

DEBTS RECOVERY APPELLATE TRIBUNAL (PROCEDURE) RULES, 1994

[Notification No. GSR 815(E), dated 16th. November, 1994]

In exercise of the powers conferred by sub-sections (1) and (2) of section 36 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 (51 of 1993), the Central Government hereby makes the following rules, namely: -

1. Short title and commencement

(1) These rules may be called the Debts Recovery Appellate Tribunal (Procedure) Rules, 1994

(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) "Act" means the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993);

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

(c) "appeal" means an appeal made to the Appellate Tribunal under section 20 or section 30 of the Act;

(d) "appellant" means a person or a bank or financial institution making an appeal to the Appellate Tribunal under section 20 or section 30 of the Act;

(e) "Appellate Tribunal" means an Appellate Tribunal established by the, Central Government under section 8 of the Act;

(f) "legal practitioner" shall have the same meaning as assigned to it in the Advocates Act, 1961 (25 of 1961);

(g) "presiding officer" means the presiding officer of an Appellate Tribunal;

(h) "Registrar" means the Registrar of an Appellate Tribunal and includes an officer of such Appellate Tribunal who is authorised by the presiding officer to function as Registrar;

(i) "Registry" means the Registry of the Appellate Tribunal.

3. Sittings of Appellate Tribunal

An Appellate Tribunal shall hold its sittings either at headquarters or at such other place falling within its jurisdiction as it may consider convenient.

4. Language of Appellate Tribunal

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

(2) No appeal, reference, application, representation, document or other matters contained in any language other than English or Hindi, shall be accepted by the Appellate Tribunal, unless the same is accompanied by a true copy of translation thereof in English or Hindi.

5. Procedure of filing appeals

(1) A memorandum of appeal shall be presented in the form annexed to these rules by the appellant either in person to the Registrar of the Appellate Tribunal within whose jurisdiction his case falls or shall be sent by the registered post addressed to such Registrar.

(2) Where the appellant is a bank or a financial institution a memorandum of appeal may be preferred,-

(a) by one or more legal practitioners authorised by such banks of financial institution; or

(b) by any of the officers of such bank of financial institution to acts as presenting officers;

and every person so authorised may present the appeal before the Appellate Tribunal.

(3) Where the appellant is other than a bank or a financial institution, he may prefer an appeal in person or by him agent or by a duly authorised legal practitioner.

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

(5) The appeal under sub-rule (1) shall be presented in four sets in a paper book along with an empty file size envelope bearing full address of the respondent and where the number of respondents are more than one, the sufficient number of extra paper books together with empty file size envelopes bearing full address of each respondent shall be furnished by the appellant.

6. Presentation and scrutiny of memorandum of appeal

(1) The Registrar shall endorse on every appeal the date on which it is presented under rule 5 or deemed to have been presented under that rule and shall sign endorsement.

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

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

(4) If the concerned appellant 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 such memorandum of appeal.

(5) An appeal against the order of the Registrar under sub-rule (4) shall be made within fifteen days of making of such order to the presiding officer concerned in his chamber, whose decision thereon shall be final.

7. Place of filing memorandum of appeal

The memorandum of appeal shall be filed by the appellant with the Registrar of the Appellate Tribunal having jurisdiction in the matter.

8. Fee

(1) Every memorandum of appeal under section 20 of the Act shall be accompanied with a fee provided in sub-rule (2) and such fee may be remitted either in the form of crossed demand draft drawn on a nationalised bank in favour of the Registrar and payable at the station where the Registrar's officer is situated or remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable in Central Post Office of the station where the Appellate Tribunal is located.

(2) The amount of fee payable in respect of appeal under section 20 shall be as follows:-

Amount of debt due	Amount of fees payable
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1.	Less than Rs. 10 lakhs	Rs.12,000
2.	Rs. 10 lakhs or more but less than Rs. 30 lakhs	Rs. 20,000
3.	Rs. 30 lakhs or more	Rs. 30,000

9. Deposit of amount debt due

Where an appeal is preferred by a person referred to in section 21 of the Act, such appeal shall not be entertained by the Appellate Tribunal unless such person has deposited with the Appellate Tribunal seventy five per cent of the amount of debt so due from him as determined by the Tribunal under section 19 of the Act, provided that the Appellate Tribunal may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under section 21 of the Act.

