

EMPLOYEES' PROVIDENT FUND ORGANISATION



AGENDA BOOK

33rd Meeting of the Sub- Committee of Central Board of Trustees, (EPF) on Exempted Establishments

Date : 02.01.2013 (Wednesday)

Time : 02:00 PM

Venue : BEL Officers Club, Jalahalli, Bangalore

**33rd Meeting of the
Sub-Committee on Exempted Establishments**

Date: 02.01.2013 (Wednesday)

Time: 02: 00 PM

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3.	Any other item with the permission of Chair.	

Item No 1: Action Taken statement in respect of 32nd meeting of the sub- committee of CBT, EPF on Exempted establishments

SI No.	Decision / Recommendations of the committee	Action Taken/ Status
1.	Approval of the report of the committee constituted for standardization of balance sheet/ reporting the system of accounts by the exempted trust.	The proposal was agreed to recommendation by the Sub-committee and being forwarded to CBT / MOL&E.

Item No 2: Review of the Exempted establishments under Regional office Bangalore & Peenya Regions

Bangalore :-

Regional Office, Bangalore has one sub-regional office Mysore Road. Total number of exempted establishments under the Regional Office, Bangalore are 36 having number of members 214659 similarly Sub-Regional Office, Mysore Road is having 9 exempted establishments having 11411 members (Annexure A).

Compliance:- Compliance status of the exempted establishments are following

		RO, Bangalore	SRO, Mysore Road
1	Establishments in default of payment of dues	NIL	NIL
2	Establishments violating the conditions of exemption	14	NIL
3	Relaxed Establishments	3	NIL
4	Relaxation withdrawn/Exemption cancelled	1	NIL

Out of 14 cases of violation of condition of exemption, in 7 cases there is violation of investment pattern, in 2 cases there is violation of conditions No. 25 on account of consecutive loss to the establishment for three years, and in 2 cases establishments have failed to recoup the losses of the trust (Annexure C & F).

Grant of Exemption:-

Presently only three establishments are relaxed which are pending for exemption and are currently referred back to Regional Office, Bangalore for rectification (Annexure E).

Cancellation of Exemption:-

RO, Bangalore has only one case of cancellation of exemption (Annexure D).

Peenya :-

Regional Office, Peenya was bifurcated from the erstwhile Bangalore Region and is presently having two sub-regional offices namely Sub- Regional Office, Whitefield and Sub-Regional Office, Bommasandra. There are 22 exempted establishments in Regional Office, Peenya, 26 exempted establishment in SRO, Whitefield and 13 exempted establishments under the Sub-Regional Office, Bommasandra (Annexure A).

Compliance: Compliance status of the exempted establishments are following

		RO, Peenya	SRO, Whitefield	SRO, Bommasandra
1	Establishments in default of payment of dues	2	NIL	NIL
2	Establishments violating the conditions of exemption	16	4	NIL
3	Relaxed Establishments	NIL	5	NIL
4	Relaxation withdrawn/ Exemption cancelled	NIL	2	NIL

Out of 20 cases of violation of condition of exemption, in 10 cases there is violation of investment pattern, in 5 cases there is violation of conditions No. 25 on account of consecutive loss to the establishment for three years and in 5 cases establishments have failed to recoup the losses of the trust (Annexure C & F).

It is also seen that 7 files in respect of exempted establishments pertaining to RO, Peenya are not transferred from RO, Bangalore.

Grant of Exemption:-

Presently only 5 establishments are relaxed which are pending for exemption, out of which one establishment is pending for exemption before the Appropriate Government and 4 establishments have violated condition of exemption / relaxation and action is under process (Annexure E).

Cancellation of Exemption:-

SRO, Whitefield has 2 cases of cancellation of exemption (Annexure D).

GENERAL STATISTICS OF EXEMPTED ESTABLISHMENTS

Sr No	Region	Total exempted estt	Exempted u/s 17	Exempted u/p 27	Exempted u/p 27A	No of estt Relaxed u/p 79	No of defaulting Estt	No of Estt violating conditions of exemption	No of Members
1	BANGALORE	45	23	0	19	3	0	14	226070
2	PEENYA	61	44	3	9	5	2	20	390378
	TOTAL	106	67	3	28	8	2	34	616448

ANNEXURE - B**STATUS REPORT**

SR. NO	ITEMS	BANGALORE	PEENYA
1	Establishments in default of payment of dues	0	2
2	Establishments violating the conditions of exemption	14	20
3	Relaxed Establishments	3	5
4	Relaxation withdrawn/Exemption cancelled	1	2

TYPES OF VIOLATIONS OF CONDITIONS OF EXEMPTION

Sr No	Region	Non Maintenance of Investment Pattern (Condition No 17)	Default in transfer of dues to BOT/EPFO (Condition No 5)	Non Enrollment of all eligible employees (condition No 3)	Consecutive loss to the estt for 3 years or erosion in its net worth (Condition No 25)	Failed to recoup losses of the trust (Condition No 28)	Failure to audit Accounts (Condition No 24)
1	BANGALORE	7	0	0	2	2	0
2	PEENYA	9	5	0	5	5	0

ANNEXURE - D**LIST OF CASES OF CANCELLATION OF EXEMPTION**

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	STATUS
1	M/S. Anglo French Drug Company(Eatern)Ltd, No.41, III,Cross,V Block, SSI Area, Rajajinagar, Bangalore-560 010	KN/10641	RO, Bangalore	Inquiry under section 7A is going on in this matter to asses the past accumulation
2	M/s.Patco Agencies	KN/4230	RO, Peenya	
3	M/s.Shell India Pvt. Ltd	KN/35701	RO, Peenya	Matter pending with High Court.

