

7.1. Introduction

7.1.1. The Employees' Provident Fund Organisation was depending on the recovery machinery of the state governments for the recovery of arrears of EPF dues. The State Revenue Recovery officials could not devote adequate attention to the recovery of arrears of EPF dues, due to their multifarious activities. In fact, the recovery of arrears of EPF dues had the least priority in their agenda. As a result, the arrears of EPF dues, mounting up, month after month. As an experimental measure, the EPF Organisation availed the services of Revenue official of the State Government on deputation to pursue the recovery cases and to co-ordinate the recovery in about ten regions. Even after this arrangement, there was no improvement in the recovery of arrears of EPF dues. The growing arrears of EPF dues was causing concern to the Central Board of Trustees, Government of India and Parliament. The Regional Provident Fund Commissioners in their conferences recommended for the creation of EPF own recovery machinery. The Central Board of Trustees felt that the creation of Employees' Provident Funds' own recovery machinery alone would bring down the arrears and recommended to Government for the amendment to the Act for the creation of Employees' Provident Funds' own recovery machinery.

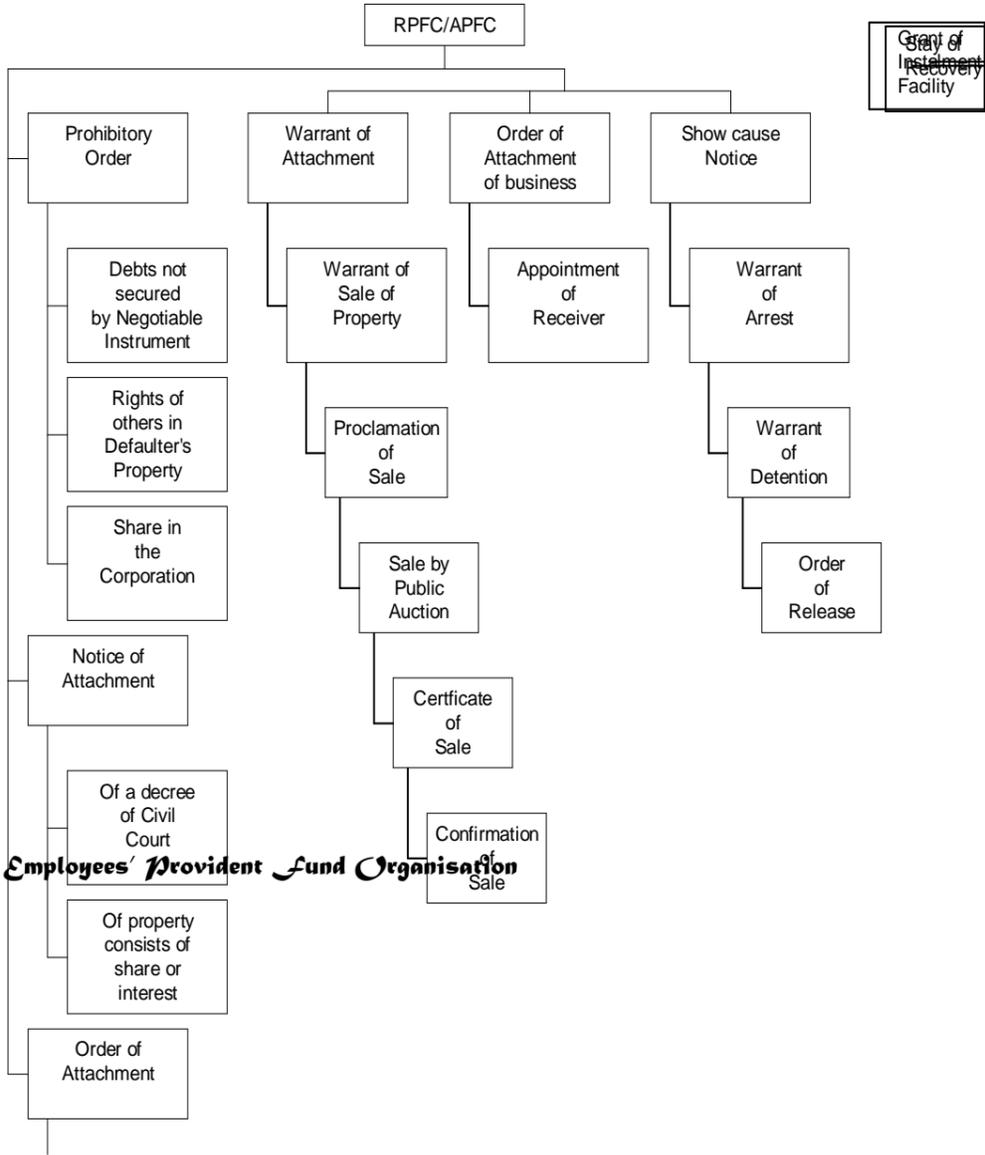
7.1.2. By the Amendment Act 33 of 1988, Section 8B to 8G have been inserted, to create the Employees' Provident Funds' own recovery machinery on the lines of the recovery machinery of the Income-tax Department by adopting and applying the Second and Third Schedules of Income-tax Act, 1961 and Income-tax (Certificate Proceeding) Rules, 1962 (*Annexures I, II and III*). Though the Act was amended in the year 1988, these provisions were given effect from 1.7.90. Government in the first instance notified one Assistant Provident Fund Commissioner by name for each Region except Maharashtra Region where two Assistant Provident Fund Commissioners were provided, to exercise the powers of the Recovery Officer under the provisions of the Act. The process of recovery delayed due to large number of cases pending and also of concentration of work with one Assistant Provident Fund Commissioner. Subsequently, Government notified all the Regional Provident Fund Commissioners and Assistant Provident Fund Commissioners as recovery officers in their respective regions (*Annexure IV*), so as to decentralise and speed up the recovery work and also to make each assessing officer responsible for the recovery of arrear dues assessed by them.

7.1.3. As the each Regional Provident Fund Commissioner/Assistant Provident Fund Commissioner is the assessing officer and also the recovery officers, it will be easier for each one of them to concentrate on recovery of

arrears due from the defaulting establishments falling in their jurisdiction and to bring down the arrears.

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7.2.1 Chart depicting the procedure governing Recovery machinery



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7.2.2. The main functions of the Recovery Officer are as under:

- (1) To initiate recovery proceedings against the defaulters;
- (2) To ensure compliance with the requirements for recovery proceedings
- (3) Enforce the recovery of arrears by attachment and sale of movable and immovable property of the defaulter;
- (4) Enforce the recovery by attachment of business of the defaulter;
- (5) To appoint Receiver for running the business attached, of the defaulter;
- (6) Enforce the recovery by arrest and detention of the defaulter;
- (7) Investigate the claim preferred to or any objection made to attachment and sale of property and pass orders;
- (8) To ensure safe custody of the property attached;
- (9) To confirm the sale of the property;
- (10) To ensure the delivery of the property to the purchaser;
- (11) To ensure the amount realised are deposited on the same day of its realisation in the EPF Accounts with the State Bank of India.

7.2.3. The duties and responsibilities of an Enforcement Officer in recovery proceedings are as under:

- (1) To cause service of summons/warrants/demand notices upon the defaulting employers to avoid delay.
- (2) To collect the information about the movable/immovable property of the defaulting employer and the establishment.
- (3) Attachment of the movable/immovable properties.
- (4) To pursue the recovery of dues by sale or auction of the property attached.
- (5) To attend the periodical meetings with the Recovery Officer and the Regional Provident Fund Commissioner to review the recovery position.
- (6) To maintain the various Registers required for the purpose of monitoring the recovery.
- (7) To maintain liaison with the Courts for speedy and expeditious recovery.
- (8) To carry out such other functions as may be assigned to him by the Recovery Officer.

7.3. Attachment and sale of Movable Property

7.3.1. Issue of Notice

- 7.3.1.1. If the defaulter fails to pay the dues within the date specified in the assessment order under Section 7A or levy order under Section 14B, action should first be initiated under Section 8F of the Act to recover the dues. If the dues could not be recovered, either fully or partially, by taking action under Section 8F or if it is not feasible to initiate action under Section 8F, action should be initiated under Section 8B of the Act to recover the dues. The concerned Assessing Officer, i.e., Regional Provident Fund Commissioner or Assistant Provident Fund Commissioner himself should draw up statement of dues (i.e., the Recovery Certificate) specifying the period, amount, etc., in his capacity as Recovery Officer and issue the demand notice in the *Form EPFCP-1* requiring the defaulting employer or the establishment, as the case may be, to pay the arrears specified in the Recovery Certificate within 15 days of receipt of notice, by Registered Post with Acknowledgement due. Alternatively, the area Enforcement Officer may be directed to serve the demand notice and obtain the acknowledgement of receipt of notice from the defaulter. The notice should be issued only in the prescribed form. The non-issue of notice as required above will render entire proceeding taken by the Recovery Officer, illegal and void. The issue of Recovery Certificate should be noted in the Register of Recovery Cases [Annexure VI(i)].
- 7.3.1.2. As further action will have to be taken based on the date of receipt of notice by the defaulter, the receipt of acknowledgement card should be watched and the date of receipt of notice by the defaulter should be entered in the Register of Recovery Cases. The Acknowledgement Card should be preserved properly in the relevant recovery file of the establishment. The acknowledgement card may be printed by the office, if necessary, after getting approval of the Postal department, with Red Border on all the four sides of the Card for easy identification.
- 7.3.1.3. After the service of notice, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him and if created, without specific permission of the Recovery Officer, it shall be void. Nor shall any Civil Court issue any process against such property in execution of a decree for the payment of money.

7.3.2. Attachment of property of the employer

- 7.3.2.1. The attachment and sale of property should first be effected against the properties of the establishment. Where such attachment and sale is insufficient for recovery of the whole of the amount of arrears specified in the Recovery Certificate, the Recovery Officer may take such proceedings against the

property of the employer for recovery of the whole amount or any part of such arrears.

7.3.3. Execution of Recovery Certificate

7.3.3.1. No action should be taken for execution of recovery Certificate until the expiry of period of 15 days from the date of receipt of notice by the defaulter or service of notice on the defaulter. If, however, the Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as it would be liable to attachment by execution of a decree by a Civil Court and that the realisation of the amount of recovery certificate would in consequence be delayed or obstructed, he may at any time, direct for reasons to be recorded, in writing, an attachment of the whole any part of such property before the stipulated period of fifteen days. On receipt of copy of the Demand Notice, if the area Enforcement Officer apprehends any of above such move by the defaulter, he should send a report to the Recovery Officer immediately, (if necessary over phone followed by a letter by speed post) so as to enable the Recovery Officer to issue the Warrant of Attachment before the expiry of the stipulated period of fifteen days

7.3.3.2. If the defaulter furnishes security to the satisfaction of Recovery Officer, the Recovery Officer should cancel the attachment from the date of his acceptance of security for the property attached

7.3.4. Recovery Proceedings against Sick Industries

7.3.4.1. Where steps are taken by the BIFR under Section 16 or 17 of Sick Industrial Companies (Special Provisions) Act, 1985, no proceedings for execution, distress or like proceedings against any of the properties of the Sick Industrial Company with the meaning of Section 3(i)(b) of the above Act of 1985 could be initiated for recovery of dues under Employees' Provident Funds and Miscellaneous Provisions Act, 1952, except with the consent of the BIFR [*SLM Maneklal Industries Ltd. Vs Regional Provident Fund Commissioner (1996) LLJ 283 (GUJ)*]

7.3.5. Issue of warrant

7.3.5.1. When the movable property is to be attached, the Recovery Officer should direct the area Enforcement Officer to serve a copy of the warrant in *Form EPFCP-2* on the defaulter and take further action as directed therein. Enforcement Officer should return the warrant on or before the date specified therein with an endorsement certifying the date on which and the manner in which, it has been executed. This requirement of service of the copy of the warrant of attachment on the defaulter, is to afford an opportunity to the defaulter to pay the amount. For due compliance of this requirement service should be personal service and not by affixation. The whole aim should be to recover the money and not otherwise.

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- 7.3.5.2. If the defaulter, after the service of warrant, fails to pay the amount of arrear dues forthwith, the Enforcement Officer should proceed to attach the movable property of the defaulter and intimate the details of the property attached to the Recovery Officer. If he could not execute the warrant, he should give reasons for its non-execution.
- 7.3.5.3. While attaching the property, it should be ensured that the property exempt from attachment under Section 60 of Code of Civil Procedure, 1908 is not attached. (*Annexure V*). The Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.
- 7.3.5.4. Where the movable property other than the agricultural produce, is in the possession of defaulter, Enforcement Officer should attach the property by actual seizure. He should keep the property in his own custody and he should take adequate care and steps to keep the property safely, till the Recovery Officer directs him to sell the property.
- 7.3.5.5. When the property seized is subject to speedy and natural decay or when the expenses of keeping it in the custody is likely to exceed its value, he may sell it at once.
- 7.3.6. ***Attachment of Negotiable Instrument***

Where the property to be attached is a negotiable instrument deposited neither in a court nor in the custody of a Public Officer* the attachment should be made by actual seizure. The order of attachment should be issued in *Form EPFCP-9*.

* Sub-section (17) of Section 2 of Code of Civil Procedure, 1908 defines --

“public officer” means a person falling under any of the following descriptions, namely--

- (a) every Judge;
- (b) every member of an All India Service;
- (c) every commissioned or gazetted officer in the military, navy or air forces of the Union while serving under the Government;
- (d) every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact or to make, authenticate or keep any document, or to take charge or dispose of any property, or to extend any judicial process, or to administer any oath, or to interpret, or to preserve order, in the Court, and every person especially authorised by a Court of Justice to perform any of such duties;
- (e) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;
- (f) every officer of the Government whose duty it is, as such officer to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;
- (g) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or make any survey, assessment or contract on behalf of the Government, or to execute any revenue process, or to investigate or to report on, any matter affecting the pecuniary interests of the Government, or to make authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government; and
- (h) every officer in the service or pay of the Government, or remunerated by fees or commission for the performance of any public duty.

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7.3.7. Attachment of Debt, shares, etc.

Attachment of debts (*not secured by negotiable instruments*), shares, defaulter's account/deposits with bank, post office, insurance policy, by the Recovery Officer by invoking the provision of Second Schedule to Income-tax Act, 1961, should not normally arise, as Assessing Officer under the powers vested with him under section 8F of the Act should have already taken action. However, if there is need to attach the debts, shares, account with the Bank, etc., the Recovery Officer should issue the Prohibitory and restraint order in the *Form EPFCP No.3 or EPFCP No.4*, as the case may be. A copy of the order should be affixed on the notice board specially erected on some conspicuous part of the Regional Office / Sub-Regional Office and another copy should be sent to the debtor, or proper officer of the corporation holding the shares or banker or post office or insurer, as the case may be.

7.3.8. Attachment of other movable property not in the possession of the defaulter

Where the property to be attached consists of movable property to which the defaulter is entitled, subject to a lien or right of some other person to the immediate possession thereof, the Recovery Officer should issue the Prohibitory Order in *Form EPFCP-5*.

7.3.9. Attachment of decree

7.3.9.1. In case of attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge. Recovery Officer should make an application in *Form EPFCP-6* requesting the civil court to stay the execution of the decree unless and until--

- (a) the Recovery Officer cancels the notice, or
- (b) the Recovery Officer or the defaulter applies to the court receiving such notice to execute the decree.

7.3.9.2. Where a civil court receives the application it shall, on the application of the Recovery Officer or the defaulter and subject to the provisions of the Code of Civil procedure, 1908 (5 of 1908), proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.

7.3.9.3. The Recovery Officer shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

7.3.10. Attachment of Share in movable property

Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the Recovery

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Officer should issue the notice of attachment in *Form EPFCP-7* to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

7.3.11. Attachment of property in custody of court or public officer

7.3.11.1. Where the property to be attached is in the custody of any court or public officer, the Recovery Officer should issue the notice of attachment in *Form EPFCP-10*, by making a request to such court or officer that such property, and any interest or dividend become payable thereon, may be held subject to the further orders of the Recovery Officer by whom the notice is issued. On notice being sent to the Court or Public Officer, the Court or Public Officer, is debarred from proceeding against the property of defaulter.

7.3.11.2. A Prohibitory Order shall, however, be effective only to the extent of amount recoverable from the defaulter.

7.3.11.3. In case, such property is in the custody of a court, any question of title or priority arising between the Recovery Officer and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such court. The Recovery Officer should bring the provisions of Section 11 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to the notice of the Court.

7.3.12. Attachment of partnership property

7.3.12.1. Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the Recovery Officer should make an order in *Form EPFCP-11* charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

7.3.12.2. The other persons (partners) shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

7.3.13. Agricultural Produce

7.3.13.1. A growing crop which from its nature does not admit of being stored, should not be attached at any time less than twenty days before the time at which it is likely to be cut or gathered.

7.3.13.2. The attachment of agricultural produce should be made by affixing the copy of the warrant of attachment in *Form EPFCP-2* :

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- (a) in case of growing crop--on the land on which such crop has grown, or
- (b) in case of produce has been cut or gathered--on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited,
- (c) and another copy on the outer door or some other conspicuous part of the defaulter establishment or last place the defaulting employer carries or carried on his business or outer door or some other conspicuous part of the house in which the defaulter ordinarily resides. On affixing the warrant of attachment as stated above the produce shall be deemed to have passed into the possession of the Recovery Officer.

7.3.13.3. Provisions as to agricultural produce under attachment

- (i) Where the agricultural produce is attached, the Recovery Officer should direct the area Enforcement Officer to make such arrangements for custody, watching, tending cutting and gathering thereof, as he may deem sufficient and should provide money to Enforcement Officer to incur the expenditure towards the cost of such arrangements. However, the ultimate responsibility for the proper arrangements rest with the Recovery Officer.
- (ii) Alternatively, while issuing the order of attachment or in any subsequent order, he may, subject to conditions as may be imposed by him order/permit the defaulter to tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it. If the defaulter fails to do all or any of such acts, he may appoint any person subject to conditions as may be imposed by him, to do all or any of such acts and recover the costs incurred by such persons from the defaulter, as if they were included in the Recovery Certificate.
- (iii) Agricultural produce attached, as growing crops shall not be deemed to have ceased to be under attachment or to required re-attachment merely because it has been severed from the soil.
- (iv) Where an order for the attachment of the growing crops has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Enforcement Officer may recommend suspension of the Order for such time as he consider necessary, if such suspension will be in the interest of the Employees' Provident Fund Organisation. On receipt of report from the Enforcement Officer, the Recovery Officer may suspend the execution of order for such time as he thinks fit. He may, in his discretion make a further order prohibiting the removal of the crop pending the execution of order of attachment.

7.3.14. ***Attachment of salary of servants of Government or Local authority***

The attachment of salary of servants of Government or Local authority will not normally arise to recover the dues from the defaulting establishments/employer. If any necessity arise, the Recovery Officer should issue the order of attachment in *Form EPFCP-8*, in the manner provided by Rule 48 of Order 21 of the First Schedule to the Code of Civil Procedure, 1908.

7.3.15. ***Attachment not to be excessive***

The attachment of property should not be excessive and it should be as nearly as possible proportionate to the certificate amount.

7.3.16. ***Entry of issue of attachment orders in the Register of Recovery cases***

The issue of all attachment orders should be entered in the Register of Recovery cases and the recovery should be watched.

7.3.17. ***Private alienation to be void in certain cases***

Where an attachment has been made, any private transfer or delivery of the property attached or of any interest thereon and any payment to the defaulter of any debt, dividend or other monies, contrary to such attachment, shall be void as against all claims enforceable under the attachment.

7.3.18. ***Seizure between sunrise and sunset***

Attachment by seizure should be made after sunrise and before sunset and not otherwise.

7.3.19. ***Power to break open doors, etc.***

If the Enforcement Officer has reasonable ground to believe, that any building of the defaulting establishment / employer contains movable property liable to seizure under the warrant, and the admission is not given to him to enter the building, he may break open the any inner or outer door or window of such building to seize such movable property. Before doing so, he should notify his authority and intention of breaking open the door or window and he should give reasonable opportunity to women to withdraw.

7.3.20. ***Inventory***

After the attachment of the property by actual seizure, the Enforcement Officer should prepare inventory of all property attached in the prescribed form. (*Annexure-VII*) specifying in it the place where it is lodged and kept and forward it to the Recovery Officer. He should hand over a copy of the inventory to the defaulter. A copy of the inventory should also be kept with the Enforcement Officer in the Recovery File of the establishment concerned. On receipt of inventory of

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articles, Enforcement Section should enter the details of articles seized and their value and on whose custody they are kept, in the Register of Property / Articles Seized.

7.3.21. Custody of Movable Property (other than agricultural produce) attached by actual seizure

- 7.3.21.1. Where the property attached is of such nature that its removal from the place of attachment is impracticable or where the expenses for its removal out of proportion to its value, Enforcement Officer should arrange for the proper maintenance and custody of the property at the place of attachment subject to any direction issued by the Recovery Officer and should forthwith send a report of having done so to the Recovery Officer.
- 7.3.21.2. On receipt of a report from the Enforcement Officer, the Recovery Officer may either order the removal of the property to the place specified by him or sanction its maintenance and custody at the place of attachment with such conditions, as he may think fit.
- 7.3.21.3. The Enforcement Officer with the prior approval of the Recovery Officer entrust subject to his right of supervision, the attached property to the defaulter on his executing a duly stamped bond (*sapurdanama*) in the Form *EPFCP- 23*.
- 7.3.21.4. Where the property attached is not kept at the place of attachment, it should be either in the custody of the Enforcement Officer in the Inspectorate or it should be removed to the office of the Recovery Officer (i.e., in Regional / Sub-Regional Office) for custody under his own supervision. Alternatively, with the approval of the Recovery Officer, the Enforcement Officer may make such arrangements as it may convenient and economical for its safe custody with any other fit person under his own supervision. Recovery Officer may fix the remuneration to be allowed to such person. This procedure should be followed only in exceptional circumstances where it is considered that it is not advisable and safe to keep the property with the defaulter himself on execution of *Sapurdanama* in Form *EPFCP-23*.

7.3.22. Custody of attached Cash, Securities, Jewellery, etc.

- 7.3.22.1. If the property attached consists of government or other securities or jewellery or other valuables, the Enforcement Officer should take them to the nearest Regional Office /Sub-Regional Office/ Sub-Accounts Office, as the case may be and hand them over to the Regional Provident Fund Commissioner or Officer-in-charge of the Sub-Regional Office / Sub-Accounts Office, as the case may be, for safe custody with him. Regional Provident Fund Commissioner or officer-in-charge of the Sub-Regional Office /Sub-Accounts Office should hand over such valuable with due inventory and entry in the Register of Articles Seized to the Assistant Provident Fund Commissioner in charge of Cash section for keeping them duly bundled, sealed with the wax seal and also affixing a paper with the

signature of Regional Provident Fund Commissioner / Officer-in-charge of Sub-Regional Office / Sub-Accounts Office, as the case may be, and Assistant Provident Fund Commissioner in charge of Cash Section to ensure their safe custody. Alternatively, depending upon the experience and the need, the Regional Provident Fund Commissioner, with the prior approval of the Central Board of Trustees, may enter into an arrangement with SBI or other nationalised bank to keep the above attached valuable property in their custody by payment of safe custody charges.

7.3.22.2. If cash is attached, it should be deposited into the EPF Accounts on the same day in any one of the branch of the State Bank of India (*including Evening Branch of State Bank of India, if any*). If it is not possible to deposit the amount into the EPF Accounts, it should be handed over to the Regional Provident Fund Commissioner, Regional Office or Officer-in-charge of Sub-Regional Office, or Sub-Accounts Office, as the case may be, for its deposit into the EPF Account on the next day, positively. It is the responsibility of the Recovery Officer/ Enforcement Officer to ensure that the amount is deposited in the Bank on the next day.

7.3.23. ***Claim of any person other than the defaulter to the property under attachment***

If any person other than the defaulter claims the attached property or part thereof when it remains in the place of attachment itself and custody of the Enforcement Officer, he should continue to keep it in his possession and direct the claimant to prefer his claim to the Recovery Officer.

