

APPENDIX



APPENDIX I

DRAFT OF NOTICE TO BORROWER UNDER SECTION (2) OF SECTION 13 OF THE SARFAESI ACT, 2002

To,

(Name of the borrower)

Dear Sir/s

Re.: Credit facilities with ourBranch.

1. We refer to our letter No.....dated.....conveying sanction of various credit facilities & the terms of sanction. Pursuant to the above sanction you have availed & started. The present outstanding in various loan/credit facility accounts & the security interests created for such liability are as under:

Nature of limit	Limit	Rates of interest	O/S as on.....Inclusive of interest up to	Security agreement with brief description of securities
Cash Credit				
Term Loan				
Letter of credit				
Bills Purchase				

Book debts & receivables

(For mortgage of property it may be stated that Mortgage of property located at)

2. In the letter of acknowledgement of debt dated..... you have acknowledged your liability to the Bank to the tune of Rs..... lakhs as on..... The outstanding stated above include further drawings & interest up to..... Other charges debited to the account are Rs.....

Or

2. In the audited balance sheet of the Company for the year ended..... You have confirmed & acknowledged liability to the Bank to the tune of Rs..... lakhs as on 31st March..... The outstanding stated above include further drawings & interest up to..... other charges debited to the account are Rs.....

3. As you are aware you have committed defaults in payment of interest on above loans/outstanding for the quarter ended &..... You have also defaulted in payment of installments of term loan/Demand loans which have fallen due for payment on& thereafter.

4. Consequent upon the defaults committed by you, your loan account has been classified as non-performing asset on..... (Mention date of classification as NPA) in accordance with the Reserve Bank of India directives & guidelines. In spite of our repeated requests & demands you have not repaid the overdue loans including interest thereon.
5. Having regard to your inability to meet your liabilities in respect of the credit facilities duly secured by various securities mentioned in para 1 above, & classification of your account as a non performing asset, we hereby give your notice under sub section (2) of section 13 of the Securitisation & Reconstruction of Finance Assets & Enforcement of Security Interest Act,2002, & call upon you to pay in full & discharge your liabilities to the bank aggregating Rs..... as states in Para 1 above , within 60 days from the date of this notice. We further give you notice that failing payment of the above amount with interest till the date of payment, we shall be free to exercise all or any of the rights under sub-section (4) of section 13 of the said Act, which please note.
6. Please note that interest will continue to accrue at the rates specified in para 1 above for each credit facility until payment.
7. We invite your attention to sub section (13) of section 13 of the Act in terms of which you are barred from transferring any of the secured assets referred to in Para 1 above by way of sale lease or otherwise (other than in the ordinary course of business), without obtaining our prior written consent. We may add that non-compliance with the above provision contained in section 13(13) of the said Act, is an offence punishable under section 29 of the Act.
8. Please note that this demand notice is without prejudice to & shall not be construed as waiver of any other rights or remedies which we may have including without limitations the right to make further demands in respects of sums owing to us.

Yours faithfully,

Authorised Officer.

APPENDIX - II

Questionnaire

1. Questionnaire to loan and legal department

- 1) Give a profile of your bank.
- 2) What is the historical back ground of this bank?
Give following statistical data of the 3-year i.e. 31-3- 2004 to 2006.
- 3) Position of deposits of your bank according to :-
 - 1) Current deposits.
 - 2) Savings bank deposits.
 - 3) Fixed deposits.
- 4) Position of loans & advances against following methods of security of your banks.

A) Cash credit

B) term Loan

Against hypothecation
Against mortgage Property
Bill purchased
Bill discounted
Temporary O/D

Against Machine & Vehicles
Against Mortgaged property
Against Agricultural land

- 5) Total of loan & advances granted by your bank.
- 6) Total overdue of your bank in the 3 years & ratio of total overdue to total loans.
- 7) Classification of suits instituted for recovery of overdue under.
 - a) MSC act 1960 u/s 91 and 101.
 - b) Notices u/s 13(2) of SARFAESI Act.
- 8) Number of suits in Debt Recovery Tribunal along with their amounts.

