

VARIOUS AMENDMENTS IN DRAT AND DRT PROCEDURAL RULES

Rü0-33004/99 REGD. NO. D. L.-33004/99 Che (baette f eft(dia 775] No. 775] EXTRAORDINARY 9-1m (i) PART 11—Section 3—Sub-section (i) PUBLISHED BY AUTHORITY 4, 13, 1938 NEW DELHI, FRIDAY, NOVEMBER 4, 2016/KARTIKA 13, 1938 3 2016 f?--rfi-q 3TfÄfip-cr, 1993 (1993 51) 36 (1) (2) GINT *IIT 1994 a—a-rt- •t, 1 . — (1) , 2016 (fiqr) 1994 2. 2 (q) ÄTI!TIT:- 3. '(q) 'e-TBQT%T' q-fhTÜT q-a-i-a- 8 a-q- _a-ær (1) •R--å-a•q- *-za- 4. 5. 5171 GI/2016 (2) .?Töä •a-qi' _ 21 (1) 2 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] 25 I fir. 3, (i) 815(q), 16 1994 -a-a-ft 1 1 9(3T), 20 2013 GINT MINISTRY OF FINANCE (Department of Financial Services) NOTIFICATION New Delhi, the 3rd November, 2016 G.S.R. 1043(E).—In exercise of powers conferred by sub-sections (1) and (2) of section 36 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Central Government hereby makes following rules further to amend the Debts Recovery Appellate Tribunal (Procedure) Rules, 1994, namely: 1. Short title and commencement. — (1) These rules may be called the Debts Recovery Appellate Tribunal (Procedure) (Amendment) Rules, 2016. (2) They shall come into force on the date of their publication in the Official Gazette

2. In the Debts Recovery Appellate Tribunal (Procedure) Rules, 1994 (hereinafter referred to as the principal rules), throughout the rules, for the words "Presiding Officer", wherever they occur, the word "Chairperson" shall be substituted

3. In the principal rules, in rule 2, for clause (g), the following clause shall be substituted, namely:— '(g) "Chairperson" means Chairperson of an Appellate Tribunal and includes Chairperson of any other Appellate Tribunal established under any other law and authorised by the Central Government to discharge the functions of Chairperson of the Appellate Tribunal under sub-section (1) of section 8 of the Act. '

4. In the principal rules, in rule 6A, in sub-rule (2), for the words "sixty days", the words "thirty days" shall be substituted

5. In the principal rules, for rule 9, the following rule shall be substituted, namely:—"9. Deposit of amount of 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 fifty 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, 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." Note : [F. No. 3/10/2016-DRT] ANANDRAO V. PATIL, Jt. secy. The principal rules were published in the Gazette of India, Part-11, Section 3, Sub-section (i) vide number G.S.R. 815(E), dated the 16th November, 1994 and lastly amended vide notification number G.S.R. 119(E) dated the 20th February, 2013. 3 2016 3.fr 3-TfÄ-Rp-q, 1993 (1993 51) 15 3 •q-a _a- 36 (2) F) 2010 2016 3(i)] 3..TqT+-TRUT 3 •ft •q-a--qr) 2010 4 2. 3-Tfh;-rft 5 y-a•-æa-r ÄTIFfrl " fir. 3, (i) 595(q), 07 2010 1 1 8(q), 21 2013 NOTIFICATION New Delhi, the 3rd November, 2016 G.S.R. 1044(E).— In exercise of powers conferred by clause (b) of sub-section (2) of section 36 read with sub-section 3 of section 15 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Central Government hereby makes following rules further to amend the Debts Recovery Tribunal (Procedure for Investigation of Misbehaviour or Incapacity of Presiding Officer) Rules, 2010, namely:- 1. Short title and commencement.—(1) These rules shall be called the Debts Recovery Tribunal (Procedure for Investigation of Misbehaviour or Incapacity of Presiding Officer) (Amendment) Rules, 2016. (2) They shall come into force on the date of their publication in the Official Gazette

2. In the Debts Recovery Tribunal (Procedure for Investigation of Misbehaviour or Incapacity of Presiding Officer) Rules, 2010, after rule 4, the following rule shall be inserted, namely:—"4A. Enquiry against Presiding Officer for Misbehaviour or Incapacity.— (1) On assessment of performance of any Presiding Officer of the Tribunal or otherwise, in exercise of general power of superintendence and control over the Tribunals under sub-section (1) of section 17 A of the Act, if the Chairperson is of the opinion that an inquiry is required to be initiated against such Presiding Officer for misbehaviour or incapacity on his performance as a Presiding Officer, he shall submit a report to Central Government recommending action against such Presiding Officer, for reasons to be recorded in writing. (2) If the

