलिए निगम ने समझौता रद्द कर दिया। दिनांक 28.03.2013 को फैक्टी की 9 लाख की राशि में निलामी की गई। क्रेता द्वारा निलामी राशि जमा करवाने पर उसे दिनांक 05.03.2014 को कब्जा सौंप दिया गया। शेष राशि वसूलने हेतु परिवादी को नोटिस दिया गया है। इस प्रकार पत्रावली का अवलोकन करने पर पाया गया कि पक्षकारों में ऋण राशि बाबत सिविल विवाद है जो माननीय माननीय सर्वोच्च न्यायालय तक निर्णय किया जा चुका है। यह परिवाद एक वर्ष से अधिक पुराना है जो मानव अधिकार संरक्षण अधिनियम की धारा 36(2) के तहत आयोग में सुनवाई योग्य भी नहीं है। चूंकि राज0 वित्त निगम द्वारा दिये गये ऋण की वसूली बाबत कार्यवाही करते हुए निलामी की कार्यवाही करत हुए ऋण वसूल किया गया है।

इन परिस्थितियों में आयोग द्वारा इस स्तर पर कोई कार्यवाही किया जाना अपेक्षित नहीं रह जाता है। अतः परिवाद पत्रित किया जाता है। आदेश की प्रति संबधित को प्रेषित की जावे।


14.10.14
(एच.आर.कुडी)
अध्यक्ष

RFC/O&M/ 740

rfc

RAJASTHAN FINANCIAL CORPORATION
HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005

Ref.No.RFC/F.Law-3/LPM/61/ 89 Dated: 19 JAN 2015

CIRCULAR
(Lit. Cir. No. 215)

Sub: Payment of fees & expenses to Advocates

This is in continuation to earlier O&M Circular No. 620 dated 16.11.2004 (Lit. 111) with regard to payment of fees to Advocates. There has been made slightly amendment in the guidelines regarding authority for approval of fees to Advocates and now GM(D) is being authorized to approve the bill of advocate on the same guidelines upto Rs. 4500 + 10% clerkage + actual expenses in place of GM(P&A). Other terms & conditions of O&M Circular No. 620 dated 16.11.2004 (Lit. 111) will remain unchanged.

All concerned are advised to make a note of it.

Mh
19/1/15
(Maneesh Chauhan)
Managing Director

Copy to:

1. All BOs/ Facilitation Centers
2. A&I Zones Ajmer/Jodhpur
3. Standard Circulation at HO

rfc

RAJASTHAN FINANCIAL CORPORATION**Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302 005**

Ref.No.RFC/F.Law-3/LPM/62/121

Dated: 28 Jan., 2015

CIRCULAR**(Lit. Cir No. 216)**

Sub: Important Judgement of Hon'ble Supreme Court on court's territorial jurisdiction regarding lodging of criminal complaints for dishonour of cheques under the N.I. Act

Recently, Hon'ble Supreme Court of India has pronounced a Judgement on 01.08.2014 in Criminal Appeal No. 2287/2009 titled as "Dashrath Rupsingh Rathod Vs. State of Maharashtra & Anr." regarding court's territorial jurisdiction for lodging of criminal complaints for dishonour of cheque under the N.I. Act. The gist of the Judgment is as under:-

For an offence to be constituted under Section 138 of the Act, following five ingredients must be satisfied, viz. (1) Drawing of the cheque; (2) Presentation of the cheque to the bank; (3) Return of the cheque unpaid by the drawee bank; (4) Serving notice in writing to the drawer of the cheque demanding payment of the cheque amount, and lastly (5) failure of the drawer to make payment within 15 days of the receipt of the notice.

And once the cause of action accrues to the complainant, the jurisdiction of the Court for trial of the case will be determined by reference to the place where the cheque is dishonoured. The general rule stipulated under Section 177 of Cr.P.C applies to cases under section 138 of the Negotiable Instruments Act. Prosecution in such cases can, therefore, be launched against the drawer of the cheque only before the Court within whose jurisdiction the dishonour takes place except in situations where the offence of dishonour of the cheque punishable under Section 138 is committed along with other offences in a single transaction within the meaning of Section 220(1) read with Section 184 of the Code of Criminal Procedure or is covered by the provisions of Section 182(1) read with Sections 184 and 220 thereof.

In view of the above judgement Hon'ble Courts are returning the earlier lodged complaints back on the ground of territorial jurisdiction, therefore,

Contd.....(2)

looking to the urgency and limitation of the cases the Branch Offices are directed as under :-

- i) All the concerned are advised that on receiving the complaints back from Hon'ble court, they should file fresh complaints in consultation with counsel in the case before the competent court at the place where the cheque is dishonoured.
- ii) In future also, when cause of action accrues, the jurisdiction of the Court for trial of the case will be determined by reference to the place where the cheque is dishonoured in view of the above referred judgement of Hon'ble Supreme Court of India.
- iii) In future, while taking PDCs, at the time of execution of loan documents, Branch Offices should take care that PDCs should be of local stationed Bank only.
- iv) In the cases of existing PDCs, the Branch Offices should try to replace the out stationed PDCs by local stationed Banks' PDCs.

So far as appointment of advocate at the places where our Corporation does not have any panel advocate, within the State or outside the State of Rajasthan is concerned, the Branch Manager may engage suitable advocate to contest the case on behalf of the Corporation after obtaining prior approval of concerned Dy.Gen.Manager(Operation). The terms and conditions of appointment of such lawyers and fee payable to them, shall be as per the prescribed norms of the Corporation.

As the judgement contains many pages, it is being hoisted on the website of RFC for your perusal and doing the needful. However, copy of first page of the judgement is being enclosed for your ready reference regarding exact title, case number etc.

All concerned are advised to make a note of it and do the needful accordingly.

Hw 23.1.15
(Maneesh Chauhan)
Managing Director

Encl: a/a

Copy to:

1. All BOs/Facilitation Centres
2. Standard Circulation at HO
3. Acting Manager (MS), RFC, HQ for hoisting on website.



REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 2287 OF 2009

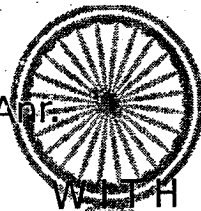
Dashrath Bupsingh Rathod

Appellant

Versus

State of Maharashtra & Anr.

.....Respondents



CRIMINAL APPEAL NO. 1593 OF 2014
[Arising out of S.L.P.(Cr.) No.2077 of 2009];
CRIMINAL APPEAL NO. 1594 OF 2014
[Arising out of S.L.P.(Cr.) No.2112 of 2009];
CRIMINAL APPEAL NO. 1595 OF 2014
[Arising out of S.L.P.(Cr.) No.2117 of 2009];
CRIMINAL APPEAL NOS. 1596-1600 OF 2014
[Arising out of S.L.P.(Cr.) Nos.1308-1312 of 2009];
CRIMINAL APPEAL NO.1601 OF 2014
[Arising out of S.L.P.(Cr.) No.3762 of 2012];
CRIMINAL APPEAL NO. 1602 OF 2014
[Arising out of S.L.P.(Cr.) No.3943 of 2012];
CRIMINAL APPEAL NO.1603 OF 2014
[Arising out of S.L.P.(Cr.) No.3944 of 2012]; AND
CRIMINAL APPEAL NO. 1604 OF 2014
[Arising out of S.L.P.(Cr.) No.59 of 2013].

J U D G M E N T

VIKRAMAJIT SEN, J.

1. Leave granted in Special Leave Petitions. These Appeals raise a legal nodus of substantial public importance pertaining to Court's territorial jurisdiction concerning criminal complaints filed under Chapter XVII of the Negotiable Instruments Act, 1881 (for short, 'the NI Act'). This is amply adumbrated by the Orders dated 3.11.2009 in I.A.No.1 in CC 15974/2009 of the three-Judge Bench presided over by the then Hon'ble the Chief Justice of India, Hon'ble Mr. Justice V.S. Sirpurkar and Hon'ble Mr. Justice P. Sathasivam which SLP is also concerned with the interpretation of Section 138 of the NI Act, and wherein the Bench after issuing notice on the petition directed that it be posted before the three-Judge Bench.

P R E C E D E N T S

2. The earliest and the most often quoted decision

of this Court relevant to the present conundrum is **K. Bhaskaran v. Sankaran Vaidhyan Balan** (1999) 7 SCC 510 wherein a two-Judge Bench has, inter alia, interpreted Section 138 of the NI Act to indicate that, "the offence under Section 138 can be completed only with the concatenation of a number of acts. Following are the acts which are components of the said offence: (1) Drawing of the cheque, (2) Presentation of the cheque to the bank, (3) Returning the cheque unpaid by the drawee bank, (4) Giving notice in writing to the drawer of the cheque demanding payment of the cheque amount, (5) Failure of the drawer to make payment within 15 days of the receipt of the notice." The provisions of Sections 177 to 179 of the Code of Criminal Procedure, 1973 (for short, 'CrPC') have also been dealt with in detail. Furthermore, **Bhaskaran** in terms draws a distinction between 'giving of notice' and 'receiving of notice'. This is for the reason that clause (b) of proviso to Section 138 of the NI Act postulates a demand being made by the payee or the holder in due course of the dishonoured

cheque by giving a notice in writing to the drawer thereof. While doing so, the question of the receipt of the notice has also been cogitated upon.

3. The issuance and the receipt of the notice is significant because in a subsequent judgment of a Coordinate Bench, namely, **Harman** Electronics Pvt. Ltd. v. National Panasonic India Pvt. Ltd. (2009) 1 SCC 720 emphasis has been laid on the receipt of the notice, *inter alia*, holding that the cause of action cannot arise by any act of omission or commission on the part of the 'accused', which on a holistic reading has to be read as 'complainant'. It appears that **Harman** transacted business out of Chandigarh only, where the Complainant also maintained an office, although its Head Office was in Delhi. **Harman** issued the cheque to the Complainant at Chandigarh; **Harman** had its bank account in Chandigarh alone. It is unclear where the Complainant presented the cheque for encashment but it issued the Section 138 notice from Delhi. In those circumstances, this Court had observed that the only

19

question for consideration was "whether sending of notice from Delhi itself would give rise to a cause of action for taking cognizance under the NI Act." It then went on to opine that the proviso to this Section "imposes certain further conditions which are required to be fulfilled before cognizance of the offence can be taken." We respectfully agree with this statement of law and underscore that in criminal jurisprudence there is a discernibly demarcated difference between the commission of an offence and its cognizance leading to prosecution. The **Harman** approach is significant and sounds a discordant note to the **Bhaskaran** ratio. **Harman** also highlights the reality that Section 138 of the NI Act is being rampantly misused so far as territorial jurisdiction for trial of the Complaint is concerned. With the passage of time equities have therefore transferred from one end of the pendulum to the other. It is now not uncommon for the Courts to encounter the issuance of a notice in compliance with clause (b) of the proviso to Section 138 of the NI Act from a situs which bears no connection with the

Accused or with any facet of the transaction between the parties, leave aside the place where the dishonour of the cheque has taken place. This is also the position as regards the presentation of the cheque, dishonour of which is then pleaded as the territorial platform of the Complaint under Section 138 of the NI Act. **Harman**, in fact, duly heeds the absurd and stressful situation fast becoming common-place where several cheques signed by the same drawer are presented for encashment and requisite notices of demand are also despatched from different places. It appears to us that justifiably so at that time the conclusion in **Bhaskaran** was influenced in large measure by curial compassion towards the unpaid payee/holder, whereas with the passage of two decades the manipulative abuse of territorial jurisdiction has become a recurring and piquant factor. The liberal approach preferred in **Bhaskaran** now calls for a stricter interpretation of the statute, precisely because of its misemployment so far as choice of place of suing is concerned. These are the circumstances which have



propelled us to minutely consider the decisions rendered by two-Judge Benches of this Court.

