RAJASTHAN FINANCIAL CORPORATION
(FR Division)

Minutes of the 99th meeting of SLC held on 24.03.11 at 3.00 PM under the Chairmanship of Shri Umesh Kumar, IAS, CMD

Present:

Shri Rajendra Bhanawat, IAS, MD, RIICO Ltd.	:	Member
Shri Kamal Mehta, Director	:	Member
Shri A.R. Choudhary Executive Director	:	Member
Shri S.K.Aswal, Executive Director (F)	:	Member
Shri Sukhaveer Saini, GM(D)	:	Member
Shri R.M.Aswal, DGM(ARRC)	:	Member'
Shri D.V.Jashnani, Manager (I/c – Law)	:	Member
Shri A.P.Mathur, DGM(FR)	:	Member Secretary

Shri N.K.Jain, Manager (ARRC), Shri P.D.Verma, Manager(FR) and Shri B L Gurjar, DM(FR) were also present.

I. Action taken report on the decision of earlier SLC meetings.

Noted

II. Confirmation of the minutes of SLC meeting held on 10.01.11

Minutes were confirmed.

III. The committee considered the agenda notes of the following cases placed before it and decided as follows:

1. M/s Rankawat Plaster, Churu (ARRC case)

The promoter of the concern did not attend the meeting, therefore, after discussions, it was decided to defer the agenda with the direction to place the case in the next meeting.

2. M/s Vasundhara Chem Syntex, Bhilwara (ARRC case)

The representatives of the company has made a request vide fax letter dated 23.3.11 that due to illness they are unable to attend the meeting, therefore, after discussions, it was decided to defer the case.

3. M/s Nirmal Fab Tex Pvt. Ltd., Pali (ARRC case)

The Corporation had sanctioned loans amounting to Rs. 212.00 lac out of which Rs. 206.61 lac was disbursed to the company between 1999 to 2002. Against the legal action initiated by the Corporation the company approached to BIFR and got the case registered for revival.

Fixed assets of the company were taken over under possession of the Corporation under SARFAESI Act, 2002 on 18.01.2008. The Corporation had put the unit for auction under SARFAESI Act on 15.04.2008, 27.06.08, 12.09.08 & 24.03.09 but no offer was received except an offer of Rs 12.50 lac for entire assets received in the first auction held on 15.04.08.

The reason for not getting the proper offer is due to heavy outstanding dues of Central Excise and other Govt. Department as the purchaser is liable to pay dues of these Departments in addition to the reserve price amounting to Rs. 137.00 lac kept at the time of last auction and as per provision of SARFAESI Act (copy enclosed) point No.8-6(c) i.e. reserve price below which property may not be sold. The dues position of other departments is as under (copy of B.O. letter enclosed) :-

CTO	4,71,635/-
RIICO	73,879/-
PHED	8,000/-
Central Excise Department	*65,50,458 + interest
Total	71,03,972 + interest on Central excise dues.

*****Duty amount Rs. 27,15,229/-., Penalty amount 38,35,229/- + Interest.

MRV of the assets worked out by M/s R.B. Shah & Co., a private valuer on 13.2.2008 amounted to Rs. 137 lac approximate as per detail given below :-

Land	:	77.61 lac (4434.66 sq.mtr.)
Building	:	46.72 lac
P&M	:	12.20 lac
Total	**:**	**136.53 lac**

Note: The Branch Office, Pali reported that the DLC rate of land in the area is Rs. 1100 per sq.mtr. and market rate is 8000 per sq.mtr. (copy of letter enclosed). In this case it was decided to obtain the revised MRV for which private valuer has been appointed as per provision of SARFAESI Act. MRV of the assets were estimated at Rs. 137.00 lac (Rs.77.61 lac land,

Rs.46.72 lac building, Rs.12.20 lac P&M). Private valuer has been asked to revaluate the assets. It has been more than Rs.222.00 lac (Rs.217.00 lac L&B and Rs.5.00 lac (approx) P&M.).

The consolidate position of loan outstanding as on 01.03.2011 as reported by Branch Office (copy enclosed) is as under:

A.

(Rs. in lac)

Principal	133.87
Interest	112.74
Other money	10.23
Total	256.84

B.

Total amount recovered from the company	Rs.182.40

The promoter of the company has made a request for settlement of his outstanding dues only on principal outstanding.

Looking to the facts of the case it was decided to place the case before SLC for further direction/guidance in such type of cases. Accordingly, the case was placed before SLC in its meeting held on 24.03.2011and the decision of the committee is as under :

“A note was placed before SLC alongwith the request of the party for settlement of his outstanding dues. The matter was discussed in detail by the committee in view of the following fact :-

1. The purchaser has to pay the outstanding dues of other Govt. Departments plus dues of Central Excise with interest in addition to the reserve price that was Rs 137.00 lac at the time of last auction and as per the provision of SARFAESI Act no sale can be made below reserve price.
2. As such, no offer was received except an offer of Rs. 12.50 lac for entire assets in the first auction held on 15.04.2008.”

