

LAW UPDATES

Splitting of Minimum Wages for EPF contributions not illegal

The appellant challenged the order of the Regional Provident Fund Commissioner dated 31.12.2014 under section 7A of the Act whereby it was contended that basic wages as defined under the Act, specifically excludes House Rent Allowance, Conveyance and other similar allowances, so accordingly appellant establishment was supposed to remit the PF dues on basic wages actually given to employees. Amount which was paid by the client to the appellant for providing its services was not a all relevant for determining the PF liability of the appellant and it was the actual emoluments which were being paid by the appellant, including its components which only were required to be considered by the respondent. It is further contended on behalf of appellant that appellant establishment is remitting PF dues in accordance with the provisions of the Act and there no evasion of any kind of PF dues by appellant establishment. It is further contended on behalf of appellant establishment that during course of enquiry all the relevant record was duly produced by appellant establishment but respondent without considering such record,

was adamant to pass such illegal order, just to harass the appellant establishment. No subterfuge of any kind had been proved against the appellant during the 7A proceedings. The contracts for service between the appellant and its clients are on principle to principle basis therefore whatever charges are paid by the clients to the appellant are not emoluments paid to the appellant to its employees and no PF dues are liable to be deposited in the fund on the monthly charges paid by its client to the appellant.

The appellant relied upon the judgment of Assistant PF Commissioner vs. G4S Securities Services (India) Limited, 2011 LLR 316 (P&HHC), Group 4 Securitas Guarding Limited vs. Employees' Provident Fund Appellant Tribunal and Others, WP© No. 4408 of 2000 (Delhi HC)

Reasons & Decision

The Hon'ble EPF Appellant Tribunal allowed the appeal with following observations

Section2(b) of the Act does not prescribed how much amount shall be considered as basic wages. So now this is to be seen by this Tribunal whether respondent is empowered to direct the appellant establishment to pay minimum wages to the

employees. During course of argument, no provision of the Act cited by counsel for respondent which could reveals that 'Commissioner' is empowered to direct the employer to pay minimum wages to the employee. Bifurcation of wages below minimum wages or basic wages and DA etc. are the issues, completely out of the purview of PF authorities. PF authorities has no jurisdiction to ensure the compliance of Minimum Wages Act or to issue any direction in this regard.