4. It is noteworthy that the interpretation to be imparted to Section 138 of the NI Act also arose before a three-Judge Bench in **Shri Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd.** (2001) 3 SCC 609 close on the heels of **Bhaskaran**. So far as the factual matrix is concerned, the dishonoured cheque had been presented for encashment by the Complainant/holder in his bank within the statutory period of six months but by the time it reached the drawer's bank the aforementioned period of limitation had expired. The question before the Court was whether the bank within the postulation of Section 138 read with Sections 3 and 72 of the NI Act was the drawee bank or the collecting bank and this Court held that it was the former. It was observed that "non-presentation of the cheque to the drawee bank within the period specified in the Section would absolve the person issuing the cheque of his criminal liability under Section 138 of the NI Act, who otherwise may be liable to pay the cheque

amount to the payee in a civil action initiated under the law. A combined reading of Sections 3, 72 and 138 of the NI Act would leave no doubt in our mind that the law mandates the cheque to be presented at the bank on which it is drawn if the drawer is to be held criminally liable. Clearly, and in our considered opinion rightly, the Section had been rendered 'accused-centric'. This decision clarifies that the place where a complainant may present the cheque for encashment would not confer or create territorial jurisdiction, and in this respect runs counter to the essence of **Bhaskaran** which paradoxically, in our opinion, makes actions of the Complainant an integral nay nuclear constituent of the crime itself.

5. The principle of precedence should promptly and precisely be paraphrased. A co-ordinate Bench is bound to follow the previously published view; it is certainly competent to add to the precedent to make it logically and dialectically compelling. However, once a decision of a larger Bench has been delivered it is that decision which

40

mandatorily has to be applied; whereas a Co-ordinate Bench, in the event that it finds itself unable to agree with an existing ratio, is competent to recommend the precedent for reconsideration by referring the case to the Chief Justice for constitution of a larger Bench. Indubitably there are a number of decisions by two-Judge Benches on Section 138 of the NI Act, the majority of which apply **Bhaskaran** without noting or distinguishing on facts **Ishar Alloy**. In our opinion, it is imperative for the Court to diligently distill and then apply the ratio of a decision and the view of a larger Bench ought not to be disregarded inasmuch as the three-Judge Bench in **Ishar Alloy** has categorically stated that for criminal liability to be attracted, the subject cheque has to be presented to the bank on which it is drawn within the prescribed period, **Bhaskaran** has been significantly whittled down if not overruled. **Bhaskaran** has also been drastically diluted by **Harman** inasmuch as it has given primacy to the service of a notice on the Accused instead of its mere issuance by the Complainant.

6. In **Prem Chand Vijay Kumar v. Yashpal Singh** (2005) 4 SCC 417, another two-Judge Bench held that upon a notice under Section 138 of the NI Act being issued, a subsequent presentation of a cheque and its dishonour would not create another 'cause of action' which could set the Section 138 machinery in motion. In that view, if the period of limitation had run out, a fresh notice of demand was bereft of any legal efficacy. *SIL Import, USA v. Exim Aides Silk Exporters* (1999) 4 SCC 567 was applied in which the determination was that since the requisite notice had been despatched by FAX on 26.6.1996 the limitation for filing the Section 138 Complaint expired on 26.7.1996. What is interesting is the observation that "four constituents of Section 138 are required to be proved to successfully prosecute the drawer of an offence under Section 138 of the NI Act" (emphasis supplied). It is also noteworthy that instead of the five ***Bhaskaran*** concomitants, only four have been spelt out in the subsequent judgment in **Prem Chand**. The commission of a crime was distinguished from its

39

prosecution which, in our considered opinion, is the correct interpretation of the law. In other words, the four or five concomitants of the Section have to be in existence for the initiation as well as the successful prosecution of the offence, which offence however comes into existence as soon as subject cheque is dishonoured by the drawee bank. Another two-Judge Bench in *Shamshad Begum v. B. Mohammed* (2008) 13 SCC 77 speaking through Pasayat J this time around applied **Bhaskaran** and concluded that since the Section 138 notice was issued from and replied to Mangalore, Courts in that city possessed territorial jurisdiction. As already noted above, this view is not reconcilable with the later decision of **Harman**.

7. The two-Judge Bench decision in **Mosaraf Hossain Khan v. Bhagheeratha Engg. Ltd.** (2006) 3 SCC 658 requires to be discussed in some detail. A Complaint under Section 138 of the NI Act was filed and cognizance was taken by the Chief Judicial Magistrate, Birbhum at Suri, West Bengal for the dishonour of a number of cheques issued by

the accused-company which had its headquarters in Ernakulam, Kerala where significantly the accused-company's bank on whom the dishonoured cheques had been drawn was located. Several judgments were referred to, but not **Bhaskaran**. The third ingredient in **Bhaskaran**, i.e. the returning of the cheque unpaid by the drawee bank, was not reflected upon. Inasmuch as **Mosaraf Hossain** refers copiously to the cause of action having arisen in West Bengal without adverting at all to **Bhaskaran**, leave aside the three-Judge Bench decision in **Ishar Alloy**, the decision may be seen as *per incuriam*. Moreover, the concept of *forum non conveniens* has no role to play under Section 138 of the NI Act, and furthermore that it can certainly be contended by the accused-company that it was justifiable/convenient for it to initiate litigation in Ernakulam. If **Bhaskaran** was followed, Courts in Ernakulam unquestionably possessed territorial jurisdiction. It is, however, important to italicize that there was an unequivocal endorsement of the Bench of a previously

(28)

expressed view that, "where the territorial jurisdiction is concerned the main factor to be considered is the place where the alleged offence was committed". In similar vein, this Court has opined in *Om Hemrajani v. State of U.P.* (2005) 1 SCC 617, in the context of Sections 177 to 180 CrPC that "for jurisdiction emphasis is on the place where the offence is committed."

8. The territorial jurisdiction conundrum, which, candidly is currently in the cauldron owing to varying if not conflicting ratios, has been cogitated upon very recently by a two-Judge Bench in Criminal Appeal No.808 of 2013 titled **Nishant** Aggarwal v. Kailash Kumar Sharma decided on 1.7.2013 and again by the same Bench in Criminal Appeal No.1457 of 2013 titled **Escorts Limited** v. Rama Mukherjee decided on 17.09.2013. **Bhaskaran** was followed and **Ishar Alloy** and **Harman** were explained. In **Nishant** the Appellant issued a post-dated cheque drawn on Standard Chartered Bank, Guwahati in favour of complainant-respondent. It appears that the Appellant had endeavoured

to create a case or rather a defence by reporting to his bank in Guwahati as well as to the local police station that 'one cheque (corresponding to the cheque in question) was missing and hence payment should be stopped.' The Respondent-drawer was a resident of District Bhiwani, Haryana, he presented the cheque for encashment at Canara Bank, Bhiwani but it was returned unpaid. The holder then issued a legal notice which failed to elicit the demanded sum of money corresponding to the cheque value, and thereupon followed it by the filing of a criminal complaint under Sections 138 and 141 of the NI Act at Bhiwani. The Judicial Magistrate, Bhiwani, vide order dated 5.3.2011, concluded that the court in Bhiwani did not possess territorial jurisdiction and he accordingly returned the complaint for presentation before the proper Court. The five concomitants of Section 138 extracted in **Bhaskaran**, were reiterated and various paragraphs from it were reproduced by this Court. **Nishant** also did not follow **Ishar Alloy** which, as already analysed, has concluded that the

37

second **Bhaskaran** concomitant, namely, presentation of cheque to the bank refers to the drawee bank and not the holder's bank, is not primarily relevant for the determination of territorial jurisdiction. **Nishant** distinguished **Ishar Alloy** on the predication that the question of territorial jurisdiction had not been raised in that case. It is axiomatic that when a Court interprets any statutory provision, its opinion must apply to and be determinative in all factual and legal permutations and situations. We think that the dictum in **Ishar Alloy** is very relevant and conclusive to the discussion in hand. It also justifies emphasis that **Ishar Alloy** is the only case before us which was decided by a three-Judge Bench and, therefore, was binding on all smaller Benches. We ingeminate that it is the drawee Bank and not the Complainant's Bank which is postulated in the so-called second constituent of Section 138 of the NI Act, and it is this postulate that spurs us towards the conclusion that we have arrived at in the present Appeals. There is also a discussion of **Harman** to reiterate that the offence under Section 138 is

complete only when the five factors are present. It is our considered view, which we shall expound upon, that the offence in the contemplation of Section 138 of the NI Act is the dishonour of the cheque alone, and it is the concatenation of the five concomitants of that Section that enable the prosecution of the offence in contradistinction to the completion/commission of the offence.

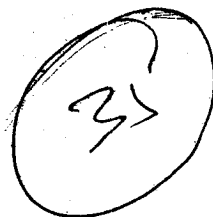
9. We have also painstakingly perused Escorts Limited which was also decided by the **Nishant** two-Judge Bench. Previous decisions were considered, eventually leading to the conclusion that since the concerned cheque had been presented for encashment at New Delhi, its Metropolitan Magistrate possessed territorial jurisdiction to entertain and decide the subject Complaint under Section 138 of the NI Act. Importantly, in a subsequent order, in *FIL Industries Ltd. v. Imtiyaz Ahmed Bhat* passed on 12th August 2013, it was decided that the place from where the statutory notice had emanated would not of its own have the consequence of vesting jurisdiction upon that place.

Accordingly, it bears repetition that the ratio in **Bhaskaran** has been drastically diluted in that the situs of the notice, one of the so-called five ingredients of Section 138, has now been held not to clothe that Court with territorial competency. The conflicting or incongruent opinions need to be resolved.

JUDICIAL APPROACH ON JURISDICTION

10. We shall take a short digression in terms of brief discussion of the approach preferred by this Court in the context of Section 20 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), which inter alia, enjoins that a suit must be instituted in a court within the local limits of whose jurisdiction the Defendant actually and voluntarily resides, or carries on business, or personally works for gain, or where the cause of action wholly or in part arises. The Explanation to that Section is important; it prescribes that a corporation shall be deemed to carry on business at its sole or principal office, or, in respect of any cause of action

arising at any place where it has also a subordinate office, at such place. Since this provision primarily keeps the Defendant in perspective, the corporation spoken of in the Explanation, obviously refers to the Defendant. A plain reading of Section 20 of the CPC arguably allows the Plaintiff a multitude of choices in regard to where it may institute its suit or action. Corporations and partnership firms, and even sole proprietorship concerns, could well be transacting business simultaneously in several cities. If sub-sections (a) and (b) of Section 20 are to be interpreted disjunctively from sub-section (c), as the use of the word 'or' appears to permit the Plaintiff to file the suit at any of the places where the cause of action may have arisen regardless of whether the Defendant has even a subordinate office at that place. However, if the Defendants' location is to form the fulcrum of jurisdiction, and it has an office also at the place where the cause of action has occurred, it has been held that the Plaintiff is precluded from instituting the suit anywhere else. Obviously, this is also because every other place would



constitute a *forum non conveniens*. This Court has harmonised the various hues of the conundrum of the place of suing in several cases and has gone to the extent of laying down that it should be courts endeavour to locate the place where the cause of action has substantially arisen and reject others where it may have incidentally arisen. *Patel Roadways Limited, Bombay v. Prasad Trading Company*, AIR 1992 SC 1514 = (1991) 4 SCC 270 prescribes that if the Defendant-corporation has a subordinate office in the place where the cause of action arises, litigation must be instituted at that place alone, regardless of the amplitude of options postulated in Section 20 of the CPC. We need not dilate on this point beyond making a reference to *ONGC v. Utpal Kumar Basu* (1994) 4 SCC 711 and *South East Asia Shipping Co. Ltd. v. Nav Bharat Enterprises Pvt. Ltd.* (1996) 3 SCC 443.

