

Annexure-1

No. GIDC/O&M/CIR/ALT/POL/37(V)34
433/94

Office of the G.I.D.C.,
2nd floor, Udyog Bhavan,
GANDHINAGAR.

Date:- May 25, 1994.

C I R C U L A R

Sub:- Co-ordination between GSFC & GIDC in the matter pertaining to sale of assets of the units assisted by GSFC and located in GIDC Estate.

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Gujarat State Financial Corporation (GSFC) sanctions loans to a number of industrial units for payment of allotment price of land/price of shed in Gujarat Industrial Development Corporation (GIDC) industrial Estates. After the loans are sanctioned, the disbursement of the amount towards the price of plot/shed is made to the GIDC for which various instructions have been issued in the past and they are in force. As per the instructions in force, once the complete payment of price of land is received from GSFC lease-deed is executed and in respect of shed lease deed and conveyance deed respectively are executed and registered with the allottees of the GIDC on receipt of full price of land and shed. Thus the lease-hold rights and the property rights are conveyed by way of execution of lease deed in respect of land execution of conveyance deed in respect of super structure which are mortgageable and permission to mortgage such lease-hold rights is deemed to have been given in favour of any financial institution.

In case of GSFC, the lease-hold rights and property rights are mortgaged by the loanee in favour of GSFC.

By virtue of such mortgage, GSFC gets the right to enforce the recovery of its dues and transfer to a new purchaser under any one of the following 3 ways:-

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- I) Sale of assets under Section 29 of the State Financial Corporation Act, 1951 (SFCs Act-1951)
- II) Sale of assets under Gujarat Public Money (Recovery of dues) Act.
- III) Sales through Court.

I) SALE OF ASSETS UNDER SECTION 29 ::

1. After the possession of the unit is taken under section 29 of SFC Act 1951, Several units approach to take the possession back by making some down payment and accepting further repayment programme at the later date. Where Corporation is satisfied regarding the repayments made and committed, the possession is handed over back and the remaining units are available for sale through public advertisement and which the approval of competent authority (At present Regional Loan Committee at Regional Officer and Tender Committee at Head Office of GSFC)

The units where ultimately advertisements are to be given for sale of assets, GSFC will write a letter to Regional Manager, GIDC to request him to send details regarding outstanding dues of GIDC under various categories. Wherever the loan amount sanctioned is up to Rs. 15 lakhs and the orders for taking possession of the assets are issued from Regional office, the said letter shall be issued by concerned Regional Manager of GSFC to concerned Regional Manager, GIDC. However, in cases where orders for taking possession are issued from Head office and the loan amount sanctioned is above Rs. 15 lakhs. Dy. General Manager (Recovery) at the Head Office of GSFC will send letter to the concerned Regional Manager of GIDC. The format of the

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the letter to be issued by GSFC to GIDC is attached as Annexure-'I'. The details regarding various Regional Offices of GIDC and GSFC indicating the jurisdiction are given in Annexure-II-A and B respectively. The Regional Manager, GIDC will send reply as per Annexure-III to the concerned Officer/s of GSFC (who has sent letter as per Annexure-'I').

- a) It is expected that on issue of letter from GSFC, the reply from GIDC shall reach GSFC within 15 days. Thus, it is advisable that the advertisements in newspapers by GSFC should be so planned that enough time is available for receipt of information from GIDC. If information is not received from GIDC in specified time limit, GSFC may proceed with the sale of assets and simultaneously it should be brought to the notice of Managing Director, GIDC as per the letter shown in Annexure-'IV'. Regional Managers GIDC are advised to be extra careful while furnishing the exact information about GIDC dues, since prospective buyer is given the information on the basis of GIDC letter, it may not be possible for GSFC to advise the prospective buyer to pay more than this.
- b) Wherever the assets located in GIDC estates are for sale GSFC will specifically mention in the advertisement for sale, agreement for sale and sale deed that land is a GIDC-lease hold land.
- c) In case the unit is readvertised and the information given by GIDC is more than 6 months old information will be called a fresh from concerned Regional Manager, GIDC.

