

SOP for handling of applications for Recovery of Dues under sub-section (1) of section 33C in respect of the settlement or an award or the provisions of Chapter VA or Chapter VB of the Industrial Disputes Act, 1947 (14 of 1947)

A. Guidelines or SOP for handling of applications for Recovery of Dues under said sub-section (1) of section 33C:

- i. A workman or Trade Union or heir of workman, desirous to recover any money due to the workman from an employer under a settlement or an award or under the provisions of Chapter VA or Chapter VB of the Industrial Disputes Act, 1947 (14 of 1947) may make an application in Form K1 or K2, as the case may be, under the Industrial Disputes (Central) Rules, 1957 before Dy. Chief Labour Commissioner (Central) or Regional Labour Commissioner (Central) [in short Dy. CLC(C) or RLC(C)] of the jurisdiction. While handling the application, demand notice need not be insisted upon by the Dy. CLC(C) or RLC(C) concerned.
- ii. The Dy. CLC(C) or RLC(C) shall issue notice for appearance to the defaulter management along with a proforma in Annexure-A to this SOP for self-declaration of details by the management about his or her asset, bank account and link other information.
- iii. Not more than two-opportunities shall be provided to the defaulter management to show cause why award of the Labour Court or Tribunal has not been implemented or other dues specified in the said section 33C have not been paid and why recovery certificate be not issued against the management.
- iv. In case, nothing as mentioned above is established by the defaulter management or in case it fails to appear in any of the proceedings, in such cases Recovery Certificate (in short RC) shall be issued by the concerned Dy. CLC(C) or RLC(C). Before issuance of the RC, the authority concerned shall ensure that the details of each workman in respect of his name, address, identity proof alongwith Biometric ID (if any), proof of working with the concerned department, details of his or her Bank Account where the money would be disbursed by the Sub-Divisional Magistrate or District Magistrate after attachment without further delay and answering certificate debtor will receive the compliance report from the Sub-Divisional Magistrate or District Magistrate to close the case.
- v. The Dy. CLC(C) or RLC(C) while sending the recovery certificate shall also send the self-declaration or affidavit (if any) received from the management to the concerned Sub-Divisional Magistrate or District Magistrate.
- vi. The whole process shall be completed within six-weeks (one and half month) from the date of institution of the claim.
- vii. The office of CLC(C) on its website or on a designated Portal shall indicate:
(a) details of application filed (b) the next date of proceedings or hearing and (c) the status of the application. The cause list and daily orders shall also be uploaded on the Website/ Portal. Hard copy of the cause list shall be displayed outside the room of Dy. CLC(C) or RLC(C) concerned.

B. Guidelines to be followed by the Revenue Department Authorities or Sub Divisional Magistrate:

- i. The most important aspect in execution proceedings is to ascertain the assets or means of the certificate debtor to satisfy the recovery under certificate and, therefore, in fresh cases the Sub-Divisional Magistrate shall direct the certificate debtor on the very first hearing to file an affidavit declaring his assets, income and expenditure in the form attached hereto marked as Annexure-A within thirty days of the receipt of the notice. With respect to the pending matters, direction to file the affidavit declaring assets, income and expenditure be issued within fifteen days of the publication of this SOP in the official gazette.
- ii. The notice issued to the certificate debtor shall indicate the direction to file the aforesaid affidavit within **thirty days** of the receipt of the notice and Annexure-A shall be attached to the notice. The notice shall also indicate that the proceedings for detention of the certificate debtor may be initiated in the event of the non-filing of the affidavit within thirty days of the receipt of the notice. The notice shall also indicate that the certificate debtor shall remain present before the Court.
- iii. If the certificate debtor files the affidavit but is not willing to satisfy the recoverable amount under certificate, the Sub-Divisional Magistrate shall proceed to attach the assets of the certificate debtor in accordance with law.
- iv. Upon the aforesaid affidavit being filed, the Sub-Divisional Magistrate may examine the certificate debtor or conduct an inquiry to examine whether the certificate debtor has truly disclosed his or her assets, income and expenditure in his affidavit.
- v. If the certificate debtor fails to appear and file the affidavit declaring his assets, income and expenditure, the Sub-Divisional Magistrate may initiate proceedings for his detention in accordance with the law.
- vi. The Sub-Divisional Magistrate shall follow the principles of natural justice by affording a reasonable opportunity to the certificate debtor.
- vii. All proceedings before the Sub-Divisional Magistrate shall be held in open Court. The daily cause list of the cases shall be displayed outside the Court Room and the orders passed by the Sub-Divisional Magistrate shall be released on the website of the respective Sub-Divisional Magistrate or E-Courts portal within one week.
- viii. The Sub-Divisional Magistrate shall follow these procedures in respect of the proceedings under Industrial Disputes Act, 1947 (14 of 1947) as well as other statutes which provides for the recovery as arrears of land revenue.

