The Recovery of Debts and Bankruptcy Act, 1993

Act 51 of 1993. 45 sections. Bare Act with the official footnotes.

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Every section online, with the old and new law side by side and exam questions:
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[27th August, 1993.]

An Act to provide for the establishment of Tribunals for expeditious adjudication and recovery of debts due to banks and financial institutions [, insolvency resolution and bankruptcy of individuals and partnership firms] and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

Section 1. Short title, extent, commencement and application

(1) This Act may be called the Recovery of Debts [1][and Bankruptcy] Act, 1993.

(2) It extends to the whole of India except the State of Jammu and Kashmir*.

(3) It shall be deemed to have come into force on the 24th day of June, 1993.

(4) [2][Save as otherwise provided, the provisions of this Code] shall not apply where the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is less than ten lakh rupees or such other amount, being not less than one lakh rupees, as the Central Government may, by notification, specify.

[1] Subs. by s. 249 and Sch. V, ibid., for "Due to Banks and Financial Institutions" (w.e.f. 1-12-2019).
[2] Subs. by s. 249 and Sch. V, ibid., for "The provision of this Act" (w.e.f. 1-12-2019).

Section 2. Definitions

In this Act, unless the context otherwise requires,-

(a) "Appellate Tribunal" means an Appellate Tribunal established under sub-section (1) of section 8;

(b) "application" means an application made to a Tribunal under section 19;

(c) "appointed day", in relation to a Tribunal or an Appellate Tribunal, means the date on which such Tribunal is established under sub-section (1) of section 3 or, as the case may be, sub-section (1) of section 8;

(d) "bank" means-

(i) banking company;

(ii) a corresponding new bank;

(iii) State Bank of India;

(iv) a subsidiary bank; or

(v) a Regional Rural Bank;

[1][(vi) a multi-State co-operative bank;]

(e) "banking company" shall have the meaning assigned to it in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

[2][(ea) "Chairperson" means a Chairperson of an Appellate Tribunal appointed under section 9;]

(f) "corresponding new bank" shall have the meaning assigned to it in clause (da) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);

[3][(g) "debt" means any liability (inclusive of interest) which is claimed as due from any person [4][or a pooled investment vehicle as defined in clause (da) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956)] by a bank or a financial institution or by a consortium of banks or financial institutions during the course of any business activity undertaken by the bank or the financial institution or the consortium under any law for the time being in force, in cash or otherwise, whether secured or unsecured, or assigned, or whether payable under a decree or order of any civil court or any arbitration award or otherwise or under a mortgage and subsisting on, and legally recoverable on, the date of the application [5][and includes any liability towards debt securities which remains unpaid in full or part after notice of ninety days served upon the borrower by the debenture trustee or any other authority in whose favour security interest is created for the benefit of holders of debt securities or;]]

[5][(ga) "debt securities" means debt securities listed in accordance with regulations made by the Securities Exchange Board of India under the Securities and Exchange Board of India Act, 1992 (15 of 1992);]

(h) "financial institution" means-

(i) a public financial institution within the meaning of section 4A of the Companies Act, 1956 (1 of 1956);

[6][(ia) the securitisation company or reconstruction company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);]

[5][(ib) a debenture trustee registered with the Board and appointed for secured debt securities;]

(ii) such other institution as the Central Government may, having regard to its business activity and the area of its operation in India, by notification, specify;

[5][(ha) "financial lease" means a lease under a lease agreement of tangible asset, other than negotiable instrument or negotiable document, for transfer of lessor's right therein to the lessee for a certain time in consideration of payment of agreed amount periodically and where lessee becomes the owner of the such assets at the expiry of the term of lease or on payment of the agreed residual amount, as the case may be;]

(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by rules made under this Act;

[7][(ja) "Presiding Officer" means the Presiding Officer of the Debts Recovery Tribunal appointed under sub-section (1) of section 4;]

[5][(jb) "property" means-

(a) immovable property;

(b) movable property;

(c) any debt or any right to receive payment of money, whether secured or unsecured;

(d) receivables, whether existing or future;

(e) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature, as may be prescribed by the Central Government in consultation with Reserve Bank;]

(k) "Recovery Officer" means a Recovery Officer appointed by the Central Government for each Tribunal under sub-section (1) of section 7;

(l) "Regional Rural Bank" means a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976 (21 of 1976);

[5][(la) "secured creditor" shall have the meaning as assigned to it in clause (zd) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(lb) "security interest" means mortgage, charge, hypothecation, assignment or any other right, title or interest of any kind whatsoever upon property, created in favour of any bank or financial institution and includes-

(a) such right, title or interest upon tangible asset, retained by the bank or financial institution as owner of the property, given on hire or financial lease or conditional sale which secures the obligation to pay any unpaid portion of the purchase price of the asset or an obligation incurred or any credit provided to enable the borrower to acquire the tangible asset; or

(b) such right, title or interest in any intangible asset or licence of any intangible asset, which secures the

obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit extended to enable the borrower to acquire the intangible asset or licence of intangible asset;]

(m) "State Bank of India" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955);

(n) "subsidiary bank" shall have the meaning assigned to it in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(o) "Tribunal" means the Tribunal established under sub-section (1) of section 3.

[1] Ins. by Act 1 of 2013, s. 12 (w.e.f. 15-1-2013).
[2] Ins. by Act 1 of 2000, s. 3 (w.e.f. 17-1-2000).
[3] Subs. by s. 3, ibid., for cl. (g) (w.e.f. 17-1-2000).
[4] Ins. by Act 13 of 2021, s. 160 (w.e.f. 1-4-2021).
[5] Ins. by Act 44 of 2016, s. 26 (w.e.f. 1-9-2016).
[6] Ins. by Act 30 of 2004, s. 19 (w.e.f. 11-11-2004).
[7] Ins. by Act 1 of 2000, s. 3 (w.e.f. 17-1-2000).

CHAPTER II ESTABLISHMENT OF TRIBUNAL AND APPELLATE TRIBUNAL

Section 3. Establishment of Tribunal

(1) The Central Government shall, by notification, establish one or more Tribunals, to be known as the Debts Recovery Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act.

[1][(1A) The Central Government shall by notification establish such number of Debts Recovery Tribunals and its benches as it may consider necessary, to exercise the jurisdiction, powers and authority of the Adjudicating Authority conferred on such Tribunal by or under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

(2) The Central Government shall also specify, in the notification referred to in sub-section (1), the areas within which the Tribunal may exercise jurisdiction for entertaining and deciding the applications filed before it.

[1] Ins. by Act 31 of 2016, s. 249 and Sch. V (w.e.f. 1-12-2019).

Section 4. Composition of Tribunal

(1) A Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the Central Government.

