The Adjudicating Authority (Procedure) Regulations, 2013

UNION OF INDIA India

The Adjudicating Authority (Procedure) Regulations, 2013

Rule

THE-ADJUDICATING-AUTHORITY-PROCEDURE-REGULATIONS-2013 of 2013

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The Adjudicating Authority (Procedure) Regulations, 2013Published vide Notification No. G.S.R. 177(E), 18th March, 2013Ministry of Finance(Department of Revenue)(Adjudicating Authority)G.S.R. 177(E). - In exercise of the powers conferred by sub-section (15) of Section 6 of the Prevention of Money-Laundering Act, 2002 (15 of 2003), the Adjudicating Authority, in supersession of the Adjudicating Authority Regulations, 2006, except as respects things done or omitted to be done before such supersession, hereby makes the following regulations regulating its procedure, namely:-

Chapter I Preliminary

1. Short title and commencement.

(1)These regulations may be called the Adjudicating Authority (Procedure) Regulations, 2013.(2)These regulations shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1)Unless the context otherwise requires, -(a)"Act" means the Prevention of Money-laundering Act, 2002 (15 of 2003);(b)"application" means an application filed under sub-section (4) of section 17 or sub-section (10) of section 18 of the Act and includes a miscellaneous application;(c)"Bench" means a Bench of the Adjudicating Authority constituted by the Chairperson of the Adjudicating

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Authority;(d)"complaint" means a complaint made under sub-section (5) of section 5 of the Act;(e)"Form" means a Form appended to these regulations.(2)The words and expressions used herein and not defined in these regulations but defined in the Prevention of Money-laundering Act, 2002 shall have the meanings assigned to them in that Act.

Chapter II Applications and Complaints

3. Filing of applications and complaints.

(1)Every application, complaint, pleading, affidavit and other papers to be filed before the Adjudicating Authority shall be fairly, legibly type-written or printed in Hindi or English on durable white foolscap folio paper of Metric A-4 size (30.5 cms. long and 21.5 cms. wide) on the one side of paper only in double space with left margin of 5 cms. and right margin of 2.5 cms. paginated, indexed and stitched together in the paper book form.(2)The complaint or application shall contain the e-mail address of the complainant or the applicant as the case may be, and the defendants, if available.(3)The complainant or the applicant, as the case may be, shall file a soft copy in CD form, along with the Complaint or Application, as the case may be.

4. Date and signature.

- The complainant or application, as the case may be, shall affix his signature and also state his name in capitals near his signature and initial or sign at the bottom of the each page with date on the last page.

5. Attestation.

- The attestation of document annexed to a complaint or application or reply shall be made at the end of the document in the form given below:"This Annexure is the true copy of the original document",(Signature)Name and Designation of the attester with date

6. Receipt of papers.

- Every pleading, original application, miscellaneous application, original complaint and papers shall be received in the office hours on the working days and the officer in charge of the receiving branch shall issue receipt thereof in Form 1.

7. Date of stamping of papers and maintenance of Inward Register in the following manner.

- The receiving branch shall immediately, on receipt of an or complaint or application other pleading or papers, affix the date and stamp of the Adjudicating Authority on all pages on the main

or first copy and on the first page of each other copy of the application or complaint or other pleading or papers.(1)The official receiving the complaint or application, other pleading or papers shall put his initials on the stamp affixed on the first page of the main or first copy and on the first page of all other copies.

Chapter III

Presentation, Registration Number and Posting for Orders

8. Duty of official authorised to receive application.

- The Official authorised by the Adjudicating Authority to receive the complaint or application under the Act, shall immediately enter in the receipt register and shall put serial number (receipt number) on the application or complaint, as the case may be.

9. Registration and numbering.

(1)The Registrar or Administrative Officer or any officer authorised by the Chairperson of the Adjudicating Authority on examining the complaint or application, as the case may be, shall direct registration.(2)The application ordered to be registered under section 8 shall be numbered as Original Application (O.A.).(3)The complaint ordered to be registered under section 8 shall be numbered as Original Complaint (O.C.).(4)Other miscellaneous applications ordered to be registered shall be numbered as Miscellaneous Application (M.A.).

