

1. Short title and commencement.

- (1) These regulations may be called the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1) In these regulations, unless the context otherwise requires,—

- (a) “Act” means the Competition Act, 2002 (12 of 2003);
- (b) “Commission” means the Competition Commission of India established under sub-section (1) of section 7 of the Act;
- (c) “demand notice” means a notice issued by the Commission to an enterprise from whom any penalty is recoverable under the Act;
- (d) “enterprise” means enterprise as defined in clause (h) of section 2 of the Act;
- (e) “enterprise in default” means an enterprise which has not paid the penalty imposed on it within the stipulated time despite the demand notice duly served upon;
- (f) “Income-tax authority” means an authority as defined in section 116 of the Income-tax Act, 1961 (43 of 1961);
- (fa) “legal heir” means a legal representative as defined in sub-section (11) to section 2 of the Code of Civil Procedure, 1908;
- (g) “penalty” means a monetary penalty or fine or any other sum imposed by the Commission and realisable under the Act;
- (h) “penalty recovery register” means the register as set out in Form IV appended to these regulations containing all the details of the penalties imposed by the Commission;
- (ha) “person” means a person as defined in clause (l) of section 2 of the Act;
- (hb) “person in default” means a person who has not paid the penalty imposed upon it within the stipulated time despite the demand notice duly served upon;
- (i) “recovery certificate” means a certificate issued by the Commission and to be executed by the recovery officer in terms of the Commission’s orders;
- (j) “recovery officer” means an officer authorised by the Commission to recover the penalty from ~~an~~the enterprise or person or the ‘enterprise in default’ or ‘person in default’, as the case may be, as defined under these regulations;
- (k) “Secretary” means the Secretary appointed under sub-section (1) of section 17 of the Act and includes an officer of the Commission authorised by it to function as Secretary;

- (1) “Tax Recovery Officer” means the Tax Recovery Officer as referred to in Explanation 2 to section 39 of the Act and defined in clause (44) of section 2 of the Income-tax Act, 1961 (43 of 1961);²
- (2) Words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act or in the Companies Act, ~~2013+1956~~ (18 of ~~2013+1956~~) or in the Income-tax Act, 1961 (43 of 1961), as the case may be.

3. Issuance of demand notice.

- (1) Where a penalty has been imposed upon an enterprise or person by the Commission, the Secretary shall issue to it, a demand notice as set out in Form I appended to these regulations to be served through the recovery officer, and shall serve it through the recovery officer, to the enterprise concerned along with copy of the order passed by the Commission imposing the penalty, after expiry of the period specified for the purpose in the order of imposition of penalty by the Commission at its last address known to the Commission and in the case of a joint account, to all the joint holders of such account, at their last addresses known to the Commission.
- (2) A demand notice issued under sub-regulation (1) shall provide a time as contained in the order of the Commission, of thirty days from the date of service of the demand notice to the enterprise or person concerned, to deposit the penalty in the manner specified in the said notice;²

~~Provided that where the Commission has any reason to believe that it will be detrimental if the full period of thirty days aforesaid is allowed, it may direct the enterprise concerned that the sum specified in the demand notice shall be paid within such period being a period less than the period of thirty days aforesaid, as may be specified by the Commission in the demand notice. [***]~~

- (3) Upon receipt of the demand notice, the enterprise or the person, as the case may be, shall pay the penalty, through challan as set out in Form II appended to these regulations, in favour of the Pay & Accounts Officer (PAO), Ministry of Corporate Affairs, Head No. 1475.00.105.05, [Sub-Head – 00]¹ – ‘Penalties imposed by Competition Commission of India’.
- (4) One copy of the challan shall be submitted by the enterprise or the person, as the case may be, to the recovery officer immediately but not later than 07 (seven) days of the payment and the recovery officer shall make an entry in the penalty recovery register to the same effect.
- (5) The Commission may, at any time, rectify any clerical or arithmetical mistake made in the demand notice.