[1][(2) Notwithstanding anything contained in sub-section (1), the Central Government may-

(a) authorise the Presiding Officer of any other Tribunal established under any other law for the time being in force to discharge the function of the Presiding Officer of a Debt Recovery Tribunal under this Act in addition to his being the Presiding Officer of that Tribunal; or

(b) authorise the judicial Member holding post as such in any other Tribunal, established under any other law for the time being in force, to discharge the functions of the Presiding Officer of Debts Recovery Tribunal under this Act, in addition to his being the judicial Member of that Tribunal.]

[1] Subs. by Act 44 of 2016, s. 27, for sub-section (2) (w.e.f. 1-9-2016).

Section 5. Qualifications for appointment as Presiding Officer

A person shall not be qualified for appointment as the Presiding Officer of a Tribunal unless he is, or has been, or is qualified to be, a District Judge.

Section 6. Term of office of Presiding Officer

[1][The Presiding Officer of a Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Presiding Officer of a Tribunal after he has attained the age of sixty-five years.]

[1] Subs. by s. 28, ibid., for s. 6 (w.e.f. 1-9-2016).

Section 6A. Qualifications, terms and conditions of service of Presiding Officer

[1][Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the other terms and conditions of service of the Presiding Officer of the Tribunal appointed after the commencement of [2][the Tribunal Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act]:

Provided that the Presiding Officer appointed before the commencement of Part XIV of Chapter VI of the Finance Act,

2017 (7 of 2017), shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

[1] Ins. by Act 7 of 2017, s. 179 (w.e.f. 26-5-2017).

[2] Subs. by Act 33 of 2021, s. 18, for "Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall be governed by the provisions of section 184 of that Act" (w.e.f. 4-4-2021).

Section 7. Staff of Tribunal

(1) The Central Government shall provide the Tribunal [1][with one or more Recovery Officers] and such other officers and employees as that Government may think fit.

(2) [2][The Recovery Officers] and other officers and employees of a Tribunal shall discharge their functions under the general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the [3][Recovery Officers] and other officers and employees of a Tribunal shall be such as may be prescribed.

[1] Subs. by Act 1 of 2000, s. 4, for "with a Recovery Officer" (w.e.f. 17-1-2000).

[2] Subs. by s. 4, ibid., for "The Recovery Officer" (w.e.f. 17-1-2000).

[3] Subs. by s. 4, ibid., for "Recovery Officer" (w.e.f. 17-1-2000).

Section 8. Establishment of Appellate Tribunal

(1) The Central Government shall, by notification, establish one or more Appellate Tribunals, to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act:

[1][Provided that the Central Government may authorise the Chairperson of any other Appellate Tribunal, established under any other law for the time being in force, to discharge the functions of the Chairperson of the Debts Recovery Appellate Tribunal under this Act in addition to his being the Chairperson of that Appellate Tribunal.]

[2][(1A) The Central Government shall, by notification, establish such number of Debt Recovery Appellate Tribunals to exercise jurisdiction, powers and authority to entertain appeal against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).]

(2) The Central Government shall also specify in the notification, referred to in sub-section (1) the Tribunals in relation to which the Appellate Tribunal may exercise jurisdiction.

[3][(3) Notwithstanding anything contained in sub-sections (1) and (2), the Central Government may authorise the Chairperson of one Appellate Tribunal to discharge also the functions of the Chairperson of other Appellate Tribunal.]

[1] Ins. by Act 44 of 2016, s. 29 (w.e.f. 1-9-2016).

[2] Ins. by Act 31 of 2016, s. 249 and Sch. V (w.e.f. 1-12-2019).

[3] Ins. by Act 1 of 2000, s. 5 (w.e.f. 17-1-2000).

Section 9. Composition of Appellate Tribunal

An Appellate Tribunal shall consist of one person only (hereinafter referred to as [1][the Chairperson of the Appellate Tribunal]) to be appointed, by notification, by the Central Government.

[1] Subs. by s. 2, ibid., for "the Presiding Officer of the Appellate Tribunal" (w.e.f. 17-1-2000).

Section 10. Qualifications for appointment as [1][the Chairperson of the Appellate Tribunal]

A person shall not be qualified for appointment as [2][the Chairperson of an Appellate Tribunal] unless he-

(a) is, or has been, or is qualified to be, a Judge of a High Court; or

(b) has been a member of the Indian Legal Service and has held a post in Grade I of that service for at least three years; or

(c) has held office as the Presiding Officer of a Tribunal for at least three years.

[1] Subs. by s. 2, ibid., for "the Presiding Officer of the Appellate Tribunal" (w.e.f. 17-1-2000).

[2] Subs. by s. 2, ibid., for "the Presiding Officer of an Appellate Tribunal" (w.e.f. 17-1-2000).

Section 11. Term of office of Chairperson of Appellate Tribunal

[1][The Chairperson of an Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Provided that no person shall hold office as the Chairperson of a Appellate Tribunal after he has attained the age of seventy years.]

[1] Subs. by Act 44 of 2016, s. 30, for s. 11 (w.e.f. 1-9-2016).

Section 12. Staff of the Appellate Tribunal

The provisions of section 7 (except those relating to Recovery Officer) shall, so far as may be, apply to an Appellate Tribunal as they apply to a Tribunal and accordingly references in that section to "Tribunal" shall be construed as references to "Appellate Tribunal" and references to "Recovery Officer" shall be deemed to have been omitted.

Section 13. Salary and allowances and other terms and conditions of service of Presiding Officers

The salary and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, [1][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of [2][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal shall be varied to his] disadvantage after appointment.

[1] Subs. by Act 1 of 2000, s. 2, for "the Presiding Officer of a Tribunal or an Appellate Tribunal" (w.e.f. 17-1-2000).
[2] Subs. by s. 6, ibid., for "the said Presiding Officers shall be varied to their" (w.e.f. 17-1-2000).

Section 14. Filling up of vacancies

If, for any reason other than temporary absence, any vacancy occurs in the office of [1][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal], then the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Tribunal or the Appellate Tribunal from the stage at which the vacancy is filled.

[1] Subs. by s. 2, ibid., for "the Presiding Officer of a Tribunal or an Appellate Tribunal" (w.e.f. 17-1-2000).

Section 15. Resignation and removal

(1) [1][The Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that [2][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) [1][The Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] shall not be removed from his office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after inquiry,-

(a) in the case of the Presiding Officer of a Tribunal, made by a Judge of a High Court;

(b) in the case of [3][the Chairperson of an Appellate Tribunal], made by a Judge of the Supreme Court,

in which [4][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges:

[5][Provided that the Central Government, during the pendency of the inquiry against the Presiding Officer or a Chairperson, as the case may be, may, after consulting the Chairperson of the Selection Committee constituted for selection of Presiding Officer or Chairperson, pass an order suspending the Presiding Officer or the Chairperson, if it is satisfied that he should cease to discharge his functions as a Presiding Officer or Chairperson, as the case may be.]