ANNEXURE - E

LIST OF RELAXED CASES

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	STATUS
1	M/s. Axa Business Services Ltd.	KN/23959	RO, BANGALORE	Proposal was sent to Head office vide letter dated 15/11/2011. But Head Office sought certain clarifications dated 07/08/2012 and 06/12/2012. Reply awaited.
2	M/s. Axa Group Solution Pvt Ltd.	KN/41653	RO, BANGALORE	Proposal was sent to Head office vide letter dated 15/11/2011. Head Office sought certain clarifications vide letter dated 03/02/2012 and 06/12/2012. Clarification has been sent to Head Office vide letter dated 30/03/2012.
3	M/s. Axa Technology Service Pvt Ltd	KN/46302	RO, BANGALORE	Proposal was sent to Head office vide letter dated 15/11/2011. Vide letter dated 06/12/2012 the Head Office has sought some clarifications. Action is underway.
4	M/s. Gleason Works (I) Pvt. Limited.	KN/23182	RO, Peenya	The proposal was approved and sent to Central Govt. and reference is received from Central Govt.
5	M/s. Mercedes Benz R&D Pvt. Ltd.	KN/24117	RO, Peenya	Reply awaited w.r.t. Head Office reference dated 12/05/2011.
6	M/s. Capgemini Business Services (P) Ltd.	KN/35750	RO, Peenya	Establishment has violated condition No. 17 etc. of exemption. Ref. was made by Head Office on 11/10/2012.
7	M/s. NXP Semiconductors India Pvt. Ltd.	KN/45192	RO, Peenya	Discrepancies observed vide Head Office letter 11/04/2011 and 23/10/2012 was furnished vide letter dated 21/12/2012.
8	M/s.Shell India Pvt. Ltd	KN/35701	RO, Peenya	Matter is pending with High Court of Bangalore.

ANNEXURE - F

LIST OF CASES OF DEFAULT AND NON-ENROLLMENT

SI No	Name of the Establishment	Code No	Region	Nature of Default	Action Taken/Status
1	M/S HINDUSTAN MACHINE TOOLS LTD (MACHINE TOOLS DIVISION)	KN/873	RO, Peenya	Chronic	<ol style="list-style-type: none"> 1. Recommended for cancellation of exemption vide letter dated 10.05.2010 for violation of condition no. 25 of Para 27AA of the Scheme. 2. Reminder on cancellation of exemption sent to HO on 23.02.2011. 3. Installment facility of Rs. 540,77,873/- for the period 11/2009 to 04/2011 in r/o both arrear and current dues was granted to Er. By competent authority vide Head Office letter dated 02.12.2011. Amount of Rs. 551,17,000/- is recovered from the employer vide cheque dated 02.08.2012. 4. 7A initiated for the non payment of dues for the period 05/2011 till date.
2	M/S HINDUSTAN MACHINE TOOLS LTD (WATCH FACTORY DIVISION)	KN/873-A	RO, Peenya	Chronic	<ol style="list-style-type: none"> 1. Recommended for cancellation of exemption vide letter dated 04.05.2010 for violation of condition no. 25 of Para 27AA of the Scheme. 2. Reminder on cancellation of exemption sent to HO on 23.02.2011. 3. Special RRC issued for Rs. 523, 47,120/- for the period 07/2010 to 04/2011. 4. 7A initiated for the non payment of dues for the period 05/2011 till date.

ANNEXURE - G

LIST OF VIOLATION OF CONDITIONS OF EXEMPTION

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
1	M/s Bosch Ltd.	KN/120	Bangalore	Claims were not settled with maximum Timeframe	Direction Issued
2	M/s.Astra Zeneca Pharma(I) Ltd,	KN/241X	Bangalore	Timely investment not made.	SCN Issued
3	M/s.Hindustan Machine Tools Ltd	KN/873E	Bangalore	1)Delay in transfer of EPF Contribution.2) Pattern of investment not made.3) Bonds are not kept in Safe Custody.4) Short remittance of Inspection charges	SCN Issued
4	M/s.Karnataka Soaps & Detergents Ltd,	KN/919	Bangalore	Timely Investment not made.	SCN Issued
5	M/s.Hindustan Aeronautics Ltd,	KN3478	Bangalore	Pattern of Investment not made.	SCN Issued
6	M/s.United Breweries Holdings Ltd, UB Towers	KN/5066	Bangalore	Pattern of Investment not made.	SCN Issued
7	M/s.Buildmet (P) Ltd.	KN/7921	Bangalore	1) Pattern of Investment should be followed.2) Mutual fund may be getting converted in Demat Form.	SCN Issued
8	M/s.Madura Coats Pvt Ltd	KN/9866X	Bangalore	Pattern of Investment not made.	SCN Issued
9	M/s ICICI Venture funds Management Co. Ltd.	KN/14549	Bangalore	1) BOT of trusts required to be reconstituted.2) Timely investment not made.	SCN Issued

