

Competition Act, 2002

Section 39 - Execution of Order of Commission Imposing Monetary Penalty

²[1]39. Execution of order of Commission imposing monetary penalty.--

(1) If a person fails to pay any monetary penalty imposed on him under this Act, the Commission shall proceed to recover such penalty in such manner as may be specified by the regulations.

(2) In a case where the Commission is of the opinion that it would be expedient to recover the penalty imposed under this Act in accordance with the provisions of the Income-tax Act, 1961(43 of 1961), it may make a reference to this effect to the concerned income-tax authority under that Act for recovery of the penalty as tax due under the said Act.

(3) Where a reference has been made by the Commission under sub-section (2) for recovery of penalty, the person upon whom the penalty has been imposed shall be deemed to be the assessee in default under the Income-tax Act, 1961(43 of 1961) and the provisions contained in sections 221 to 227, 228A, 229, 231 and 232 of the said Act and the Second Schedule to that Act and any rules made thereunder shall, in so far as may be, apply as if the said provisions were the provisions of this Act and referred to sums by way of penalty imposed under this Act instead of to income-tax and sums imposed by way of penalty, fine and interest under the Income-tax Act, 1961 and to the Commission instead of the Assessing Officer.

Explanation 1.--Any reference to sub-section (2) or sub-section (6) of section 220 of the Income-tax Act, 1961(43 of 1961), in the said provisions of that Act or the rules made thereunder shall be construed as references to sections 43 to 45 of this Act.

Explanation 2.--The Tax Recovery Commissioner and the Tax Recovery Officer referred to in the Income-tax Act, 1961(43 of 1961) shall be deemed to be the Tax Recovery Commissioner and the Tax Recovery Officer for the purposes of recovery of sums imposed by way of penalty under this Act and reference made by the Commission under sub-section (2) would amount to drawing of a certificate by the Tax Recovery Officer as far as demand relating to penalty under this Act.

Explanation 3.-- Any reference to appeal in Chapter XVIIID and the Second Schedule to the Income-tax Act, 1961(43 of 1961), shall be construed as a reference to appeal before the Competition Appellate Tribunal under section 53B of this Act.]

1. Substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007]. Prior to substitution it read as:

"39. Execution of orders of Commission.--

Every order passed by the Commission under this Act shall be enforced by the Commission in the same manner as if it were a decree or order made by a High Court or the principal civil court in a suit pending therein and it shall be lawful for the Commission to send, in the event of its inability to execute it, such order to the High Court or the principal civil court, as the case may be, within the local limits of whose jurisdiction.--

(a) in the case of an order against a person referred to in sub-clause (iii) or sub-clause (vi) or sub-clause (vii) of clause (1) of section 2, the registered office or the sole or principal place of business of the person in India or where the person has also a subordinate office, that subordinate office, is situated;

(b) in the case of an order against any other person, the place, where the person concerned voluntarily resides or carries on business or personally works for gain, is situated,

and thereupon the court to which the order is so sent shall execute the order as if it were a decree or order sent to it for execution."

2. Effective date :20th May 2009- notified vide Ministry of Corporate Affairs Notification No S.O.1241(E) dated 15.05.2009.