¹ Substituted for “Sub-Head – 05” by the Competition Commission of India (Manner of Recovery of Monetary Penalty) Amendment Regulations, 2021 w.e.f. 16.02.2021.

4. Extension of time and grant of instalments.

- (1) On an application made by the enterprise or the person concerned, before the expiry of the due date of the payment specified in the demand notice, the Commission may extend the time for payment or allow payment by instalments, subject to such conditions as the Commission may think fit to impose in the circumstances of the case.
- (2) In a case where an extension has been granted and the enterprise or the person concerned fails to make the payment within the time so extended, the enterprise or the person concerned shall be deemed to be an enterprise in default or a person in default, as the case may be.
- (3) In a case where payment by instalments has been allowed and the enterprise or the person concerned commits default in paying any one of the instalments within the time fixed, the enterprise or the person concerned shall be deemed to be enterprise in default or a person in default, as the case may be. as to the whole of the penalty then outstanding, and the other instalment or instalments shall also be deemed to have been due on the same date as the instalment actually in default.

5. Interest on penalty.

If the amount specified in ~~the any~~ demand notice is not paid within the period specified by the Commission, the enterprise or the person concerned, as the case may be, shall be liable to pay simple interest at one ~~and one-half~~ per cent, on the amount outstanding, for every month or part of a month comprised in the period commencing from the day immediately after the expiry of the period mentioned in demand notice and ending with the day on which the penalty is paid:

Provided that the Commission may reduce or waive the amount of interest payable by the enterprise or the person concerned if it is satisfied that default in the payment of such amount was due to circumstances beyond the control of the enterprise or the person concerned, as the case may be:

Provided further that where as a result of an order of the ~~Competition-National Company Law~~ Appellate Tribunal or ~~the a~~ High Court or the Supreme Court of India, as the case may be, the amount of penalty payable has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded in accordance with regulation 14.

6. Issuance of recovery certificate.

- (1) Where an enterprise is an enterprise in default or deemed to be an enterprise in default as per sub-regulation (2) and/ or (3) of regulation 4, the Commission shall issue recovery certificate through the Secretary to be executed by the recovery officer, as set out in Form III appended to these regulations, mentioning the amount of penalty and interest thereon along with modes of recovery therein, giving 15 (fifteen) days' time to deposit the penalty.

(1A) Where a person is a person in default or deemed to be a person in default as per sub-regulation (2) and/ or (3) of regulation 4, the Commission shall issue recovery certificate through the Secretary to be executed by the recovery officer, as set out in Form III appended to these regulations, mentioning the amount of penalty and interest thereon along with modes of recovery therein, giving 15 (fifteen) days' time to deposit the penalty.

(2) The Commission may, at any time, rectify any clerical or arithmetical mistake made in the recovery certificate issued or extend the time for making any payment in pursuance of such recovery certificate.

7. Functions of Recovery Officer.

(1) The Commission may, from time to time, authorise any of its officers to function as the recovery officer for the purposes of these regulations, to recover the penalties in the manner specified under these regulations.

(2) The recovery officer shall ensure that the demand notice is duly served on the enterprise or the person concerned, as the case may be. In the case of non-service of the demand notice, the recovery officer shall immediately inform the Secretary.

(3) When the payment of penalty is made by the enterprise or the person concerned, the recovery officer shall bring it to the notice of the Secretary. In the case of default by the enterprise or the person concerned, the recovery officer shall intimate to the Secretary and ensure thereafter issuance of recovery certificate to such an enterprise in default or a person in default, as the case may be.

(4) The recovery officer shall execute the recovery certificate to realise the amount of penalty imposed upon the enterprise in default or the person in default, as the case may be, in the manner specified in these regulations.

(5) The recovery officer shall, after expiry of the period stipulated in issuance of the recovery certificate, proceed in accordance with the modes specified under these regulations for recovery of the penalty imposed.

