

RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993 (RDDBFI Act, 1993)

CHAPTER VI MISCELLANEOUS

Section 31: Transfer of pending cases:

“31 . (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:

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 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 as the Tribunal may deem fit.”

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

“31A. (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 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.”

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

“32. 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).”

Section 33: Protection of action taken in good faith:

“33. No suit, prosecution or other legal proceeding shall lie against the Central Government or against 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.”

Section 34: Act to have overriding effect:

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

Section 35: Power to remove difficulties:

“35. (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:

“36. (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 :—

(a) the salaries and allowances and other terms and conditions of service of ¹[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 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;

(cc) the rate of fee to be refunded to the applicant under sub-section (3A) of section 19 of the Act;

(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;

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

(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.”

Section: 37: Repeal and saving:

“37. (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.”