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कर्मचारी भविष्य निधि संगठन, क्षेत्रीय कार्यालय, अंबाटूर
EMPLOYEES' PROVIDENT FUND ORGANISATION

REGIONAL OFFICE, AMBATTUR

[A STATUTORY BODY UNDER GOVT. OF INDIA, MINISTRY OF LABOUR & EMPLOYMENT]

आर 40-ए, टी एन एच बी कार्यालय परिसर, मुगप्पेर रोड, चेन्नै-600 037

R-40,A-1,TNHB Office-cum-shopping Complex

मुगप्पेर पूर्व, चेन्नै-600 037 / Mugappair East, Chennai-600037

No.TN/RO-AMB/CC-II/A-7(2)/1656516/2019

Date: 25.11.2019

**Proceedings under section 7A of the Employees' Provident Fund &
Miscellaneous Provisions Act, 1952**
E-Court Diary No: 5038/2019

BEFORE THE ASSISTANT PF COMMISSIONER

Employees' Provident Fund Organisation
Regional Office, Ambattur

PRESENT: Shri. D. GOVINDARAJAN
Assistant Provident Fund Commissioner

In the matter of deciding applicability of EPF & MP Act, 1952 and determination of Provident Fund, Pension Fund and Deposit Linked Insurance Fund contributions and Administrative charges due from M/s. FUELLS bearing the Provident Fund code number **TN/AMB/1656516** located at No: 1/6, Tondiarpet High Road, 1st floor, Susila Nagar, Kodungaiyur, Chennai- 600118 for the period **08/2015 to 06/2017** under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

Above establishment has been covered under Employees' Provident Funds and Miscellaneous Provisions Act, 1952 w.e.f. 01.07.2017 and the Schemes framed there under.

CASE HISTORY:

Whereas the employer in relation to M/s. FUELLS covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and bearing code No.**TN/AMB/1656516** has failed to submit relevant records regarding determination of applicability under Employees' Provident Funds and Miscellaneous Provisions Act, 1952 in accordance with the provisions of the Employees' Provident Funds Scheme, 1952, Employees' Pension Scheme, 1995 and Employees' Deposit Linked Insurance Scheme, 1976.

The Enforcement Officer has submitted Shram Suvidha Inspection report dated 30.05.2018 stating that the date of setup of the establishment is 15.05.2013 but covered under EPF & MP Act, w.e.f. July 2017. No records were submitted by the employer for the period between date of set up to 07/2017 to verify the applicability of the Act. Hence, A show cause notice to the establishment was issued on 14.06.2018 in the matter of non-submission of records and to decide the applicability of the Act.

Further, employer had been given 5 opportunities/hearing on various dates (02.07.2018, 16.07.2018, 08.08.2018, 05.09.2018 and 03.10.2018) in order to submit the relevant records in the matter of deciding applicability of Act, but employer has failed to do so and nothing came out positive.

Whereas, for the purpose of determining the applicability of the Act, employer of said establishment was summoned under Section 7A of the Act, to appear before Assistant Provident Fund Commissioner on **08.11.2018** to represent his case. The summon was duly served/delivered to the establishment by Postal Dept. on 31.10.2018.

Case called on 08.11.2018, Shri Karuppiah, Authourised Representative of the establishment appeared for hearing. He informed that the records were already submitted to the Enforcement Officer for verification. Enforcement Officer was requested to analyse the records and submit his report before the date of next hearing. Case was adjourned to 05.12.2018.

Case called on 05.12.2018, Shri Karuppiah, Authourised Representative of the establishment appeared for hearing. Enforcement Officer had not submitted his final report. The representative of the establishment submitted that the Enforcement Officer had called for certain records for verification of date of applicability and that he needs time to produce the records. Case was adjourned to 07.01.2019.

Case called on 07.01.2019, Shri Karuppiah, Authourised Representative of the establishment appeared for hearing. He informed that the records called for by the Enforcement Officer has been submitted. Enforcement Officer was directed to analyse the records and submit his report along with statement of dues. Case was adjourned to 24.01.2019.

Case called on 24.01.2019, Shri G. Sampath Kumar, Partner of the establishment appeared for hearing. Enforcement Officer had submitted his report vide Annexure 'B' dated 14.01.2019 based on the records, employment strength crossed 20 in August 2015. Since, the establishment had neither submitted F-11, F-16, Biodata nor poof for payment of above heads, the salary/wages were taken at Rs.15000/- per month per employee (drawing higher salary). Accordingly, Inspection report part II was issued and copy enclosed along with dues statement. Further, he had reported that he had not submitted ledgers for freight charges, packing expenses, C&F, cartege and coolie for 2014-15, 2015-16, and 2016-17, hence involvement of labour if any could not be verified. A copy of Enforcement Officer's report had been issued to the employer for his comments and explanation. Shri G. Sampath Kumar informed that the dues furnished by the Enforcement Officer is on higher side. He further stated that he was ready to submit necessary proof of documents but before that the Enforcement Officer has reported with higher side of dues. He requested some time to produce the records as required by Enforcement Officer. The Enforcement Officer was directed to obtain the complete records and submit the dues statement as this was only part report on which decision could not be taken. Case was adjourned to 05.03.2019.