7.3.24. ***Investigation by Recovery Officer***

7.3.24.1. If any claim is preferred to or any objection is made to the attachment or sale of any property, on the ground that such property is not liable for attachment or sale, the Recovery Officer should proceed to investigate the claim or objection. No such investigation should, however, be made where he considers that the claim or objection was designedly or unnecessarily delayed. The claimant or objector must adduce evidence to show that at the date of attachment of movable property, he had some interest in or was possessed of, the property in question. On investigation, if the Recovery Officer has found that attached property, at the date of attachment, though in possession of the defaulter, it was in his possession not on his own account or as his own property but on account of or in trust for some other person or partly on his own account and partly on account of some other person, the Recovery Officer should make an order releasing the property, wholly or to such an extent he think fit from attachment or sale.

7.3.24.2. If he has found that the property at the said date of attachment was in the possession of the defaulter, *as his own property* or was in the possession of some other person in trust for him, he should disallow the claim. If the claimant

or objector institute a suit in the civil court, to establish his rights to the property, the orders of Recovery Officer shall be conclusive, subject to result of the suit.

7.3.24.3. Where, in the course of investigation, the Recovery Officer is satisfied that the property is subject to mortgage or charge other than mortgage or charge referred to in paragraph 7.3.1.3 in favour of some person not in possession and he thinks fit to continue the attachment, he may do so, subject to such mortgage.

7.3.24.4. The investigation by the Recovery Officer is not an empty formality. The process is quasi-judicial involving reasoned decision after hearing both sides. It is beyond the competence of Recovery Officer to decide the question of title. His power is limited to decide as to who was in possession of the property. The party against whom the order is made may institute a civil suit to establish his rights to the property. The orders of Recovery Officer shall, however, be conclusive, subject to result of the suit.

7.3.25. ***Removal of attachment on satisfaction or cancellation of Recovery Certificate***

Where the defaulter pays the amount due together with cost, and all charges, expenses or where the Recovery Certificate itself is cancelled, the Recovery Officer should cancel the order of attachment, and endorse a copy of his order to the concerned Enforcement Officer.

7.3.26. ***Return of property on cancellation or withdrawal of attachment***

On cancellation or withdrawal of order of attachment, the Recovery Officer should inform the defaulter that the property is at his disposal and he should give the possession of or he should direct the Enforcement Officer in whose possession the property is, to give the possession of, the movable property attached to him (defaulter) on payment of cost, charges, expenses due in respect of the execution of the Recovery Certificate against such property. If the movable property attached has been removed from the premises in which it was seized or there is no person to take charge of that property, the Recovery Officer or the Enforcement Officer, as the case may be, should replace it where it was found at the time of seizure.

7.3.27. ***Property may be sold if cost, etc., not paid***

If the defaulter fails to pay the cost, expenses and other charges referred to above, the movable property or such portion thereof should be sold by auction and after defraying the expenses of such sale and above costs, charges and other expenses, the balance, if any, of the movable property as has not been sold should be handed over to the defaulter.

7.3.28. Warrant of Sale

On receipt of report of Enforcement Officer regarding the attachment of property, Recovery Officer should issue the warrant of sale in *Form EPFCP.12*, in triplicate and direct the Enforcement Officer to act as per the instructions therein. The date of issue of warrant of sale should be entered in the Register of Recovery cases and the report of the Enforcement Officer should be watched. After serving the copy of the warrant of sale on the defaulting employer, Enforcement Officer should send a report indicating the date on which and manner in which it was served and also the value of the each movable property seized to enable the Recovery Officer to fix the reserve price and order for sale of movable property.

7.3.29. Proclamation of sale

7.3.29.1. On receipt of the report of the Enforcement Officer, the date of receipt of report of the Enforcement Officer should be entered in the Register of Recovery cases. Thereafter, the proclamation of sale of the property in the *Form EPFCP.13* should be issued by the Recovery Officer in the languages of district of the intended sale. He should also fix the reserve price for each article and indicate in the proclamation of sale. The reserve price should be determined after an objective consideration of all the relevant facts. It should not be any figure having no relation whatsoever to the minimum price, which the property intended to be sold, is expected to fetch at the auction sale. The copy of the proclamation of sale should be affixed in a conspicuous part of the office of the Recovery Officer and Enforcement Officer. He should normally direct the area Enforcement Officer to conduct the sale by Public auction in one or more lot as the Enforcement Officer considers necessary. If the Recovery Officer considers that it is more advantageous to appoint a person other than the area Enforcement Officer to sell the property, he may appoint any other Enforcement Officer of the Regional Office /Sub-Regional Office, whom he considers more suitable for the job. He may also appoint any other fit person other than the Enforcement Officer from the approved auctioneers to sell the property and fix the remuneration to be allowed to him for rendering such services. The remuneration payable to such person should be treated as cost of the sale and should be recovered from the defaulter along with other costs. While appointing an auctioneer, adequate care should be taken in selecting the auctioneer.

7.3.29.2. The Recovery Officer may summon any relevant person and examine him in respect of any matters relevant to proclamation and required him to produce any document or power relating thereto for the purpose of ascertaining the matters to be specified in the proclamation of sale. The Enforcement Officer should arrange for the proclamation of sale by beating of drum or other customary mode:

- (1) in the case of property attached by actual seizure
 - (a) in the village in which the property seized or if the property was seized in a town or city, then in the locality in which it was seized.

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(b) at such other place as the Recovery Officer may direct.

- (2) in case of property attached otherwise than by actual seizure, in such places, as Recovery Officer may direct.

7.3.30. Sale after fifteen days

7.3.30.1. No sale of property should take place until the expiry of atleast fifteen days calculated from the date on which the copy of the proclamation of sale affixed in the office of the Recovery Officer, i.e., Regional Office or Sub-Regional Office, as the case may be.

7.3.30.2. Where the property is subject to speedy and natural decay or when the expenses of keeping it in custody is likely to exceed its value, sale may take place before fifteen days. If the defaulter gives his consent, in writing, for selling the property before fifteen days, sale may take place before fifteen days.

7.3.31. Prohibition of sale on holidays

No sale should take place on a Sunday or other general holidays recognised by the State Government or on any days which has been notified by the State Government to be a local holiday for the area in which the sale is to take place.

7.3.32. Prohibition against bidding or purchase by officer of the Employees' Provident Fund Organisation

No officer/staff of the Employees' Provident Fund Organisation or any person having duty to perform in connection with any sale, should either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

7.3.33. Investigation by Recovery Officer

If any claim is preferred to or any objection is made to the sale of any property in execution of certificate on the ground that such property is not liable for such sale, the Recovery Officer should proceed to investigate the claim or objection as envisaged in paragraph 7.3.24 of this Chapter.

7.3.34. Adjournment or stoppage of sale

7.3.34.1. The Recovery Officer may in his discretion adjourn any sale to a specified day or hour. The Enforcement Officer conducting any such sale may in his discretion, adjourn the sale recording the reasons for such adjournment. Where the sale is conducted by the Enforcement Officer in or within the precincts of Regional Office/ Sub-Regional Office, no such adjournment should be made without the permission of the Recovery Officer. Where adjournment is for a

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longer period than one calendar month, a fresh proclamation of sale should be made unless the defaulter agrees to waive it.

- 7.3.34.2. The sale should be stopped, if, before the lot is knocked down in the auction, the arrears and costs including cost of sale are tendered by the defaulter to the Enforcement Officer or the proof is given to his satisfaction that the amount of such arrears and costs has been paid to the Recovery Officer, or deposited into the EPF accounts. The Enforcement Officer should deposit the amount, if any, paid by cash by the defaulter in the EPF accounts on the same day in any one of the branches of the State Bank of India (*including the Evening Branch of the Bank, if any*) and if the payment is made after banking hours, he should hand over the cash to the Recovery Officer. The Recovery Officer should hand over the cash to the Assistant Provident Fund Commissioner (Cash) for depositing the amount in the bank next day. If the place of sale is away from Regional Office /Sub-Regional Office, and the Enforcement Officer could not take the cash to Regional Office/ Sub-Regional Office on the same day, he may ask the defaulter to deposit the amount in the EPF Accounts with the State Bank of India on the next day and produce the receipted copy of the challans. If the employer gives cheque / Demand Draft towards payment of arrears, it should be deposited in the State Bank of India, on the same day or the next day for credit to the respective EPF Accounts. The attachment of property should not, however, be lifted until the Regional Office/ Sub-Regional Office confirms the receipt, after due verification with bank statement.

7.3.35. Sale to be by public auction

- 7.3.35.1. The property should be sold by public auction in one or more lots, as the Enforcement Officer may consider advisable. If the amount to be realised by the sale is satisfied by the sale of portion of property, the sale should be stopped immediately with respect to the remainder of the lots.
- 7.3.35.2. The amount towards the price of each lot should be paid by the purchaser immediately after its knocking down or as soon as the Enforcement Officer holding the sale, directs on the same day. If the purchaser fails to pay the amount, the property should forthwith be resold. On payment of purchase money, the Enforcement Officer should grant a certificate of sale in *Form EPFCP-14* specifying the property purchased, the price paid and the name of the purchaser and the sale shall become absolute.
- 7.3.35.3. The Enforcement Officer should deposit the amount paid by the purchaser into the EPF Accounts with the State Bank of India on the same day in any one of the branches of the State Bank of India (*including the Evening Branch of the Bank, if any*). If it is cash and it is paid by the purchaser after the banking hours, he should hand over the cash to the Recovery Officer on the same day. To avoid such a situation, he should conduct the auction in the fore-noon and collect the amount from the purchaser well before the close of banking hours, so that the amount, if any received in cash can be deposited into the EPF

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Accounts on the same day. The Enforcement Officer should send a report of sale to the Recovery Officer on the same day of sale.

7.3.36. *Defaulting purchaser answerable for resale*

7.3.36.1. Any deficiency in price, which may happen on a resale by reason of purchaser's default and all expenses attending such resale should be certified by the Enforcement Officer and intimated to the Recovery Officer. At the instance of either the Recovery Officer or the defaulter the amounts towards deficiency in price and expenses as certified by the Enforcement Officer should be recovered from the defaulting purchaser. The Enforcement Officer should recover the amount from the earnest money deposit of the defaulting purchaser. The application for recovery of the amount from the defaulting purchaser should not be entertained, unless it is filed within fifteen days from the date of resale.

7.3.37. *Bidding by co-owner*

Where the property to be sold is a share in goods belonging to defaulter, and a co-owner and two or more persons including the co-owner bids the same sum for such property or for any lot, the bidding shall be deemed to be bidding of the co-owner.

7.3.38. *Sale of Agricultural produce*

7.3.38.1. If agricultural produce is the growing crops the sale should be held

- (1) near the land on which the crop has grown.
- (2) if it has been cut or gathered, near the threshing floor or place for treading out grain or the like or fodder stack, on or in which it is deposited.

7.3.38.2. If the Recovery Officer is of opinion that its sale at the nearest place of public resort is likely to sell to greater advantages, he may order the sale at the nearest place of such public resort.

7.3.38.3. If a fair price, in estimation of Enforcement Officer or any person holding the sale, is not offered for it and its owner or a person authorised to act on his behalf applies to have the sale postponed, till the next day or if the sale is held in the market place, the next market day, the sale should be postponed accordingly and it should be then completed whatever the price may be offered for the produce.

7.3.38.4. Where the growing crops from its nature admits of being stored but has not yet been stored, the day of sale should be fixed as to admit of the crop being made ready for storing before such day fixed for sale. The sale should not be held, until it has been cut or gathered and is ready for storing.

7.3.38.5. Where growing crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (e.g., as green wheat), it may be sold before it is cut and gathered. In such cases, the purchaser is entitled to enter on the land and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

7.3.39. ***Sale of Negotiable instrument/Share in a Corporation***

Where the property to be sold is a negotiable instrument or a share in a corporation, the Recovery Officer instead of directing the sale by public auction, authorise the sale of such instrument or share through a broker.

7.3.40. ***Debt not secured by negotiable instrument***

Where the debt is not secured by a negotiable instrument and, where it is not to be paid by cash/cheque or demand draft to the defaulter, it should be sold by public auction. If it is in form of negotiable instrument, action should be taken to sell it as indicated in paragraph 7.3.39.

7.3.41. ***Currency / Coins***

The Currency/ Coins attached should be dealt with as directed by the Recovery Officer in his order in *Form EPFCP.15*

7.3.42. ***Irregularity not to vitiate sale, but any person injured may sue.***

No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a civil court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

7.3.43. ***Delivery of movable property, debts and shares***

7.3.43.1. ***Property attached by actual seizure - Property in possession of person other than defaulter***

On sale of movable property, which has been attached by actual seizure, it should be delivered to the purchaser. If the movable property sold, is in the possession of a person other than the defaulter, Recovery Officer should issue a notice to the person concerned prohibiting him to deliver the property to any person except the purchaser and also requiring him to deliver the property to the purchaser on or before the date specified in the notice. If the person concerned fails to deliver the property to the purchaser, the Recovery Officer should direct the Enforcement Officer to seize the property and deliver it to the purchaser.

7.3.43.2. Property sold is a debt not secured by a negotiable instrument

Inviting the reference to earlier, Prohibitory order and restraint order issued to the debtor as well as to the creditor, Recovery Officer should issue further direction to the debtor to pay the amount or to deliver the property to the purchaser within the date specified in his order. If he fails to make payment or deliver the property to the purchaser within the specified date or such further extended date by the Recovery Officer, action should be taken against the debtor, as if he is the defaulter by issuing notice of demand followed by warrant of attachment and sale of debtor's property.

7.3.43.3. Property sold is share in a corporation

- (i) Inviting the reference to the earlier Prohibitory and restraint order issued to the corporation as well as to the share holder (i.e., defaulter), Recovery Officer should, simultaneously, issue direction to the shareholder (defaulter) to deliver the Share Certificate or other documents of title along with instrument of transfer duly completed by him to the Recovery Officer. Simultaneously, he should issue direction to the Manager or Secretary or any other proper officer of the corporation to transfer the share in favour of the purchaser and to pay the amount of dividend, if any, to him (*purchaser*).
- (ii) If the shareholder (defaulter) fails to deliver the share certificate or other documents to title to the Recovery Officer, within the date specified in his order, Recovery Officer should take steps to obtain a duplicate of the share certificate or other document title, as if the share certificate or other documents to title had been lost or destroyed and arrange to transfer the share in favour of the purchaser.

7.3.43.4. Transfer of negotiable instrument or shares

- (i) Where the execution of a document or the endorsement of the party in whose name a negotiable instrument or share in a corporation is standing, is required to transfer such negotiable instrument or share to the purchaser under the sale ordered by the Recovery Officer, the Recovery Officer may execute such document or make such endorsement as may be necessary and such execution or endorsement shall have the same effect as on execution or endorsement by the party. Such execution or endorsement may be in the following form:

"..... by Recovery Officer. in the proceedings for the recovery of arrears amount due under Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder against"
- (ii) The Recovery Officer may cause the document to be executed in proper stamp paper and to be registered, if its registration is required by any law for the time being in force. The expenses of such execution and registration should be borne by the purchaser.

(iii) Until the transfer of such negotiable instrument or share, the Recovery Officer may, by order, appoint the Assistant Provident Fund Commissioner (Cash) to receive any interest or dividend due thereon and to sign the receipt for the same and any receipt so signed shall be valid and effective for all purposes, as if the same had been signed by the party himself.

7.3.43.5. In case of any movable property (other than the property referred to in this Chapter) for which no provision has been made in this manual or Income-tax (Certificate Proceeding) Rules, 1962 or Second Schedule to Income-tax Act, 1961, the Recovery Officer may make an order vesting such property in the purchaser or as the purchaser may direct and such property shall vest accordingly.

7.4. Attachment of immovable property

7.4.1. After the issue of notice in *Form EPFCP.1*, if the defaulter fails to pay the amount of arrears due, within the date specified therein, the Enforcement Officer should send a report immediately to the Recovery Officer, furnishing the details of immovable property that may be attached. On receipt of report of the Enforcement Officer, the Recovery Officer should issue the order of attachment, after the expiry of notice period of 15 days in *Form EPFCP-16* and he should direct the area Enforcement Officer to serve a copy of the order of attachment on the defaulter. The attachment of immovable property may be resorted only when sufficient movable property of the defaulter are not available for attachment or when the amount of arrears due is huge and it is not advisable to attach movable property. However, the Recovery Officer is under no obligation to recover the arrears first by proceeding against movable or by arrest before attaching the immovable property of the defaulter. If he so desires, he may attach the immovable property without resorting to attachment of movable property.

7.4.2. The Enforcement Officer should return the order of attachment on or before the date specified therein with an endorsement certifying the date on which and the manner in which, it has been executed. The order of attachment should also be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode and a copy of the order should be affixed on a conspicuous part of the property attached. This is necessary to make the public aware of the order of attachment. Further a copy of the order of attachment should be affixed on the notice board of the Recovery Officer (i.e., Regional Office /Sub-Regional Office). The Enforcement Officer should also send the details of the property attached.

7.4.3. Attachment relate back from the date of service of notice

7.4.3.1. The attachment of immovable property shall relate back to or take effect from the date on which notice to pay the arrears issued in *Form EPFCP.1*, served upon the defaulter.

7.4.4. Investigation by Recovery Officer

- 7.4.4.1. If any claim is preferred to or any objection is made to the attachment or sale of any immovable property, on that ground that such property is not liable for attachment or sale, the Recovery Officer should proceed to investigate the claim or objection. No such investigation should, however, be made, where he considers that the claim or objection was designedly by or unnecessarily delayed. The claimant or objector must adduce evidence to show that at the date of service of notice issued in *Form EPFCP.1* to pay the amount of arrears due, on the defaulter, he had some interest in or was possessed of the immovable property in question. On investigation, if the Recovery Officer has found that attached property, at the date of service of notice in *Form EPFCP-1*, was not in possession of the defaulter or if some person in trust for him or in the occupancy of a tenant or other person paying rent to him or that though the property was in possession of the defaulter, it was in his possession not in his own account or as his own property but on account of or in trust for some other person or partly on his own account and partly on account of some other person, the Recovery Officer should make an order releasing the property, wholly or to such an extent he think fit for attachment or sale.
- 7.4.4.2. If he has found that the property at the above said date was in the possession of the defaulter, as his own property or was in the possession of some other person in trust for him or in the occupancy of a tenant or other person paying rent to him, he should disallow the claim. The party against whom the order is made may institute a Civil suit, to establish his rights to the property. The orders of Recovery Officer shall be conclusive, subject to result of such suit.
- 7.4.4.3. The investigation by the Recovery Officer is not an empty formality. The process is quasi-judicial involving a reasoned decision after hearing both sides. It is beyond the competence of the Recovery Officer to decide the question of title. His power is limited to decide as to who was in possession of the property.

7.4.5. Proclamation of sale

- 7.4.5.1. The proclamation of sale should be issued in the *Form EPFCP.13*. It should be in the language of the district of the intended sale. Recovery Officer should normally direct the area Enforcement Officer to sell the property attached or portion thereof to cover the amount of arrears due and other expenses relating to recovery. If Recovery Officer considers that it will be more advantageous to

appoint a person other than area Enforcement Officer to sell the property he may appoint any other Enforcement Officer of the Regional Office/ Sub-Regional Office, whom he consider as more suitable for the job. He may also appoint any other fit person (other than the Enforcement Officer) from the approved auctioneers list to sell the property and to fix the remuneration to be allowed to him for rendering such services. The remuneration payable to such person should be treated as cost of sale and should be recovered from the defaulter along with other costs. While appointing an auctioneer, adequate care should be taken in selecting the auction agency.

7.4.5.2. The Recovery Officer may summon any relevant person and examine him in respect of any matters relevant to proclamation of sale and require him to produce any document or power relating thereto for the purpose of ascertaining the matters to be specified in the proclamation of sale. The notice for settling the sale proclamation should be issued in *Form EPFCP-17*.

7.4.6. Contents of Proclamation

7.4.6.1. The proclamation of sale of immovable property should be drawn up after notice to the defaulter in *Form EPFCP.17* and it should state the time and place of sale and also should specify, as fairly and accurately as possible

- (a) the property to be sold;
- (b) the revenue, if any, assessed upon the property or any part thereof;
- (c) the amount for the recovery of which the sale is ordered;
- (d) the reserve price, if any, below which the property may not be sold;
- (e) any other thing which the Recovery Officer considers material for the purchaser to know, in order to judge the nature and value of the property.

7.4.6.2. The reserve price should be determined after an objective consideration of all relevant facts. It should not be any figure having no relation whatsoever to the minimum price, which the property intended to be sold is expected to fetch at the auction sale.

7.4.6.3. If the sale proclamation simply mentions the name of the factory or establishment, but gives no details as to the nature of the building, machinery, etc., the sale on the basis of such deficient proclamation will be farce and it is likely to be quashed by the Court on the ground that it would result in substantial injury to all

concerned. The full details of the property should therefore be given in the sale proclamation. It should also be ensured that there is no material mis-description in the sale proclamation. Sale proclamation should not mention two different dates. The date mentioned should not be meaning-less, vague, ambiguous or unintelligible to a man of ordinary prudence.

7.4.7. Mode of making proclamation

The proclamation for the sale of immovable property should be made at some place on or near such property by beat of drum or other customary mode and a copy of the proclamation should be affixed on a conspicuous part of the property and also on a conspicuous part of the office of the Recovery Officer, i.e., Regional Office /Sub-Regional Office, and also of the office of the Enforcement Officer. If the Recovery Officer considers that such proclamation should also be published in the local newspaper, he may do so. The cost of such publication should be treated as cost of sale. Where the substantial amount is involved, it is desirable to go for publication in the local newspaper. Where the property is divided into lots for the purpose of being sold separately, it is not necessary to make a separate proclamation of each lot, unless proper notice of sale cannot, in the opinion of Recovery Officer, otherwise be given.

7.4.8. Time of sale

No sale of immovable property should, without consent, in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of proclamation of sale has been affixed on the property or in the office of the Recovery Officer, whichever is later. However, if the defaulter gives his consent in writing for the sale before the expiry of the above period, sale may take place.

7.4.9. Sale to be by auction

7.4.9.1. The sale of immovable property should be by public auction to the highest bidder, subject to confirmation of sale by the Recovery Officer. Sale by public auction is mandatory and the sale held in any other manner is not valid.

7.4.9.2. However, no sale shall be made, if the amount of bid by the highest bidder is less than the reserve price, if any, fixed.

7.4.10. ***Adjournment or stoppage of sale***

The Recovery Officer may adjourn or stop the sale as envisaged in paragraph 7.3.34 of this Chapter.

7.4.11. ***Bid of co-sharer to have preference***

Where the property sold is a share of undivided immovable property and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be bid of the co-sharer.

7.4.12. ***Postponement of sale to enable the defaulter to raise amount due under the recovery certificate***

The whole aim of the recovery action is to recover the amount of arrears and not otherwise. In view of this, if the defaulter proves to the satisfaction of the Recovery Officer that there is reason to believe that the amount of the recovery certificate may be raised by the mortgage or lease or private sale of such property or some part thereof or of any other immovable property of the defaulter and he applies for the postponement of sale of the property ordered for sale, the Recovery Officer may postpone the sale on such terms, and for such period, as he thinks proper, to enable the defaulter to raise the amount. In such case, the Recovery Officer should grant a certificate, *in Form EPFCP.21*, to the defaulter, authorising him within a period to be mentioned therein, to make the proposed mortgage, lease or sale, subject to the condition that all money payable under such mortgage, lease or sale should be paid to Recovery Officer only and not to the defaulter.

7.4.13. ***Investigation by the recovery officer***

If any claim is preferred to or any objection is made to the sale of any immovable property, on the ground that such property is not liable for sale, the Recovery Officer should proceed to investigate the claim or objection as envisaged in paragraph 7.4.4 of this Chapter.

7.4.14. ***Authority to bid***

All persons bidding at the sale should be required to declare as to whether they are bidding on their own behalf or on behalf of their principals. In the latter case, they should be asked to deposit their

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authority letter of their principals. If they fail to deposit the authority letter, their bids should be rejected.

7.4.15. *Prohibition against bidding or purchase by officer of the Employees' Provident Fund Organisation*

7.4.15.1. No officer or staff of the Employees' Provident Fund Organisation or any person having duty to perform in connection with any sale should either directly or indirectly bid for, acquire or attempt to acquire any interest in the property sold.