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of [6][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal].

[1] Subs. by Act 1 of 2000, s. 2, for "the Presiding Officer of a Tribunal or an Appellate Tribunal" (w.e.f. 17-1-2000).
[2] Subs. by s. 7, ibid., for "the said Presiding Officer" (w.e.f. 17-1-2000).
[3] Subs. by s. 2, ibid., for "the Presiding Officer of an Appellate Tribunal" (w.e.f. 17-1-2000).
[4] Subs. by s. 7, ibid., for "the Presiding Officer concerned" (w.e.f. 17-1-2000).
[5] Ins. by Act 1 of 2013, s. 13 (w.e.f. 15-1-2013).
[6] Subs. by Act 1 of 2000, s. 7, for "the aforesaid Presiding Officer" (w.e.f. 17-1-2000).

Section 15A. Qualifications, terms and conditions of service of Chairperson

[1][Notwithstanding anything contained in this Act, the qualifications, appointment, term of office, salaries and allowances, resignation, removal and the terms and conditions of service of the Chairperson of the Appellate Tribunal appointed after the commencement of [2][the Tribunal Reforms Act, 2021, shall be governed by the provisions of Chapter II of the said Act]:

Provided that the Chairperson appointed before the commencement of Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall continue to be governed by the provisions of this Act, and the rules made thereunder as if the provisions of section 184 of the Finance Act, 2017 had not come into force.]

[1] Ins. by Act 7 of 2017, s. 179 (w.e.f. 26-5-2017).

[2] Subs. by Act 33 of 2021, s. 18, for "Part XIV of Chapter VI of the Finance Act, 2017 (7 of 2017), shall be governed by the provisions of section 184 of that Act" (w.e.f. 4-4-2021).

Section 16. Orders constituting Tribunal or an Appellate Tribunal to be final and not to invalidate its proceedings

No order of the Central Government appointing any person as [1][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] shall be called in question in any manner, and no act or proceeding before a Tribunal or an Appellate Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of a Tribunal or an Appellate Tribunal.

[1] Subs. by Act 1 of 2000, s. 2, for "the Presiding Officer of a Tribunal or an Appellate Tribunal" (w.e.f. 17-1-2000).

CHAPTER III JURISDICTION, POWERS AND AUTHORITY OF TRIBUNALS

Section 17. Jurisdiction, powers and authority of Tribunals

(1) A Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain and decide applications from the banks and financial institutions for recovery of debts due to such banks and financial institutions.

[1][(1A) Without prejudice to sub-section (1),-

(a) the Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain and decide applications under Part III of Insolvency and Bankruptcy Code, 2016.

(b) the Tribunal shall have circuit sittings in all district headquarters.]

(2) An Appellate Tribunal shall exercise, on and from the appointed day, the jurisdiction, powers and authority to entertain appeals against any order made, or deemed to have been made, by a Tribunal under this Act.

[1][(2A) Without prejudice to sub-section (2), the Appellate Tribunal shall exercise, on and from the date to be appointed by the Central Government, the jurisdiction, powers and authority to entertain appeals against the order made by the Adjudicating Authority under Part III of the Insolvency and Bankruptcy Code, 2016.]

[1] Ins. by Act 31 of 2016, s. 249 and Sch. V (w.e.f. 1-12-2019).

Section 17A. Power of Chairperson of Appellate Tribunal

[1][(1) The Chairperson of an Appellate Tribunal shall exercise general power of superintendence and control over the Tribunals under his jurisdiction including the power of appraising the work and recording the annual confidential reports of Presiding Officers.

[2][(1A) For the purpose of exercise of general powers of superintendence and control over Tribunals under sub-section (1), the Chairperson may-

(i) direct the Tribunals to furnish, in such form, at such intervals and within such time, information relating to pending cases both under this Act and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), or under any other law for the time being in force, number of cases disposed of, number of new cases filed and such other information as may be considered necessary by the Chairperson;

(ii) convene meetings of the Presiding Officers of Tribunals periodically to review their performance.

(1B) Where on assessment of the performance of any Presiding Officer of the Tribunal or otherwise, the Chairperson is of the opinion that an inquiry is required to be initiated against such Presiding Officer for misbehaviour or incapacity, he shall submit a report to the Central Government recommending action against such Presiding Officer, if any, under section 15, and for reasons to be recorded in writing for the same.]

(2) The Chairperson of an Appellate Tribunal having jurisdiction over the Tribunals may, on the application of any of the parties or on his own motion after notice to the parties and after hearing them, transfer any case from one Tribunal for disposal to any other Tribunal.]

[1] Ins. by Act 1 of 2000, s. 8 (w.e.f. 17-1-2000).

[2] Ins. by Act 44 of 2016, s. 31 (w.e.f. 1-9-2016).

Section 18. Bar of jurisdiction

On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17:

[1][Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.]

[1] Ins. by Act 1 of 2013, s. 14 (w.e.f. 15-1-2013).

CHAPTER IV PROCEDURE OF TRIBUNALS

Section 19. Application to the Tribunal

[1][(1) Where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction-

[2][(a) the branch or any other office of the bank or financial institution is maintaining an account in which debt claimed is outstanding, for the time being; or]

[3][(aa)] the defendant, or each 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

(b) 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

(c) the cause of action, wholly or in part, arises:

[4][Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2004 (30 of 2004) for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), if no such action had been taken earlier under that Act:

Provided further that any application made under the first proviso for seeking permission from the Debts Recovery Tribunal to withdraw the application made under sub-section (1) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided also that in case the Debts Recovery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.]

[5][(1A) Every bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2, may, at its option, opt to initiate proceedings under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) to recover debts, whether due before or after the date of commencement of the Enforcement of the Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) from any person instead of making an application under this Chapter.

(1B) In case, a bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2 has filed an application under this Chapter and subsequently opts to withdraw the application for the purpose of initiating proceeding under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) to recover debts, it may do so with the permission of the Tribunal and every such application seeking permission from the Tribunal to withdraw the application made under sub-section (1A) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided that in case the Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor.]

(2) Where a bank or a financial institution, which has to recover its debt from any person, has filed an application to the Tribunal under sub-section (1) and against the same person another bank or financial institution also has claim to recover its debt, then, the later bank or financial institution may join the applicant bank or financial institution at any stage of the proceedings, before the final order is passed, by making an application to that Tribunal.

[6][(3) Every application under sub-section (1) or sub-section (2) shall be in such form, and shall be accompanied with true copies of all documents relied on in support of the claim along with such fee, as may be prescribed:]

Provided that the fee may be prescribed having regard to the amount of debt to be recovered:

Provided further that nothing contained in this sub-section relating to fee shall apply to cases transferred to the

Tribunal under sub-section (1) of section 31.

[7][Explanation.-For the purposes of this section, documents includes statement of account or any entry in banker's book duly certified under the Bankers' Books Evidence Act, 1891 (18 of 1891).]