11. We are alive to the possible incongruities that are fraught in extrapolating decisions relating to civil law onto criminal law, which includes importing the civil law concept of "cause of action" to criminal law which essentially

envisages the place where a crime has been committed empowers the Court at that place with jurisdiction. In *Navinchandra N. Majithia v. State of Maharashtra* (2000) 7 SCC 640 this Court had to consider the powers of High Courts under Article 226(2) of the Constitution of India. Noting the presence of the phrase "cause of action" therein it was clarified that since some events central to the investigation of the alleged crime asseverated in the Complaint had taken place in Mumbai and especially because the fundamental grievance was the falsity of the Complaint filed in Shillong, the writ jurisdiction of the Bombay High Court was unquestionably available. The infusion of the concept of 'cause of action' into the criminal dispensation has led to subsequent confusion countenanced in High Courts. It seems to us that ***Bhaskaran*** allows multiple venues to the Complainant which runs counter to this Court's preference for simplifying the law. Courts are enjoined to interpret the law so as to eradicate ambiguity or nebulousness, and to ensure that legal proceedings are not

used as a device for harassment, even of an apparent transgressor of the law. Law's endeavour is to bring the culprit to book and to provide succour for the aggrieved party but not to harass the former through vexatious proceedings. Therefore, precision and exactitude are necessary especially where the location of a litigation is concerned.

RELEVANT PROVISIONS

12. The provisions which will have to be examined and analysed are reproduced for facility of reference :

Negotiable Instruments Act, 1881

"138. Dishonour of cheque for insufficiency, etc., of funds in the account.-Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without preju-

dice to any other provisions of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless-

- (a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier.
- (b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and
- (c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation. For the purposes of this section, "debt or other liability" means a legally enforceable debt or other liability.

142. Cognizance of offences.-Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)-

33

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138;

SUPRA

Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period.

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under section 138."

Code of Criminal Procedure, 1973

"177. Ordinary place of inquiry and trial.- Every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed.

178. Place of inquiry or trial.- (a) When it is uncertain in which of several local areas an offence was committed, or

(b) where an offence is committed partly in one local area and partly in another, or

(c) where an offence is a continuing one, and continues to be committed in more local areas than one, or

(d) where it consists of several acts done in different local areas,

it may be inquired into or tried by a Court having jurisdiction over any of such local areas.

179. Offence triable where act is done or consequence ensues.-

When an act is an offence by reason of anything which has been done and of a consequence which has ensued, the offence may be inquired into or tried by a Court within whose local jurisdiction such thing has been done or such consequence has ensued."

PARLIAMENTARY DEBATES

13. The XVIIth fasciculus of the Negotiable Instruments Act containing Sections 138 to 142 was introduced into the statute in 1988. The avowed intent of the amendment was to enhance the acceptability of cheques. It was based on the Report of the Committee on Banking Laws by Dr. Rajamannar, submitted in 1975, which suggested, *inter alia*, penalizing the issuance of cheque without sufficient funds. The Minister of Finance had assuaged apprehensions by

39

arguing that safeguards for honest persons had been incorporated in the provisions, viz., (i) the cheque should have been issued in discharge of liability; (ii) the cheque should be presented within its validity period; (iii) a Notice had to be sent by the Payee demanding payment within 15 days of receiving notice of dishonour; (iv) the drawer was allowed to make payment within 15 days from the date of receipt of notice; (v) Complaint was to be made within one month of the cause of action arising; (vi) no Court inferior to that of MM or JMFC was to try the offence. The Finance Minister had also stated that the Court had discretion whether the Drawer would be imprisoned or/and fined. Detractors, however, pointed out that the IPC already envisioned criminal liability for cheque-bouncing where dishonest or fraudulent intention or *mens rea* on part of the Drawer was evident, namely, cheating, fraud, criminal breach of trust etc. Therefore, there was no justification to make the dishonour of cheques a criminal offence, ignoring factors like illiteracy, indispensable necessities,

honest/innocent mistake, bank frauds, *bona fide* belief, and/or unexpected attachment or freezing of account in any judicial proceedings as it would bring even honest persons within the ambit of Section 138 NI Act. The possibility of abusing the provision as a tool of harassment could also not be ruled out. Critics also decried the punishment for being harsh; that civil liability can never be converted into criminal liability; that singling out cheques out of all other negotiable instruments would be violative of Article 14 of Constitution of India. Critics contended that there was insufficient empirical enquiry into statutes or legislation in foreign jurisdictions criminalizing the dishonour of cheques and statistics had not been made available bearing out that criminalization would increase the acceptability of cheque. The Minister of Finance was not entirely forthright when he stated in Parliament that the drawer was also allowed sufficient opportunity to say whether the dishonour was by mistake. It must be borne in mind that in the U.K. deception and dishonesty are key elements which require to be proved.

(31)

In the USA, some States have their own laws, requiring fraudulent intent or knowledge of insufficient funds to be made good. France has criminalized and subsequently decriminalized the dishonour except in limited circumstances. Instead, it provides for disqualification from issuing cheques, a practice which had been adopted in Italy and Spain also. We have undertaken this succinct study mindful of the fact that Parliamentary debates have a limited part to play in interpretation of statutes, the presumption being that Legislators have the experience, expertise and language skills to draft laws which unambiguously convey their intentions and expectations for the enactments. What is palpably clear is that Parliament was aware that they were converting civil liability into criminal content inter alia by the deeming fiction of culpability in terms of the pandect comprising Section 138 and the succeeding Sections, which severely curtail defences to prosecution. Parliament was also aware that the offence of cheating etc., already envisaged in the IPC, continued to be available.

CIVIL LAW CONCEPTS NOT STRICTLY APPLICABLE

14. We have already cautioned against the extrapolation of civil law concepts such as "cause of action" onto criminal law. Section 177 of the CrPC unambiguously states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. "Offence", by virtue of the definition ascribed to the word by Section 2(n) of the CrPC means any act or omission made punishable by any law. Halsbury states that the venue for the trial of a crime is confined to the place of its occurrence. Blackstone opines that crime is local and jurisdiction over it vests in the Court and Country where the crime is committed. This is obviously the *raison d'être* for the CrPC making a departure from the CPC in not making the "cause of action" routinely relevant for the determination of territoriality of criminal courts. The word "action" has traditionally been understood to be synonymous to "suit", or as ordinary proceedings in a Court of justice for enforcement

or protection of the rights of the initiator of the proceedings.

"Action, generally means a litigation in a civil Court for the recovery of individual right or redress of individual wrong, inclusive, in its proper legal sense, of suits by the Crown" - [Bradlaugh v. Clarke 8 Appeal Cases 354 p.361]. Unlike civil actions, where the Plaintiff has the burden of filing and proving its case, the responsibility of investigating a crime, marshalling evidence and witnesses, rests with the State. Therefore, while the convenience of the Defendant in a civil action may be relevant, the convenience of the so called complainant/victim has little or no role to play in criminal prosecution. Keeping in perspective the presence of the word "ordinarily" in Section 177 of CrPC, we hasten to adumbrate that the exceptions to it are contained in the CrPC itself, that is, in the contents of the succeeding Section 178. The CrPC also contains an explication of "complaint" as any allegation to a Magistrate with a view to his taking action in respect of the commission of an offence; not being a police report. Prosecution ensues from a Complaint or

police report for the purpose of determining the culpability of a person accused of the commission of a crime; and unlike a civil action or suit is carried out (or 'prosecuted') by the State or its nominated agency. The principal definition of "prosecution" imparted by Black's Law Dictionary 5th Edition is "a criminal action; the proceeding instituted and carried on by due process of law, before a competent Tribunal, for the purpose of determining the guilt or innocence of a person charged with crime." These reflections are necessary because Section 142(b) of the NI Act contains the words, "the cause of action arises under the proviso to Section 138", resulting arguably, but in our opinion irrelevantly, to the blind borrowing of essentially civil law attributes onto criminal proceedings. We reiterate that Section 178 admits of no debate that in criminal prosecution, the concept of "cause of action", being the bundle of facts required to be proved in a suit and accordingly also being relevant for the place of suing, is not pertinent or germane for determining territorial jurisdiction of criminal Trials. Section 178, CrPC

2A

explicitly states that every offence shall ordinarily be inquired into and tried by a Court within whose local jurisdiction it was committed. Section 179 is of similar tenor. We are also unable to locate any provision of the NI Act which indicates or enumerates the extraordinary circumstances which would justify a departure from the stipulation that the place where the offence is committed is where the prosecution has to be conducted. In fact, since cognizance of the offence is subject to the five **Bhaskaran** components or concomitants, the concatenation of which ripens the already committed offence under Section 138 NI Act into a prosecutable offence, the employment of the phrase "cause of action" in Section 142 of the NI Act is apposite for taking cognizance, but inappropriate and irrelevant for determining commission of the subject offence. There are myriad examples of the commission of a crime the prosecution of which is dependent on extraneous contingencies such as obtainment of sanction for prosecution under Section 19 of the Prevention of Corruption

Act 1988. Similar situation is statutorily created by Section 19 of the Environmental Protection Act 1986, Section 11 of the Central Sales Tax Act 1956, Section 279 of the Income Tax Act, Sections 132 and 308, CrPC, Section 137 of the Customs Act etc. It would be idle to contend that the offence comes into existence only on the grant of permission for prosecution, or that this permission constitutes an integral part of the offence itself. It would also be futile to argue that the place where the permission is granted would provide the venue for the trial. If sanction is not granted the offence does not vanish. Equally, if sanction is granted from a place other than where the crime is committed, it is the latter which will remain the place for its prosecution.

JUDGMENT

SECTION 138 NI ACT

15. The marginal note of Section 138 of the NI Act explicitly defines the offence as being the dishonour of cheques for insufficiency, etc., of funds in the account. Of course, the headings, captions or opening words of a piece

28

of legislation are normally not strictly or comprehensively determinative of the sweep of the actual Section itself, but it does presage its intendment. See: *Frick India Ltd. v. Union of India* (1990) 1 SCC 400 and *Forage & Co. v. Municipal Corporation of Greater Bombay* (1999) 8 SCC 577. Accordingly, unless the provisions of the Section clearly point to the contrary, the offence is concerned with the dishonour of a cheque; and in the conundrum before us the body of this provision speaks in the same timbre since it refers to a cheque being "returned by the bank unpaid". None of the provisions of the IPC have been rendered nugatory by Section 138 of the NI Act and both operate on their own. It is trite that *mens rea* is the quintessential of every crime. The objective of Parliament was to strengthen the use of cheques, distinct from other negotiable instruments, as mercantile tender and therefore it became essential for the Section 138 NI Act offence to be freed from the requirement of proving *mens rea*. This has been achieved by deeming the commission of an offence *de hors mens rea* not only

under Section 138 but also by virtue of the succeeding two Sections. Section 139 carves out the presumption that the holder of a cheque has received it for the discharge of any liability. Section 140 clarifies that it will not be available as a defence to the drawer that he had no reason to believe, when he issued the cheque, that it would be dishonoured. Section 138 unequivocally states that the offence is committed no sooner the drawee bank returns the cheque unpaid.