10. Cause list.

(1)A daily cause list in Form 2 containing cases fixed for hearing on a day by the Adjudicating Authority shall be prepared under the signature of Registrar or Administrative Officer in triplicate and shall be pasted on the previous working day on the notice board of the Adjudicating Authority.(2)The Registrar or Administrative officer or officer authorised in this behalf by the Adjudicating Authority shall maintain a file of daily cause list and preserve for one year which shall be destroyed at the end of the next calendar year.

11. Procedures to be followed by Registrar.

(1)The Registrar shall have the custody of records of the Adjudicating Authority and shall exercise such other functions including weeding out of old records as may be assigned to him under these regulations by the Chairperson.(2)Subject to any general or special order of the Chairperson, the Registrar shall-(a)receive all complaints and applications and miscellaneous applications as well as the other documents;(b)endorse on such complaints and applications the date of receipt;(c)check whether the complaints or applications are barred by limitation;(d)fix the date of hearing of the complaint and application subject to the directions of the Chairperson or Senior Member or Member of the Bench, as the case may be and direct the issue of notices therefor;[***] [Omitted '(e)

bring on record legal representatives, in case of death of any party, to proceedings;' by Notification No. G.S.R. 515 (E), dated 24.5.2017 (w.e.f. 18.3.2013)];(f)verify the service of notice or other processes and to ensure that the parties are properly served;(g)requisition on the direction of Adjudicating Authority records from the custody of any authority;(h)allow inspection of records of the Adjudicating Authority;(i)return the documents filed by any authority on orders of the Bench;(j)certify and issue copies of the orders of the Adjudicating Authority to the parties;(k)grant certified copies of documents filed in the proceedings to the parties, in accordance with these regulations;(l)ensure that remand reports are submitted in time whenever called for by the Bench by issuing necessary reminders to the authority concerned.

12. Court Master to assist Bench.

- The Court Master, while performing his duties under the Act, shall assist the Bench during hearing of cases and perform such other functions incidental thereto.

Chapter IV Service of Summons and Notices

13. [Issue of summon and notice. [Substituted by Notification No. G.S.R. 515 (E), dated 24.5.2017 (w.e.f. 18.3.2013)]

(1) Every summon or notice shall be issued in Form 3 or Form 4 or Form 5 or Form 6, as the case may be, and signed by the Registrar or Administrative Officer.(2) Every summon and notice shall be served by the complainant or applicant upon the defendant or respondent along with complete relied upon documents in a bound paper book and an affidavit of service along with proof of service shall be filed by the person affecting such service.(3)(a)The service of summon or notice upon the defendant or respondent may ordinarily be made by,-(i)Dasti i.e. delivering or tendering personally; or(ii)registered post acknowledgement due (AD), or by speed post or courier service; or(iii)Electronic mail (e-mail) or by fax message.(iv)If any summon or notice, when tendered, is refused or if the person on whom the summon to be served refuses to sign an acknowledgment of service, then the complainant or applicant shall make a report to this effect and in such event, such summon or notice shall be deemed to have been served. (4) If for any reason the such summon or notice can not be served personally, the complainant or applicant may serve the same by affixing a copy of the summon on the outer door or some other conspicuous part of the house or office in which the defendant/respondent resides or carries on business or personally works for gain, and shall then return the original to the Registrar or Administrative Officer, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, in whose presence the copy was affixed and the Authority issuing the summon or notice shall in that event declare that the summon has been duly served on the defendants or respondents. (5) Where the notice is to be served upon a company, corporation or firm, it may be served upon the Secretary, Director or other principal officer of the company or corporation at its registered office or the concerned corporate office or upon the proprietor or partner of the firm at the address of the firm. (6) In a proceeding relating to

