

### 13. Particulars of Recipients of concessions, permits or authorization granted

#### GUIDELINES FOR COMPROMISE SETTLEMENT OF CHRONIC DEFAULT LOAN ACCOUNTS (CDLAs) BY WAY OF ONE TIME SETTLEMENTS (OTS) -

It is felt that a realistic approach is needed to reduce the stock of existing chronic default loan accounts. It has, therefore, been decided to issue guidelines for compromise settlement of chronic default loan accounts which provide a simplified non-discretionary mechanism for amicable recovery of amounts locked up in such loan accounts.

#### 1. Applicability

- a) The guidelines apply to loan accounts other than those where the payment is secured by bank guarantee and state government guarantee.
- b) **The scheme will cover loans, which are in default as on 31.03.2005 and have continued to be in default for a minimum period of three years before this date.**
- c) These guidelines will also cover cases pending before courts/DRT/BIFR subject to condition that the Managing Director shall be the competent authority for keeping any case in abeyance by moving an application before the concerned Court with the prayer **for adjourning the suits sine-die**. However, after the entire settlement amount has been realized as per guidelines, the Managing Director shall be the Competent authority to withdraw the civil suit.
- d) The accounts which fulfill the criteria in these guidelines will be eligible for one-time settlement under the guidelines and such accounts are referred hereinafter as Chronic Default Loan Accounts (CDLAs)
  - (i) The scheme will not, however, cover cases of fraud, malfeasance and willful default
  - (ii) The Debt Settlement Advisory Committee (DSAC) as constituted by the Managing Director would examine and recommend whether the borrower has not committed willful default and is eligible for the OTS scheme.
- (f) The National Horticulture Board may reject any application for one time settlement(OTS) without assigning any reason.

## 2. Settlement Amount and payment

- a) If the borrower pays the entire amount in one lump sum upfront at the time of settlement, the settlement amount will be the principal amount outstanding as on the date of settlement.
- b) (i) If the borrower pays the entire amount in more than one installment within two years, the settlement amount will be the principal amount outstanding as on the date of settlement.
  - (ii) 25% of the settlement amount will be paid upfront and the balance of 75% will be payable in installments within a period of two years together with service charges @ 4% per annum from the date of settlement upto the date of final payment of the amount of settlement as reduced by the amount paid upfront and the installments paid on respective due dates.
  - (iii) Where borrower chooses to pay the settlement amount in installments, the borrower will be required to furnish bank guarantee in respect of each of the installments together with service charges.

However, in cases, where the borrowers is not in a position to furnish bank guarantee, the Managing Director may, in his discretion, permit the parties to approach the concerned Court with an application under Order 23 Rule 3 of the Code of Civil Procedure stating the terms of the Settlement with prayer to the Court to record the compromise and pass a decree in accordance therewith. Further in such cases, the guarantors shall, prior to filing of the application under Order 23 Rule 3 of the Code of Civil Procedure, furnish list of their assets with an affidavit. In the event of borrower/guarantors failure to comply with the terms of the settlement/compromise decree, National Horticulture Board will be free to get the decree executed as per law against the borrower as well as guarantors.

- iv) Where the borrower requests for release of any security for the purpose of its sale and the application of the proceeds of sale in the payment of the instalment under OTS, such security may be released subject to prior approval of Managing Director, and only after the borrower furnishes Bank guarantee for the amount of the settlement amount remaining unpaid together with service charges payable and verification of the bank guarantee obtained from the issuing Bank. No release of security will, however, be permissible for payment of the initial upfront amount of 25% of the settlement amount.

## 3. Sanctioning Authority

The decision on the one-time settlement and the consequent sanction of waiver, remission or write-off would be taken by Managing Director within these guidelines.



#### **4. Non-discretionary treatment**

The guidelines for one-time settlement should be followed without discrimination **regarding the amount to be recovered as per the provisions of guideline no. 2.** A report on the progress and details of settlement should be submitted by the **Managing Director to the Managing Committee.**

#### **5. Circulation**

These guidelines would be circulated to defaulting borrowers allowing them to apply for one time settlement (OTS) under this scheme, if they are found eligible under the guidelines.

#### **6. Operation of the guidelines.**

The scheme will be open from 1<sup>st</sup> August, 2005 to 30<sup>th</sup> September, 2005 for receipt of applications for OTS.

#### **7. Withdrawal of concessions/waiver/remission/write-off**

**Where a borrower opts for payment of 75% of the settlement amount in installments within a period of two years, if the borrower fails to pay the 75% of the settlement amount together with service charges as per 2(b) (ii) above within a period of two years, all concessions/waiver/remission/write-off under the guidelines will be taken as automatically withdrawn without any prior notice to the borrower and the borrower will thereafter be liable to pay the entire dues without any concessions waiver/remission/write-off under the guidelines.**

Modifications to OTS guidelines as per the decision of the Managing Committee in its meeting held on 29-09-2008.

The Managing Committee of NHB in its 63rd meeting held on 29.09.2008 while considering the agenda "to take note of the Special Floriculture Rehabilitation Fund (SFF) for Sick Units approved by Ministry of Commerce & Industry and consider & decide the mode of implementation of the same in NHB's soft loan floriculture cases" decided as under :

1. Amount of settlement under OTS scheme will be as per scheme of OTS as approved by NHB earlier
2. APEDA will send the list of projects which are eligible for benefits of OTS under APEDA's scheme; it will be supported by an assurance from APEDA to release APEDA's share in one installment to NHB immediately after the share of the project owner is received by NHB. In such cases the project owner will have to deposit his share of 60% settlement amount upfront, along with his application for OTS under NHB scheme.

3. In other cases not covered by APEDA, the OTS benefit will be available to eligible cases only on upfront payment of entire amount due as per NHB's scheme of OTS.
4. It was decided that the projects in which preliminary decree has been passed in favour of NHB may also be treated as eligible for the benefit of NHB's scheme of OTS.
5. It was also decided that the cases in which criminal cases have been filed by NHB against the project owner, shall also be treated as eligible for the benefits of OTS scheme of NHB; however, the criminal proceedings will continue as before,
6. Benefit of OTS scheme of NHB shall not be made available to the projects whose owners or partners or directors have filed criminal cases against NHB.

The Managing Committee of NHB in its 64th meeting held on 04.02.2009 decided that remaining defaulters may be allowed opportunity to apply for OTS scheme latest upto 31.03.2009.

**Modifications to OTS guidelines as per the decision of the 66th Meeting of Managing Committee of NHB held on 28.10.2009.**

The Managing Committee took note of status of recovery of loan amount under soft loan scheme and advised that OTS may continue upto 31st March 2010. However, only such applications received after 31st March 2009 may be considered for OTS, who tender demand draft, drawn on a Nationalized Bank for amounts payable, under the Scheme along with application for OTS. It was clarified that such applications will, thereafter, be processed, as per procedure and criterion approved under the scheme.

The Managing Committee of NHB in its 69<sup>th</sup> meeting held on 07-12-2010 approved the extension of OTS scheme of NHB up to 31<sup>st</sup> December 2011 without making any amendment in the existing guidelines of OTS scheme of NHB.