16. Section 138 NI Act is structured in two parts - the primary and the provisory. It must be kept in mind that the Legislature does not ordain with one hand and immediately negate it with the other. The proviso often carves out a minor detraction or diminution of the main provision of which it is an appendix or addendum or auxiliary. Black Law Dictionary states in the context of a proviso that it is - "a limitation or exception to a grant made or authority conferred, the effect of which is to declare that the one shall not operate, or the other be exercised, unless in the case

27

provided. A clause or part of a clause in a statute, the office of which is either to except something from the enacting clause, or to qualify or restrain its generality, or to exclude some possible ground of misinterpretation of its extent." It should also be kept in perspective that a proviso or a condition are synonymous. In our perception in the case in hand the contents of the proviso place conditions on the operation of the main provision, while it does form a constituent of the crime itself, it modulates or regulates the crime in circumstances where, unless its provisions are complied with, the already committed crime remains impervious to prosecution. The proviso to Section 138 of the NI Act features three factors which are additionally required for prosecution to be successful. In this aspect Section 142 correctly employs the term "cause of action" as compliance with the three factors contained in the proviso are essential for the cognizance of the offence, even though they are not part of the action constituting the crime. To this extent we respectfully concur with **Bhaskaran** in that the

concatenation of all these concomitants, constituents or ingredients of Section 138 NI Act, is essential for the successful initiation or launch of the prosecution. We, however, are of the view that so far as the offence itself the proviso has no role to play. Accordingly a reading of Section 138 NI Act in conjunction with Section 177, CrPC leaves no manner of doubt that the return of the cheque by the drawee bank alone constitutes the commission of the offence and indicates the place where the offence is committed.

17. In this analysis we hold that the place, situs or venue of judicial inquiry and trial of the offence must logically be restricted to where the drawee bank, is located. The law should not be warped for commercial exigencies. As it is Section 138 of the NI Act has introduced a deeming fiction of culpability, even though, Section 420 is still available in case the payee finds it advantageous or convenient to proceed under that provision. An interpretation should not be imparted to Section 138 which

(96)

will render it as a device of harassment i.e. by sending notices from a place which has no casual connection with the transaction itself, and/or by presenting the cheque(s) at any of the banks where the payee may have an account. In our discernment, it is also now manifest that traders and businessmen have become reckless and incautious in extending credit where they would heretofore have been extremely hesitant, solely because of the availability of redress by way of criminal proceedings. It is always open to the creditor to insist that the cheques in question be made payable at a place of the creditor's convenience. Today's reality is that the every Magistracy is inundated with prosecutions under Section 138 NI Act, so much so that the burden is becoming unbearable and detrimental to the disposal of other equally pressing litigation. We think that Courts are not required to twist the law to give relief to incautious or impetuous persons; beyond Section 138 of the NI Act.

18. We feel compelled to reiterate our empathy with a

payee who has been duped or deluded by a swindler into accepting a cheque as consideration for delivery of any of his property; or because of the receipt of a cheque has induced the payee to omit to do anything resulting in some damage to the payee. The relief introduced by Section 138 of the NI Act is in addition to the contemplations in the IPC. It is still open to such a payee recipient of a dishonoured cheque to lodge a First Information Report with the Police or file a Complaint directly before the concerned Magistrate. If the payee succeeds in establishing that the inducement for accepting a cheque which subsequently bounced had occurred where he resides or ordinarily transacts business, he will not have to suffer the travails of journeying to the place where the cheque has been dishonoured. All remedies under the IPC and CrPC are available to such a payee if he chooses to pursue this course of action, rather than a Complaint under Section 138 of the NI Act. And of course, he can always file a suit for recovery wherever the cause of action arises dependent on his choosing.

27

19. The interpretation of Section 138 of the NI Act which commends itself to us is that the offence contemplated therein stands committed on the dishonour of the cheque, and accordingly the JMFC at the place where this occurs is ordinarily where the Complaint must be filed, entertained and tried. The cognizance of the crime by the JMFC at that place however can be taken only when the concomitants or constituents contemplated by the Section concatenate with each other. We clarify that the place of the issuance or delivery of the statutory notice or where the Complainant chooses to present the cheque for encashment by his bank are not relevant for purposes of territorial jurisdiction of the Complaints even though non-compliance thereof will inexorably lead to the dismissal of the complaint. It cannot be contested that considerable confusion prevails on the interpretation of Section 138 in particular and Chapter XVII in general of the NI Act. The vindication of this view is duly manifested by the decisions and conclusion arrived at by the High Courts even in the few cases that we

shall decide by this Judgment. We clarify that the Complainant is statutorily bound to comply with Section 177 etc. of the CrPC and therefore the place or situs where the Section 138 Complaint is to be filed is not of his choosing. The territorial jurisdiction is restricted to the Court within whose local jurisdiction the offence was committed, which in the present context is where the cheque is dishonoured by the bank on which it is drawn.

20. We are quite alive to the magnitude of the impact that the present decision shall have to possibly lakhs of cases pending in various Courts spanning across the country. One approach could be to declare that this judgment will have only prospective pertinence, i.e. applicability to Complaints that may be filed after this pronouncement. However, keeping in perspective the hardship that this will continue to bear on alleged accused/respondents who may have to travel long distances in conducting their defence, and also mindful of the legal implications of proceedings being permitted to continue in a Court devoid of jurisdiction, this recourse in entirety does

24

not commend itself to us. Consequent on considerable consideration we think it expedient to direct that only those cases where, post the summoning and appearance of the alleged Accused, the recording of evidence has commenced as envisaged in Section 145(2) of the Negotiable Instruments Act, 1881, will proceeding continue at that place. To clarify, regardless of whether evidence has been led before the Magistrate at the pre-summoning stage, either by affidavit or by oral statement, the Complaint will be maintainable only at the place where the cheque stands dishonoured. To obviate and eradicate any legal complications, the category of Complaint cases where proceedings have gone to the stage of Section 145(2) or beyond shall be deemed to have been transferred by us from the Court ordinarily possessing territorial jurisdiction, as now clarified, to the Court where it is presently pending. All other Complaints (obviously including those where the accused/respondent has not been properly served) shall be returned to the Complainant for filing in the proper Court, in consonance with our exposition of the law. If

such Complaints are filed/refiled within thirty days of their return, they shall be deemed to have been filed within the time prescribed by law, unless the initial or prior filing was itself time barred.

DISPOSAL OF PRESENT APPEALS

Crl. Appeal No.2287 of 2009

21. A learned Single Judge of the High Court of Judicature at Bombay, Nagpur Bench has pursuant to a threadbare discussion of **Bhaskaran** concluded that since the concerned cheque was drawn on the Bank of India, Bhandara Branch, Maharashtra where it was dishonoured, the Judicial Magistrate First Class, Digras, District Yavatmal had no jurisdiction to entertain the Complaint. It is pertinent to note that the subject cheque was presented at Digras, District Yavatmal where the Complainant had a bank account although he was a resident of District Washim, Maharashtra. The learned Single Judge, in the impugned judgment, had rightly rejected the argument that the Complaint itself

23

should be dismissed; instead he ordered that it be returned to the complainant for filing in the appropriate Court.

The Appeal is accordingly dismissed.

Crl. Appeal No. 1593 of 2014
[Arising out of S.L.P.(Crl.)No.2077 of 2009]

22. In this Appeal the Respondent-accused, having purchased electronic items from the Appellant-company, issued the cheque in question drawn on UCO Bank, Tangi, Orissa which was presented by the Complainant-company at State Bank of India, Ahmednagar Branch, Maharashtra as its branch office was located at Ahmednagar. The cheque was dishonoured by UCO Bank, Tangi, Orissa. A Complaint was filed before JMFC, Ahmednagar. An application was filed by the Respondent-accused under Section 177 CrPC questioning the jurisdiction of the JMFC Ahmednagar, who held that since the demand notice was issued from and the payment was claimed at Ahmednagar, he possessed jurisdiction to try the Complaint. The High Court disagreed with the conclusion of the JMFC, Ahmednagar that the receipt of notice and non-payment of the demanded amount are factors which will

have prominence over the place wherefrom the notice of demand was issued and held that JMFC, Ahmednagar did not have the territorial jurisdiction to entertain the Complaint. In view of the foregoing discussion on the issue above, the place where the concerned cheque had been dishonoured, which in the case in hand was Tangi, Orissa, the Appeal is allowed with the direction that the Complaint be returned to the Complainant for further action in accordance with law.

Crl. Appeal Nos. 1594, 1595 & 1601 to 1603 of 2014
 [Arising out of S.L.P.(Crl.)Nos 2112 of 2009 and 2117 of 2009;
 3762 of 2012; 3943 of 2012; 3944 of 2012]

23. The facts being identical to Criminal Appeal arising out of S.L.P.(Crl.)No.2077 of 2009, these Appeals stand dismissed.

Crl. Appeal Nos.1596-1600 of 2014
 [Arising out of S.L.P.(Crl.)Nos.1308-1312 of 2009]

24. The Appellant-complainant herein has its Registered Office in Delhi from where the Respondents-accused are also

(22)

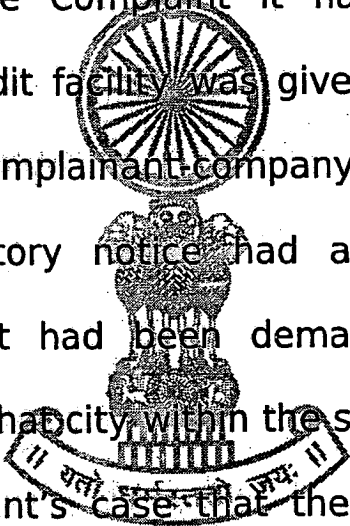
carrying on their business. The cheques in question were issued by the Respondent No.2-accused drawn on Indian Overseas Bank, Connaught Place, New Delhi. However, the same were presented and dishonoured at Nagpur, Maharashtra where the Complainant states it also has an office. There is no clarification why the cheques had not been presented in Delhi where the Complainant had its Registered Office, a choice which we think is capricious and perfidious, intended to cause harassment. Upon cheques having been dishonoured by the concerned bank at Delhi, five Complaints were filed before Judicial Magistrate First Class, Nagpur who heard the complaints, and also recorded the evidence led by both the parties. However, the JMFC, Nagpur acquitted the Respondent No.2-accused on the ground of not having territorial jurisdiction. On appeals being filed before the High Court of Bombay, the judgment of the JMFC, Nagpur was partly set aside so far as the acquittal of the Respondent No.2-accused was concerned and it was ordered that the Complaints be returned for filing

before the proper Court. In view of the conclusion arrived at by us above, these Appeals are also dismissed.

