

THE DEBT RECOVERY TRIBUNAL (DRT)

(NPA MANAGEMENT POLICY HOBC 110/221 DT. 06/02/2017)



*Debts Recovery Tribunals and
Appellate Tribunals*

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Bank of India

Relationship beyond banking

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DEBT RECOVERY TRIBUNAL

- ❖ DRT is special quasi-judicial forums established under Recovery of Debts due to Banks and Financial Institution Act, 1993 for speedy recovery of loans.
- ❖ The Act come into effect from 24 June 1993.
- ❖ Presently 39 DRT in India.
- ❖ The Act is applicable throughout India, except J & K.
- ❖ DRT is established only for Banks & Financial Institutions.
- ❖ As per Section 31 on establishment of a DRT no Civil Court or any other authority is to hear the proceeding of eligible cases. (not applicable for High Court & Supreme court).
- ❖ All existing cases are also to be transferred to a DRT.

DRT STRUCTURE

- ❖ DRT is headed by Presiding Officer is in the rank of District Judge. Presiding Officer is appointed by Central Govt. for 5 years & maximum age 62 years.
- ❖ One Registrar to take care of administrative matters. Central Govt. provide the tribunal one or more recovery officer.
- ❖ DRT has Territorial Jurisdiction.
- ❖ DRT jurisdiction covers Recovery of Debts due to of banks and FIs with amount of Rs. 20.00 lakh (Changed from notification of Ministry of Finance dated 6th September, 2018. Earlier it was Rs. 10.00 lakh) or more (Central Government can reduce the amount to Rs. 1 lakh).
- ❖ If another bank has a claim against the same person, then that bank can join the case before the final order is passed subject to separate fees [Section 19(2)].

DEBT RECOVERY APPELLATE TRIBUNALS (DRAT)

- Any person aggrieved by order passed by DRT may appeal to DRAT within 45 days of order received.
- DRAT is headed by Chair Person is in the rank of High Court Judge is appointed by Central Govt. for 5 years & maximum age 65 years.
- For filling appeal, as per Sec. 21 of DRT 50% of the amount to be deposited by the appellant. Chair Person may reduce up to 25% of the deposit amount.
- At present 5 DRATs at Mumbai, Delhi, Kolkata, Chennai & Allahabad are in India.
- The Recovery Officer is empowered to require the debtor to declare on affidavit the particulars of his or its assets.

PLACE OF FILING APPLICATION

The application shall be filed by the applicant with the Registrar within whose jurisdiction the applicant is functioning as a bank or financial institution, as the case may be, for time being.

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PROCEDURE FOR FILING APPLICATION IN DRT

- An application shall be presented in the prescribed Performa.
- Application can be filled online.
- Presented by the applicant in person or by his agent or by a authorised legal practitioner.
- Presented to the registrar of the Bench within jurisdiction his case falls or shall be sent by registered post addressed to the Registrar.

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PROCEDURE FOR FILING APPLICATION

- If sent by post shall be deemed to have been presented to the Registrar the day on receiving date.
- The application shall be presented in four sets.
- An empty file size envelop bearing full address of the respondent .
- Envelops bearing full address of each of the respondents shall be furnished by the applicant.

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DOCUMENTS REQUIRED

Every application shall be accompanied by a paper book containing -

- a. A statement showing details of the Debt due from a Respondent and the circumstances under which such a debt has become due.
- b. All documents relied upon by the applicant and those mentioned in the application.
- c. Details of crossed Bank Draft or Indian Postal Order representing the application fee.
- d. Index of the documents.

Where the parties to the suit or proceedings are being represented by an agent, documents authorising him to act as such agent/ Vakalatnama in case of an Advocate shall also be appended to the application.

APPLICATION FEE

- Every application shall be accompanied with fee provided in sub-rule (2).
- Fee may be remitted either in the form of crossed demand draft drawn in favour of the Registrar and payable at the Registrars office is situated.
- Fee may be remitted through a crossed Indian Postal Order drawn in favour of the Registrar and payable in Central Post Office of the station where a Tribunal is located.

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PRESENTATION & SCRUTINY OF APPLICATION

- The registrar or, as the case may be, the officer authorized by him, shall endorse on every application the date on which it is presented or deemed to have been presented under that rule and shall sign endorsement.
- If on scrutiny the application is found to be in order, it shall be duly registered and give a serial number.