8. Maintenance of Penalty Recovery Register.

The recovery officer shall maintain the penalty recovery register as set out in Form IV appended to these regulations and update the same penalty recovery register regularly.

9. Modes of Recovery.

Where ~~the-an~~ enterprise in default or a person in default fails to pay the penalty within the stipulated time as mentioned in the recovery certificate, the recovery officer shall proceed to recover the penalty in the following manner,—

(a) the recovery officer shall, at any time after expiry of the period stipulated in issuance of the recovery certificate, require ~~any-the~~ enterprise in default or the person in default, from whom the penalty is due or may become due, or any other enterprise who holds or may subsequently hold money for or on account of the enterprise in default, or the legal heirs of the person in default in case the person in

default is deceased, to pay to the Commission either forthwith upon the penalty becoming due or within the time specified in the recovery certificate, so much of the money as is sufficient to pay the penalty due to the enterprise in default or the person in default, as the case may be. If such other enterprise or legal heir(s) fails to pay the said amount in lieu of the penalty, then such other enterprise or person shall also be treated in the same manner as an enterprise in default, or a person in default, as the case may be;

- (b) a recovery certificate may be issued to any enterprise who holds or may subsequently hold any money for or on account of the enterprise in default jointly with any other enterprise and for the purposes of this regulation, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal;

(ba) a recovery certificate may be issued to the legal heirs of the person in default in case the person in default is deceased and for the purposes of this regulation, the shares of all legal heirs for such amount shall be presumed, until the 'contrary is proved', to be equal;

Provided that the liability of a legal heir under this regulation shall be limited to the extent to which the estate of the deceased bestowed upon such legal heir, is capable of meeting the liability.

- (c) every enterprise or person to whom a recovery certificate is issued shall be bound to comply with such certificate, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy, or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;
- (d) any claim respecting any property, in relation to which a recovery certificate has been issued, arising after the date of the demand notice, shall be void as against any demand contained in the recovery certificate;
- (e) where an enterprise or a person to whom a recovery certificate has been issued objects to it by a statement on oath that the sum demanded or any part thereof is not due to the enterprise in default or the person in default, or that it does not hold any money for or on account of the enterprise in default or the person in default, then, nothing contained in these regulations shall be deemed to require such enterprise or person to pay any such sum or part thereof, as the case may be:

Provided that such assertion of the enterprise or the person is to be brought to the notice of the Commission for its consideration;

- (f) the recovery officer may apply, for payment of the amount sufficient to discharge the penalty due to enterprise in default or person in default, to the court in whose custody there is money belonging to such enterprise or person;

- (g) where an enterprise in default or person in default has property in a country outside India (being a country with which the Central Government has entered into an agreement for the recovery of penalty under the Act and the corresponding law in force in that country), the Commission may propose to that country to take such action thereon as the Commission may deem appropriate having regard to the terms of the said agreement with such country and to remit any sum so recovered to the Commission, and thereafter the Secretary shall take appropriate steps to deposit the same in the account earmarked for the purpose;
- (h) where during the pendency of any proceeding or after the decision under the Act but before the service of the notice under regulation 3, any enterprise in default or person in default creates a charge or parts with the possession by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever of any of its assets in favour of any other person or enterprise, such charge or transfer shall be void as against any claim in respect of any penalty payable by such enterprise in default or person in default as a result of the decision of the said proceeding or otherwise:

Provided that such charge or transfer shall not be void if it is made,—

- (i) for adequate consideration and without notice of the pendency of such proceeding; or
- (ii) with the previous permission of the Commission.

10. Other modes of Recovery.

After issuance of the recovery certificate, the recovery officer may also simultaneously proceed to recover the amount of penalty through the modes mentioned below, in accordance with the rules laid down in the Second Schedule of Income-tax Act, 1961(43 of 1961), namely:—

- (a) by attachment and sale of movable property of the enterprise or the person concerned; and
- (b) by attachment and sale of immovable property of the enterprise or the person concerned.