- d) GSFC Officers will furnish the information regarding GIDC dues to prospective buyers mentioning categorically the date till the dues have been computed by GIDC. It may be further specified to the prospective buyers that any addition in dues payable after that particular date are also payable by the prospective buyers.
2. Where offer of the prospective buyer is accepted by the competent authority of GSFC, the letter indicating certain terms and conditions is issued by GSFC to the prospective buyer. In such letters wherever the assets located in GIDC Estates are sold, the special condition may be incorporated to read as under :
- " The purchaser shall pay the dues of GIDC if any and shall comply with all the terms and conditions of GIDC for transfer of lease hold rights in their favour and recognition by GIDC."
3. The prospective purchasers are required to make either full payment or down payment to GSFC within specified time. If purchaser make full payment, purchaser is required to execute a Sale Deed with the Corporation (GSFC) and if purchaser makes down payment the prospective purchaser is required to execute Agreement for sale.
- a) The agreement for sale and the Sale Deed are now revised in consultation with GIDC. The copies of the revised forms are attached as Annexure V & VI.
- B) At present there is no practice in GSFC to get Agreement of Sale registered with Sub-Registrar concerned, however agreement of sale shall hereafter be registered with sub-registrar. With a view to avoid any time delay for registration of agreement of sale/Sale Deed, all authorised officers of GSFC, Dy. General Manager (Legal-Recovery)

at H.O./Regional Manager at Regional Office/Manager at Sub-Regional Office should execute general power of attorney in favour of at least two more GSFC employees for each district.

- C) Further the agreement for sale executed by competent Officer referred to above shall be handed over to the purchaser for presenting it before the concerned sub-registrar for registration. The said document is required to be identified by the power of attorney holder who has to sign in Thumb Impression Book (Angutha Book) before the registrar within 120 days from the date of execution. It is therefore, suggested that all competent officers of GSFC who have executed agreement for sale within last 90 days from date of this Circular shall advise such buyers to get agreement of sale registered with the concerned sub-registrar under intimation to them so that they can depute the person for making necessary endorsement in the Angutha Book before the Sub-Registrar within stipulated time.

4. a) Wherever the agreement for sale/sale deed is executed the officer executing such document shall write letter by Registered A.D. to concerned Regional Manager, GIDC under intimation to purchaser as per Annexure-VII, alongwith;
- i) Certified copy of letter of Acceptance of the offer issued by GSFC.

- ii) Certified copy of agreement for sale/sale deed.
- iii) Application Form for transfer of plot/shed duly filled in by the purchaser with supporting documents except the transfer fee payable.

- b) On receipt of the letter from GSFC, Regional Manager, GIDC shall inform the purchaser under

intimation to GSFC regarding transfer fee to be paid within 10 days as per Annexure-VIII.

c) On receipt of the transfer fee from the party, Regional Manager, GIDC shall issue the provisional transfer order within 15 days transferring the plot/shed in favour of the purchaser under intimation to GSFC in the format as per Annexure-IX in all the cases except the cases involving technical scrutiny due to change in project, product and zone etc. This time limit shall not be applicable in cases involving exceptional circumstances.

d) Wherever the recognition is given by GIDC on the strength of the Agreement for sale it shall be on the specific condition that recognition shall automatically stand terminated if purchaser fails to make the full payment to the satisfaction of the Corporation (GSFC).

e) After compliance of all condition of provisional order by the purchaser, GIDC will issue final transfer order as per Annexure 'X' transferring the plot/shed in favour of the purchaser wherever GSFC has executed and registered the sale deed.

However, where sale deed is not executed and registered but agreement for sale is executed and registered GIDC will issue a letter recognising the purchaser as the authorised occupant of the property under consideration as per Annexure-XI.

While finalisation of such cases, following decisions which were taken during the meeting between VC&MD GIDC and MD, GSFC held on 3-12-93 may be kept in mind.

1. GIDC will permit transfer of un-utilised plot when such plot is sold by GSFC.
2. It was also agreed that in such auction, GIDC will not charge any non-utilisation penalty from the purchaser of such open plot from GSFC, so as to avoid difficulties
3. In respect of unauthorised constructions, which are carried out by the original lessee of the GSFC, it was decided that GIDC will regularise the same subject to normal conditions and the new occupier shall be bound accounting to the rules that may be applicable in a particular estate depending upon the location of the estate, urban area, municipal area, under building conditions of GIDC, as the case may be. In other words, GIDC would not withhold transfer, until the unauthorised construction is removed and non-violative constructions is regularised. But this will be done later on.
4. It was also agreed that the purchaser shall abide by the rules and regulations of GIDC as well as comply all the terms and conditions of lease deed executed by the original allottee.
5. In respect of N.A. Assessment, Service charge, lease rent of the ex-allottee, it was agreed that if GSFC gets surplus on auction, they will pay this amount from the surplus generated on account of auction. In the event of GSFC making any loss, it will not be possible for GSFC to make any payment. It was therefore decided that in respect of such cases, GIDC will consider the matter on merit and waive these charges, so that the purchaser is not put to difficulties.
6. The cases where in lease/and conveyance deed have not been executed but total price of plot/shed have been received by the GIDC, the transfer of such type of

cases may be finalised with accordance of the stipulation of the circular after obtaining necessary undertaking from the Purchaser of the said unit stating that in future any legal or financial complications arises, responsibility of the same will be rest with the purchaser. While executing the lease and conveyance deed with the Purchaser with regard to the said plot/shed, the said undertaking may be inserted in the lease and conveyance deed.