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PROCEDURE AT DRT

- Registrar of DRT is responsible for the Overall Administration of the tribunal.
- He gives Original Application (OA) number and issues summon after scrutinising the application.
- He serves a copy of the application and paper book on each of the respondents.
- The respondent may file 4 complete sets containing the reply to the application along with documents within 1 month (or extended time allowed by the tribunal) of its receipt.

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PROCEDURE BEFORE FILING THE CASE BEFORE DRT

(NPA MANAGEMENT POLICY HOBC 110/221 DT. 06/02/2017)

- ❖ Sell pledged goods after sending reasonable notice to the borrower.
- ❖ In the case of hypothecated goods, take possession of the assets, and sell them after giving them due notice.
- ❖ In the case of LIC policies, surrender such policies and appropriate the surrender value towards the loan account.
- ❖ Set-off the credit balance in any current/savings account and/or TDRs in the name/s of the Borrower/s or Guarantor/s, prior to filing a suit.

PROCEDURE BEFORE FILING THE CASE BEFORE DRT

- ❖ Proceeds of securities such as shares, debentures, NSC, Mutual Fund Securities should be realised and be adjusted against the out standings.
- ❖ Ensure that documents/securities are enforceable against borrowers/guarantors.
- ❖ Don't simply handover files to Advocates for filing Recovery Application before the DRT.
- ❖ Brief the advocate properly by providing a detailed narrative/write-up and by discussing in detail the conduct of the account, documents obtained from time to time, securities created and other relevant information relating to the account.

Peruse the draft application to check the correctness of every facts, figures and relevant details stated in the draft application.

PROCEDURE BEFORE FILING THE CASE BEFORE DRT

- ❖ After checking the correctness of the draft application, the Branch should send the draft application to the Competent Authority for approval along with the copy of the memorandum according approval for legal action in the account and copy of the narrative/write-up provided earlier to the advocate along with the list of documents.
- ❖ After getting approval from the Competent Authority, the Branch should discuss with the advocate about the changes/observations made by the appropriate authority while according approval and finalise the Application for recovery of updated dues of the Bank.

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PROCEDURE WHILE FILING THE CASE IN DRT

- ❖ The Recovery Application, in the prescribed format, complete in all respects should be filed with the DRT within a reasonable time from the date of the Appropriate Authority according approval for legal action.
- ❖ Recovery Application should contain description of all relevant documents and securities charged to the Bank.
- ❖ While filing Recovery Application, Xerox copies of documents only need be given to the Advocates.
- ❖ Original Documents should be retained with the Branch till DRT requires the same.

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PROCEDURE WHILE FILING THE CASE IN DRT

- ❖ Interim reliefs such as injunction against properties, attachment before judgement, appointment of Receiver, Recovery Certificate for admitted dues should be prayed as a rule.
- ❖ Account Extracts should be produced and certified as per the provisions of Bankers Books Evidence Act and be annexed to the Recovery Application.
- ❖ Penal Interest should not be compounded.
- ❖ Costs for preserving the securities prior to filing suit and during the pendency of the suit should be claimed.

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AFTER FILING THE CASE BEFORE DRT

- ❖ If the Recovery Application filed is complete in all respects, DRT gives a serial number; issues summons to borrowers/guarantors called defendants.
- ❖ Serving of summons is very important for quick disposal of the case and the Branch/Advocate should take maximum care to see that summons are served within a period of one month.
- ❖ If summons are served on the defendants, proceedings commence with evidence by way of affidavits filed by the bank followed by cross-examination of Bank's witnesses and vice versa followed by arguments ending up in Recovery Certificates in favour of the Bank.

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AFTER FILING THE CASE BEFORE DRT

- ❖ Evidence by way of affidavits as aforesaid, clarifications/documents required by DRT should be filed in time and no adjournment should be sought on this score. Reply to counter-claims raised by the borrower/s should be filed without delay.
- ❖ Defendants' attempt to take adjournment on various grounds including that their compromise proposal is pending consideration before the Bank should be opposed by the Bank's Advocate.
- ❖ The DRT has the powers to order arrest and detention in civil prison of those defendants who does not obey the orders of the DRT. Wherever the orders of the DRT are disobeyed by the defendant, the Branch should instruct the Bank's Advocate to plead for arrest and detention of such defendant.