C. Common guidelines for Labour and Revenue Departments:

- i. Suitable software programme or web service for revenue officers shall be devised by National Informatics Centre or the designated agency of respective State or Union Territory, which will be interconnected with Labour Department so that both the departments have interface.

Such provisions for common interface may, alternatively, be made on the Samadhan Portal, which is under revamp right now.

- ii. A 'co-ordination committee' comprising of concerned Dy. CLC(C) and

Divisional Commissioner shall review all the non-implemented cases on bi-monthly basis. The agenda and minutes of meeting shall be put in the public domain.

D. Guidelines for handling of cases of non-implementation of Awards:

- i. In case where award of reinstatement in service is granted by the Tribunal and if the management fails to reinstate the workman and the workman files an application before the concerned ALC(C) or RLC(C) or Dy. CLC(C) for his reinstatement, then, the officer concerned shall write to the management asking therein the comments from the management over the complaint giving ten days time. In case the management fails to submit comments within aforesaid time or submits any adverse comments, both the parties may be called to investigate, whether the award in terms of reinstatement with or without back-wages has been implemented in its letter and spirit or not.
- ii. If the conciliation officer is of the considered opinion that the award in question is not implemented or partially implemented, a show cause notice shall be issued to the management giving them fifteen days time as to why they should not be proceeded for prosecution for not implementing the Tribunal award in terms of reinstatement of workman.
- iii. In case management still does not reinstate the workman, then, the proceedings are concluded and a proposal for seeking prosecution sanction shall be submitted by the concerned ALC(C) or RLC(C) to the concerned Dy. CLC(C). The officer executing the enforcement of award shall complete the above-said process within forty five days from the date of receipt of the complaint.
- iv. The Dy. CLC(C) shall examine the prosecution proposal for granting sanction. If he is satisfied, he would grant sanction for filing of prosecution. Dy. CLC(C) being sanctioning authority under section 29 of the Industrial Disputes Act, 1947 (14 of 1947), may ask clarification from the officer submitting proposal, if required. In any case, the sanction for prosecution shall be granted by the Dy. CLC(C) within three weeks from the date of initial receipt of the prosecution proposal.
- v. If the prosecution proposal attracts protection of Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) (earlier 197 of Cr.PC), for which the Central Government is competent to accord sanction, the Dy. CLC(C) shall refer the proposal to the Central Government within seven days from the receipt of the complete proposal through proper channel.
- vi. The Central Government shall examine and accord sanction or reject the proposal, if it deems fit, within four weeks from the date of receipt of the proposal.
- vii. Upon receipt of sanction order, prosecution complaint shall be filed by concerned Labour Enforcement Officer (C) under intimation to the RLC(C) or ALC(C) and Dy. CLC(C) concerned.
- viii. The entire process is to be completed within a period of three-month by the CLC(C) organization.

E. Guidelines for monitoring of the whole process of implementation of award:

In case there is a delay in seeking approval of prosecution, it is proposed to set

up an 'Apex Level Committee' of two members, comprising of the Addl. Chief Labour Commissioner (Central) and the Dy. Chief Labour Commissioner (Central) HQ looking after Industrial Relations. The committee may also co-opt any other member as it deems fit. The committee will monitor all such cases where three-months time limit has been exhausted and the whole process has not completed due to any reason. The said committee will act in supervisory capacity and will have access to all the documents, can call concerned officers of the Region and other officers dealing with such cases to examine the reasons for delay. This committee shall submit its finding within three months in such delayed cases. The said committee shall be empowered to fix responsibility in cases which warrant so.

