THE PREVENTION OF MONEY-LAUNDERING (TAKING POSSESSION OF ATTACHED OR FROZEN PROPERTIES CONFIRMED BY THE ADJUDICATING AUTHORITY) RULES, 2013[1]

In exercise of the powers conferred by sub-section (1) read with clause (ee) of sub-section (2) of section 73 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government hereby makes the following rules relating to the procedure and manner of taking possession of attached or frozen properties confirmed by the Adjudicating Authority, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Prevention of Money-laundering (Taking Possession of Attached or Frozen Properties Confirmed by the Adjudicating Authority) Rules, 2013.

(2) They shall come into force on the date[2] of their publication in the Official Gazette.

2. **Definitions.**—(1) In these rules, unless the context otherwise requires,—

(a) "Act" means the Prevention of Money-laundering Act, 2002 (15 of 2003);

(b) "Adjudicating Authority" means an Adjudicating Authority appointed under sub-section (1) of section 6 of the Act;

(c) "attachment" means prohibition of transfer, conversion, disposition or movement of property by an order issued under sub-section (1) of section 5 of the Act;

(d) "Authorized Officer" means an officer authorized by the Director under sub-section (1) of section 5 of the Act;

(e) "Form" means the Forms appended to these rules;

(f) "frozen" means a record or property frozen under sub-section (1A) of section 17 of the Act;

(g) "order" means an order made by the Adjudicating Authority under sub-section (3) of section 8 of the Act; and

(h) "section" means a section of the Act.

(2) All other words and expressions used and not defined in these rules, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. **Procedure relating to possession.**—Where the provisional order of attachment made under sub-section (1) of section 5 of the Act or order for retention of property or records seized or frozen under section 17 or section 18 has been confirmed by the Adjudicating Authority under sub-section (3) of section 8, the

---

1. *Vide* G.S.R. 558(E), dated 19th August, 2013, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), No. 416, dated 19th August, 2013.

2. Came into force on 19-8-2013.

Director or any other officer authorised by him in this behalf shall forthwith take the possession of the property or record in the manner prescribed in these rules.

4. Manner of taking possession of movable property.—(1) Where the attached property confirmed under sub-section (3) of section 8 of the Act is a movable property, the authorized officer shall take physical possession of such property and deposit it in a warehouse or a storage place.

(2) Where the attached property confirmed by the Adjudicating Authority, is liable to speedy and natural decay or the expense of maintenance is likely to exceed its value, the authorized officer shall sell such property with the leave of the concerned Special Court or Adjudicating Authority, as the case may be, and deposit the sale proceeds in the nearest Government Treasury or branch of the State Bank of India or its subsidiaries or in any nationalised bank in fixed deposit and retain the receipt thereof:

Provided that where the owner of the property furnishes the fixed deposit receipt of a nationalised bank equivalent to the value of property in the name of Director of Enforcement, the authorised officer may accept and retain such fixed deposit receipt as security and send a report to the Special Court or Adjudicating Authority, as the case may be, for information and appropriate action:

Provided further that where the movable property is a mode of conveyance of any description, the authorised officer, after obtaining its valuation report from the Motor Licensing Authority or any other authority, as the case may be, may accept and retain the fixed deposit receipt of a nationalised bank equivalent to the value of the movable property as security in the name of Director of Enforcement and send a report to the Special Court or Adjudicating Authority, as the case may be, for information and appropriate action.

(3) Where the attached property confirmed by the Adjudicating Authority consists of cash, government or other securities or bullion or jewellery or other valuables, the authorized officer shall cause to deposit it in a locker in the name of the Director of Enforcement or in the form of fixed deposit receipt, as the case may be, in State Bank of India or its subsidiaries or in any nationalised bank and retain the receipt thereof.

(4) Where the attached property confirmed by the Adjudicating Authority is in the form of shares, debentures, units of mutual fund or instruments, the authorised officer shall cause to get such shares, debentures, units of Mutual Fund or instruments to be transferred in favour of the Director of Enforcement.

(5) Where the property confirmed by the Adjudicating Authority is in the form of money lying in a bank or a financial institution, the Authorized Officer shall issue a direction to the bank or financial institution, as the case may be, to transfer and credit the money to the account of the Directorate of Enforcement.