any business or work against a person who does not reside within the jurisdiction of the Adjudicating Authority the service of summon or notice may be made on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, which shall be deemed good service. (7) Where the defendant or respondent is confined in a prison, the summon ornotice shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the defendant or respondent. (8) Where the defendant or respondent resides out of India and has no agent in India empowered to accept service, the summon shall be addressed to the defendant or respondent at the place where he is residing and sent to him by post or by courier or by email or by fax.(9)Where the Central Government has, by notification in the Official Gazette, declared in respect of any foreign territory that summon or notice to be served on defendants or respondents actually and voluntarily residing or carrying on business or personally working for gain in that foreign territory may be sent to an officer of the Government of the foreign territory specified by the Central Government the summon or notice may be sent to such officer, through the Ministry of the Government of India dealing with foreign affairs or in such other manner as may be specified by the Central Government; and if such officer returns, any such summon or notice with an endorsement purporting to have been made by him that the summon or notice has been served on the defendant, such endorsement shall be deemed to be evidence of service.(10)Where a counsel accepts the summon or notice on behalf of any defendant or respondent and files, the vakalatnama or authority on his behalf, service of summon or notice upon such defendant or respondent shall be dispensed with.(11)Notwithstanding anything in sub-regulation (3), a summon or notice may be communicated through electronic mode as provided in section 13 of the Information Technology Act, 2000 (21 of 2000) and transmission of such communication shall be regarded as valid service. Note: Section 13 of the Information Technology Act is appended to these rules as Annexure 1.]

13. Issue of summons and notices.- (1) Every summon or notice shall be issued in Form 3 or Form 4 or Form 5 or Form 6, as the case may be, signed by the Registrar or Administrative Officer.(2) Every summon and notice shall be served in the same manner as provided in Order V of Schedule I of the Civil Procedure Code, 1908 (5 of 1908), and the provisions of that Order shall apply,mutatis mutandis, to the proceedings before the Adjudicating Authority:Provided that there shall be no requirement of an application as provided under sub-rule (1) of rule 9A of the Order V of Schedule I of the Civil Procedure Code, 1908 (5 of 1908) for the purpose of service of summon or notice, as the case may be:Provided further that there shall be no requirement of an order of the Adjudicating Authority as provided under rule 20 of the Order V of Schedule I of the Civil Procedure Code, 1908 (5 of 1908) for effecting substituted service.(3) Notwithstanding anything in sub-regulation (2), a summon or notice may be communicated through electronic mode as provided in section 13 of the Information Technology Act, 2000 (21 of 2000) and transmission of such communication shall be regarded as valid service.

14. [Bringing legal representatives on record. [Substituted by Notification No. G.S.R. 515 (E), dated 24.5.2017 (w.e.f. 18.3.2013)]

- In case defendant or respondent dies during the pendency of proceedings, his legal heirs shall be broughton record by the complainant or applicant by making such heirs as defendant or respondent to the proceedings.]

14. Steps for fresh summon and notice.- If any summon or notice is returned unserved, the complainant or applicant shall take steps for service of summon or notice, as ordered, failing which, the matter shall be placed before the Bench hearing the case.

15. Filing of reply to notice.

(1)The reply shall be filed by the defendants on or before the date fixed for hearing, with a copy delivered to the complainant or applicant, as the case may be.(2)[The reply of the defendant or respondent shall not be entertained after the date fixed for hearing.] [Substituted '(2) Ordinarily, no reply shall be entertained after the date stipulated above.' by Notification No. G.S.R. 515 (E), dated 24.5.2017 (w.e.f. 18.3.2013)](3)The reply shall contain the e-mail address of the defendant.

16. Inspection of records.

(1)Inspection of records, upon the application in Form 7 shall be allowed under the orders of the Chairperson of the Adjudicating Authority, or the Registrar or the Administrative Officer, as the case may be.(2)On grant of application for inspection of the records, the Administrative Officer or an officer authorized in that behalf shall arrange to procure the records of the case and allow inspection of such records on the date and time fixed by the Registrar in the presence of the officer authorized by the Registrar.(3)The officer supervising inspection may, at any time, prohibit further inspection, if in his opinion any of the records are likely to be damaged in the process of inspection.