[7][(3A) Every applicant in the application filed under sub-section (1) or sub-section (2) for recovery of debt, shall-

(a) state particulars of the debt secured by security interest over properties or assets belonging to any of the defendants and the estimated value of such securities;

(b) if the estimated value of securities is not sufficient to satisfy the debt claimed, state particulars of any other properties or assets owned by any of the defendants, if any; and

(c) if the estimated value of such other assets is not sufficient to recover the debt, seek an order directing the defendant to disclose to the Tribunal particulars of other properties or assets owned by the defendants.] [8][[9][(3B)] If any application filed before the Tribunal for recovery of any debt is settled prior to the commencement of the hearing before that Tribunal or at any stage of the proceedings before the final order is passed, the applicant may be granted refund to the fees paid by him at such rates as may be prescribed.]

[10][(4) On receipt of application under sub-section (1) or sub-section (2), the Tribunal shall issue summons with following directions to the defendant-

(i) to show cause within thirty days of the service of summons as to why relief prayed for should not be granted;

(ii) direct the defendant to disclose particulars of properties or assets other than properties and assets specified by the applicant under clauses (a) and (b) of sub-section (3A); and

(iii) to restrain the defendant from dealing with or disposing of such assets and properties disclosed under clause (c) of sub-section (3A) pending the hearing and disposal of the application for attachment of properties.] [11][(4A) Notwithstanding anything contained in section 65A of the Transfer of Property Act, 1882 (4 of 1882), the defendant, on service of summons, shall not transfer by way of sale, lease or otherwise except in the ordinary course of his business any of the assets over which security interest is created and other properties and assets specified or disclosed under sub-section (3A), without the prior approval of the Tribunal:

Provided that the Tribunal shall not grant such approval without giving notice to the applicant bank or financial institution to show cause as to why approval prayed for should not be granted:

Provided further that defendant shall be liable to account for the sale proceeds realised by sale of secured assets in the ordinary course of business and deposit such sale proceeds in the account maintained with the bank or financial institution holding security interest over such assets.]

[12][(5) (i) the defendant shall within a period of thirty days from the date of service of summons, present a written statement of his defence including claim for set-off under sub-section (6) or a counter-claim under sub-section (8), if any, and such written statement shall be accompanied with original documents or true copies thereof with the leave of the Tribunal, relied on by the defendant in his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, the Presiding Officer may, in exceptional cases and in special circumstances to be recorded in writing, extend the said period by such further period not exceeding fifteen days to file the written statement of his defence;

(ii) where the defendant makes a disclosure of any property or asset pursuant to orders passed by the Tribunal, the provisions of sub-section (4A) of this section shall apply to such property or asset;

(iii) in case of non-compliance of any order made under clause (ii) of sub-section (4), the Presiding Officer may, by an order, direct that the person or officer who is in default, be detained in civil prison for a term not exceeding three months unless in the meantime the Presiding Officer directs his release:

Provided that the Presiding Officer shall not pass an order under this clause without giving an opportunity of being heard to such person or officer.

Explanation.-For the purpose of this section, the expression 'officer who is in default' shall mean such officer as defined in clause (60) of section 2 of the Companies Act, 2013 (18 of 2013).]

[13][(5A) On receipt of the written statement of defendant or on expiry of time granted by the Tribunal to file the written statement, the Tribunal shall fix a date of hearing for admission or denial of documents produced by the parties to the proceedings and also for continuation or vacation of the interim order passed under sub-section (4).

(5B) 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 within a period of thirty days from the date of such order failing which the Tribunal may issue a certificate in accordance with the provisions of sub-section (22) to the extent of the amount of debt due admitted by the defendant.]

(6) Where the defendant claims to set-off against the applicant's demand any ascertained sum of money legally recoverable by him from such applicant, the defendant may, at the first hearing of the application, but not afterwards unless permitted by the Tribunal, present a written statement containing the particulars of the debt [14][the debt sought to be set-off along with original documents and other evidence relied on in support of claim of set-off in relation to any ascertained sum of money, against the applicant].

(7) The written statement shall have the same effect as a plaint in a cross-suit so as to enable the Tribunal to pass a final order in respect both of the original claim and of the set-off.

(8) A defendant in an application may, in addition to his right of pleading a set-off under sub-section (6), set up, by way of counter-claim against the claim of the applicant, any right or claim in respect of a cause of action accruing to the defendant against the applicant either before or after the filing of the application but before the defendant has delivered his defence or before the time limited for delivering his defence has expired, whether such counter-claim is in the nature of a claim for damages or not.

(9) A counter-claim under sub-section (8) shall have the same effect as a cross-suit so as to enable the Tribunal to pass a final order on the same application, both on the original claim and on the counter-claim.

(10) The applicant shall be at liberty to file a written statement in answer to the counter-claim of the defendant within such period [15][as may be prescribed].

[16][(10A) Every application under sub-section (3) or written statement of defendant under sub-section (5) or claim of set-off under sub-section (6) or a counter-claim under sub-section (8) by the defendant, or written statement by the applicant in reply to the counter-claim, under sub-section (10) or any other pleading whatsoever, shall be supported by an affidavit sworn in by the applicant or defendant verifying all the facts and pleadings, the statements pleading documents and other documentary evidence annexed to the application or written statement or reply to set-off or counter-claim, as the case may be:

Provided that if there is any evidence of witnesses to be led by any party, the affidavits of such witnesses shall be filed simultaneously by the party with the application or written statement or replies filed under sub-section (10A).

(10B) If any of the facts or pleadings in the application or written statement are not verified in the manner provided under sub-section (10A), a party to the proceedings shall not be allowed to rely on such facts or pleadings as evidence or any of the matters set out therein.]

[17][(11) Where a defendant sets up a counter-claim in the written statement and in reply to such claim the applicant contends that the claim thereby raised ought not to be disposed of by way of counter-claim but in an independent action, the Tribunal shall decide such issue along with the claim of the applicant for recovery of the debt.]

[18]* * * * *

(13)(A) Where, at any stage of the proceedings, [19][the Tribunal on an application made by the applicant along with particulars of property to be attached and estimated value thereof, or otherwise is satisfied], that the defendant, with intent to obstruct or delay or frustrate the execution of any order for the recovery of debt that may be passed against him,-

(i) is about to dispose of the whole or any part of his property; or

(ii) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Tribunal; or

(iii) is likely to cause any damage or mischief to the property or affect its value by misuse or creating third party interest,

the Tribunal may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same, or such portion thereof as may be sufficient to satisfy the certificate for the recovery of the debt, or to appear and show cause why he should not furnish security.

(B) Where the defendant fails to show cause why he should not furnish security, or fails to furnish the security required, within the time fixed by the Tribunal, the Tribunal may order the attachment of the whole or such portion of the properties claimed by the applicant as the properties secured in his favour or otherwise owned by the defendant as appears sufficient to satisfy any certificate for the recovery of debt.