10. Contents of memorandum of appeal

(1) Every memorandum of appeal filed under rule 5 shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such grounds shall be numbered consecutively and shall be typed in double line space on one side of the paper.

(2) It shall not be necessary to present separate memorandum of appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

11. Documents to accompany memorandum of appeal

(1) Every memorandum of appeal shall be in triplicate and shall be accompanied with two copies (at least one of which shall be a certified copy) of the order of the Presiding Officer of Debts Recovery Tribunal or order made by the Recovery Officer under section 30 of the Act, as the case may be, against which the appeal is filed.

(2) Where the parties to the appeal are being represented by an agent, documents authorising him to act as such agent shall also be appended to the appeal:

PROVIDED that where an appeal is filed by a legal practitioner, it shall be accompanied by a duly executed Vakalatanama.

(3) Where a bank or financial institution is being represented by any of its officers to act as presenting officer before the Appellate Tribunal, the documents authorising him to act as the presenting officer shall be appended to the memorandum of appeal.

12. Plural remedies

A memorandum of appeal shall not seek relief or reliefs based on more than a single case of action in one single memorandum of appeal unless the reliefs prayed for are consequential to one another.

13. Endorsing copy of appeal to the respondents

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

14. Filing of reply to the appeal and other documents by the respondents

(1) The respondent may file four complete sets containing the reply to the appeal along with documents in a paper book form with the registry within one month of the service of the notice on him of the filing of the memorandum of appeal.

(2) The respondent shall also endorse one copy of the reply to the appeal along with documents as mentioned in sub-rule (1) to the appellant.

(3) The Appellate Tribunal may, in its discretion on application by the respondent, allow the filing

of reply referred to in sub-rule (1), after the expiry of the period referred to therein.

15. Who may be joined as respondents

(1) In an appeal by a person other than a bank or financial institution the bank or financial institution who has to recover any debt from any person under section 19 of the Act before the Tribunal against those orders the appeal has been preferred shall be made the respondent to the appeal.

(2) In an appeal by the bank or a financial institution the other party shall be made the respondent to the appeal.

16. Date and place of hearing to be notified

The Appellate Tribunal shall notify the parties the date and place of hearing of the appeal in such a manner as the presiding officer may by general or special order direct.

17. Dress regulations for the presiding officer and for the representatives of the parties.

(1) Summer dress for the presiding officer shall be white pant with black coat and a black tie or a buttoned-up black coat. In winter, striped or black trousers may be worn in place of white trousers. In the case of female presiding officers, however the dress shall be black coat over white saree.

(2) The dress for the agent of the parties (other than a relative or regular employee of the appellant or respondent) appearing before the Appellate Tribunal shall be the following, namely,-

(a) in the case of a male, a suit with a tie or buttoned-up coat over a pant or national dress that is a long buttoned-up coat on dhoti or churidar pyjama. The colour of the coat shall, preferably, be black;

(b) in the case of female, black coat over white or any other sober coloured saree;

(c) where, however, the agent belongs to a profession like that of lawyers or a chartered accountant and they have been prescribed dress for appearing in their professional capacity before any court, Appellate Tribunal, Tribunal or other such authority, they may, at their option, appear in that dress, in lieu of the dress mentioned above.

(3) All other persons appearing before the Appellate Tribunal shall be properly dressed.

18. Order to be signed and dated

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

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

19. Publication of orders

The orders of the Appellate 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 Appellate Tribunal may lay down.

20. Communication of orders

Every order passed on an appeal shall be communicated to the appellant and to the respondent and to the Tribunal concerned either in person or by registered post free of cost.

21. 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 pending appeal 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.

22. Orders and directions in certain cases

The Appellate Tribunal may make such orders or 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.

23. Working hours of the Appellate Tribunal

(1) Except on Saturdays, Sundays and other public holidays the offices of the Appellate Tribunal shall, subject to any other order made by the Presiding Officer, remain open daily from 10 a.m. to 6 p.m. but no work, unless of an urgent nature, shall be admitted after 4.30 p.m. on any working day.