ANNEXURE - A

FORMAT OF AFFIDAVIT OF ASSETS, INCOME AND EXPENDITURE*
AFFIDAVIT

I _____, son / wife of _____, aged about _____ years, resident of _____, do hereby solemnly affirm and declare as under:

PART - I
PERSONAL INFORMATION RELATING TO THE DEPONENT

S. No.	Description	Particulars
1.	Name	
2.	Age	
3.	(a) Residential address	
	(b) E-mail address	
4.	Marital Status	
5.	Members of the family: (a) Dependent (b) Independent	
6.	Number of children(s) with their name(s) and age(s)	
7.	Educational qualifications	
8.	Professional qualifications	
9.	Occupation	
10.	Monthly income (Give details in Part II)	
11.	Monthly expenditure (Give details in Part III)	
12.	Expenditure on the education of the Children (Give details in Clause 3 of Part III)	
13.	Whether you are assessed to Income Tax?	
14.	Name of your counsel and his/her e-mail address	

****Note – In case of a Company, the affidavit of assets, income and expenditure shall be filed by all the Director(s). In case of a Partnership Firm, the affidavit of assets, income and expenditure shall be filed by all the Partners.***

PART-II
STATEMENT OF INCOME

S. No	Description	Particulars
1.	<p><u>In case of salaried persons:</u></p> <p>(i) Designation</p> <p>(ii) Name and address of the employer</p> <p>(iii) Date of employment</p> <p>(iv) Gross Income including the salary, D.A., commissions/incentives, bonus, perks etc.</p> <p>(v) Perquisites and other benefits provided by the employer including accommodation, cars/other automotive, sweeper, gardener, watchman or personal attendant, gas, electricity, water, interest free or concessional loans, holiday expenses, free or concessional travel, free meals, free education, gifts, vouchers, etc. credit card expenses, club expenses, use of movable assets by employees, transfer of assets to employees, value of any other benefit/amenity/service/ privilege and the value of such perquisites and benefits</p> <p>(vi) Deductions from the gross income</p> <p>(vii) Income tax paid</p> <p>(viii) Net income</p> <p>(ix) Value of stock option benefits, if provided by the employer</p> <p>Pension and retirement benefits payable at the time of retirement</p>	
<u>2.</u>	<p><u>In case of self-employed persons:</u></p> <p>(i) Nature of business/profession</p> <p>(ii) Whether the business/profession is carried on as an individual, sole proprietorship concern, partnership concern, company or association of persons, HUF, joint family business or any other form. Give particulars of your share in the business/ profession. In case of partnership, specify the share in the profit/losses of the partnership</p> <p>(iii) Number of employees</p> <p>(iv) Annual turnover/gross receipts</p>	

	<ul style="list-style-type: none"> (v) Gross Profit (vi) Income Tax (vii) Net Income (viii) Details and value of benefits in kind, perks or other remuneration received from the business, e.g.' provision of car, payment of accommodation, etc. (ix) Amount of regular monthly withdrawal or drawings from the business (x) Current value of your business interest(s) (xi) Current value of your business assets (xii) List of directorships held, sitting fees, commission or any other remuneration (xiii) Net worth of the company in which you are Director along with the number of shares held in the Company 	
3.	<p><u>In case of Company/Partnership Firm:</u></p> <ul style="list-style-type: none"> (i) Information and particulars with regard to the shareholding, involvement in the affairs and management of the firm/company (ii) List of all the bank accounts of the firm/company (iii) Names and residential addresses of the Directors of the firm/company along with their PAN numbers and DIN numbers, as well as complete particulars of all moveable and immovable assets held in their personal names and the dates of their acquisition, and the nature of the right, title and interest therein (iv) Address of the Registered Office and the Corporate or branch offices, if any, of the firm/company (v) Location of the statutory records and books of account of the firm/company (vi) List of immovable assets, land and building etc. of the firm/company as on the date of the award/order. (vii) List of immovable assets, land and building of the firm/company as on the date of filing the affidavit (viii) List of the movable assets of the 	

