

GENERAL STATEMENT

The Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2025

1. The Competition Act, 2002 (the ‘Act’) contains various provisions *viz.* Section 27 and Chapter VI, empowering the Commission to impose upon enterprises and persons, monetary penalties, for indulging in conduct(s) mentioned therein.
2. Section 39 of the Act provides for execution of such orders of the Commission imposing monetary penalties. Under sub-section (1) of the same, the Commission shall recover the penalty(ies) imposed, in such manner, “*as may be specified by the regulations*”.
3. For implementation of sub-section (1) of Section 39 of the Act, the Commission, in exercise of the powers conferred upon it under Section 64 of the Act, had framed the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011 (‘Recovery Regulations’), which came into effect from 08.02.2011. The same have undergone minor amendments twice till date, once *vide* Amendment Regulations, 2014 *w.e.f.* 25.06.2014, and other *vide* Amendment Regulations, 2021 *w.e.f.* 16.02.2021.
4. Based on the experience gained during implementation of these regulations over the years and to streamline the process of recovery, review of the Recovery Regulations was done and based upon such review, certain amendments were proposed to the same.
5. These amendments along with Background Note were put for public consultation on the website of the Commission and comments/ suggestions from the stakeholders were invited thereupon from 07.11.2024 till 06.12.2024. In response, comments from 07 stakeholders were received. The Commission carefully examined the comments received and in view of the same, made certain changes in the draft recovery regulations (‘DRR’)
6. In the DRR, the demand notice was proposed to be issued to all concerned, concurrently with the order imposing penalty passed by the Commission, rather than after expiry of the time period specified in the order of the Commission for payment of penalty.. However, the stakeholders raised concerns that this might infringe upon the statutory right of appeal provided to the parties under Section 53B of the Act as the Commission may, in its order passed, give a time period less than the time period of 60 (sixty) days statutorily allowed for filing an appeal, thereby leading to accrual of interest upon the

concerned, even before appeal against the Commission's order imposing the penalty can be filed. This may potentially render the statutory right to appeal nugatory.

7. To address such concerns raised by the stakeholders, sub-regulation (2) of regulation 3 of the DRR has been amended to read as “*A demand notice issued under sub-regulation (1) shall provide a time period of not less than 60 (sixty) days from the date of receipt of order of the Commission as contained in the order of the Commission, to the enterprise or person concerned, to deposit the penalty in the manner specified in the said notice.*” Correspondingly, in regulation 5 pertaining to interest on penalty also, the words “*period specified by the Commission*” have been substituted with the words “*period specified in the said notice*”.
8. Further, in sub-regulation (1) of regulation 3, though the words “*shall serve it through the recovery officer*” were proposed to be deleted in the DRR, in their place, the words, “*with a copy to the recovery officer*” have been retained. In the said regulation, the words “*and in the case of a joint account, to all the joint holders of such account, at their last addresses known to the Commission*” are also deleted, as the same do not seem to serve any purpose.
9. Further, the DRR proposed inclusion of the word “*simultaneously*” in Regulation 10 to clarify that proceedings for recovery of penalty through modes specified under Regulation 10 can be initiated simultaneously with proceedings for recovery of penalty through modes specified under Regulation 9. However, in this regard, the stakeholders raised concern that Regulation 10 does not oblige the recovery officer to wait for the period specified in the recovery certificate for payment of penalty to expire, before initiating recovery proceedings through modes specified therein. Taking note of the point raised, Regulation 10 has been amended to now read as “*Where an enterprise in default or a person in default fails to pay the penalty within the stipulated time as mentioned in the recovery certificate*” on lines similar to Regulation 9.
10. Another concern raised by the stakeholders is that Regulation 11 of the DRR which provides for reference to the income-tax authority for recovery of penalty, is not mutually exclusive with the proceedings initiated by the Commission itself under the DRR for recovery of penalty. As such, a party may have to face two parallel proceedings for recovery of monetary penalty. Given the concern highlighted, a sub-regulation (2) is added in Regulation 11 which reads as “*Where the income-tax authority to which a*

reference under sub-regulation (1) has been made by the Commission initiates recovery proceedings, the recovery proceedings initiated by the Commission shall stand sine die deferred”.

11. The stakeholders had also given comments on the reduction of rate of interest proposed in the DRR on account of default in payment of penalty. Comments in this regard included both – comments seeking further reduction in the rate of interest, and comments seeking non-reduction in the rate of interest, – citing their respective grounds. However, keeping in view the fact that the interest rate prescribed under the provisions of the Income Tax Act, 1961 is also the same *i.e.* 1 (One) percent, no change in the DRR has been made in this regard.
12. Accordingly, today, the Commission has notified the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2025 repealing the Competition Commission of India (Manner of Recovery of Monetary Penalty) Regulations, 2011 *vide* the repeal and savings clause introduced in the 2025 regulations. Further, in terms of Section 64A(b) of the Act, the present General Statement is being published along with, to provide the Commission’s response to the public comments received.