5. Manner of taking possession of immovable property.—(1) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., a notice shall be issued to the Registrar having jurisdiction of the area alongwith the provisional attachment order and order of the Adjudicating Authority confirming such attachment requiring the Registrar not to transfer or create any interest in such property until further orders and a copy

of the order confirming the attachment shall be affixed at a conspicuous part of the property;

(2) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., and is occupied by the owner, the authorized officer shall issue a notice of eviction of ten days so as to prevent the person from enjoying such property and after issuing of such notice if the premises is not vacated within the stipulated time, such occupant shall be evicted and the possession shall be taken by seeking the assistance of the local Authorities in terms of section 54 of the Act;

(3) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., and is given on lease or rent to a third party which is registered in accordance with the provisions of section 17 of the Registration Act, 1908, the authorized officer shall issue a direction to the occupant to pay the lease amount or rent in the form of Demand Draft payable to the Directorate of Enforcement;

(4) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., and is given on lease or rent to any third party where the registration is optional in accordance with the provision of section 18 of the Registration Act, 1908, the authorized officer shall proceed to get the premises vacated and the possession shall be taken by seeking the assistance of local Authorities in terms of section 54 of the Act;

(5) Where the immovable property confirmed by the Adjudicating Authority is in the form of a land, building, house, flat, etc., and is under joint ownership, the authorized officer may accept the equivalent value of fixed deposit to the extent of the value of the share of the concerned person in the property estimated by the authorized officer, to be involved in money laundering; and

(6) Where the immovable property confirmed by the Adjudicating Authority is in the form or nature of productive asset or an establishment which is producing goods or a factory, etc., and where the manufacturing process or activity is being carried out, the authorized officer may take possession with a direction to the person in-charge of the concerned establishment or factory that gross income and any other monetary benefits which accrue there from shall be deposited in the account of the Directorate of Enforcement.

6. **Mode of serving of notice.**—(1) The authorized officer shall serve a notice on all the concerned parties for taking possession of immovable property in Form I, appended to these rules and affix the same at conspicuous part of such property and shall also be served by publication in a local newspaper.

(2) The authorized officer, for taking possession of property which is in the nature of productive asset, shall serve a notice on all concerned parties in Form II, appended to these rules and affix the same at conspicuous part of such property and such notice shall also be published in a local newspaper.

7. **Confirmed attached property in the custody of court.**—(1) Where the confirmed attached property is in the custody of any court, the authorized officer shall make an application to such court by providing a copy of the provisional attachment order issued under sub-section (1) of section 5 and the order under sub-section (3) of section 8 passed by the Adjudication Authority.

(2) The application referred to in sub-rule (1) shall contain a relief that such property and any interest or dividend payable thereon may be released in favour of the Directorate of Enforcement.

8. **Confirmed attached property hypothecated or mortgaged or pledged to bank, financial institutions, etc.**—Where the confirmed attached property is hypothecated or mortgaged or pledged to any bank, financial institution, etc., the authorised officer shall direct such bank, financial institution, etc., that such property and any interest or dividend payable thereon shall be retained subject to further orders of the authorised officer.

9. **Maintenance of registers for confirmed attached property.**—(1) The authorized officer shall maintain a register containing the details in Form III for recording entries in respect of movable property.

(2) The Authorized Officer shall maintain a register containing the details in Form IV for recording entries in respect of immovable property.

10. **Interpretation.**—If any question arises relating to the interpretation of these rules, the matter shall be referred to the Central Government and the decision of the Central Government shall be final.

FORM I

[*See* sub-rule (1) of rule 6]

NOTICE FOR TAKING POSSESSION UNDER SUB-SECTION (4) OF SECTION 8 OF THE PREVENTION OF MONEY-LAUNDERING ACT, 2002 (15 OF 2003)

Whereas the immovable property bearing..... situated at..... has been provisionally attached under sub-section (1) of section 5 of the Act (15 of 2003) *vide* provisional attachment order No. ..... dated..... issued by the Deputy Director/Joint Director/Additional Director of the Directorate of Enforcement, ... Sub-Zonal/Zonal office/Regional office of the..... .