[20]* * * * *

(15) The Tribunal may also in the order direct the conditional attachment of the whole or any portion of the property specified under [21][sub-section (13)].

(16) If an order of attachment is made without complying with the provisions of sub-section (13), such attachment shall be void.

(17) In the case of disobedience of an order made by the Tribunal under sub-sections (12), (13) and (18) or breach of any of the terms on which the order was made, the Tribunal may order the properties of the person guilty of such disobedience or breach to be attached and may also order such person to be detained in the civil prison for a term not exceeding three months, unless in the meantime the Tribunal directs his release.

(18) Where it appears to the Tribunal to be just and convenient, the Tribunal may, by order-

(a) appoint a receiver of any property, whether before or after grant of certificate for recovery of debt;

(b) remove any person from the possession or custody of the property;

(c) commit the same to the possession, custody or management of the receiver;

(d) confer upon the receiver all such powers, as to bringing and defending suits in the courts or filing and defending applications before the Tribunal and for the realisation, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Tribunal thinks fit; and

(e) appoint a Commissioner for preparation of an inventory of the properties of the defendant or for the sale thereof.

[22][(19) Where a certificate of recovery is issued against a company as defined under the Companies Act, 2013 (18 of 2013) and such company is under liquidation, the Tribunal may by an order direct that the sale proceeds of secured assets of such company be distributed in the same manner as provided in section 326 of the Companies Act, 2013 or under any other law for the time being in force.]

[23][(20) The Tribunal may, after giving the applicant and the defendant, an opportunity of being heard, in respect of all claims, set-off or counter-claim, if any, and interest on such claims, within thirty days from the date of conclusion of the hearings, pass interim or final order as it deems fit which may include order for payment of interest from the date on which payment of the amount is found due up to the date of realisation or actual payment.]

[24][(20A) Where it is proved to the satisfaction of the Tribunal that the claim of the applicant has been adjusted wholly or in part by any lawful agreement or compromise in writing and signed by the parties or where the defendant has repaid or agreed to repay the claim of the applicant, the Tribunal shall pass orders recording such agreement, compromise or satisfaction of the claim.]

[25][(20AA) While passing the final order under sub-section (20), the Tribunal shall clearly specify the assets of the borrower which security interest is created in favour of any bank or financial institution and direct the Recovery Officers to distribute the sale proceeds of such assets as provided in sub-section (20AB).

(20AB) Notwithstanding anything to the contrary contained in any law for the time being in force, the proceeds from sale of secured assets shall be distributed in the following orders of priority, namely:-

(i) the costs incurred for preservation and protection of secured assets, the costs of valuation, public notice for possession and auction and other expenses for sale of assets shall be paid in full;

(ii) debts owed to the bank or financial institution.

Explanation.-For the purposes of this sub-section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency and bankruptcy proceedings are pending in respect of secured assets of the borrower, the distribution of proceeds from the sale of secured assets shall be subject to the order of priority as provided in that Code.]

[26][(21) (i) The Tribunal shall send a copy of its final order and the recovery certificate, to the applicant and defendant.

(ii) The applicant and the defendant may obtain copy of any order passed by the Tribunal on payment on such fee as may be prescribed.]

[27][(22) The Presiding Officer shall issue a certificate of recovery along with the final order, under sub-section (20), for payment of debt with interest under his signature to the Recovery Officer for recovery of the amount of debt specified in the certificate.]

[28][(22A) Any recovery certificate issued by the Presiding Officer under sub-section (22) shall be deemed to be decree or order of the Court for the purposes of initiation of winding up proceedings against a company registered under the Companies Act, 2013 (18 of 2013) or Limited Liability Partnership registered under the Limited Liability Partnership Act, 2008 (6 of 2009) or insolvency proceedings against any individual or partnership firm under any law for the time being in force, as the case may be.]

(23) Where the Tribunal, which has issued a certificate of recovery, is satisfied that the property is situated within the local limits of the jurisdiction of two or more Tribunals, it may send the copies of the certificate of recovery for execution to such other Tribunals where the property is situated:

Provided that in a case where the Tribunal to which the certificate of recovery is sent for execution finds that it has no jurisdiction to comply with the certificate of recovery, it shall return the same to the Tribunal which has issued it.

(24) The application made to the Tribunal under sub-section (1) or sub-section (2) shall be dealt with by it as expeditiously as possible and [29][every effort shall be made by it to complete the proceedings in two hearings, and] to dispose of the application finally within one hundred and eighty days from the date of receipt of the application.

(25) The Tribunal may made such orders and 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.]

[1] Subs. by Act 1 of 2000, s. 9, for s. 19 (w.e.f. 17-1-2000).
[2] Ins. by Act 44 of 2016, s. 32 (w.e.f. 4-11-2016).
[3] Cl. (a) renumbered as cl (aa) thereof by s. 32, ibid. (w.e.f. 4-11-2016).
[4] Ins. by Act 30 of 2004, s. 20 (w.e.f. 11-11-2004).
[5] Ins. by Act 1 of 2013, s. 15 (w.e.f. 15-1-2013).
[6] Subs. by Act 44 of 2016, s. 32, for sub-section (3) (w.e.f. 4-11-2016).
[7] Ins. by s. 32, ibid. (w.e.f. 4-11-2016).
[8] Ins. by Act 1 of 2013, s. 15 (w.e.f. 15-5-2013).
[9] Sub-section (3A) renumbered as sub-section (3B) thereof by Act 44 of 2016, s. 32 (w.e.f. 4-11-2016).
[10] Subs. by Act 44 of 2016, s. 32, for sub-section (4) (w.e.f. 4-11-2016).
[11] Ins. by s. 32, ibid. (w.e.f. 4-11-2016).
[12] Subs. by s. 32, ibid., for sub-section (5) (w.e.f. 4-11-2016).
[13] Subs. by Act 44 of 2016, s. 32, for sub-section (5A) (w.e.f. 4-11-2016).
[14] Subs. by s. 32, ibid., for "the dept sought to be set-off" (w.e.f. 4-11-2016).
[15] Subs. by s. 32, ibid., for "as may be fixed by the Tribunal" (w.e.f. 4-11-2016).
[16] Ins. by s. 32, ibid. (w.e.f. 4-11-2016).
[17] Subs. by Act 44 of 2016, s. 32, for sub-section (11) (w.e.f. 4-11-2016).
[18] Omitted by s. 32, ibid. (w.e.f. 4-11-2016).
[19] Subs. by s. 32, ibid., for "the Tribunal is satisfied, by affidavit or otherwise" (w.e.f. 4-11-2016).
[20] Omitted by s. 32, ibid. (w.e.f. 4-11-2016).
[21] Subs. by s. 32, ibid., for "sub-section (14)" (w.e.f. 4-11-2016).
[22] Subs. by Act 44 of 2016, s. 32, for sub-section (19) (w.e.f. 4-11-2016).
[23] Subs. by s. 32, ibid., for sub-section (20) (w.e.f. 4-11-2016).
[24] Ins. by Act 1 of 2013, s. 15 (w.e.f. 15-1-2013).
[25] Ins. by Act 44 of 2016, s. 32 (w.e.f. 4-11-2016).
[26] Subs. by s. 32, ibid., for sub-section (21) (w.e.f. 4-11-2016).
[27] Subs. by s. 32, ibid., for sub-section (22) (w.e.f. 4-11-2016).
[28] Ins. by s. 32, ibid. (w.e.f. 4-11-2016).
[29] Subs. by Act 44 of 2016, s. 32, for "endeavour shall be made by it" (w.e.f. 4-11-2016).