17. Fees for inspection of records.

(1) Fees for inspecting records and registers of the Adjudicating Authority shall be-(a) one hundred rupees for the first hour of inspection or part thereof; and(b) fifty rupees for every additional hour of inspection or part thereof.(2) Fees for inspection shall be recovered in advance in cash.

18. Fees for copying.

(1) Fees for supply of certified copies of the documents shall be charged at the rate of twenty rupees for a full page or part thereof, irrespective of whether the copy is typed or xeroxed.(2) Except in cases where copies are supplied free under the rules or instructions for the time being in force and in cases covered by sub-rule (3), the fees to be charged for the supply of copies on urgent basis shall be twice the rate specified in sub-rule (1).(3) Where a party applies for urgent supply of a copy of evidence taken down by a stenographer, the fee charged shall be five times the rate specified in sub-rule (1).(4) Fees for supply of certified copies, whether typed or xeroxed, shall be recovered in advance in cash.

19. Maintenance of applications for inspection.

- Every application for inspection of records shall be maintained by the officer authorised by the Chairperson of the Adjudicating Authority and he shall obtain therein the signatures of the persons making such inspection.

Chapter V

20. Dress for Chairperson, Members of Adjudicating Authority and representatives of parties.

(1) The Chairperson and Members of the Adjudicating Authority and representatives of the parties shall, while attending the proceedings of the Authority wear the dress specified in this regulation.(2) The dress for Chairperson and Members of the Adjudicating Authority, in case of summer season, shall be white shirt, white trouser with black coat, a black tie or a buttoned-up black coat:Provided that in case of winter season, striped or black trousers may be worn in place of white trousers: Provided further that in case the Chairperson or Member, is a woman, such Chairperson or Member may wear black coat over white saree or white trouser both in summer and winter seasons.(3) The dress for the authorised representatives of the parties (other than a relative or regular employee of the defendant) appearing before the Adjudicating Authority shall be a suit with a tie or buttoned-up coat preferably in black colour over a pant or a long buttoned-up coat on dhoti or churidar pyjama: Provided that a woman representative may wear, black coat over white or any other sober coloured saree: Provided further that if the authorised representatives belong to a profession, like, lawyers or Chartered Accountants and a dress for appearing in their professional capacity before any court, tribunal or other authority, has been specified, then, such representative may, appear before the Adjudicating Authority in that dress, in lieu of the dress specified in this sub-regulation.(4)All other persons appearing before the Adjudicating Authority shall be properly dressed.

21. Examination of witness and the issue of commissions.

- The provisions of the Code of Civil Procedure, 1908 (5 of 1908) relating to the issuing of commissions for examination of witnesses and documents shall, as far as may be applicable, apply in the matters of summoning and enforcing attendance of any person as witness and issuing a commission for examination of such witness.

22. Recording of deposition.

- The deposition of the witness whenever necessary shall be recorded in Form 8. A Certificate of attendance, if requested for, will be issued in Form 9.

23. Numbering of witness.

- The witness called by the applicant shall be numbered consecutively as P.Ws and those by the defendant or any other persons not being applicants as D.Ws. and any witness examined at the instance of the complainants shall be numbered consequently as C.Ws, and the witness called by the Adjudicating Authority shall be numbered as A.Ws.

24. Witness expenses payable.

- The Adjudicating Authority may, if it considers necessary, direct the concerned party for the payment of expenses to the witness, as the case may be.

25. Marking of documents.

- Every document filed by the applicant shall be marked as Ex. A1 and the document filed by the complainant shall be marked as Ex. C1 and the documents filed by the defendants or other person not being applicant shall be marked as Ex. D1 and so on.

Chapter VI Orders

26. Issue of Order.

(1) The order supported by reasons recorded shall be pronounced in open court and on the date fixed in that behalf.(2) Every sheet of the order shall bear the signature of the Chairperson and Members constituting the Bench.

