EMPLOYEES' PROVIDENT FUND ORGANISATION

31st Meeting of the Sub-Committee of Central Board of Trustees, (EPF) on Exempted Establishments.

Date : 29.04.2011 (Friday)
Time : 11:00 am
Venue : Hotel Gokulam Park, Kaloor, Kochi.
Agenda Paper
For the 31st Meeting of the
Sub-Committee of
Central Board of Trustees
(Employeees' Provident Fund)
On Exempted Establishments
**31st MEETING OF THE SUB COMMITTEE ON EXEMPTED ESTABLISHMENTS**

Date: 29.04.2011 (Friday)  
Venue: Kochi  
Time: 11 AM

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<td>---------------------</td>
</tr>
<tr>
<td>1.</td>
<td>Report of the committee constituted for developing the formats of the balance sheet for reporting the accounts of the exempted PF trusts.</td>
<td>The Institute of Chartered Accountant of India (ICAI) was requested to examine the feasibility of developing an accounting standard for audit of the exempted trust funds in light of condition no 24(b) of Para 27AA of the EPF scheme'52. The institute has informed that the accounting standard on retirement benefit plans developed by the study group constituted by them for the purpose has been finalized. The first exposure draft has been issued by the institute and the same is placed as Annexure H, for the perusal &amp; deliberations of the members. As the members had desired for deferring the item for the next meeting the same is placed again.</td>
</tr>
</tbody>
</table>
PREFACE:
The Central Board of Trustees, EPFO has constituted a sub-committee on exempted establishments to deliberate and make recommendations on all policy matters relating to the exempted sector. The committee consists of two employers’ and two employees’ representatives besides the Join Secretary Ministry of Labour and Employment as its members.
The main functions of the committee are to:-

- Oversee the working of the exempted establishments and make suggestions for consideration of the board in order to improve the working of the exempted establishments.
- Consider and suggest additional guidelines for grant of exemption/relaxation

During the year 2010-11 the 30th meeting of the sub-committee on exempted establishments was held in Kolkata on 08.10.10. The committee reviewed the working of the exempted establishments in respect of Kolkata, Jalpaiguri, Jharkhand and NER regions.
The agenda for the 31st meeting is submitted for the perusal and deliberations of the members.
Item No 2: Status Report on the Exempted establishments of Tamil Nadu & Kerala

Tamil Nadu:-

The political state of Tamil Nadu is having four Regions namely Chennai, Tambaram, Coimbatore & Madurai having a total of 122 exempted establishments (u/s 17 (1) & 27A) and 277232 members.

CHENNAI REGION

Chennai region having its Regional Office at Chennai and Sub Regional Office at Ambattur has a total of 65 exempted/relaxed establishments (Annexure-A) and membership of 181294.

Compliance:-

During the year 2010-11 compliance audit in respect of 65 establishments was conducted out of which 55 establishments were found to be violating one or more conditions of exemption RPFC has initiated appropriate actions as prescribed in the Act/Scheme against all violators (Annexure- A & C).

15 establishments had defaulted in the payment of dues RPFC has already concluded assessment of dues u/s 7A/14B in respect of 5 cases however in 4 cases stay has been granted by various courts (Annexure – F).

Grant of Exemption:-

Chennai region has 6 relaxed establishments (Annexure-E) and has submitted proposals for grant of exemption in respect of all the cases to Head Office. Out of the 6 pending cases for grant of exemption proposals in respect of 3 establishments has already been forwarded to
the Appropriate Governments for further necessary action and the remaining cases are being processed.

**Cancellation of Exemption:-**

During the year 2010-11 action for cancellation of exemption was initiated against 4 establishments. Out of these in 2 cases (Annexure-D) exemption/relaxation has already been cancelled/withdrawn by the appropriate authority after following the due procedure. In respect of the remaining proposals, action has been initiated for submitting the proposals to the Appropriate Government for further necessary action.

It may be mentioned here that Head Office, EPFO has streamlined the procedure for cancellation of exemption and a circular dated 30.07.09 was issued clearly mentioning the procedure and documents required for the purpose, accordingly RPFCs have been submitting cancellation proposals which has helped in expediting the action for cancellation of exemption.

**TAMBARAM REGION**

Tambaram region having its Regional office at Tambaram and Sub Regional Offices at Vellore & Pudducherry has a total of 16 exempted/relaxed establishments, having membership of 21535 members (Annexure-A). Out of these 16 establishments, 12 establishments are exempted u/s 17, two establishments are exempted u/p 27A and the remaining 2 establishments are relaxed u/p 79.
Compliance:-

As per the reports of the compliance audit of exempted establishments conducted during 2010-11, 09 establishments were found to be violating various conditions of exemption. RPFC has issued show cause notices / directions for rectifying the violations (Annexure-A & C).

During the compliance audit it was found that 03 establishments had defaulted in the timely payment of dues to the trust and EPFO. Out of these three establishments action u/s 7A/14B has already been initiated in respect of 2 cases and the assessed dues have been recovered. (Annexure-F)

Grant of Exemption:-

Tambaran region has two relaxed cases out of which proposal in respect of M/s BHEL Ranipet have been forwarded to Head Office and is under process; however proposal in respect of M/s Tamil Nadu Industrial Explosives has not been submitted. The establishment is in default of payment of PF and allied dues (Annexure E).

Relaxation granted to M/s Henkel was withdrawn by the RPFC with effect from 01.12.10 and the past accumulations are being transferred.

