THE UNIQUE IDENTIFICATION AUTHORITY OF INDIA (ADJUDICATION OF PENALTIES) RULES, 2021[1]

[*Updated as on 23.10.2023*]

In exercise of the powers conferred by clauses (ga), (gb) and (h) of sub-section (2) of section 53 read with sections 33A, 33B and 33C of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Unique Identification Authority of India (Adjudication of Penalties) Rules, 2021.

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

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

(a) "Act" means the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (18 of 2016);

(b) "Form" means a form annexed to these rules; and

(c) "inquiry" means the inquiry as referred to in section 33B of the Act.

(2) Words and expressions used herein and not defined in these rules but defined in the Act shall have the same meanings as assigned to them in the Act.

3. Manner of appointment, qualification and experience of the Adjudicating Officer.— (1) The Adjudicating Officer shall be appointed by the Authority under sub-section (1) of section 33B of the Act, who shall—

(a) be an officer not below the rank of Joint Secretary to the Government of India;

(b) possess working experience of ten years or more in the Central Government or State Government or Public Sector Undertaking or Union territory administration or Autonomous or Statutory Organisation on regular basis; and

(c) possess administrative or technical knowledge in any of the disciplines of law, management, information technology or commerce with at least three years of experience in this regard.

4. Manner of making complaint to the Adjudicating Officer.—(1) The complaint shall be made to the Adjudicating Officer by the Authority under sub-section (2) of section 33B of the Act in a manner which clearly indicates the nature of contravention, relevant provision of the Act or rule or regulation or direction issued by the Authority and the maximum penalty which can be imposed on the person or entity and as far as possible, the timing, place of contravention along with documents in support of such contravention.

(2) The Authority may by order nominate an officer of the Authority to be known as a Presenting Officer to present the case on behalf of the Authority before the Adjudicating Officer.

[1]Published in the Gazette of India, Extraordinary, Part III, Section 4, dated 2.11.2021, *vide* Notification No. G.S.R. 772(E), dated 29.10.2021.

5. Manner of holding inquiry into the complaint.—(1) The Adjudicating Officer, before adjudging penalty, shall issue a notice to the person or entity alleged to have committed the contravention, requiring him or it to show cause, within such period as the notice may specify (being not less than thirty days from the date of service thereon), as to why the penalty should not be imposed on him or it:

Provided that every notice issued under this sub-rule, shall clearly indicate the nature of contravention, noncompliance and default under the Act alleged to have been committed or made, the person or entity against whom, or the thing, if any, in respect of which, it was committed and also draw attention to the relevant provision or rule or regulation or direction issued by the Authority and the maximum penalty which can be imposed on the person or entity:

Provided further that the Adjudicating Officer may, for reasons to be recorded in writing, extend the said period by a further period not exceeding fifteen days, if the person or entity, as the case may be, satisfies the Adjudicating Officer that he or it had sufficient cause for not responding to the notice within the stipulated period.

(2) On receipt of the reply submitted by such person or entity, the Adjudicating Officer shall issue a notice of hearing to such person or entity, through its authorised representative, and to the Presenting Officer of the Authority, if appointed:

Provided that, where the person or entity, pleads guilty in the reply referred to in this sub-rule, no hearing shall be required and the Adjudicating Officer shall record the plea, and impose penalty as he thinks fit in accordance with the provisions of the Act, rules, regulations, orders or directions made thereunder.

(3) On the date fixed for hearing and after giving a reasonable opportunity of being heard to the person or entity concerned and Presenting Officer of the Authority, if appointed, the Adjudicating Officer may, subject to reasons to be recorded in writing, pass any order in writing as he thinks fit including an order for adjournment:

Provided that the Adjudicating Officer after hearing, may give an opportunity to the Presenting Officer if appointed, and such person or entity to submit reply in writing on certain other issues or to file written briefs of their respective case or produce such documents or evidence as they may consider relevant to the notice issued under subrule (1) and, if necessary, the hearing may be adjourned to a future date for reasons to be recorded in writing.

(4) For the purposes of this rule, the Adjudicating Officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the Adjudicating Officer, may be useful for or relevant to the subject matter of the inquiry.

(5) Where any person or entity fails to reply or neglects or refuses to appear pursuant to the notice referred to in sub-rule (2), before the Adjudicating Officer, the Adjudicating Officer may proceed with the hearing in the absence of such person or entity after recording the reasons for doing so.

(6) (i) The person or entity and the Presenting Officer, if appointed, may submit a list of witnesses in addition to their reply, which they want to examine.

(ii) The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined but not on any new matter without the leave of the Adjudicating Officer.

(7) Before concluding the hearing, the Adjudicating Officer shall ensure that the person or entity through its authorised representative have been given a reasonable opportunity of being heard.