11. Reference by the Commission to the Income-tax authority.

Where the Commission is of the opinion, for reasons to be recorded in writing, that it would be expedient to recover the penalty imposed under the Act in accordance with the provisions of the Income-tax Act, 1961 (43 of 1961), it shall make reference under sub-section (2) of section 39 of the Act to the concerned Income-tax authority as set out in the Form V appended to these regulations for recovery of the penalty as 'tax due' under the Income-tax Act, 1961 (43 of 1961).

12. Intimation of recovery by Income-tax authority.

- (1) Where an intimation of recovery of penalty has been received by the Secretary from the Tax Recovery Officer, he shall ensure that the recovery officer records it

in the penalty recovery register immediately but not later than 05 (five) days from the date of having received such intimation.

- (2) The Secretary shall review and obtain a progress report, at least once in three months, from the Tax ~~R~~Recovery ~~o~~Officer, of the progress made in the recovery of demands referred to the Tax Recovery Officer and shall place the progress of recovery of penalty before the Commission every month.

13. Monitoring and supervision in proceedings of recovery of penalty.

The Secretary shall place before the Commission all the cases where the recovery of penalty has not been made, along with details of action taken in each case including the details of references made under sub-section (2) of section 39 of the Act, at least once in a month.

14. Refund of excess penalty.

- (1) Where by any order of the National Company Law Competition-Appellate Tribunal or ~~the a~~ High Court or the Supreme Court of India, as the case may be, it has been held, that ~~the an~~ enterprise or a person is not liable to pay any penalty or is liable to pay a penalty less than the amount mentioned in any order or notice of the Commission, the demand notice or the recovery certificate shall be withdrawn or modified, as the case may be, and the amount of any excess penalty, if paid, shall be refunded.

- (2) In case of a refund, the Secretary shall issue a refund order for such amount, under his signature and seal.

15. Power to determine procedure in certain circumstances.

In a situation not provided for in these regulations or the Competition Commission of India (General) Regulations, 2009~~24~~, the Commission may determine the procedure, for specific matters, if so required.

16. Removal of difficulties.

In the matter of implementation of these regulations, if any doubt or difficulty arises, ~~the same shall be placed before the Commission and~~ the decision of the Commission thereon shall be binding.

THE COMPETITION COMMISSION OF INDIA

FORM I
(See regulation 3)

DEMAND NOTICE
[Under The Competition Act, 2002 (12 of 2003)]

To

Subject: Notice of demand for the recovery of penalty imposed u/s _____ of the Competition Act, 2002 (12 of 2003) – regarding.

Whereas *vide* order dated _____ in the matter of _____ (Case No. _____), the Competition Commission of India (the Commission) has imposed a penalty of Rs. _____ (Rupees _____) upon _____ (Name of the concerned enterprise/ person), having its office/ residence at _____ (address) and having _____ PAN number, under section(s) _____ of the Competition Act, 2002 (12 of 2003) (the Act); ~~and~~

~~Whereas a copy of the said order was duly served upon you on _____ (date); and in terms of the above mentioned order, the penalty of Rs. _____ (Rupees _____) was payable on _____ (date); and~~

~~Whereas you have not paid the said penalty within the time so specified;~~

Now, ~~Therefore~~, you are accordingly required to deposit a sum of Rs. _____ (Rupees _____) within thirty days from the date of receipt of this notice, through Challan. The payment of penalty shall be made in favour of ‘Pay and Accounts Officer – Ministry of Corporate Affairs, New Delhi’ in the account head 1475.00.105.05, [Sub-Head-00]² ‘Penalties imposed by Competition Commission of India’;

[In case you fail to deposit the penalty amount, *i.e.* _____ (Rupees _____) Only) within the aforesaid period, you shall be liable to pay simple interest @ 1.5% for every month or part of a month comprised in the period commencing from the date immediately after the expiry of the period mentioned in this demand notice and ending with the date on which the demand is paid.

