

DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993

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DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993

Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 564(E), dated August 5, 1993, published in the Gazette of India, Extra., Part II, Section 3(i), dated 20th August, 1993, pp. 6-9, No. 283 [F. No. 18/2/93- Coord.] as corrected by Noti. No. G.S.R. 351(E), dated 31st March, 1994, pp. 1-2 In exercise of the powers conferred by sub-sections (1) and (2) of S.36 of the Recovery of Debts due to Banks and Financial Institutions Ordinance, 1993, the Central Government hereby makes the following rules, namely :-

1. Short title and commencement :-

..-

(1) These rules may be called the Debts Recovery Tribunal (Procedure) Rules, 1993.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :-

..- In these rules, unless the context otherwise requires :

(a) "agent" means a person duly authorised by a party to present application or to give reply on its behalf before the Tribunal;

¹(b) "applicant" means a person making an application under Sec. 19 or under Sec. 31-A and also includes an "applicant" who files an appeal under Sec. 30(1) of the Act,

¹(c) "application" means an application filed under Sec. 19 or under Sec. 31-A and includes an "appeal" filed under Sec. 30(1) of the Act,

(d) "legal practitioner" shall have the same meaning as if assigned to it in Advocates Act, 1961

;

(e) "Ordinance" means the Recovery of Debt due to Banks and Financial Institutions Ordinance, 1993 (25 of 1993);

(f) "presiding officer" means the presiding officer of a tribunal;

¹ (g) "Registrar" means the Registrar of the Tribunal and includes the Assistant Registrar to whom the powers and duties of the Registrar may be delegated";

(h) "Registry" means the Registry of the tribunal.

1. In Rule 2, sub-rule (b),(c) and (g) shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003 Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

3. Language of the Tribunal :-

..-

(1) The proceedings of the Tribunal shall be conducted in English or Hindi.

(2) No reference, application, representations, documents or other matters contained in any language other than English or Hindi shall be accepted by the Tribunal, unless the same is accompanied by a

true translation thereof in English or Hindi.

4. Procedure for filing application :-

..-

(1) ¹["The application under Sec. 19 or Sec. 31-A, or under Sec. 30(1) of the Act may be presented as nearly as possible in Form-I, Form-II and Form-III respectively"] annexed to these rules by the applicant in person or by his agent or by a duly authorised legal practitioner to the Registrar of the bench within whose jurisdiction his case falls or shall be sent by registered post addressed to the Registrar.

(2) An application sent by post under sub-rule (1) shall be deemed to have been presented to the Registrar the day on which it is received in the office of the Registrar.

(3) The application under sub-rule (1) shall be presented in ²[two sets], in a paper book along with an empty file size envelop bearing full address of the ³ ["defendant"] and where the number of respondents is more than one, then sufficient number of extra paper books together with empty file size envelops bearing full addresses of each respondents shall be furnished by the applicant.

1. In Rule 4, in sub-rule (1) the words "An application shall be presented in Form" shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

2. Substituted for "four sets", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July, 1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

3. Substituted for "respondent ", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July, 1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

5. Presentation and scrutiny of applications :-

. .-

1 (1) The Registrar, or, as the case may be, the officer authorized by him, shall endorse on every application the date on which it is presented or deemed to have been presented under Rule 4 and shall sign endorsement.

(2) If, on scrutiny, the application is found to be in order, it shall be duly registered and given a serial number.

(3) If the application, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the party to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the applicant such time to rectify the defect as he may deem fit.

(4) If the concerned applicant fails to rectify the defect within the time allowed in sub-rule 3, the Registrar may by order and for reasons to be recorded in writing, decline to register the application.

(5) An appeal against the order of the Registrar under sub-rule 4 shall be made within 15 days of the making of such order to the Presiding Officer concerned in chamber whose decision thereon shall be final.

1. In Rule 5, sub-rule (1) shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

5A. Review :-

. **1** .-

(1) Any party which considering itself aggrieved by an order made by the Tribunal on account of some mistake or error apparent on the face of the record, desires to obtain a review of the order made against him, may apply for a review of the order to the Tribunal which had made the order.

(2) No application for review shall be made after the expiry of a period of sixty days from the date of the order and no such application shall be entertained unless it is accompanied by an affidavit verifying the application.

(3) Where it appears to the Tribunal that there is no sufficient ground for a review, it shall reject the application but, where the Tribunal is of opinion that that the application for review should be

granted, it shall grant the same: Provided that no such application shall be granted without previous notice to the opposite party to enable him to appear and to be heard in support of the order, a review of which is applied for;

1. Inserted vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July, 1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

6. Place of filing application. :-

¹ The application shall be filed by the applicant with the Registrar within whose jurisdiction

(a) the applicant is functioning as a bank or financial institution, as the case may be, for the time being, or

(b) the defendant, or each of the defendants where there are more than one, at the time of making application, actually or voluntarily resides, or carries on business, or personally works for gain, or

(c) any of the defendants where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business, or personally works for gain, or

(d) the cause of action, wholly or in part, arises.