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
10	M/s United Spirits Ltd.	KN/11553	Bangalore	Timely investment not made.	SCN Issued
11	M/s.AXA Business Services Ltd25.	KN/23959	Bangalore	1) Timely investment not made. 2)6 Contract employees of Duster services (I) Pvt. Ltd. working in the establishment have not been enrolled to Provident Fund. Necessary action is initiated.	Final notice has been issued to change the definition of employer in the trust rules
12	M/s. CISCO SYSTEM (INDIA) PVT. LTD.	KN/24611	Bangalore	1) Records of 4 contract employees not produced. 2) Action u/s 7 A to assess the amount dues in r/o driver engaged by the executives is in progress.	7A inquiry was held and decided that drivers are not employees of the establishment
13	M/s.Metro Cash N Carry India Pvt Ltd,	KN/25998X	Bangalore	1) Timely investment not made. 2) As per the compliance audit report 2010 the company incurring loss for the last 3 years. The report along with the Balance Sheet of the last 3 Years are under examination, suitable action will initiated in due course.	SCN Issued
14	M/s.Data Card Software India Pvt Ltd	KN/42680	Bangalore	Delay in transfer of funds.	SCN Issued

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
15	M/S MYSORE ELECTRICAL INDUSTRIES LTD	KN/26	Peenya	1)Pattern of Investment not followed, the trust amount was found invested in only PSU Bonds/Securities.2) Establishment was reported loss for three consecutive years of 2008-09, 2009-10 and 2010-11.3) Unclaimed account of Rs. 3,17,085/- noticed.4) Grievance register not maintained	1) Employer was intimated to follow the pattern of investment. 2) Show Cause Notice is being issued for violation of condition no. 25 of Para 27AA of the Scheme is being issued to establishment. 3) Intimated to dispose the unclaimed account. 4) Advised to maintain the grievance redressal register immediately.
16	M/S HINDUSTHAN MACHINE TOOLS LTD, (MACHINE TOOLS DIVISION)	KN/873	Peenya	1)Pattern of investment not followed moreover investment are found made in FD's of nationalized bank. 2)Trust has retained unreasonable amount of Rs. 43,07,039/- for obligatory payments in bank accounts.3) Establishment is under loss for three consecutive years.4) BOT is due of reconstitution w.e.f 28.06.2011.	1) Intimated to re invest the amount as per the pattern of investment. 2) Recommendation and reminder for cancellation of cancellation of exemption was already forwarded to Head Office vide letter dated 10.05.2010 and reminder dated 23.02.2011 respectively.3) Advised to reconstitute the BOT immediately

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
17	KN/873-A, HINDUSTHAN MACHINE TOOLS, (WATCH FACTORY DIVISION)	KN/873 A	Peenya	<p>1) Pattern of Investment not followed.2) Failed to comply on Ee's and Er's share to PF Trust and EPF.3) Delayed submission of annual/monthly returns.4) It is observed that no investment is made during the financial year of 2010-11.5) It is observed that Rs. 1,34,55,000/- has been retained in Fixed deposits of UCO Bank.6) An amount of Rs. 28,70,234/- is retained in the SB Accounts.7) Rs. 30,289/- is the amount due from the employer</p>	<p>1) Intimated to re invest the amount as per the pattern of investment 2) RRC issued for the default in payment of dues of Rs. 523,47,120/- for the period 07.2010 to 04.2011. 3) Recommendation and reminder for cancellation of cancellation of exemption sent to HO on 04.05.2010 and reminder dated 23.02.2011 respectively.4) Intimated for timely submission of returns.5) Establishment was informed that the amount retained in Fixed Deposits is required to be reinvested as per the pattern of investment.6) Trust was intimated to recover Rs. 30,289/- immediately from the employer. 7) 7A initiated for non payment of dues for the period 05/2011 till date. Is under process.</p>

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
18	M/S BHARATH ELECTRONICS LTD	KN/964	Peenya	1)Retained unreasonable amount of Rs. 3,98,44,183/- as on 31.03.2011 in SB Accounts as obligatory expenses.2) Utilization certificates and documents not obtained for advances under Para 68B. 3) Rs. 412,03,457/- was retained under UCD Account.4) Grievance register not maintained .	1) Intimated to reinvest the retained amount in SB accounts immediately as per pattern of investment. 2)Informed to initiate appropriate action to recover the amount settled under Para 68B with penal interest. 3) Trust is advised to initiate urgent steps to dispose unclaimed accounts as early as possible. 4) Advised to maintain the grievance redressal register immediately.
19	M/S BHARAT FRITZ WERNER LTD.	KN/2346	Peenya	1) Utilization certificates and documents not obtained for advances under Para 68B.2) Establishment has retained Rs. 101,12,762/- under Reserve and Surplus Account.	1) Informed to initiate appropriate action to recover the amount given under Para 68B with penal interest. 2) Advised to reinvest the amount available under Reserve and Surplus as per the pattern of investment.

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
20	M/S TATA TEA LTD.	KN/2440	Peenya	1 Rs. 11,69,975/- retained in Unclaimed account.2) Establishment has been granted exemption by State Government of Karnataka, but then it is noticed that the establishment has one branch in Kerala also and found complying under the same Estt. code number.	1) Informed to dispose the un claimed deposit as early as possible.2)Intimated to seek fresh exemption from the appropriate government at the earliest.
21	M/S INDIAN PLYWOOD INDUSTRIES RESEARCH AND TRAINING INSTITUTE.	KN/3435	Peenya	1) Pattern of Investment not followed.2) Trust has failed to invest in Central Government Securities during the year 2010-11 3) Rs. 19,203/- was the TDS amount receivable during 2010-11.4) Trust has retained Rs. 28,70,003/- under Reserve and Surplus account.5) Trust has invested 16.4% of the total investment in Private Sector Bonds	1) Advised to follow the pattern of investment.2) Intimated to initiate urgent steps to recover TDS amount.3) Advised to reinvest the amount available under Reserve and Surplus as per the pattern of investment.4) Trust has been advised to restrict investment in Private Sector Bonds up to 10% and to follow precautions laid by GOI/SEBI while investing in Private Bonds.

