

Standing Committee Report Summary

Compliance with the prescribed provisions of deduction and deposit of PF, ESI and TDS by the Employers

- The Standing Committee on Labour (Chair: Mr. Kirit Somaiya) submitted its report on ‘Compliance with the prescribed provisions of deduction and deposit of PF, ESI and TDS (of Income Tax, etc) by the Employers’ on February 7, 2019. Key observations and recommendations of the Committee include:
 - **Deductions:** The Committee was informed by the Ministry that the employer has been authorised by the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 to deduct contribution from the salary of the employee and deposit it into the fund. However, the Committee noted that there were instances where the employer deducted the contribution amount from the employee’s salary but failed to deposit it with the concerned authorities. As a result, the employee was made to suffer, despite the fact that statutory deductions from his/her salary had been made. Therefore, it recommended that the Ministry should consider appropriate amendments to the Act to protect the interest of employees.
 - **Notification of default:** The Committee noted that employers file electronic challan-cum-return in respect of PF deducted by them with the EPFO on monthly basis. In turn, EPFO sends an SMS to the employee regarding the amount remitted by his employers. The Committee was informed by the Ministry of Labour and Employment that the EPFO is going to institute a system under which an SMS will also be sent to an employee whose PF has not been remitted by his employer. The Committee stressed that the mechanism be put into place at the earliest. The Committee further emphasised that the onus of filing complaints regarding non-remittance of PF should not be on the employee. The EPFO should take stock of the remittances from the employer whom they have authorised to deduct the contribution.
 - **Special Reserve Fund:** The Committee was informed by the Ministry of Labour and Employment of a Special Reserve Fund (SRF) maintained by them. The SRF is as a relief measure to help employees or their nominees where the employer fails to pay the PF contribution to the fund. The Committee was informed that the SRF is available to the extent of the employee’s contribution deducted but not deposited by the employer including the interest. It is also applicable to employees leaving an establishment owing to retirement, deaths or under any circumstances mentioned in the Employees’ Provident Fund Scheme, 1952. The Committee observed that the number of beneficiaries under SRF from the year 2014-15 to 2017-18 has remained low. It recommended that the procedure for availing assistance under the SRF should be streamlined at the earliest to safeguard employees from any financial loss.
- **Tax deducted at source (TDS):** The Committee was informed by the Central Board of Taxation (CBDT) that it has taken certain steps to help employees whose tax deductions have not been deposited by the employer. It referred to a circular stating that assessing officers can reduce the tax demand of employees by up to Rs 1,00,000 after verifying the relevant documents and by obtaining an indemnity bond (in some cases). The Committee recommended the Ministry of Finance should consider raising the one lakh rupee limit in the interest of welfare of the workers. It further stated that the condition of indemnity bond may be reviewed to bring relief to employees whose TDS has already been deducted from their salary.
- The CBDT also informed the Committee of another circular issued by it directing its officers not to enforce any demand on the employee where the employer had deducted the tax but not deposited it with the government. However, the Committee noted that the CBDT admitted that the amount continues to remain as recoverable in the name of employee only and not employer. The Committee noted that the circulars are only clarificatory in nature and the relevant statutory provisions of the IT Act, 1961 needs to be revisited to specify that such demands cannot be enforced by assessing officers coercively.

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