7.4.15.2. Where, however, the sale has been postponed for want of a bid of an amount not less than reserve price fixed by the Recovery Officer, an "authorised officer", as defined in section 2(aa) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, if so authorised by the Chairman of the Central Board of Trustees, may bid for the property on behalf of the Central Board of Trustees at any subsequent sale.

7.4.16. *Deposit by purchaser and resale on default*

7.4.16.1. On sale of immovable property, the person declared to be purchaser should pay immediately after such declaration, a deposit of twenty five per cent of the amount of his purchase money, to the officer conducting the sale. This requirement is mandatory. On the failure of auction purchaser to comply with this requirement of payment of twenty-five per cent amount of purchase money, immediately after the sale and the remaining amount on or before fifteen days from the date of sale, the sale is rendered null and void and the property has to be resold, as the Second Schedule to Income-tax Act, 1961 does not confer any discretion in the concerned authority to extend the time for the payment of the amount. The loss on resale should be recovered from the defaulting purchaser. On payment of the amount by cheque by the purchaser, the officer conducting the sale, should deposit the amount in the EPF account on the same day. To facilitate the deposit of the money in the EPF Accounts on the same day, the auction should be conducted in the forenoon of the day. If it is not possible for him to deposit the amount in the EPF Account with the State Bank of India on the same day of sale, he should deposit it on the next day.

7.4.16.2. If the purchaser deposits the money in cash (normally this will not happen) and it is not possible for the Enforcement Officer conducting the sale to deposit the money in the EPF Account in any one of the branches of the State Bank of India (*including the*

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Evening Branch of the Bank, if any) or hand over the amount to Recovery Officer, he should procure a demand draft in favour of the Regional Provident Fund Commissioner and send it to the Recovery Officer by Registered Post with Acknowledgement Due. If it is not possible for him to purchase the demand draft, the Enforcement Officer or the officer conducting sale, should take adequate care in keeping the cash in his custody.

- 7.4.16.3. The remaining amount of the purchase money (i.e., to cover the full amount of purchase) should be paid by the purchaser to the recovery officer on or before the fifteenth day from the date of sale of the property. On receipt of cheque or demand draft, the Recovery Officer should send it to the Assistant Provident Fund Commissioner (Cash) for deposit in EPF Accounts. If he fails to pay the amount within the above period, Recovery Officer after defraying the expenses of the sale may forfeit the amount of deposit earlier made on the day of purchase. Such amount should not be clubbed with the arrears of contributions administrative charges, etc., due from the defaulter, but should be shown separately as recovery from the defaulting purchaser and should be deposited in EPF Account No.02. The property should be resold. The defaulting purchaser shall forfeit all claims to the property or any part of sum for which it may subsequently be sold.
- 7.4.16.4. If the purchaser fails to deposit the amount, the property should forthwith be resold. The expenses towards the sale should be deducted from the earnest money deposit of the purchaser and the balance amount only should be paid to him. Such deductions should be shown as expenses towards resale recovered from the defaulting purchaser and should be deposited in the EPF Regional Administrative Account, i.e., EPF Account No.02.

7.4.17. *Fresh proclamation before re-sale*

Every re-sale of immovable property, in default of payment of the purchase money within the period allowed for such payment, should be made after the issue of fresh proclamation in the manner and for the period provided for the sale.

7.4.18. *Application to set aside the sale of immovable property*

- 7.4.18.1. Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Recovery Officer to set aside the sale, on his depositing--

- (a) the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of fifteen per cent per annum, calculated from the date of the proclamation of sale to the date when the deposit is made; and
- (b) for payment to the purchaser, as penalty, a sum equal to five per cent of the purchase money, but not less than one rupee.

7.4.18.2. Where a person makes an application for setting aside the sale of his immovable property, on the ground of non-service of notice or irregularity (*vide paragraph 7.4.19*), he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this paragraph.

7.4.19. ***Application to set aside sale of immovable property on ground of non-service of notice or irregularity***

Where immovable property has been sold in execution of a certificate, the Assessing Officer or the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required under Second Schedule to Income-tax Act, 1961 or under the Manual provisions or on the ground of a material irregularity in publishing or conducting the sale. However,

- (a) no sale should be set aside on any such ground unless the Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity; and
- (b) an application made by a defaulter should be disallowed unless the applicant deposits the amount recoverable from him in the execution of the recovery certificate.

7.4.20. ***Setting aside sale where defaulter has not saleable interest***

At any time within thirty days of the sale, the purchaser may apply to the Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

7.4.21. ***Confirmation of sale.***

7.4.21.1. Where no application is made for setting aside the sale as above or where such an application is made and disallowed by the Recovery Officer, after the expiry of the period of limitation stated

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above, the Recovery Officer shall (if the full amount of the purchase money has been paid) make an order confirming the sale in *Form EPFCP-18*, and, thereupon, the sale shall become absolute.

7.4.21.2. Where the application is made to set aside the sale and allowed, and where, in the case of an application made to set aside the sale on deposit of the amount in arrears as per Recovery Certificate and penalty and charges, the deposit is made within thirty days from the date of the sale, the Recovery Officer shall make an order setting aside the sale. However, no order shall be made unless notice of the application in *Form EPFCP-19* has been given to the persons affected thereby.

7.4.22. *Return of purchase money in certain cases.*

Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Recovery Officer may allow, should be paid to the purchaser.

7.4.23. *Sale certificate*

Where a sale of immovable property has become absolute, the Recovery Officer should grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser in *Form EPFCP-20*. Such certificate shall state the date on which the sale became absolute.

7.4.24. *Purchaser's Title*

7.4.24.1. The purchase shall merely have the right, title and interest of the defaulter at the time of sale of property.

7.4.24.2. When the sale of immovable property has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time the property is sold and not from the time the sale becomes absolute.

7.4.25. *Suit against the title of auction purchaser*

If any one files suit against the title of auction purchaser on the ground that the purchase was made on his behalf or on behalf of some one through whom he claims, such suit is not maintainable. The certified purchaser should be deemed to be a real purchaser.

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However, there shall be no bar to a suit to obtain a declaration that the name of any purchaser was inserted in the certificate fraudulently or without the consent of real purchaser, or interfere with the right of third person to proceed against their property sold on the ground that it is liable to satisfy a claim of such third person against real owner.

7.4.26. *Acceptance of property in satisfaction of amount due from the defaulter*

7.4.26.1. If the sale has been postponed for want of bid of an amount not less than reserve price fixed by the Recovery Officer and the defaulter offers to sell the property to Employees' Provident Fund Organisation, the Regional Provident Fund Commissioner with the approval of the Chairman of the Central Board of Trustees, may accept in satisfaction of whole or any part of the amount due from the defaulter, the property at such price as may be agreed upon between the Regional Provident Fund Commissioner and defaulter, with the approval of the Chairman of the Central Board of Trustees, Employees' Provident Funds. On acceptance, the defaulter should deliver the possession of property to the Regional Provident Fund Commissioner. The property shall vest in with the Central Board of Trustees, Employees' Provident Funds, from the date the possession of property is delivered to Regional Provident Fund Commissioner. Where necessary, Regional Provident Fund Commissioner should intimate the take over of property to the concerned Registry Officer, appointed under Registration Act, 1908.

7.4.26.2. Where the agreed price of the property exceeds, the amount due from the defaulter, the Employees' Provident Fund Organisation should pay such excess amount to the defaulter within a period of three months failing which the Employees' Provident Fund Organisation should pay simple interest at the rate of twelve per cent from the date of expiry of aforesaid period till the date of payment.

7.4.26.3. The amount equal to the amount in default should be transferred from EPF Account No.2 or 4, to the respective EPF contribution accounts, with the approval of the Chairman, Central Board of Trustees.

7.4.27. *Sale proceeds not to be disbursed till the sale is confirmed*

The proceeds of sale of immovable property, after adjusting against the amount of arrear dues from the defaulter, should not

be disbursed to him till the sale is confirmed by the Recovery Officer or where an appeal has been filed against the order confirming the sale, until the disposal of the appeal.

7.4.28. **Registration of sale**

The Recovery Officer granting a certificate of sale to the purchaser of immovable property sold should send a copy of such certificate to the Registry officer concerned under the Indian Registration Act, 1908 (16 of 1908) in the local limits of whose jurisdiction the whole or any part of the property is situated. Where the Recovery Officer forwards a copy of the certificate of sale, the Registration Officer has to act in terms of Section 89(4) of the Indian Registration Act, 1908, and file the certificate in the Book No.1, though the certificate of sale is not a compulsorily registerable document.

7.4.29. **Delivery of immovable property in occupancy of defaulter**

7.4.29.1. Where the immovable property sold is in occupancy of the defaulter or some person on his behalf or of some person claiming under a title created by the defaulter subsequent to the attachment of such property and a certificate of sale has been granted, the Recovery Officer should, on application from the purchaser, order delivery to be made by putting such purchaser or any person whom the purchaser may appoint to receive delivery on his behalf in possession of the property and if need be by removing any person who refuses to vacate the same.

7.4.29.2. If the person in possession does not afford free access, the Recovery Officer may, after giving reasonable warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the purchaser or his representative in possession.

7.4.30. **Delivery of immovable property**

Where the immovable property sold is in the occupancy of a tenant or other person entitled to occupy the same, the Recovery Officer, on application from the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode at some convenient place that the interest of the defaulter transferred to the purchaser.

7.4.31. Resistance Or Obstruction To Possession Of Immovable Property

7.4.31.1. Where the purchaser of immovable property sold in execution of a certificate is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Recovery Officer complaining of such resistance or obstruction within thirty days of the date of such resistance or obstruction. On receipt of such application, the Recovery officer should fix a day for investigating the matter and should summon the party against whom the applications is made to appear and answer the same.

7.4.31.2. On investigation of matter, if the Recovery Officer is satisfied that the resistance or obstruction was occasioned without any just cause by the defaulter or by some other person at his instigation, he should direct that the purchaser be put into possession of the property. If the purchaser is still resisted or obstructed in obtaining possession, the Recovery Officer may also, at the instance of the purchaser, take steps to put him into possession of the property by removing the defaulter or any other person acting at his instigation, if necessary with the assistance of police.

7.4.31.3. Resistance Or Obstruction By Bona Fide Claimant

If the Recovery Officer is satisfied that the resistance or obstruction was occasioned by any person (other than the defaulter) claiming in good faith to be in possession of the property on his own account or on account of some person other than the defaulter, the Recovery Officer should make an order dismissing the application. If such person is in possession of the property on his own account or on account of some person other than the defaulter, only after service of demand notice in *Form EPFCP-1* to the defaulter, and the property actually belongs to the defaulter and he passed on the possession to the above said person after the service of demand notice of the Recovery Officer, the Recovery Officer should take steps to remove such persons and put the property into the possession of the purchaser.

7.4.32. Dispossession By Purchaser

Where any person other than the defaulter is dispossessed of immovable property sold in execution of a certificate by the purchaser thereof, he may make an application to the Recovery Officer complaining of such dispossession within thirty days of such dispossession. On receipt of such application, the Recovery Officer should fix a day for investigating the matter and shall summon the

party against whom the application is made to appear and answer the same. On the investigation of the matter, if the Recovery Officer is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the defaulter, he should direct that the applicant be put into possession of the property, provided the defaulter has not transferred his own property to the possession of above such person after the service of notice of demand on the defaulter.

7.4.33. ***Rules Not Applicable To Transferee Lite Pendente****

If the defaulter has transferred any of his property after the service of a notice under of demand by the Recovery Officer, such transfer being null and void, the Recovery Officer should remove such person in possession of the property and put the property into the possession of the purchaser.

7.4.34. ***Right To File A Suit***

Any person not being a defaulter against whom an order is made in the above cases may institute a suit in a civil court to establish the right which he claims to the present possession of the property.

7.4.35. ***Disposal of proceeds of execution***

7.4.35.1. Wherever assets are realised by sale or otherwise in executing a Recovery Certificate, the proceeds should be disposed of in the following manner:

- (a) They should first be adjusted towards the amount due under the Recovery Certificate in execution of which the assets were realised and costs incurred in the course of such execution.
- (b) If there remains a balance after adjustment referred to above the same should be utilised for satisfaction of any other amount recoverable from the defaulter, which may be due on the date on which the assets were realised; and
- (c) The balance, if any, remaining after the adjustment as above should be paid to the defaulter.

7.4.35.2. If the defaulter disputes any adjustment referred to against item (c) above, the Recovery Officer should determine the dispute.

* *Pendente Lite (Latin) - Law during the progress of a suit.*

7.5. Appointment of Receiver

7.5.1. The Recovery Officer may attach the business of the defaulter and appoint a person as receiver to manage the business. This mode of attachment will have to be opted only in rarest of rare situations, where the adoption of other modes of recovery is not found feasible, as it is not the function of the Employees' Provident Fund Organisation to manage the business and apart from that it has no expertise in this field. It should be ensured that by choosing this mode of recovery, the organisation will not land in trouble.

7.5.2. It should be ensured before taking recourse to this action that -

- (i) there is no recession in the particular industry;
- (ii) there is demand for the product of the establishment;
- (iii) there is no labour problem;
- (iv) there is good management team capable of running the establishment efficiently;
- (v) the accumulated liability of the establishment is not beyond the manageable limit; and
- (vi) there is ample scope for enough profits to recover the arrears in a reasonable period.

7.5.3. Attachment of business should be made by issuing order in *Form EPFCP-22*. A copy of the order of attachment should be served on the defaulter and another copy should be affixed on a conspicuous part of the premises in which the business is carried on and another copy on the notice board of the Recovery Officer (Regional Office /Sub-Regional Office).

7.5.4. While appointing a person as receiver, adequate care should be taken. The person chosen for the job should be of a man of very high integrity. He should be well experienced and knowledgeable in the particular field. He should be capable of managing the labour force and his managerial team. He should have good rapport with the financial institutions, which provide funds to the establishment.

7.5.5. The order of appointment of receiver should be made in the *Form EPFCP.24* which may be so varied as circumstance of each case may require.

7.5.6. Appointment of receiver for immovable property

When immovable property is attached, the recovery officer, instead of directing the sale of property, may appoint a person as receiver to manage such property.

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7.5.7. Powers of the receiver

The receiver shall, subject to the control of recovery officer, have such powers, as to bringing in and defending suits and for the realisation management, protection and preservation of the property and the collection of rents and profits thereof, the application and disposal of such rents and profits and the execution of the documents, as owner himself has or such of those powers as the Recovery Officer thinks fit.

7.5.8. Remuneration of the receiver

The Recovery Officer may fix the amount to be paid as remuneration for the receiver, with the approval of the Central Provident Fund Commissioner.

7.5.9. Duties of the receiver

7.5.9.1. Every receiver so appointed should -

- (a) furnish such security (if any) as the Recovery Officer thinks fit, duly to account for what he shall receive in respect of the property;
- (b) submit his accounts at such periods and in such form as the Recovery Officer directs;
- (c) pay the amount due from him as the Recovery Officer directs; and
- (d) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

7.5.9.2. The Receiver should -

- (1) maintain --
 - (i) true and regular accounts of receivership;
 - (ii) cash book in which all receipts and payments should be entered;
 - (iii) ledger accounts; and
 - (iv) a counterfoil receipt book with leaves numbered for issuing receipt for payments made to the receiver.
- (2) open a account in the name of receivership in the bank as directed by the Recovery Officer.
- (3) deposit all receipts immediately after the receipt thereof, less the amount required for meeting day to day expenses.
- (4) make payments by cheques as far as possible.

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- (5) submit his accounts once in every three months to the Recovery Officer within fifteen days of each period of three months (the first of such accounts commencing from the date of his appointment and ending with the expiry of three months should be submitted within fifteen days of expiry of said period).

7.5.10. Enforcement of receiver duties

- 7.5.10.1. If a receiver fails to submit his accounts at such periods and in such form as the Recovery Officer directs, the Recovery Officer may direct his property to be attached until such time as such accounts are submitted to him.
- 7.5.10.2. The Recovery Officer may at any time make an enquiry as to the amount, if any, due from the receiver, as shown by his accounts or otherwise, or an enquiry as to any loss to the property occasioned by his wilful default or gross negligence and may order the amount found due, if not already paid by the receiver, or the amount of the loss so occasioned, to be paid by the receiver within a period to be fixed by the Recovery Officer.
- 7.5.10.3. If the receiver fails to pay any amount which he has been ordered to pay within the period specified, the Recovery Officer may direct such amount to be recovered from the security (if any) furnished by the receiver or by attachment and sale of his property or, if his property has already been attached by the sale of such property, and may direct the sale proceeds to be applied in making good any amount found due from the receiver or any such loss occasioned by him and the balance (if any) of the sale proceeds should be paid to the receiver.
- 7.5.10.4. If a receiver fails to submit his accounts at such periods and in such form as directed by the Recovery Officer without reasonable cause or improperly retains any cash in his hands, the Recovery Officer may disallow the whole or any portion of the remuneration due to him for the period of the accounts with reference to which the default is committed and may also charge interest at a rate not exceeding twelve per cent per annum on the moneys improperly retained by him for the period of such retention without prejudice to any other proceedings which might be taken against the receiver.

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7.5.11. Adjustment of profits, rents, etc., towards the discharge of arrears

The profits or rents and profits of the business or other property should after defraying the expenses of the management be adjusted towards the discharge of arrears of dues and the balances, if any, should be paid to the defaulter.

7.5.12. Withdrawal of management

The attachment of management may be withdrawn at any time at the discretion of the Recovery officer or if the arrears are discharged by receipt of such profits and rents or otherwise paid.

7.6. Arrest and Detention of the Defaulter

7.6.1. The arrest and detention of the defaulter should be resorted to in an extreme situation. The order for arrest and detention of the defaulter in civil prison should not be issued unless the Recovery Officer, for reasons recorded in writing, is satisfied -

- (1) that the defaulter, with the object or effect of obstructing the execution of Recovery Certificate, has after drawing up of the Recovery Certificate by the Recovery Officer, dishonestly transferred, concealed or removed any part of his property or
- (2) that the defaulter has or has had since the drawing up of the Recovery Certificate by the Recovery Officer, the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

7.6.2. The warrant of arrest may, however, be issued even otherwise, if the Recovery Officer is satisfied by affidavit or otherwise that the with object or effect of delaying the execution of the Recovery Certificate the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Recovery Officer.

7.6.3. The Recovery Officer should not order for the arrest and detention of woman or any person who in his opinion is a minor or of unsound mind.

7.6.4. The gathering of information relating to concealment, removal or transfer of property, with the help of workers or their Union or otherwise is essential before resorting to arrest and detention of defaulter. Thereafter, a notice in *Form EPFCP-25* should be issued by Recovery Officer and served upon the defaulter by Registered Post with Acknowledgement Due or through the Enforcement Officer, calling upon him to appear before the Recovery

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Officer on the date specified in the notice and to show cause why he should not be committed to the civil prison.

7.6.5. When the defaulter appears before the Recovery Officer in obedience to the show cause notice issued to him, the Recovery Officer should give the defaulter an opportunity to show cause why he should not be committed to civil prison.

7.6.6. If the defaulter has not appeared before the Recovery Officer on the day specified in the above notice served on him, he may issue the warrant for the arrest of defaulter in *Form EPFCP-26* and direct the area Enforcement Officer to act as directed therein.

7.6.7. If the defaulter for the time being found in the jurisdiction of other Recovery officer, i.e., in other region (The jurisdiction of Regional Provident Fund Commissioners and Assistant Provident Fund Commissioners in Regional Office / Sub-Regional Office is for the whole of the region, as they are notified as Recovery Officer for the area covering the whole region), the warrant of arrest issued by the Recovery Officer of one region may also be executed by the Recovery Officer of such other region.

7.6.8. For the purpose of making the arrest of defaulter, as ordered by the Recovery Officer, the Enforcement Officer should not enter the dwelling house after the sun-set and before sun-rise. He should not break open the outer door of the dwelling house. If, however, such a dwelling house or a portion thereon is on occupancy of the defaulter and he or other occupants of the house refuses or in any way prevents access thereto, he may break upon the outer door of the dwelling house. If he has gained entry to any dwelling house in a normal way, he may break open the door of any room or apartment, if he has reason to believe that the defaulter is likely to be found there.

7.6.9. No room which is in the actual occupancy of woman, who according to the customs of the country does not appear in public should be entered into unless the Enforcement Officer has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing.

7.6.10. When the defaulter is brought by the Enforcement Officer and appear before the Recovery Officer, he should give the defaulter an opportunity of showing cause, why should not he be committed to civil prison. Though the rule 75 of Second Schedule to Income-tax Act, 1961 provides for detention of defaulter in the custody of any officer, as the Recovery Officer may think fit, pending conclusion of the enquiry. As the other alternative to release him on his furnishing security to the satisfaction of the Recovery Officer for his appearance, when required, is better than the earlier one, the Recovery Officer may adopt this procedure.

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7.6.11. Once a defaulter has appeared before the Recovery Officer in response to the notice issued to him in *Form EPFCP-25* he is not to be arrested unless the inquiry contemplated by rule 74 of the Second Schedule to Income-tax Act, 1961 is over or the conditions mentioned in Rule 73(1) or 73(3) are fulfilled.

7.6.12. Upon on the conclusion of enquiry, the Recovery Officer may make an order for the detention of the defaulter in the Civil Prison, in *Form EPFCP-27* and should in that event cause him to be arrested, if he is not already under arrest. He may give an opportunity to the defaulter to pay the arrears before making order of detention and leave him in the custody of officer arresting him or any other officer for a specified period not exceeding fifteen days or release him on his furnishing security to the satisfaction of the Recovery Officer for his appearance at the expiration of the specified period, if the arrears are not paid.

7.6.13. When the Recovery Officer does not make an order of detention, he should, if the defaulter under arrest direct his release.

7.6.14. An order of arrest and detention of the defaulter cannot be made without following the procedure which is implicit in Rules 73 to 81 of Second Schedule to Income-tax Act, 1961. Immediately after arrest of an employer the same shall be communicated to the relatives, the best friend or any person closely associated with the employer.

7.6.15. *Detention and Release from Prison*

7.6.15.1. Every person detained in the civil prison in execution of a certificate may be so detained:-

- (a) where the certificate is for a demand of an amount exceeding two hundred and fifty rupees--for a period of six months; and
- (b) in any other case--for a period of six weeks:

Provided that he should be released from such detention--

- (i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or
- (ii) on the request of the Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79 of Second Schedule to Income-tax Act, 1961.

7.6.15.2. Where the Recovery Officer is satisfied that the defaulter who has been arrested has disclosed his whole of property and has placed it at his (Recovery Officer) disposal and that he has not committed any act of bad faith, he may order release of the defaulter.

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- 7.6.15.3. If he has ground for believing the disclosure made by the defaulter earlier to have been untrue, he may order for his rearrest. The period of detention in the civil prison should not in aggregate exceed the period mentioned in paragraph 7.6.15.1 above.
- 7.6.15.4. The Recovery Officer may release the defaulter on the following grounds:
- (i) defaulter suffering from serious illness
 - (ii) he is not in a fit state of health to be detained in the civil prison.
 - (iii) Existence of any infectious or contagious disease or serious illness.
- 7.6.15.5. A defaulter released on the above grounds may be rearrested if the above grounds cease to exist, but the period of detention in the civil prison should not, in aggregate, exceed the period mentioned in paragraph 7.6.15.1 above.
- 7.6.15.6. The Order of release should be issued in *Form EPFCP-28*.
- 7.6.15.7. A defaulter released from detention under this rule should not, merely by reason of his release, be discharged from his liability for the arrears; but he should not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.
- 7.6.16. ***Subsistence Allowance***
- 7.6.16.1. When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released should be borne by the Recovery Officer. Such sum should be calculated on the scale fixed by the State Governments for the subsistence of judgement-debtors arrested in execution of a decree of a civil court. Such sum should be deemed to be costs in the proceeding. However, the defaulter shall not be detained in the civil prison or arrested on account of any sum so payable.
- 7.6.16.2. The subsistence allowance should be paid in advance before the detention of the defaulter for unexpired portion of month of detention and for subsequent months by monthly instalments in advance before the first day of each month. to the officer in charge of a Civil Prison.

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7.6.17. *Prison in which the defaulter may be detained*

The defaulter may be detained in the civil prison of the district in which the Recovery Officer ordering the detention is situated or where such civil prison does not afford suitable accommodation, in any other place which the State Government may appoint for the detention of persons ordered by the Civil Court of such districts to be detained.