COIMBATORE REGION

Coimbatore region with its Regional Office at Coimbatore and Sub Regional Offices at Salem and Trichy has a total of 28 exempted/relaxed establishments, having a membership of 59720 members. Region has 27 establishments which are exempted u/s 17, and 1 relaxed establishment. (Annexure- A).
Compliance:-

After the last compliance audit, violations of the conditions of exemption were noticed in 08 establishments (Annexure- A & C). M/s Coimbatore Dist Consumers Coop Whole Sale Stores Ltd, was found to be violating condition no 25 of para 27AA of the EPF scheme'52 i.e Continuous losses for three consecutive financial years. The exemption granted to the said establishment has already been cancelled in the year 2004 however the Hon'ble Madras High Court has quashed the cancellation orders vide its orders dated 09.07.10 and now an appeal against the said order is being filed.

Three establishments have defaulted in timely payment/transfer of dues and necessary action against all three establishments has been initiated (Annexure –F)

Grant of Exemption:-

Coimbatore region is having only one relaxed establishment M/s Tamil Nadu Newsprints Ltd and its proposal for grant of exemption is under process (Annexure E)

During the year 2010-11 M/s ARC Retreading surrendered its exemption and transferred the past accumulations. (Annexure D).

MADURAI REGION

Madurai region with its Regional Office at Madurai and Sub Regional Offices at Tirunveli and Nagercoil has a total of 13 exempted/relaxed establishments, having membership of 14683 members (Annexure- A). The region has 12 exempted establishment u/s 17, whereas the remaining establishment is relaxed under para 79 of the EPF Scheme 1952.
Compliance:

After the latest compliance audit, violations of the conditions of exemption were noticed in 4 establishments (Annexure - A & C). It was found that M/s Sivgangai District Central Cooperative Bank Ltd was in violation of condition no 25 of para 27AA i.e losses suffered by the establishment for 3 consecutive years and accordingly order withdrawing the relaxation was issued however the establishment appealed in the Hon'ble Madras High Court which has granted a stay and the matter is pending in the court.

RPFC has initiated enquiries u/s 7A of the Act against M/s Madurai Dist.Central Co.op.Bank Ltd and M/s Tuticorin Alkali Chemicals for default in payment of dues. The establishment is also registered with the BIFR as a sick industry. The enquiry u/s 7A in respect of M/s Madurai Dist.Central Co.op.Bank Ltd has already been concluded and the dues assessed have been recovered (Annexure- F).

M/s SPIC (TN/10139) surrendered the exemption and its proposal for cancellation of exemption has been sent to Govt of Tamil Nadu. The establishment has started compliance as unexempted & transferred the past accumulations to EPFO (Annexure- D).

KERALA REGION

Kerala region with its Regional Office at Thiruvananthapuram and Sub Regional Offices at Kochi, Kottayam, Kozhikode, Kannur and Kollam has a total of 56 exempted/relaxed establishments, having membership of 52398 members (Annexure- A). The region has 37 establishment
exempted u/s 17, 15 establishments under para 27A and the remaining 4 establishment are relaxed under para 79 of the EPF Scheme 1952.

**Compliance:-**

After the latest compliance audit 10 establishments were found to be violating one or more conditions of exemption (Annexure- A & C). Out of these 10 establishments 3 establishments were found in violation of condition no 25 of para 27AA of the Scheme and accordingly necessary action for cancellation of exemption/relaxation is being initiated by the RPFC.

3 establishments had defaulted in the payment of dues (Annexure – F) RPFC has already concluded assessment of dues u/s 7A/14B in respect of 2 cases, however M/s Travancore Rayons Ltd has obtained a stay order from the Hon'ble Kerala high Court which has stayed all coercive actions against the establishment.

**Grant of Exemption:-**

Kerala region has 4 relaxed establishments and has submitted proposals for grant of exemption in respect of 3 cases to Head Office which are under process (Annexure-E). M/s Bhageerath Engineering is in continuous losses and action has been initiated for withdrawal of relaxation.

**Cancellation of Exemption:-**

During the year 2010-11 action for cancellation of exemption was initiated against 2 establishments. Out of these in 2 cases proposal in respect of M/s Aluminium Industries Ltd has been sent to the Government of Kerala for further necessary action (Annexure-D).
Item No: 3 FORMAT OF A BALANCE SHEET FOR EXEMPTED PF TRUSTS

The revised conditions for grant of exemption were notified by the Ministry of labour and Employment, Government of India on 22.09.03 under para 27AA of the EPF scheme 1952. Condition number 24(b) of para 27AA prescribes that "A copy of the auditor's report alongwith the audited balance sheet should be submitted to the RPFC concerned by the auditors directly within 6 months of the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be as prescribed by the EPFO and made available with the RPFC office in electronic format as well as signed hard copy".

In view of the above provisions a committee of officers of EPFO was constituted by the Chairman of the Sub-Committee of the CBT on Exempted establishments for formulating a format for the balance sheet as well as schedules for exempted PF trusts. The committee of officers submitted its report which was placed before the sub-committee of the CBT on Exempted establishments and the said committee approved the report in its 26th meeting held on 06.04.04.

Subsequently a reference was made to M/s Institute of Chartered Accountants of India (ICAI) to examine the requirements and feasibility of developing Accounting Standards for auditing the trusts funds as well as company's accounts.

The institute has informed that the Accounting Standard 36 on retirement benefit plans developed by the study group constituted by them for the purpose has been finalized. The first exposure draft has been issued by the institute and is placed as (Annexure -G).
Para 2 of the said draft mentions that "Retirement benefit plans are sometimes referred to by various other names such as pension schemes, superannuation schemes or retirement benefit schemes. Further para 3 specifies that "this standard deals with accounting and reporting by the plan to all participants as a group. It does not deal with reports to individual participants about their retirement benefit rights.

