

PUBLIC MONEY RECOVERY ACT LOK DHAN ADHINIYAM

y. (3mqnm) 2 12, 1909 3AfTfh-q-q 0-1. QTfrfä. €7) q (Reu 1988 (feäq) ; (oa•) fa-€rq ; +Ffr" q) q exq (q e k q A q) ; " xfäfhfä, FFM" är-cr •fit, Tfrx*t q-rs q; ?ifiz friFfr & . (l -2. 9 Ehfi-q-q RTfrT, qi -R, q-fr 4 R TütUT-q•ä (q) q•qT O, 2 1 988 iti 8.2. 00 fqff StühTTR', t a, • -.17 firrq 2 1 988 T g-qTfr-t--<T äTTT üqf«:— (76) (9) (a) (q) Fiz (45) (7T) faqq (O avrrv, fqü AT a) , Gil iÄq Y G () (q q egg) 2 1 988 MADHYA PRADESH ACT No. 1 of 1988 THE MADHYA PRADESH LOK DHAN (SHODHYA RASHIY ON KI Sections : l. D. 4. 5. G

7. VASULI) ADHINIYAM, 1987, TABLE OF CONTENTS Short title.extent and conunencement. Definitions. Recovery of certain dues as arrears of land revenue. Savinxs. Act not to debar recovery of dues under any other law. Power of State C jovernnxent to tnake rules Repeal and validation, etc. MADHYA PRADESH ACT No. 1 of 1988 THE MADHYA PRADESH 1.0K DUAN (SHODI-IYA RASHI'YON KI VASULI) ADHINIYAM, 1987 [Received t he assent ofthel)xcsident on (he 18th Dcce n) ber, 1987; assent first published in the 'Bladhya Pradesli G azette" (Extraordinary), dated the 2nd January, 1988.] An Act to provide for the spccdy recovery of certain classes ofducs payable to the State Govern- ment, Government Cojnp-i.ies and certain categories of Corporations and Banking Com- panics, and [or Inatters connecß?d there With. .be it enacted by (he Madhya Pradesh Legislat ure i n Republic of India as follows: 1. (i) This Act bc called the Madhya Pradesh K i' Vasuli) Adhipiyam, 1987. (2) It extends to the whole of Madhya Pradesh. (3) It shall conic into force at once