	firm/company, their location and value (ix) Details of the debtors and creditors of the firm/company with their complete addresses and (x) Details of workmen/employees and any amount outstanding to them (xi) Whether the firm/company have assets/means to satisfy the decree.	
4.	<u>Income from Other Sources:</u> (i) Agricultural Income (ii) Rent (iii) Interest on bank deposits and FDRs (iv) Interest on investments including deposits, NSC, IVP, KVP, Post Office schemes, PPF, loans etc. (v) Dividends (vi) Income from machinery, plant or furniture let on hire. (vii) Gifts (viii) Profit on sale of movable/ immovable assets	
5.	Any other income not covered above	
	TOTAL MONTHLY INCOME	

PART III
STATEMENT OF EXPENDITURE

S. No.	Monthly expenditure		Amount (in Rs.)
1.	Housing	Monthly rent	
		Mortgage payment (s)	
		Repairs & Maintenance	
		Property tax	
2.	Household expenditure	Groceries/ Food/ Personal care/ Clothing	
		Water	
		Electricity	
		Gas	
		Telephone	
		TV Cable/ Set-top Box charges & Internet services	
		Maintenance, replacement and repair of household items, appliances and kitchenware items.	
		Telephone	
		Domestic full time/ part time servant(s)	
		Others (specify)	
3.	Expenditure on Children	School Fees	
		Crèche/ Day Care/ After school care	
		Books/ Stationery	
		Private Tuitions	
		Sports	
		Outings/ Summer Camps/ Vacations	
		Entertainment	
		Others	
4.	Transport	(i) Car/Scooter	
		(a) Driver(s)	
		(b) Fuel	
		(c) Repair/ Maintenance	
		(d) Insurance	
		(e) Loan repayment	
		(ii) Public Transport	
		(a) Bus	
		(b) Taxi	
		(c) Metro	
		(d) Auto	

5.	Medical expenditure	Doctor	
		Medication	
		Hospital	
		Other medical expenditure	
		Others (specify)	
6.	Insurance	Life	
		Annuity	
		Householders	
7.	Entertainment and Recreation	Club	
		Health Club	
		Gym	
8.	Holiday and vacations		
9.	Gifts		
10.	Pocket money/ Allowance		
11.	Legal/litigation expenses including expenses incurred in this litigation		
12.	Discharge of Liabilities	Credit card(s) payment	
		Hire purchase/ lease	
		(i) Repayment of Loans	
		(a) House loan	
		(b) Car loan	
		(c) Personal loan	
		(d) Business loan	
		(e) Any other loan	
		(ii) Name of the lenders	
		(iii) Mode of repayment	
		(iv) Instalment amount	
		(v) Other personal liabilities	
13.	Miscellaneous	Newspapers, magazines, books	
		Religious contributions/ Charities	
		Others (specify)	
14.	Other expenditure (not specified above)		
TOTAL MONTHLY EXPENDITURE			

PART - IV
STATEMENT OF ASSETS

S. No.	Assets	List of Assets		Present Estimated Market Value
		On the date when claim was raised	On the date when order was passed	
1.	<p><u>Real Estate</u></p> <p>Including land, built up properties, lease hold properties, agricultural land and investment in real estate such as booking of plots, flats and other immovable properties in your name and joint names.</p> <p>List any interest in properties, including lease hold interest and mortgages, whether or not you are registered as owner.</p> <p>Provide legal descriptions and indicate estimated market value of your interest without deducting encumbrances or costs of disposition.)</p> <p>(Record encumbrances under debts.)</p>			
2.	<p><u>Joint Properties</u></p> <p>Particulars of the joint property in the name/names of the joint owners and the share of the deponent. Give the status of their possession.</p> <p>Whether any litigation pending with respect to the joint property? If so, give particulars.</p>			
3.	<p><u>Financial Assets:</u></p> <p>(i) Details of all bank accounts including Current and Savings Accounts in your name, or joint name and balance in the said account</p> <p>(ii) Cash in hand</p>	Account No. & Name of Bank		Balance at the date of this Statement