Considering all the facts as above and the repayment of Rs. 182.43 lac made by the company, the Committee recommended that the matter could be settled with the Company taking the realizable value of land, building and plant & machinery. As the SLC does not have power to settle the cases in realization of the settlement scheme, the Committee recommended that the matter be placed before the Board for consideration and appropriate decision.

4. M/s Volga Marble, Selwara, Sirohi

Shri Vijay Dangi, Proprietor of the concern appeared before the committee.

This is a case of marble mining where P&M (Tractor compressor) are missing and the case has been filed u/s 32(G). ROD forwarded to Collector, Udaipur on 10.10.07.

A loan of Rs.2.50 lac was sanctioned on 29.3.86 for Marble Mining equipments against which disbursement of Rs.1.80 lac was made. Outstanding as on 1.3.11 was Rs.19.41 lac (principal Rs.1.72 lac and interest Rs.17.69 lac). MRV of collateral security assessed on 15.4.2009 was Rs.47.16 lac. No third party or personal guarantee is available.

Earlier the case of the unit was placed before the Spl HOLC in its meeting held on 28.07.2000 "Shri Rakesh Mandawat alongwith his cousin, Shri Dangi, appeared before the committee. After detailed discussions, the Committee, offered to waive the entire penal interest charged in the account amounting to Rs.0.90 lac if the account is settled finally. The offer made by the committee was not accepted by Shri Mandawat and his associate, hence the case was rejected."

The party got registered his case on 26.03.09 for Spl. HOLC, which was considered by the committee in its meeting held on 07.08.09. Shri Basant Dangi, brother of the proprietor and his relative Shri Ajit Singhvi appeared before the committee to represent the case. After detailed discussions and considering all the facts and position of the case, the committee offered to settle the account in a consideration of Rs.10.00 lac inclusive of upfront amount of Rs.0.17 lac but the representatives of the concern did not accept the offer hence the case was rejected with the advice to Branch Office to expedite the action u/s 32(G).

The case was not eligible for registration of Spl HOLC as it was earlier put up to Spl HOLC on 7.8.09 but was rejected. The party could have preferred an appeal to SLC within one month, the same was not done, instead the Branch wrongly registered the case on 09.03.10 by accepting Registration fee + upfront amount, therefore, competent authority in order to avoid litigation has allowed the case to be put up for consideration of Special HOLC.

This case was placed before Spl HOLC in its meeting held on 18.06.10. After detailed deliberations, the committee in absentia decided to settle the case in a lumpsum of Rs.6.83 lac inclusive of ROD charges (outstanding with simple interest Rs.5.11 lac plus principal sum of Rs.1.72 lac) less upfront amount of Rs.0.26 lac i.e. at a net settlement amount of Rs.6.57 lac payable in six equal monthly installments commencing from 1.7.10. Interest @ 13% p.a. w.e.f. 1.7.10 was made applicable

The promoter made a request vide his letter dated 30.07.10 to the CMD that due to ill health he could not attend the Special HOLC on 18.06.10 and his case was decided by the committee without hearing him so he be heard.

The CMD in consideration with the request of the promoter decided to hear the party in the meeting of Spl HOLC scheduled to be held on 30.08.10.

Accordingly, the case was again placed before Spl HOLC in its meeting held on 30.08.10 where in Shri Vijay Kumar Jain, Proprietor of the unit appeared. The committee heard him and decided to keep the decision which was taken by the Special HOLC in the meeting held on 18.06.10 intact.

The promoter vide his letter dated 27/28.09.10 again made a request to consider his request to settle the case as per provisions of ongoing Amnesty Scheme for Settlement of NPA Accounts 2010-11

Accordingly, the case was again placed before Spl HOLC in its meeting held on 27.12.10 wherein Shri Vijay Dangi, Proprietor of the unit appeared before the committee. The committee, after detailed deliberations and hearing to the promoter generally agrees with the decision which was taken by the Spl HOLC in the meeting held on 18.6.10. Meanwhile CMD also desired to examine the matter on the file whether a person can be denied benefit of a scheme when the settlement is not agreed by the promoter.

The matter was examined on the file and it was decided that since the borrower is insisting for covering the case under Amnesty Scheme, he may be given opportunity to make an appeal for SLC by depositing registration fee and the committee may take a view otherwise also the case should have been consigned to SLC.

In compliance of above decision, the borrower deposited registration fee of Rs.5000/- and 10% of principal outstanding as upfront amount which is as per appeal clause of Amnesty Scheme but not as per general norms of placing the case before SLC.

After detailed discussions and considering all the facts and that adequate collateral security is available, the committee offered to settle the case in a consideration of Rs.6.83 lac less upfront amount of Rs.0.43 lac (Rs.0.26 lac deposited for HOLC on 9.3.10 and Rs.0.17 lac for SLC deposited on 22.2.11) i.e. at a net settlement amount of Rs.6.40 lac. The committee upheld the decision taken by Spl HOLC in its meeting held on 18.06.10. However, interest for the delayed period was decided to be exempted. Promoter did not give his consent to the offer, therefore, the appeal was rejected.