The draft report makes clear that "This standard does not deal with other forms of employment benefits such as employment termination indemnities, deferred compensation arrangements, long service leave benefits, special early retirement or redundancy plans, health & welfare plans or bonus plans. Government social security type arrangements are also excluded from the scope of this standard"

It appears that the proposed accounting standard 36 is primarily focused towards pension schemes and does not prescribe any format of the balance sheet and the information to be provided by the auditors in respect of PF trusts exempted by EPFO, and hence may not really be relevant and useful with regards to our requirement as mentioned under condition 24(b) of para 27AA of the EPF scheme and therefore the format of the balance sheet and schedules already approved by this committee are being adopted for implementation.

The item is place for information.
Item No 4: **Process of grant of exemption**

Clause 56 of the Finance Bill, 2006 amended the rules 3 & 4 of Part A of the Fourth Schedule to the Income tax Act, relating to recognized provident funds. The proposed amendment inserted a proviso in sub-rule (1) of rule 3 of Part A of the Fourth Schedule so as to provide that in a case where recognition has been accorded to any provident fund on or before 31st March, 2006 and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 of Part A of the Fourth Schedule, and any other conditions which the Board may, by rules specify in this behalf, the recognition to such provident fund shall be withdrawn.

Subsequent to the said amendment it become mandatory for the provident fund of any establishment to which the provisions of section 1(3) or 1(4) of the EPF & MP Act, 1952 applies to obtain exemption of the said Act in order to obtain Income Tax recognition. As per the Finance Bill 2011 the last date of obtaining exemptions has been extended till 31.03.12.

The process of grant of exemption begins with the field offices where the proposal is received. After scrutiny of the proposal with regards to the essential documents and certificates as per instant instructions the proposal is forwarded by the field offices to the Head Office. The proposal is examined with regards to its suitability to the provisions for grant of exemption as mentioned under section 17 of the EPF & MP Act and on being found fit, is approved by the CPFC for placing before the CBT, EPF, as per the directions of the Ministry of Labour & Employment vide its letter dated 1.4.08.
The views of the CBT along with the proposal is then forwarded to the Appropriate Government for consideration.

EPFO has issued comprehensive directions to the field functionaries vide Head Office circular dated 28.12.07 rationalizing the process of grant of exemption and stressing the need for a thorough scrutiny of all proposals at the level of the field offices and forwarding the same in a time bound manner to Head office. The circular dated 28.12.07 which is also placed on the EPFO website prescribes 15 specific documents including the 10 point certificate prescribed by the Ministry of Labour Government of India, Trust rules, Relaxation order, Undertakings, Consent of employees etc which are required to be submitted by the RPFC.

EPFO has also prescribed model PF trust rules for establishments seeking exemption. Establishments may adopt the model trust rules or amend it suitably in order to meet the requirements of their trusts.

In March 2009 Ministry of Labour, Government of India issued directions that proposals should only be forwarded after the report of the latest compliance audit is found to be satisfactory, hence a thorough compliance audit covering all the points as mentioned under the revised conditions for grant of exemption is undertaken by the RPFCs and a copy of the report is forwarded to the Appropriate Government.

As is clear from the above, the entire process of grant of exemption involves a number of stages and levels besides documentation. Scrutiny is done at multiple levels and a number of approvals are required. Inherently because of the process, the time involved from the beginning to the issue of notification is also long.
In order to expedite the processing of the proposals, CPFC vide circular his dated 27.04.09 has also issued directions for expeditious processing and forwarding of all applications for grant of exemption. It has been directed that within 15 days of receipt of a complete proposal, the same should be forwarded to the Head Office.

As per information available the Appropriate Governments have granted exemption in 276 cases since 2006 and proposals of 230 establishments are under process for grant of exemption.

The item is place for information & deliberation for simplifying the procedure.
GENERAL STATISTICS OF EXEMPTED ESTTS OF TAMILNADU AND KERALA

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Region</th>
<th>Total exempted estt</th>
<th>Exempted u/s 17</th>
<th>Exempted u/p 27A</th>
<th>No of estt Relaxed u/p 79</th>
<th>No of defaulting Estt</th>
<th>No of Estt violating conditions of exemption</th>
<th>No of Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CHENNAI</td>
<td>65</td>
<td>56</td>
<td>3</td>
<td>6</td>
<td>15</td>
<td>55</td>
<td>181294</td>
</tr>
<tr>
<td>2</td>
<td>TAMBARAM</td>
<td>16</td>
<td>12</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>9</td>
<td>21535</td>
</tr>
<tr>
<td>3</td>
<td>COIMBATORE</td>
<td>28</td>
<td>27</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>8</td>
<td>59720</td>
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<tr>
<td>4</td>
<td>MADURAI</td>
<td>13</td>
<td>12</td>
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<td>1</td>
<td>2</td>
<td>4</td>
<td>14683</td>
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<td>5</td>
<td>KERALA</td>
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<td>37</td>
<td>15</td>
<td>4</td>
<td>3</td>
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<td>52398</td>
</tr>
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<td></td>
<td>TOTAL</td>
<td>178</td>
<td>144</td>
<td>20</td>
<td>14</td>
<td>26</td>
<td>86</td>
<td>329630</td>
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<td>SR. NO</td>
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<td>CHENNAI</td>
<td>TAMBARAM</td>
<td>COIMBATORE</td>
<td>MADURAI</td>
<td>KERALA</td>
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</tr>
<tr>
<td>1</td>
<td>Establishments in default of payment of dues</td>
<td>15</td>
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<td>3</td>
<td>2</td>
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<td>Establishments violating the conditions of exemption</td>
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<td>9</td>
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<td>4</td>
<td>10</td>
<td></td>
<td></td>
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<td>3</td>
<td>Relaxed Establishments</td>
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<td>1</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Relaxation withdrawn/Exemption cancelled</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
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### TYPES OF VIOLATIONS OF CONDITIONS OF EXEMPTION