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
22	M/S JINDAL ALUMINIUM LTD.	KN/3666	Peenya	1) The Trust has incurred a loss of Rs. 14,72,721/- the same was seen adjusted from trust reserve and surplus account.2) Trust has not maintained Redressel of Grievance Register. 3) Rs. 4,92,290/- retained in Unclaimed account.	1) Informed to recoup the loss from the establishment/ Employer.2) Informed to dispose the un claim deposit as early as possible.3)Advised to maintained grievance register.
23	M/S KENNA METAL(I) LTD.	KN/4063	Peenya	1)Reconstitution of BOT is due from 19.10.2011.2) Rs. 3,41,008/- was the TDS amount receivable during 2010-11.3) Investment was done only at the end of financial year.	1) Intimated to initiate urgent steps to recover TDS amount.2) Advised to invest within prescribed time frame.3) Advised to reconstitute the BOT immediately.
24	M/S CENTRAL MANUFACTURING TECHNOLOGY	KN/5672	Peenya	1) Trust has maintained current account in HDFC Bank instead of SB account.2) The Trust has incurred loss of Rs. 11,707/-.3) Proper quorum is not maintained while conducting BOT meeting.4) Rs. 21,07,355/- was paid as the 7Q amount to this office for the period 16.11.1995 to 31.03.2004 towards A/c No. 10 from the Trust Account.	1) Intimated to open SB account instead of Current Account.2) Trust has been intimated to recover loss amount from employer immediately.3) Advised to maintain proper quorum. 4) Trust is being directed to recover the same immediately from the establishment to avoid any further Trust loss.

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
25	MS RAMAIAH INSTITUTE OF TECHNOLOGY.	KN/8146	Peenya	1) Establishment has retained Rs. 76,29,955/- under Reserve and Surplus Account.	1) Advised to reinvest the amount available under Reserve and Surplus immediately as per the pattern of investment.
26	M/S BEL SCHOOL	KN/8968	Peenya	1) Trustees' have failed to invest the monies within 2 weeks from date of contribution received, but being invested at the end of the financial year.	1) Intimated to invest the Trust monies within stipulated time frame.
27	M/S SPICES TRADING CORPORATION LTD,	KN/13072	Peenya	1) Trust has invested only in Public Financial Institutions Bonds during the year 2010-11. 2) Rs. 1,64,785/- is retained under unclaimed deposit. 3) Trust has retained Rs. 4,64,178.27/- under Reserve and Surplus account. 4) Establishment was reported loss for three consecutive years of 2008-09, 2009-10 and 2010-11.	1) Advised to reinvest the amount available under Reserve and Surplus. 2) Advised to follow the pattern of investment. 3) Intimated to settle UCD account immediately. 4) Show Cause Notice is being issued for violation of condition no. 25 of Para 27AA of the Scheme is being issued to establishment.

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
28	M/S RAMAIAH MEDICAL COLLEGE.	KN/13363	Peenya	1) Pattern of Investment not followed.2) Trust is seen invested at the end of the financial year. 3) The Trust has not obtained utilization certificates and other concern documents from the members4) Employer has not applied for grant of exemption from the EDLI scheme, 1976 from the date of effect of relaxation.	1) Advised to follow the pattern. 2) Intimated to invest the Trust monies within stipulated time. 3) Employer is intimated to submit all the concern documents immediately regarding grant of exemption from the EDLI Scheme, 1976. 4) Informed to initiate appropriate action to recover the amount settled under Para 68B with penal interest.
29	M/S NATIONAL INSTITUTE OF ADVANCE STUDIES.	KN/13409	Peenya	1) Amount of Rs. 6,85,884/- retained under Interest Suspense account.2) Trust has failed to follow the pattern of Investment.	1) Advised to reinvest the amount under Interest Suspense account as per the pattern of investment. 2) Advised to follow the prescribed pattern of investment.

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
30	M/S MYSORE CEMENTS LTD.	KN/2668-X	Peenya	1) Reconstitution of BOT is due from 19.10.2011.2) The Trust has retained Rs. 29,69,674/- under interest suspense account.3) TDS amount of Rs. 1,91,624/- to be recovered.	1) Advised to reconstitute the BOT immediately. 2) Advised to reinvest the amount under Interest Suspense account. 3) Intimated to invest retained amount in SB accounts immediately. 4) Advised to recover TDS amount immediately.
31	M/S SUNDRAM INDUSTRIES LTD.	KN/2757	Peenya	Closed	NIL
32	M/S MAFATLAL PLYWOOD LTD.	KN/1088	Peenya	Closed	NIL
33	M/S KARANTAKA SOAPS AND DETERGENTS Ltd	KN/919	Peenya	NIL*	NIL*
34	M/S T.V.S ELECTRONICS LTD	KN/11168	Peenya	NIL*	NIL*
35	M/S COMPAQ COMPUTERS LTD	KN/18846	Peenya	NIL*	NIL*
36	M/S BATA INDIA LTD	KN/29692	Peenya	NIL	NIL

