

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI

LABOUR DEPARTMENT

5, SHAM NATH MARG, DELHI-110054

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No.: F/29/17/EPF/Lab/15/1979

Dated: 5/7/16

**ORDER**

Whereas, M/s All India Management Association, Lodhi Road, New Delhi (DL/2805) (herein after referred to as the said establishment) applied for exemption under sub-section (2) of section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the said Act) read with 27A of the EPF scheme, 1952;

And whereas, the Sub-Committee of Central Board of Trustees, Employees' Provident Fund in its meeting dated 05.02.2014 has recommended that exemption under section (17)(2) of the said Act (19 of 1952) may be given to the said establishment with effect from 23.06.1971;

And whereas, in the opinion of the Government of National Capital territory of Delhi the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable than those specified in section 6 of the said Act and the employees are also in the enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees Provident Fund Scheme, 1952 (herein after referred to as the said scheme) in relation to the employees in any other establishment of a similar character;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 17 of the said Act read with the said scheme and subject to the conditions specified in the schedule annexed hereto, the Government of National Capital Territory of Delhi hereby exempts the said establishment from the operation of the provisions of the Employees Provident Fund Scheme retrospectively with effect from 23.06.1971.

**THE SCHEDULE**

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund in accordance with the conditions laid down in the said Act and the said Scheme including para 79C of the said scheme and in accordance with such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The Provident Fund shall vest in the Board of Trustee who shall be responsible for and accountable to the employees' Provident fund organization, inter alia, for proper accounts of the receipt into and payment from the Provident Fund and the balance in the custody. For the purpose, the "employer" shall mean the person who, or the authority, that has the ultimate control over the affairs of the establishments.

2. The Board of Trustee shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the

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3. All employers, as defined in section 2(f) of the Act, who have been eligible to become members of the Provident Fund, had the establishment not been granted exemption, shall be enrolled as members.
4. Where an employee, who is already a member of Employees' Provident Fund or a member of provident fund of any other exempted establishment, is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credits into his account.
5. The employer shall transfer to the Board of Trustees the contribution payable to the provident fund by himself and by the employees at the rate prescribed under the Act from time to time by the 15<sup>th</sup> of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.
6. The employer shall bear all the expenses of the administration of the Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.
7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up the statutory limit.
8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.
9. The rate of contribution payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and the Scheme framed there under.
10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically pending formal amendment of the Rules of the trust.
11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner (referred to as RPFC hereinafter). The RPFC shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.
12. All claims for withdrawals, advance and transfer should be settled expeditiously, within the time frame prescribed by the Employees Provident Fund Organization.





13. The Board of Trustees shall maintain detailed accounts to show the contribution credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of member's accounts electronically as and when direct by the CPFC/RPFC.
14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the trustees when presented to them.
15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computers terminals as and when required by them.
16. The Board of Trustees and the employer shall file such returns month/annually as may be prescribed by the Employees' Provident Fund Organization within the specified time-limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organization.
17. The Board of Trustees shall invest the money of the provident fund as per the directions of the government from time to time. Failure to make investments as per directions of the Government shall made the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.
18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the area where the trust operates, the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instruction issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of Cost of investment by the Trust.
19. All such investments made, like purchase of securities and bonds, should be lodged in safe custody of depository participants, approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952, such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the RPFC concerned directly on receipt of request from the RPFC concerned to that effect.
20. The exempted establishment shall intimate to the RPFC concerned the details of depository participants (approved by the Reserve Bank of India and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., Investments made in securities, bonds, etc. have been lodged. However, the Board of



Trustees may raise such sum or sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's P.F. accumulations in the events of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional Provident Fund Commissioner.

21. Any commission, incentive, bonus, or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, at the time of grant of exemption, shall furnish a written undertaking to the RPFC in such format as may be prescribed from time to time, inter alia, agreeing to abide by the conditions which are specified and this shall be legally binding on the employer and Board of Trustees, including their successors and assignees, or such conditions as may be specified latter for continuation of exemption.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of exemption. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary, the CPFC or the RPFC in-charge of the Region shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report along with the audited balance sheet should be submitted to the RPFC concerned by the Auditors directly within six months after the closing of the financial year from 1<sup>st</sup> April to 31<sup>st</sup> March. The format of the balance sheet and the information to be furnished in the report shall be as prescribed by the Employees' Provident Fund Organization and made available with the RPFC Office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than two years in a block of six years.

25. A company reporting loss for three consecutive financial years or erosion in their capital base shall have their exemption withdrawn from the first day of the next/succeeding financial year.

26. The employer in relation to the exempted establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of subsection (3) of section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of exemption, by the employer or the Board of Trustees, the exemption granted may be cancelled after issuing a show cause notice in this regard to the concerned persons.

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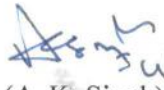
28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

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29. In case of any change of legal status of the establishment, which has been granted exemption, as a result of merger, demerger, acquisition, sale amalgamation, formation of a subsidiary, whether wholly owned or not, etc., the exemption granted shall stand revoked and the establishment should promptly report the matter to the RPFC concerned for grant of fresh exemption.

30. In case, there are more than one unit/establishment participating in the common Provident Fund Trust which has been granted exemption, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down any further condition for continuation of exemption of the establishments.

  
(A. K. Singh)  
Secretary (Labour)

Copy to:

1. Secretary to the Government of India, Ministry of Labour, Sharam Shakti Bhawan, New Delhi-110001.
2. Pr. Secretary (Law, Justice & Legislative Affairs), Government of NCT of Delhi, New Delhi.
3. Secretary to the Lt. Governor, Delhi.
4. Secretary to Hon'ble Minister of Labour, GNCT of Delhi.
5. Central Provident Fund Commissioner, Employees Provident Fund Organization, Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066.
6. Regional P.F. Commissioner (Exemption), Employees Provident Fund Organization, Bhavishya Nidhi Bhawan, 14-Bhikaji Cama Place, New Delhi-110066.
7. M/s All India Management Association, Management House, 14 Institutional Areas, Lodhi Road, New Delhi-110003.
8. Additional Labour Commissioner, Labour Department, Government of NCT of Delhi, 5-Sham Nath Marg, Delhi-110054
9. All DLCs/ALCs/Los.
10. PS to Principal Secretary (Labour).
11. PA to Labour Commissioner.
12. Librarian, Labour Department, Government of NCT of Delhi.

  
Secretary (Labour)  
Government of NCT of Delhi