



GOVERNMENT OF KERALA

No:REV-H3/93/2023/REV

Revenue (H) Department
Thiruvananthapuram,
Dated:02-07-2023

CIRCULAR

Sub: Revenue Department - Recovery of amounts due from any person or class of persons to any bank (nationalized, commercial and scheduled Banks including Kerala Bank) above 20 lakhs on account of any loan advanced by that bank under various development schemes in light of judgment dated 28.06.2019 in WP(c) 34703/2017 - Guidelines issued - Reg

- Ref:**
1. Notification No. 54415/S3/86/RD dated 13.10.1987
 2. GO (Rt) No.1604/14/RD dated 21/03/2014
 3. Notification No. S.O. 4312(E) dated 06.09.2018 issued by the Ministry of Finance, Government of India
 4. Judgment dated 28.06.2019 of the Hon'ble High Court in WP(c) 34703/2017 by shri Mahfooz Rahim & another
 5. Legal Opinion dated 17.01.2022 & 21.10.2022 from Shri S Ranjith, Special Govt. Pleader to AAG
 6. Govt. Letter No.H3/93/2023/Rev dated 09/03/2023

As per the Notification No. 54415/S3/86/RD dated 13.10.1987 and published in the Kerala Gazette No. 45 dated 17.10.1987 (SRO 1465/87) referred 1st above, Government declared that the provisions of Section 71 of the Kerala Revenue Recovery Act, 1968 shall be applicable to the recovery of all kinds of loans advanced by banks under various development schemes, in the interest of banking development in the State and with a view to removing impediments to the flow of credit from banks.

2. As per the G.O referred 2nd above, it is clarified that notification in SRO 1465/87 is in respect of all banks whether public or private provided "Bank" shall satisfy the conditions laid down in the notification and the loans eligible being considered for revenue recovery through Revenue Department shall be development loans.

3. Subsection (4) of section 1 of the Recovery of Debts and Bankruptcy Act, 1993 specifies that if the amount of debt due to any bank or financial institution or to a consortium of banks or financial institutions is more than ten lakh rupees then the secured Creditor or financial institutions have to approach the Debt Recovery Tribunal for the recovery of their dues. The limit of ten lakh rupees is enhanced to rupees twenty lakh as per Notification No. S.O. 4312(E) dated 06.09.2018 referred 3rd above.

4. WP(c) 34703/2017 had been filed by Shri. Mehafooz Rahim against the action taken by various Banks for recovery of amounts over Rs.10 lakhs allegedly due from the petitioners, under the provisions of the Revenue Recovery Act. The Hon'ble High Court in the common judgment dated 28/06/2019 in WP(c) 34703/2017 & connected cases referred 4th above has ordered the concerned Authorities under the Revenue Recovery Act to cease all further action as per the impugned requisitions made to them for recovery of debts which are more than Rs.10 lakhs but leave full liberty to the banks to invoke and pursue remedies under the RDB Act and also the Bank can invoke SARFAESI Act entitled to do, in terms of law.

5. The Special Government Pleader to AAG in the Legal Opinion referred 5th above has informed that the Court has passed a judgment finding that as per the Recovery of Debts and Bankruptcy Act, 1993 (RDB Act), the jurisdiction of the Debts Recovery Tribunal has been described and as per Section 1(4) of the Recovery of Debts and Bankruptcy Act, if the amount of the Debt due to from any person is more than Rupees 10 Lakhs, the Secured Creditor or the financial institutions have to approach the Debt Recovery Tribunal for the recovery of their dues. The said contentions of the petitioners in the writ petitions were upheld by the Hon'ble Court. The Court has found that in view of Section 17 of the RDBA Act, if any amount for recovery is more than Rupees Ten Lakhs, the Debt Recovery Tribunal constituted under the Act has the jurisdiction, and Section 18 of the Act empowers bar of any other person or authority to exercise its jurisdiction. Section 34 of the RDB Act, also excludes the jurisdiction. The Hon'ble Court has also relied on various decisions of the Hon'ble High Court and Hon'ble Supreme Court also. The Special Government Pleader to AAG has also reported that the Hon'ble Division Bench in WA 864/2022 judgment filed by the State against the judgments of the Single Judge in revenue recovery proceedings were taken for hearing considering the judgment of the Hon'ble Supreme Court in M/s. Unique Butyle Tube Industries Private Ltd. Vs UP Financial Corporation and others reported in 2003 (2) SCC 455. The Court has observed that the revenue recovery proceedings will not lie as the amount is more than 20 Lakhs and as such the revenue recovery proceedings cannot be initiated.

6. As per the letter referred 6th above necessary directions have been issued for returning revenue recovery requisitions above 20 lakhs except for the cases in Kerala Bank, cases under consideration before the Courts and already granted installments to the requisition authority concerned.

7. In the light of the judgments referred above and subsequent Legal opinion received, all District Collectors/Tahsildars are directed not to proceed with the recovery of amounts due from any person or class of persons to any bank (nationalized, commercial and scheduled Banks including Kerala Bank) above 20 lakhs in future on account of any loan advanced by that bank under various development schemes.

Forwarded / By order,

TINKU BISWAL#

Section Officer

To:

(1) The Land Revenue Commissioner, Tvpm

- (2) All District Collectors
- (3) The Co-Operation Department (Ref. No.B2/81/2023/Co-Op)
- (4) Planning & Economic Affairs Department
- (5) I&PRD (for uploading in Website)
- (6) Stock File/Office Copy