

EPFO lays out strict criteria for officers to initiate inquiry

Surabhi Mumbai | Updated on February 24, 2020 | Published on February 24, 2020

Says Section 7A investigation only for determining dues or applicability of Act

Coming to the rescue of employers, the Employees' Provident Fund Organization (EPFO) has laid out strict conditions for its officers to start inquiry proceedings to determine pending dues.

The move is expected to cut down on time-taking proceedings and often harassment of employers.

Provident fund officers can initiate such inquiries under Section 7A of the EPF and Miscellaneous Provisions Act to assess the pending PF contributions with employers. The Act also gives the powers of a civil court to the Commissioner PF for this.

"In many cases, inquiries are initiated for wholly insufficient and untenable reasons and even without ascertainment of sufficient grounds which leads to general resentment amongst employers on one hand and prolonged pendency of such inquiries on the other," the EPFO has noted in guidelines issued earlier this month.

Now, to bring uniformity in the procedure of inquiries under Section 7A, the EPFO has said that these can be initiated only for statutory reasons — to determine the applicability of the EPF Act or to determine the dues.

"Therefore, grounds such as non-submission of returns, non-production of records, non-cooperation in inspections, etc. are not reasons within the sweep of Section 7A and do not constitute sufficient basis for initiating proceedings under Section 7A," the EPFO has clearly spelt out.

It has also stressed that existence of prima facie case must be there for starting such proceedings and the Assessing Officer (AO) must record the reasons and evidence in the case file of the prima facie case.

Further, a mere complaint does not constitute prima facie evidence to start proceedings under Section 7A as "it is only a source of information" and not legal proof of allegations.

The EPFO has also said that inquiries for long periods of, say, five to 20 years without any legal proof should be avoided and are untenable. Before initiating the inquiry, the AO should record the planned period of inquiry based on the evidence or default.

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Further, once the inquiry starts, it should not be extended to other issues or time-frame and the records sought from the employer should have “reasonable linkage” with the issue and time period, the EPFO has stressed.

When an inquiry is initiated based on credible documents, the employers and other interested parties should also be given a copy of the documents, it has further said.

In February last year, the Supreme Court had, in a judgment, clarified on basic wages under the EPF Act in a case of the Regional PF Commissioner versus Vivekanand Vidyamandir.

Following that, on August 28 last year, the EPFO had said field formations should carry out investigations under Section 7A only after taking permission and no coercive action for recovery of dues should be taken until final decision by the Supreme Court in the review petition.