7.6.18. *Continuance of Recovery Certificate*

No certificate shall cease to be in force by reason of death of defaulter.

7.6.19. *Procedure on death of defaulter*

7.6.19.1. If at any time after the drawal of Recovery Certificate, the defaulter dies, the recovery proceedings (except arrest and detention) may be continued against the legal representative of the defaulter and the provision of the Sections 8B to 8G of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 read with Second Schedule to Income-tax Act, 1961 and Income-tax (Certificate Proceeding) Rules, 1962 shall apply, as if the legal representative was the defaulter.

7.6.19.2. The issue of Recovery Certificate against a dead person is nullity. In such a situation, it can be issued against a legal representative of the defaulter, but only when he is in possession of the properties of the deceased.

7.6.19.3. A notice to legal representative of the defaulter should be issued in *Form EPFCP-29* which may be so varied as the circumstances of each case may require.

7.6.19.4. Where attachment and sale proclamation are effected by the Recovery Officer after the death of the defaulter without notice to his legal representatives, the proceedings will be invalid and they are liable to be quashed by the Court. However, it is open to the Recovery Officer to continue the recovery proceedings by issuing notice of attachment and proclamation of sale afresh to the legal representatives of the defaulter.

7.6.20. *Recovery from surety*

Where any person has become surety for the amount due by the defaulter, he may be proceeded, as if he was the defaulter by issue of notice

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in *Form EPFCP.31* which may be varied as the circumstances of each case may require.

7.6.21. Review of Orders

Any order passed may after notice to all persons interested, be reviewed by the Recovery Officer or other officer who made the order or by his successor in office on account of any mistake apparent from the record.

7.7. Appeal

7.7.1. Though there is provisions for appeal in Rule 86 of the Second Schedule to Income-tax Act, 1961, for filing appeal against any original order of the Recovery Officer, not being an order, which is conclusive, no authority has so far been specified for hearing such appeal. As such, the appeal provision will be inoperative till the Central Government notify the Appellate Authority to make them operative.

7.7.2. Time limit and Form of appeal

7.7.2.1. After the Government notifies the Appellate Authority, the appeal must be presented to the specified Appellate authority within thirty days from the date of order appealed against or within such period as may be specified by the Government in respect of orders passed by the Recovery Officer before the appointment of appellate authority.

7.7.2.2. Pending decision of any appeal, the execution of Recovery Certificate may be stayed, if the appellate authority, so desires, but not otherwise.

7.7.2.3. The appeal should be made in *Form EPFCP.30* which should be verified in the manner indicated therein and should be accompanied by a copy of the order appealed against. The above prescribed form of appeal, the grounds of appeal and the form of verification appended thereto should be signed by the defaulting employer or one of the persons referred to in Form 5A under Employees' Provident Funds Scheme, 1952 or any person affected by the orders of the Recovery Officer.

7.7.3. Procedure in appeal

7.7.3.1. The specified appellate authority should fix a day and place for the hearing of the appeal and should give a notice of the same to the

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appellant and the Recovery Officer against whose order the appeal is preferred.

- 7.7.3.2. The appellant either in person or by an authorised representative and the Recovery Officer either in person or by a representative shall have the right to be heard at the time of the appeal.
- 7.7.3.3. The appellate authority, if sufficient cause is shown, at any stage of the appeal, grant time to the parties or any of them and may for reasons to be recorded in writing, adjourn from time to time, the hearing of the appeal.
- 7.7.3.4. The appellate authority, before disposing of any appeal, make such further enquiry as it thinks fit or may direct the Recovery Officer to make further inquiry and report the result of the same to the appellate authority.
- 7.7.3.5. The appellate authority at the time of hearing appeal allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the appellate authority is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.
- 7.7.3.6. The order of the appellate authority should be in writing and should state the points for determination of the decision therein and the reason for the decision. The appellate authority should communicate the order to the appellant, defaulter (if he is not the appellant) and Recovery Officer. The appeal should be disposed as expeditiously as possible and endeavour should be made to dispose of the appeal within six months from the date on which it is presented.

7.7.4. Assistance by Police

- 7.7.4.1. Whenever assistance of police is required by the Recovery Officer/ Enforcement Officer, in connection with the attachment and sale of property, arrest of defaulter, etc., he may apply to the officer-in-charge of nearest Police Station for providing such assistance by inviting reference to Section 8G of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 read with Rule 19 of the Second Schedule to Income-tax Act, 1961.

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7.8. Scale of Fees for process, charges for other proceedings and poundage fees, etc.

The fees for (i) service and execution; (ii) copying; (iii) inspection; (iv) poundage, etc., should be charged as prescribed in Rules 56 to 59 of Income-tax (Certificate Proceeding) Rules, 1962.

7.9. Registers to be maintained

The Registers specified in *Annexure VI(i) to VI(xi)* should be maintained and verified every month by the Recovery Officer.

Note:

As per the provisions of Section 8G of the Act, the provisions of the Second and Third Schedule to the Income-tax Act, 1961 and the Income-tax (Certificate Proceedings) Rules, 1962, as in force from time to time shall apply with necessary modifications as if the said provisions and the rules referred to the arrears of the amount mentioned in Section 8 of the Act instead of the Income-tax Act.

Further any reference in the said provisions of the rules to the "assessee" shall be construed as a reference to the "employer" under the Act.

"Officer" referred hereunder shall mean "Recovery Officer" as defined under Section 2(kb) of the Act.

"Defaulter" means the establishment who has failed to pay the dues, damages, interest payable under the Act and the three Schemes framed thereunder.

THE SECOND SCHEDULE

PROCEDURE FOR RECOVERY OF TAX

[See sections 222 and 276 of Income-tax Act, 1961]

PART I
GENERAL PROVISIONS

Definitions.

1. In this Schedule, unless the context otherwise requires:--
 - (a) "certificate", except in rule 7, 44, 65 and sub-rule (2) of rule 66, means the certificate drawn up by the Tax Recovery Officer under section 222 in respect of any assessee referred to in that Section;
 - (b) "defaulter" means the assessee mentioned in the certificate;
 - (c) "execution", in relation to a certificate, means recovery of arrears in pursuance of the certificate;
 - (d) "movable property" includes growing crops;

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(e) "officer" means a person authorised to make an attachment or sale under this Schedule;

(f) "rule" means a rule contained in this Schedule; and

(g) "share in a corporation" includes stock debenture-stock, debentures or bonds.

Issue of notice.

2. When a certificate has been drawn up by the Tax Recovery Officer just for the recovery of arrears under this Schedule, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default steps would be taken to realise the amount under this Schedule.

When certificate may be executed.

3. No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of service of the notice required by the preceding rule:

Provided that, if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a civil court and that the realisation of the amount of the certificate would in consequence be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property;

Provided that if the defaulter whose property has been so attached furnishes security to the satisfaction of the Tax Recovery Officer, such attachment shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer.

Mode of Recovery [S-51]**

4. If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes:-

(a) by attachment and sale of the defaulter's movable property;

(b) by attachment and sale of the defaulter's immovable property;

** Figures in brackets referred herein refers to corresponding Section(S), Rule(R) and Order(O) of Code of Civil Procedure, 1908.

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- (c) by arrest of the defaulter and his detention in prison;
- (d) by appointing a receiver for the management of the defaulter's movable and immovable properties.

Interest, costs and charges recoverable.

5. There shall be recoverable, in the proceedings in execution of every certificate,--

- (a) such interest upon the amount of tax or penalty or other sum to which the certificate relates as is payable in accordance with subsection (2) of section 220, and
- (b) all charges incurred in respect of --
 - (i) the service of notice upon the defaulter to pay the arrears, and of warrants and other processes, and
 - (ii) all other proceedings taken for realising the arrears.

Purchaser's title [S-65]

6. (1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

Suit against purchaser not maintainable on ground of purchase being made on behalf of plaintiff [S-66] (Omitted by Benami Transaction (Prohibition Act) 1988, w.e.f. 19.5.1998)

7. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this Schedule, on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

(2) Nothing in this section shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Notes: The Statement of Objects and Reasons to the Benami Transactions (Prohibition) Act, 1988 provides:

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"To implement the recommendations of the Fifty-seventh Report of the Law Commission on Benami Transactions, the President promulgated the Benami Transactions (Prohibition of the Right to Recover Property) Ordinance, 1988, on the 19th May, 1988.

2. The Ordinance provided that no suit, claim or action to enforce any right in respect of property held benami shall lie and no defence based on any right in respect of any property held benami shall be allowed to any suit, claim or action. It, however, made two exceptions regarding property held by a coparcener in a Hindu Undivided Family for the benefit of the coparceners and property held by a trustee or other person standing in a fiduciary capacity for the benefit of another person. It also repealed Section 82 of the Indian Trusts Act, 1882, Section 66 of the Code of Civil Procedure and Section 281A of the Income Tax Act, 1961".

Disposal of proceeds of execution.

8. (1) Whenever assets are realised by sale or otherwise in execution of a certificate, the proceeds shall be disposed of in the following manner, namely:-

- (a) they shall first be adjusted towards the amount due under the certificate in execution of which the assets were realised and the costs incurred in the course of such execution;
- (b) if there remains a balance after the adjustment referred to in clause (a), the same shall be utilised for satisfaction of any other amount recoverable from the assessee under this Act which may be due on the date on which the assets were realised; and
- (c) the balance, if any, remaining after the adjustments under clauses (a) and (b) shall be paid to the defaulter.

(2) If the defaulter disputes any adjustment under clause(b) of sub-rule (1), the Tax Recovery Officer shall determine the dispute.

General bar to jurisdiction of civil courts, save where fraud alleged

9. Except as otherwise expressly provided in this Act, every question arising between the Tax Recovery Officer and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate or relating to the confirmation or setting aside by an order under this Act of a sale held in execution of such certificate, shall be determined, not by suit, but by order of the Tax Recovery Officer before whom such question arises:

Provided that a suit may be brought in a civil court in respect of any such question upon the ground of fraud.

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Property exempt from attachment [S-60]

10. (1) All such property as is by the Code of Civil Procedure, 1908 (5 of 1908) exempted from attachment and sale in execution of a decree of a civil court shall be exempt from attachment and sale under this Schedule.

(2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.

Investigation by Tax Recovery Officer [O-21/R-58]

11. (1) Where any claim is preferred to or any objection is made to the attachment or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection:

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise as the Tax Recovery Officer shall deem fit.

(3) The claimant or objector must adduce evidence to show that -

(a) (in the case of immovable property) at the date of service of the notice issued under this Schedule to pay the arrears, or

(b) (in the case of movable property) at the date of attachment,

he had some interest in, or was possessed of the property in question.

(4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection, such property was not, at the said date, in the possession of the defaulter or of some person in trust for him or in the occupancy of the tenant or other person paying rent to him or that, being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale.

(5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other

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person in trust of him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim.

(6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a civil court to establish the right which he claims to the property in dispute; but, subject to the result of such suit (if any), the order of the Tax Recovery Officer shall be conclusive.

Removable of attachment on satisfaction or cancellation of certificate [O-21/R-55]

12. Where--

(a) the amount due, with costs and all charges and expenses resulting from the attachment of any property or incurred in order to hold a sale, or paid to the Tax Recovery Officer, or

(b) the certificate is cancelled,

the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property.

Officer entitled to attach and sell [O-21/R-65]

13. The attachment and sale of movable property and the attachment and sale of immovable property may be made by such persons as the Tax Recovery Officer may from time to time direct.

Defaulting purchaser answerable for loss on resale [O-21/R-71]

14. Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Tax Recovery Officer by the officer holding the sale, and shall, at the instance of either the Tax Recovery Officer or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by this Schedule:

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

Adjournment or stoppage of sale [O-21/R-69]

15. (1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour; and the officer conducting any such sale may, in this discretion, adjourn the sale, recording his reasons for such adjournment:

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Provided that, where the sale is made in or within the precincts of the office of the Tax Recovery Officer, no such adjournment shall be made without the leave of the Tax Recovery Officer.

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of sale under this Schedule shall be made unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs (including the costs of the sale) are tendered to the officer conducting the sale, or proof is given to his satisfaction that the amount of such arrears and costs has been paid to the Tax Recovery Officer who ordered the sale.

Private alienation to be void in certain cases [S-64]

16. (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money.

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment shall be void as against all claims enforceable under the attachment.

Prohibition against bidding or purchase by officer [O-21/R-73]

17. No officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

Prohibition against sale on holidays

18. No sale under this Schedule shall take place on a Sunday or other general holiday recognised by the State Government or on any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place.

Assistance by police

19. Any officer authorised to attach or sell any property or to arrest the defaulter or charged with any duty to be performed under this Schedule, may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to

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whom such application is made shall depute a sufficient number of police officers for furnishing such assistance.

Entrustment of certain functions by Tax Recovery Officer.

19A. A Tax Recovery Officer may with the previous approval of the Deputy Commissioner, entrust any of his functions as the Tax Recovery Officer to any other officer lower than him in rank (not being lower in rank than an Inspector of Income-tax) and such officer shall, in relation to the functions so entrusted to him be deemed to be a Tax Recovery Officer.

PART II

ATTACHMENT AND SALE OF MOVABLE PROPERTY

Attachment

Warrant [O-21/R-24]

20. Except as otherwise provided in this Schedule, when any movable property is to be attached, the officer shall be furnished by the Tax Recovery Officer (or other officer empowered by him in that behalf) a warrant in writing and signed with his name specifying the name of the defaulter and the amount to be realised.

Service of copy of warrant [O-21/R-25]

21. The officer shall cause a copy of the warrant to be served on the defaulter.

Attachment

22. If, after service of the copy of the warrant, the amount is not paid forthwith, the officer shall proceed to attach the movable property of the defaulter.

Property in defaulter's possession [O-21/R-43,43A]

23. Where the property to be attached is a movable property (other than agricultural produce) in the possession of the defaulter, the attachment shall be made by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof:

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer may sell it at once.

Agricultural produce [O-21/R-44]

24. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of warrant of attachment--

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- (a) where such produce is growing crop--on the land on which such crop has grown, or
- (b) where such produce has been cut or gathered--on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited.

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or with the leave of the Tax Recovery Officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer.

Provisions as to agricultural produce under attachment [O-21/R-45]

25. (1) Where agricultural produce is attached, the Tax Recovery Officer shall make such arrangements for the custody, watching tending, cutting and gathering thereof as he may deem sufficient; and he shall have power to defray the cost of such arrangements.

(2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been served from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

Debts and shares, etc. [O-21/R-46]

26. (1) In the case of --

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- (a) a debt not secured by a negotiable instrument,
- (b) as share in a corporation, or
- (c) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any court,

the attachment shall be made by a written order prohibiting--

- (i) in the case of the debt--the creditor from recovering the debt and the debtor from making payment thereof until further order of the Tax Recovery Officer;
- (ii) in the case of share--the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;
- (iii) in the case of the other movable property (except as aforesaid)--the person in possession of the same from giving it over to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the corporation, and in the case of the other movable property (except as aforesaid) to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer, and such payment shall discharge him as effectually as payment to the part entitled to receive the same.

Attachment of decree [O-21/R-53]

27. (1) The attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the civil court of a notice requesting the civil court to stay the execution of the decree unless and until--

- (i) the Tax Recovery Officer cancels the notice, or
- (ii) the Tax Recovery Officer or the defaulter applies to the court receiving such notice to execute the decree.

(2) Where a civil court receives an application under clause (ii) of sub-rule (1), it shall, on the application of the Tax Recovery Officer or the defaulter and subject to the provisions of the Code of Civil procedure, 1908 (5 of 1908), proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.

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(3) The Tax Recovery Officer shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Share in movable property [O-21/R-47]

28. Where the property to be attached consists of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

Salary of Government servants [O-21/R-48]

29. Attachment of the salary or allowances of servants of the Government or a local authority may be made in the manner provided by rule 48 of Order 21 of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), and the provisions of the said rule shall, for the purposes of this rule, apply subject to such modifications as may be necessary.

Attachment of negotiable instrument [O-21/R-51]

30. Where the property is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Tax Recovery Officer and held subject to his orders.

Attachment of property in custody of court or public officer [O-21/R-52]

31. Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or officer requesting that such property, and any interest or dividend become payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued:

Provided that, where such property is in the custody of a court, any question of title or priority arising between the Tax Recovery Officer and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such court.

Attachment of partnership property [O-21/R-49]

32. (1) Where the property to be attached consists of an interest of the defaulter, being a partner, the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and inquiries and make an order for the sale

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of such interest or such other order as the circumstances of the case may require.

(2) The other persons shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

Inventory

33. In the case of attachment of movable property by actual seizure, the officer shall, after attachment of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and shall forward the same to the Tax Recovery Officer and a copy of the inventory shall be delivered by the officer to the defaulter.

Attachment not to be excessive

34. The attachment by seizure shall not be excessive, this is to say, the property attached shall be as nearly as possible proportionate to the amount specified in the warrant.

Seizure between sunrise and sunset [S-62]

35. Attachment by seizure shall be made after sunrise and before sunset and not otherwise.

Power to break open doors, etc. [S-62]

36. The officer may break open any inner or outer door of window of any building and enter any building in order to seize any movable property if the officer has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and the officer has notified his authority and intention of breaking open if admission is not given. He shall, however, give all reasonable opportunity to women to withdraw.

Sale

Sale [O-21/R-61 (Old)]

37. The Tax Recovery Officer may direct that any movable property attached under this Schedule or such portion thereof as may seem necessary to satisfy the certificate shall be sold.

Issue of proclamation [O-21/R-66]

38. When any sale of movable property is ordered by the Tax Recovery Officer, the Tax recovery Officer shall issue a proclamation, in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

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Proclamation how made [O-21/R-54(2)]

39. (1) Such proclamation shall be made by beat of drum or other customary mode, -

- (a) in the case of property attached by actual seizure--
 - (i) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized; and
 - (ii) at such other places as the Tax Recovery Officer may direct;
- (b) in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may direct.

(2) A copy of the proclamation shall also be affixed in conspicuous part of the office of the Tax Recovery Officer.

Sale after fifteen days [7 days in CPC/O-21/R-68]

40. Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of the movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale proclamation was affixed in the office of the Tax Recovery Officer.

Sale of agricultural produce [O-21/R-74]

41. (1) Where the property to be sold is agricultural produce, the sale shall be held, -

- (a) if such produce is a growing crop--on the land on which such crop has grown, or
- (b) where such produce has been cut or gathered--on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited.

Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

- (2) Where, on the produce being put up for sale, -
 - (a) a fair price, in the estimation of the person holding the sale is not offered for it, and

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- (b) the owner of the produce, or a person authorised to act on his behalf applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day,

the sale shall be postponed accordingly, and shall be then completed whatever price may be offered for the produce.

Special provisions relating to growing crops [O-21/R-75]

42. (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (e.g. as green wheat), it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

Sale to be by auction [O-21/R-65]

43. The property shall be sold by public auction in one or more lots as the officer may consider advisable, and if the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots.

Sale by public auction [O-21/R-77]

44. (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs and in default of payment, the property shall forthwith be resold.

(2) On payment of the purchase-money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and name of the purchaser, and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

Irregularity not to vitiate sale, but any person injured may sue [O-21/R-78]

45. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the had of any other person may institute a suit in a

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civil court against him for compensation, or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Negotiable instruments and shares in a corporation [O-21/R-76]

46. Notwithstanding anything contained in this Schedule, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of directing the sale to be made by a public auction authorise the sale of such instrument or share through a broker.

Order for payment of coin or currency notes to the Assessing Officer [O-21/R-56]

47. Where the property attached is current coin or currency notes, the Tax Recovery Officer, may, at any time during the continuance of the attachment, direct that such coins or notes shall be credited to the Central Government and the amount so credited shall be dealt with in the manner specified in rule 8.

PART III

ATTACHMENT AND SALE OF IMMOVABLE PROPERTY

Attachment

Attachment [O-21/R-54]

48. Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge.

Service of notice of attachment

49. A copy of the order of attachment shall be served on the defaulter.

Proclamation of attachment [O-21/R-54]

50. The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

Attachment to relate back from the date of service of notice

51. Where any immovable property is attached under this Schedule, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Schedule, was served upon the defaulter.

Sale

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Sale and Proclamation of Sale [O-21/R-66(1)]

52. (1) The Tax Recovery Officer may direct that any immovable property which has been attached, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sale to be made in the language of the district.

Contents of proclamation [O-21/R-66(2)]

53. A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible:-

- (a) the property to be sold;
- (b) the revenue, if any, assessed upon the property or any part thereof;
- (c) the amount of recovery of which the sale is ordered;
- (cc) the reserve price, if any, below which the property may not be sold;
- (d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property.

Mode of making proclamation [O-21/R-67]

54. (1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon the conspicuous part of the office of the Tax Recovery Officer.

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both; and the cost of such publication shall be deemed to be costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless property notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise given.

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Time of sale [15 days in CPC/O-21/R-68]

55. No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later.

Sale to be by auction [O-21/R-65]

56. The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer:

Provided that no sale under this rule shall be made if the amount bid by the highest bidder is less than the reserve price, if any, specified under clause (cc) of rule 53.

Deposit by purchaser and resale in default [O-21/R-84 & 85]

57. (1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money, to the officer conducting the sale; and, in default of such deposit, the property shall forthwith be resold.

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the day of the sale of the property.

Procedure in default of payment [O-21/R-86]

58. In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

Authority to bid [O-21/R-72]

59. (1) Where the sale of a property, for which a reserve price has been specified under clause (cc) of rule 53, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for an Assessing Officer, if so authorised by the Chief Commissioner or Commissioner in this behalf, to bid for the property on behalf of the Central Government at any subsequent sale.

(2) All persons bidding at the sale shall be required to declare, if they are bidding on their own behalf or on behalf of their principals. In the latter case, they shall be required to deposit their authority, and in default their bids shall be rejected.

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(3) Where the Assessing Officer referred to in sub-rule (1) is declared to be the purchaser of the property at any subsequent sale, nothing contained in rule 57 shall apply to the case and the amount of the purchase price shall be adjusted towards the amount specified in the certificate.

Application to set aside sale of immovable property on deposit [O-21/R-89]

60. (1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing--

- (a) the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of fifteen per cent per annum, calculated from the date of the proclamation of sale to the date when the deposit is made; and
- (b) for payment to the purchaser, as penalty, a sum equal to five per cent of the purchase money, but not less than one rupee.

(2) Where a person makes an application under rule 61 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this rule.

Application to set aside sale of immovable property on ground of non-service of notice or irregularity [O-21/R-90]

61. Where immovable property has been sold in execution of a certificate, such Income-tax Officer as may be authorised by the Chief Commissioner or Commissioner in this behalf, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Schedule or on the ground of a material irregularity in publishing or conducting the sale:

Provided that --

- (a) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity; and
- (b) an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in the execution of the certificate.

Setting aside sale where defaulter has not saleable interest [O-21/R-91]

62. At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

Confirmation of sale [O-21/R-92]

63. (1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall (if the full amount of the purchase money has been paid) make an order confirming the sale, and, thereupon, the sale shall become absolute.

(2) Where such application is made and allowed, and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to the persons affected thereby.

Return of purchase money in certain cases [O-21/R-93]

64. Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser.

Sale certificate [O-21/R-94]

65. (1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser.

(2) Such certificate shall state the date on which the sale became absolute.

Postponement of sale to enable defaulter to raise amount due under certificate [O-21/R-83]

66. (1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of property comprised in the order

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for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorising him within a period to be mentioned therein, and notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale:

Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the defaulter but to the Tax Recovery Officer:

Provided also that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer.

Fresh proclamation before re-sale [O-21/R-87]

67. Every re-sale of immovable property, in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of fresh proclamation in the manner and for the period hereinbefore provided for the sale.

Bid of co-share to have preference [O-21/R-88]

68. Where the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

Acceptance of property in satisfaction of amount due from the defaulter [O-21/R-72]

68A. (1) Without prejudice to the provisions contained in this Part, an Assessing Officer, duly authorised by the Chief Commissioner or Commissioner in this behalf, may accept in satisfaction of the whole or any part of the amount due from the defaulter the property, the sale of which has been postponed for the reason mentioned in sub-rule (1) of rule 59, at such price as may be agreed upon between the Assessing Officer and the defaulter.

