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कर्मचारी भविष्य निधि संगठन

(श्रम मंत्रालय भारत सरकार)

Employees' Provident Fund Organisation
(Ministry of Labour, Govt. Of India)

मुख्य कार्यालय / Head Office

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To,

All Regional P.F. Commissioners,
In-Charge of Regional/Sub-Regional Offices,

**Subject : Contribution under Section 6 not payable on Cost to Company(CTC) –
Clarification - Regarding.**

Sir,

It is observed that the import of Section 6 of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 is not correctly understood by some of the field offices which results in complaints and is many a times a cause for unnecessary litigation. They are unwittingly asking employers not only to pay contributions on Cost to Company (CTC) but are also questioning them on why reflecting of employer's contribution (to PF) under CTC be not treated as a deduction by them from employees' salary and consequently why this be not treated as a violation by the employer of Paragraph 31 of the Employees' Provident Scheme, 1952.

2. Many of the employers in today's world give the breakup of the outgoings under different heads as CTC in the appointment letter issued to a new employee. CTC is the total cost, generally on an yearly basis, which an employer incurs on an employee during his employment/services or his holding office in the company/establishment and is normally/generally much above the wage ceiling on which PF is payable under the Act and the Schemes.

3. "Basic wages" as defined under section 2(b) of the Act means "all emoluments which are earned by an employee while on duty or on leave ... in accordance with the terms of the contract of employment ... but does not include:" among other things –

HRA

- Overtime Allowance
- Bonus
- Commission or
- any other similar allowance payable to the employee.

4. **Section 6** which deals with '**Contribution**' says that "The contribution which shall be paid by the employer to the Fund shall be" **a certain percentage "of the basic wages, dearness allowance and retaining allowance** (if any) for the time being payable to each of the employees...". Thus, contribution under section 6 is payable only on basic wages (which excludes HRA, Overtime Allowance, Bonus, Commission etc.), dearness allowance (which includes cash value of any food concession) and retaining allowance, if any.

5. Emoluments means all earnings by an employee for the work done by him in an establishment and includes Bonus, Commission etc. whereas, basic wages (as defined in the Act) expressly excludes these items/components.

6. CTC cannot be therefore construed to mean 'emoluments' which are earned by an employee within the meaning of the term "basic wages" as given under section 2(b) of the Act and contribution under section 6 of the Act cannot be thus charged on CTC.

7. Paragraph 31 of the Employees' Provident Funds Scheme, 1952 states that "Notwithstanding any contract to the contrary the employer shall not be entitled to deduct the employer's contribution from the wage of a member or otherwise to recover it from him".

8. Though wage is not defined in the Act or Scheme, when cost to company is the sum total of all the earnings of an employee in a year and includes all expenses made by the company on him for his services **and** contribution as per Section 6 of the Act is only on certain components of wage (as noted in Para 4 above) on which PF is deductible/payable by the employer, it cannot be alleged that the employer is deducting the employer's share of contribution towards PF from the wage of the employee or is otherwise recovering it from him and is thereby violating Para 31 of the EPF Scheme, simply because he is showing it as a component of CTC, more so, if he is showing the contribution payable by the

employer separately in the Balance Sheet. It is thus not wrong if the employer is showing employer's share of Provident Fund contribution as a part of CTC of the employee.

9. In view of the above, the employer's share of PF contribution booked as a part of CTC in respect of his employees by the employer does not tantamount to mean that the employer is deducting employer's contribution from the salary of the employees. Accordingly, all components of Cost to Company cannot be treated as emoluments under Section 2(b) of the EPF & MP Act, 1952.

10. Further, it may be noted that the above instructions would apply only if the contributions under Section 6 are being received on an amount (of wage) which is equal to or more than the wage ceiling. Under no circumstances shall the employer be permitted to segregate the CTC/salary into such components so as to bring the amount (of wage), on which contribution is payable by him under Section 6 of the Act, below the wage ceiling prevailing.

(This issues with the approval of CPFC)

Yours faithfully,

(P.K. Udgata)
Addl. CPFC (Compliance)
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Copy to:

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- 5) All RPFs/APFCs in Head Office including NDC.
- 6) All Dy. Directors (Vigilance).
- 7) Hindi Cell for Hindi Translation.

(P.K. Udgata)
Addl. CPFC (Compliance)