- 9) Number of properties acquired by bank under securitisation Act 2002.
- 10) Number of accounts, which are totally recovered due to securitisation Act.
- 11) Number of mortgaged properties possessed by your bank in previous 3 years.
- 12) Has the bank enforced its security interest on non-mortgaged property?
- 13) Has the bank given notice u/s 13₍₂₎ of securitisation Act to those accounts, which are performing assets?
- 14) Whether the registered mortgaged is executed in respect of those loan a/c on which notices are issued?
- 15) Whether bank has issued a notice u/s 13₍₂₎ of securitisation in respect of charge created on property in favour of bank?
- 16) Whether the notice is issued by the bank u/s 13₍₂₎ to the borrower & respective guarantors in respect of registered mortgage deed?
- 17) Whether the notice issued u/s 13₍₂₎ to borrower & respective guarantors before taking possession of mortgaged property in respect of registered mortgage deed or charge created on it.
- 18) Whether the notice 13₍₂₎ contents that “ the secured property will be sold. If borrower failed to repay the due amount within 60 days from the notice issued to settle the due amount”?
- 19) Whether the recovery officer/authorised officer of a bank has sent 30 days notice after taking possession of a secured property according to sec 13₍₂₎ to borrower.
- 20) To whom does bank has given power of recovery or to whom the bank has appointed as a authorised officer?
- 21) Number of properties & their amount, which are possessed by the bank due to non-payment of due, amount by the borrower.

- 22) Number of accounts in which bank has incurred some amount for management such as appointment of manager & security guard for acquired secured property.
- 23) Number of accounts along with their amount in which borrowers repaid the due amount before sale of secured property under securitisation act.
- 24) Number of accounts in which bank could not get possession of secured property even after serving the legal notice u/s 13₍₂₎ and 30 days notice to borrower due to disturbance or pressure brought by borrowers.
- 25) Number of accounts along with their amounts in which bank could not taken over the possession due to appeal in the D.R.T. made by the borrower after receipt of 60 days notice u/s ₍₂₎.
- 26) Number of accounts & their amount in which borrower has deposited 75 % of amount claimed in the notice by the borrower presenting the appeal in DRT.
- 27) Whether bank has appointed any valuator for the valuation of secured property?
- 28) Which method of communication is used by the bank to serve the notice to borrower & guarantor's u/s 13₍₂₎ among post, speed post, courier, electronic mail etc?
- 29) Number of accounts along with their amount for which bank has served the notice by affixing it on the outer door or on conspicuous part of the house in which borrower or his agent ordinarily resides or carries business.
- 30) Number of accounts along with their amount in respect of which the bank issues public notices in two vernacular local newspapers.

- 31) Number of accounts along with their amount in which bank has served a demand notice in English to the borrower, who can't understand English?
- 32) Whether the authorised officer of the bank has taken possession of movable property which was mortgaged, in presence of two witnesses after a Panchanama drawn & signed by the witnesses as per rule 4₍₁₎ of the securitisation act.
- 33) Whether the authorised officer of bank has made an inventory of the property under the rule 4₍₂₎ and drawn the copy of inventory.
- 34) Number of accounts along with their amounts in which authorized officer has sold the movable property which is acquired according to rule 4₍₁₎ by adopting any of the following method of selling
 - a) Obtaining quotations
 - b) Inviting tenders from the public
 - c) Holding public auction
 - d) By adopting private treaty
- 35) Number of accounts & amounts in which bank has succeed in selling the secured property after issuing proper notice to the borrower & his agent under rule 8 & rule 9.
- 36) Number of accounts & amounts in which bank could not sold secured property by auction sale.
- 37) Has the bank taken efforts to train its officers to implement this new act at its level?
- 38) Among various measures for recovery, do you think that co-op. banks are really enjoying the weapon of Securitisation Act against the borrower for recovery? Do you think that Securitisation Act is more effective than section 91 &101 for recovery of due amount from borrowers?