<table>
<thead>
<tr>
<th>Sr No</th>
<th>Region</th>
<th>Non Maintainence of Investment Pattern (Condition No 17)</th>
<th>Default in transfer of dues to BOT/EPFO (Condition No 5)</th>
<th>Non Enrollment of all eligible employees (Condition No 3)</th>
<th>Consecutive loss to the estt for 3 years or erosion in its net worth (Condition No 25)</th>
<th>Failed to recoup losses of the trust (Condition No 28)</th>
<th>Failure to audit Accounts (Condition No 24)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CHENNAI</td>
<td>43</td>
<td>15</td>
<td>22</td>
<td>NIL</td>
<td>18</td>
<td>12</td>
</tr>
<tr>
<td>2</td>
<td>TAMBARAM</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>NIL</td>
<td>3</td>
<td>NIL</td>
</tr>
<tr>
<td>3</td>
<td>COIMBATORE</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>5</td>
<td>NIL</td>
</tr>
<tr>
<td>4</td>
<td>MADURAI</td>
<td>NIL</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>NIL</td>
<td>NIL</td>
</tr>
<tr>
<td>5</td>
<td>KERALA</td>
<td>NIL</td>
<td>3</td>
<td>NIL</td>
<td>3</td>
<td>3</td>
<td>2</td>
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### LIST OF CASES OF CANCELLATION OF EXEMPTION

<table>
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<tr>
<th>SR NO</th>
<th>NAME OF THE ESTABLISHMENT</th>
<th>CODE NO</th>
<th>REGION</th>
<th>STATUS</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Manali Petrochemicals</td>
<td>TN/30961</td>
<td>Chennai</td>
<td>Exemption cancelled by the Ministry of Labour on 20.10.10</td>
</tr>
<tr>
<td>2</td>
<td>Futura Polyesters</td>
<td>TN/9614</td>
<td>Chennai</td>
<td>Proposal forwarded to Head office and under process. Clarification called from RPFC vide letter dated 06.04.11</td>
</tr>
<tr>
<td>3</td>
<td>Madras Gymkhana Club</td>
<td>TN/3070</td>
<td>Chennai</td>
<td>Proposal submitted to Head office and under process</td>
</tr>
<tr>
<td>4</td>
<td>Spic Petrochemicals</td>
<td>TN/40819</td>
<td>Chennai</td>
<td>Establishment started compliance as unexempted wef 10/2009 &amp; transferred the past accumulations</td>
</tr>
</tbody>
</table>
### List of Cases of Cancellation of Exemption

<table>
<thead>
<tr>
<th>No.</th>
<th>Company</th>
<th>Reference</th>
<th>Location</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>SPIC</td>
<td>TN/10139</td>
<td>Madurai</td>
<td>Surrendered exemption. Proposal sent to Govt of Tamil Nadu on 25.01.10. Establishment started compliance as unexempted &amp; transferred the past accumulations</td>
</tr>
<tr>
<td>6</td>
<td>Henkel Spic</td>
<td>PC/654</td>
<td>Tambaram</td>
<td>Relaxation Withdrawn wef 01.12.10. Cash balance transferred and securities and SDS account balance being transferred</td>
</tr>
<tr>
<td>7</td>
<td>Aluminium Industries Ltd</td>
<td>KR/2726</td>
<td>Kerala</td>
<td>Proposal sent to the Govt of Kerela on 23.09.09 &amp; reminded on 16.11.09 &amp; 18.03.11</td>
</tr>
<tr>
<td>8</td>
<td>Binani Zinc</td>
<td>KR/2728</td>
<td>Kerala</td>
<td>Proposal for cancellation sent to Head Office and under process</td>
</tr>
<tr>
<td>9</td>
<td>ARC Retreading</td>
<td>TN/6259</td>
<td>Coimbatore</td>
<td>Surrendered exemption and past accumulations transferred to EPFO</td>
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## LIST OF RELAXED CASES