4.	<u>Investments</u>	Particulars	Current Value
	<p>Details of all investments you hold or, in which you have interest and their current value:</p> <p>(i) FDRs, NSC, IVP, KVP, Post Office schemes, PPF etc.</p> <p>(ii) Deposits with Government and Non-Government entities</p> <p>(iii) Stocks, shares, debentures, bonds, units and mutual funds, etc.</p> <p>(iv) Life and endowment policies and surrender value</p> <p>(v) Loan given to friends, relatives and others</p> <p>(vi) Other investments not covered by above items</p>		
5.	<p><u>Pensions and Retirement Savings Plan</u></p> <p>Indicate name of institution where accounts are held, name and address of pension plan and pension details.</p>		
6.	<p><u>Corporate/Business Interests</u></p> <p>List any interest you hold, directly or indirectly, in any corporation, unincorporated business, partnership, trust, joint venture and Association of Persons, Society etc.</p>		
7.	<p><u>Movable Assets</u></p> <p>(i) Motor Vehicles (List cars, motorcycles, scooters etc. along with their brand and registration number)</p> <p>(ii) Livestock</p> <p>(iii) Mobile phone(s)</p> <p>(iv) Computer/ Laptop</p> <p>(v) Other electronic gadgets including I-pad etc.</p> <p>(vi) TV, Fridge, Air Conditioner, etc.</p> <p>(vii) Other household appliances</p>		

	(viii) Quantity of gold, silver and diamond jewelry (ix) Quantity of Silver Utensils		
8.	<u>Intangible properties</u> Including patents, trademark, copyright design and goodwill and their value		
9.	<u>About disposal of properties</u> Particulars of properties (movable as well as immovable) sold/agreed to be sold between the date on which the claim was raised upto the date of filing this affidavit and the sale consideration received from the purchaser		
10.	<u>Others</u> List anything else of value that you own, including precious metals, collections, works of art, and jewelry or household items of high value. Include location of any safety deposit lockers.		

PART - V
STATEMENT OF LIABILITIES

S. No.	Description	Particulars of Debts	Current Value
1.	<u>Secured debt(s)</u> List all mortgages, loans, and any other debt secured against an asset		
2.	<u>Unsecured Debt(s)</u> List all bank loans, personal loans, credits, overdrafts, credit cards and any other debts		
3.	<u>Other</u> List any other debts, including obligations that are relevant to a claim		

PART – VI
GENERAL INFORMATION RELATING TO THE STATUS,
STANDARD OF LIVING AND LIFESTYLE

S. No.	Description	Particulars
1.	Name of school(s) where the child or children are studying	
2.	Area of residential accommodation (in sq. feet)	
3.	Who is the owner of the residential accommodation? In case of rented accommodation, specify the monthly rent	
4.	Number of part-time/full time domestic servants and their wages	
5.	Average monthly withdrawal from bank(s)	
6.	Mode of travel in city/outside city	
7.	Membership of clubs/health clubs/gyms, societies and other associations. Specify the membership fee and subscription	
8.	Particulars of credit/debit cards, its limit and usage	
9.	Particulars of frequent flier cards	
10.	Frequency of foreign travel, business as well as personal	
11.	Category of hotels ordinarily used for stay, official as well as personal	
12.	Category of hospitals opted for medical treatment including type of rooms	
13.	Brand of vehicle, mobile and wrist watch	
14.	Expenditure ordinarily incurred on family functions including birthday of the children	
15.	Expenditure ordinarily incurred on festivals	
16.	Expenditure on marriage of family members	
17.	Status of the deponent/ family: <div style="text-align: center;"> - High - Upper Middle - Middle - Lower Middle - Low -Below poverty line </div>	

PART – VII
DOCUMENTS RELATING TO ASSETS, INCOME AND EXPENDITURE OF THE
DEPONENT

PART A
DOCUMENTS RELATING TO PERSONAL INFORMATION

S. No.	Document	Description of Document
1.	Aadhaar Card	
2.	PAN Card	
3.	Passport	
4.	Driving Licence	
5.	Ration Card	
6.	Voter ID	

