

Government of Orissa
Co-operation Department

No. II-Legal-105/99/15795/Coop. Date : 6.11.2001

From : Sri B.B. Jagadev,
Under Secretary to Government.

The Auditor General of Cooperative
Societies, Orissa, Bhubaneswar.

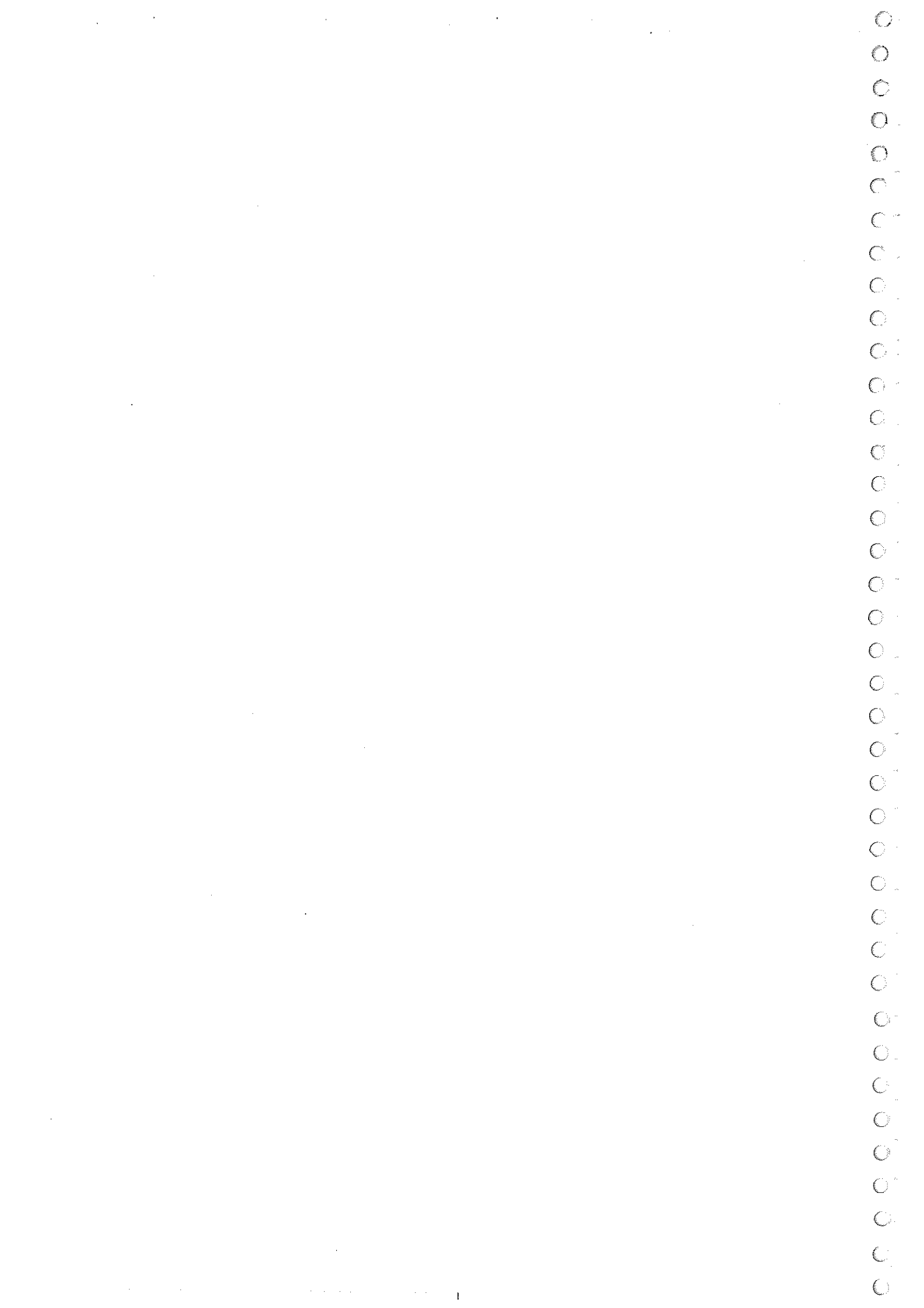
Sub : Clarification regarding initiation of surcharge
proceedings under section 67 of the C.C.S. Act, 1962,
against the legal heirs/representative of deceased
person, Late Jayadev Biswal, Ex-Chief Marketing Manager
of MARKFED, Bhubaneswar.

Sir,

I am directed to invite a reference to your letter
No. 7417 dt. 6.9.2000 and No. 9139 dt. 29.11.2000 on the subject noted
above and to say that the matter was referred to the Law Deptt.
for their opinion, regarding the validity of the surcharge
proceedings initiated under section 67 of the O.C.S. Act, 1962
against the legal heirs of the deceased employee/officer, who have
opined that order 22, Rule 4 of C.P.C. relating to substitution
of the Legal Representatives of defendants, is applicable when
the defendant/defendants die during the pendency of the proceeding.
The said Rule is not applicable if the suit is instituted against
a dead man. They have also opined that the provisions of Order 22
Rule 4 of C.P.C. is not applicable to a surcharge proceeding U/s
67 of the Act in application of section 120 of the Act as the same
is not in conformity with the provisions of section 120 of the
O.C.S. Act, 1962. It is manifest from Section 120 of the O.C.S.
Act that the Auditor General while conducting a surcharge
proceeding shall have the powers of Civil Court under C.P.S. in
respect of four provisions enumerated in the sub-section (1) of
said section as (a), (b), (c) and (d). It does not comprehend the
provisions of Order 22 of C.P.C. (i.e. Death, Marriage and
Insolvency of Parties). So the Auditor General can not resort to
Order 22 of C.P.C., as that has not been stated in section 120
of the O.C.S. Act, 1962. They have also reiterated their earlier
views which have been communicated to you in this Department
letter No. 14362 Coop. dt. 6.9.2000.

You are therefore requested to take necessary action in
the matter accordingly.

Yours faithfully



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Government of Orissa
Cooperation Department.

11/362
IL/ga/-105/99 / Coop., dated 6.9.2000

Sri B.B. Jagdev,
Under Secretary to Government.

To

The Auditor General,
Cooperative Societies, Orissa, Bhubaneswar.

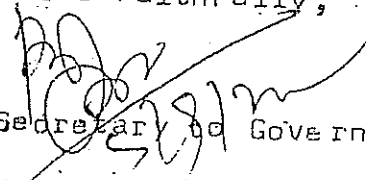
Sub:-

Clarification regarding initiation of surcharge proceeding under Section 67 of the O.C.S. Act, 1962 against the legal heirs of the deceased person, Sri Jayadev Biswal, Marketing Manager of MARKFED, Bhubaneswar.

I am directed to invite a reference to your letter s. 1225 dt. 13.8.99 on the subject noted above and to say that the ~~xxxx~~ matter was referred to the Law Department for their opinion regarding initiation of surcharge proceedings under Section 67 of the O.C.S. Act, 1962 against the legal heirs of the deceased persons, Sri Jaydev Biswal who have opined that surcharge proceedings under Section 67 of the said Act can not be initiated against legal heirs of the deceased employees/Officer of the concerned Society.

You are, therefore, requested to take necessary action accordingly.

Yours faithfully,


Under Secretary to Government.

Memo No. _____ / Coop., dated

Copy forwarded to the Registrar of Cooperative Societies Orissa for information.

Under Secretary to Government.