Whereas the said provisional attachment order was subsequently confirmed by the Adjudicating Authority constituted under section 6 of the Act, *vide* order dated..... in Original Complaint No. .....

Whereas, in compliance of the provisions contained under sub-section (4) of section 8 of the Act (15 of 2003), the undersigned has taken possession of property/ portion..... of the aforesaid property, which shall be at the disposal of the Directorate of Enforcement until further order and such property shall be kept intact by all concerned for further proceedings under the Act; and

I, ... therefore, order that all concerned are hereby prohibited and restrained until further order of the undersigned from transferring or charging the aforesaid property by sale, gift, mortgage, pledge or otherwise in any manner whatsoever and that all persons be and that they are hereby prohibited and restrained from receiving the same by purchase, gift, mortgage, pledge or otherwise in any manner whatsoever.

Issued on this..... day of..... 20.....

By Order

(.....)

Deputy Director/ Joint Director/Additional Director

(name, designation and office seal)

Sub-Zonal/Zonal/Regional Office

FORM II

[*See* sub-rule (2) of rule 6]

NOTICE FOR TAKING POSSESSION UNDER SUB-SECTION (4) OF SECTION 8 OF THE PREVENTION OF MONEY-LAUNDERING ACT, 2002 (15 OF 2003)

Whereas the immovable property bearing..... situated at..... and the said property which is of the nature of productive asset or running factory, etc., has been provisionally attached under sub-section (1) of section 5 of the Act (15 of 2003) *vide* provisional attachment order No ..... dated..... issued by Deputy Director/Joint Director/Additional Director, Directorate of Enforcement, ... Sub-Zonal/Zonal/Regional Office..... .

Whereas the said provisional attachment order was subsequently confirmed by the Adjudicating Authority constituted under section 6 of the Act, *vide* order No. ..... dated..... in Original Complaint No. .....

Whereas, in compliance of the provisions contained in sub-section (4) of section 8 of the Act (15 of 2003), the undersigned has taken constructive possession of said property, which shall be at disposal of the Directorate of Enforcement until further Order and that such property shall be kept intact by all concerned for further proceedings under this Act, and officer in-charge of the said property or concerned with the property shall deposit the gross income and all other monetary benefits accrued therefrom in the Account of the Directorate of Enforcement.

I, ... therefore, order that all concerned are hereby prohibited and restrained until further order of the undersigned from transferring or charging the aforesaid property by sale, gift, mortgage, pledge or otherwise in any manner whatsoever and that all concerned are hereby prohibited and restrained from receiving the same by purchase, gift, mortgage, pledge or otherwise in any manner whatsoever.

Issued on this..... day of..... 20.....

By Order

(.....)

Deputy Director/ Joint Director/Additional Director
(name, designation and office seal)
Sub-Zonal /Zonal/Regional office

FORM III

[*See* sub-rule (1) of rule 9]

POSSESSION OF CONFIRMED ATTACHED PROPERTY (MOVABLE) REGISTER

1. Confirmation of provisional attachment order/freezing Order No. ..... dated..... issued by Adjudicating Authority under sub-section (3) of section 8 of the Act.
2. Date of possession of property.
3. Description of property (quantity, amount, estimated value).
4. Name(s) and address(es) of the person(s).
5. Name and address of the Warehouse/Storage place/Treasury or Bank where the property is deposited for safe custody.

6. Date and time of deposit of confirmed attached property in the Warehouse/ Storage place or Treasury or Bank.
7. Remarks.

.....

(Signature with date of the Authorized Officer)

.....

(Name, designation and official rubber stamp to be affixed)

FORM IV

[*See* sub-rule (2) of rule 9]

POSSESSION OF CONFIRMED ATTACHED PROPERTY (IMMOVABLE) REGISTER

1. Confirmation of Provisional Attachment Order Number/Freezing Order No. ..... dated..... issued by the Adjudicating Authority under sub-section (3) of section 8 of the Act.
2. Date of possession of confirmed attached property.
3. Description of property (quantity, amount, estimated value).
4. Name(s) and Address(es) of the person(s).
5. Details of letter issued to Registrar/Banks/State Government Departments, etc.
6. Remarks.

.....

(Signature with the date of the Authorised Officer)

.....

(Name, designation and official rubber stamp to be affixed)

IndiaCode