Further, the Commission shall also take necessary steps for recovery of the sum so due besides initiating actions for non-compliance of the order(s) of the Commission.]³

Place:.....

Signature:.....

Date:.....

Name:

Designation: Secretary

Competition Commission of India

Seal

FORM- II

² Substituted for “Sub-Head-05” by the Competition Commission of India (Manner of Recovery of Monetary Penalty) Amendment Regulations, 2021 *w.e.f.* 16.02.2021.

³ Substituted for “In case you fail to deposit the entire demand imposed by the Commission within the aforesaid period, the Commission shall take any action as it deems necessary in accordance with law” by the Competition Commission of India (Manner of Recovery of Monetary Penalty) Amendment Regulations, 2014 *w.e.f.* 25.06.2014.

[See regulation 3(4)]

Challan to be filled in quadruplicate for Bank/ PAO/ CCI/ Depositor

(OBVERSE)

G.A.R.-7

[See Rule 26(1) of Central Government Account (Receipts and Payments) Rules, 1983]

Competition Commission of India

Case No. _____

Penalty(ies) imposed under section ___ of the Competition Act, 2002

Please indicate Whether	Civil
	Defence
	Railway
	Post and Telegraph

Challan of Money paid into Treasury/ Sub-Treasury or State/ Reserve Bank of India at _____

To be filled by the remitter				To be filled by the departmental Officer or the Treasury			
By whom Tendered	Name (or designation and address of the enterprise/ person on whose behalf money is paid)	Full particulars of the remittance and/ or authority (if any)	Amount	Head of Account	Account Officer by whom adjustable	Order to the Bank	
Name		Competition Commission of India, New Delhi	Rs.	P.	Head 1475.00.105.05 [Sub Head 00] ⁴ - 'Penalties Imposed by Competition Commission of India'	Pay and Accounts Officer (PAO), Ministry of Corporate Affairs	Date Correct: Receive and grant receipt. (Signature and full designation of the officer ordering the money to be paid in)
Signature		Total*					
*(in words) Rupees				To be used only in the case of remittances to the Bank through Departmental Officer of the Treasury Officer			
Received payment (in words) Rupees							
Treasurer	Accountant		Date		Treasury Officer Agent or Manager		

(REVERSE)

	Particulars to be filled by the remitter	Amount	
		Rs.	P.
Cash			
Bank Draft/ Pay order (With details)			

⁴ Substituted for "Sub-Head 00" by the Competition Commission of India (Manner of Recovery of Monetary Penalty) Amendment Regulations, 2021 w.e.f. 16.02.2021.

THE COMPETITION COMMISSION OF INDIA

FORM III
(See regulation 6)

RECOVERY CERTIFICATE
[Under The Competition Act, 2002 (12 of 2003)]

To

Ref: Case No. _____

Subject: Recovery Certificate for the recovery of penalty imposed u/s of the Competition Act, 2002 (12 of 2003) – regarding.

Whereas *vide* order dated _____ in the matter of _____ (Case No. _____), the Competition Commission of India (the Commission) has imposed a penalty of Rs. _____ (Rupees _____) upon _____ (Name of the concerned enterprise/ person), having its office/ residence at _____ (address) and having _____ PAN number, under section(s) _____ of the Competition Act, 2002 (12 of 2003) (the Act); and

Whereas ~~the Commission, in the its~~ demand notice dated _____ issued along with the above order of the Commission to the enterprise had given you a time up to of _____ days from the date of receipt of the notice, to deposit the penalty; and

Whereas you have failed to pay the said penalty despite the demand notice being served upon you on _____ within _____ days as specified therein.

