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### Special points of interest:

- Hiking of Tax-Free Gratuity limit
- Automated Provident Fund Transfer on change of employment
- EPFO to provide calculation worksheet at time of Provident Fund (PF) withdrawal
- EPFO to take action against Employers not complying with Supreme Court decision
- Case Law

## **LABOUR & EMPLOYMENT LAW ALERT**

### **HIKING OF TAX-FREE GRATUITY LIMIT**

The Ministry of Finance, Department of Revenue via notification dated 8th March 2019, has increased the limit of tax-free gratuity to INR 20 lakh under Section 10 (10) (iii) of Income Tax Act, 1961 in relation to employees who retire or become incapacitated prior to such retirement or pass away after the 29<sup>th</sup> day of March 2018 or whose employment is terminated on or after the said date. This will benefit employees who are not covered by the Payment of Gratuity Act, 1972. The ceiling of gratuity amounts has been increased from time to time keeping in mind the prevalent economic conditions such as increased salaries in private as well as public sectors.

### **AUTOMATED PROVIDENT FUND TRANSFER ON CHANGE OF EMPLOYMENT**

The Employees Provident Fund Organization (EPFO) is testing the automation of Employee Provident Fund (EPF) transfer on change of employment on a pilot basis and is expected to launch this facility to all its members in the near future. Under the new facility, when the new employer files the monthly EPF return including the Universal Account Number (UAN) of a new employee, the EPF contributions and interest earned on that would be automatically transferred. This will enable the employee to get the credits of his/her EPF contribution with previous employer in his/her UAN automatically. Presently, the members of EPFO are required to file transfer of EPF claims on changing jobs despite having UAN. The EPFO, which aims to become a paperless organization, receives eight lakh EPF transfer applications annually.

### **EPFO TO PROVIDE CALCULATION WORKSHEET AT TIME OF PROVIDENT FUND (PF) WITHDRAWAL**

In order to increase transparency, EPFO is going to provide a worksheet of provident fund calculation to its members at the time of withdrawal. EPF members would be able to know the amount of PF they will get on withdrawal at the time of final settlement. The worksheet would be provided to EPF members irrespective of whether they file their claims online or offline. The calculation sheet shall be provided to EPF members either on their registered mobile number or the email ID provided by them in their EPF claim form.

### **EPFO TO TAKE ACTION AGAINST EMPLOYERS NOT COMPLYING WITH SUPREME COURT DECISION**

Recently, in the **Regional Provident Fund Commissioner (II) West Bengal Versus Vivekananda Vidyamandir and Others [2019]**, the Supreme Court of India held that payment of special allowance common to all employees will form part of "basic wages".

Now the EPFO has decided to take stringent action against those employers who do not take into account such components in Provident Fund contributions. An EPFO study found that a large number of firms were splitting their pay packages into a number of allowances in order to reduce their EPF liability. EPFO is studying the Supreme Court judgement in this regard and will soon come out with a detailed plan to implement the said judgement.

### **CASE LAW**

In **Dilip Mani Dubey versus M/s SIEL Ltd & Anr. [12 March 2019]**, Supreme Court while dismissing the appeal of the appellant workman, still upheld the decision of the High Court about the amount, that had been paid to the appellant workman by the employer in compliance with the order passed under Section 17 B of the Industrial Dispute Act, 1947 ("ID Act") proceedings during pendency of the litigation, and said that it would not be recoverable from the appellant on the strength of its order.

Supreme Court held that if the Court of Tribunal eventually upholds the termination order as being legal against the workman, yet the employer will have no right to recover the amount already paid by him to the delinquent workman pursuant to order passed under Section 17-B of the ID Act during pendency of proceedings.

**Disclaimer:** This bulletin is intended as a general overview and not as a substitute for taking legal advice in specific situation. Archer & Angel will not take any responsibility for any actions taken or not taken on the basis of this update.



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