Central Government is of the opinion that there are reasonable grounds for making an inquiry based on the report of Chairperson, it shall proceed in accordance with the procedure laid down in rule 5." Note : [F. No. 3/10/2016-DRT] ANANDRAO V. PATIL, Jt. secy. The principal rules were published in the Gazette of India, Part-11, Section 3, Sub-section (i) vide number G.S.R. 595(E), dated the 7th July, 2010 and last amended vide notification number G.S.R. 118(E), dated the 21st February, 2013. 3 2016 3TfÄfip-a:r, 1993 (1993 51) 36 1997 q-Qfi•a-: _ 4 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] 2016 .?fr 1997 q-fhTt-' -q-e-t 2. fir. : l*-q, mT-11, (i) 338(q), 24 Tf, 1997 NOTIFICATION New Delhi, the 3rd November, 2016 G.S.R. 1045(E).—In exercise of powers conferred by sub-sections (1) and (2) of section 36 of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), the Central Government hereby makes following rules to amend the Debts Recovery Appellate Tribunal (Financial and Administrative Power) Rules, 1997, namely:— 1. Short title and commencement.—(1) These rules may be called the Debts Recovery Appellate Tribunal (Financial and Administrative Power) (Amendment) Rules, 2016. (2) They shall come into force on the date of their publication in the Official Gazette

2. In the Debts Recovery Appellate Tribunal (Financial and Administrative Power) Rules, 1997, throughout the rules, for the words "Presiding Officer", wherever they occur, the word "Chairperson" shall be substituted. Note : [F. No. 3/10/2016-DRT] ANANDRAO V. PATIL, Jt. secy. The principal rules were published in the Gazette of India, Part 11, Section 3, Sub-section (i) vide number G.S.R. 338(E), dated the 24th June, 1997. 3 2016 2002 (2002 54) 13 (4), (10) (12) 38 (1) 38 (2) F) 2002 1 . - (1) (#913ra7) l*-cr, 2002 2. (93<7) ft-qa:r, 2002 t) 3 (i i) (4) qq-fr(: _ *I-q-a- 1 3 ETINT (8) "(F) q-N-@TZ-I, 3(i)] (i) (1) (7T) ft-qn- 3T2fiq;- (ii) (5) (7T) ft-qn- 3TQ-1%:- 250/0 , (iv) (4) "q-aa*--fi-ä -q-q,--afr QI--*t QI-* •Ä---q-r (v) (5) -q-@T -ft QI--*t ft-q,, h: 5 6 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] 10. 111 6 2002 8 •q-a a- 1 3 a-q- a-INT (4) 4-a-a•t-a- Tl- 12. q-N-fi•z-v 1 2" "l*-q 8 9" 13. I X 14 ü•ä] 1 7 (4) a-INT 1 7 (1) q-fh-o•r (iii) 3(i)] (iv) 3. q-fhTfr-a-T 3..TqT+-TRUT 7 1 (4) •q-a a- a IXT 1 7 a RT (1) fi- •a-rt-æ- -ft -ft -a-rt-a 5 Aft-a- a-q-a- •R-cq-a-e-a- t: _ a RT 1 a IXT (3) 10. Fl-fi t: •t q-ö •i-fi-a- t, 8 THE GAZETTE OF INDIA : EXTRAORDINARY [PART II—SEC. 3(i)] (ii) (iv) 12. 13. . 9fi fir. : 20 2002 1020(q.) mT-11 3, (i) 26 2007 1 837(3T) NOTIFICATION New Delhi, the 3rd November, 2016 G.S.R. 1046(E).—In exercise of powers conferred by sub-section (1) and clause (b) of sub-section (2) of section 38, read with sub-section (4), sub-section (IO) and sub-section (12) of section 13 of the Securitisation and Asset Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), the Central Government hereby makes following rules further to amend the Security Interest (Enforcement) Rules, 2002, namely:- 1. Short title and commencement.—(1) These rules may be called the Security Interest (Enforcement) (Amendment) Rules, 2002. (2) They shall come into force on the date of their publication in the Official Gazette

2. In the Security Interest (Enforcement) Rules, 2002, (hereinafter referred to as the principal rules), in rule 3, (i) in sub-rule (1), after the word "delivering", the words, "including hand delivery," shall be inserted; (ii) after sub-rule (4), the following sub-rule shall be inserted, namely:—3(i)] 9 "(5) The demand notice may invite attention of the borrower to provisions of sub-section (8) of section 13 of the Act, in respect of time available to the borrower, to redeem the secured assets."