Crl. Appeal No. 1604 of 2014
[Arising out of S.L.P.(Crl.)No.59 of 2013]

25. The cheque in question was drawn by the Respondent-accused on State Bank of Travancore, Delhi. However, it was presented by the Appellant-complainant at Aurangabad. A Complaint was filed before JMFC, Aurangabad who issued process. Respondent-accused filed an application under Section 203 of CrPC seeking dismissal of the Complaint. The application was dismissed on the predication that once process had been initiated, the Complaint could not be dismissed. On a writ petition being filed before the High Court of Bombay, Aurangabad Bench, the order of issuance of process was set aside and the Complaint was ordered to be returned for being presented before a competent court having jurisdiction to entertain the same. The High Court had correctly noted that the objection pertained to the territorial jurisdiction of the JMFC, Aurangabad, a feature

which had not been comprehensively grasped by the latter. The High Court noted that the Registered Office of the Complainant was at Chitegaon, Tehsil Paithan, District Aurangabad whereas the Accused was transacting business from Delhi. The High Court pithily underscored that in paragraph 4 of the Complaint it had been specifically contended that credit facility was given to the Accused in Delhi where the Complainant company also had its branch office. The statutory notice had also emanated from Aurangabad, and it had been demanded that payment should be made in that city within the specified time. It was also the Complainant's case that the Invoice, in case of disputes, restricted jurisdiction to Aurangabad courts; that intimation of the bouncing of the cheques was received at Aurangabad. It is however necessary to underscore that the Accused had clarified that the subject transaction took place at Delhi where the goods were supplied and the offending cheque was handed over to the Complainant. It appears that a Civil Suit in respect of the recovery of the cheque



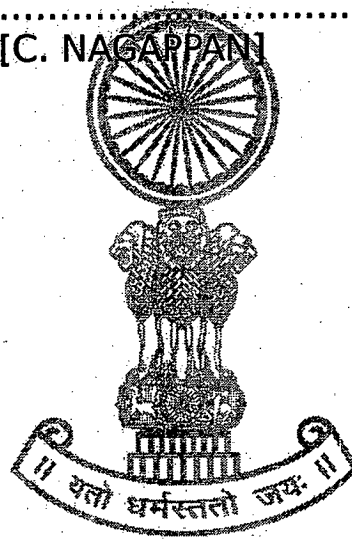
JUDGMENT

amount has already been filed in Delhi. We may immediately reiterate that the principles pertaining to the cause of action as perceived in civil law are not relevant in criminal prosecution. Whilst the clause restricting jurisdiction to courts at Aurangabad may have efficacy for civil proceedings, provided any part of the cause of action had arisen in Aurangabad, it has no bearing on the situs in criminal prosecutions. Since a Civil Suit is pending, we hasten to clarify that we are not expressing any opinion on the question of whether the courts at Delhi enjoy jurisdiction to try the Suit for recovery. In the impugned judgment, the High Court duly noted **Bhaskaran** and **Harman**. However, it committed an error in analyzing the cause of action as well as the covenant restricting jurisdiction to Aurangabad as these are relevant only for civil disputes. However, the impugned judgment is beyond interference inasmuch as it concludes that the JMFC, Aurangabad has no jurisdiction over the offence described in the Complaint. The Appeal is accordingly dismissed.

20

.....J.
[T.S. THAKUR].....J.
[VIKRAMAJIT SEN].....J.
[C. NAGAPPAN]

New Delhi
August 1, 2014.



JUDGMENT

REPORTABLE

IN THE SUPREME COURT OF INDIA
 CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 2287 OF 2009

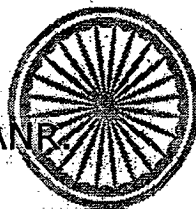
DASHRATH RUPSINGH RATHOD

...Appellant

Versus

STATE OF MAHARASHTRA & ANR.

...Respondents



WITH

CRIMINAL APPEAL NO. 1593 OF 2014
 (Arising out of S.L.P. (Crl.) No. 2077 of 2009)
CRIMINAL APPEAL NO. 1594 OF 2014
 (Arising out of S.L.P. (Crl.) No. 2112 of 2009)
CRIMINAL APPEAL NO. 1595 OF 2014
 (Arising out of S.L.P. (Crl.) No. 2117 of 2009)
CRIMINAL APPEAL NO. 1596-1600 OF 2014
 (Arising out of S.L.P. (Crl.) Nos. 1308-1312 of 2009)
CRIMINAL APPEAL NO. 1601 OF 2014
 (Arising out of S.L.P. (Crl.) No. 3762 of 2012)
CRIMINAL APPEAL NO. 1602 OF 2014
 (Arising out of S.L.P. (Crl.) No. 3943 of 2012)
CRIMINAL APPEAL NO. 1603 OF 2014
 (Arising out of S.L.P. (Crl.) No. 3944 of 2012)
 . AND .
CRIMINAL APPEAL NO. 1604 OF 2014
 (Arising out of S.L.P. (Crl.) No. 59 of 2013)

J U D G M E N TT.S. Thakur, J.

1. I have had the advantage of going through the draft order proposed by my esteemed brother Vikramajit Sen, J. I entirely agree with the conclusions which my erudite brother has drawn based on a remarkably articulate process of reasoning that illumines the draft judgment authored by him. I would all the same like to add a few lines of my own not because the order as proposed leaves any rough edges to be ironed out but only because the question of law that arises for determination is not only substantial but of considerable interest and importance for the commercial world. The fact that the view being taken by us strikes a discordant note on certain aspects which have for long been considered settled by earlier decisions of this Court being only an additional reason for the modest addition that I propose to make. Of these decisions **Bhaskaran's** case stands out as the earliest in which this Court examined the vexed question of

territorial jurisdiction of the Courts to try offences punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter called "NI Act"). *Bhaskaran's* case was heard by a two-judge Bench of this Court who took the view that the jurisdiction to try an offence under Section 138 could not be determined only by reference to the place where the cheque was dishonoured. That is because dishonour of the cheque was not by itself an offence under Section 138 of The Negotiable Instruments Act, 1881, observed the Court. The offence is complete only when the drawer fails to pay the cheque amount within the period of fifteen days stipulated under clause (e) of the proviso to Section 138 of the Act. Having said that the Court recognised the difficulty in fixing a place where such failure could be said to have taken place. It could, said the Court, be the place where the drawer resides or the place where the payee resides or the place where either of them carries on business. To resolve this uncertainty the Court turned to Sections 178 and 179 of the Cr.P.C. to hold that since an offence under Section 138 can be completed only with the

18

concatenation of five acts that constituted the components of the offence any Court within whose jurisdiction any one of those acts was committed would have the jurisdiction to try the offence. The Court held:

"The offence under Section 138 of the Act can be completed only with the concatenation of a number of acts. The following are the acts which are components of the said offence: (1) drawing of the cheque, (2) presentation of the cheque to the bank, (3) returning the cheque unpaid by the drawee bank, (4) giving notice in writing to the drawer of the cheque demanding payment of the cheque amount, (5) failure of the drawer to make payment within 15 days of the receipt of the notice.

It is not necessary that all the above five acts should have been perpetrated at the same locality. It is possible that each of those five acts could be done at five different localities. But a concatenation of all the above five is a sine qua non for the completion of the offence under Section 138 of the Code. In this context reference to Section 178(d) of the Code is useful. It is extracted below:

"178. (a)-(c) JUD*GMENT

(d) where the offence consists of several acts done in different local areas, it may be enquired into or tried by a court having jurisdiction over any of such local areas."

Thus it is clear, if the five different acts were done in five different localities any one of the courts exercising jurisdiction in one of the five local areas can become the place of trial for the offence under Section 138 of the Act. In other words, the complainant can choose any one of those courts having jurisdiction over any one of the local areas within the territorial limits of which any one of those five acts was

done. As the amplitude stands so widened and so expansive it is an idle exercise to raise jurisdictional question regarding the offence under Section 138 of the Act."

2. **Bhaskaran** held the field for two years. The first blow to the view taken by this Court in **Bhaskaran's** case was dealt by a three-Judge Bench decision in **Shri Ishar Alloy Steels Ltd. v. Jayaswals Neco Ltd. (2001) 3 SCC 609**. The question that arose in that case was whether the limitation of six months for presentation of a cheque for encashment was applicable *viz-a-viz* presentation to the bank of the payee or that of the drawer. High Courts in this country had expressed conflicting opinions on the subject. This Court resolved the cleavage in those pronouncements by holding that the cheque ought to be presented to the drawee bank for its dishonour to provide a basis for prosecution under Section 138. The Court observed:

"The use of the words "a bank" and "the bank" in the section are an indicator of the intention of the legislature. "The bank" referred to in proviso (a) to the proviso to Section 138 of the Act would mean the drawee bank on which the cheque is drawn and not all banks where the cheque is presented for collection including the bank of the payee, in whose favour the cheque is issued.

17

It, however, does not mean that the cheque is always to be presented to the drawer's bank on which the cheque is issued. However, a combined reading of Sections 3, 72 and 138 of the Act would clearly show that the law mandates the cheque to be presented at the bank on which it is drawn if the drawer is to be held criminally liable. Such presentation is necessarily to be made within six months at the bank on which the cheque is drawn, whether presented personally or through another bank, namely, the collecting bank of the payee."

3. **Ishar Alloy's** case (supra) did not deal with the question of jurisdiction of the Courts nor was **Bhaskaran** noticed by the Court while holding that the presentation of the cheque ought to be within six months to the drawee bank. But that does not, in our view, materially affect the logic underlying the pronouncement, which pronouncement coming as it is from a bench of coordinate jurisdiction binds us. When logically extended to the question of jurisdiction of the Court to take cognizance, we find it difficult to appreciate how a payee of the cheque can by presentation of the cheque to his own bank confer jurisdiction upon the Court where such bank is situate. If presentation referred to in Section 138 means presentation to the "drawee bank", there is no gainsaying that dishonour would be localised and confined to the place where

such bank is situated. The question is not whether or not the payee can deposit his cheque in any bank of his choice at any place. The question is whether by such deposit can the payee confer jurisdiction on a Court of his choice? Our answer is in the negative. The payee may and indeed can present the cheque to any bank for collection from the drawee bank, but such presentation will be valid only if the drawee bank receives the cheque for payment within the period of six months from the date of issue. Dishonour of the cheque would be localised at the place where the drawee bank is situated. Presentation of the cheque at any place, we have no manner of doubt, cannot confer jurisdiction upon the Court within whose territorial limits such presentation may have taken place.

JUDGMENT

4. Then came **Harman Electronics (P) Ltd. v. National Panasonic India (P) Ltd. (2009) 1 SCC 720**. That was a case where the complaint under Section 138 was filed in a Delhi Court, only because the statutory notice required to be issued under the proviso to Section 138 was issued from Delhi. If **Bhaskaran** was

16

correctly decided, **Harman** should not have interfered with the exercise of jurisdiction by the Delhi Court for issue of a notice was in terms of **Bhaskaran**, one of the factors that clothed the Court in Delhi to take cognizance and try the case. **Harman** did not do so.

In **Harman's** case this Court, emphasized three distinct aspects.

Firstly, it said that there was a world of difference between issue of a notice, on the one hand, and receipt thereof, on the other. Issue of notice did not give rise to a cause of action while receipt did, declared the Court.

5. *Secondly*, the Court held that the main provision of Section 138 stated what would constitute offence. The proviso appended thereto simply imposed certain further conditions which must be fulfilled for taking cognizance of the offence. The following passage deals with both these aspects:

"It is one thing to say that sending of a notice is one of the ingredients for maintaining the complaint but it is another thing to say that dishonour of a cheque by itself constitutes an offence. For the purpose of proving its case that the accused had committed an offence under Section 138 of the Negotiable Instruments Act, the ingredients thereof are required to be proved. What would constitute an offence is stated in the main provision. The proviso appended thereto, however, imposes certain further conditions which are re-

quired to be fulfilled before cognizance of the offence can be taken. If the ingredients for constitution of the offence laid down in provisos (a), (b) and (c) appended to Section 138 of the Negotiable Instruments Act are intended to be applied in favour of the accused, there cannot be any doubt that receipt of a notice would ultimately give rise to the cause of action for filing a complaint. As it is only on receipt of the notice that the accused at his own peril may refuse to pay the amount. Clauses (b) and (c) of the proviso to Section 138 therefore must be read together. Issuance of notice would not by itself give rise to a cause of action but communication of the notice would."