1. Rule 6 and 7, shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

7. Application Fee :-

¹ (1) Every application under Sec. 19(1), or Sec. 19(2), or Sec. 19(8), or Sec. 30(1) of the Act, or interlocutory application or application for review of decision of the Tribunal shall be accompanied by a fee provided in the sub-rule (2) and such fee may be remitted through a crossed Bank Demand Draft drawn on a bank or Indian Postal Order in favour of the Registrar of the Tribunal and payable at the place where the Tribunal is situated.

(2) The amount of fee payable shall be as follows :

1. Rule 6 and 7, shall be substituted by Debts Recovery Tribunal

(Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

8. Contents of Application :-

. .-

(1) Every application filed under Rule 4 shall set forth concisely under distinct heads, the grounds for such application and such grounds shall be numbered consecutively and shall be typed in double space on one side of the paper.

(2) It shall not be necessary to present separate application to seek interim order of direction if in the original application the same is prayed for

.

9. Documents to accompany the application under Sec. 19 or Sec. 31-A of the Act :-

. .- ¹(1)²["An application under Sec. 19 or Sec. 31-A"] shall be accompanied by a paper book containing :-

(i)³ "a statement showing details of the debt due from a defendant and circumstances under which such debt has become due; and shall also disclose details of the case and decision in that case which is sought to be reviewed";

(ii) all documents relied upon by the applicant and those mentioned in the application;

(iii) details of the crossed demand draft or crossed Indian Postal Order representing the application fee;

(iv) Index of Documents.

(2) The documents referred to in sub-rule (1) shall be neatly typed in double space on one side of the paper, duly attested by a senior officer of the bank, or Financial Institution, as the case may be, and numbered accordingly.

(3) Where the parties to the suit or proceedings are being represented by an agent, documents authorising him to act as such agent shall also be appended to the application: Provided that where an application is filed by a legal practitioner, it shall be accompanied by a duly executed Vakalatnama.

1. In Rule 9, heading "Documents to accompan" shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec.3(i), No. 33, dt. 21.1.2003, p. 12.

2. In Rule 9, the words "Every application," shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

3. In Rule 9, in sub-rule (1), clause (i), shall be substituted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

10. Plural Remedies :-

. **1** [* * * * *]

1. Rule 10, shall be omitted by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

11. Endorsing copy of application to the 8["defendant"] :-

. .- A copy of the application and paper-book shall be served on each of the respondents as soon as they are filed, by the Registrar by registered post.

12. Filing of reply and other documents by the "defendant" :-

. **1**.-

(1) The respondent may file ²["two complete sets"] containing the reply to the application along with documents in a paper book form with the registry within one month of the service of the notice of the filing of the application on him.

(2) The ³["defendant"] shall also endorse one copy of the reply along with documents as mentioned in sub-rule (1) to the ⁴["applicant"].

(3) The Tribunal may, in its discretion on application by the ⁵["defendant"] allow the filing of reply referred to in sub-rule (1), after the expiry of the period referred to therein

⁶(4) If the defendant fails to file the reply under sub-rule (1) or on the date fixed for hearing of the application, the Tribunal may proceed forthwith to pass an order on the application as it thinks fit.

(5) Where a defendant makes an admission of the full or part of the amount of debt due to a bank or financial institution, the Tribunal shall order such defendant to pay the amount, to the

extent of the admission, by the applicant within a period of one month from the date of such order failing which the Tribunal may issue a certificate in accordance with Section 19 of the Act to the extent of the amount of debt due admitted by the defendant.

7 (6) The Tribunal may at any time for sufficient reason order that any particular fact or facts shall be proved by affidavit, or that the affidavit of any witness shall be read at the hearing, on such conditions as the Tribunal thinks reasonable :

Provided that after filing of the affidavits by the respective parties where it appears to the Tribunal that either the applicant or the defendant desires the production of a witness for cross examination and that such witness can be produced and it is necessary to do so, the Tribunal shall for sufficient reasons to be recorded, order the witness to be present for cross examination, and in the event of the witness not appearing for cross examination, then, the affidavit shall not be taken into evidence and further that no oral evidence other than that given in this proviso will be permitted";

(7) If the defendant denies his liability to pay the claim made by the applicant, the Tribunal may act upon the affidavit of the applicant who is acquainted with the facts of the case or who has on verification of the record sworn the affidavit in respect of the contents of the application and the documents as evidence;

(8) The provisions contained in Section 4 of the Bankers Books Evidence Act, 1891 (18 of 1891), shall apply to a certified copy of an entry in a bankers book furnished along with the application filed under sub-section (1) of Section 19 by the applicant;

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1. Substituted for " respondent", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July,1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

2. Substituted for "four complete sets ", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July, 1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19,1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in

the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

3. Substituted for "respondent ", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July,1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

4. Substituted for "application", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July,1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

5. Substituted for "respondent, ", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July,1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

6. Inserted vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July, 1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

7. In Rule 12, sub-rule (6) shall be substituted, by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

13. Date and place of hearing to be notified :-

. .- The Tribunal shall notify the parties the date and place of

hearing of the application in such a manner as the presiding officer may by general or special order direct.