(2) Where any property is accepted under sub-rule (1), the defaulter shall deliver possession of such property to the Assessing Officer and on the date the possession of the property is delivered to the Assessing Officer, the property shall vest in the Central Government and the Central Government shall, where necessary intimate the concerned Registering Officer appointed under the Registration Act, 1908 (16 of 1908), accordingly.

(3) Where the price of the property agreed upon under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the Assessing Officer to the defaulter within a period of three months from the date of delivery of possession of the property and where the Assessing

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Officer fails to pay such excess within the period aforesaid, the Central Government shall, for the period commencing on the expiry of such period and ending with the date of payment of the amount remaining unpaid, pay simple interest at twelve per cent per annum to the defaulter on such amount.

Time limit for sale of attached immovable property

68B. (1) No sale of immovable property shall be made under this Part after the expiry of three years (*with effect from 1.3.1990 the word 'three' has been amended as 'four'*) from the end of the financial year in which the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has become conclusive under the provisions of section 245-I or as the case may be, final in terms of the provisions of Chapter XX:

Provided that where the immovable property is required to be re-sold to the amount of highest bid being less than reserve price or under the circumstances mentioned in rule 57 or rule 58 or where the sale is set aside under rule 61, the aforesaid period of limitation for the sale of the immovable property shall stand extended by one year.

(2) In computing the period of limitation under sub-rule (1), the period --

- (i) during which the levy of the aforesaid tax, interest, fine, penalty or any other sum is stayed by an order or injunction of any court; or
- (ii) during which the proceedings of attachment or sale of the immovable property are stayed by an order or injunction of any court; or
- (iii) commencing from the date of the presentation of any appeal against the order passed by the Tax Recovery Officer under this Schedule and ending on the day the appeal is decided,

shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation for the sale of the immovable property is less than 180 days, such remaining period shall be extended to 180 days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(3) Where any immovable property has been attached under this Part before the 1st day of June 1992, and the order giving rise to a demand of any tax, interest, fine, penalty or any other sum, for the recovery of which the immovable property has been attached, has also become conclusive or final before the said date, that date shall be deemed to be the date on which the said order has become conclusive or, as the case may be, final.

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(4) Where the sale of immovable property is not made in accordance with the provision of sub-rule (1), the attachment order in relation to the said property shall be deemed to have been vacated on the expiry of the time limitation specified under this rule.

PART IV

APPOINTMENT OF RECEIVER

Appointment of receiver for business [O-40/R-1]

69. (1) Where the property of a defaulter consists of a business, the Tax Recovery Officer may attach the business and appoint a person as receiver to manage the business.

(2) Attachment of a business under this rule shall be made by an order prohibiting the defaulter from transferring or charging the business in any way and prohibiting all persons from taking any benefit under such transfer or charge, and intimating that the business has been attached under this rule. A copy of the order of attachment shall be served on the defaulter, and another copy shall be affixed on a conspicuous part of the premises in which the business is carried on and on the notice board of the office of the Tax Recovery Officer.

Appointment of receiver for immovable property

70. Where immovable property is attached, the Tax Recovery Officer may, instead of directing a sale of the property, appoint a person as receiver to manager such property.

Powers of receiver

71. (1) Where any business or other property is attached and taken under management under the forgoing rules, the receiver shall subject to the control of the Tax Recovery Officer, have such powers as may be necessary for the proper management of the property and the realisation of the profits, or rents and profits, thereof.

(2) The profits, or rents and profits, of such business or other property shall after defraying the expenses of management be adjusted towards discharge of the arrears, and the balance, if any shall be paid to the defaulter.

Withdrawal of management

72. The attachment and management under the foregoing rules may be withdrawn at any time at the discretion of the Tax Recovery Officer, or if the arrears are discharged by receipt of such profits and rents or otherwise paid.

PART V

ARREST AND DETENTION OF THE DEFAULTER [S-51]]

Notice to show cause [O-21/R-37 & 38]

73. (1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer, for reasons recorded in writing, is satisfied--

- (a) that the defaulter, with the object or effect of obstructing the execution of the certificate, has, after the drawing up of the certificate by the Tax Recovery Officer, dishonestly transferred, concealed or removed any part of his property, or
- (b) that the defaulter has or has had since the drawing up of the certificate by the Tax Recovery Officer, the means to pay the arrears or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

(2) Notwithstanding anything contained in sub-rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer, if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate, the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer.

(3) Where appearance is not made in obedience to a notice issued and served under sub-rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter.

(3A) A Warrant of arrest issued by a Tax Recovery Officer under sub-rule (2) or sub-rule (3) may also be executed by any other Tax Recovery Officer within whose jurisdiction the defaulter may for the time being be found.

(4) Every person arrested in pursuance of a warrant of arrest under this rule shall be brought before the Tax Recovery Officer issued the warrant as soon as practicable and in any event within twenty-four hours of his arrest (exclusive of the time required for the journey):

Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him [S-59/Provision-4]

[Explanation -- For the purpose of this rule where the defaulter is a Hindu undivided family, the karta thereof shall be deemed to be defaulter]

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Hearing [O-21/R-40(1)]

74. When a defaulter appears before the Tax Recovery Officer in obedience to a notice to show cause or is brought before the Tax Recovery Officer under rule 73, the Tax Recovery Officer shall give the defaulter an opportunity of showing cause why he should not be committed to the civil prison.

Custody pending hearing [O-21/R-40(2)]

75. Pending the conclusion of the inquiry, the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required.

Order of detention [O-21/R-40(3)]

76. (1) Upon the conclusion of the inquiry, the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest:

Provided that in order to give the defaulter an opportunity of satisfying the arrears, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specific period not exceeding 15 days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears are not so satisfied.

(2) When the Tax Recovery Officer does not make an order of detention under sub-rule (1) he shall, if the defaulter is under arrest, direct his release.

Detention in and release from prison [S-58]

77. (1) Every person detained in the civil prison in execution of a certificate may be so detained:-

- (a) where the certificate is for a demand of an amount exceeding two hundred and fifty rupees--for a period of six months* ; and
- (b) in any other case--for a period of six weeks:

Provided that he shall be released from such detention--

- (i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or

* Under Section 58 of Code of Civil Procedure, 1908, if the amount exceeds Rs.1000 - Three months, exceeding Rs.500 - Six weeks.

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- (ii) on the request of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 78 and 79.

(2) A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears; but he shall not be liable to be rearrested under the certificate in execution of which he was detained in the civil prison.

Release.

78. (1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Tax Recovery Officer and that he has not committed any act of bad faith.

(2) If the Tax Recovery Officer has ground for believing the disclosure made by a defaulter under sub-rule (1) to have been untrue, he may order the rearrest of a defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77.

Release on ground of illness [S-59]

79. (1) At any time after a warrant of arrest of defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of his serious illness.

(2) Where a defaulter has been arrested, the Tax Recovery Officer may release him, if in the opinion of the Tax Recovery Officer, he is not in a fit state of health to be detained in the civil prison.

(3) Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of the existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness.

(4) A defaulter released under this rule may be rearrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by rule 77.

Entry into dwelling house [S-55]

80. For the purpose of making an arrest under this Schedule--

(a) no dwelling house shall be entered after sunset and before sunrise;

(b) no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or other occupant of the house refuses or in any way prevents access thereto; but, when the person executing any such warrant has

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duly gained access to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there;

- (c) no room, which is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing.

Prohibition against arrest of women or minors, etc. [S-56]

81. The Tax Recovery Officer shall not order the arrest and detention in the civil prison of--

- (a) a woman, or
(b) any person who, in his opinion, is a minor or of unsound mind.

PART VI MISCELLANEOUS

Officers deemed to be acting judicially

82. Every Chief Commissioner or Commissioner, Tax Recovery Officer or other officer acting under this Schedule shall, in the discharge of his functions under this Schedule, be deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850 (18 of 1850).

Power to take evidence

83. Every Chief Commissioner or Commissioner, Tax Recovery Officer or other officer acting under the provisions of this Schedule shall have the powers of a civil court while trying a suit for the purpose of receiving evidence, administering oaths enforcing the attendance of witnesses and compelling the production of documents.

Continuance of certificate [O-22/R-1]

84. No certificate shall cease to be in force by reason of the death of the defaulter.

Procedure on death of defaulter [O-22/R-4]

85. If at any time after the certificate is drawn up by the Tax Recovery Officer, the defaulter dies, the proceedings under this Schedule (except arrest and detention) may be continued against the legal representative of the defaulter, and the provisions of this Schedule shall apply as if the legal representative were the defaulter.

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Appeals

86. (1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule, not being an order which is conclusive, shall lie to the Chief Commissioner or Commissioner.

(2) Every appeal under this rule must be presented within thirty days from the date of the order appealed against.

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the appellate authority so directs, but not otherwise.

(4) Notwithstanding anything contained in sub-rule (1), where a Chief Commissioner or Commissioner is authorised to exercise powers as such in respect of any area, then, all appeals against the orders passed before the date of such authorisation by any Tax Recovery Officer authorised to exercise powers as such in respect of that area, or an area which is included in that area, shall be to such Chief Commissioner or Commissioner.

Review

87. Any order passed under this Schedule may, after notice to all persons interest, be reviewed by the Chief Commissioner or Commissioner, Tax Recovery Officer or other officer who make the order, or by his successor in office, on account of any mistake apparent from the record.

Recovery from surety [S-145]

88. Where any person has under this Schedule become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he were the defaulter.

Penalties

89. Omitted by the Direct Tax Laws (Amendment) Act, 1987, with effect from 1-4-1989.

Subsistence Allowance [S-57]

90. (1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the Tax Recovery Officer.

(2) Such sum shall be calculated on the scale fixed by the State Governments for the subsistence of judgement-debtors arrested in execution of a decree of a civil court.

(3) Sums payable under this rule shall be deemed to be costs in the proceeding;

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Provided that the defaulter shall not be detailed in the civil prison or arrested on account of any sum so payable.

Forms

91. The Board may prescribe the form to be used for any order, notice, warrant, or certificate to be issued under this Schedule.

Power to make rules

92. (1) The Board may make rules, consistent with the provisions of this Act, regulating the procedure to be followed by Chief Commissioners, Commissioners, Tax Recovery Officer and other officers acting under this Schedule.

(2) In particular, and without prejudice to the generality of the power conferred by sub-rule (1), such rules may provide for all or any of the following matters, namely:-

- (a) the area within which Chief Commissioner, Commissioners, or Tax Recovery Officers may exercise jurisdiction;
- (b) the manner in which any property sold under this Schedule may be delivered;
- (c) the execution of a document or the endorsement of a negotiable instrument or a share in a corporation, by or on behalf of the Tax Recovery Officer, where such execution or endorsement is required to transfer such negotiable instrument or share to person who has purchased it under a sale under this Schedule;
- (d) the procedure for dealing with resistance or obstruction offered by any person to a purchaser of any immovable property sold under this Schedule, in obtaining possession of the property;
- (e) the fees to be charged for any process issued under this Schedule;
- (f) the scale of charges to be recovered in respect of any other proceeding taken under this Schedule;
- (g) recovery of poundage fee;
- (h) the maintenance and custody, while under attachment, of livestock or other movable property, the fees to be charged for such maintenance and custody, the sale of such livestock or property and the disposal of proceeds of such sale;
- (i) the mode of attachment of business.

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Saving regarding charge

93. Nothing in this Schedule shall affect any provision of this Act whereunder the tax is a first charge upon any asset.

Continuance of certain pending proceedings and power to remove difficulties

94. All proceedings for recovery of tax pending immediately before the coming into force of the amendments to this Schedule by the Direct Tax Laws (Amendment) Act, 1987 shall be continued under this Schedule as amended by that Act from the stage they had reached, and, for this purpose, every certificate issued by the Assessing Officer under section 222 before such amendment shall be deemed to be a certificate drawn up by the Tax Recovery Officer under that section after such amendment, and, if any difficulty arises in continuing the said proceedings, the Board may issue (whether by way of modification, not affecting the substance, of any rule in this Schedule or otherwise) general or special orders which appear to it to be necessary or expedient for the purpose of removing the difficulty.

THE THIRD SCHEDULE TO INCOME-TAX ACT, 1961

**PROCEDURE FOR DISTRAINT BY ASSESSING OFFICER OR TAX
RECOVERY OFFICER**

Distrain and sale

Where any distraint and sale of movable property or to be effected by any Assessing Officer or Tax Recovery Officer authorised for the purpose, such distraint and sale shall be made, as far as may be, in the same manner as attachment and sale of any movable property attachable by actual seizure, and the provisions of the Second Schedule relating to attachment and sale shall, so far as may be, apply in respect of such distraint and sale.

INCOME TAX (CERTIFICATE PROCEEDINGS) RULES, 1962

[SO 955, DATED 26.3.1962]

In exercise of the powers conferred by sub-section (1) of section 295 of the Income Tax Act, 1962 (43 of 1961), and rules 91 and 92 of the Second Schedule to that Act, the Central Board of Revenue hereby makes the following rules namely:-

PART I

PRELIMINARY

Short Title And Commencement

1. (1) These rules may be called the Income-tax (Certificate Proceedings) Rules, 1962.

(2) They shall come into force on 1st day of April, 1962.

Definitions

2. In these rules, unless the context otherwise requires, -

(1) "Act" means the Income-tax Act, 1961 (43 of 1961);

(1A) "authorised bank" shall have the same meaning as in clause (aa) of sub-rule (1) of rule 2 of the Income-tax Rules, 1962;

(2) "public officer" shall have the same meaning as in the Code of Civil Procedure, 1908 (5 of 1908);

(3) "principal rules" means the rules contained in the Second Schedule to the Act; and

(4) "section" and "Schedule" mean respectively section of, and Schedule to, the Act.

Forms

3. All references to "Forms" in these rules shall be construed as references to the forms set out in the Appendix hereto.

Tax Recovery Commissioners Appointed By The Central Government

4. [Omitted by the Income-tax (Certificate Proceedings) (Amendment) Rules, 1971, w.e.f. 1.1.72]

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Jurisdiction Of Tax Recovery Commissioners

5. [Omitted by the Income-tax (Certificate Proceedings) (Second Amendment) Rules, 1990]

Jurisdiction Of Tax Recovery Officers Authorised To Function As Such By The Central Government

6. [Omitted by the Income-tax (Certificate Proceedings) (Third Amendment) Rules, 1990, w.e.f. 12.9.90]

Jurisdiction Of Other Tax Recovery Officers

7. [Omitted by the Income-tax (Certificate Proceedings) (Second Amendment) Rules, 1990]

Transfer Of Proceedings From One Tax Recovery Officer To Another

8. Where any proceeding for execution of a certificate pending before a Tax Recovery Officer stands transferred or is transferred to any other Tax Recovery Officer, the Tax Recovery Officer to whom the proceeding stands transferred or is transferred may continue the proceedings from the stage at which it stood immediately before such transfer and such transfer shall not render necessary the re-issue of any notice, warrant, proclamation, order, or certificate already issued.

PART II

GENERAL PROCEDURE

Procedure To Be Followed While Sending Certificate To Another Tax Officer.

9. When a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub-section (2) of section 223, he shall --

- (i) keep a copy of the certificate in his office; and
- (ii) inform the Assessing Officer of his having sent the Certificate.

Procedure To Be Followed While Sending A Certified Copy Of Certificate To Another Tax Recovery Officer.

9A. (1) When only a part of the amount in respect of which certificate has been drawn up by a Tax Recovery Officer is to be recovered by any other Tax Recovery Officer under sub-section (2) of section 223, the Tax Recovery Officer shall, before sending a copy of the certificate to the other Tax Recovery Officer, endorse on such copy a certificate in the following form:

FORM OF CERTIFICATE

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I,, Tax Recovery Officer,, (name) do hereby certify that the document bearing this endorsement is a true copy of certificate No. dated drawn up by the Tax Recovery Officer against (name of defaulter) for the recovery of an amount of Rs.....

I do hereby specify that out of the aforesaid amount, an amount of Rs..... as noted below is to be recovered from the defaulter, by the Tax Recovery Officer

	Rs.	P.
Part of certificate amount	
Costs and charges	
Interest	

Total		-----

(2) When a copy of the certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub-section (2) of section 223, he shall, -

- (i) keep the certificate in his office; and
- (ii) inform the Assessing Officer of his having sent a copy of the Certificate.

Procedure To Be Followed On Receipt Of A Certificate From A Tax Recovery Officer

10. When a certificate or the certified copy of a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub-section (2) of section 223, such other Tax Recovery Officer shall follow the same procedure as is laid down in the principal rules and these rules including the issue of notice under rule 2 of the principal rules.

Intimation By The First Tax Recovery Officer.

11. The Tax Recovery Officer shall intimate the details of all amounts recovered in respect of a certificate, from time to time to the Assessing Officer, and, also, to any Tax Recovery Officer to whom the certificate of a certified copy of the Certificate has been sent by him under sub-section (2) of section 223.

Intimation By The Other Tax Recovery Officer

12. When a certificate or the certified copy of a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub-section (2) of section 223, such other Tax Recovery Officer shall communicate to the first-mentioned Tax Recovery Officer and to the Assessing Officer the details of amounts received by him in respect of such certificate from time to time.

Intimation By The Income-Tax Officer.

13. [Omitted by the Income-tax (Certificate Proceedings) (Second Amendment) Rules, 1990]

Form Of Notice Of Demand

14. The notice of demand under rule 2 of the principal rules shall be issued in Form No.I.T.C.P.1 which shall be in Form No.57 of the Income-tax Rules, 1962, which may be so varied as the circumstances of each case may require.

PART III

ATTACHMENT AND SALE OF PROPERTY

Continuance Of Attachment Subject To Claim Of Encumbrancer

15. Where, in the course of investigation made under rule 11 of the principal rules, the Tax Recovery Officer is satisfied that the property is subject to a mortgage or charge (other than a mortgage or a charge referred to in section 281 or rule 16 of the said rules) in favour of some person not in possession, and thinks fit to continue the attachment, he may do so, subject to such mortgage or charge.

Proclamation Of Sale

16. For the purpose of ascertaining the matters to be specified in a proclamation of sale, the Tax Recovery Officer may summon any person whom he thinks necessary to summon and may examine him in respect of any matters relevant to the proclamation and require him to produce any document in his possession or power relating thereto.

Sale To Be Held By Whom And His Remuneration

17. If the Tax Recovery Officer is of the opinion that it will be more advantageous to appoint a person other than an official subordinate to him to sell a property he may appoint a fit person for the purpose and fix the remuneration to be allowed to him for rendering such services; and his remuneration payable to such person shall be deemed to be costs of the sale.

Reserve Price

18. It shall be competent for the Tax Recovery Officer to fix a reserve price in respect of any property, other than agricultural produce, to be sold

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and order that any bid shall be accepted only on condition that it is not less than the said reserve price.

Report Of Sale

19. The officer conducting a sale shall forthwith pay the entire amount received by him from the purchaser of the property into the Government treasury and shall submit a full report of the sale to the Tax Recovery Officer.

Sale Proceeds Not To Be Disbursed

20. The proceeds of the sale of immovable property shall not be disbursed until the sale is confirmed by the Tax Recovery Officer or, where an appeal has been filed against the order confirming the sale, until the disposal of the appeal.

Registration Of Sale

21. Every Tax Recovery Officer granting a certificate of sale to the purchaser of immovable property sold under the Second Schedule shall send a copy of such certificate to the registering officer concerned under the Indian Registration Act 1908 (16 of 1908), within the local limits of whose jurisdiction and whole or any part of the immovable property comprised in the certificate is situate.

Forms

22. The following forms which may be so varied as the circumstances of each case may require, shall be used for the purpose mentioned against each:-

(i) Form No.I.T.C.P.2, for issuing of warrant of attachment of movable property under rule 20 of the principal rules;

(ii) Form No.I.T.C.P.3, for issuing a prohibitory order in the case of a debt not secured by a negotiable instrument under rule 26(1)(i) of the principal rules;

(iii) Form No.I.T.C.P.4, for issuing a prohibitory order in the case of a share in a corporation under rule 26(1)(ii) of the principal rules;

(iv) Form No.I.T.C.P.5, for issuing a prohibitory order in the case of other movable property under rule 26(1)(iii);

(v) Form No.I.T.C.P.6, for issuing a notice of attachment of a decree of a civil court under rule 27 of the principal rules;

(vi) Form No.I.T.C.P.7, for issuing a notice of attachment where the property consists of a share or interest in movable property under rule 28 of the principal rules;

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- (vii) Form No.I.T.C.P.8, for issuing an order of attachment of salary or allowances under rule 29 of the principal rules;
- (viii) Form No.I.T.C.P.9, for issuing an order of attachment of a negotiable instrument under rule 30 of the principal rules;
- (ix) Form No.I.T.C.P.10, for issuing a notice of attachment of movable property in the custody of any court or public officer under rule 31 of the principal rules;
- (x) Form No.I.T.C.P.11, for issuing an order of attachment of property consisting of an interest in partnership property under rule 32 of the principal rules;
- (xi) Form No.I.T.C.P.12, for issuing a warrant of sale of property under rule 37 or rule 52(1) of the principal rules;
- (xii) Form No.I.T.C.P.13, for issuing a proclamation of sale of movable or immovable property under rule 38 or rule 52(2) of the principal rules;
- (xiii) Form No.I.T.C.P.14, for issuing a certificate of sale of movable property under sub-rule (2) of rule 44 of the principal rules;
- (xiv) Form No.I.T.C.P.15, for issuing an order of payment under rule 47 of the principal rules;
- (xv) Form No.I.T.C.P.16, for issuing an order of attachment under rule 48 of the principal rules;
- (xvi) Form No.I.T.C.P.17, for issuing a notice to the defaulter for settling a proclamation sale of under rule 53 of the principal rules;
- (xvii) Form No.I.T.C.P.18, for making an order of confirmation of sale of immovable property under sub-rule (1) of rule 63 of the principal rules;
- (xviii) Form No.I.T.C.P.19, for issuing notice to interested parties under the proviso to sub-rule (2) of rule 63 of the principal rules;
- (xix) Form No.I.T.C.P.20, for issuing a certificate of sale of immovable property under rule 65 of the principal rules;
- (xx) Form No.I.T.C.P.21, for issuing a certificate to defaulter authorising him to mortgage, lease or sell immovable property under sub-rule (2) of rule 66 of the principal rules;
- (xxi) Form No.I.T.C.P.22, for issuing an order of attachment of a business under rule 69 of the principal rules.

PART IV

MAINTENANCE AND CUSTODY, WHILE UNDER ATTACHMENT, OF LIVESTOCK OR OTHER MOVABLE PROPERTY, FEES FOR SUCH MAINTENANCE AND CUSTODY, SALE THEREOF AND DISPOSAL OF SALE PROCEEDS

Property To Which Rules Apply

23. The rules in this part relate to movable property (other than agricultural produce) attached by actual seizure under Second Schedule.

Custody At Place Of Attachment

24. (1) Where the property attached is of such a nature and its removal from the place of attachment is impracticable or its removal involves expenditure out of proportion to the value of the property, the attaching officer shall, subject to any directions which the Tax Recovery Officer may issue in this behalf, arrange for the proper maintenance and custody of the property at the place of attachment. The attaching officer shall forthwith send a report of having done so to the Tax Recovery Officer.

(2) On receipt of a report from the attaching officer under sub-rule (1), the Tax Recovery Officer may either order the removal of the property to a place which he shall specify or sanction its maintenance and custody at the place of attachment under such conditions as he may think fit.

Removal And Custody Of Property In Other Cases

25. Where the attached property is not kept at the place of attachment, it shall be kept in the custody of an officer (hereinafter in this part referred to as the "custody officer") subordinate to the Tax Recovery Officer and authorised by the Tax Recovery Officer for this purpose. The custody officer may remove the property to the office of the Tax Recovery Officer for custody under his own supervision or, with the approval of Tax Recovery Officer, may make such arrangements as may be convenient and economical for its safe custody with any other fit person under his own supervision and the Tax Recovery Officer may fix the remuneration to be allowed to such person.

Property May Be Handed Over To The Defaulter

26. Notwithstanding anything contained in rule 24 or rule 25 the attaching officer or the custody officer may, with the previous approval of the Tax Recovery Officer, entrust, subject to his right of supervision, the attached property to the defaulter on his executing a duly stamped bond (sapurdnama) in Form No.I.T.C.P.23 which may be so varied as the circumstances of each case may require.