27. Copy of order to be delivered on date of its pronouncement.

- If the parties or representatives of the parties remain present on the date of pronouncement of the order, a copy of the order, if ready, shall forthwith be delivered to the parties or the representatives of the parties present under their signatures and in that case, it shall not be necessary to send again the copy of the order to the parties present.

28. Indexing of case files.

(1)The officer concerned shall, on the disposal of an application or complaint, as the case may be, and on communication of the order to the parties or their representative, arrange the record with paging and prepare the index sheet in Form 10 and, thereafter, he shall affix his initial and transmit the record with the index enclosures in the record book, maintained in Form 11.(2)The Record-Keeper shall examine the record with general index and if the record is found to be in order, a note shall be given in the index to that effect and in case, any defect is found, the same shall be reported to the Administrative Officer or the officer authorised by the Chairperson of the Adjudicating Authority, who shall direct the concerned officer to make necessary corrections.(3)After completion of the examination of record, the list of the records shall be kept in a file and [***] [Omitted 'ordinarily' by Notification No. G.S.R. 515 (E), dated 24.5.2017 (w.e.f. 18.3.2013)] at the end of the calendar year, the list shall be bound up so as to constitute a register of decided cases.(4)The record shall be kept in bundles and a label, showing the month and year of the decision or order, shall be attached to each bundle.

Chapter VII Grant of Certified Copies

29. Application for certified copy.

(1)An application for a copy shall be filed in the Form 12 by the parties along with required copying fee.(2)The copying fee (referred to in sub-regulation (1) shall be payable in the form of demand draft drawn in favour of administrative officer payable at the place of the Bench of the Adjudicating Authority and is non-refundable.

30. Endorsement of a copy.

- Every copy shall bear the following particulars, namely:-(i)Number of the application entered in the register;(ii)Name of the applicant;(iii)Day, month and year of the application;(iv)Amount of copying fee paid;(v)Name of the copyist;(vi)Date fixed for issue of copy;(vii)Date on which copy was ready;(viii)Date of notice to applicant;(ix)Date of delivery or posting of the copy.[Annexure 1 [Substituted by Notification No. G.S.R. 515 (E), dated 24.5.2017 (w.e.f. 18.3.2013)]Time and place of dispatch and receipt of electronic record(1)Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.(2)Save as otherwise agreed between the originator and the addressee, the time of receipt of electronic record shall be determined as follows, namely:-(a)If the addressee has designated a computer resource for the purpose of receiving electronic records-(i)Receipt occurs at the time when the electronic, record enters the addressee:(ii)If the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee:(b)If the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electric record enters the computer resources of the addressee.(3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to the dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.(4)The provisions of sub-sections (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).(5)For the purposes of this section,-(a)If the originator of the addressee has more than one place of business, the principal place of business, shall be the place of business:(b)If the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business;(c)"usual place of residence", in relation to a body corporate, means the place where it is registered.]Form 1[see regulation 6]Receipt SlipAn application / complaint has been received on from ShriSignature of Authorized Official / OfficerForm 2[see regulation 10(1)]Daily Cause ListAdjudicating AuthorityDate:

Serial	Application	Name of	Name of	Name of	Name of	Posted
Number	Number	Applicant or	Defendants	Applicant's or	Defendant's	for
		Complainant		Complainant's	Counsel	