Section 19A. Filing of recovery applications, documents and written statements in electronic form

[1][(1) Notwithstanding anything to the contrary contained in this Act, and without prejudice to the provisions contained in section 6 of the Information Technology Act, 2000 (21 of 2000), the Central Government may by rules provide that from such date and before such Tribunal and Appellate Tribunal, as may be notified,-

(a) application or written statement or any other pleadings and the documents to be annexed thereto required to be filed shall be submitted in the electronic form and authenticated with digital signature of the applicant, defendant or any other petitioner in such form and manner as may be prescribed;

(b) any summons, notice or communication or intimation as may be required to be served or delivered under this Act, may be served or delivered by transmission of pleadings and documents by electronic form and authenticated in such manner as may be prescribed.

(2) Any interim or final order passed by the Tribunal or Appellate Tribunal displayed on the website of such Tribunal or Appellate Tribunal shall be deemed to be a public notice of such order and transmission of such order by electronic mail to the registered address of the parties to the proceeding shall be deemed to be served on such party.

(3) The Central Government may by rules provide that the electronic form for the purpose specified in this section shall be exclusive, or in the alternative or in addition to the physical form, therefor.

(4) The Tribunal or the Appellate Tribunal notified under sub-section (1), for the purpose of adopting electronic filing, shall maintain its own website or common website with other Tribunals and Appellate Tribunal or such other universally accessible repositories of electronic information and ensure that all orders or directions issued by the Tribunal or Appellate Tribunal are displayed on the website of the Tribunal or Appellate Tribunal, in such manner as may be prescribed.

Explanation.-For the purpose of this section,-

(a) 'digital signature' means the digital signature as defined under clause (p) of section 2 of the Information Technology Act, 2000 (21 of 2000);

(b) 'electronic form' with reference to an information or a document means the electronic form as defined under clause (r) of section 2 of the Information Technology Act, 2000 (21 of 2000).]

[2][19A. -The application made to Tribunal for exercising the powers of the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016 shall be dealt with in the manner as provided under that Code.]

[1] Ins. by s. 33, ibid. (w.e.f. 1-9-2016).

[2] Ins. by Act 31 of 2016, s. 249 and the Fifth Schedule (w.e.f. 1-12-2019 in so far as it relates to personal guarantors to corporate debtors).

Section 20. Appeal to the Appellate Tribunal

(1) Save as provided in sub-section (2), any person aggrieved by an order made, or deemed to have been made, by a Tribunal under this Act, may prefer an appeal to an Appellate Tribunal having jurisdiction in the matter.

(2) No appeal shall lie to the Appellate Tribunal from an order made by a Tribunal with the consent of the parties.

(3) Every appeal under sub-section (1) shall be filed within a period of [1][thirty days] from the date on which a copy of the order made, or deemed to have been made, by the Tribunal is received by him and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of [1][thirty days] if it is satisfied that there was sufficient cause for not filing it within that period.

(4) On receipt of an appeal under sub-section (1), [2][or under sub-section (1) of section 181 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016)] the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(5) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned Tribunal.

(6) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

[1] Subs. by Act 44 of 2016, s. 34, for "forty-five days" (w.e.f. 1-9-2016).

[2] Ins. by Act 31 of 2016, s. 249 and the Fifth Schedule (w.e.f. 1-12-2019).

Section 21. Deposit of amount of debt due, on filing appeal

Where an appeal is preferred by any person from whom the amount of debt is due to a bank or a financial institution or a consortium of banks or financial institutions, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal [1][fifty per cent.] of the amount of debt so due from him as determined by the Tribunal under section 19:

Provided that the Appellate Tribunal may, for reasons to be recorded in writing, [2][reduce the amount to be deposited by such amount which shall not be less than twenty-five per cent. of the amount of such debt so due] to be deposited under this section.

[1] Subs. by Act 44 of 2016, s. 35, for "seventy-five per cent." (w.e.f. 1-9-2016).

[2] Subs. by s. 35, ibid., for "waive or reduce the amount" (w.e.f. 1-9-2016).

Section 22. Procedure and powers of the Tribunal and the Appellate Tribunal

(1) The Tribunal and the Appellate Tribunal shall not be bound the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and of any rules, the Tribunal and the Appellate Tribunal shall have powers to regulate their own procedure including the places at which they shall have their sittings.

(2) The Tribunal and the Appellate Tribunal shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

(f) dismissing an application for default or deciding it ex parte;

(g) setting aside any order of dismissal of any application for default or any order passed by it ex parte;

(h) any other matter which may be prescribed.

(3) Any proceeding before the Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code (45 of 1860) and the Tribunal or the Appellate Tribunal shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

[1][(4) For the purpose of proof of any entry in the 'bankers books', the provisions of the Bankers' Books Evidence Act, 1891 (18 of 1891) shall apply to all the proceedings before the Tribunal or Appellate Tribunal.]

[1] Ins. by Act 44 of 2016, s. 36 (w.e.f. 1-9-2016).

Section 22A. Uniform procedure for conduct of proceedings

[1][The Central Government may, for the purpose of this Act, by rules, lay down uniform procedure consistent with the provisions of this Act for conducting the proceedings before the Tribunals and Appellate Tribunals.]

[1] Ins. by s. 37, ibid. (w.e.f. 1-9-2016).

Section 23. Right to legal representation and Presenting Officers

(1) A bank or a financial institution making an application to a Tribunal or an appeal to an Appellate Tribunal may authorise one or more legal practitioners or any of its officers to act as Presenting Officers and every person so authorised by it may present its case before the Tribunal or the Appellate Tribunal.

(2) The defendant may either appear in person or authorise one or more legal practitioners or any of his or its officers to present his or its case before the Tribunal or the Appellate Tribunal.

Section 24. Limitation

The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an application made to a Tribunal.