3. In the principal rules, in rule 3A,—(i) in clause (b), for the words "seven days", the words "fifteen days", shall be substituted; (ii) in clause (c), for the words "one week", the words "fifteen days", shall be substituted

4. In the principal rules, in rule 4, after sub-rule (2), the following sub-rules shall be inserted, namely:—"(2A) The borrower shall be intimated by a notice, enclosing the panchnama drawn in Appendix I and the inventory made in Appendix 11. (2B) All notices under these rules may also be served upon the borrower through electronic mode of service, in addition to the modes specified under rule 3."

5. In the principal rules, in rule 6,—(i) in sub-rule (1), for clause (c), the following clause shall be substituted, namely:— "(c) holding public auction including through e-auction mode; or"; (ii) in sub-rule (2), after the proviso, the following proviso shall be inserted, namely:— "Provided further that if sale of movable property by any one of the methods specified under sub-rule (1) fails and the sale is required to be conducted again, the authorised officer shall serve, affix and publish notice of sale of not less than fifteen

days to the borrower for any subsequent sale. "; (iii) in sub-rule (3), for the words "between the parties in writing", the words "between the secured creditors and the proposed purchaser", shall be substituted

6. In the principal rules, in rule 8,—(i) after sub rule (2), the following sub-rule shall be inserted, namely:— "(2A) All notices under these rules may also be served upon the borrower through electronic mode of service, in addition to the modes prescribed under sub-rule (1) and sub-rule (2) of rule 8.". (ii) in sub-rule (5), for clause (c), the following clause shall be substituted, namely:— "(c) by holding public auction including through e-auction mode; or (iii) in sub-rule (8), for the words "between the parties in writing", the words "between the secured creditor and the proposed purchaser in writing", shall be substituted

7. In the principal rules, in rule 9,- (i) for sub-rule (1), the following sub-rule shall be substituted, namely:- "(1) No sale of immovable property under these rules, in first instance shall take place before the expiry of thirty days from the date on which the public notice of sale is published in newspapers as referred to in the proviso to sub-rule (6) of rule 8 or notice of sale has been served to the borrower: Provided further that if sale of immovable property by any one of the methods specified by sub rule (5) of rule 8 fails and sale is required to be conducted again, the authorised officer shall serve, affix and publish notice of sale of not less than fifteen days to the borrower, for any subsequent sale."; (ii) in sub-rule (2), in the proviso, for the word and figure "rule 9", the word and figure "rule 8", shall be substituted; (iii) for sub-rule (3), the following sub-rule shall be substituted, namely:— "(3) On every sale of immovable property, the purchaser shall immediately, i.e. on the same day or not later than next working day, as the case may be, pay a deposit of twenty five per cent. of the amount of the sale price, which is inclusive of earnest money deposited, if any, to the authorised officer conducting the sale and in default of such deposit, the property shall be sold again"; (iv) in sub-rule (4), for the words "as may be agreed upon in writing between the parties", the words, "as may be agreed upon in writing between the purchaser and the secured creditor, in any case not exceeding three months" shall be substituted; (v) in sub-rule (5), after the words, "the deposit shall be forfeited", the words "to the secured creditor" shall be inserted

8. In the principal rules, after rule 13, the following rule shall be inserted, namely:—10 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] '13A. Application by lessee or tenant.— (1) Every application under sub-section (1) of section 17 filed by lessee or tenant of the secured assets shall be accompanied by a fee specified in sub-clause (c) and sub-clause (d) of sub-rule (2) of rule 13, as the case may be. (2) The application to be made by the lessee or the tenant under sub-section (1) of section 17, shall be in the form specified in Appendix X annexed to these rules"

9. In the principal rules, in Appendix I, after the first paragraph, the following paragraph shall be inserted, namely:—"The borrower's attention is invited to provisions of sub-section (8) of section 13 of the Act, in respect of time available, to redeem the secured assets.". IO. In the principal rules, in Appendix III, for the word and figure "rule 8", the words and figures "rule 6 and 7", shall be substituted. I I. In the principal rules, in Appendix IV,— (i) in the opening paragraph, for the word and figure "rule 9", the word and figure "rule 3" shall be substituted; (ii) for the first paragraph, the following paragraph shall be substituted, namely:- "The borrower having failed to repay the amount, notice is hereby given to the borrower and the public in general that the undersigned has taken possession of the property described herein below in exercise of powers conferred on him under sub-section (4) of section 13 of Act read with rule 8 of the Security Interest Enforcement) Rules, 2002 on this the day of . of the year....."; (iii) after the second paragraph, the following paragraph shall be inserted, namely:— "The borrower's attention is invited to provisions of sub-section (8) of section 13 of the Act, in respect of time available, to redeem the secured assets."