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Explanation: Where the Tax Recovery Officer proceeds to recover any arrears due from the defaulter by attachment and sale of, or by appointing a receiver for the management of, any movable or immovable property which is held by or stands in the name of, any of the persons referred to in the Explanation to sub-section (1) of section 222 and which is included in the defaulter's movable or immovable property by virtue of that Explanation, the reference to "defaulter" in this rule and in rules 28 to 32 (both inclusive), rules 39 and 40 and rules 42 to 47 (both inclusive) shall, in relation to such movable or immovable property, be construed as a reference to the person referred to in the said Explanation.

Custody Of Attached Cash, Securities, Etc.

27. If the property attached consists of cash, Government or other securities, bullion, jewellery or other valuables, the attaching officer shall send them for safe custody to the nearest Government treasury or a branch of the Reserve Bank of India or State Bank of India or of its subsidiaries or of any authorised bank.

Claim Of Any Person Other Than The Defaulter To The Property Under Attachment

28. When the property remains at the place where it is attached in the custody of the attaching officer, and any person other than the defaulter claims the same, or any part thereof, the officer shall nevertheless remain in possession and shall direct the claimant to prefer his claim to the Tax Recovery Officer.

Return Of Property On Cancellation Or Withdrawal Of Attachment

29. (1) If in consequence of withdrawal or cancellation of the attachment, the defaulter becomes entitled to receive back the movable property attached the possession thereof shall be given to him on payment of costs, charges and expenses due, if any, in respect of the execution of the certificate against such property.

(2) For the purpose of giving possession under sub-rule (1), the attaching officer shall inform the defaulter and the property is at his disposal.

(3) In the absence of any person to take charge of the property the officer shall, if the property has been moved from the premises in which it was seized, replace it where it was found at the time of seizure.

Property May Be Sold If Costs, Etc., Not Paid

30. In default of the payment of costs, charges and expenses referred to in sub-rule (1) of rule 29, the movable property or such portion thereof as may be necessary shall be sold by auction and after defraying the expenses of such sale and the costs, charges and expenses aforesaid, the balance, if

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any, of the movable property as has not been sold shall be handed over to the defaulter.

Feeding And Tending Of Livestock Under Attachment

31. Whenever livestock is kept at the place where it has been attached, the defaulter shall be at liberty to undertake the due feeding and tending of it under the supervision of the attaching officer.

Removal Of Livestock

32. In the event of the defaulter failing to feed attached livestock, the livestock may be placed in the custody of the custody officer or in the circumstances mentioned in rule 33 may be placed in a pound maintained by the Government or a local authority.

Custody of livestock in pound

33. If there be any such pound near the office of the Tax Recovery Officer, the attaching officer or the custody officer may place it in such attached livestock as can properly be kept there in which case the pound-keeper shall be responsible for the livestock and shall receive the same rates for accommodation and maintenance thereof as are payable in respect of impounded cattle of the same description.

Custody with a person other than custody officer

34. Notwithstanding anything contained in rule 33, the custody officer may, with the approval of the Tax Recovery Officer, entrust the attached livestock to any other fit person under his own supervision and the Tax Recovery Officer may fix the remuneration to be allowed to such person after taking into account the local circumstances and the charges which such person may have to incur for the maintenance and custody of such livestock.

Expenses of custody, maintenance, etc.

35. The expenses of maintenance and custody of movable property including the remuneration payable to the person concerned under rule 25 or rule 34 shall be deemed to be costs of sale.

PART V

DELIVERY OF PROPERTY SOLD AND EXECUTION OF DOCUMENT OR ENDORSEMENT OF NEGOTIABLE INSTRUMENT OR SHARE IN A CORPORATION

Delivery Of Movable Property, Debts And Shares

36. (1) Where the property sold is movable property of which actual seizure has been made, it shall be delivered to the purchaser.

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(2) (a) Where the property sold is movable property in the possession of some person other than the defaulter, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser and requiring him to deliver possession of the property to the purchaser within the time stipulated by the Tax Recovery Officer.

(b) Where such person in possession of the property fails without reasonable cause to deliver possession of the property to the purchaser within the time stipulated by the Tax Recovery Officer, or within such further time as maybe allowed by him, the Tax Recovery Officer shall cause the property to be seized and delivered to the purchaser and the provisions of rules 35 and 36 of the principal rules shall as far as may be apply to such seizure.

(3) (a) Where the property sold is a debt not secured by a negotiable instrument, the delivery thereof to the purchase shall be made by a written order of the Tax Recovery Officer prohibiting the creditor from receiving the debt or any interest thereon and the debtor from making payment thereof to any other person except the purchaser and requiring the debtor to make payment thereof to the purchaser within the time stipulated by the Tax Recovery Officer.

(b) Where the debtor fails to make such payment to the purchaser within the time stipulated by the Tax Recovery Officer, or within such further time as may be allowed by him, the Tax Recovery Officer may take further proceedings to recovery the amount due from the debtor as if the debtor were a defaulter in respect of whom the Tax Recovery Officer had drawn up a certificate under section 222 for the recovery of arrears of tax equal to an amount of the debt.

(4) (a) Where the property sold is a share in a corporation, the delivery thereof to the purchaser shall be made by a written order of the Tax Recovery Officer prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon and requiring him to deliver the share certificate or other document of title along with in the instrument to transfer duly completed by him to the Tax Recovery Officer within the time stipulated by the Tax Recovery Officer and prohibiting the Manager, secretary or other proper officer of the corporation from permitting any such transfer or making any such payment to any person except the purchaser.

(b) Where the person in whose name the share may be standing fails to deliver the share certificate or other document of title to the Tax Recovery Officer within the time stipulated by him, or within such further time as may be allowed by him, the Tax Recovery Officer may take steps to

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obtain a duplicate of the share certificate or other document of title as if the share certificate or other document of title had been lost or destroyed.

Transfer Of Negotiable Instruments And Shares

37. (1) Where the execution of a document or the endorsement of the party in whose name a negotiable instrument or share to a person who has purchased it under a sale under the Second Schedule, the Tax Recovery Officer may execute such document or make such endorsement as may be necessary and such execution or endorsement shall have the same effect as an execution or endorsement by the party.

(2) Such execution or endorsement may be in the following form, namely:-

"..... by Tax Recovery Officer in the proceedings for the recovery of arrears under the Income-tax Act, 1961 against"

(3) The Tax Recovery Officer may cause the document to be executed on proper stamp paper and to be registered if its registration is required by any law for the time being in force and the expenses of such execution and registration shall be borne by the purchaser.

(4) Until the transfer of such negotiable instrument or share, the Tax Recovery Officer may, by order, appoint some person to receive any interest or dividend due there on and to sign a receipt for the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the part himself.

Vesting Order In Case Of Other Property

38. In the case of any movable property not hereinbefore provided for, the Tax Recovery Officer may make an order vesting such property in the purchaser as the purchaser may direct; and such property shall vest accordingly.

39. (1) Where the immovable property sold is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by defaulter subsequently to the attachment of such property and a certificate in respect thereof has been granted under rule 65 of the principal rules, the Tax Recovery Officer shall, on the application of the purchaser, order delivery to be made by putting such purchaser on any person whom the purchaser may appoint to receive on his behalf in possession of the property, and if need be by removing any person who refuses to vacate the same.

(2) For the purposes of sub-rule (1), if the person in possession does not afford free access, the Tax Recovery Officer may, after giving reasonable

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warning and facility to any woman not appearing in public according to the customs of the country to withdraw, remove or open any lock or bolt or break open any door or do any other act necessary for putting the purchaser or any person whom the purchaser may appoint to receive delivery on his behalf, in possession.

Delivery Of Immovable Property In Occupancy Of Tenant

40. Where the immovable property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under rule 65 of the principal rules, the Tax Recovery Officer shall, on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the defaulter has been transferred to the purchaser.

PART VI

RESISTANCE OR OBSTRUCTION TO DELIVERY OF POSSESSION TO PURCHASER

Resistance Or Obstruction To Possession Of Immovable Property

41. (1) Where the purchaser of immovable property sold in execution of a certificate is resisted or obstructed by any person in obtaining possession of the property, he may make an application to the Tax Recovery Officer complaining of such resistance or obstruction within thirty days of the date of such resistance or obstruction.

(2) The Tax Recovery officer shall fix a day for investigating the matter and shall summon the party against whom the applications is made to appear and answer the same.

Resistance Or Obstruction By Defaulter

42. Where the Tax Recovery Officer is satisfied that the resistance or obstruction was occasioned without any just cause by the defaulter or by some other person at his instigation, he shall direct that the applicant be put into possession of the property, and where the applicant is still resisted or obstructed in obtaining possession, the Tax Recovery Officer may also, at the instance of the applicant, take steps to put the applicant into possession of the property by removing the defaulter or any other person acting at his instigation.

Resistance Or Obstruction By Bona Fide Claimant

43. Where the Tax Recovery Officer is satisfied that the resistance or obstruction was occasioned by any person (other than the defaulter) claiming in good faith to be in possession of the property on his own account or on

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account of some person other than the defaulter, the Tax Recovery Officer shall make an order dismissing the application.

Dispossession By Purchaser

44. (1) Where any person other than the defaulter is dispossessed of immovable property sold in execution of a certificate by the purchaser thereof, he may make an application to the Tax Recovery Officer complaining of such dispossession within thirty days of such dispossession.

(2) The Tax Recovery Officer shall fix a day for investigating the matter and shall summon the party against whom the application is made to appear and answer the same.

Bona Fide Claimant To Be Restored To Possession

45. Where the Tax Recovery Officer is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the defaulter, he shall direct that the applicant be put into possession of the property.

Rules Not Applicable To Transferee Lite Pendente

46. Nothing in rules 43 and 45 shall apply to resistance or obstruction by a person to whom the defaulter has transferred the property after the service of a notice under rule 2 of the principal rules or to the dispossession of any such person.

RIGHT TO FILE A SUIT

47. Any part not being a defaulter against whom an order is made under rule 42 or rule 43 or rule 45 may institute a suit in a civil court to establish the right which he claims to the present possession of the property.

PART VII

APPOINTMENT, POWERS AND DUTIES OF A RECEIVER

Powers Of A Receiver

48. A receiver appointed under the Second Schedule shall have all such powers, as to bringing in and defending suits and for the realisation, management, protection and preservation of the property the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of documents as the owner himself has, or such of those powers as the Tax Recovery Officer thinks fit.

Remuneration Of A Receiver

49. The Tax Recovery Officer may, by general or special order, fix the amount to be paid as remuneration for the services of the receiver.

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Duties Of A Receiver

50. (1) Every receiver so appointed shall -
- (a) furnish such security (if any) as the Tax Recovery Officer thinks fit, duly to account for what he shall receive in respect of the property;
 - (b) submit his accounts at such periods and in such form as the Tax Recovery Officer directs;
 - (c) pay the amount due from him as the Tax Recovery Officer directs; and
 - (d) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

(2) The receiver shall maintain true and regular accounts of the receivership and shall in particular maintain a cash book in which shall be entered from day to day all receipts and payments and also a ledger. He shall also maintain a counterfoil receipt book with the leaves numbered serially in print, from which shall be given, as far as possible, all receipts for payments made to the receiver.

(3) Unless the Tax Recovery Officer otherwise directs, the receiver shall, as soon as may be after his appointment, open an account in the name of the receivership in such bank as the Tax Recovery Officer may direct and shall deposit therein all moneys received in the course of the receivership immediately on receipt thereof save any minimum sums that may be required for meeting day to day current expenses. All payments by the receiver shall, as far as possible, be made by cheques drawn on the bank account.

(4) Unless otherwise ordered, a receiver shall submit his accounts once in every three months. The first of such accounts commencing from the date of his appointment and ending with the expiry of three months therefrom shall be submitted within fifteen days of the expiry of the said period of three months and the subsequent accounts brought down to the end of each succeeding period of three months, within fifteen days of the expiry of each period of three months.

Enforcement Of Receiver's Duties

51. (1) Where a receiver fails to submit his accounts at such periods and in such form as the Tax Recovery Officer directs, the Tax Recovery Officer may direct his property to be attached until such time as such accounts are submitted to him.

(2) The Tax Recovery Officer may at any time make an enquiry as to the amount, if any, due from the receiver, as shown by his accounts or

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otherwise, or an enquiry as to any loss to the property occasioned by his wilful default or gross negligence and may order the amount found due, if not already paid by the receiver under rule 50, or the amount of the loss so occasioned, to be paid by the receiver within a period to be fixed by the Tax Recovery Officer.

(3) Where the receiver fails to pay any amount which he has been ordered to pay under sub-rule (2) within the period specified, the Tax Recovery Officer may direct such amount to be recovered from the security (if any) furnished by the receiver or by attachment and sale of his property or, if his property has been attached under sub-rule (1), by the sale of such property, and may direct the sale proceeds to be applied in making good any amount found due from the receiver or any such loss occasioned by him and the balance (if any) of the sale proceeds shall be paid to the receiver.

(4) If a receiver fails to submit his accounts at such periods and in such form as directed by the Tax Recovery Officer without reasonable cause or improperly retains any cash in his hands, the Tax Recovery Officer may disallow the whole or any portion of the remuneration due to him for the period of the accounts with reference which the default is committed and may also charge interest at a rate not exceeding 12 per cent per annum on the moneys improperly retained by him for the period of such retention without prejudice to any other proceedings which might be taken against the receiver.

Form Of Order Of Appointment Of A Receiver

52. An order of appointment of a receiver under rule 69 or rule 70 of the principal rules, shall be made in Form I.T.C.P.24 which may be so varied as the circumstances of each case may require.

Arrest And Detention

Prison In Which Defaulter May Be Detained

53. A person against whom an order of detention has been passed under Part V of the Second Schedule may be detained in the civil prison of the district in which the office of the Tax Recovery Officer ordering the detention is situate, or, where such civil prison does not afford suitable accommodation, in any other place which the State Government may appoint for the detention of persons ordered by the civil courts of such district to be detained.

Subsistence Allowance

54. (1) The subsistence allowance shall be supplied by the Tax Recovery Officer by monthly instalments in advance before the first day of each month.

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(2) The first payment shall be made to the Tax Recovery Officer for such portion of the current month as remains unexpired before the defaulter is committed to the civil prison, and the subsequent payment (if any) shall be made to the officer in charge of the civil prison.

Forms

55. The following forms which may be so varied as the circumstances of each case may require, shall be used for the purpose mentioned against each:

(i) Form no. I.T.C.P.25 for issuing a notice to show cause why a warrant of arrest should not issue under rule 73 of the principal rules;

(ii) Form no. I.T.C.P.26 for issuing a warrant of arrest under Part V of the principal rules;

(iii) Form no. I.T.C.P.27 for issuing a warrant of detention under Part V of the principal rules;

(iv) Form no. I.T.C.P.25 for issuing an order of release under rule 77 of the principal rules;

PART VIII-A

APPEALS TO A CHIEF COMMISSIONER OR COMMISSIONER

Form Of Appeal

55A. (1) Every appeal under sub-rule (1) of rule 86 of the principal rules, shall be made in Form I.T.C.P.29A which shall be verified in the manner indicated therein and shall be accompanied by a copy of the order appealed against.

(2) The form of appeal prescribed by sub-rule (1), the grounds of appeal and the form of verification appended thereto shall be signed:

- (a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
- (b) in the case of a Hindu undivided family, by the karta, and where the karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;
- (c) in the case of company or local authority, by the principal officer thereof;

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- (d) in the case of a firm, by any partner thereof, not being a minor;
- (e) in the case of any other association, by any member of the association or the principal officer thereof; and
- (f) in the case of any other person, by that person, or by some person competent to act on his behalf.

Procedure In Appeal

55B. (1) The Chief Commissioner or Commissioner shall fix a day and place for the hearing of the appeal and shall give notice of the same to the appellant and the Chief Commissioner or Commissioner against whose order the appeal is preferred.

(2) The following shall have the right to be heard at the time of appeal:-

- (a) the appellant, either in person or by an authorised representative referred to in rule 62 of these rules;
- (b) the Tax Recovery Officer, either in person or by a representative.

(3) The Chief Commissioner or Commissioner may, if sufficient cause is shown, at any stage of the appeal, grant time to the parties or to any of them, and may, for reasons to be recorded in writing, adjourn from time to time the hearing of the appeal.

(4) The Chief Commissioner or Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Tax Recovery Officer to make further inquiry and report the result of the same to the Chief Commissioner or Commissioner.

(5) The Chief Commissioner or Commissioner may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Chief Commissioner or Commissioner is satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(6) The order of the Chief Commissioner or Commissioner disposing of the appeal shall be in writing and shall state the points of determination, the decision thereon and the reason for the decision.

(7) On the disposal of the appeal, the Chief Commissioner or Commissioner shall communicate the order passed by him to the appellant, the defaulter (if he is not the appellant) and the Tax Recovery Officer.

(8) Every appeal shall be disposed of by the Chief Commissioner or Commissioner as expeditiously as possible and endeavour shall be made to

dispose of the appeal within six months from the date on which it is presented.

PART IX

SCALE OF FEES FOR PROCESSES, CHARGES FOR OTHER PROCEEDINGS AND POUNDAGE FEES, ETC.

Process Fees

56. The following scale of fees shall be charged for service and execution of processes issued under the Second Schedule and these rules:

	Where the amount mentioned in the certificate	
	exceeds Rs.1000	is Rs.1000 or under
	Rs.	Rs.
(a) Notice of demand	1.50	1.00
(b) Warrant of attachment	3.00	2.00
(c) Warrant of arrest	3.00	2.00
(d) Warrant of delivery	3.00	2.00
(e) Proclamation of sale	5.00	3.00
(f) Any process not provided for hereinabove	1.50	1.00

Levy And Scale Of Poundage Fees

57. (1) In respect of any sale made in the execution of a certificate, there shall be levied a fee by way of poundage on the gross amount realised by the sale, calculated at the rate of 2 per cent on such gross amount upto Rs.1000 and at the rate of 1 per cent on the excess of such gross amount over Rs.1000.

(2) The poundage fee leviable under sub-rule(1) shall be calculated on multiples of Rs.25, that is to say, a poundage fee of 50 paise shall be levied for every Rs.25, or part of Rs.25, realised by the sale up to Rs.1000 and in the case of the proceeds of the sale exceeding Rs.1000 an additional fee of 25 paise for every Rs.25 or part thereof on the excess of such amount over Rs.1000 shall be levied.

(3) Where the sale is in more than one lot, the poundage fee shall be calculated with reference to the sale proceeds of each lot separately.

(4) The poundage fee under sub-rule (1) shall be paid by the purchaser of the property as soon as the sale is completed.

(5) When a sale of immovable property is set aside under sub-rule (2) of rule 63 of the principal rules, the Tax Recovery Officer may make an order for payment, by the defaulter or by the person at whose instance the sale is

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set aside, of the poundage fees paid by the purchaser of the property under sub-rule (1) read with sub-rule (4).

Copying Fees

58. (1) Except in cases where copies are supplied free under rules or instructions in force, copying fees shall be charged for supplying a copy of any document at the rate of Re.1 for each page of such document.

(2) Copying fees shall be payable in advance.

(3) The fees to be charged for the supply of a copy of any document urgently shall be Rs.4 for each document, in addition to the fees payable under sub-rule (1).

Inspection Fees

59. (1) Fees for inspecting records of proceedings before the Chief Commissioner or Commissioner or Tax Recovery Officer under the Second Schedule shall, where such inspection is permitted, be charged as follows:

- | | |
|---|----------|
| (a) for the first hour or part there of ... | Rs.2 |
| (b) for every additional hour or thereof... | 50 Paise |
- (2) Fees for inspection shall be payable in advance.

PART X

MISCELLANEOUS

Proceedings Against Legal Representative Of A Deceased Defaulter

60. A notice to the legal representative of a deceased defaulter under rule 65 of the principal rules read with rule 2 of those rules shall be issued in Form No.I.T.C.P.29 which may be so varied as the circumstances of each case may require.

Recovery From Surety

61. A notice to a surety under rule 88 of the principal rules read with rule 2 of those rules shall be issued in Form No.I.T.C.P.30 which may be so varied as the circumstances of each case may require.

Appearance Before Tax Recovery Officer

62. (1) Any person who is entitled or required to attend before any Chief Commissioner or Commissioner or Tax Recovery Officer in connection with any proceeding under the Second Schedule or these rules, otherwise than when required under rule 83 of the principal rules to attend

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personally for examination on oath or affirmation, may attend either in person or by an authorised representative.

Explanation: For the purposes of this sub-rule "authorised representative" shall have the meaning assigned to it in clauses (iii) to (iv) of sub-section (2) of section 288.

(2) In any proceeding before the Tax Recovery Officer, referred to in sub-rule (1), the Assessing Officer concerned shall have the right to be heard either in person or by a representative.

Government of India/Bharat Sarkar
Ministry of Labour/Shram Mantralaya

New Delhi, 4th March, 1997.

NOTIFICATION

S.O. No. In exercise of the powers conferred by clause (kb) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) the Central Government hereby authorises the officers mentioned in column (2) of the Schedule mentioned below to exercise the powers of recovery officers under the said Act for the areas mentioned in Column (3) of the said schedule in relation to factories/ establishments covered under the provisions of the said Act.

The Schedule

S.No.	Designation of the officer	Area in relation to which jurisdiction to be exercised
(1)	(2)	(3)
1.	Regional PF Commissioners/Assistant PF Commissioners working in Andhra Pradesh Region of the Employees' Provident Fund Organisation.	The State of Andhra Pradesh and the areas of Yaman in the territory of Pondicherry.
2.	Regional PF Commissioners/Assistant PF Commissioners working in Bihar Region of the Organisation	The State of Bihar
3.	Regional PF Commissioners/Assistant PF Commissioners working in Delhi Region of the Employees' Provident Fund Organisation	National Capital Territory of Delhi
4.	Regional PF Commissioners/Assistant PF Commissioners working in Gujarat Region of Employees' Provident Fund Organisation	The State of Gujarat & Union Territory of Dadra and Nagar Haveli, Daman & Diu.
5.	Regional PF Commissioners/Assistant PF Commissioners working in Haryana Region of Employees' Provident Fund Organisation	The State of Haryana
6.	Regional PF Commissioners/Assistant PF Commissioners working in Karnataka	The State of Karnataka

Employees' Provident Fund Organisation

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S.No.	Designation of the officer	Area in relation to which jurisdiction to be exercised
(1)	(2)	(3)
	Region of Employees' Provident Fund Organisation	
7	Regional PF Commissioners/Assistant PF Commissioners working in Kerala Region of Employees' Provident Fund Organisation	The State of Kerala and Union Territory of Lakshadweep and area of Mahe in the territories of Pondicherry
8	Regional PF Commissioners/Assistant PF Commissioners working in Madhya Pradesh Region of Employees' Provident Fund Organisation	The State of Madhya Pradesh
9	Regional PF Commissioners/Assistant PF Commissioners working in Maharashtra & Goa Region of Employees' Provident Fund Organisation	The States of Maharashtra and Goa
10	Regional PF Commissioners/Assistant PF Commissioners working in North Eastern Region of Employees' Provident Fund Organisation	The States of Assam, Nagaland, Manipur, Meghalaya, Arunachal Pradesh, Mizoram & Tripura
11	Regional PF Commissioners/Assistant PF Commissioners working in Orissa Region of Employees' Provident Fund Organisation	The State of Orissa
12	Regional PF Commissioners/Assistant PF Commissioners working in Punjab Region of Employees' Provident Fund Organisation	The States of Punjab, and Union Territory of Chandigarh
13	Regional PF Commissioners/Assistant PF Commissioners working in Rajasthan Region of Employees' Provident Fund Organisation	The State of Rajasthan
14	Regional PF Commissioners/Assistant PF Commissioners working in Tamil Nadu Region of Employees' Provident Fund Organisation	The State of Tamil Nadu and the Union Territory of Pondicherry and Karaikal except area of Yaman & Mahe
15	Regional PF Commissioners/Assistant PF Commissioners working in Uttar Pradesh of Employees' Provident Fund Organisation	The State of Uttar Pradesh

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S.No.	Designation of the officer	Area in relation to which jurisdiction to be exercised
(1)	(2)	(3)
16	Regional PF Commissioners/Assistant PF Commissioners working in West Bengal Region of Employees' Provident Fund Organisation	The State of West Bengal and Union Territory of Andaman & Nicobar Islands and the State of Sikkim
17	Regional PF Commissioner/Assistant PF Commissioner in Himachal Pradesh Region	The State of Himachal Pradesh Region (<i>vide Gazette Notification dated 22.7.98</i>)

Employees' Provident Fund Organisation

Section 60 of Civil Procedure Code, 1908

... the following particulars shall not be liable to such attachment or sale, namely:-

- (a) the necessary wearing-apparel, cooking vessels, beds and bedding of the judgement-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;
- (b) tools of artisans, and, where the judgement debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section;
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist or a labourer or a domestic servant and occupied by him;
- (d) books of account;
- (e) a mere right to sue for damages;
- (f) any right of personal service;
- (g) stipends and gratuities allowed to pensioners of the Government or of a local authority or of any other employer, or payable out of any service family pension fund notified in the Official Gazette by the Central Government or the State Government in this behalf, and political pensions;
- (h) the wages of labourers and domestic servants, whether payable in money or in kind;
- (i) salary to the extent of the first four hundred rupees and two-thirds of the remainder in execution of any decree other than a decree for maintenance:

Provided that where any part of such portion of the salary as is liable to attachment has been under attachment, whether continuously or intermittently, for a total period of twenty-four months, such portion shall be exempt from attachment until the expiry of a further period of twelve months, and, where such attachment has been made in execution of one and the same decree, shall, after the attachment has continued for a total period of twenty-four months, be finally exempt from attachment in execution of that decree;
- (ia) one-third of the salary in execution of any decree for maintenance;

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- (j) the pay and allowances of persons to whom the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950) or the Navy Act, 1957 (62 of 1957), applies;
- (k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1925 (19 of 1925), for the time being applies in so far as they are declared by the said Act not to be liable to attachment;
- (ka) all deposits and other sums in or derived from any fund to which the Public Provident Fund Act, 1968 (23 of 1968), for the time being applies, in so far as they are declared by the said Act as not be liable to attachment;
- (kb) all moneys payable under a policy of insurance on the life of the judgement-debtor;
- (l) any allowance forming part of the emoluments of any servant of the Government or any servant of a railway company or local authority which the appropriate Government may by notification in the Official Gazette declare to be exempt from attachment, and any subsistence grant or allowance made to any such servant while under suspension;
- (m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;
- (n) a right to future maintenance;
- (o) any allowance declared by any Indian law to be exempt from liability to attachment or sale in execution of a decree, and
- (p) where the judgement-debtor is a person liable for the payment of land-revenue, any movable property which, under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

Explanation I: The monies payable in relation to the matters mentioned in clauses (g), (h), (i), (ia), (j), (l) and (o) are exempt from attachment or sale, whether before or after they are actually payable, and in the case of salary, the attachable portion thereof is liable to attachment, whether before or after it is actually payable.