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EXECUTION OF RECOVERY CERTIFICATES

- ❖ Recovery Officer of DRT executes Recovery Certificates (RCs) issued by Presiding Officer of DRT.
- ❖ Successful execution of RC depends upon proper details of assets being supplied by the Branch to the Recovery Officer.
- ❖ Branch/Zone should ascertain the asset details by making local enquiries and by perusing the Income Tax/Wealth Returns, CBD 23 etc. of the borrowers/guarantors.
- ❖ Branch/Zone should supply the Assets details within one month of the issuance of the RC.
- ❖ Under Section 28 (4A) of the DRT Act, the Recovery Officer can order any judgement debtor to declare on affidavit his assets. Branch must move application for such an order to get full details of assets.

Wherever Advocates are engaged, the Nodal Officer/ Representative of the Branch/Bank should closely monitor with the Advocate for the purpose of executing the RC.

EXECUTION OF RECOVERY CERTIFICATES

- ❖ Adjudgments sought by judgment debtors (defendants) should be opposed unless there is a letter in writing to that effect from the Competent Authority.
- ❖ Where the Judgment Debtor is entitled to any shares or Debentures in any Company or has deposits in any other Bank or Company, the Bank should initiate "Garnishee" proceedings.
- ❖ In each Zone, an officer has been identified as DRT Liaison Officer pursuant to Ministry Guidelines. The said Liaison Officer should visit DRT every day and report about the progress of the cases before DRT on that day to the Zonal Office.

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EXECUTION OF RECOVERY CERTIFICATES

- ❖ The Asset Recovery Department/Legal Department at different levels should keep a complete track record of the cases before DRT and If any legal complication arises in guiding the Zones, the Asset Recovery Department, can take up the matter with the Legal Department concerned for appropriate guidance.
- ❖ The Recovery Officer has got the power under Section 25 of the DRT Act to recover the amount under the RC by arrest and detention of the Judgment Debtors.
- ❖ Wherever the Branch is convinced that the judgement debtor, though having means, is intentionally avoiding to make payment, the branch may, after obtaining permission from the Authority who had authorized filing of Recovery Application, file Application before the Recovery Officer for arrest and detention of the defaulting judgment debtor.

PROCEDURE AT DRT

- The respondent shall also endorse one copy of the reply along with documents to the applicant.
- If the defendant admits a part of the liability, the bank can request DRT for passing Interim Order for the admitted amount & pursue the balance dues.
- The Presiding Officer is responsible for ordering Injunction or Stay for appointment of Commissioner/ Receiver/ for issuance of a garnishee order or for passing orders for attachment before judgment.

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PROCEDURE AT DRT

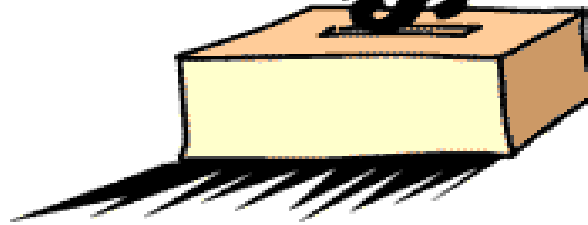
- The Presiding Officer finally issues Recovery Certificate and sends it to Recovery Officer (R.O.) for execution.
- The Recovery Officer shall, on receipt of the Recovery certificate, issue notice to Certificate Debtors, giving 15 days time for payment of the amount specified in the Recovery Certificate.
- If the defendant fails to pay the amount, Recovery Officer will proceed to recover the amount by any one or more of the modes, which are detailed below:-
 - A. Attachment and sale of Movable / Immovable Property of the defendant.
 - B. Arrest and Detention of the defaulter:
 - C. Appointment of Receiver:
 - D. Closing of DRT Application: After full recovery of bank dues, application is closed by R.O.

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APPEAL AGAINST RO AND DRT

- Appeal against order of Recovery Officer to DRT can be made within 30 days of date of order.
- The Tribunals have to decide the claim within six months.
- The appeal against the decision of DRT can be made within 45 days only to DRAT.
- For filling appeal, as per Sec. 21 of DRT 50% of the amount to be deposited by the appellant. Chair Person may reduce up to 25% of the deposit amount.
- The DRAT's decision conclusive.

Suggestions Comments?



Thank You

The words 'Thank You' are written in a large, elegant, cursive font. The letters are a deep red color with a gold outline. The text is surrounded by decorative elements including several red roses with green leaves and two white doves in flight.