<table>
<thead>
<tr>
<th>SR NO</th>
<th>NAME OF THE ESTABLISHMENT</th>
<th>CODE NO</th>
<th>REGION</th>
<th>STATUS</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Tamil Nadu Civil Supplies Corp</td>
<td>TN/8127</td>
<td>Chennai</td>
<td>Proposal submitted to Head Office. Clarifications called vide HO letter dated 30.03.11</td>
</tr>
<tr>
<td>2</td>
<td>Indus Ind Bank Consumer Finance</td>
<td>TN/19759</td>
<td>Chennai</td>
<td>Proposal submitted to Head Office, however it has been informed that the establishment has merged with M/s Indus Ind Bank Ltd</td>
</tr>
<tr>
<td>3</td>
<td>Indian Additives Ltd</td>
<td>TN/36423</td>
<td>Chennai</td>
<td>Proposal sent to Ministry of Labour. Clarifications called by Ministry sent to the region vide letter dated 17.03.11</td>
</tr>
<tr>
<td>4</td>
<td>Ashok Leyland Sr Executive PF</td>
<td>TN/11727</td>
<td>Chennai</td>
<td>Proposal submitted to Head Office. Clarifications called from RPFC</td>
</tr>
<tr>
<td>5</td>
<td>Delphi TVS</td>
<td>TN/65105</td>
<td>Chennai</td>
<td>Proposal sent to Govt of Tamil Nadu on 10.09.07 and notification awaited</td>
</tr>
<tr>
<td>6</td>
<td>WABCO TVS</td>
<td>TN/66827</td>
<td>Chennai</td>
<td>Proposal sent to Ministry of Labour on 28.03.11</td>
</tr>
<tr>
<td>7</td>
<td>Tamil Nadu Newsprints Ltd</td>
<td>TN/22238</td>
<td>Coimbatore</td>
<td>Proposal submitted to Head Office. Clarifications called vide HO letter dated 30.03.11</td>
</tr>
<tr>
<td>8</td>
<td>BHEL</td>
<td>TN/17199</td>
<td>Tambaram</td>
<td>Proposal submitted to Head Office. Clarifications called vide HO letter dated 25.02.11</td>
</tr>
<tr>
<td>9</td>
<td>Tamil Nadu Industrial Explosives</td>
<td>TN/23108</td>
<td>Tambaram</td>
<td>Proposal not submitted</td>
</tr>
<tr>
<td>10</td>
<td>Sivangal Dist Central Coop Bank</td>
<td>TN/29759</td>
<td>Madurai</td>
<td>Relaxation was withdrawn but stay granted by Hon'ble Madras High Court against withdrawal</td>
</tr>
<tr>
<td>No.</td>
<td>Case Description</td>
<td>Reference Number</td>
<td>Location</td>
<td>Status Description</td>
</tr>
<tr>
<td>-----</td>
<td>----------------------------------</td>
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<td>---------------------------------------------------------------------</td>
</tr>
<tr>
<td>11</td>
<td>Kerala Land Development Corporation</td>
<td>KR/12536</td>
<td>Kerala</td>
<td>Proposal submitted to Head Office and is under process</td>
</tr>
<tr>
<td>12</td>
<td>Kerala Metals &amp; Minerals</td>
<td>KR/10315</td>
<td>Kerala</td>
<td>Proposal submitted to Head Office and is under process</td>
</tr>
<tr>
<td>13</td>
<td>Hindustan News Prints Ltd</td>
<td>KR/10290</td>
<td>Kerala</td>
<td>Proposal submitted to Head Office and is under process</td>
</tr>
<tr>
<td>14</td>
<td>Bhageerath Engineering</td>
<td>KR/5196</td>
<td>Kerala</td>
<td>Establishment is in continuous losses. A show cause notice for withdrawal of relaxation issued</td>
</tr>
<tr>
<td>Sl No</td>
<td>Name of the Establishment</td>
<td>Code No</td>
<td>Region</td>
<td>Nature of Default</td>
</tr>
<tr>
<td>-------</td>
<td>---------------------------------------------------</td>
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<td>------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1</td>
<td>Alacrity Foundations Pvt Ltd.</td>
<td>TN/17459</td>
<td>CHENNAI</td>
<td>Contribution not remitted from 11/02 to 03.04 amounting to Rs.23.96 lakhs</td>
</tr>
<tr>
<td>2</td>
<td>Tamil Nadu Civil Supplies, Corporation Limited</td>
<td>TN/8427</td>
<td>CHENNAI</td>
<td>Assessment of dues of loading and unloading casual employees amounting to Rs.174.75</td>
</tr>
<tr>
<td>3</td>
<td>Tamil Nadu Electricity Board</td>
<td>TN/5887</td>
<td>CHENNAI</td>
<td>Assessment of dues in respect of casual employees amounting to Rs.1188.4</td>
</tr>
<tr>
<td>4</td>
<td>Chennai Petroleum Corp. Ltd</td>
<td>TN/4683</td>
<td>CHENNAI</td>
<td>Assessment of dues in respect of casual employees amounting to Rs.103.93</td>
</tr>
<tr>
<td>5</td>
<td>Victoria Technical Institute</td>
<td>TN/2555</td>
<td>CHENNAI</td>
<td>Assessment of dues in respect of casual employees.</td>
</tr>
<tr>
<td>6</td>
<td>Best and Crompton</td>
<td>TN/849</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
</tr>
<tr>
<td>7</td>
<td>Madras Auto Service</td>
<td>TN/1137</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
</tr>
<tr>
<td>Case No.</td>
<td>Name of the Party</td>
<td>Location</td>
<td>Default and Non Enforcement</td>
<td>Action Taken</td>
</tr>
<tr>
<td>---------</td>
<td>-------------------</td>
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<td>----------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>8</td>
<td>TT Krishnamachari &amp; Co.,</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>9</td>
<td>Patterson &amp; Co.,</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>10</td>
<td>Bapalal &amp; Co. Jewellers</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>11</td>
<td>Khadi Gramodyag Bhawan</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>12</td>
<td>TN Co.op State Land Dev. Bank Ltd</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>13</td>
<td>Railway Employees Co.op Credit Soc.Ltd</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>14</td>
<td>Madras Fertilizers Ltd.,</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>15</td>
<td>Murugappa Management Services Limited</td>
<td>CHENNAI</td>
<td>Delay and default in transfer of funds to BOT</td>
<td>Show cause notice issued</td>
</tr>
<tr>
<td>16</td>
<td>The Coimbatore District Consumers Coop Stores</td>
<td>COIMBATORE</td>
<td>Non transfer of dues</td>
<td>Action under Sec.7A Initiated</td>
</tr>
<tr>
<td>17</td>
<td>Burn Standard Co. Ltd.,</td>
<td>COIMBATORE</td>
<td>Penal Damages not deposited</td>
<td>Stay by Court.</td>
</tr>
<tr>
<td>18</td>
<td>TVS Motor Company Ltd</td>
<td>COIMBATORE</td>
<td>Penal Damages not deposited</td>
<td>Matter pending before EPFAT</td>
</tr>
<tr>
<td>19</td>
<td>The Madurai Dist.Central Co.op.Bank Ltd., Madurai</td>
<td>MADURAI</td>
<td>Default in transfer of dues in respect of contract employees</td>
<td>Enquiry u/s 7-A concluded &amp; recovery actions initiated</td>
</tr>
<tr>
<td>No.</td>
<td>Company Name</td>
<td>State</td>
<td>Default in transfer of funds to BOT</td>
<td>Enquiry u/s 7A initiated</td>
</tr>
<tr>
<td>-----</td>
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<td>--------------------------</td>
</tr>
<tr>
<td>20</td>
<td>Tuticorin Alkali Chemicals</td>
<td>TN/20106</td>
<td>MADURAI</td>
<td>Default in transfer of funds to BOT from 04/10 to 10/2010</td>
</tr>
<tr>
<td>21</td>
<td>Tamilnadu Industrial Explosives Ltd., Katpadi</td>
<td>TN/23108</td>
<td>TAMBARAM</td>
<td>Delay and default in transfer of dues to BOT</td>
</tr>
<tr>
<td>22</td>
<td>Skol Brewries</td>
<td>TN/146</td>
<td>TAMBARAM</td>
<td>Delay and default in transfer of dues to BOT &amp; EPFO</td>
</tr>
<tr>
<td>23</td>
<td>Scudder Memorial Hospital</td>
<td>TN/7544</td>
<td>TAMBARAM</td>
<td>Delay and default in transfer of dues to BOT &amp; EPFO</td>
</tr>
<tr>
<td>24</td>
<td>Aluminium Industries Ltd</td>
<td>KR/15</td>
<td>KERALA</td>
<td>Delay in transfer of dues</td>
</tr>
<tr>
<td>25</td>
<td>Travancore Rayons Ltd</td>
<td>KR/16</td>
<td>KERALA</td>
<td>Delay in transfer of dues</td>
</tr>
<tr>
<td>26</td>
<td>Marikar Motors Ltd</td>
<td>KR/1114</td>
<td>KERALA</td>
<td>PF not remitted on special allowance</td>
</tr>
</tbody>
</table>
Draft
Proposed Accounting Standard 36 (Issued 20XX)