Explanation II: In clauses (i) and (ia), "salary" means the total monthly emoluments, excluding any allowance, declared exempt from attachment under the provisions of clause (l), derived by a person from his employment whether on duty or on leave.

Explanation III: In clause (l) "appropriate Government" means--

- (i) as respects any person in the service of the Central Government or any servant of a Railway Administration or of a cantonment authority or of the port authority of a major port, the Central Government.

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- (ii) * Omitted by the A.O.1948
- (iii) as respects of any other servant of the Government or servant of any other local authority, the State Government.

Explanation IV: For the purposes of this proviso, "wages" includes bonus, and "labourer" includes skilled, unskilled or semi-skilled labourer.

Explanation V: For the purposes of this proviso, the expression, "agriculturist" means a person who cultivates land personally and who depends for his livelihood mainly on the income from agricultural land, whether as owner, tenant, partner or agricultural labourer.

Explanation VI: For the purposes of Explanation V, an agriculturist shall be deemed to cultivate land personally, if he cultivates land--

- (a) by his own labour, or
- (b) by the labour of any member of his family, or
- (c) by servants or labourers on wages payable in case or in kind (not being as a share of the produce), or both.

Annexure VI(i)
(See paragraph 7.7.9)

Register of Recovery Cases

SI No	Authorised Officer's Letter No. & Date	Date of receipt of certificate	Date of certificate	Name and Address of the establishment with code number	Period of default	Contribution	Administrative charges	Total	Action taken	Realisation		Total	Challan Date	Entry of satisfaction by certificate officer	Remarks
										Contribution	Admini-stra-				

(1)	(2)	(3)	(4)	(5)	(6)						(12)	(13)	tive charge s			(19)	(20)	(21)	(22)	
						EP F	Pe nsi on	ED LI	EP F	ED LI			EP F	ED LI	ED LI					

Annexure VI(ii)
(See paragraph 7.7.9)

Register of movable property attached and sold

S.No	File No.	Name and address of the defaulter	Amount of arrear	Date of issue of warrant	Date of attachment	Description of articles	Estimated value of each property	Place where the property is kept in custody	Date of sale/resale	Amount of sale proceeds	Date of confirmation, if any	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

Annexure VI(iii)
(See paragraph 7.7.9)

Collection and Execution Register of the Enforcement Officer (Recovery)

Sl.No	Date	File No.	Total Amount Due	Amount collected	Name of the defaulter	Date of Challan	Balance to be realised	Reasons	Remarks

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

Annexure VI(iv)
(See paragraph 7.7.9)

Executing Register for the Enforcement Officer (Recovery)

S.No.	File No. / A.O. / R.O.	Form EPFCP No.02	Form EPFCP No.16	Others	Date of Receipt	Date of Return	Signature of the Enforcement Officer	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Annexure VI(v)
(See paragraph 7.7.9)

Cash Register

S.No.	File No.	Name of the defaulter with code number	Receipt No. and date of receipt	Amou nt	Date of Cash deposit in SBI Branch	Amou nt	Date of handi ng over the Cash	Chall an No.	Signature of the Clerk/Sec tion Superviso r	Signature of the Recovery Officer / Enforcement Officer (Recovery
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

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Annexure VI(vi)
(See paragraph 7.7.9)

Cheque/Demand Draft Register

S.No.	Receipt No.	File No.	Name of the Defaulter and Code No.	Cheque No.	Date of Cheque	Name of the Bank	Amount (Rs. P)	Default Period	Date of Deposit of Cheque/Demand Draft in EPF Accounts with SBI	Challan Date	Signature of the Recovery Officer/ Enforcement Officer (Recovery)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Annexure VI(vii)
(See paragraph 7.7.9)

Instalments Register

S.No.	File No.	Period of Default	Name & Address of the Defaulter and Code No.	Amount	No. & amount of instalments granted with details	Collection		Authority	Remarks
						Date	Amount		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(11)

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Annexure VI(viii)
(See paragraph 7.7.9)

Stay Register

S.No.	File No.	Name of the Defaulter and Code No.	Amount of arrear	Authority granting stay	Particulars of stay	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Annexure VI(ix)
(See paragraph 7.7.9)

Register of immovables attached and sold

S.No	File No.	Name and address of the defaulter	Amount of arrear	Date of issue of Form 16	Date of attachment	Description of properties attached with survey number	Estimated value of each property	Amount of sale proceeds		Date of confirmation, if any	Date of issue of Sale Certificate	Remarks
								In suspension	Full realisation			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)

Annexure VI(x)
(See paragraph 7.7.9)

Closed Certificates Register

S.No.	Recovery Certificate No.	Name and Address of the defaulter	Amount of Arrear	Nature of disposal	Remarks
(1)	(2)	(3)	(4)	(5)	(6)

Annexure VI(x)
(See paragraph 7.7.9)

Strong Room Entry Register

S.No.	Name(s) of custodian operation the strong room together with names of other persons present with their designations	Date and time at which the strong room was opened	Time at which the strong room was closed	Purpose of visit	Name of the defaulter	Signature of the custodian and other persons mentioned in column (3)	Inspection remarks of the Recovery Officer/ Regional Provident Fund Commissioner	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Annexure VII
(See paragraph 7.3.20)

Inventory of attachment of movable property by actual Seizure

Code No. **Date** :.....

Name & Address of the Establishment:
.....

Place wherefrom the property attached and seized

S.No.	Description of the property	Estimated Value
--------------	------------------------------------	------------------------

Witnesses: (1)..... **Signature of the Enforcement Officer** **Signature of the Employer or his authorised representative.** **Signature**
(2)

Certified that - *the above property has been removed and kept/lo
*that the above property has been entrusted to the defaulter for safe custody, in execution of stamped bond (Sapurdanama)

Certified that a copy of this inventory has been delivered to the defaulter or his authorised representative.

Signature of the Enforcement Officer.

Received a copy of the inventory of property attached.

Signature of the Employer or his authorised representative.

Form No. EPFCP.1
(See Paragraph 7.3.1.1)

OFFICE OF THE RECOVERY OFFICER

...../

Notice of Demand to defaulter prior to attachment of movable and immovable properties

Ref No.....

Dated:.....

To

*This is to certify that a sum of Rs..... has become due from you, the details of which are given on the reverse..

*Whereas a Certificate bearing serial no..... dated has been forwarded by the Recovery Officer for the recovery of an amount of Rs. details of which are given on the reverse and the said Recovery Officer has sent a certified copy of the said certificate to the under signed under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs. is to be recovered from you.

2. You are hereby required to pay the amount aforesaid within fifteen days from the date of service of this notice through the nearest branch of State Bank of India to the credit of the respective Employees' Provident Fund accounts using the special challans devised for the remittance of dues to the Organisation.

3. You are informed that in case of default, steps would be taken to realise the amount in accordance with the provisions of Section 8B to Section 8G of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

4. In addition to the amount aforesaid, you will also be liable for:-

(a) such interest as is payable in accordance with Section 7Q of the said Act.

(b) all costs, charges and expenses incurred in respect of the service of this notice and of warrants and other processes and of all other proceedings taken for realising the arrears.

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5. If the arrears have already been remitted, the date of remittance and the amounts remitted in account numberwise may be intimated to the undersigned, quoting the reference No. of this notice.

[SEAL]

Recovery Officer

**Score out whichever is not applicable.*

Details of amount in arrears

Month	Contributions			Administrative / Inspection charges		Total
	A/c No.01	A/c No.10	A/c No.21	A/c No.2	A/c No.22	
<i>Total</i>						

Amount

Period

(Rs.)

Damages in the belated remittance of

-

1. Employees' Provident Funds Contributions (A/c No.01)
2. Employees' Pension Fund Contributions (A/c No.10)
3. Deposit Linked Insurance Fund Contributions (A/c No.21)
4. Employees' Provident Funds Administrative / Inspection Charges (A/c No.02)
5. Deposit Linked Insurance Fund Administrative / Inspection Charges (A/c No.22)
- * 6. Provident Fund contribution payable to the Board of Trustees (Furnish name of the Fund)

Total

** Score out, if not applicable.*

Employees' Provident Fund Organisation

	<i>Amount (Rs.)</i>	<i>Period</i>
<i>Interest under Section 7Q</i>		
1. Employees' Provident Funds Contributions (A/c No.01)		
2. Employees' Pension Fund Contributions (A/c No.10)		
3. Deposit Linked Insurance Fund Contributions (A/c No.21)		
4. Employees' Provident Funds Administrative / Inspection Charges (A/c No.02)		
5. Deposit Linked Insurance Fund Administrative / Inspection Charges (A/c No.22)		
* 6. Provident Fund contribution payable to the Board of Trustees (Furnish name of the Fund)		
Total		

* Score out, if not applicable.

Form No. EPFCP.2
(See paragraph 7.3.5.1)

OFFICE OF THE RECOVERY OFFICER
.....,

Ref No.....

Dated:.....

Warrant of attachment of movable property

To

*Whereas certificate No. dated has been drawn up by the undersigned....., against(defaulter)..... and the sum of Rs..... as noted below, is due from him in respect of the said certificate;

*Whereas certificate No..... dated had been forwarded by the Recovery Officer, to the undersigned against(defaulter)..... for the recovery of an amount of Rs..... and the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds Miscellaneous Provisions, 1952, specifying that an amount of Rs. is to be recovered from the defaulter and the sum of Rs. as noted below, is due from him in respect of the said certificate;

	Rs.	P.
#Certificate amount/specified amount	...	
Cost and charges	...	
Interest	...	
-----		-----
Total		-----

And whereas the said sum of Rs..... has not been paid in satisfaction of the said certificate;

I, RPFC/APFC,, in exercise of powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with notification No..... dated issued by the Government of India, hereby direct you to serve a copy of this warrant on the defaulter and, unless after such service the said defaulter pays forthwith the said sum of Rs..... and Rs. for the cost of executing this process to proceed to attach the movable property of the said defaulter (and where necessary, the movable property including any immovable property which has been transferred directly or indirectly on or

Employees' Provident Fund Organisation

after 2nd June 1988, by the defaulter) and to hold the same until further orders from the undersigned.

You are further directed to return this warrant on or before the day of 19.... with an endorsement certifying the day on which and the manner in which it has been executed, or the reason why it has not been executed.

Given under my hand and seal at this day of

[SEAL]

Recovery Officer

**Score out whichever paragraph is not applicable.*

#Delete inappropriate words.

Form No. EPFCP.3
(See paragraph 7.3.7)

OFFICE OF THE RECOVERY OFFICER

.....

Ref No.....

Dated:.....

PROHIBITORY ORDER
(Where the property consists of debts not secured by negotiable instruments)

To

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dateddrawn up by the undersigned..... amounting to Rs..... ;

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... datedforwarded by the Recovery Officer to the undersigned and whereas the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the said Act specifying that an amount of Rs..... is to be recovered from the defaulter;

Whereas, in exercise of the powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated....., issued by the Government of India, it is ordered that(name of creditor)#..... be, and is hereby prohibited and restrained, until the further order of the undersigned, from receiving from you a certain debt alleged now to be due from you to(name of the creditor)#.....;

And that you, the said, be, and you are hereby, prohibited and restrained, until the further order of the undersigned, from making payment of the said debt or any part thereof, to any person, whomsoever or otherwise than to the undersigned

** you are further directed to pay the amount by means of Cheque/Demand Draft drawn in favour of the Regional Provident Fund Commissioner, within days of receipt of order, failing which action will be taken to recover the said amount as the amount due from you.

Given under my hand and seal at this day of

[SEAL]

Recovery Officer

**Score out whichever paragraph is not applicable.*

***Score out if not applicable.*

Fill in the name of the defaulter and where the property consisting of debts is included in the defaulter's property, by virtue of Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that Explanation.

Form No. EPFCP.4
(See paragraph 7.3.7)

OFFICE OF THE RECOVERY OFFICER
.....,

Ref No.....

Dated:.....

Prohibitory order in case of shares

To

(1)

(2)[Principal Officer].....

.....[Name of the Corporation].....

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dated..... drawn by the undersigned amounting to Rs.....

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dated forwarded by the, Recovery Officer, to the undersigned amounting to Rs. (Rupees.....)

and whereas the said Recovery officer has sent to the undersigned a certified copy of the said certificate under sub-section (2) of section 8C of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered from the defaulter;

Whereas, in exercise of the powers conferred on me, under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated....., issued by the Government of India, it is ordered that you, No.1 above mentioned, be and you are hereby, prohibited and restrained, until further order of the undersigned, from making any transfer of the shares in the aforesaid corporation standing in your name or from receiving payment of any dividends thereon. And that you, No.(2) above mentioned, are hereby prohibited and restrained, until the further order of the undersigned, from permitting any such transfer or making any such payment.

#It may be noted that the property consisting of shares is included in the defaulter's property by virtue of the Explanation to sub-section (1) of Section 222 of Income-tax Act, 1961.

Employees' Provident Fund Organisation

Given under my hand and seal at this day of

[SEAL]

Recovery Officer

**Score out which ever paragraph is not applicable.*

#Score out portion in italics, if not applicable.

Form No. EPFCP.5
(See paragraph 7.3.8)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

PROHIBITORY ORDER

(Where the property to be attached consists of movable property to which the defaulter is entitled subject to a lien or right of some other person to the immediate possession thereof)

To

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dated..... drawn up by the undersigned,, amounting to Rs.....

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dated forwarded by the Recovery Officer to the undersigned amounting to Rs..... (Rupees.....) and whereas the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C (2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered from the defaulter;

Whereas, in exercise of the powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification no..... dated....., issued by the Government of India, it is ordered that ..(name of person entitled to property)... be, and is hereby, prohibited and restrained, until the further order of the undersigned from receiving from you namely,, the following property in the possession of the said #..... that is to say to which the said #..... is entitled, subject to your claim of immediate possession thereof;

DETAILS OF PROPERTY

And that you are hereby prohibited and restrained, until the further order of the undersigned, from delivering the said property to any person or persons whomsoever.

Employees' Provident Fund Organisation

[SEAL]

Recovery Officer

**Score out whichever paragraph is not applicable.*

Fill in the name of the defaulter and where the movable property is included in the defaulter's property, by virtue of Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that Explanation.

Form No. EPFCP.6
(See paragraph 7.3.9.1)

OFFICE OF THE RECOVERY OFFICER
.....,

Ref No.....

Dated:.....

Notice of attachment of a decree of a Civil Court

To

The Judge of the Court of

Sir,

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dated..... drawn by the undersigned amounting to Rs.....;

*Whereas(defaulter)..... has failed to pay the arrears due from him in respect of certificate No..... dated forwarded by Recovery Officer to the undersigned..... amounting to Rs..... and whereas the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered from the defaulter;

And whereas the undersigned, in exercise of his powers conferred under section 8B of the said Act read with the notification no..... dated....., issued by the Government of India, desires to proceed with attachment of a decree of Court dated the day of made in suit No..... ofwherein was the plaintiff and #..... was the defendant and which decree is pending execution in your Court;

You are, therefore, requested to stay the execution of the said decree unless and until—

- (i) the undersigned cancels this notice; or
- (ii) the Authorised Officer, , or the above mentioned defaulter applies to you to execute the decree.

Yours
faithfully,

[SEAL]

Recovery Officer

**Score out whichever paragraph is not applicable.*

Fill in the name of the defaulter and where the movable property is included in the defaulter's property, by virtue of Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that Explanation.

Form No. EPFCP.7
(See paragraph 7.3.10)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Notice of attachment

(Where the property consists of a share or interest in movable property)

To

*Whereas(defaulter)..... you have not paid the arrears amounting to Rs. payable by you in respect of certificate No..... dated..... drawn by the undersigned amounting to Rs.....;

*Whereas(defaulter)..... has not paid the arrears amounting to Rs. payable by him respect of certificate No..... dated forwarded by Recovery Officer to the undersigned and whereas the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered from the defaulter;

Whereas, in exercise of the powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification no..... dated....., issued by the Government of India, it is hereby ordered that you #..... be and are hereby, prohibited, until the further order of the undersigned from transferring or charging in any way your share of interest in the undermentioned items of movable property, belonging to you and and as co-owners.

Given under my hand and seal at this day of ..

[Seal]

Recovery Officer

Fill in the name of the defaulter and where the movable property is included in the defaulter's property, by virtue of Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961, fill in the name of the person referred to in that Explanation.

Employees' Provident Fund Organisation

Form No. EPFCP.8
(See paragraph 7.3.14)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order to attach salary and allowances of servants of Government or Local Authority

To

*Whereas(defaulter)..... has not paid the arrears amounting to Rs. payable by you in respect of certificate No..... dated..... drawn up by the undersigned amounting to Rs.;

*Whereas(defaulter)..... has not paid the arrears amounting to Rs. payable by him respect of certificate No..... dated forwarded by Recovery Officer to the undersigned and whereas the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered from the defaulter;

And whereas the said is a ..(office held by defaulter)... receiving his salary and allowances at your hands;

Whereas, in exercise of the powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification no..... dated....., issued by the Government of India, hereby direct you to withhold the sum of Rs..... from the salary of the said in monthly instalments of and to remit the said sum in monthly instalments by means of Cheque/Demand Draft drawn in favour of Regional Provident Fund Commissioner,

Given under my hand and seal at this day of

[SEAL]

Recovery Officer

**Score out whichever paragraph is not applicable.*

Employees' Provident Fund Organisation

Form No. EPFCP.9
(See paragraph 7.3.6)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order of attachment of negotiable instrument

To

Whereas the undersigned has passed on the day of 19.. an order of the attachment of the undermentioned property, @which is included in the property of(defaulter)..... by virtue of the Explanation to sub-section (1) of Section 222 of Income-tax Act, 1961 in the course of proceedings for the recovery of arrears due from(defaulter)..... in respect of Certificate No..... dated drawn by the undersigned / the Recovery Officer,, a certified copy of which has been forwarded by the said Recovery Officer to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

Whereas, in exercise of the powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated, issued by the Government of India, you are hereby directed to seize the said property, and bring the same before me and hold the same subject to my orders.

DETAILS OF PROPERTY

Given under my hand and seal at this day of

[Seal]

Recovery Officer

Employees' Provident Fund Organisation

**Score out portion in brackets, if not applicable.*

@ Score out portion in italics, if not applicable.

Form No. EPFCP.10
(See paragraph 7.3.11.1)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order to attach movable property in the custody of a court or public officer

To

Sir,

*Whereas(defaulter)..... has not paid the arrears amounting to Rs. payable by you in respect of certificate No..... dated..... drawn by the undersigned /*forwarded by the Recovery Officer and the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered by the undersigned from the defaulter and the undersigned desires to attach sums of money or other property, @which is included in the defaulter's property by virtue of the explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961 which is included in the defaulters property, now in your custody;@@

Whereas in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated , issued by the Government of India, I request that you will hold the said money or property and an interest or dividend becoming payable thereon subject to the further order of the undersigned.

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

**Score out whichever paragraph is not applicable.*

@ Score out portion in italics, if not applicable.

@@State how the money or property is understood to be in the hands of the court or the public officer addressed on what account and other available details.

Employees' Provident Fund Organisation

Form No. EPFCP.11
(See paragraph 7.3.12.1)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order to attachment of property consisting of an interest in partnership property

To

Whereas(defaulter)..... has not paid the arrears amounting to Rs. payable by you in respect of certificate No..... dated..... drawn by the undersigned /forwarded by the Recovery Officer and whereas the said Recovery Officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered by the undersigned from the defaulter and whereas the said(defaulter)... is a partner in the firm known as Messrs.**

Whereas in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated , issued by the Government of India it is hereby ordered—

(i) that the share of the said in the partnership and profits of the said firm be and is hereby charged with the payment of the amount aforesaid due under the said certificate; and

(ii) that @.....

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

**Score out portion in italics, if not applicable.*

@Here incorporate any other order that may be considered necessary in the circumstances.

Form No. EPFCP.12
(See paragraph 7.3.28)

OFFICE OF THE RECOVERY OFFICER
.....,

Ref No.NO.AP/sRO/CP/Recovery/AP/2003/2007..

Dated:..21.3.2007.

Warrant of sale of property

To

The District Collector & Magistrate
Kurnool District
Kurnool

These are to command you to sell by public auction, after giving the .10. days' previous notice by affixing the same in the office of the undersigned, and after making due proclamation, the under mentioned property attached in execution of certificate No..111/01,112/01,46/06,17/05,832/04,16/05 and 15/05 dated..... drawn up by the undersigned/*forwarded by the Recovery Officer against ..M/s Yemmiganru Weavers Cooperative Producion & Sales Society Limited,Yemmiganur.(defaulter)..... to the said Recovery Officer and whereas a certified copy of the said certificate has been sent by the said Recovery Officer to the undersigned under section 8C(2) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 or so much of the said property as shall realise the sum of Rs.1,42,86,260/- being the sum of the amount of the said certificate/specified amount and costs still remaining unsatisfied,

2. You are further commanded to return this warrant on or before the day of 19.. with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed.

Specification of property

Description of Property	Reserve Price	Date of	Place of Auction
Vacant Land of M/s Yemmiganru Weaver Co-op.Producion and Sales Society Ltd., Yemmiganru Survey No.441/01	Unit Rate Acre 25 Lakhs Total 14.25 acres		
Survey No.442/01	Unit Rate per Acre		

Employees' Provident Fund Organisation

	25 lakhs, Total 3.80 Acres		
Survey No.449	Unit Rate 20 Lakhs per Acre, Total 1.34 Acres		
Survey No.615	Unit Rate 30 Lakhs per Acre Total 2.50 Acres		

Given under my hand and seal on . this .21st day of March,2007..

