

**Goa, Daman And Diu Public Moneys (Recovery Of Dues) Act,
1986**

10 of 1987

[22 May 1987]

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AN ACT to provide for the speedy recovery of certain classes of dues payable to the State Government, Financial Corporations and other Corporations owned or controlled by the State Government, Government Companies and nationalised and other Banks. Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty- -seventh Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Goa, Daman and Diu Public Moneys (Recovery of Dues) Act, 1986.
- (2) It extends to the whole of the Union territory of Goa, Daman and Diu.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Agriculture" includes horticulture, raising of crops, grass or garden produce, animal husbandry, dairy farming, poultry farming and breeding of livestock;

(b) "Bank" means-

(i) a banking company as defined in the Banking Regulation Act, 1949;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iv) a corresponding new bank constituted, under the Banking Companies (Acquisition and Transfer of undertakings) Act, 1970;

(v) any banking Institution notified by the Central Government under section 51 of the Banking Regulations Act, 1949;

(vi) any other financial institution notified by the State Government by a notification in the Official Gazette as a bank for the purposes of this Act.

(bb) Collector means the Collector of a district and includes any other officer appointed by the State Government to exercise and perform all or any of the powers and functions of a Collector under this Act;].

(c) "Corporation" means the Financial Corporation established or functioning in this Union territory and includes any other Corporation owned or controlled by the Central or the State Government specified by the State Government by a notification in the Official Gazette.

(d) "Financial Assistance" means any kind of financial assistance given:-

(i) for establishing, expanding, modernising, renovating or running any industrial undertaking; or

(ii) for the purpose of vocational training; or

(iii) for the development of agriculture or agro industry; or (iv) for the purpose of any kind of planned development recognised by the State Government; or

(v) for relief against distress caused by fire, or serious drought, flood or other natural calamities; or

(vi) for the purpose of carrying out any Government sponsored scheme; or

(vii) for any other prescribed purpose.

(e) "Government Company" means a Government Company as

defined under section 617 of the Companies Act, 1956.

(f) "Industrial concern" shall have the same meaning as is assigned to that expression in the State Financial Corporation Act, 1951.

(g) "Industrial undertaking" includes any undertaking for the manufacture, preservation, storage or processing of goods or the generation or distribution of electricity or any other form of energy, or for the development of any contiguous area of land as an industrial estate.

Explanation:- The expression "processing of goods" includes any act or process for producing, repairing or making an article by subjecting any material to a manual, chemical, electrical or any other like operation;

(i) "prescribed" means prescribed by rules made under this Act.

(ii) "Government sponsored scheme" means a scheme sponsored or adopted by the State Government or an Officer authorised by it in this behalf for development of agriculture or industry and notified as such by the Government or the authorised officer, by a notification in the Official Gazette for the purpose of this Act.

(h) "State Government" means the Government of Goa, Daman and Diu.

3. Recovery Of Dues As Arrears Of Land Revenue :-

(1) Where any person is a party-

(a) to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire purchase of goods sold to him by the State Government, the Corporation or as the case may be, the Government Company by way of financial assistance; or

(b) to any agreement relating to a loan, advance or grant given to him relating to credit in respect of, or relating to hire purchase of goods sold to him by a Bank or Government Company, as the case may be under Government sponsored scheme; or

(c) to any agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern; or

(d) to any agreement providing that any money payable thereunder to the State Government or the Corporation shall be recoverable as arrears of land revenue [under the provisions of the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969)]; and such person-

(i) makes any default in payment of the loan or advance of any

instalment thereof; or

(ii) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in the refund of such grant or portion or any instalment thereof, or

(iii) otherwise fails to comply with the terms of the agreement-then, in the case of the State Government such Officer as may be authorised in that behalf by the State Government by notification in the Official Gazette, in the case of a Corporation or a Government Company, the Managing Director thereof or where there is no Managing Director, the Chairman thereof, by whatever name called, and in the case of a Bank, the local agent thereof by whatever name called, may send to the Collector a certificate as early as possible in the prescribed form mentioning the sum due from such person and requesting that such sum may be recovered as if it were an arrear of land revenue 3 [under the provisions of the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969)].

(2) The Collector on receiving the certificate shall after making such enquiries (including giving hearing to the party affected) as he deems fit proceed to recover the amount stated therein as aforesaid as arrears of land revenue 4 [under the provisions of the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969)].

(3) On recovery of any amount under sub-section (2), the same shall be paid over to the State Government, Corporation, Government Company or as the case may be, bank after deducting, except in the case of amount to be paid to the State Government; such portion of the amount realised, as cost of collection, as the Collector, may deem to be reasonable.

(4) No suit for the recovery of any such due as aforesaid shall lie in a Civil Court against any person referred to in sub-section (1) and no injunction shall be granted by a Civil Court in respect of any action taken or intended to be taken in pursuance of the right conferred by this section.

4. Interest Of State Government, Corporation, Etc. Not To Be Affected :-

(1) Nothing in section 3 shall-

(a) affect any interest of the State Government, the Corporation or the Government Company or any bank in any property, created by any mortgage, charge, pledge, or other encumbrance; or

(b) bar a suit or affect any other right or remedy against any

person other than a person referred to in that section, in respect of a contract of indemnity or guarantee entered into in relation to an agreement referred to in clause (a).

(2) Where the property of any person referred to in section 3 is subject to any mortgage, charge, pledge, or other encumbrance in favour of the State Government, the Corporation, a Government Company or a Bank then-

(a) in every case of a pledge of goods, proceedings shall first be taken for sale of the goods pledged and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance as if it were an arrear of land revenue:

Provided that where the Collector is of the opinion that it is necessary so to do for safeguarding the recovery of the sum due to the State Government, Corporation, Government Company or Bank, as the case may be, he may, for reasons to be recorded direct proceedings to be taken for the recovery of the sum due as if it were an arrear of land revenue before or at the same time the proceedings are taken for sale of the goods pledged.

(b) in every case of mortgage, charge or other encumbrance of immovable property the said property or as the case may be the interest of the defaulter therein, shall first be sold in proceedings for recovery of the sum due from that person as if it were an arrear of land revenue, and any other proceedings may be taken thereafter only if the Collector certifies that there is no prospect for realisation of the entire sum due through the first mentioned process within reasonable time.

5. Act Not To Debar Recovery Of Dues In Respect Of Financial Assistance Given By The Bank To Agriculturist :-

Subject to the provisions of sub-section (3) of section 3, nothing in this Act shall debar the recovery of dues in respect of financial assistance given by a bank to an agriculturist or the security of a charge or mortgage created by the agriculturist on any land or interest therein in favour of the bank, where such dues are recoverable by the Bank under the provisions of any other law for the time being in force.

6. Power To Make Rules :-

(1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publications, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the

foregoing powers, such rules may be made for all or any of the following matters, namely:-

- (a) any other purpose to be prescribed under sub-clause (vii) of clause (d) of section 2.
- (b) the form of certificate to be sent under sub-section (1) of section 3.
- (c) any other matter which is to be or may be prescribed.

7. Suits In Civil Courts To Abate :-

All suits of the nature referred to in sub-section (4) of section 3 pending in any Civil Court immediately before the commencement of this Act shall abate upon such commencement so however that such abatement shall be without prejudice to the right of the State Government, Corporation, Government Company or Bank, as the case may be, to recover any sum which may be the subject matter of such suit in accordance with the provisions of this Act, or any other law for the time being in force.