Corresponding to IAS 26)

Accounting and Reporting by Retirement Benefit Plans

The following is the Draft of the Proposed Accounting Standard (AS) 36 (Issued 20XX) Accounting and Reporting, by Retirement Benefit Plans, issued by the Accounting Standards Board of the Institute of Chartered Accountants of India, for comments. The Board invites comments on any aspect of this proposed draft. Comments are most helpful if they indicate the specific paragraph or group of paragraphs to which they relate, contain a clear rationale and, where applicable, provide a suggestion for alternative wording.

Comments should be submitted in writing to the Secretary, Accounting Standards Board, The Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7700, Indraprastha Marg, New Delhi - 110 002, so as to be received not later than December 20, 2009. Comments can also be sent by e-mail at ecommentsasb@icai.org or asb@icai.org.

This proposed draft of the revised Accounting Standard includes paragraphs set in bold type and plain type, which have equal authority. Paragraphs in bold type indicate the main principles. This Draft of the proposed Accounting Standard should be read in the context of its objective and the Preface to the Statements of Accounting Standards.

Scope

1. This Standard shall be applied in the financial statements of retirement benefit plans where such financial statements are prepared.

This Draft is issued pursuant to the decision to converge with IFRSs in respect of accounting periods commencing on or after April 1, 2011. All existing Accounting Standards and new Accounting Standards that are referred to in this Draft are also being revised or formulated, as the case may be, to converge with IFRSs from the aforesaid date. References to the other standards may be viewed accordingly.

Attention is specifically drawn to paragraph 4.3 of the Preface, according to which accounting standards are intended to apply only to items which are material.
2. Retirement benefit plans are sometimes referred to by various other names, such as 'pension schemes', 'supernannuation schemes' or 'retirement benefit schemes'. This Standard regards a retirement benefit plan as a reporting entity separate from the employers of the participants in the plan. All other Standards apply to the financial statements of retirement benefit plans to the extent that they are not superseded by this Standard.

3. This Standard deals with accounting and reporting by the plan to all participants as a group. It does not deal with reports to individual participants about their retirement benefit rights.

4. AS 15 (Revised 20XX) Employee Benefits is concerned with the determination of the cost of retirement benefits in the financial statements of employers having plans. Hence this Standard complements AS 15 (Revised 20XX).

5. Retirement benefit plans may be defined contribution plans or defined benefit plans. Many require the creation of separate funds which may or may not have separate legal identity and may or may not have trustees, to which contributions are made and from which retirement benefits are paid. This Standard applies regardless of whether such a fund is created and regardless of whether there are trustees.

6. Retirement benefit plans with assets invested with insurance companies are subject to the same accounting and funding requirements as privately invested arrangements. Accordingly, they are within the scope of this Standard unless the contract with the insurance company is in the name of a specified participant or a group of participants and the retirement benefit obligation is solely the responsibility of the insurance company.

