



कर्मचारी भविष्य निधि संगठन
(ग्राम एवं रोजगार मंत्रालय, भारत सरकार)
EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour & Employment, Govt. of India)
मुख्य कार्यालय / Head Office
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Date:14.02.2020

To

All Addl. Central PF Commissioners (Zones),
All Regional PF Commissioners of Regional Offices,
All Officers-in-charge of District Offices

Subject: - Guidelines for initiation of inquiries u/s 7A of the Act.

Madam/Sir,

It is noticed that the Assessing Officers follow different yardstick as they deem fit for initiation of inquiries u/s 7A of the Act. In many cases inquiries are initiated for wholly insufficient and untenable reasons and even without ascertainment of sufficient grounds which leads to general resentment among employers on one hand and prolonged pendency of such inquiries on the other.

Section 7A of the Act predicates the statutory mandate of resolution of applicability disputes or determination of amounts due from employers and, for this purpose, also clothes the authorities with the trappings of a Court under the Code of Civil Procedure. The duty to act judicially, fairly and equitably is copiously discernable from the statutory mandate.

In order to bring uniformity in the procedure for initiation of inquiries u/s 7A and in supersession of the earlier instructions, the following instructions are issued in reiteration of the laid down law on this issue:-

1. Inquiries u/s 7A shall not be initiated for any purpose extraneous to the statutory mandate of section 7A i.e dispute of applicability or determination of 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, therefore, constitute a sufficient basis for initiating proceedings under section 7A.
2. The minimum standard of evidence for commencement of any legal proceedings is "existence of a prima-facie case" and the same applies to proceedings u/s 7A as well. Any inquiry or legal proceeding initiated without a prima- facie case is of the nature of fishing and roving inquiry and the same is impermissible in law. Such inquiries are a nullity in the eyes of law and are non-est *ab-initio*. Therefore the Assessing Officers shall record reasons in file, on the basis of evidence available on record, regarding existence of a prima-facie case of default, or of an applicability dispute, before initiating process u/s 7A.
3. A mere complaint in itself does not constitute prima-facie evidence, sufficient to initiate an inquiry u/s 7A as complaint is only a source of information and not a legal proof of the allegations. Therefore, any complaint is required to be investigated by an Enforcement Officer under section 13 (1) of the Act and substantiated on the basis of admissible evidence gathered during investigation. The tendency to initiate inquiries on the basis of complaints alone is legally untenable and must be avoided as it lead to surpassing the investigations required under law before initiation of any inquiry.
4. Sometimes the inquiries are initiated for prolonged durations such as 5 to 20 years without any evidence of such prolonged default. This practice is legally untenable and must be eschewed. Therefore, before initiating the inquiry, the assessing officer shall record in writing proximate nexus with the evidence of default available on record and the period for which the inquiry is intended to be held.

5. Once an inquiry is initiated for specific reasons and period, the scope thereof cannot be extended beyond the fact-in-issue. The scope of the inquiry need not travel beyond the issues identified at the stage of its initiation. For any new reason or period separate notice must be issued. The records summoned from the employer, therefore, must have reasonable linkage with the subject matter of determination and the period. The practice of summoning unrelated records for prolonged period amounts to conducting a fishing and roving inquiry which is not permissible in law.

6. Wherever the inquiries are intended to be initiated on the basis of credible evidence and meeting the requirements of principles narrated above, reasons for initiation of inquiry must be recorded in writing and a copy of all documents forming basis for initiation of inquiry must be supplied to the concerned parties along with the notice u/s 7A.

7. The notice initiating inquiry shall be assigned a computer generated diary number from Compliance e-Proceedings portal and any notice issued without case number generated from Compliance e-Proceedings portal shall be treated as non-est.

The above instructions may be scrupulously followed by all officers.

[This issues with the approval of the Central P.F. Commissioner]

Yours faithfully,



(Pankaj Raman)

Addl. Central P F Commissioner (Compliance)

Copy for information:-

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2. PS to FA&CAO/ CVO/ All Addl. CPFCs (HQ) at Head Office.
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