CHECKLIST :-

With a view to ensure that the purchaser to whom land/shed located in GIDC Industrial Estate is sold by GSFC may not face any difficulty/delay in either getting transfer done in their name or getting due recognition from GIDC, all Officers in GSFC dealing with sale of assets shall ensure the following before issuing advertisement for sale, placing an item for sale before competent authority, issuing letter confirming the offer of the purchase for sale of assets.:-

- a) Corrett measurement/area of land and/or shed and type of shed ;
- b) Boundry area on East, West, North & South of the property under sale.
- c) Whether full payment for plot of land/shed has been made to GIDC.
- d) For the property under sale whether following documents exist. :
 - i) Lease deed in case of plot of land and lease deed and conveyance deed in case of shed is fully executed and registered.
 - ii) Lease deed and conveyance deed are mortgaged to GSFC, a documents/letter evidencing the depositing the title deed may be verified.

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DGM(R) at Head Office and Manager (Recovery) at Regional Office, GSFC will enquire from DGM(Disbursement) at H.O. and Manager(Disbursement) at Regional Office about above mentioned points as per letter shown in Annexure XII and DGM(1sb) at HO/Manager(Disb) at Regional Office will inform DGM(R) at HO/Manager(RCV) at Regional Office as per Annexure-XIII within 15 days.

At the end of the scrutiny of the documents it is to be clearly established in GSFC as to whether documents pertaining to lease deed and mortgage have been executed or not. If the answer is positive for both then only action for sale under section 29 of SFCs Act-1951 should be initiated in GSFC. If either lease/conveyance deed or mortgage not available, the action against the loanee should be initiated under Gujarat Public Money (Recovery of dues) Act-1979. To provide better facility to the prospective buyers of machineries of units financed by GSFC and lying in GIDC sheds, GIDC Officers are advised to extend full co-operation to GSFC Officers regarding opening of the GIDC shed for inspection by GSFC Officers and their prospective buyers valuers and any other authorised persons of GSFC. This however, will be done in presence of Panchayat where representatives of GSFC and GIDC should invariably remain present and who will also sign in their presence.

The Regional Manager, GSFC shall provide the list of units located in GIDC estates to concerned Regional Manager, GIDC where GSFC has financed machineries only.

The Regional Manager, GIDC will send the copy of the order issued under Section-5(1) of Gujarat Public Premises (unauthorised occupants) Act-1972 to the concerned Regional Manager of GSFC. In event of the order under Section 5(2) for resumption of such property is required to be issued,

the copy shall also be sent to the concerned Regional Manager of GSFC. On receipt of the copy of the notice GSFC will initiate appropriate legal action against their loanees for recovery of dues so that in the event of the resumption of possession by GIDC, the GSFC will also in a position to recover money by way of sale of machinery etc. On the date of time of resumption of possession of the shed by Regional Manager, GIDC, Regional Manager, GSFC or an employee deputed by him shall remain present so that inventory of machinery is properly recorded in Panchnama.

It is further decided that out of turn priority allotment of adjoining plot and/or shed for expansion, the existing unit will be permitted by GIDC in the following manner :

1. The unit will have to make 100% payment of price of land/ and/or shed to GIDC.
2. Lease Deed in case of plot and lease deed and conveyance deed in case of shed shall be executed and registered.
3. GIDC Officers will send copy of such documents for information to Dy. General Manager (L-R) at Head Office, GSFC who in turn will send the same to concerned officers for record and action, if any.
4. The Mortgage of the said plot and/or shed will be created in favour of GSFC and on receipt of Certificate to that effect from GSFC as per Annexure-IXV. Only there after physical possession of the adjoining plot and/or shed will be given to the allottee by GIDC.

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II. Sale of assets of units assisted by GSFC through Court :-

Sometimes the units assisted by GSFC APPROACH COURT and in certain cases GSFC has to file Civil Misc. Application against loanee in the Court for recovery of its dues. Not all cases result into final sale of assets of the unit through Court but there are instances where ultimately Court might have decided to sell the assets of the unit. In such cases, Regional Manager, GSFC/DGM(L-R) at HO attending to the case will inform concerned Regional Manager, GIDC and Law Officer, GIDC at HO giving the details regarding the CMA/Suit No., Name of loanee, Name of the Court, Name and address of the Advocate who deals for GSFC details about GIDC land/shed with its address etc.

When the sale is finalised by the Court and name of the purchaser is known, the details about the purchaser alongwith copy of Court's order may also be sent by Regional Manager GSFC/DGM(L-R) at H.O. concerned Regional Manager and General Manager(P&A) for GIDC at H.O.