6. Thirdly, the Court held that presentation of the cheque or issue of notice was to constitute a good reason for vesting courts with jurisdiction to try offences under Section 138, it would lead to harassment of the drawer of the cheques thereby calling for the need to strike a balance between the rights of the parties to the transaction. The Court said:

"We cannot, as things stand today, be oblivious of the fact that a banking institution holding several cheques signed by the same borrower can not only present the cheque for its encashment at four different places but also may serve notices from four different places so as to enable it to file four complaint cases at four different places. This only causes grave harassment to the accused. It is, therefore, necessary in a case of this nature to strike a balance between the right of the complainant and the right of an accused vis-à-vis the provisions of the Code of Criminal Procedure."

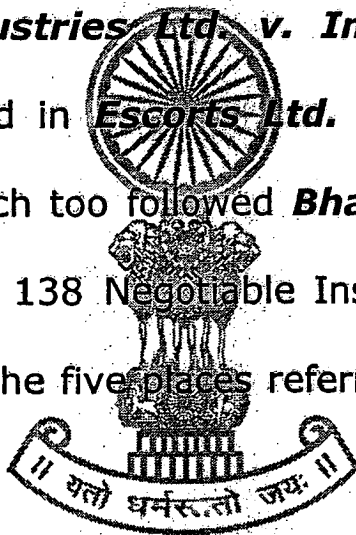
7. **Bhaskaran** was, in the wake of the above, considerably

13

diluted and the logic behind vesting of jurisdiction based on the place from where the notice was issued questioned. Even presentation of the cheque as a reason for assumption of jurisdiction to take cognizance was doubted for a unilateral act of the complainant/payee of the cheque could without any further or supporting reason confer jurisdiction on a Court within whose territorial limits nothing except the presentation of the cheque had happened.

8. Three recent decisions need be mentioned at this stage which have followed **Bhaskaran** and attempted to reconcile the ratio of that case with the subsequent decisions in **Ishar Alloy Steels** and **Harman Electronics**. In **Nishant Aggarwal v. Kailash Kumar Sharma (2013) 10 SCC 72** this Court was once again dealing with a case where the complaint had been filed in Court at Bhiwani in Haryana within whose territorial jurisdiction the complainant had presented the cheque for encashment, although the cheque was drawn on a bank at Gauhati in Assam. Relying upon the view taken in **Bhaskaran** this Court held that the Bhiwani Court had

jurisdiction to deal with the matter. While saying so, the Court tried to distinguish the three-Judge Bench decision in **Ishar Alloy Steels** (supra) and that rendered in **Harman Electronics** case (supra) to hold that the ratio of those decisions did not dilute the principle stated in **Bhaskaran** case. That exercise was repeated by this Court in **FIL Industries Ltd. v. Imtiyaz Ahmad Bhat** (2014) 2 SCC 266 and in **Escorts Ltd. v. Rama Mukherjee** (2014) 2 SCC 255 which too followed **Bhaskaran** and held that complaint under Section 138 Negotiable Instrument Act could be instituted at any one of the five places referred to in **Bhaskaran's** case.



9. We have, with utmost respect to the Judges comprising the Bench that heard the above cases, found it difficult to follow suit and subscribe to the view stated in **Bhasakaran**. The reasons are not far too seek and may be stated right away.

10. Section 138 is a penal provision that prescribes imprisonment upto two years and fine upto twice the cheque amount. It must, therefore, be interpreted strictly, for it is one of the accepted rules

of interpretation that in a penal statute, the Courts would hesitate to ascribe a meaning, broader than what the phrase would ordinarily bear. Section 138 is in two parts. The enacting part of the provision makes it abundantly clear that what constitutes an offence punishable with imprisonment and/or fine is the dishonour of a cheque for insufficiency of funds etc. in the account maintained by the drawer with a bank for discharge of a debt or other liability whether in full or part. The language used in the provision is unambiguous and the ingredients of the offence clearly discernible viz. (a) Cheque is drawn by the accused on an account maintained by him with a bank (b) The cheque amount is in discharge of a debt or liability and (c) The cheque is returned unpaid for insufficiency of funds or that the amount exceeds the arrangement made with the bank. But for the proviso that comprises the second part of the provision, any dishonour falling within the four corners of the enacting provision would be punishable without much ado. The proviso, however, draws an exception to the generality of the enacting part of the provision, by

stipulating two steps that ought to be taken by the complainant holder of the cheque before the failure of the drawer gives to the former the cause of action to file a complaint and the competent Court to take cognizance of the offence. These steps are distinct from the ingredients of the offence which the enacting provision creates and makes punishable. It follows that an offence within the contemplation of Section 138 is complete with the dishonour of the cheque but taking cognizance of the same by any Court is forbidden so long as the complainant does not have the cause of action to file a complaint in terms of clause (c) of the proviso read with Section 142 which runs as under:

"Section 142:

Cognizance of offences. —Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque;

(b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138: [Provided that the cognizance of a complaint may be taken by the Court after the prescribed period, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within such period.]

(c) no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence

13

punishable under section 138."

11. The following would constitute 'cause of action' referred to in sub clause (b) above:

- (a) The complainant has presented the cheque for payment within the period of six months from the date of the issue thereof.
- (b) The complainant has demanded the payment of the cheque amount from the drawer by issuing a written notice within thirty days of receipt of information by him from the bank regarding the dishonour.
- (c) The drawer has failed to pay the cheque amount within fifteen days of the receipt of the notice.

12. A proper understanding of the scheme underlying the provision would thus make it abundantly clear that while the offence is complete upon dishonour, prosecution for such offence is deferred till the time the cause of action for such prosecution accrues to the complainant. The proviso in that sense, simply postpones the actual prosecution of the offender till such time he

fails to pay the amount within the statutory period prescribed for such payment. There is, in our opinion, a plausible reason why this was done. The Parliament in its wisdom considered it just and proper to give to the drawer of a dishonoured cheque an opportunity to pay up the amount, before permitting his prosecution no matter the offence is complete, the moment the cheque was dishonoured. The law has to that extent granted a concession and prescribed a scheme under which dishonour need not necessarily lead to penal consequence if the drawer makes amends by making payment within the time stipulated once the dishonour is notified to him. Payment of the cheque amount within the stipulated period will in such cases diffuse the element of criminality that Section 138 attributes to dishonour by way of a legal fiction implicit in the use of the words "shall be deemed to have committed an offence". The drawer would by such payment stand absolved by the penal consequences of dishonour. This scheme may be unique to Section 138 NI Act, but there is hardly any doubt that the Parliament is competent to legislate so to

12

provide for situations where a cheque is dishonoured even without any criminal intention on the part of the drawer.

13. The scheme of Section 138 thus not only saves the honest drawer but gives a chance to even the dishonest ones to make amends and escape prosecution. Compliance with the provision is, in that view, a mandatory requirement. (See **C.C. Alavi Haji v. Palapetty Muhammed and Another (2007) 6 SCC 555**)

14. **Harman** in that view correctly held that "what would constitute an offence is stated in the main provision. The proviso appended thereto however imposes certain further conditions which are required to be fulfilled before cognizance of the offence can be taken." If the Parliament intended to make the conditions stipulated in the proviso, also as ingredients of the offence, the provision would have read differently. It would then have specifically added the words "and the drawer has despite receipt of a notice demanding the payment of the amount, failed to pay the same within a period of fifteen days from the date of such demand made in writing by a notice". That, however, is not how the enacting

JUDGMENT

provision of Section 138 reads. The legislature has, it is obvious, made a clear distinction between what would constitute an offence and what would give to the complainant the cause of action to file a complaint for the court competent to take cognizance. That a proviso is an exception to the general rule is well settled. A proviso is added to an enactment to qualify or create an exception to what is contained in the enactment. It does not by itself state a general rule. It simply qualifies the generality of the main enactment, a portion which but for the proviso would fall within the main enactment.

15. The P. Ramanatha Aiyar, Law Lexicon, 2nd Edition, Wadhwa & Co. at page 1552 defines proviso as follows:

"The word 'proviso' is used frequently to denote the clause the first words of which are 'provided that' inserted in deeds and instruments generally. And containing a condition or stipulation on the performance or non-performance of which, as the case maybe. The effect of a proceeding clause or of the deed depends.

A Clause inserted in a legal or formal document, making some condition, stipulation, exception or limitation or upon the observance of which the operation or validity of the instrument depends [S. 105, Indian Evidence Act].

A proviso is generally intended to restrain the enacting clause and to except something which would have otherwise been within it or in some measure to modify the enacting clause..."

(11)

16. To quote "*Craies on Statute Law*", 7th Edn., Sweet & Maxwell at page 220 "If the principal object of the Act can be accomplished and stand under the restriction of the saving clause or proviso, the same is not to be held void for repugnancy."

17. One of the earliest judgments on the subject is a three Judge Bench decision in ***Kedarnath Jute Manufacturing Co. v. Commercial Tax Officer, Calcutta and Ors. AIR 1966 SC 12.***

The Court was in that case examining the effect of a proviso which imposed a condition on getting exemption from tax and observed:

"... The substantive clause gives the exemption and the proviso qualifies the substantive clause. In effect the proviso says that part of the turnover of the selling dealer covered by the terms of sub-cl. (ii) will be exempted provided a declaration in the form prescribed is furnished. To put it in other words, a dealer cannot get the exemption unless he furnishes the declaration in the prescribed form. It is well settled that "the effect of an excepting or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the proviso would be within it" : see "*Craies on Statute Law*", 6th Edn., p. 217."

18. Also pertinent is a four-Judge Bench decision of this Court in ***Dwarka Prasad v. Dwarka Das Saraf (1976) 1 SCC 128*** where this Court was examining whether a cinema theatre equipped with

projectors and other fittings ready to be launched as entertainment house was covered under the definition of 'accommodation' as defined in Section 2 (1) (d) of Uttar Pradesh (Temporary) Control of Rent and Eviction Act, 1947. The proviso provided for some exception for factories and business carried in a building. It was held that sometimes draftsmen include proviso by way of over caution to remove any doubts and accommodation would include this cinema hall:

"18. A proviso must be limited to the subject-matter of the enacting clause. It is a settled rule of construction that a proviso must prima facie be read and considered in relation to the principal matter to which it is a proviso. It is not a separate or independent enactment. 'Words are dependent on the principal enacting words, to which they are tacked as a proviso. They cannot be read as divorced from their context' 1912 A.C. 544. If the rule of construction is that prima facie a proviso should be limited in its operation to the subject-matter of the enacting clause, the stand we have taken is sound. To expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso. A proviso ordinarily is but a proviso, although the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction.

The proper course is to apply the broad general rule of construction which is that a section or enactment must be construed as a whole, each portion throwing light if need be on the rest.