12. In the principal rules, in Appendix V, for the word and figure "rule 12" the words and figures "rules 8 and 9", shall be substituted

13. In the principal rules, after Appendix I X, the following Appendix shall be inserted, namely:—"APPENDIX- X [See rule 14] (for lessee/tenants) (Application under sub-section (1) of section 17 read with sub-section (4) of section 17 of the Act) For use in Tribunal's Office: Date of filing . Date of receipt by post . or Registration number . Signature . Registrar Between: And CD. 'Delete whichever is not applicable. Details of application: I. Particulars of applicant:- (i) Name of applicant: (ii) Locus of applicant

— lessee/ tenant: (iii) Address of applicant/lessee: In the Debts Recovery Tribunal (Name of the place) Applicant(s) Defendant(s) 3(i)] (iv) Address for service of all notices: 2. Particulars of the defendant/bank:- (i) Name of the defendant/ bank: (ii) Office address of the defendant/bank: (iii) Address for service of all notices: 3. Jurisdiction of the Tribunal: 3..TqT+-TRUT 11 The applicant declares that the subject matter of this application falls within the jurisdiction of the Tribunal

4. Limitation: The applicant further declares that this application is filed within the limitation prescribed in sub-section (l) of section 17 of the Act

5. Locus of applicant: Enumerate herein-nature of locus of applicant under sub-section (l) of section 17 read with section sub-section (4) of section 17.

(i) Whether the applicant is a lessee or tenant: (ii) If applicant is a lessee or tenant, furnish the following details: Date of lease deed/agreement of tenancy if any Whether the lease deed/ agreement of tenancy is registered Details of registration — name of the SRO, document number to be furnished Amount of rent under the lease deed / agreement of tenancy Period of lease / tenancy Whether permission of secured creditor taken Date of expiry of lease/agreement of rent Whether lease/tenancy renewed Copy of lease deed / agreement of tenancy 6. Facts of the case : The facts of the case are given below:- (Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise as to how the applicant is aggrieved)

7. Cause of action: 8. Relief(s) sought: In view of the facts mentioned in paragraph 5 above, the applicant prays for the following relief(s):- [Specify below the relief(s) sought explaining the ground for relief(s) and the legal provisions (if any) relied upon as laid down under sub-section (3) of section 17] 9. Interim order, if prayed for: Pending final decision on the application, the applicant seeks issue of the following Interim Order:- (Give here the nature of the interim order prayed for with reasons). IO. Matter not pending with any other court, etc.: The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other bench of the Tribunal. I l. Particulars of bank draft or postal order in respect of the application fee in terms of [rule 13] of these rules: (i) Name of the bank on which drawn: (ii) Demand draft No. : or (i) Number of Indian Postal Order(s): (ii) Name of the issuing post office: (iii) Date of issue of postal order(s): 12 THE GAZETTE OF INDIA : EXTRAORDINARY [PART 11—SEC. 3(i)] (iv) Post office at which payable: 12. Details of index: An index in duplicate containing the details of the documents to be relied upon is enclosed

13. List of enclosures:- 1.... (Name in full and block letters) Shri..... . Verification son/daughter/wife of the applicant /for and on behalf of the applicant hereby solemnly verify that the contents of paragraphs 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, Note : [F. No. 3/10/2016 - DRT] ANANDRAO V. PATIL, Jt. secy. The principal rules were published in the Gazette of India, Part 11, Section 3, Sub-section (i) vide number S.O. 1020 (E), dated the 20th September 2002 and last amended vide notification number S.O. 1837 (E), dated the 26th October 2007. , 3 2016 f*fi-cr 3fifizrq, 1993 (1993 Tr 51) a-ITT 36 (1) (2) ?lfrzit g-g, (fiZIT) a-zrq, 1993 f*-q-tr -a-a-rå t, 1 .) (frZTT) 2016 2. (frZTT) 1993 t), 2 q. 3fi-R-zrtr, 1 993 (1993 51) t;', srrfåfff ft-at 3Fz:r Tr qh3fffi7 t;, ,