The inquiry which was scheduled on 05.03.2019 was adjourned due to administrative reasons to 11.04.2019.

Case called on 11.04.2019, Shri Karuppiyah, Authourised Representative of the establishment appeared for hearing. Enforcement Officer was present during hearing. The representative of the establishment has not submitted any representation/ comments/explanation on the report of Enforcement Officer. Whereas, he brought some records for verification. It was asked to him on what basis it is required. Whether the establishment had accepted the report? If not, what is the explanation on the statement of dues furnished by Enforcement Officer. The representative has assured to submit his explanation and comments during next hearing. Case was adjourned to 27.05.2019.

Case called on 27.05.2019, Shri G. Sampath Kumar, Partner of the establishment appeared for hearing. Shri S Venkatesan, Enforcement Officer also appeared for the inquiry. The employer had submitted a letter dated 27.05.2019. Employer was directed to provide the underlying information break-up based on which the explanation is submitted. Case was adjourned to 21.06.2019.

Whereas, none appeared on 21.06.2019 and case was adjourned to 15.07.2019.

Case called on 15.07.2019, Shri Karuppiyah, Authourised Representative of the establishment appeared for hearing on behalf of M/s. Fuells. He was directed to produce the balance records. Case was adjourned to 29.07.2019.

Case called on 29.07.2019, Shri Karuppiyah, Authourised Representative of the establishment appeared for hearing on behalf of M/s. Fuells. Case was adjourned to 13.08.2019.

Case called on 13.08.2019, Shri Karuppiyah, Authourised Representative of the establishment appeared for hearing. Shri M Ahamed Sahib, Enforcement Officer also appeared for inquiry. Previous area Enforcement Officer had submitted the Inspection report highlighting the records viz. Form 16 of Income Tax, Form 11, wages registers to tally with other records. Establishment was yet not submitted the balance records to the current Enforcement Officer for verification. Case was adjourned to 16.09.2019.

Case called on 16.09.2019, Shri Karuppiyah, Authourised Representative of the establishment appeared for hearing. Enforcement Officer was yet to submit his report. Enforcement Officer was unavailable due to administrative reasons. Case was adjourned to 30.09.2019.

Case called on 30.09.2019, Shri Karuppiyah, Authourised Representative of the establishment appeared for hearing. Enforcement Officer was yet to submit his report. Employer was directed to submit the balance records immediately. Case was adjourned to 14.10.2019.

The inquiry which was scheduled on 14.10.2019 was adjourned due to administrative reasons to 21.10.2019.

Case called on 21.10.2019, Shri Karuppiyah, Authourised Representative/ Manager of the establishment appeared for hearing. Shri M Ahamed Sahib, Enforcement Officer appeared for inquiry. He had submitted his final report dated 14.10.2019 after verifying the records of establishment. Enforcement Officer's report

was examined. The establishment's employment strength had crossed 19 on 01.08.2015. The EPF & MP Act, 1952 is application to the establishment w.e.f. 01.08.2015. Copy of the Enforcement Officer's report had been served on to the employer's representative and he had accepted the Applicability of the Act from 01.08.2015 and dues statement as per the report of Enforcement Officer. Further, the Enforcement Officer had identified 19 employees as excluded employees and for the balance 6 eligible workers dues report has been submitted.

In view of the above, taking the Enforcement Officer's report dated 14.10.2019 on record, I determine the dues for 08/2015 to 06/2017, subject to adjustment of remittances on confirmation.

ORDER:

Now, therefore I, **D. Govindarajan, Assistant Provident Fund Commissioner**, in exercise of powers conferred on me under section 7A (1) (b) of the EPF & MP Act, 1952, hereby determine the **applicability of the Act w.e.f. 01.08.2015** in respect of establishment **M/s. FUELLS** bearing the PF code number **TN/AMB/1656516** and dues assessed/payable for the period from **August 2015 to June 2017** as detailed below:

			7A
1.	Employees' Provident Fund contributions	EMPLOYEE	348419.00
	A/c No.1	EMPLOYER	106559.00
2.	Employees' Provident Fund Admn. Charges	A/c.No.2	23839.00
3.	Employees' Pension Fund Contribution	A/c. No.10	241860.00
4.	Deposit Linked Insurance Fund Contributions	A/c. No.21	14519.00
5.	Deposit Linked Insurance Fund Adm. Charges	A/c. No.22	4000.00
TOTAL			739196.00
Rupees Seven lakh thirty nine thousand one hundred ninety six only			

I hereby direct the employer to remit the amount of Rs.739196/- as per Schedule-I attached herewith to the respective Employees' Provident Fund accounts through **E- Sewa Portal** within 15 days on receipt of this order immediately and submit the concerned returns to this office.