14. Order to be signed and dated :-

. .-

(1) Every order of the Tribunal shall be in writing and shall be signed and dated by the Presiding Officer of the Tribunal.

(2) The order shall be pronounced in open court.

15. Publication of Orders :-

. .- Any orders of the Tribunal as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Tribunal may lay down..

15A. Publication of names of the Defaulters. :-

¹ The Tribunal may cause to notify the names of the defaulters in the newspaper or otherwise after the final order/recovery certificate has been passed by the Tribunal as it deem fit and proper;

1. Rule 15A, shall be inserted, by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II-Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

16. Communication of orders to parties :-

. .- Every order passed on an application shall be communicated to the applicant and to the ¹ ["defendant"] either in person or by registered post free of cost.

1. Substituted for "respondent", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July,1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

17. Fee for inspection of records and obtaining copies thereof :-

..-

(1) A fee of rupees twenty for every hour or part thereof of inspection subject to a minimum of rupees one hundred shall be charged for inspecting the records of a ¹ ["each pending application"] by a party thereto.

(2) A fee of rupees five for a folio or part thereof not involving typing and a fee of rupees ten for a folio or part thereof involving typing of statement and figures shall be charged.

1. Substituted for "pending application ", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt. 25th July, 1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

18. Orders and directions in certain cases :-

. .- The Tribunal may make such orders to give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

19. Working Hours of the Tribunal :-

. .- Except on Saturdays, Sundays and other public holidays, the offices of the Tribunal shall, subject to any order made by the presiding officer, remain open daily from 10 a.m. to 6.00 p.m. but no work, unless, of an urgent nature, shall be admitted after 4.30 p.m. on any working day.

20. Sitting Hours of the Tribunal :-

. .- The sitting hours of the Tribunal (including a vacation bench) shall ordinarily be from 10.30 a.m. to 1.00 p.m. and 2.00 p.m. to 5.00 p.m. subject to any order made by the Presiding Officer.

21. Holiday :-

. .- Where the last day for doing any act falls on a day on which the office of the Tribunal is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which that

office opens.

22. Powers and Functions of the Registrar :-

. .-

(1) The Registrar shall have the custody of the records of the Tribunal and shall exercise such other functions as are assigned to him under these rules or by the Presiding Officer by a separate order in writing.

(2) The official seal shall be kept in the custody of the Registrar.

(3) Subject to any general or special direction by the Presiding Officer, the seal of the Tribunal shall not be affixed to any order, summons or other process save under the authority in writing from the Registrar.

(4) The seal of the Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing of the Registrar.

23. Additional powers and duties of the Registrar :-

. .- In addition to the powers conferred elsewhere in these rules, the Registrar shall have the following powers and duties subject to any general or special order of the Presiding Officer namely :-

(i) to receive all applications and other documents including transferred applications

,

(ii) to decide all questions arising out of the scrutiny of the applications before they are registered;

(iii) to require any application presented to the Tribunal to be amended in accordance with the rules;

(iv) subject to the directions of the Presiding Officer to fix date of hearing of the applications or other proceedings and issue notices thereof;

(v) direct any formal amendment of records;

(vi) to order grant of copies of documents to parties to proceedings;

(vii) to grant leave to inspect the record of Tribunal;

(viii) dispose of all matters relating to the service of notices or other processes, applications for the issue of fresh notices or for extending the time for or ordering a particular method of service on a ¹ ["defendant"] including a substituted service by publication of the notice by way of advertisements in the newspapers;

(ix) to requisition records from the custody of any court or other

authority;

1. Substituted for "respondent", vide " THE DEBTS RECOVERY TRIBUNAL (PROCEDURE) RULES, 1993." Dt.25th July,1997 Published in Ministry of Finance (Deptt. of Economic Affairs) (Banking Division), Noti. No. G.S.R. 328(E), dated June 19, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 19th June, 1997, pp. 3-5, No. 244 [F. No. 18(2)93-Co-ord.] as corrected by G.S.R. 405(E), dated July 27, 1997, published in the Gazette of India, Extra., Part II, Section 3(i), dated 25th July, 1997, pp. 1-2, No. 301 [File No. 18/2/93-Co-ord]

23A. Functions of Assistant Registrar :-

¹ The Assistant Registrar of the Tribunal shall assist the Registrar in the work relating to the Registry and Administration of the Tribunal and perform such other functions assigned/delegated to him by the Presiding Officer

1. Rule 23A, shall be inserted, by Debts Recovery Tribunal (Procedure) Amendment Rules, 2003, Gaz. of India, Exty., Pt. II- Sec. 3(i), No. 33, dt. 21.1.2003, p. 12.

24. Seal and emblem :-

. .- The official seal and emblem of the Tribunal shall be such as the Central Government may specify.