The true principle undoubtedly is, that the sound interpretation and meaning of the statute, on a view of the enacting clause, saving clause, and proviso, taken and construed together is to prevail. (Maxwell on Interpretation of Statutes, 10th Edn. p. 162)"

(emphasis supplied)

19. In **Sreenivasa General Traders & Ors. v. State of Andhra Pradesh & Ors. (1983) 4 SCC 353** another three- Judge bench of this Court examined the role of a proviso while interpreting Rule 74(1) of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Rules, 1969.

"The normal function of a proviso is to except something out of the main enacting part or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. Proviso to Rule 74(1) is added to qualify or create an exception."

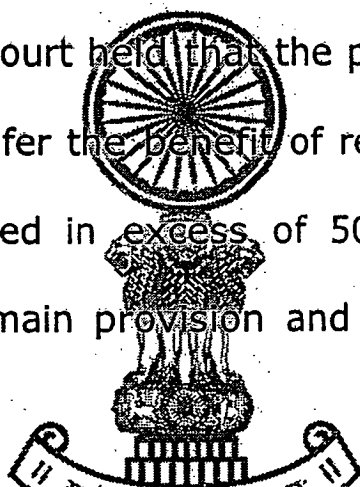
20. Reference may also be made to **Tribhovandas Haribhai Tamboli v. Gujarat Revenue Tribunal and others (1991) 3 SCC 442** wherein this Court clearly held that when the language of the main enactment is clear, the proviso can have no effect on the interpretation of the main clause.

"7. It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field, which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted by the proviso and to no other. The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is to confine to that case. Where the language of the main enactment is explicit and unambiguous, the proviso can have no repercussion on the interpretation of the main enactment, so as to exclude from it, by implication what clearly falls within its express terms. The scope of the proviso, therefore, is to carve out an exception to the main enactment and it excludes something which otherwise would have been within the rule. It has to operate in the same field and if the language of the main enactment is clear, the proviso cannot be torn apart from the main enactment nor can it be used to nullify by implication what the enactment clearly says nor set at

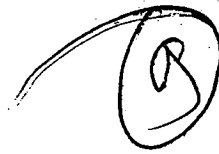
naught the real object of the main enactment, unless the words of the proviso are such that it is its necessary effect."

(emphasis supplied)

21. The same line of reasoning was followed in **A.N. Sehgal and Ors. v. Raje Ram Sheoram and Ors.** 1992 Supp (1) SCC 304 while interpreting a proviso in the Haryana Service of Engineers Rules, 1960 where the Court held that the proviso to Rule 5(2)(a) cannot be applied to confer the benefit of regular appointment on every promotee appointed in excess of 50% quota. This Court harmoniously read the main provision and the proviso and gave effect to the rule.



22. In **Kerala State Housing Board and Ors. v. Ramapriya Hotels (P) Ltd. and Ors.** 1994 (5) SCC 672 this Court was examining whether the period of 4 years envisaged in proviso to Section 16(i) under Kerala Land Acquisition Act, 1961 could be reckoned from date when agreement was executed or from date of publication of notification under Section 3(1) of the Act after the agreement was executed. After relying on **Tribhovandas Haribhai Tamboli** (supra) and **A.N. Sehgal** (supra) this Court held that



the proviso should be harmoniously read with the section. To quote **Tribhovandas** (supra) as followed in this judgment:

"In Tribhovandas Haribhai Tamboli v. Gujarat Revenue Tribunal this Court held that the proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment and its effect is to be confined to that case. Where the language of the main enactment is explicit and unambiguous, the proviso can have no repercussion on the interpretation of the main enactment, so as to exclude from it, by implication what clearly falls within its express terms. The scope of the proviso, therefore, is to carve out an exception to the main enactment and it excludes something which otherwise would have been within the rule. It has to operate in the same field and if the language of the main enactment is clear, the proviso cannot be torn apart from the main enactment nor can it be used to nullify by implication what the enactment clearly says, nor set at naught the real object of the main enactment, unless the words of the proviso are such that it is its necessary effect. In that case it was held that by reading the proviso consistent with the provisions of Section 88 of the Bombay Tenancy and Agricultural Act, the object of the main provision was sustained."

(emphasis supplied)

23. In **Kush Sahgal & Ors. v. M.C. Mitter & Ors. (2000) 4 SCC 526** a landlady made an application for eviction of the tenant on the basis that she wanted the place for business purposes which was not allowed as per the proviso to Section 21(2) U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. The Court examined the role and purport of the proviso and observed :

"This we say because the normal function of a proviso is to except something out of the enactment or to qualify something enacted therein which but for the proviso would be within the purview of the enactment. (See : Kedarnath

Jute Manufacturing Co. Ltd. v. Commercial Tax Office [1965]3SCR626). Since the natural presumption is that but for the proviso, the enacting part of the section would have included the subject-matter of the proviso, the enacting part has to be given such a construction which would make the exceptions carved out by the proviso necessary and a construction which would make the exceptions unnecessary and redundant should be avoided (See: Justice G. P. Singh's "Principles of Statutory Interpretation" Seventh Edition 1999, p-365). This principle has been deduced from the decision of the Privy Council in *Govt. of the Province of Bombay v. Hormusji Manekji* (AIR 1947 PC 200) as also the decision of this Court in *Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories* (AIR 1965 SC 980)."

24. To the same effect are the decisions of this Court in ***Ali M.K. and Ors. v. State of Kerala and Ors.* (2003) 11 SCC 632**, ***Nagar Palika*** (supra) and in ***Steel Authority of India Ltd. v. S.U.T.N.I Sangam & Ors.* (2009) 16 SCC 1**.

25. In conclusion, we may refer to Maxwell, "Interpretation of Statutes" Edn. 12, 1969, on P. 189-190 which states that it is a general finding and practice "that inconsistencies can be avoided by applying the general rule that the words of a proviso are not to be taken "absolutely in their strict literal sense" [*R v. Dimbdin* (1910)] but that a proviso is "of necessity ... limited in its operation to the ambit of the section which it qualifies" [*Lloyds and Scottish Finance Ltd v. Modern Cars and Canavans (Kingston) Ltd.*

(8)

(1966)]. And, so far as that section itself is concerned, the proviso receives a restricted construction: where the section confers powers, "it would be contrary to the ordinary operation of a proviso to give it an effect which would cut down those powers beyond what compliance with the proviso renders necessary." [Re *Tabrisky v. Board of Trade* (1947)]"

26. **Bhaskaran**, in our view, reads the proviso as prescribing the ingredients of the offence instead of treating it as an exception to the generality of the enacting part by stipulating further conditions before a competent Court may take cognizance of the same. Seen in the light of the provisions of Section 142 of the Act, the proviso simply defers prosecution of the offender till the conditions prescribed therein are satisfied. **Bhaskaran** does not view the matter in that perspective while **Harman** (supra) does. We find ourselves in respectful agreement with the view in **Harman's** case on this aspect.

27. In **Bhaskaran**, this Court resolved the confusion as to the place of commission of the offence by relying upon Sections 177 to

179 of the Cr.P.C. But the confusion arises only if one were to treat the proviso as stipulating the ingredients of the offence. Once it is held that the conditions precedent for taking cognizance are not the ingredients constituting the offence of dishonour of the cheque, there is no room for any such confusion or vagueness about the place where the offence is committed. Applying the general rule recognised under Section 177 of the Cr.P.C. that all offences are local, the place where the dishonour occurs is the place for commission of the offence vesting the Court exercising territorial jurisdiction over the area with the power to try the offences. Having said that we must hasten to add, that in cases where the offence under Section 138 is out of the offences committed in a single transaction within the meaning of Section 220 (1) of the Cr.P.C. then the offender may be charged with and tried at one trial for every such offence and any such inquiry or trial may be conducted by any Court competent to enquire into or try any of the offences as provided by Section 184 of the Code. So also, if an offence punishable under Section 138 of the Act is committed as a part of single trans-

(7)

action with the offence of cheating and dishonestly inducing delivery of property then in terms of Section 182 (1) read with Sections 184 and 220 of the Cr.P.C. such offence may be tried either at the place where the inducement took place or where the cheque forming part of the same transaction was dishonoured or at the place where the property which the person cheated was dishonestly induced to deliver or at the place where the accused received such property. These provisions make it clear that in the commercial world a party who is cheated and induced to deliver property on the basis of a cheque which is dishonoured has the remedy of instituting prosecution not only at the place where the cheque was dishonoured which at times may be a place other than the place where the inducement or cheating takes place but also at the place where the offence of cheating was committed. To that extent the provisions of Chapter XIII of the Code will bear relevance and help determine the place where the offences can be tried.

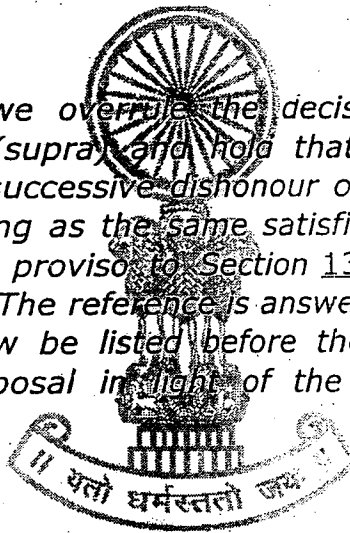
28. We may at this stage refer to two other decisions of this Court which bear some relevance to the question that falls for our

determination. In **Sadanandan Bhadran v. Madhavan Sunil Kumar** (1998) 6 SCC 514 a two-judge bench of this Court held that clause (a) of proviso to Section 138 does not disentitle the payee to successively present cheque for payment during the period of its validity. On each such presentation of the cheque and its dishonour a fresh right - and not cause of action - accrues in his favour. He may, therefore, without taking pre-emptory action in exercise of such right under clause (b) of Section 138 go on presenting the cheque so long as the cheque is valid for payment. But once he gives a notice under clause (b) of Section 138 he forfeits such right for in case of failure of the drawer to pay the money within the stipulated time he would be liable for the offence and the cause of action for prosecution will arise. The correctness of this view was questioned in **MSR Leathers v. S. Palaniappan & Anr.** (2013) 1 SCC 177 before a bench comprising of Markandey Katju and B. Sudershan Reddy, J.J. who referred the issue to a larger bench. The larger bench in **MSR Leathers's** case (supra) overruled **Sadanandan Bhadran** (supra) holding that

6

there was no reason why a fresh cause of action within the meaning of Section 142 (b) read with section 138 should not be deemed to have arisen to the complainant every time the cheque was presented but dishonoured and the drawer of cheque failed to pay the amount within the stipulated period in terms of proviso to 138. This Court said:

"In the result, we overrule the decision in Sadanandan Bhadran's case (supra) and hold that prosecution based upon second or successive dishonour of the cheque is also permissible so long as the same satisfies the requirements stipulated in the proviso to Section 138 of the Negotiable Instruments Act. The reference is answered accordingly. The appeals shall now be listed before the regular Bench for hearing and disposal in light of the observations made above."



