



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-भीकाजी कामा प्लेस, नई दिल्ली-110 066.

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

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Date: 15.05.2020

To,

All Addl. CPFCs in charge of Zones
All RPFCs in charge of Regional Offices
All OICs in charge of District Offices

Sub: Relief to establishments and factories covered under EPF and MP Act, 1952 from levy of penal damages for delay in deposit of dues during Lockdown to prevent COVID-19.

Sir,

In view of the prolong lockdown announced by the Government to control the spread of COVID-19 pandemic and other disruptions due to Pandemic situation, the establishments covered under EPF & MP Act, 1952 are distressed and not able to function normally.

The Hon'ble Apex Court of India in McLeod Russel India Limited Vs RPFC (2014)15 SCC 263 has underlined the broad contours and essential elements of section 14B of the Act and held that *mens rea*, or culpable state of mind of the employer, is a *sine-qua-non* for inviting damages under section 14B. In other words, the provisions of section 14B would get attracted only when there is a positive evidence of *mens rea* on the part of the employer while committing default in timely remittances. This legal position has later been reaffirmed in Assistant Provident Fund Commissioner vs. Management of RSL Textiles. (CA 96-97 of 2017)

Considering the difficulty faced by the establishments in timely deposit of contributions during the period of lockdown due to operational and economic reasons, it is evident that such delays are without *mens rea* of the employer. Thus, the delay in deposit of contributions during the period of lockdown announced in terms of the Disasters Management Act, 2005 cannot be attributed to any culpable state of mind of the employer and will not, therefore, attract the provisions of section 14B of the EPF Act.

Therefore, for any delay in payment of any contributions or administrative charges due for any period during the lockdown, no proceeding should be initiated for levy of penal damages in such cases.

(This issues with the approval of the Central P F Commissioner)

Yours faithfully,


(Jag Mohan)

Addl. CPFC (Hqrs.) Compliance & Legal

Copy to: FA & CAO, CVO, All Addl. CPFC (Hqrs) at HO, Director, PDNASS, Addl. CPFC (IS)