CHAPTER V RECOVERY OF DEBT DETERMINED BY TRIBUNAL

Section 25. Modes of recovery of debts

The Recovery Officer shall, on receipt of the copy of the certificate under sub-section (7) of section 19, proceed to recover the amount of debt specified in the certificate by one or more of the following modes, namely:-

(a) attachment and sale of the movable or immovable property of the defendant;

[1][(aa) taking possession of property over which security interest is created or any other property of the defendant and appointing receiver for such property and to sell the same;]

(b) arrest of the defendant and his detention in prison;

(c) appointing a receiver for the management of the movable or immovable properties of the defendant;

[1][(d) any other mode of recovery as may be prescribed by the Central Government.]

[1] Ins. by s. 38, ibid. (w.e.f. 1-9-2016).

Section 26. Validity of certificate and amendment thereof

(1) It shall not be open to the defendant to dispute before the Recovery Officer the correctness of the amount specified in the certificate, and no objection to the certificate on any other ground shall also be entertained by the Recovery Officer.

(2) Notwithstanding the issue of a certificate to a Recovery Officer, the Presiding Officer shall have power to withdraw the certificate or correct any clerical or arithmetical mistake in the certificate by sending intimation to the Recovery Officer.

(3) The Presiding Officer shall intimate to the Recovery Officer any order withdrawing or cancelling a certificate or any correction made by him under sub-section (2).

Section 27. Stay of proceedings under certificate and amendment or withdrawal thereof

[1][(1) Notwithstanding that a certificate has been issued to the Recovery Officer for the recovery of any amount, the Presiding Officer, may by an order, grant time for payment of the amount, provided the defendant makes a down payment of not less than twenty-five per cent. of the amount specified in the recovery certificate and gives an unconditional undertaking to pay the balance within a reasonable time, which is acceptable to the applicant bank or

financial institution holding recovery certificate.

(1A) The Recovery Officer shall, after receipt of the order passed under sub-section (1), stay the proceedings until the expiry of the time so granted.

(1B) Where defendant agrees to pay the amount specified in the Recovery Certificate and proceeding are stayed by the Recovery Officer, the defendant shall forfeit right to file appeal against the orders of the Tribunal.

(1C) Where the defendant commits any default in payment of the amount under sub-section (1), the stay of recovery proceedings shall stand withdrawn and the Recovery Officer shall take steps for recovery of remaining amount of debt due and payable.]

(2) Where a certificate for the recovery of amount has been issued, the Presiding Officer shall keep the Recovery Officer informed of any amount paid or time granted for payment, subsequent to the issue of such certificate to the Recovery Officer.

(3) Where the order giving rise to a demand of amount for recovery of debt has been modified in appeal, and, as a consequence thereof the demand is reduced, the Presiding Officer shall stay the recovery of such part of the amount of the certificate as pertains to the said reduction for the period for which the appeal remains pending.

(4) Where a certificate for the recovery of debt has been received by the Recovery Officer and subsequently the amount of the outstanding demands is reduced [2][or enhanced] as a result of an appeal, the Presiding Officer shall, when the order which was the subject matter of such appeal has become final and conclusive, amend the certificate or withdraw it, as the case may be.

[1] Subs. by s. 39, ibid., for sub-section (1) (w.e.f. 1-9-2016).

[2] Ins. by Act 1 of 2000, s. 10 (w.e.f. 17-1-2000).

Section 28. Other modes of recovery

(1) Where a certificate has been issued to the Recovery Officer under sub-section (7) of section 19, the Recovery Officer may, without prejudice to the modes of recovery specified in section 25, recover the amount of debt by any one or more of the modes provided under this section.

(2) If any amount is due from any person to the defendant, the Recovery Officer may require such person to deduct from the said amount, the amount of debt due from the defendant under this Act and such person shall comply with any such requisition and shall pay the sum so deducted to the credit of the Recovery Officer:

Provided that nothing in this sub-section shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908).

(3) (i) The Recovery Officer may, at any time or from time to time, by notice in writing, require any person from whom money is due or may become due to the defendant or to any person who holds or may subsequently hold money for or on account of the defendant, to pay to the Recovery Officer either forthwith upon the money becoming due or being held or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount of debt due from the defendant or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the defendant jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such amount shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the defendant at his last address known to the Recovery Officer and in the case of a joint account to all the joint holders at their last addresses known to the Recovery Officer.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, bank, financial institution, or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like to be made before the payment is made notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or the part thereof is not due to the defendant or that he does not hold any money for or on account of the defendant, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant on the

date of the notice, or to the extent of the defendant's liability for any sum due under this Act, whichever is less.

(vii) The Recovery Officer may, at any time or from time to time, amend or revoke any notice under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the defendant to the extent of the amount so paid.

(ix) Any person discharging any liability to the defendant after the receipt of a notice under this sub-section shall be personally liable to the Recovery Officer to the extent of his own liability to the defendant so discharged or to the extent of the defendant's liability for any debt due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Recovery Officer, he shall be deemed to be a defendant in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were a debt due from him, in the manner provided in sections 25, 26 and 27 and the notice shall have the same effect as an attachment of a debt by the Recovery Officer in exercise of his powers under section 25.

(4) The Recovery Officer may apply to the court in whose custody there is money belonging to the defendant for payment to him of the entire amount of such money, or if it is more than the amount of debt due, an amount sufficient to discharge the amount of debt so due.

[1][(4A) The Recovery Officer may, by order, at any stage of the execution of the certificate of recovery, require any person, and in case of a company, any of its officers against whom or which the certificate of recovery is issued, to declare on affidavit the particulars of his or its assets.]

(5) The Recovery Officer may recover any amount of debt due from the defendant by distraint and sale of his movable property in the manner laid down in the Third Schedule to the Income-tax Act, 1961 (43 of 1961).

[1] Ins. by Act 1 of 2000, s. 11 (w.e.f. 17-1-2000).

Section 29. Application of certain provisions of Income-tax Act

The provisions of the Second and Third Schedules to the Income-tax Act, 1961 (43 of 1961) and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time shall, as far as possible, apply with necessary modifications as if the said provisions and the rules referred to the amount of debt due under this Act instead of to the Income-tax:

Provided that any reference under the said provisions and the rules to the "assessee" shall be construed as a reference to the defendant under this Act.

Section 30. Appeal against the order of Recovery Officer

[1][(1) Notwithstanding anything contained in section 29, any person aggrieved by an order of the Recovery Officer made under this Act may, within thirty days from the date on which a copy of the order is issued to him, prefer an appeal to the Tribunal.

(2) On receipt of an appeal under sub-section (1), the Tribunal may, after giving an opportunity to the appellant to be heard, and after making such inquiry as it deems fit, confirm, modify or set aside the order made by the Recovery Officer in exercise of his powers under sections 25 to 28 (both inclusive).]

[1] Subs. by s. 12, ibid., for section 30 (w.e.f. 17-1-2000).

