# **WEP Peripherals Ltd. vs Regional Provident Fund Commissioner-II**

### ****Section 7A Inquiry under the Employees’ Provident Fund & MP Act, 1952****

### ****1. Case Background****

The inquiry under **Section 7A of the Employees’ Provident Fund (EPF) and Miscellaneous Provisions Act, 1952** was initiated against **WEP Peripherals Limited**, located at **#401/A, Lavelle Road, Bengaluru**. The inquiry pertained to the **assessment of provident fund dues** for the period **April 2004 to July 2007**.

The crux of the matter revolved around whether **"Personal Pay"** paid by the company qualifies as **Basic Wages** under the Act and whether PF contributions should be calculated on it. The dispute escalated through multiple hearings, court interventions, and appeals.

### ****2. Chronological Events****

#### **2.1 Initial Inquiry and Observations (2004–2008)**

1. **April 2004–July 2007**:
   * WEP Peripherals Limited allegedly defaulted on contributions for **Personal Pay** under the EPF Act.
2. **2007–2008**:
   * The **Enforcement Officer (EO)** conducted an inspection and submitted a report. The EO identified arrears for the inquiry period and observed that Personal Pay was **not included** in the PF calculations by the company.
3. **May 2008**:
   * The EO issued notices to the company for arrears, highlighting non-compliance and demanding the inclusion of Personal Pay under Basic Wages.
   * **Court Orders**: The company challenged the inquiry, and the case was stayed temporarily by the High Court of Karnataka.
4. **June 2008**:
   * A **Writ Petition** was filed by the company challenging the inclusion of Personal Pay. The **High Court directed** the matter to proceed under Section 7A.

#### **2.2 Tribunal and High Court Interventions (2008–2010)**

1. **11 June 2008**:
   * The preliminary hearing took place. The High Court stayed the operation of the **7A order** issued by the EO.
2. **27 June 2008**:
   * The High Court directed the **Appellate Tribunal** to hear the matter further.
3. **2008–2010**:
   * The company filed appeals with the **EPF Appellate Tribunal, New Delhi**.
   * The Tribunal stayed the pre-deposit of 75% of the dues.
4. **22 December 2010**:
   * The Tribunal **dismissed the appeal**, and the operation of the Section 7A order was upheld.

#### **2.3 Resumption of Inquiry (2011–2022)**

1. **2011**:
   * The company filed a fresh **Writ Petition (WP No. 4849/2011)** before the High Court of Karnataka, challenging the Tribunal’s decision.
2. **November 2022**:

* The High Court disposed of the Writ Petition and directed the EPFO to reassess the matter under Section 7A, based on **new evidence and submissions**.

1. **28 October 2022**:

* The company submitted an **Affidavit** highlighting that Personal Pay:
  + Was not part of Basic Wages.
  + Was discontinued from **April 2008** onwards.

#### **2.4 Conduct of Hearings and Employer Submissions (2023–2024)**

1. **2023 (May–September)**:

* A series of **virtual hearings** were conducted:
  + The EO insisted on the inclusion of Personal Pay under Basic Wages.
  + The company submitted records (including salary statements and TDS details) for the inquiry period.

1. **Key Submissions by the Employer**:

* Personal Pay was **paid only to specific categories** of employees and not universally.
* The company lacked records for certain months, particularly for 2004–2005.
* Cited **Supreme Court rulings** (Bridge Roof and Manipal Academy cases) to argue against PF contributions on Personal Pay.

1. **Enforcement Officer's Report (8 August 2023)**:

* The EO rejected the employer's arguments and reiterated:
  + Personal Pay was **universally paid** and qualifies as Basic Wages.
  + Contributions were **not paid** on this component, leading to arrears.

1. **September–October 2024**:

* Final hearings were conducted.
* The company requested additional time to submit documents, but delays were noted.

### ****3. Key Findings****

1. **Definition of Personal Pay**:
   * The inquiry determined that Personal Pay was:
     + Paid universally to employees.
     + A component of wages **"ordinarily, necessarily, and universally paid"**.
   * Therefore, it falls under **Basic Wages** as per the **EPF Act** and the Bridge Roof case.
2. **Employer’s Liability**:
   * The company’s contention that Personal Pay was excluded from Basic Wages was rejected.
   * The EO confirmed arrears for the inquiry period (April 2004–July 2007).
3. **Dues and Calculations**:
   * The EO provided detailed dues calculations:
     + Contributions for **employees and employers** were assessed month-by-month.
     + Final dues amounted to **₹49,67,799**.
     + Remittances made so far were **deducted**, leaving a balance of **₹19,35,519 payable**.

### ****4. Final Order (28 November 2024)****

The **Regional Provident Fund Commissioner-II**, Shri **Aniket Anil Ambekar**, issued the final order:

1. **Dues to be Paid**:
   * The company is directed to remit **₹49,67,799**, minus payments already made.
   * A balance of **₹19,35,519** must be paid within **45 days**.
2. **Consequences of Non-Compliance**:
   * Failure to pay within the stipulated time will result in recovery under relevant sections of the EPF Act.
3. **Right to Reassess**:
   * The EPFO retains the right to reopen the case in case of discovery of **new evidence or arrears**.