Upon your failure to make payments within the aforesaid time, you are hereby deemed to be an enterprise/ person in default;

Now, therefore, if you fail to pay the penalty amount within a period of 15 days of receipt of this Recovery Certificate, the Commission shall proceed to recover the amount due by adopting all or any of the modes specified under regulation 9 of the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011~~0~~ (the Regulations) including the following measures specified under regulation 10 of the Regulations, namely:-

- (a) Attachment and sale of any movable property of the enterprise or the person concerned; and/ or
- (b) Attachment and sale of any immovable property of the enterprise or the person concerned.

Place:.....
Date:.....

Signature:.....
Name:
Designation:
(Recovery Officer)
Seal

THE COMPETITION COMMISSION OF INDIA

FORM IV

(See regulation 8)

PENALTY RECOVERY REGISTER

[Under The Competition Act, 2002 (12 of 2003)]

Serial No. _____

Case No. _____

S. No.	Entry Name	Details
1	Name and address of the enterprise/ <u>person</u>	
2	Date of the Order by the Commission	
3	Section under which such Order was passed	
4	Details of Penalty (Amount + Interest)	
5	Whether an extension of time has been granted under regulation 4. If so – details.	
6	Whether payment in instalments has been allowed under regulation 4. If so, details.	
7	Whether payment of penalty stayed by any authority/ court; if so, (a) name of the authority/ court (b) date of the order	
8	Whether penalty reduced/ waived stayed by any authority/ court; if so, (a) name of the authority/ court (b) date of the order	
9	Whether the Commission has modified the penalty order	
10	Date of issuance of demand notice	
11	Date of issuance of recovery certificate	
12	Date of reference to the Income- t ^F ax A ^A uthority, if any	
13	Whether the provision of regulation 9(g), is attracted, if so, details thereof	
14	Date of the part payment, if any	
15	Date of full payment	
16	Date of credit by the bank	
17	Whether any refund order has been issued by the Secretary; If so, the date of the order	
18	Remarks, if any	

THE COMPETITION COMMISSION OF INDIA

FORM V
(See regulation 11)

REFERENCE TO THE INCOME-TAX AUTHORITY

[Under The Competition Act, 2002 (12 of 2003)]

Case No. _____

To

Tax Recovery Officer

Subject: (Recovery of penalty as tax due under the Income-tax Act, 1961 (43 of 1961) – Reference under section 39(2) of the Competition Act, 2002.

Whereas *vide* order dated _____ in the matter of _____ (Case No. _____), the Competition Commission of India (the Commission) has imposed a penalty of Rs. _____ (Rupees _____) upon _____ (Name of the concerned enterprise/person) having its office/residence at _____ (address) and having _____ PAN number, under section(s) ___ of the Competition Act, 2002 (12 of 2003) (the Act); and

Whereas the demand notice dated _____ issued along with the above order of the Commission had given the enterprise/ person, a time of _____ days from the date of receipt of the notice, to deposit the penalty; and

Whereas the enterprise/ person has failed to pay the said penalty within stipulated time and therefore, deemed to be an enterprise/ a person in default; and

Whereas, the Commission, in terms of section 39(2) of the Act, is empowered to make a reference to the concerned Income-tax authority, for recovery of the penalty as ‘tax due’ under the Income-tax Act, 1961 (43 of 1961) (the Income-tax Act); and

Whereas, in terms of section 39(2) of the Act, the provisions contained in sections 221 to 227, 228A, 229,~~231~~ and 232 of the Income-tax Act and the Second Schedule to Income-tax Act and any Rules made thereunder, are to apply as if these were part of the Act; and

Whereas the Commission, in terms of section 39(2), is of the opinion that it would be expedient to recover the penalty imposed under the Act as ‘tax due’ under the Income-tax Act;

You are hereby required to recover the penalty from the enterprise/person treating the enterprise/person as an ‘assessee in default’ under Income-tax Act and inform the Commission about the recovery made.

Place:.....

Signature:.....

Date:.....

Name:

Designation: Secretary

Competition Commission of India

Seal