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
37	M/s.Shell India Private Ltd.,	KN/35701	K.R. Puram	Establishment has incurred continuous loss for three years.	Relaxation cancelled vide under no.KN.PF/SRO/WF/KRP/EX M/2011-12 Dt. 01.06.2011 stayed by the Honourable High Court of Karnataka vide W.P NO.23078-79/2011. Statement of objection filed and sent to panel advocate vide letter No.KN/PF/WF/KRP/LEGAL/2011-12/947 Dt. 23.08.2011
38	M/s. ITI Limited	KN/32	K.R. Puram	Establishment has violated condition No.5 of para 27AA,of the EPF Scheme 1952 para 38 of the EPS Scheme 1952, condition No.17 of Para 27AA of the EPF Scheme, condition No.25 of Para 27AA, condition No.26 of Para 27AA, Para No.36, of the EPF Scheme, condition No.12 of Para 27 AA	Draft Showcause notice forwarded to R.O Peenya vide letter No.KN/PF/SRO/WF/KRP/EX M/2011-12/ Dt.08.12.2011

SR NO	NAME OF THE ESTABLISHMENT	CODE NO	REGION	VIOLATIONS	ACTION TAKEN
39	M/s. NXP Semiconductors India Pvt Ltd.,	KN45192	K.R. Puram	Establishment has violated condition No.5 of Para 27AA of the EPF Scheme 1952, No.38 of the EPF Scheme 1952, Para 36 of the EPF Scheme 1952, violated on the Trust Rules, incurred loss for two consecutive financial years, Employer has failed to make good the loss to the Trust due to the sale of investments,	Showcause Notice issued vide letter No.KN/PF/SRO/WF/EXM/2011-12/1681 Dt.30.11.2011
40	M/s.Capgemini Business Services (India) Ltd.,	KN/35750	K.R. Puram	Establishment has violated condition No.17 of Para 27 AA of the EPF Scheme 1952, Para 36 of the EPF Scheme 1952, Condition of 24 [c] of Para 27AA of the EPF Scheme, Condition No.5, of Para 27AA of the EPF Scheme	Show Cause Notice issued vide letter No.KN/PF/SRO/WF/KRP/EXM/2011-12 Dt.21.12.2011



कर्मचारी भविष्य निधि संगठन
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)

EMPLOYEES' PROVIDENT FUND ORGANISATION

(Ministry of Labour & Employment, Govt. of India)

मुख्य कार्यालय / Head Office

भविष्य निधि भवन, 14-भिकाजी कामा प्लेस, नई दिल्ली-110 066.

Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi - 110 066.

No. E-III/18(1)2004/Sub Committee/

Dated:

To

- 953-58
1. Shri Sankar Saha,
Chairman, Sub-Committee on Exempted Establishments,
Secretary, All India Committee United Trade Union Centre,
Lenin Sarani, 77/2/1, Lenin Sarani (1st Floor), Kolkata - 700 013.
 2. Shri Babulal B. Todi, Managing Director,
M/s Todi Estate, Sun Mill Compound,
Lower Parel, Mumbai - 400013.
 3. Shri M. Jagadishwara Rao, National Executive Member, BMS,
D.No. 31-3-3/2, Gowri Nagar,
Opp. All India Radio Station, Kurmannapalem,
Visakhapatnam - 530046 (A.P.)
 4. Shri B.P. Pant, Secretary, All India Organisation,
Of Employers Federation House,
V/10, NCERT Campus,
Aurobindo Marg,
New Delhi - 110016.
 5. Joint Secretary (Social Security),
Ministry of Labour & Employment,
New Delhi.

18 APR 2013

Sub: - Convening of 34th Meeting of the Sub-Committee on Exempted Establishments.

Sir,

Kindly refer to EPFO letter no. E-III/18(1)2004/Sub Committee/ 1133-37 dated 15.04.2013 on the above subject.

In this regard I am directed to forward therewith a copy of agenda booklet for the 34th meeting of Sub-Committee on exempted establishment for your kind perusal please.

Further a copy of approved minutes of 33rd meeting of Sub-Committee of CBT on exempted establishment held on 02.01.2013 at Bangalore is also enclosed herewith for your kind information.

Yours Faithfully,

Encl:- As above



(Rajeev Kumar Pal)

Regional Provident Fund Commissioner-II (Exemption)

**MINUTES OF THE 33RD MEETING OF THE SUB-COMMITTEE ON
EXEMPTION, CBT, EPFO HELD ON 2ND JANUARY, 2013 AT BEL
OFFICERS' CLUB, JALAHALLI BANGALORE.**

Present:-

- 1) Shri Shankar Saha - Chairman
- 2) Shri Babulal B. Todi, Employers' Representative
- 3) Shri B.P.Pant, Employers' Representative
- 4) Shri Jagadiswara Rao, Employees' Representative
- 5) Shri P.K.Udgata - Addl.CPFC (Comp)& Convener.
- 6) Shri R.K.Pat, RPFC-II (Exemption), HO.
- 7) Shri K.Narayana, RPFC-I, RO, Bangalore
- 8) Shri Thulsiraja, RPFC-I, RO, Peenya

At the outset, Shri K. Narayana, Regional Provident Fund Commissioner-I, Bangalore Region, welcomed the Committee to Bangalore and expressed the gratitude of the host regions, Peenya and Bangalore for according them the privilege and honor of hosting the meeting.