(8) Where the person or entity, in respect of whom notice, is issued pleads guilty during the hearing, the Adjudicating Officer shall record the plea, and impose such penalty as he thinks fit in accordance with the provisions of the Act, rules, regulations, orders or directions made thereunder.

(9) Where the Adjudicating Officer, on inquiry, is satisfied that such person or entity has failed to comply with any provision of the Act or rules or regulations made thereunder or directions issued by the Authority under section 23A of the Act, or has failed to furnish any information, document or return of report required by the Authority, the Adjudicating Officer may, by order impose civil penalty in accordance with the provision of the Act.

(10) The order referred to in sub-rule (9) shall be a reasoned and speaking order referring to the oral and documentary submissions as well as any other document accepted during the hearing. The certified copy of the order shall be provided to all parties.

(11) The amount of any penalty imposed by Adjudicating Officer shall be deposited into Unique Identification Authority of India Fund and if not paid, may be recovered as if it were an arrear of land revenue.

6. Form and manner of appeal against the order of the Adjudicating Officer.—Every appeal against the order of the Adjudicating Officer shall be filed in writing before the Telecom Disputes Settlement and Appellate Tribunal as per Form 'A'.

7. Fee for filing appeal.—The fee to be accompanied with an appeal filed under sub-section (2) of section 33C of the Act shall be the same as specified under the Telecom Disputes Settlement and Appellate Tribunal (Form, Verification and the Fee for filing an appeal) Rules, 2003 as amended from time-to-time.

Form A

(See rule 6)

IN THE TELECOM DISPUTES SETTLEMENT ANDAPPELLATE TRIBUNAL AT NEW DELHI

APPELLATE JURISDICTION

APPEAL NO. /20[•]

IndiaCode

IN THE MATTER OF THE AADHAAR (TARGETED DELIVERY OF FINANCIAL AND OTHER SUBSIDIES, BENEFITS AND SERVICES) ACT, 2016 (18 OF 2016)

AND

IN THE MATTER OF APPEAL AGAINST THE ORDER MADE ON [•] BY [•]

A.B. (Name and Address (registered address, if an entity) of the person or entity in the Aadhaar ecosystem through their duly authorised representative (Aadhaar number/PAN/DIN), if any, along with email id of the Appellant)

….Appellant(s)

C.D. (add description of the Adjudicating Officer, and 'others' along with address. The details of each respondent are to be given in a chronological order.)

....Respondent(s)

IndiaCode

1. Details of appeal:

   [give the particulars of the decision or order of the Adjudicating Officer against which the appeal is preferred].

2. Jurisdiction of the Appellate Tribunal:

   [The appellant declares that the subject matter of the decision or order against which appeal is filed is within the jurisdiction of this Hon'ble Appellate Tribunal as per sub-section (1) of Section 33 C of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.]

3. Limitation:

   [The Appellant further declares that the appeal filed is within the period as specified in sub-section (2) of section 33C of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.]

   Or

   [The Appellant further declares that the present appeal is beyond the period specified in sub-section (2) of section 33C of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 for reasons stated hereinunder:]

4. Synopsis of the case:

   [Give here a concise statement of facts in a chronological order, each paragraph containing as nearly as possible a separate, issue, fact or otherwise.]

5. Grounds of appeal:

6. Matters not previously filed or pending with any other court:

The appellant further declares that it or he has not previously filed any writ petition or suit regarding the similar subject matter in respect of which this appeal has been made before any court or tribunal or any other authority nor any such writ petition or suit is pending before any of them.

7. Relief(s) sought:

In view of the facts mentioned in para 4 above, the appellant prays for the following relief(s): (Specify below the relief(s) sought explaining the grounds for such relief(s) and the legal provisions, if any, relied upon.)

8. Interim order, if any, prayed for:

Pending final decision on the application, the appellant seeks issue of the following interim order: (Given here the nature of the interim order prayed for with reasons).

9. Details of Index:

(An Index containing the details of the documents to be relied upon is enclosed and also mentioned in List of enclosures).

10. Particulars of bank draft drawn in favour of the Drawing and Disbursing Officer, Telecom Disputes Settlement and Appellate Tribunal in respect of the fee for appeal.

List of enclosures:

1. Certified copy of the order against which appeal is sought;
2. Copy of the authorisation in favour of authorised representative;
3. Order of condonation of delay, if any;
4. Optional enclosures, if any.

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Verification

I .....(Name of the appellant or authorised representative) S/o, W/o, D/o [indicate any one, as the case may be].....age.....working as .....in the office of..... resident of .....do hereby verify that the contents of the paras.....to.....are true to my personal knowledge (derived from official record maintained by the appellant in its usual course of business) and paras..... to ..... believed to be true on legal advice and that I have not suppressed any material facts.

Date:

Place:

Signature and stamp of the appellant or authorised representative

Name, address, contact details including mobile number and email address of the appellant or authorised representative (Aadhaar number/PAN/DIN)