PART B
DOCUMENTS RELATING TO INCOME, ASSETS AND LIABILITIES

S. No.	Document	Description of Document
1.	Statement of Account of all bank accounts including current and savings accounts for last 3 years	
2.	Income Tax Return(s) along with Statement of Income and Annexures for last 3 years	
3.	<u>In case of Salaried Persons</u> (i) Appointment Letter (ii) Salary slip (iii) Forms 16, 16A & 12BA (iv) Cost to Company Certificate and CIBIL Certificate, wherever applicable (v) Copies of TDS certificates	
4.	<u>In case of self-employed persons</u> (i) Balance Sheet and Profit & Loss Account (ii) Balance Sheet and Profit & Loss Account of the proprietorship firm, if the business is carried on in the name of a sole proprietorship concern	

	<p>(iii) Balance Sheet and Profit & Loss Account of the partnership firm, if the deponent is a partner in a firm along with the Schedule showing the distribution of partners' remuneration share of profits/ losses of the partnership firm and the copy of the partnership deed.</p> <p>(iv) Balance Sheet and Profit & Loss Account of the Company in which the deponent is a Director</p> <p>(v) Balance Sheet and Profit & Loss Account of the Association of Persons, HUF, Joint Family business or trust in which the deponent has share</p> <p>(vi) Copies of TDS certificates</p>	
5.	<p><u>In case of Income from other sources:</u></p> <p>(i) Lease Deed(s)/ Rent Agreement(s)/ Licence Agreement(s) in respect of the rental income</p> <p>(ii) Interest Certificate in respect of the interest income on deposits and investments</p> <p>(iii) Dividend Certificates in respect of dividend income.</p>	
	<p>(iv) Sale Deed(s)/ transfer documents in respect of the profit on sale of property/ properties</p>	
6.	Other relevant documents relating to Income/ Assets	
7.	Other relevant documents relating to liabilities	

PART C
DOCUMENTS RELATING TO EXPENDITURE

S. No.	Document	Description of Document
1.	<ul style="list-style-type: none"> (i) Documents relating to the expenditure on education of children including tuition fees (ii) Rent and maintenance receipts (iii) Electricity, water, security and gas bills (iv) Documents relating to the salary paid to the employees including servant(s) (v) Documents relating to expenditure on conveyance (vi) Debit and Credit Card statements (vii) Frequent Flier's Card statements (viii) Mobile and landline phone bills (ix) Internet and TV cable/ Set -Top Box bills (x) Documents relating to the re-payment of the loans (xi) PPF, EPF and other superannuation fund receipts (xii) Receipts of premium of insurance policies (xiii) Receipts of payments in respect of mutual funds (xiv) Documents relating to payment of interest on bank and other loans (xv) Documents relating to the payment of taxes, including Income Tax, Wealth Tax and Property Tax (xvi) Other relevant documents relating to Expenditure 	

Declaration:

1. I declare that I have/do not have means to satisfy the order/decreed/award.
2. I declare that I have made full and accurate disclosure of my income, expenditure, assets and liabilities from all sources. I further declare that I have no assets, income, expenditure and liabilities other than set out in this affidavit.
3. I undertake to inform this Court immediately upon any material change in my employment, income, expenses or any other information included in this affidavit.

4. I understand that any false statement in this affidavit may constitute an offence under Section 199 read with Sections 191 and 193 of the Indian Penal Code punishable with imprisonment upto seven years and fine, and Section 209 of Indian Penal Code punishable with imprisonment upto two years and fine. I have read and understood Sections 191, 193 199 and 209 of the Indian Penal Code.

DEPONENT

Verification:

Verified at _____ on this ____ day of ____ that the contents of the above affidavit relating to my assets, income and expenditure are true to my knowledge, no part of it is false and nothing material has been concealed therefrom. I further verify that the copies of the documents filed along with the affidavit are the copies of the originals.

DEPONENT