

# DIRECT TAX

## Notification No. 44/2019

Date - 27.05.2019

### Rules framed for Prohibition of Benami Property Transactions Act, 1988

In exercise of the powers conferred by section 68 read with sub-section (2) of section 9, subsection (1) of section 13 of the Prohibition of Benami Property Transactions Act, 1988 (45 of 1988) (hereafter referred to as 'the Act'), the Central Government has made the following rules, namely:—

#### **Method of recruitment.—**

(1) The Member of the Adjudicating Authority shall be appointed by the Central Government, on the recommendation of the Search-cum-Selection Committee specified in sub-rule (4) in respect of the said members.

(2) The Search-cum-Selection Committee shall determine its procedure for making its recommendation.

(3) No appointment of Member of the Adjudicating Authority shall be invalid merely by reason of any vacancy or absence in the Search-cum-Selection Committee.

(4) The Search-cum-Selection Committee for the post of the Member of the Adjudicating Authority shall consist of,—

(i) Secretary to the Government of India, Ministry of Finance, Department of Revenue — Chairperson; (ii) Secretary to the Government of India, Ministry of Law and Justice, Department of Legal Affairs — Member;

(iii) Chairperson, Central Board of Direct Taxes — Member.

**Resignation—** The Member of the Adjudicating Authority may, by writing under his hand addressed to the Central Government, resign his office at any time:

Provided that he shall, unless permitted by the Central Government to relinquish his office from the date as specified in the resignation letter, continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government or until a person duly appointed as a successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

#### **Procedure for inquiry for removal of Member of Adjudicating Authority —**

(1) If a written complaint is received by the Central Government, alleging any charge as referred to in clause (d) or clause (e) of the sub-section (1) of section 14 of the Act, in respect of a Member of the Adjudicating Authority, the Board shall make a preliminary scrutiny of such complaint.

(2) If on preliminary scrutiny, the Board is of the opinion that there are reasonable grounds for making an inquiry into the truth of any charges in respect of the Member of the Adjudicating Authority, it, with the approval of Central Government, shall make a reference to the Committee constituted in this behalf to conduct the inquiry.

(3) The Committee shall complete the inquiry within such period, not exceeding the period of twelve months from the date of receipt of the reference, as may be specified by the Central Government.

Provided that where it is not possible to complete the inquiry within the period specified by the Central Government, the Committee may record the reasons and seek extension of time from Central Government in writing, which may allow an additional time not exceeding the period of six months for completion of inquiry, at a time.

(4) After the conclusion of the inquiry, the Committee shall submit its report to the Central Government stating therein its findings and the reasons thereof on each of the charges separately along with such observations as it may deem fit.

(5) The Committee shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall regulate its own procedure, including the fixing of date, place and time of its inquiry.

**Other conditions of service.—**

(1) The other conditions of service of the Member of the Adjudicating Authority with respect to which no express provision has been made in these rules, shall be such as are admissible to a Central Government Officer of a corresponding status.

(2) The Member of the Adjudicating Authority shall not practice before the Adjudicating Authority after retirement from the service of the Adjudicating Authority.

(3) The Member of the Adjudicating Authority shall not undertake any arbitration work while functioning in these capacities in the Adjudicating Authority.

(4) The Member of the Adjudicating Authority shall not, for a period of two years from the date on which they cease to hold office, accept any employment in, or connected with the management or administration of, any person who has been a party to a proceeding before the Adjudicating Authority:

Provided that nothing contained in this rule shall apply to any employment under the Central Government or a State Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013).

**FORM-I**

**(See rule 14)**

Form of Oath of Office for the Chairperson/Member of the Adjudicating Authority I, A. B., having been appointed as Chairperson/Member of Adjudicating Authority do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as the Chairperson/Member of Adjudicating Authority to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws of land.

**FORM-II**

**(See rule 14)**

Form of Oath of Secrecy for the Chairperson/Member of the Adjudicating Authority I, A. B., having been appointed as the as Chairperson/Member of Adjudicating Authority do solemnly affirm/do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Chairperson/Member of Adjudicating Authority except as may be required for the due discharge of my duties as the Chairperson/Member of Adjudicating Authority.

For more details, please follow -  
[https://www.incometaxindia.gov.in/communications/notification/notification\\_44\\_2019.pdf](https://www.incometaxindia.gov.in/communications/notification/notification_44_2019.pdf)