2. Ili Ihis Act, unless the context otherwi.qe requires,— the Thirty-eighth Year of the Lok Dhan (Shodhya Rashiyon Short extent 13 title, and commencement. Definitions. "agriculture" shall have the meaning- assigned to it in clause (a) of Section 2 of the Madhya Pradesh Krishi Udhar Pravartan Tatha Prakirn Upbandh (Bank) Adhiniyam, 19 -n; 'No. 32 of 1973): üleans,— Cleaned in the Banking Regulation Act, 1949 (No. IO of a cvanzang; co:upany 1949) cne ot:ae 'Jf cops,tituted linuer Ine State Bank of India Act, 1955 the State r,aa€- of India (Subsidiary Banks) Dany: as defineu .-xct, 1959 0 (0. of 1959) (No. cd 1970) or the barking Coril- es (Acquis, k v) a h',ec-uonal R u tal Bank estab,ished under the Regional Rural Banks Act, 1976 (ND. 21 1976); bank or a Central Society as defined in the Madhya Pradesh co- operative Societies Act} 1960 (No. 17 of 1961) excluding a Co-operative Land leans the Ävfddhya Pradesh Financial Corporation established (e) "Corporation" ct, 1951 (*ND. 63 of 1951) and includes u ildet the State Financial Corporation any other Corporation owimecl control icd by the Central Government or S! ite OOVCI Illnent which is declared by the öte,tc• Government, by noti- ficat!0i1, to be a Corporation i.he purpose of assistance" ns any kind or [inancial assigâence given,— (i) ror establishin2, expanding, modernising, renovating ot- cunning any concern; or (ii) for the purpose of or the of agricullut•e or aaro industry; or • the of carty•.naout R ny Stile sponsored schcnw or socially desirable schen•uc: or (v) for reief aga:nst distress; or (vi) Di-irroses of any otaer kind of Dlannecl development. _) ' 'Government Co:npany" naeans Government company as defined in Section 617 of lhe Companies Act, 1956 (INo.-l of 1956); to the express.%lon xn the shall have the Ineani ng 1951 (No. 63 of 1951), as amnded from —nancial Act, tique to time; a leg•al represent.ative, an assivnee or a guaranter; incl udes an hcn•, S late sporasord sch.ern•3" moans a schemc sj)onsored by way of financial assistance (h) the .- jtate Government under which the State Government either,— (i) advances tuoncy to a banking cüinpany or Governrncnt cornpany for the purposes of disbursing loans, acivances or grants or for the ourposes of sale of goods on credit or hire purcha.se• or (ii) gutu•a7ltces or agrees to maarantee the repayment of a loan, advance or grant or the payment of the price OL goods sold on credit or hire purchaser socially desirable scaeme'> naeans a scaeme notified as such by the State Govern- input under which a banking company advances money to any person by way of ancl pan l' t, 1980 (No. 40 of 1980); 01 toon anu 1 ransle 3. any person IS a p•reernen, ko a nt 01 puce of goods sold to OL goo:..ls solo -to h i in {he D {wate advance or grant given 10 'rarn or relating him on credit or relating to hire-purchasi Corporation by way o uoverrLiüen•c or a 2 98 8 ,) to anv agreement relating to loan, advance or grant given to . him or relating to pzyrncnt of 01 goods sold to hira on credit or relating to hire-purchase of gouts sold to him. a banking company OF a Government Company under a State sponsored schemt •or as •the case may be under a socially desirable scheme; or (C) to any agreement relating to a guarantee given by the State Government or a Corporation in respect of a loan raised by an concern; or (D) to any agreement providing that any

