

By e-Mail / Fax

**GOVERNMENT OF ODISHA
REVENUE AND DISASTER MANAGEMENT DEPARTMENT**

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From

Sri Nikunja B. Dhal, IAS
Principal Secretary to Government.

To

All Collectors

Sub: Speedy disposal of certificate cases filed under the provisions of the Odisha Public Demands Recovery Act, 1962.

Madam/Sir,

In inviting reference to the above-captioned subject, I am to say that a large number of certificate cases which have been filed under the relevant provisions of the Odisha Public Demands Recovery Act, 1962 (OPDR Act) are pending for disposal at different stages in different Certificate Courts for recovery of dues. Certificate cases involving amount of more than Rs 25 lakhs and cases involving more than Rs 10 lakhs but not exceeding 25 lakhs are tried by Collectors and Sub-Collectors respectively. Review of the status of certificate cases reveals that desired priority is not given for speedy disposal of such cases and huge amount of certificate dues are locked in certificate proceedings to the detriment of Government and financial institutions. Following steps may be taken for effective disposal of certificate cases.

2. On filing of requisition in prescribed manner in office of the Certificate Officer either under section 3 or under section 4(1) of the Act, the Certificate Officer shall sign the certificate after proper verification. Before signing, he shall examine that all particulars are properly filed in wherefrom certificate-debtor can get a clear picture of dues recoverable from him so that no prejudice is caused to the certificate-debtor.

3. U/r 5 of OPDR Rules, 1963, the Requisitioning Officer shall furnish along with the requisition a statement giving the detailed specification of landed properties, if any, proposed to be attached and sold, in execution of the certificate, including information relating to the extent of land, survey or holding and plot numbers, etc. Details of movable properties such as bank accounts shall also be furnished.

4. After signing of the certificate, the Certificate Officer shall cause to be served on the certificate-debtor, a notice u/s 6 of the Act in Form No-3 along with a copy of certificate for filing of show cause. The notice shall be served on the certificate-debtor in person or on his agent empowered to accept service. Where the certificate-debtor cannot be found and has no empowered agent to accept the service of notice on his behalf, notice shall be served on any adult male member of the family of the certificate-debtor who is residing with him. The mode and procedure of service of notice u/s 6 of the Act is clearly prescribed under rule 2 to rule 9 under SCHEDULE-II of the Act. These provisions shall be followed without any deviation.

5. Within 30 days from the date of service of the notice, the certificate-debtor may file petition denying liability. After hearing the petitioner and taking requisite evidence, if necessary, the Certificate Officer can confirm, set aside, modify or vary the certificate as he deems fit.

6. After the period of 30 days from the date of confirmation of demand, the Certificate Officer shall take steps for execution of certificate u/s-13. U/s-15 of the Act, the modes of execution of a certificate can be by (a) attachment and sale, if necessary, of any property or in the case of immovable property by sale without previous attachment (b) arresting the certificate-debtor and detaining him in the civil prison (c) both of the methods mentioned at (a) and (b).

7. However, proviso to section 13 of the Act authorizes the Certificate Officer to attach the whole or any part of the movable property of the certificate-debtor at any time by recording reasons in writing.

8. The detail procedure for attachment and sale of movable property, partnership property and immovable property are provided under rule 13 to rule 52 of SCHEDULE-II of the Act and from rule 7 to rule 43 under OPDR Rules, 1963.

9. Similarly, arrest, detention and release of certificate-debtor in civil prison shall be guided by the provisions as contained from section 37 to section 41 under the Act. No warrant for arrest and detention of the certificate-debtor shall be made without serving a show cause upon him. Finding of the fact that the certificate-debtor is negligent to pay, obstructing or dishonestly removing the property concerned is a precondition for issuing such warrant of arrest. The arrest or detention of women, minors or persons of unsound mind shall not be resorted to. The requisite provisions of subsistence allowance, to be paid by the certificate-holder, as provided u/r 53 of under SCHEDULE-II of the Act shall be strictly adhered to.

9. While the provisions of OPDR Act, 1962 and rules made thereunder are quite elaborate, lingering of the cases for determination of demands will adversely affect the effective recovery of public demands and timely disposal of certificate cases. Frequent adjournment of certificate cases without proper reason is also undesirable.

I would, therefore, request you to take timely and effective steps for recovery of certificate dues by scrupulously following the provisions of the OPDR Act and rules made thereunder.

Yours faithfully,



Principal Secretary