[Seal]

Recovery Officer.

* *Score out portion in italics, if not applicable.*

Form No. EPFCP.13
(See paragraph 7.3.29.1)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Proclamation of sale

*Whereas the undersigned has drawn up the certificate No..... dated for the recovery of the sum of Rs..... from(defaulter)..... and the costs, charges and expenses of the proceedings of the recovery thereof;

*Whereas the Recovery officer,, had forwarded the certificate No..... dated to the undersigned,, for the recovery of the sum of Rs..... from(defaulter)...; and whereas the said Recovery officer has sent to the undersigned on the day of 19.. a certified copy of the certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the costs, charges and expenses of the proceedings for the recovery thereof;

And whereas the undersigned, in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated, issued by the Government of India, has ordered the sale of the attached property mentioned in the annexed schedule in satisfaction of the said certificate;

And whereas on the day of 19.. (the date fixed for sale) there will be due thereunder a sum of Rs..... including costs and interest;

Notice is hereby given that in the absence of any order of postponement, the said property shall be sold by by public auction at A.M./P.M. on the said day of 19.. at(Place).....

The sale will be of the property of the defaulter above named/ @property which is included the property of the defaulter by virtue of the Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961, as mentioned in the schedule below; and the liabilities and claims attached to the said property, so far as they have been ascertained are those specified in the schedule against each lot.

The property will be put up for sale in the lots specified in the schedule. If the amount to be realised by sale is satisfied by the sale of portion of the property, the sale shall be immediately stopped with respect to the reminder.

Employees' Provident Fund Organisation

The sale will also be stopped if, before any lot is knocked down, the arrears mentioned in the said certificate, interest payable under section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and costs (including the costs of the sale) are tendered to the officer conducting the sale or proof is given to his satisfaction that the amount of such arrears, interest and costs has been paid to the undersigned.

At the sale, the public generally are invited to bid either personally or by duly authorised agent. No officer or other person, having any duty to perform in connection with this sale shall, however, either directly or indirectly bid for, acquire or attempt to acquire any interest in the property sold.

The sale shall be subject to the conditions prescribed in the rules laid down from time to time and to the following further conditions:-

- (i) The particulars specified in the annexed schedule have been stated to the best of the information of the undersigned, but the undersigned shall not be answerable for any error, mis-statement or omission in this proclamation.
- (ii) #The reserve price below which the property shall not be sold at Rs.....
- (iii) The amounts by which biddings are to be increased shall be determined by the officer conducting the sale. In the event of any dispute arising to the amount bid, or as to the bidder, the lot shall at once be again put up to auction.
- (iv) The highest bidder shall be declared to be the purchaser of any lot provided always that he is legally qualified to bid and provided further that *the amount bid by him is not less than the reserve price *it shall be in the discretion of the undersigned to decline acceptance of the highest bid when the price offered appears so clearly inadequate as to make it inadvisable to do so.
- (v) For reasons recorded, it shall be in the discretion of the officer conducting the sale to adjourn it subject always to the provisions of Second Schedule to Income-tax Act, 1961.
- (vi) In the case of a movable property, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs, and in default of payment, the property shall forthwith be again put up and resold.
- (vii) In the case of immovable property, the person declared to be purchaser shall pay immediately after such declaration, a deposit of twenty-five per cent on the amount of his purchase money to the officer conducting the sale and in default of such deposit, the property shall forthwith be put up again and resold. The full amount of the purchase money payable shall be paid by the purchaser to the undersigned on or before the 15th day from the date of the sale of the

property, exclusive of such day, or if the 15th day be a Sunday or other holiday, then on the first office day after the 15th day. In default of payment within the period mentioned above, the property shall be resold, after the issue of fresh proclamation of sale. The deposit, after defraying the expenses of the sale, may, if the undersigned thinks fit, be forfeited to the Employees' Provident Fund Organisation and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

Schedule of property

No . of lot	Description of property to be sold with the names of the co-owners where the property belongs to the defaulter and any other persons as co-owners	Revenue assessed upon the property or any part thereof	Details of any encumbrances to which the property is liable	Claims, if any, which have been put forward to the property, and any other known particulars bearing on its nature and value
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

**Score out whichever paragraph/portion is not applicable*

@Score out portion in italics, if not applicable

#Applies only in the case of auction of immovable property where a reserve price is fixed.

Form No. EPFCP.14
(See paragraph 7.3.35.2)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Certificate of sale of movable property

This is to certify that Shri purchased for Rs..... the undermentioned movable property, **[which is included in the property of(defaulter).....by virtue of the Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961]* at a sale by public auction on the day of in execution of certificate No..... dated drawn up by the undersigned/**[drawn up by the Recovery Officer a certified copy of which certificate has been sent by the said Recovery officer to the undersigned under section 8C of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, specifying that an amount of Rs..... remains to be recovered from]*

Specification of property

Given under my hand and seal at this day of

[Seal]

Officer holding the sale

** Score out portion in italics, if not applicable*

Form No. EPFCP.15
(See paragraph 7.3.41)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

**Order for Payment to the Assessing Officer of Coins And Currency
Notes Attached**

To

Whereas in execution of certificate No..... dated drawn up by the undersigned / *Recovery Officer,, and whereas the said Recovery Officer has sent a certified copy of the certificate to the undersigned under Section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 the following property consisting of current coins/currency notes has been attached:-

- (1) Current coins
- (2) Currency Notes

Whereas, in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated, issued by the Government of India, it is hereby ordered that out of the property so attached Rs..... in current coins and Rs..... in currency notes shall be credited to the

Given under my hand and seal at this day of

(Seal)

Recovery Officer.

**Score out portion in italics, if not applicable.*

Form No. EPFCP.16
(See paragraph 7.4.1)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order of attachment of immovable property

To

*Whereas *you /(defaulter)..... *have / has failed to pay the sum of Rs payable by *you / him in respect of certificate No..... dated..... drawn up by the undersigned

*Whereas *you/.....(defaulter)..... *have / has failed to pay sum of Rs. payable by *you / him in respect of certificate No..... dated forwarded by the Recovery Officer,, to the undersigned ,, and whereas the said Recovery officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 specifying that an amount of Rs..... is to be recovered from *you/the defaulter;

Whereas the undersigned, in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated, issued by the Government of India, orders that you, the said be, and you are hereby, prohibited and restrained until the further order of the undersigned, from transferring or charging the undermentioned property *which is included in the property of defaulter by virtue of the Explanation to sub-section (1) of Section 222 of Income-tax Act, 1961* in any way and that all persons be, and that they are hereby prohibited from taking any benefit under such transfer or charge.

Specification of property

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

* Score out whichever is not applicable.

Employees' Provident Fund Organisation

Score out portion in italics, if not applicable

Employees' Provident Fund Organisation

Form No. EPFCP.17
(See paragraph 7.4.5.2)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Notice for settling a sale proclamation

To

* Whereas in execution of certificate No..... dated drawn up by the undersigned, has ordered the sale of the undermentioned immovable property; #which is included in the property of defaulter by virtue of Explanation to sub-section (1) of Section 222 of the Income-tax Act, 1961.

* Whereas in execution of certificate No..... dated..... forwarded by the Recovery Officer , to the undersigned,, a certified copy of which has been sent by the said Recovery officer to the undersigned under section 8C(2) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, the undersigned has ordered the sale of the undermentioned immovable property #which is included in the property of the defaulter by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961.

You are hereby informed that the day of has been fixed for drawing up the proclamation of sale and settling the terms thereof. You are requested to bring to the notice of the undersigned any encumbrances, charges, claims or liabilities attaching to the said property or any portion thereof.

Specification of property

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

*Score out whichever paragraph is not applicable.

#Score out portion in italics, if not applicable.

Employees' Provident Fund Organisation

Form No. EPFCP.18
(See paragraph 7.4.21.1)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order of confirmation of sale of immovable property

..... purchased for Rs. the immovable property specified below, **which is included in the property of (defaulter) by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961* at a sale held by public auction on the day of 19.. in execution of certificate No dateddrawn up by the undersigned/Recovery officer,, a certified copy of which had been sent by the said Recovery officer to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovery of arrears from The full amount of the purchase money has been paid on

#No application under the Rule 60/Rule 61/Rule 62 of the Second Schedule to Income-tax Act, 1961, which is made applicable for recovery of dues under Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Scheme framed thereunder, under Section 8G of the said Act, has been received for setting aside the sale.

#Application under Rule 60/Rule 61/Rule 62 of the Second Schedule to Income-tax Act, 1961 made by for setting aside the sale has been disallowed by the undersigned.

Accordingly, the said sale is hereby confirmed.

Specification of property

Given under my hand and seal at this ... day of

[Seal]

Recovery Officer.

* *Score out portion in italics, if not applicable.*

Delete the inappropriate words.

Employees' Provident Fund Organisation

Form No. EPFCP.19
(See paragraph 7.4.21.2)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Notice to interested parties to show cause why Sale should not be set aside

To

.....

Whereas the undermentioned property, **which is included in the property of(defaulter)... , by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961* was sold on the day of in execution of certificate No..... dated drawn up by the undersigned/Recovery officer,, a certified copy of which had been sent by the said **Recovery officer to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovery of arrears from ...(defaulter)...*;

And whereas has applied to the undersigned to set aside the sale under Rule 60/Rule 61/ Rule 62 of the Second Schedule to Income-tax Act, 1961, which is applicable for the recovery of dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder, under Section 8G of the said Act.

Take notice that if you have any cause to show why the said application should not be granted you should appear with your proofs before the undersigned on when the application will be heard and determined under the power vested with me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification dated, issued by the Government of India,

Description of property

Given under my had and seal at this day of

[Seal]

Recovery Officer.

Employees' Provident Fund Organisation

**Score out portion in italics, if not applicable.*

Employees' Provident Fund Organisation

Form No. EPFCP.20
(See paragraph 7.4.23)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Certificate of sale of immovable property

This is to certify that has been declared the purchaser at a sale by public auction on the day of of the undermentioned immovable property, * *which is included in the property of ...(defaulter)... by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961, in execution of certificate No..... dated drawn up by the undersigned/Recovery officer,, a certified copy of which had been sent by the said Recovery officer to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovery of arrears from and that the said sale has been duly confirmed by the undersigned under the powers vested with me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated....., issued by the Government of India, and became absolute on the day of*

Specification of property

Given under my hand and seal at this ... day of

[Seal]

Recovery Officer.

**Score out portion in italics, if not applicable.*

Form No. EPFCP.21
(See paragraph 7.4.12)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Certificate to defaulter authorising him to mortgage, lease or sell property

*Whereas in execution of certificate No. ... dated ... drawn up by the undersigned for recovery of arrears from(defaulter)... an order was made on the ... day of for sale of the undermentioned property of #.....;

*Whereas in execution of certificate No..... dated forwarded by the Recovery officer,....., to the undersigned a certified copy of which has been forwarded by the said Recovery officer to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovery of arrears from ...(defaulter)... an order was made on the ... day of ... for the sale of the undermentioned property of #

And the undersigned is satisfied that there is reason to believe that if the sale is postponed the amount of the said certificate may be raised by the said # by mortgage/lease/private sale of the said property or any part thereof and the sale of the undermentioned property has been postponed till the day of ..., subject to the terms as mentioned in the order passed by the undersigned on the ... day of

This is to certify that the said # is hereby authorised to make the proposed mortgage/lease/sale within a period of from the date of this certificate: provided that all moneys payable under such mortgage/lease/sale shall be paid, not to the said #..... but to the undersigned and provided also that no such mortgage/sale/lease shall become absolute until it has been confirmed by the undersigned.

Description of property

Given under my had and seal at ... this ... day of

Employees' Provident Fund Organisation

[Seal]

Recovery Officer.

*Score out whichever paragraph is not applicable.

#Fill in the name of the defaulter, and where the property is included in the defaulter's property by virtue of the Explanation to sub-section(1) to Section 222 of Income-tax Act, 1961, fill in the name of the person referred to in that Explanation.

Form No. EPFCP.22
(See paragraph 7.5.3)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order attaching a business

To

*.....

Whereas certificate No..... dated for recovery of arrears amounting to Rs from you/# has been drawn up by the undersigned, / #the Recovery officer,, and the said Recovery officer has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

Whereas the undersigned, in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated, issued by the Government of India, hereby orders that the business carried on by you under the name and style of at, #which is included in the defaulter's property by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961, be and is hereby attached and you are informed accordingly.

It is hereby further ordered that you, the above said *, be and are hereby, prohibited and restrained from transferring or charging the said business in any way and that all persons whosoever are hereby prohibited and restrained from taking any benefit under such transfer or charge.

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

** Fill in the name of the defaulter and where the business is included in the defaulter's property by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961.*

Score out portion in italics, if not applicable.

Form No. EPFCP.23
(See paragraph 7.3.21.3)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Bond (Sapurdnama)

Statement of Shri aged son of Shri residing at I have received notice in Form EPFCP.1 that arrears amounting to Rs are due from me in respect of certificate No dated drawn up by the undersigned , / *the Recovery officer, , a certified copy of which has been forwarded by the said Recovery officer to Recovery Officer under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, I offer herewith a sum of Rs..... towards the said arrears. Regarding the balance of Rs..... of the arrears as well as costs, expenses and charges amounting to Rs....., I undertake to pay the same in monthly instalments of Rs..... each payable not later than the day of each month commencing from Along with each instalment I also undertake to pay the interest payable under section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. I undertake not to commit any default in the payment of the instalments. I agree that if I commit any default in paying any one of the instalments within the time aforesaid, the entire amount due from me on the date of the default may be recovered in entirety by such measures as the Recovery officer, , considers necessary. I specify herein my assets as on this day and, I agree not to sell, give away, transfer, mortgage, or otherwise alienate or encumber those assets in any way, until the entire amount due from me is paid to the Recovery officer,, in full that in the meanwhile, these assets may continue to remain attached if considered necessary. I also agree to furnish two solvent sureties who will execute a surety bond in the form approved by the Recovery officer, for the due payment by me of the aforesaid dues in instalments as agreed to herein.

Details of assets as on this day

Before me

.....(Signature)

.....(Signature)

.....(name)

.....(Name)

.....(Designation)

Date:

Date:

(Seal)

Employees' Provident Fund Organisation

**Score out portion in italics, if not applicable.*

Employees' Provident Fund Organisation

Form No. EPFCP.24
(See paragraph 7.5.5)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Appointment of a receiver

To

.....

Whereas **which is included in the property of ...defaulter... by virtue of the Explanation to sub-section (1) of Section 222 of the Act 1961* has been attached under an order passed by the undersigned under Rule 69/ Rule 70 of the Second Schedule to Income-tax Act, 1961, which is made applicable for recovery of dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder, under Section 8G of the said Act, in the course of execution of certificate No..... dated drawn up by the undersigned / **Recovery officer, a certified copy of which had been sent by the said Recovery officer to the undersigned under section 8C(2) of the said Employees' Provident funds and Miscellaneous Provisions Act, 1952* for recovery of arrears from

Whereas, in exercise of the power conferred on me, under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No. dated....., issued by the Government of India, you are hereby appointed receiver of the said business/property. Subject to any orders which may be passed by the undersigned in this behalf, you shall have all the powers necessary for the management of the said business/property in accordance with the said Schedule and the rules made thereunder.

You are required to render a due and proper account of your receipts and disbursements in respect of the said business/property in accordance with Part VII of the Income-tax (Certificate Proceeding) Rules, 1962.

You will be entitled to remuneration at the rate of

Your appointment as receiver of the said business/property shall continue in force until further orders of the undersigned and may be cancelled or withdrawn at any time at the discretion of the undersigned.

Employees' Provident Fund Organisation

Given under my had and seal at this day of

[Seal]

Recovery Officer.

**Score out portion in italics, if not applicable.*

Form No. EPFCP.25
(See paragraph 7.6.4)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Notice to show cause why a warrant of arrest should not be issued

To

.....

Whereas you have failed to pay the amount of arrears specified in certificate No..... dated drawn up by the undersigned/**Recovery officer,, a certified copy of which has been forwarded by the said Recovery officer to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for recovery of arrears from you under Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Schemes framed thereunder, and it is proposed to execute the above certificate by arrest and imprisonment of your person;*

Whereas, in exercise of the power conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification No..... dated....., issued by the Government of India, you are hereby required to appear before the undersigned on the day of at A.M./P.M. and to show cause why you should not be committed to the civil prison in execution of the said certificate.

Given under my hand and seal at this day of

[Seal]

Recovery Officer.

**Score out portion in italics, if not applicable*

Form No. EPFCP.26
(See paragraph 7.6.6)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Warrant of arrest

To

.....

Whereas certificate No..... dated was drawn up by the undersigned/**Recovery Officer* for recovery of arrears from ...(defaulter)... of(address)..... *and the said *Recovery officer* has sent to the undersigned a certified copy of the said certificate under section 8C(2) of the *Employees' Provident Funds and Miscellaneous Provisions Act, 1952*, specifying that an amount of Rs..... is to be recovered from the defaulter and the sum of Rs..... as noted below is due from the said defaulter in respect of the said certificate:-

	Rs.	P.
#Certificate amount/specified amount	...	
Cost and charges	...	
Interest upto the date of issue of this warrant	...	
-----		-----
<i>Total</i>		-----

and whereas the said sum of Rs..... has not been paid in satisfaction of the said certificate;

I,, Regional Provident Fund Commissioner / Assistant Provident Fund Commissioner in exercise of powers conferred on me under Section 8B of the *Employees' Provident Funds and Miscellaneous Provisions Act, 1952*, read with the notification no..... dated, issued by the Government of India, command you to arrest the said defaulter and bring him before the undersigned as soon as practicable and in any event within 24 hours of his arrest (exclusive of the time required for the journey) unless the defaulter pays to you the said amount of Rs..... and Rs..... for the cost of executing this process.

You are hereby further commanded to return the warrant on or before the day of with an endorsement certifying the day on which and the manner in which it has been executed or the reason why it has not been executed. In case the defaulter is not found within the jurisdiction of the

Employees' Provident Fund Organisation

undersigned, you are hereby authorised to move the Recovery officer within whose jurisdiction the defaulter may for the time being be found for executing this warrant.

Given under my hand and seal at this ... day of ...

[Seal]

Recovery Officer.

**Score out the portion in italics, if not applicable*

#Delete inappropriate words.

Form No. EPFCP.27
(See paragraph 7.6.12)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Warrant of detention in civil prison

To

The Officer-in-charge of the Civil Prison of

*Whereas has been brought before the undersigned in execution of certificate No..... dated was drawn up by the undersigned for recovery of arrears from him;

*Whereas has been brought before the undersigned under a warrant in execution of certificate No. dated forwarded by the Recovery Officer,, to the undersigned,, for recovery of arrears, a certified copy of which has been forwarded to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, specifying that an amount of Rs..... is to be recovered from him;

And whereas he has not satisfied the undersigned that he is entitled to be discharged from custody and has not paid the amount due from him as detailed below:-

	Rs.
P.	
#Certificate amount/specified amount ...	
Cost and charges ...	
Interest ...	
-----	-----
<i>Total</i>	-----

And whereas the undersigned is satisfied that the said should be committed to the civil prison and an order to that effect has been passed by the undersigned on the day of

Whereas, in exercise of the powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, read with the notification no..... dated....., issued by the Government of India, you are hereby commanded and required to take and receive the said into the civil prison and to keep him imprisoned therein for a period of or until the amount aforesaid is paid to you or until you receive an order of release from the undersigned.

Employees' Provident Fund Organisation

The undersigned does hereby fix Rs. P.... per diem (calculated under rule 90(2) of the Second Schedule to Income-tax Act, 1961, which is made applicable for recovery of dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder, under Section 8G of the said Act as the rate for subsistence allowance of the said during his confinement under this warrant.

Given under my hand and seal at this ... day of ...

[Seal]

Recovery Officer.

*Score out whichever paragraph is not applicable

#Delete inappropriate words.

Form No. EPFCP.28
(See paragraph 7.6.15.6)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Order of release

To

The Officer-in-charge of the Civil Prison of

Under orders passed this day, you are hereby directed to forthwith set free who is now in your custody as a result of the warrant of detention issued by the undersigned on the day of

Given under my hand and seal at ... this day of

[Seal]

Recovery Officer.

Form No. EPFCP.29
(See paragraph 7.6.19.3)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Notice to Legal representative

To

.....

*Whereas certificate No. dated has been drawn up by the undersigned for the recovery of arrears amounting to Rs..... from ...(defaulter).....

*Whereas certificate No..... dated has been forwarded by the Recovery Officer to the undersigned,, for the recovery of arrears amounting to Rs..... from ...(defaulter)... and the said Recovery officer has sent to the undersigned on the day of ... 19.. a certified copy of the said certificate under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, specifying that an amount of Rs..... is to be recovered from the defaulter;

And whereas the said has since died.

Whereas in exercise of powers conferred on me under Section 8B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 read with notification No..... dated issued by the Government of India, you are hereby given notice that steps will be taken under all or any of the provisions of section 8B read with section 8G of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 to recover the said amount from you together with the interest payable under section 7Q of the Act and the costs, charges and expenses incurred in respect of warrant and other processes issued and all other proceedings taken for realising the #arrears/specified amount with costs, charges and expenses incurred so far amounting to Rs..... and the interest aforesaid is paid by you within fifteen days from the date of service of this notice.

[Seal]

Recovery Officer.

* Score out whichever is not applicable

Delete inappropriate words.

Note: Attention is invited to Rule 16 of the Second Schedule to Income Tax Act, 1961 which is reproduced below:

"16. (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to

mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money.

(2) *Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment shall be void as against all claims enforceable under the attachment."*

Form No. EPFCP.30
(See paragraph 7.7.2.3)

Appeal to the recovery commissioner

.....

[Designation of the Recovery Commissioner]

No..... of 19 - 19

[To be filled in the office of the Recovery Commissioner]

1.	Name and address of the establishment	
2.	Code No. of the establishment	
3.	Certificate No.	
4.	(a) Nature of default (b) Period of default (c) Amount	
5.	Recovery officer passing the order appealed against	
6.	Rule and sub-rule of the Second Schedule to the Income-tax Act, 1961 under which the Recovery officer passed the order appealed against	
7.	Date of the order appealed against	
8.	Relief claimed in appeal	
9.	Address to which notices may be sent to the appellant	

Signed
(Appellant)

**Statement of facts
Grounds of appeal**

Signed
(Appellant)

Form of verification

I,, the appellant, do hereby declare that what is stated above is true to the best of my information and belief.

Place:

Signature:

Date:

.....

Employees' Provident Fund Organisation

Notes:

1. The form of appeal, grounds of appeal and the form of verification appended thereto shall be signed by a person in accordance with the provisions of rule 55A(2) of the Income-tax (Certificate Proceeding) Rules, 1962.
2. The form of appeal, statement of facts and the grounds of appeal must be in duplicate.
3. #If the space provided herein for the statement of facts and grounds of appeal is insufficient, separate enclosures may be used for the purpose.

Form No. EPFCP.31
(See paragraph 7.6.20)

OFFICE OF THE RECOVERY OFFICER

.....,

Ref No.....

Dated:.....

Notice to surety

To

.....

Whereas you are surety for the arrears amounting to Rs.... due from in respect of certificate No..... dated drawn up by the undersigned/*the Recovery officer a certified copy of which has been forwarded to the undersigned under section 8C(2) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952; and

Whereas it has become necessary to recover the said arrears from you, you are hereby given notice that steps will be taken under all or any of the provisions of Second Schedule to Income-tax Act, 1961 which is made applicable for recovery of dues under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder, under Section 8G of the said Act, to recover the said amount from you together with the interest payable under section 7Q of the Act and the costs, charges and expenses incurred in respect of warrants and other processes issued and all other proceedings taken for realising the arrears unless the outstanding amount of Rs..... in respect of the certificate together with costs, charges and expenses incurred so far amounting to Rs..... and the interest aforesaid is paid by you within fifteen days from the date of service of this notice.

[Seal]

Recovery Officer.

Note: Attention is invited to Rule 16 of the Second Schedule to Income Tax Act, 1961, which is reproduced below:

"16. (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money.

(2) Where an attachment has been made under this Schedule, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other moneys

Employees' Provident Fund Organisation

contrary to such attachment shall be void as against all claims enforceable under the attachment."

***Score out portion in italics, if not applicable.**