(2) The sitting hours of the Appellate Tribunal shall ordinarily be from 10:30 a.m. to 1 p.m. and 2.00 p.m. to 5.00 p.m. subject to any order made by the Presiding Officer.

24. Holiday

Where the last day for doing any act falls on a day on which the office of the Appellate 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.

25. Powers and functions of the Registrar

(1) The Registrar shall have the custody of the records of the Appellate 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 Appellate 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 Appellate Tribunal shall not be affixed to any certified copy issued by the Tribunal save under the authority in writing of the Registrar.

26. Additional powers and duties of 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 orders of the presiding officer, namely,-

(1) to receive all appeals and other documents;

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

(3) to require any appeal presented to the Appellate Tribunal to be amended in accordance with the rules;

(4) subject to the directions of the presiding officer to fix date of hearing of the appeals or other proceeding and issue notices thereof;

(5) direct any formal amendment of records;

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

(7) to grant leave to inspect the record of Appellate Tribunal;

(8) dispose of all matters relating to the service of notices or other processes, application for the issue of fresh notice or for extending the time for or ordering a particular method of service on a respondent including a substituted service by publication of the notice by way of advertisements in the newspapers;

(9) to requisition records from the custody of any court or other authority.

27. Seal and emblem

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

FORM: MEMORANDUM OF APPEAL UNDER SECTION 20, SECTION 30 OF THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993 (51 OF 1993)

For use in Appellate Tribunal's office

Date of filing _____

Date of receipt by post _____

Registration number _____

Signature

Registrar

In the Debts Recovery Appellate Tribunal, between:

A.B

Appellant

C D and others

Respondent(s)

DETAILS OF APPEAL

1. Particulars of the appellant:

- (i) Name of the appellant
- (ii) Address of registered office of the appellant
- (iii) Address for service of all notices

2. Particulars of the respondent or respondents:

- (i) Name of the respondent or respondents
- (ii) Office address of the respondent or respondents
- (iii) Addresses or service of all notices

3. Jurisdiction of the Appellate Tribunal

The Appellant declares that the matter of the appeal falls within the jurisdiction of the Appellate Tribunal

4. Limitation

The appellant further declares that the appeal is within the limitation as prescribed in sub-section (3) of section 20 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (51 of 1993).

5. Facts of the case and the orders passed by the Tribunal Recovery Officer

The facts of the case are given below:

(Give here a concise statement of facts and grounds of appeal against the specific order of Tribunal or Recovery Officer, as the case may be, in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise).

6. Relief(s) sought

In view of the facts mentioned in paragraph 5 above, the appellant prays for the following relief(s) (Specify below the relief(s) sought explaining the grounds for relief (s) and the legal provisions (if any) relied upon).

7. Interim order, if prayed for

Pending final decision on the appeal the appellant seeks issue of the following interim order:

(Give here the nature of the interim order prayed for with reasons)

8. Matter not pending with any other court, etc.

The appellant further declares that the matter regarding which this appeal has been made is not pending before any court of law or any other authority or any other Tribunal.

9. Particulars of bank draft/ postal order in respect of the deposit of debts due in terms of section 21 of the Act applicable or under any other provisions of the Act:

- (1) Name of the bank on which drawn
- (2) Demand draft number

or

(1) Number of Indian Postal Order(s)

(2) Name of the issuing post office

(3) Date of issue of postal order(s)

(4) Post office at which payable

10. Particulars of bank draft/postal order in respect of the fee paid in terms of rule 8 of these rules

(1) Name of the bank on which drawn

(2) Demand draft number

or

(1) Number of Indian Postal Order(s)

(2) Name of the issuing post office

(3) Date of issue of postal order(s)

(4) Post office at which payable.

11. Details of index

An index in duplicate containing the details of the documents to be relied upon is enclosed.

12. List of enclosures.

Verification

I, (name and full block letters) son/ daughter/ wife of Shri _____ being the _____ (designation) of _____ (name of the company) holding a valid power of attorney from _____ (name of the company) do hereby verify that the contents of paras 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signature of the applicant

Place:

Date:

To

The Registrar,