5. M/s Anita Cement Pvt. Ltd., Neemrana

Shri T.N.Lahoti, Director of the Company and his friend Shri Shiv Ratan Khadgawat appeared before the committee.

A term loan of Rs.80.60 lac was sanctioned to the company on 23.02.91 and out of which Rs.72.80 lac were disbursed. Documented rate of interest was 14.50% p.a. Company has deposited Rs.120.92 lac since beginning including settlement amount of Rs.33.14 lac. Captioned case was settled by SLC in the meeting held on 18.02.99 for consideration of Rs.33.14 lac (i.e. on principal amount outstanding as on 01.04.98). SLC decided to settle the account for a consideration of Rs.33.14 lac i.e. the principal outstanding as on 01.04.98. Since the case was of Standard category, it was not eligible as per OTS scheme. Subsequently, the matter was placed before the Board in the meeting held on 8.3.99. The Board approved the action of SLC.

The company deposited 80% of the settlement amount and obtained stay from High Court on 17.6.99 High Court directed to restrain the Corporation from taking any action against the petitioner for non payment of disputed amount of 20%. The company pleaded that the Corporation had settled the MCP loan accounts at 80% of principal sum amount and the same relief should be extended to them. Hon'ble H.C. dismissed the writ and vacated the stay vide its order dated 29.11.06. While passing the orders the Court mentioned that the amount that was stayed by the interim order of the court shall be paid by the petitioner within 3 months and no interest shall be charged on this amount.

In compliance of High Court order dated 29.11.06, the company deposited balance settlement amount of Rs.6.63 lac on 28.02.07. The payment was accepted by BO without prejudice to legal right. The Corporation filed an appeal in DB against the decision of court order dt 29.11.06 which is still under consideration / subjudice in HC, Jaipur. In the writ petition filed by Corporation it has been prayed to order the borrower to pay Agreed rate of interest (which implies documented rate of interest i.e.14.5% p.a.) on the outstanding disputed 20% amount (i.e.Rs.662800.00) from the date of passing the order dated 17.06.99 till the expiry of three months from the date of passing the judgement dated 29.11.2006 (party deposited the disputed 20% amount Rs.662800.00 on 28.02.07). As the account was settled on 18.02.99 and interest rate for the delayed period was neither mentioned in the said SLC decision nor in the Settlement Scheme under which the case was settled.

Now the company has requested for out of court settlement by depositing interest for delayed period on simple basis. Law section has stated on the basis of opinion of panel advocate that if the management is desirous to settle the case to put an end or to avoid further litigation, appropriate decision can be taken. Keeping this in view, the competent authority has allowed the case to be placed before SLC without insisting for upfront amount.

BO Neemrana vide their letter dated 11.3.11 has worked out the interest on balance settlement amount of Rs.662800/- on simple basis for the delayed period and upto 31.3.11 as under:

Period	Amount in rupees	Remarks
1.6.99 to 28.2.07	745151.00	Interest for delayed period
1.3.07 to 31.3.11	441660.00	Interest on unpaid interest of Rs.7,45,151.00
Total	1186811.00	

After discussions and considering the fact that the party had offered to pay interest as prayed by RFC in its appeal, the committee decided that interest for delayed period from 01.06.99 to 28.02.07 at the documented rate of interest i.e. @14.50% p.a. on simple basis may be accepted from the company upto 31.03.11 which works out to Rs.7,45,151.00 as per calculations of Branch Office alongwith Other Money Rs.2000.00 as on date as prayed by the Corporation before the court. The company and the Corporation shall withdraw their cases from the court. The party consented for the same. Thereafter, if the company deposits the above said amount, required accounting effect may be given by Branch Office for the amount of settlement already received. As the settlement was earlier approved by Board, therefore, ex post facto approval of this decision of the committee may also be taken from the Board.

GENERAL OBSERVATIONS:

1) Wherever settlement amount is to be paid in installment, the party will produce PDCs in the BO payable on 15th of the each month or date specified by the Committee, as the case may be. BO has to ensure that PDC's are invariably taken in such cases.
2) If the party fails to make payment strictly as per decision of the committee, BO concerned will initiate recovery action at their level.
3) Recovery charges to be sent to Collector concerned are included in the settlement amount, where recovery is affected on account of action initiated under Section 32(G).
4) Actual other money not debited so far is to be recovered over & above the settlement amount. Branch Office will let it know to the party about amount of other money, if any, within a month from the issue of this order.
5) The party shall withdraw court case, if any, before issue of no dues certificate.
6) Subsidy, if any, shall be recoverable separately as per norms.

Dy. General Manager (FR)
MEMBER SECRETARY