Shri P.K. Udgata, Addl. CPFC (Compliance) being the Convener of the committee welcomed the Chairman, members of the committee and the Officers of host Regions. In his welcome address, touched upon the following:

- The role of the Sub-Committee In making suggestions to improve the performance in the exemption area and to set guidelines for granting exemption to establishments under relaxation.
- The present scenario on grant of exemption to the establishments.
- Implications and challenges arising out of amendment to Finance Act, 2006
- The urgent need to meet the 31.3.2013 deadline imposed by the Ministry of Finance to clear all pending applications for grant of exemption.

And, requested the chairman to assume the chair and preside over the meeting.

Shri Shankar Saha, Chairman, welcomed all the members of the committee and officers of the host regions and appealed to contribute their wisdom and engage in productive deliberations.

Thereafter, the agenda items were taken up for discussion:

Item no. 1 :- Confirmation of the minutes of the last meeting:

The draft minutes of the last meeting were circulated. Shri Jagadiswara Rao, pointed out that the discussion made with

regard to conducting elections to BOT to elect the members representing the employees is not reflected in the draft minutes. He objected that it has been mentioned wrongly in the last minutes that he has opposed for conduct of elections but instead he supported and demanded that the elections should be conducted by the Exempted Trusts. Further, he explained that in view of the multiplicity of trade unions in the establishments, nomination of members may not meet the norms of democracy and therefore, the election should be made mandatory. Committee took note of the above observations of Shri Jagadiswara Rao and unanimously confirmed the minutes of the last meeting.

Item no. 2 :- Status of exemption in Host Regions, Bangalore and Peenya:

Shri K. Narayana, RPFC-I, Bangalore Region presented the status report on the Exempted Trusts under Bangalore Region.

2. He submitted that the Compliance Audit of all the 45 establishments under Bangalore Region has been conducted in 2011. All the Irregularities noticed have been conveyed to the Exempted Trusts to rectify them and wherever required Show-Cause-Notices have been issued and follow up actions are taken.

3. As regards exemption yet to be notified in respect of 3 establishments which are under relaxation, he informed the committee that these 3 establishments belong to the same group. The Head Office had sought some clarifications and the same have been furnished. However, the field office has noticed that the definition of

employer requires to be amended. The issue is now before the Head Office and the Head Office may take a decision thereon.

4. The common irregularity noticed is in "following the investment pattern". In all such cases, the Show-Cause-Notices have been issued and follow up actions under way. He further informed that the bigger establishments have the financial experts/CAs (Chartered Accountants) on their rolls and as such, the Trusts will have the benefits of their acumen which can be utilized. In this connection, Shri B.P. Pant opined that such deviations may not be intentional and in occurrence because of the lack of knowledge and therefore, they are required to be trained on this aspect and suggested to conduct training programs.

5. Shri Jagadiswara Rao inquired about the issue of Show Cause Notices to the Trusts. The RPFC-I informed that immediately upon noticing of irregularities committed by the trusts, Show-Cause-Notices are being issued to the Chairman of the Trust. Shri Jagadiswara Rao explained that the Chairman of the Trust will normally be the representative of the employer. In the case of any notices, it will be dealt with at the level of Chairman/employer and the members will not be aware of it. He suggested that when such notices are issued, it should be addressed to all the trustees. The RPFC-I assured to follow the suggestions made by the Hon'ble member.

6. Sh. Jagadiswara Rao also suggested that a advisory note has to be issued by the Head Office. The Regional Offices/Sub Regional Offices to organize such workshop specially for investment pattern. Sh. B.B. Todi, employer representative suggested that deviation due to unavoidable compulsion should not be taken as violation.

7. Shri P.K. Udgata, Addl. CPFC (Compliance) & Convener informed the committee that the National Academy (NATRSS) is conducting seminars/workshops for the representatives of the Exempted Establishments on exemption Members desired that Zonal Level training programs should also be conducted periodically and similarly, at local level awareness programs should be conducted for Trade Union Leaders. Arrangements should also be made to ensure that the developments which are taking place percolates down to the members.

8. The RPFC-I, Bangalore assured the committee that during compliance audit, the inspecting team shall dwell on this issue. In one case, the relaxation granted has been cancelled. The establishment has not started compliance as Un-exempted establishment. Therefore, inquiry under section 7A has been initiated to assess the amount to be transferred as Past Accumulations. In another case, the delay in settlement was noticed and in that case, instructions have been issued to the trust, to adhere to the time frame stipulated for settlement of claims. He informed that no deviation has been noticed with regard to rate of interest.

9. Shri Jagadiswara Rao informed that there are cases where the Exempted Establishments keep the 10D applications with them without transmitting it to the respective EPF Office causing delay in settlement. They are also not issuing any acknowledgement. After deliberations, it was resolved to recommend that it should be made mandatory for the exempted establishments to issue acknowledgement to the claimants on receipt of Form No.10D.

10. Sh. Rao raised the question about non-transfer of 7 exempted establishments to Peenya Region. The RPFC-I, Bangalore Region

clarified that it is due to In the application Software problem. There is no provision for transfer of accounts in the present software application. Once the software accommodates such transfers, the files will be transferred. Addl. CPFC (Compliance) directed the RPFC-I, Bangalore to provide the details so as to take up the issue at Head Office level and the Committee resolved to request the IS division to develop the software to facilitate transfer.

