



**ODISHA POLICE
SPECIAL TASK FORCE
CID, CRIME BRANCH, ODISHA, BHUBANESWAR.**

STF CIRCULAR NO.01/2019.

Sub:- Financial Investigation in NDPS Cases.

.....

Drug trafficking offences are committed in an organized manner only with profit motive. One of the strategies to fight drug trafficking is to prohibit the traffickers to enjoy the fruits of the offence. Instances are enormous that, the drug traffickers have earned illegal proceeds/properties out of illegal drug business and invested this into movable or immovable such as land, house, ornaments, bank balance, vehicles etc. Such properties might have been in their own names or in the names of their relatives/henchmen. The arrest of a person for an offence NDPS Act, punishable with imprisonment for 10 years or more necessitates immediate initiation of financial investigation envisaged in Chapter-V-A of NDPS Act'1985 for tracing out, identifying and seizing illegally acquired properties as described above. Such financial investigation would bring otherwise a stringent punishment on drug peddlers in the form of forfeiture of their illegally earned property which may help in prevention of drug trafficking in days to come.

In view of the above, it is enjoined upon all the field officers, entrusted with the investigation/prosecution of all NDPS cases punishable with imprisonment for term of 10 years or more to strictly carry out financial investigation.

In this context, the foremost duty of I.O is to trace out and to identify illegally acquired properties, earned out of contraband drug business, held by the drug offenders and their relatives/associates as per provision of Section 68E of NDPS Act'1985. For this purpose, the following stages should be carried out.

Stage-01- Tracing and identification of relatives and associates of all the persons arrested/convicted for an offence punishable with imprisonment of 10 years or more in NDPS Cases as defined u/s 68(1) of NDPS Act'1985 should commence immediately after arrest after ascertaining their names, address and profession.

Stage-02:- All relatives and associates who are not been apportioned monetary benefit from the drug trafficker should be eliminated and only those relatives/associates who are partaking in his drug business with offer partaking and are accruing monetary benefit from him, should only be identified. After short listing of such benefitted relatives/associates, their alleged illegal properties should be discovered. The relatives includes (a) spouse of the person (b) brother or sister of the person (c) brother or sister of the spouse of the person (d) any lineal ascendant or descendent of the person (e) any lineal ascendant or descendent of the spouse of the person (f) spouse of the persons referred in (b) to (e) above (g) lineal descendent of persons in (b) and (c) above.

The associates include individual/individuals, who had been or residing in the residential premises of the person, individual/individuals, who had been managing the affairs or keeping the account of the person, any business entity of which the person was or is a member, partner or director, those persons who had been member, partner or director of the business entity during the time when the person was member, partner or director, manager or accountant of the business entity referred to in above, trustee/trustees of a trust created by the person or where the person has contributed more than 20 per cent in the assets of trust. The details of associates so collected may be taken on record in the form FLI-1 annexed hereto as Annexure-A.

Stage-03:- During investigation, the Endeavour should be made to find out whether particular relatives/associates of the persons figuring in FLI-1 (Annexure-A) is in any way receiving any part of illegal income of the person or not. If, the answer is affirmative then further investigation relating to occupation, standard of living, known source of income of the relatives/associates is required to be discovered by

interrogating the person and his family members, by examining competitors/ rivals of the persons and by inspecting the books of accounts I.T.R., Municipal Tax Payment receipts, vehicle/ housing loan documents, share certificates/bonds and documents pertaining to properties. If, prima facie evidence of the link is established, the details of the person may be recorded in appropriate format FLI-2 annexed hereto as Annexure-A.

Stage-04:- (Tracing of Assets)The information about property, illegally acquired by the drug peddler or his relatives/associates can be obtained from local Tahasil Office, Banks, RTO Office, Insurance Office, Municipal Office, Office of Financial Companies, Register of Companies, Stock Exchange, Mutual Fund Companies, Housing Finance Companies and other Finance Companies, individual records such as Books of Accounts, I.T. return, loan application, balance sheet and other financial records besides getting tipoff from the neighbours of the durg offenders or his relatives/associates or competitors/rival persons. The details of the properties so indentified should be recorded in FLI-3 annexed hereto.