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Counsel

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Form 3[see regulation 13(1)]Before the Adjudicating AuthorityUnder the Prevention of Money -Laundering Act, 2002) New Delhi Notice to Show Cause......ComplainantVersus..... Defendants Above named Complainant has filed a complaint under sub-section (5) of section 5 of the Prevention of Money-laundering Act, 2002 (15 of 2003) against you. You are called upon to indicate the source of your income, earning or assets out of which or by means of which you have acquired the property attached under sub-section (1) of section 5 of the Prevention of Money laundering Act (15 of 2003), 2002 the evidence on which you rely and other relevant information and particulars and show cause why all or any of such property should not be declared to be the properties involved in money laundering and consequently why the attachment order should not be confirmed.orYou are called upon to show cause why the provisional attachment order in respect of properties should not be confirmed as representing proceeds of crime being value of properties involved in money laundering. You are directed to appear before the Adjudicating Authority in person or through an advocate/authorized representative, duly instructed on day of year at (time), at(place), failing which the Complaint shall be heard and decided in your absence. Given under my hand and the seal of the Adjudicating Authority, this day ofRegistrar/Administrative OfficerAdjudicating Authorityaddress: 13(1)]Before the Adjudicating Authority(Under the Prevention of Money-Laundering Act, 2002)New DelhiNotice To Show Cause..... ApplicantVersus...... DefendantsAbove named applicant has filed an application under section (10) of section 18 read with section 17(4) of Prevention of Money Laundering Act 2002 (15 of 2003) against you. You are called upon to show cause why the properties or records seized or frozen under section 17 should not be retained as involved in money laundering and required for the purposes of confiscation under Prevention of Money-laundering Act 2002 (15 of 2003). You are directed to appear before the Adjudicating Authority in person or through an advocate/authorized representative, duly instructed on day of year at (time), at (place), failing which the Application shall be heard and decided in your absence. Given under my hand and the seal of the Adjudicating Authority, this day ofRegistrar / Administrative OfficerAdjudicating AuthorityAddress: the Adjudicating Authority (Under the Prevention of Money - Laundering Act, 2002) New DelhiNotice to Show Cause(Under the 3rd proviso of Section 8(1) of Prevention of Money laundering Act, 2002)...... Applicant/ ComplainantVersus...... DefendantsAbove named Complainant has filed a complaint under sub-section (5) of section 5 of the Prevention of Money Laundering Act, 2002 (15 of 2003). Above named applicant has filed an application under section (10) of section 18 read with section 17(4) of Prevention of Money Laundering Act 2002 (15 of 2003) against you. Whereas it appears that you have claimed the property provisionally attached under section 5(1) or seized or frozen under section 17 of Prevention of Money - laundering Act 2002 (15 of 2003). You are hereby called upon to indicate and to show cause why such Property/properties should not be declared to

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be the properties involved in money laundering, and why the order of provisional attachment or seizure or frozen should not be confirmed. You are directed to appear before the Adjudicating Authority, Prevention of Money Laundering, in person or through an advocate/authorized representative, duly instructed on
Regulation 13(1)](under section 11 of Prevention of Money - laundering Act, 2002)Ref:- OC./ OA No
your attendance is required to examine you on oath / for production of records / for receiving evidence on affidavit in the above mentioned case you are hereby required to appear personally / through Authorized Representative before this Authority on the
1.
2.
3.
4.
Form 7[see regulation 16(1)]Application for Inspection of RecordsToThe Registrar / Administrative Officer,Adjudicating Authority,New Delhi.Kindly grant permission to inspect the record of the case mentioned below.Particulars of the record for which inspection is sought.(i)Kind of case.(ii)Number and year.(iii)Name of Parties.(iv)Dated of decision (or hearing), if pendingOrder of the Registrar / Administrative OfficerSignature of the Applicant/Defendant/ Counsel / Authorized AgentOffice Report:Inspection commenced at
Inspection fee already paid with application RsAdditional
fee, if any, paid
RsSignature of the ClerkDateForm 8[see regulation 22]Before Adjudicating AuthorityOriginal Application

NoStatement of WitnessOath AdministeredName											
Part De	escription of pape	er No. of sheets	s in paper	State of do	ocument Date of	weedig Rem	arks				
the Adju	I[see regulation 2 udicating Author Number ate of and year isposal of suit of case	ty, in the mont s Date of	h of		e Record RoomLis	st of cases di Remarks Particulars	Number				
Form 12[see regulation 29(1)]Application for copy of recordToThe Registrar / Administrative Officer,Adjudicating Authority,New Delhi.Applicant/ Case No											