As soon as such communication from GSFC is received the concerned Regional Manager of GIDC will submit the case file of the party giving details of dues and their views whether they should join as a party with GSFC in the suit through the Advocate of GSFC or through an independent advocate to General Manager(P&A) who will then decide whether to join as a party or not.

In very few cases, the orders are passed by the court for winding up of companies and official Liquidators are appointed by the High Court. Official Liquidators are required to publish advertisement for sale of assets in some leading news papers. Whenever orders for winding up

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are issued by the Hon'ble High Court and land/shed of the Companies is located in GIDC estates and financed by GSFC, DGM(L-R) will inform concerned Regional Manager, GIDC and GM(P&A) at HO GIDC. The GM(P&A) GIDC will take further action in consultation with the concerned Regional Manager and General Manager(RCV) DGM(LR) will also send a copy of the advertisement given by Official Liquidator for sale of assets to concerned Regional Manager, GIDC and GM(P&A) at HO.

III. Sale of assets of units assisted by the Corporation under GFM(Recovery of dues) Act, 1979.

GSFC also refers some cases to Officer on Special Duty for recovering the dues of GSFC as Arrears of Land Revenue under the provisions of Gujarat Public Money's (Recovery of dues) Act-1979.

Notice is served by O.S.D. under Section 152, 154, 200 and attachment of property mortgaged/hypothecated to GSFC is done under Section 124, 155 of land revenue code. At this stage Officer on Special Duty will inform concerned Regional Manager, GIDC to intimate him regarding the dues of GIDC. Regional Manager, GIDC will inform the dues of GIDC as per Annexure-III to concerned OSD within 15 days. This information may be brought to the notice of the prospective buyer when the sale order is passed by OSD for selling of the land/shed, special condition may be incorporated by the OSD to read as under :-

" The purchaser shall pay the dues of GIDC and shall comply all terms and conditions for transfer of lease hold rights and recognition by GIDC ".

Copy of the sale ^{order} may be sent by OSD to concerned Regional Manager, GIDC. The concerned purchaser will approach concerned Regional Manager, GIDC to carry out the necessary formal-

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lities for recognition of his rights. Regional Manager, GIDC will request JGM(Fin.& Res.& A/c) to send details regarding accounts of original loanee of GSFC as per the prescribed proforma shown at Annexure-VII. JGM(Fin. Resources & Accounts)GSFC will furnish the information to the concerned Regional Manager, GIDC as called for ".

PAST CASES ::

It is likely that in the past, where assets of the unit have been put for sale/sold, it might have resulted into following categories.

1. Where party has executed lease deed with GIDC on payment of part price for land and created mortgage in favour of GSFC but GSFC has not paid balance amount to GIDC as per sanction letter.
2. Where GIDC has executed required documents and GSFC has made payment to GIDC but leasee has not created mortgage of his property in favour of GSFC.
3. Allottee has executed lease deed with GIDC on part payment price of land but has not mortgaged the lease hold rights in favour of GSFC.
4. The allottee has not executed lease deed or conveyance deed and no mortgage is made in favour of GSFC.
5. Where GSFC has made payment on behalf of loanee to GIDC but GIDC has not executed lease deed/ conveyance deed.
6. Where GIDC has allotted adjoining plot/shed for expansion purpose but additional plot and/or shed have not been mortgaged to GSFC. The possession and sale of such units should not be done.

under section 29 by GSFC. Such property should be put for sale through Gujarat Public Money (Recovery of Dyes) Act.

All Officers in GSFC dealing with recovery and sale of assets/legal documentation with purchaser should review all units sold and prepare a consolidated list. The names of such cases along with short write-up on each case should be sent to DGM(L/R) at HO in GSFC.

Similarly all those cases where the property of loanee has been sold by GSFC and the purchaser has approached GIDC for recognising him as allottee or occupant of the shed or the plot details of such cases shall be forwarded by the concerned Regional Manager of GIDC to General Manager(R) GIDC at HO as per Annexure-XV.

The above procedure shall come into force with immediate effect.

All officers of GSFC/GIDC are now requested to acknowledge the receipt of the Circular. Should read the instructions given in the past-vis-a-vis any contents of this circular require any clarification or re-examination, it should be brought to the notice of Vice Chairman and Managing Director, GIDC, Managing Director, GSFC within 30 days of receipt of the circular.

Sd/-
(R.K. SHAH)
MANAGING DIRECTOR
GSFC

Sd/-
(N.M. BIJLANI)
VICE CHAIRMAN & MANAGING DIRECTOR
GIDC

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1. All Officers, GSFC
 2. All Officers, GIDC
- C.F.W. Cs. to:-
- 1) Indext-B
 - 2) C.E.D.
 - 3) President, Federation of Industries Asson.

ISSUED
H. Balani
DEPUTY MANAGER (EST)