Stage-05:-(Evaluation of Properties)The officers should examine with reference to the available evidence before him as to whether the property identified, prima facie, appears to have been illegally acquired as per provision of Section 68E(1) or not. The I.O. should consider the acquisition cost and acquisition time of property and compare it with possible legal source of income of the person at the time of acquisition. The large gap between possible source of acquisition and the estimated legal income at the time of acquisition is enough for I.O. to believe illegal acquisition of property and its likely concealment, transfer etc. The investigating Officers shall make a list of the illegal acquisition of property which is prima facie appeared to have derived out of contra band drug trading as per FLI-4 annexed hereto and then may seize the properties as per provision of Section 68F(1) at the spot in presence of witnesses as well as the person from whom such property is seized. If it is not practicable to seize the properties, the I.O. may freeze those and he has to pass a order containing grounds of seizing/freezing. A copy of such seizing/freezing order, carrying signatures of witnesses and person from who such property is

seized/freeze, should be handed over to the person from whom such property is seized keeping acknowledgement thereof. The model copy of freezing and seizing order is annexed hereto for reference.

Stage-06(Details of description of properties liable for forfeiture):-

A seizing/freezing order should contain proper identification of the properties such as it Khata No., Plot No., area, boundary, Mouza, Thana No., Thana, Tahasil and District etc., market value and acquisition value, if available, and the names and addresses of the owners. The details of Bank Accounts, Fix Deposits, Investment securities, vehicles and other assets, seized or freeze should be clearly mentioned stating the name of the Bank, Company, type of Account, Account No. date of opening, current balance, date of deposit, maturity date, acquisition cost, acquisition date, present value etc. The seizing/freezing officer must record his reason to believe about the identification of alleged illegally acquired property, which is very important.

Stage-07(Seizing or freezing order):-

The seizing/freezing order of the properties liable for forfeiture should be reasoned and speaking one containing the grounds. Since the seizing/freezing order is the 1st order in the process of forfeiture proceedings, abundant caution should be taken while passing the order. A sample of seizing/freezing order has been annexed hereto for reference. Officer must send the seizing/freezing order to the Competent Authority-Cum-Administrator, NDPS Act'1985, Kolkata within 48 hours of seizing/freezing as per provision of Section 68F(1) for confirmation and next follow up legal action.

Stage-08:-After receipt of such seizing/freezing order from the officer, the Competent Authority will initiate forfeiture proceeding hearing duly serving a notice upon the affected persons for offering his views to defend himself against alleged seizing/freezing order within 30 days of receipt of notice as per provision 68H of NDPS Act'1985.

Thereafter, legal proceedings in the Court of Competent Authority as per provision of 68I will follow for forfeiture of property as reported by seizing/freezing officer.

Financial investigation in NDPS Cases is one of the important tools to initiate legal action against drug peddler arrested/convicted in NDPS Cases having provision of punishment for more than 10 years or more.

Hence, it is instructed to all the field officers having powers to investigate NDPS Cases to undertake financial investigation in suitable cases.

This issues with the approval of DGP, Odisha.

Pradyumn
I.G. of Police, 28/1/19
STF, Bhubaneswar.

Memo No 344/STF

Dated:- 28.1.19.

Copy to

All District SsP/Dy.Commissioners of Police, Bhubaneswar & Cuttack/SsRP, Rourkela & Cuttack.

Commissioner of Police, Bhubaneswar-Cuttack, UPD, Bhubaneswar/All Range IsGP/Range DIsGP including IGP, Railways for information and necessary action please.

Pradyumn
I.G. of Police, 28/1/19
STF, Bhubaneswar.

Address – 141, Keshari Nagar, Unit-V, Bhubaneswar-01
Tele- 0674-2394129, Fax-0674-2393129,E-mail; stfcidcbodpol@nic.in