This Standard does not deal with other forms of employment benefits such as employment termination indemnities, deferred compensation arrangements, long-service leave benefits, special early retirement or redundancy plans, health and welfare plans or bonus plans. Government social security type arrangements are also excluded from the scope of this Standard.

Definitions

The following terms are used in this Standard with the meanings specified:

Retirement benefit plans are arrangements whereby an entity provides benefits for employees on or after termination of service (either in the form of an annual income or as a lump sum) when such benefits, or the contributions towards them, can be determined or estimated in advance of retirement from the provisions of a document or from the entity's practice.

Defined contribution plans are retirement benefit plans under which amounts to be paid as retirement benefits are determined by contributions to a fund together with investment earnings thereon.
Defined benefit plans are retirement benefit plans under which amounts to be paid as retirement benefits are determined by reference to a formula usually based on employees' earnings and/or years of service.

The transfer of assets to an entity (the fund) separate from the employer entity to meet future obligations for the payment of retirement benefits.

For the purposes of this Standard the following terms are also used:

Participants are the members of a retirement benefit plan and others who are entitled to benefits under the plan.

Net assets available for benefits are the assets of a plan less liabilities other than the actuarial present value of promised retirement benefits.

Actuarial present value of promised retirement benefits is the present value of the expected payments by a retirement benefit plan to existing and past employees, attributable to the service already rendered.

Vested benefits are benefits, the rights to which, under the conditions of a retirement benefit plan, are not conditional on continued employment.

Some retirement benefit plans have sponsors other than employers; this standard also applies to the financial statements of such plans.

Most retirement benefit plans are based on formal agreements. Some plans are informal but have acquired a degree of obligation as a result of employers' established practices. While some plans permit employers to limit their obligations under the plans, it is usually difficult for an employer to cancel a plan if employees are to be retained. The same basis of accounting and reporting applied to an informal plan as to a formal plan.

Many retirement benefit plans provide for the establishment of separate funds into which contributions are made and out of which benefits are paid. Such funds may be administered by parties who act independently in managing fund assets. These parties are called trustees in some countries. The term trustee is used in this Standard to describe such parties regardless of whether a trust has been formed.

Retirement benefit plans are normally described as either defined contribution plans or defined benefit plans, each having their own distinctive characteristics. Occasionally plans exist that contain characteristics of both. Such hybrid plans are considered to be defined benefit plans for the purposes of this Standard.
The financial statements of a defined contribution plan shall contain a statement of net assets available for benefits and a description of the funding policy.

Under a defined contribution plan, the amount of a participant's future benefits is determined by the contributions paid by the employer, the participant, or both, and the operating efficiency and investment earnings of the fund. An employer's obligation is usually discharged by contributions to the fund. An actuary's advice is not normally required although such advice is sometimes used to estimate future benefits that may be achievable based on present contributions and varying levels of future contributions and investment earnings.

The participants are interested in the activities of the plan because they directly affect the level of their future benefits. Participants are interested in knowing whether contributions have been received and proper control has been exercised to protect the rights of beneficiaries. An employer is interested in the efficient and fair operation of the plan.

The objective of reporting by a defined contribution plan is periodically to provide information about the plan and the performance of its investments. The objective is usually achieved by providing financial statements including the following:

(a) a description of significant activities for the period and the effect of any changes relating to the plan and its membership and terms and conditions;

(b) statements reporting on the transactions and investment performance for the period and the financial position of the plan at the end of the period; and

(c) a description of the investment policies.

Defined benefit plans

The financial statements of a defined benefit plan shall contain the

(a) a statement that shows:

(i) the net assets available for benefits;

(ii) the actuarial present value of promised retirement benefits, distinguishing between vested benefits and non-vested benefits; and

(iii) the resulting excess or deficit; or

(b) a statement of net assets available for benefits including either:
(i) a note disclosing the actuarial present value of promised retirement benefits, distinguishing between vested benefits and non-vested benefits; or

(ii) a reference to this information in an accompanying actuarial report.

If an actuarial valuation has not been prepared at the date of the financial statements, the most recent valuation shall be used as a base and the date of the valuation disclosed.

For the purposes of paragraph 17, the actuarial present value of promised retirement benefits shall be based on the benefits promised under the terms of the plan on service rendered to date using either current salary levels or projected salary levels with disclosure of the basis used. The effect of any changes in actuarial assumptions that have had a significant effect on the actuarial present value of promised retirement benefits shall also be disclosed.

The financial statements shall explain the relationship between the actuarial present value of promised retirement benefits and the net assets available for benefits, and the policy for the funding of promised benefits.

Under a defined benefit plan, the payment of promised retirement benefits depends on the financial position of the plan and the ability of contributors to make future contributions to the plan as well as the investment performance and operating efficiency of the plan.

A defined benefit plan needs the periodic advice of an actuary to assess the financial condition of the plan, review the assumptions and recommend future contribution levels.

The objective of reporting by a defined benefit plan is periodically to provide information about the financial resources and activities of the plan that is useful in assessing the relationships between the accumulation of resources and plan benefits over time. This objective is usually achieved by providing financial statements including the following:

(a) a description of significant activities for the period and the effect of any changes relating to the plan; and its membership and terms and conditions;

(b) statements reporting on the transactions and investment performance for the period and the financial position of the plan at the end of the period;

(c) actuarial information either as part of the statements or by way of a separate report; and

(d) a description of the investment policies.
Actuarial present value of promised retirement benefits

The present value of the expected payments by a retirement benefit plan may be calculated and reported using current salary levels or projected salary levels up to the time of retirement of participants.