money payable there-under to the State Government shall be recoverable as arrears of land revenue and such person, (i) makes any default in repayment of the loan or advance or any instalment thereof; or become liable under the conditions of the grant to refund the grant or any portion thereof makes any default in the refund of such grant or portion of instalment thereof; or (iii) otherwise, fails to comply with the terms of the agreement then,— (a) in the case of the State Government such Officer as the State Government may by notification, authorise in this behalf; (b) in the case of a Corporation or a Government Company, the Managing Director thereof by whatever name called; and in the case of banking company, the local agent thereof by whatever name called, may send a certificate, in such form as may be prescribed, and consistent with the provisions of sub-section (2) of Section 4, to the Collector of the district in which each person normally resides or carries on business or owns property, or to such other subordinate officer of the Collector, as the State Government or the Collector may, by an order, specify in this behalf, mentioning the sum due from such person and requesting that such sum together with the cost of proceedings and interest on the sum due at the rate specified in the agreement, upto the date of recovery, be recovered as if it were an arrear of land revenue : provided that a certificate issued under this sub-section may be withdrawn by the authority issuing such certificate at any time: *provided further that the cost of proceedings shall always be calculated at the rate of three per cent. of the principal sum to be recovered. or subordinate officer specified under sub-section (1) on receiving such steps to take the steps to be taken as an arrear of land revenue 1959 (B.O. 20 of 1959). the recovery of any sum due as aforesaid shall lie in a civil court against recovery of such sum has been issued under institution or suit the recovery of this section shall be in the case of any agreement referred to in sub-section (1) between any person to in that the State Government or a Corporation, no arbitration shall lie the instance of:- either party either for recovery of any sum claimed due under the said sub-section or for disputing the correctness of such claim : Provided that whenever proceedings are taken against any person for the recovery, -It may be such sum he may pay the amount claimed under protest to the officer (during such proceedings, and upon such payment the proceedings shall be stayed and the person against whom such proceedings were taken may make a reference under arbitration agreement or otherwise enforce an arbitration agreement in respect of the amount so paid. (5) Save as otherwise expressly provided in the first proviso to sub-section (1) and the proviso to sub-section (4), every certificate issued under sub-section (1) shall not be called in question in any original suit, application (including any application under the Arbitration Act, 1940) or in any reference to arbitration and no injunction shall be granted by any court or other authority in respect of any action taken or intended to be taken pursuant to any power conferred by or under this Act, (6) amount recovered under this Act shall, notwithstanding anything contained in any other law for the time in force, be applied in the following manner, namely : Savings. (a) (b) (c) (d) 4.(1) (a) (b) firstly, towards the cost of proceedings to be shared between the State Government and the authority issuing the certificate under sub-section- in such manner as may be prescribed; secondly, towards interest to be paid to the authority; thirdly, towards the principal amount due to be paid to the authority; and the balance, if any, as far as possible in accordance with the provisions of section 151 of the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959) . Nothing in section 3 shall,— affect any interest of the State Government, a Corporation, a Government Company or any banking company in any property, created by any mortgage, charge, pledge or other encumbrance ; or affect any right or remedy against any person other than a person referred to in that section, in respect of a contract of indemnity or guarantee entered into in relation to an agreement referred to in that section or in respect of interest referred to in clause (a). (2) Where the property of any person referred to in section 3 is subject to any mortgage charge, pledge or other encumbrance in favour of the State Government, a Government company or a banking company, then— (a) in every case of a pledge or hypothecation of goods, proceeds shall first be taken for sale of the goods pledged or hypothecated and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance as arrear of land revenue provided that where the Collector is of the opinion that it is necessary so to do for ensuring the recovery of the sum due to the State Government or to a Corporation, a Government company or a banking company, as the case may be, he may for reasons to be recorded, direct proceedings to be taken for recovery of the sum due, as arrear of land revenue before or at the same time the proceedings for sale of the goods pledged; charge or other encumbrance on immovable property, case, as the case may be, the interest of the defaulter therein, shall properly be, and the proceeds for recovery of the sum due from that person as in any other proceedings may be thereafter

only the Collector is no prospect of realisation of the entire sum till the process within a reasonable time debar the recovery of dues under any other law for the time being in force. The Act not to debar recovery of dues under any other law. That rule notwithstanding, any person to whom the sum is due shall take recourse to the provisions of only one law for its recovery. The State Government may, by notification, make rules for the purposes of Power of State Government to carry out the provisions of this Act. (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may be made for all or any of the following matters, namely:— the form of certificate to be sent under sub-section (1) of Section 3; the manner in which cost of proceedings shall be shared between the State Government and the authority in terms of clause (a) of sub-section (6) of Section 3; any other matter which is to be or may be prescribed. (7. 1981) All rules made under this Act shall be laid on the table of the Legislative Assembly. The Madhya Pradesh Public Money Recovery (Recovery of Dues) Act, 1981 (No. 27 of Repeal and Validation, etc. is hereby repealed. (2) Notwithstanding such repeal, any proceedings instituted for the recovery of any sum under the repealed Act and pending on the date of such repeal shall be deemed to have been instituted under this Act and shall continue in accordance with the provisions of this Act. (3) Notwithstanding any judgement, decree or order of any court, anything done or any action taken (including orders made, notices, or certificates issued and proceedings initiated to recover any sum or purported to have been done or taken under the repealed Act shall be deemed to be as valid and effective as if such thing or action was done or taken under the corresponding provisions of this Act, and accordingly no suit or other legal proceedings shall be maintained or continued in any court questioning the validity of any thing done or any action taken or purported to have been done or taken under the repealed Act on the ground that the said Act is unconstitutional or void as it had not been reserved for the President and assented to by the President. the assent — 1988.