29. What is important is that in **Sadanandan Bhadran** (supra) this Court had, on a careful analysis of Section 138, held that an offence is created when a cheque is returned by the bank unpaid for any reasons mentioned therein, although the proviso to Section 138 stipulates three conditions for the applicability of the section. It is only upon satisfaction of the three conditions that prosecution

can be launched for an offence under Section 138. This Court observed:

"On a careful analysis of the above section, it is seen that its main part creates an offence when a cheque is returned by the bank unpaid for any of the reasons mentioned therein. The significant fact, however, is that the proviso lays down three conditions precedent to the applicability of the above section and, for that matter, creation of such offence and the conditions are: (i) the cheque should have been presented to the bank within six months of its issue or within the period of its validity, whichever is earlier; (ii) the payee should have made a demand for payment by registered notice after the cheque is returned unpaid; and (iii) that the drawer should have failed to pay the amount within 15 days of the receipt of the notice. It is only when all the above three conditions are satisfied that a prosecution can be launched for the offence under Section 138. So far as the first condition is concerned, clause (a) of the proviso to Section 138 does not put any embargo upon the payee to successively present a dishonoured cheque during the period of its validity. This apart, in the course of business transactions it is not uncommon for a cheque being returned due to insufficient funds or similar such reasons and being presented again by the payee after sometime, on his own volition or at the request of the drawer, in expectation that it would be encashed. Needless to say, the primary interest of the payee is to get his money and not prosecution of the drawer, recourse to which, normally, is taken out of compulsion and not choice. For the above reasons it must be held that a cheque can be presented any number of times during the period of its validity. Indeed that is also the consistent view of all the High Courts except that of the Division Bench of the Kerala High Court in Kumaresan¹ which struck a discordant note with the observation that for the first dishonour of the cheque, only a prosecution can be launched for there cannot be more than one cause of action for prosecution."

(emphasis supplied)

3

30. **MSR Leathers** (supra) also looked at Section 138 and held that a complaint could be filed under Section 138 after cause of action to do so had accrued in terms of clause (c) of the proviso to Section 138 which happens no sooner the drawer of the cheque fails to make the payment of the cheque amount to the payee within fifteen days in terms of clause (b) to proviso to Section 138.

MSR Leathers was not so much concerned with the question whether the proviso stipulated ingredients of the offence or conditions precedent for filing a complaint. It was primarily concerned with the question whether the second or successive dishonour followed by statutory notices and failure of the drawer to make payment could be made a basis for launching prosecution against the drawer. That question, as noticed above, was

answered in the affirmative holding that successive cause of action could arise if there were successive dishonours followed by statutory notices as required under the law and successive failure of the drawer to make the payment. **MSR Leathers** cannot, therefore, be taken as an authority for determining whether the

proviso stipulates conditions precedent for launching a prosecution or ingredients of the offence punishable under Section 138.

Sadanandan Bhadran may have been overruled to the extent it held that successive causes of action cannot be made a basis for prosecution, but the distinction between the ingredient of the offence, on the one hand, and conditions precedent for launching prosecution, on the other, drawn in the said judgement has not been faulted. That distinction permeates the pronouncements of this Court in **Sadanandan Bhadran** and **MSR Leathers**. High Court of Kerala has, in our view, correctly interpreted Section 138 of the Act in **Kairali Marketing & Processing Cooperative Society Ltd. V. Pullengadi Service Cooperative Ltd. (2007) 1**

KLT 287 when it said:

JUDGMENT

"It is evident from the language of Section 138 of the N.I. Act that the drawer is deemed to have committed the offence when a cheque issued by him of the variety contemplated under Section 138 is dishonoured for the reasons contemplated in the Section. The crucial words are "is returned by the bank unpaid". When that happens, such person shall be deemed to have committed the offence. With the deeming in the body of Section 138, the offence is already committed or deemed to have been committed. A careful reading of the body of Section 138 cannot lead to any other conclusion. Proviso to Section 138 according to me

(4)

only insists on certain conditions precedent which have to be satisfied if the person who is deemed to have committed the offence were to be prosecuted successfully. The offence is already committed when the cheque is returned by the bank. But the cause of action for prosecution will be available to the complainant not when the offence is committed but only after the conditions precedent enumerated in the proviso are satisfied. After the offence is committed, only if the option given to avoid the prosecution under the proviso is not availed of by the offender, can the aggrieved person get a right or course of action to prosecute the offender. The offence is already deemed and declared but the offender can be prosecuted only when the requirements of the proviso are satisfied. The cause of action for prosecution will arise only when the period stipulated in the proviso elapses without payment. Ingredients of the offence have got to be distinguished from the conditions precedent for valid initiation of prosecution."

The stipulations in the proviso must also be proved certainly before the offender can be successfully prosecuted. But in the strict sense they are not ingredients of the deemed offence under the body of Section 138 of the N.I. Act, though the said stipulations must also be proved to ensure and claim conviction. It is in this sense that it is said that the proviso does not make or unmake the offence under Section 138 of the N.I. Act. That is already done by the body of the Sections. This dispute as to whether the stipulations of the proviso are conditions precedent or ingredients/components of the offence under Section 138 of the N.I. Act may only be academic in most cases. Undoubtedly the ingredients *stricto sensu* as also the conditions precedent will have to be established satisfactorily in all cases. Of course in an appropriate case it may have to be considered whether substantial compliance of the conditions precedent can be reckoned to be sufficient to justify a conviction. Be that as it may, the distinction between the ingredients and conditions precedent is certainly real and existent. That distinction is certainly vital while ascertaining complicity of an indictee who faces indictment in a prosecution under Section 138 with the aid

of Section 141 of the N.I. Act. That is how the question assumes such crucial significance here."

31. To sum up:

(i) An offence under Section 138 of the Negotiable Instruments Act, 1881 is committed no sooner a cheque drawn by the accused on an account being maintained by him in a bank for discharge of debt/liability is returned unpaid for insufficiency of funds or for the reason that the amount exceeds the arrangement made with the bank.

(ii) Cognizance of any such offence is however forbidden under Section 142 of the Act except upon a complaint in writing made by the payee or holder of the cheque in due course within a period of one month from the date the cause of action accrues to such payee or holder under clause (c) of proviso to Section 138.

(iii) The cause of action to file a complaint accrues to a complainant/payee/holder of a cheque in due course-if

(a) the dishonoured cheque is presented to the drawee bank within a period of six months from the date of its issue.

(3)

(b) If the complainant has demanded payment of cheque amount within thirty days of receipt of information by him from the bank regarding the dishonour of the cheque and

(c) If the drawer has failed to pay the cheque amount within fifteen days of receipt of such notice.

(iv) The facts constituting cause of action do not constitute the ingredients of the offence under Section 138 of the Act.

(v) The proviso to Section 138 simply postpones/defers institution of criminal proceedings and taking of cognizance by the Court till such time cause of action in terms of clause (c) of proviso accrues to the complainant.

(vi) Once the cause of action accrues to the complainant, the jurisdiction of the Court to try the case will be determined by reference to the place where the cheque is dishonoured.

(vii) The general rule stipulated under Section 177 of Cr.P.C applies to cases under Section 138 of the Negotiable Instruments Act. Prosecution in such cases can, therefore, be launched against the drawer of the cheque only before the Court within whose

jurisdiction the dishonour takes place except in situations where the offence of dishonour of the cheque punishable under Section 138 is committed along with other offences in a single transaction within the meaning of Section 220(1) read with Section 184 of the Code of Criminal Procedure or is covered by the provisions of Section 182(1) read with Sections 184 and 220 thereof.

32. Before parting with this aspect of the matter, we need to remind ourselves that an avalanche of cases involving dishonour of cheques has come upon the Magistracy of this country. The number of such cases as of October 2008 were estimated to be more than 38 lakhs by the Law Commission of India in its 213th Report. The result is that cases involving dishonour of cheque is in all major cities choking the criminal justice system at the Magistrate's level. Courts in the four metropolitan cities and other commercially important centres are particularly burdened as the filing of such cases is in very large numbers. More than five lakh such cases were pending in criminal courts in Delhi alone as of 1st June 2008. The position is no different in other cities where large

(2)

number of complaints are filed under S.138 not necessarily because the offence is committed in such cities but because multinational and other companies and commercial entities and agencies choose these places for filing the complaints for no better reason than the fact that notices demanding payment of cheque amounts were issued from such cities or the cheques were deposited for collection in their banks in those cities. Reliance is often placed on **Bhaskaran's** case to justify institution of such cases far away from where the transaction forming basis of the dishonoured cheque had taken place. It is not uncommon to find complaints filed in different jurisdiction for cheques dishonoured in the same transaction and at the same place. This procedure is more often than not intended to use such oppressive litigation to achieve the collateral purpose of extracting money from the accused by denying him a fair opportunity to contest the claim by dragging him to a distant place. **Bhaskaran's** case could never have intended to give to the complainant/payee of the cheque such an advantage. Even so, experience has shown that the view taken

in **Bhaskaran's** case permitting prosecution at any one of the five different places indicated therein has failed not only to meet the approval of other benches dealing with the question but also resulted in hardship, harassment and inconvenience to the accused persons. While anyone issuing a cheque is and ought to be made responsible if the same is dishonoured despite compliance with the provisions stipulated in the proviso, the Court ought to avoid an interpretation that can be used as an instrument of oppression by one of the parties. The unilateral acts of a complainant in presenting a cheque at a place of his choice or issuing a notice for payment of the dishonoured amount cannot in our view arm the complainant with the power to choose the place of trial. Suffice it to say, that not only on the Principles of Interpretation of Statutes but also the potential mischief which an erroneous interpretation can cause in terms of injustice and harassment to the accused the view taken in the **Bhaskaran's** case needs to be revisited as we have done in foregoing paragraphs.

33. With the above observations, I concur with the order

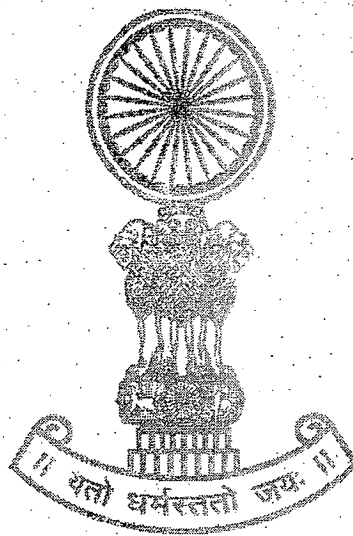
proposed by my noble Brother, Vikramajit Sen, J.

(1)

New Delhi
August 1, 2014

.....J.
(T.S. Thakur)

SUPREME COURT OF INDIA



JUDGMENT

rfc

RAJASTHAN FINANCIAL CORPORATION**HO: Udyog Bhawan, Tilak Marg, C-Scheme, JAIPUR-302005**Ref.No.RFC/F.Law-3/LPM/26/ 290

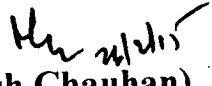
Dated: 27 Feb.,2015

CIRCULAR
(Lit. Cir. No. 217)**Reg: Empanelment on the Panel of Advocates of the Corporation**

In continuation to earlier O&M Circular No. 736 dated 15.10.2014, name of following Advocate has been included on the Panel of Advocates of the Corporation for the court and place indicated against his name:-

Sr. No.	NAME & ADDRESS OF ADVOCATE	NAME OF PLACE/COURT
1.	Mr. Nitish Bagri, Advocate JB-11, New Nyay-Deep Gandhi Nagar, Jaipur (Rajasthan.) Mob. 91-9785636364	High Court, Jaipur

The empanelment of the above Advocate has been made on the terms & conditions as prescribed in the O&M Circular No. 620/04 dated 16.11.2004 and fee shall be payable to him as per the fee structure laid down by the Corporation from time to time. He is required to submit an undertaking to Dy.Gen.Manager(Law), HO, RFC, Jaipur, to the extent that he will not accept/undertake any case against the Corporation in any Court of Law during his empanelment and fee shall be acceptable as per the fee structure laid down by the Corporation.


(Maneesh Chauhan)
Managing Director

Copy to:

1. All BOs/FCs
2. Standard Circulation at HO
3. Advocate concerned