11. Shri Jagadiswara Rao, suggested that during compliance audit, it should be ensured that the BOT consists of requisite number of employees' representatives and the trust meetings are conducted regularly by giving advance notice. The RPFC-I assured the committee that necessary instructions would be issued to the Inspecting Team to ensure the same. The members felt that there appears to be delay in communications among trusts, field offices and Head Office and suggested to avoid such delays. Shri. B.P. Pant suggested that there should be clear demarcation of defaults committed by the employer and the trusts. Employer should not be penalized for the lapses of the Trust.

12. Shri Jagadiswara Rao, referring to the judgment of the Hon'ble High Court of Delhi, desired to know, whether it is ensured that the Exempted Establishments are making it sure that the contract employees engaged by them are enrolled into PF membership before clearing their bill. The RPFC-I informed that during the Compliance Audit, necessary thrust is given on the aspect and it is ensured that the compliance is rendered by the Contractors.

13. Shri Babulal Todi expressed reservations about making the employer responsible for the loss sustained by the Trust. The RPFC-I,

- Bangalore Region clarified that it is one of the conditions required to be fulfilled by the exempted establishments. Shri. B.P. Pant opined that if the investment is made on low yielding securities, it should be considered as error of judgment and not the lapse. The RPFC-I, Bangalore Region informed that in one of the establishments, he has assessed Rs.4-crores towards contribution in respect of International Workers of one establishment and the establishment has challenged the very provision incorporated in the Act.

14. The Chairman clarified that the employers/ establishments considering the privileges attached to exemption, they are willing to make good the loss. Moreover, the establishment can at any time seek cancellation of the exemption as and when they feel that this condition is a burden upon them.

15. Shri Babulal Todi sought clarification as to how the situation in respect of UCD accounts is dealt with, if that is invested and the claims are received. Shri Udgata, Addl. CPFC (Compliance) clarified that the Trust can withdraw from SDS account to make the payment. Shri Babulal Todi referred to a case where the Trust has a surplus of Rs.80 Lakh and they sought guidance from EPFO as to who to deal with that. But so far no communication is received by them. The Chairman suggested that the Hon'ble Member may furnish a note on the issue to Head Office and the Head Office will examine and revert.

16. **Status report of RO, Peenya:** Shri Tulasiraja, RPFC-I, Peenya Region, informed the Chairman that Peenya is the biggest region in the country. According to the statistics for 2010-11 & 2011-12 they stand no.1 in the Country in terms of Settlement of Claims, issue of annual accounts slips etc. and highest no. of claims is settled by one of

It's SRO, Bommasandra. Last year, per clerk settlement of claims was 32-37 claims. In on Saturdays and Sundays they have worked and brought down the pendency and there is no need to wait for 30 days. The members recorded their appreciation for the overall performance of Peenya Region.

17. After that Shri Tulasraja, RPFC-I, Peenya Region, presented the status of Exempted establishment of Peenya Region. There are 61 exempted establishments. Barring 2 establishments, there is no problem with the exempted establishments, although there are minor deviations. All the irregularities noticed during last Compliance Audit have been got rectified. Care is taken to ensure that all the observations are attended to.

18. As M/s. HMT is making consecutive losses, recommendation has been sent for cancellation of exemption. Shri Babulal Todl stated that HMT being a large Government Organization, it requires to be given some consideration. The RPFC-I clarified that though the position of the establishment is improving and it is on its way to revival, as per norms, the field office was constrained to send the recommendations for cancellation of exemption. There are two cases where the amount is blocked due to court cases.

19. Summing up the performance review, the Chairman suggested that the field offices shall have to discharge their responsibility very efficiently and ensure that the members are getting fair deal so far as membership, rate of interest and service are concerned.

20. The members also desired to have interaction about the overall performance of the host regions. It was informed to the committee that the entry into membership is more than the exit and that the exit

of members within 10 years of service is around 70%. The committee, after eliciting the information from the RPFCs-I, appreciated the good work done by both the regions in their prime areas of activities such as settlement of claims and issue of annual accounts despite acute shortage of staff. They expected that during the financial year 2013-14, the settlement of claims are done within a fortnight.

21. The members particularly commended the spirit of service of the staff members who shouldered heavy workload and worked even after office hours and during holidays to liquidate the pendency. The Chairman desired to know the opinion of the field offices regarding the "Excluded Employees" and "wage ceiling".

22. Shri K. Narayana, RPFC-I, Bangalore opined that it is high time that the concept of excluding employees, on the basis of their salary, is abolished. For every covered establishment, membership to all employees should be made mandatory. To achieve the same, Para 2[f][ii] of the Employees' Provident Fund Scheme, 1952 requires to be deleted. As regards wage ceiling, it is time to make an upward revision as the salary to all types of employees have increased manifold in the recent past.

Item no. 3:- ANY OTHER SUBJECT WITH THE PERMISSION OF THE CHAIR: (Proposal for notification of surcharge to be imposed by CPFC on Trust of establishment exemption/relaxed introduced an agenda on notification of surcharge to be imposed by the CPFC on the BOT of the exemption/relaxed establishment, fail to adhere to the pattern of investment prescribed by Ministry of Labour & Employment, Government of India.