Above conclusion is subject to re-open under relevant provisions of the Act, if any new material/fact comes to my notice at a later period of time.

Whereas if it is found at a later date, that there were employees who were not enrolled by the said employer as members of the Fund for the said period, the employer shall, without fail, ensure compliance in the matter of remittances/submission of returns in respect of such employees for the said period and remit the amount due into the respective Employees' Provident Fund accounts maintained at the State Bank of India, immediately and, submit the connected returns to this office. In the event of non-compliance, action will be initiated to assess the Provident Fund dues payable in respect of such non-enrolled employees also.


Please note that all belated remittances will attract penal damages as per Section 14B of the Act, on a graded scale depending upon the period of delay besides levy of simple interest at the rate of 12% per annum as per Section 7Q of the Act.

Issued under my seal and signature on the 25th day of November' 2019.



(D. GOVINDARAJAN)
ASSISTANT PROVIDENT FUND COMMISSIONER

o/c 
25/11/19

 डी गोविन्दराजन / D GOVINDARAJAN
असिस्टन्ट प्रोविडन्ट फंड कमिशनर / Assistant Provident Fund Commissioner
कर्मचारी प्रविण्ड निधि संगठन / Employees' PF Organisation
क्षेत्रीय कार्यालय, अंबलूर, चेन्नै / Regional Office, Ambattur, Chennai-3

To

The Partners
M/s. FUELLS
No.1/6, Tondiarpet High Road,
1st Floor, Susila Naghar,
Kodungaiyur, Chennai- 600118.

E-mail: info@fuells.com

Copy to:

1. The APFC, Accounts Group – 107/05


25/11/19

2. The Enforcement Officer*
Regional Office, Ambattur

*By Name to:
Shri M. Ahamed Sahib


28/11/19

---for necessary action.

M/s. FUELLS (TN/AMB/1656516)**SCHEDULE 'I'****ASSESSED DUES FOR THE PERIOD FROM 08/2015 to 06/2017:**

Period	A/C NO.1 EE Share	A/c No.1 ER Share	A/c No. 2	A/c No.10	A/c No.21	A/c No.22	Total
Aug-15	9465	2895	670	6570	394	200	20194
Sep-15	9720	2973	689	6747	405	200	20734
Oct-15	9232	2823	654	6409	385	200	19703
Nov-15	9360	2863	663	6497	390	200	19973
Dec-15	9058	2770	642	6288	377	200	19335
Jan-16	8303	2539	588	5764	346	200	17740
Feb-16	9643	2949	683	6694	402	200	20571
Mar-16	9116	2788	646	6328	380	200	19458
Apr-16	18474	5650	1309	12824	770	200	39227
May-16	19559	5982	1385	13577	815	200	41518
Jun-16	19173	5864	1358	13309	799	200	40703
Jul-16	18973	5803	1344	13170	791	200	40281
Aug-16	18749	5734	1328	13015	781	200	39807
Sep-16	18924	5788	1340	13136	789	200	40177
Oct-16	18848	5764	1335	13084	785	200	40016
Nov-16	19329	5911	1369	13418	805	200	41032
Dec-16	18589	5685	1317	12904	775	200	39470
Jan-17	17382	5316	1231	12066	724	200	36919
Feb-17	18174	5559	1287	12615	757	200	38592
Mar-17	17895	5473	1268	12422	746	200	38004
Apr-17	16958	5187	919	11771	707	0	35542
May-17	16410	5018	889	11392	684	0	34393
Jun-17	17085	5225	925	11860	712	0	35807
TOTAL	348419	106559	23839	241860	14519	4000	739196

Rs.739196/- (Rupees Seven lakh thirty nine thousand one hundred ninety six only)

(D. GOVINDARAJAN)
ASSISTANT PROVIDENT FUND COMMISSIONER

डॉ गोविन्दराजन / D GOVINDARAJAN

सहायक प्रविण्ड निधि अधिकारी / Assistant Provident Fund Commissioner

कर्मचारी प्रविण्ड निधि संगठन / Employees' PF Organisation

क्षेत्रीय कार्यालय, अंबातूर, चेन्नै / Regional Office, Ambattur, Chennai-37