

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.8762 OF 2008

ORDER:

This writ petition is filed challenging the Surcharge order dated 20.08.2007 passed by the 2nd respondent in Rc.No.353/07-F, which was confirmed by the Andhra Pradesh Cooperative Tribunal (in short "the Tribunal") vide its orders dated 25.03.2008 in O.A.No.62 of 2007.

The surcharge proceedings came to be issued to the petitioners alleging that they have been paid an amount of Rs.14,500/- in excess of what is permissible under G.O.Ms.No.94, dated 28.02.2004. The finding in the surcharge proceedings was that the petitioners were paid the same in excess of the amount; however, explanation has been given by the petitioners that the same has been paid as an advance and is liable to be adjusted in the next year. The explanation offered by the petitioners was not accepted by the Deputy Registrar of Cooperative Societies, Peddapuram. Even before the Tribunal they had made similar application. The Tribunal had considered the explanation of the petitioners and G.O.Ms.No.94 along with Section 116C of the A.P. Cooperative Societies Act (in short "the Act"), and having considered that the very object of issuance of the G.O.Ms.No.94 would be defeated if the explanation of this nature is accepted and accordingly dismissed the appeal.

It is the case of the petitioner that they did not have opportunity of hearing and either the Tribunal or the authorities lack jurisdiction. In that view of the matter, finding of the fact as recorded by both the authorities does not warrant interference.

However, learned counsel for the petitioners submits that in the event the amounts have been adjusted in the next financial year, the stand of the petitioners would get confirmed. This submission of the learned counsel on behalf of the petitioners deserves consideration. Respondent authorities to verify the records whether the excess amount paid during the financial year 2005-2006 has been adjusted in the next year and if so the amounts which were collected from the petitioners may be refunded without any interest.

Accordingly, the writ petition is allowed. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Dated: 17.12.2015
Ssv