Section 30A. Deposit of amount of debt due for filing appeal against orders of the Recovery Officer

[1][Where an appeal is preferred against any order of the Recovery Officer, under section 30, by any person from whom the amount of debt is due to a bank or financial institution or consortium of banks or financial institutions, such appeal shall not be entertained by the Tribunal unless such person has deposited with the Tribunal fifty per cent. of the amount of debt due as determined by the Tribunal.]

[1] Ins. by Act 44 of 2016, s. 40 (w.e.f. 1-9-2016).

CHAPTER VI MISCELLANEOUS

Section 31. Transfer of pending cases

(1) Every suit or other proceeding pending before any court immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before any court:

[1][Provided further that any recovery proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) under the Multi-State Co-operative Societies Act, 2002 (39 of 2002), shall be continued and nothing contained in this section shall apply to such proceedings.]

(2) Where any suit or other proceeding stands transferred from any court to a Tribunal under sub-section (1),-

(a) the court shall, as soon as may be after such transfer, forward the records of such suit or other proceeding to the Tribunal; and

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit or other proceeding, so far as may be, in the same manner as in the case of an application made under section 19 from the stage which was reached before such transfer or from any earlier stage [2]*** as the Tribunal may deed fit.

[1] Ins. by Act 1 of 2013, s. 16 (w.e.f. 15-1-2013).

[2] The words "de novo" omitted by Act 1 of 2000, s. 13 (w.e.f. 17-1-2000).

Section 31A. Power of Tribunal to issue certificate of recovery in case of decree or order

[1][(1) Where a decree or order was passed by any court before the commencement of the Recovery of Debts Due to Banks and Financial Institutions (Amendment) Act, 2000 (1 of 2000) and has not yet been executed, then, the decree-holder may apply to the Tribunal to pass an order for recovery of the amount.

(2) On receipt of an application under sub-section (1), the Tribunal may issue a certificate for recovery to a Recovery Officer.

(3) On receipt of a certificate under sub-section (2), the Recovery Officer shall proceed to recover the amount as if it was a certificate in respect of a debt recoverable under this Act.]

[1] Ins. by s. 14, ibid. (w.e.f. 17-1-2000).

Section 31B. Priority to secured creditors

[1][Notwithstanding anything contained in any other law for the time being in force, the rights of secured creditors to realise secured debts due and payable to them by sale of assets over which security interest is created, shall have priority and shall be paid in priority over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or local authority.

Explanation.-For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code.]

[1] Ins. by Act 44 of 2016, s. 41 (w.e.f. 1-9-2016).

Section 32. Chairperson, Presiding Officer and staff of Appellate Tribunal and Tribunal to be public servants

[1][The Chairperson of an Appellate Tribunal, the Presiding Officer of a Tribunal, the Recovery Officer and other officers and employees of an Appellate Tribunal and a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).]

[1] Subs. by Act 1 of 2000, s. 15, for section 32 (w.e.f. 17-1-2000).

Section 33. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Central Government or against [1][the Presiding Officer of a Tribunal or the Chairperson of an Appellate Tribunal] or against the Recovery Officer for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

[1] Subs. by s. 2, ibid., for "the Presiding Officer of a Tribunal or of an Appellate Tribunal" (w.e.f. 17-1-2000).

Section 34. Act to have overriding effect

(1) Save as provided under sub-section (2), the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

(2) The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Industrial Finance Corporation Act, 1948 (15 of 1948), the State Financial Corporations Act, 1951 (63 of 1951), the Unit Trust of India Act, 1963 (52 of 1963), the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984), [1][, the

Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) and the Small Industries Development Bank of India Act, 1989 (39 of 1989)].

[1] Subs. by Act 1 of 2000, s. 16, for "and the Sick Industrial Companies (Special Provisions) Act, 1985" (w.e.f. 17-1-2000).

Section 35. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Section 36. Power to make rules

(1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may, provide for all or any of the following matters, namely:-

[1][(a) other business or commercial rights of similar nature under clause (jb) of section 2;]

[2][(aa)] the salaries and allowances and other terms and conditions of service of [3][the Chairpersons, the Presiding Officers], Recovery Officers and other officers and employees of the Tribunal and the Appellate Tribunal under sections 7, 12 and 13;

(b) the procedure for the investigation of misbehaviour or incapacity of [4][the Chairpersons of Appellate Tribunals and the Presiding Officers of the Tribunals], under sub-section (3) of section 15;

(c) the form in which an application may be made under section 19, the documents and other evidence by which such application shall be accompanied and the fees payable in respect of the filing of such application;

[5][(ca) the form of application and the fee for filing application under sub-section (3) of section 19;]

[6][(cc) the rate of fee to be refunded to the applicant under sub-section [7][(3B)] of section 19 of the Act;]

[5][(cca) the period for filing written statement under sub-section (10) of section 19;

(ccb) the fee for obtaining copy of the order of the Tribunal under sub-section (21) of section 19;

(ccc) the form and manner of authenticating digital signature under clause (a), and the manner of authenticating service or delivery of pleadings and documents under clause (b), of sub-section (1) of section 19A;

(ccd) the form and manner of filing application and other documents in the electronic form under sub-section (1) and manner of display of orders of the Tribunal and Appellate Tribunal under sub-section (4) of section 19A;]

(d) the form in which an appeal may be filed before the Appellate Tribunal under section 20 and the fees payable in respect of such appeal;

[8][(da) the rules of uniform procedure for conducting the proceedings before the Tribunals and Appellate Tribunals under section 22A;

(db) the other mode of recovery under clause (d) of section 25;]

(e) any other matter which is required to be, or may be, prescribed.

[8][(3) Every notification issued under sub-section (4) of section 1, section 3 and section 8 and every rule made by the Central Government under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or rule or both Houses agree that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.]

[1] Ins. by Act 44 of 2016, s. 42 (w.e.f. 1-9-2016).
[2] Clause (a) numbered as clause (aa) thereof by s. 42, ibid. (w.e.f. 1-9-2016).
[3] Subs. by Act 1 of 2000, s. 17, for "the Presiding Officers" (w.e.f. 17-1-2000).
[4] Subs. by s. 17, ibid., for "the Presiding Officers of the Tribunals and Appellate Tribunals" (w.e.f. 17-1-2000).
[5] Ins. by Act 44 of 2016, s. 42 (w.e.f. 1-9-2016).
[6] Ins. by Act 1 of 2013, s. 17 (w.e.f. 15-1-2013).

[7] Subs. by Act 44 of 2016, s. 42, for "(3A)" (w.e.f. 1-9-2016).
[8] Subs. by Act 1 of 2000, s. 17, for sub-section (3) (w.e.f. 17-1-2000).

Section 37. Repeal and saving

(1) The Recovery of Debts Due to Banks and Financial Institutions Ordinance, 1993 (Ord. 25 of 1993) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

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