2. With the permission of the Chair, Addl. CPFC (Compliance),- the agenda item concerning the proposal was circulated among the members. The details are as under:

3. The Government of India has brought out an amendment in Finance Act, 2006 introducing clause 56, therein, making it mandatory for all the Provident Fund Trusts recognized under Income Tax Act, 1961 to obtain exemption under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. The amendment in Fourth Schedule of the Income Tax Act, 1961 stipulates that:

"[ea) the fund shall be a fund of an establishment to which the provisions of sub-Section(3) of Section 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) apply or of an establishment which has been notified by the Central Provident Fund Commissioner under sub-section (4) of Section 1 of the said Act, and such establishment shall obtain exemption under Section 17 of the said Act from the operation of all or any of the provisions of any Scheme referred to in that section;]

ii. In addition, a proviso has been added to Rule 3 (fourth Schedule of Income Tax Act, 1961), which now reads as:-

"The [Chief Commissioner or Commissioner] may accord recognition to any provident fund which, in his opinion, satisfies the conditions prescribed in rule 4 and the rules made by the Board in this behalf, and may, at any time, withdrawn such recognition if, in his opinion, the provident fund contravenes any of those conditions:

[Provided that in a case where recognition has been accorded to any provident fund on or before the 31st day of March, 2006 and such provident fund does not satisfy the conditions set out in clause (ea) of Rule 4, the recognition to such fund shall be withdrawn, if such fund does not satisfy, on or before the [31st day of March, 2012], the conditions set out in the said clause and any other condition which the Board may, by rules specify, in this behalf:]”

4. Ministry of Labour and Employment, Government of India on the request of EPFO on various occasions forwarded the proposals to Ministry of Finance for extension of time to complete the processing of all pending exemption proposals and taking those to their logical end. In turn, Ministry of Finance, Government of India has also been acceding to such requests in extending time year after year. Last such request of EPFO was sent to 'Ministry of Finance' by 'Ministry of Labour and Employment' during March, 2012 for extension of time till 31st March, 2013, which was accommodated by the 'Ministry of Finance' in the amendment in the Finance Bill, 2012 as stated at Para 2 above. Accordingly, 'Ministry of Labour and Employment, Government of India' has directed EPFO to complete the processing and finalization of all pending exemption proposals and forward the same to Appropriate Government through 'Central Board of Trustees, Employees' Provident Fund'. Further, no request of further extension of time will be acceded to.

5. It is in this background, it has become necessary to concentrate on processing of all the exemption proposals pending in Regions for

various reasons, which if not done shall render the private Provident Fund Trusts ineligible to qualify for Income Tax benefits.

6. In a majority of cases where grant of exemption is pending and where the establishments have been enjoying relaxation under Para 79 of the Employees' Provident Funds Scheme, 1952 since long, the following inconsistencies are noticed with regard to investment of Provident Fund monies.

- a) Investments of Provident Fund monies are not made by the Trusts in the percentage prescribed by the Government of India, Ministry of Labour and Employment in different types of securities.
- b) Investment of Provident Fund monies are made by the Trusts in the types of securities/instruments other than that prescribed by the Government of India, Ministry of Labour and Employment.

7. In view of the above following rates of surcharge, which CPFC shall impose on the Board of Trustees of the exempted/relaxed establishments for their failure to make investments as per directions of the Government as stated at Para 5 above, were proposed to Government of India, Ministry of Labour and Employment for taking decision :

Deviation for the first financial year	5% per annum of the amount of deviation
Deviation for the second financial year	10% per annum of the amount of deviation

8. In such cases of deviation, after levy of surcharge for the first two years, proposed to be invoked. However, if the deviation continued for 3rd year also, it is proposed that the exemption may be cancelled invoking condition no. 27 along with levy of surcharge. The exempted establishments were to be liable for cancellation of exemption in case of deviation mentioned at Para 6(b) above, even after levy of surcharge, as per rates mentioned above.

9. In reply of the said proposal the Government of India, Ministry of Labour and Employment informed EPFO that ***"CPFC is the competent authority to take a decision on levy of surcharge on account of violation of the condition no. 17 by establishments as per Appendix - A to Para 27AA of the Employees' Provident Funds Scheme, 1952. EPFO, may, therefore, takes action in the matter accordingly. The decision taken in the matter may kindly be conveyed to this Ministry before circulation. The surcharge shall be incremental in nature"***.

10. In the above background again a proposal of levying surcharge on the following rate is proposed

Occasion	Rate of surcharge
1 st	3% of the amount falling short of prescribed percentage of investment in each category as prescribed by Ministry of Labour & Employment, Government of India.
2 nd	6% of the amount falling short of prescribed percentage of investment in each category as prescribed by Ministry of Labour & Employment, Government of India.
3 rd	12% of the amount falling short of prescribed percentage of

	investment in each category as prescribed by Ministry of Labour & Employment, Government of India.
4th	Cancellation of Exemption/Withdrawal of Relaxation.

11. After protracted deliberations, the committee unanimously recommended the following rates of Surcharge:

Occasion	Rate of surcharge
1 st	2% of the amount falling short of prescribed percentage of investment in each category as prescribed by Ministry of Labour & Employment, Government of India.
2 nd	4% of the amount falling short of prescribed percentage of investment in each category as prescribed by Ministry of Labour & Employment, Government of India.
3 rd	8% of the amount falling short of prescribed percentage of investment in each category as prescribed by Ministry of Labour & Employment, Government of India.
4th	Cancellation of Exemption/Withdrawal of Relaxation.

12. After deliberation the agenda items, while concluding the meeting, the Chairman thanked the members for their cooperation for successful conduct of the meeting. He thanked the organizers of the meeting, the host regions, for the excellent arrangements made for reception of members and providing excellent logistic and trajectory support to the committee.

It was proposed to hold the next meeting of the committee at Rajkot or Ahmadabad during March-April, 2013.

The meeting ended with vote of thanks to the chair.