The reasons given for adopting a current salary approach include:

(a) the actuarial present value of promised retirement benefits, being the sum of the amounts presently attributable to each participant in the plan, can be calculated more objectively than with projected salary levels because it involves fewer assumptions;

(b) increases in benefits attributable to a salary increase become an obligation of the plan at the time of the salary increase, and

(c) the amount of the actuarial present value of promised retirement benefits using current salary levels is generally more closely related to the amount payable in the event of termination or discontinuance of the plan.

Reasons given for adopting a projected salary approach include:

(a) financial information should be prepared on a going concern basis, irrespective of the assumptions and estimates that must be made.

(b) under final pay plans, benefits are determined by reference to salaries at or near retirement date; hence salaries, contribution levels, and rates of return must be projected; and

(c) failure to incorporate salary projections, when most funding is based on salary projections, may result in the reporting of an apparent overfunding when the plan is not overfunded, or in reporting inadequate funding when the plan is underfunded.

The actuarial present value of promised retirement benefits based on current salaries is disclosed in the financial statements of a plan to indicate the obligation for benefits earned to the date of the financial statements. The actuarial present value of promised retirement benefits based on projected salaries is disclosed to indicate the magnitude of the potential obligation on a going concern basis which is generally the basis for funding. In addition to disclosure of the actuarial present value of promised retirement benefits, sufficient explanation may need to be obtained as to indicate clearly the context in which the actuarial present value of promised retirement benefits should be read. Such explanation may be in the form of information about the 'adequacy of the planned future funding and of the funding policy based on salary projections. This may be included in the financial statements or in the actuary's report.

Frequency of actuarial valuations
In some cases, actuarial valuations are not obtained more frequently than every three years. If an actuarial valuation has not been prepared at the date of the financial statements, the most recent valuation is used as a basis and the date of the valuation disclosed.

Financial statement content

For defined benefit plans, information is presented in one of the following formats which reflect different practices in the disclosure and presentation of actuarial information:

(a) A statement is included in the financial statements that shows the net assets available for benefits, the actuarial present value of promised retirement benefits, and the resulting excess or deficit. The financial statements of the plan also contain statements of changes in net assets available for benefits, changes in the actuarial present value of promised retirement benefits. The financial statements may be accompanied by a separate actuary's report supporting the actuarial present value of promised retirement benefits.

(b) Financial statements that include a statement of net assets available for benefits and a statement of changes in net assets available for benefits. The actuarial present value of promised retirement benefits is disclosed in a note to the statements. The financial statements may also be accompanied by a report from an actuary supporting the actuarial present value of promised retirement benefits.

(c) Financial statements that include a statement of net assets available for benefits and a statement of changes in net assets available for benefits with the actuarial present value of promised retirement benefits contained in a separate actuarial report.

In each financial format, a trustees' report in the nature of a management or directors' report and an investment report may also accompany the financial statements.

Those in favour of the formats described in paragraph 28(a) and (b) believe that the quantification of promised retirement benefits and other information provided under those approaches help users to assess the current status of the plan and the likelihood of the plan's obligations being met. They also believe that financial statements should be complete in themselves and not rely on accompanying statements. However, some believe that the format described in paragraph 28(a) could give the impression that a liability exists, whereas the actuarial present value of promised retirement benefits does not in their opinion have all the characteristics of a liability.

Those who favour the format described in paragraph 28(a) believe that the actuarial present value of promised retirement benefits should not be included in a statement of net assets available for benefits as in the format described in paragraph 28(a) or even be disclosed in a note as in paragraph 28(b), because it will be compared directly with plan assets and such a comparison may not be
valid. They contend that actuaries do not necessarily compare actuarial present value of promised retirement benefits with market values of investments but may instead assess the present value of cash flows expected from the investments. Therefore, those in favour of this format believe that such a comparison is unlikely to reflect the actuary's overall assessment of the plan and that it may be misunderstood. Also, some believe that, regardless of whether quantified, the information about promised retirement benefits should be contained solely in the separate actuarial report where a proper explanation can be provided.

This Standard accepts the views in favour of permitting disclosure of the information concerning promised retirement benefits in a separate actuarial report. It rejects arguments against the quantification of the actuarial present value of promised retirement benefits. Accordingly, the formats described in paragraph 28(a) and (b) are considered acceptable under this Standard, as is the format described in paragraph 28(c) so long as the financial statements contain a reference to, and are accompanied by, an actuarial report that includes the actuarial present value of promised retirement benefits.

All plans

Valuation of plan assets:

Retirement benefit plan investments shall be carried at fair value. In the case of marketable securities where plan investments are held for which an estimate of fair value cannot be made, disclosure shall be made of the reason why fair value cannot be estimated. In the case of marketable securities fair value is usually market value because this is considered the most useful measure of the securities at the report date and of the investment performance for the period. Those securities that have a fixed redemption value and that have been acquired to match the obligations of the plan, or specific parts thereof, may be carried at amortized cost based on their ultimate redemption value assuming a constant rate of return to maturity. Where plan investments are held for which an estimate of fair value is not possible, such as total ownership of an entity, disclosure is made of the reason why fair value is not used. To the extent that investments are carried at amounts other than market value or fair value, fair value is generally also disclosed. Assets used in the operations of the fund are accounted for in accordance with the applicable Standards.

Disclosure

The financial statements of a retirement benefit plan, whether defined benefit or defined contribution, shall also contain the following information:

(a) a statement of changes in net assets available for benefits;
a summary of significant accounting policies; and
(b) a description of the plan and the effect of any changes in the plan
during the period.

Financial statements provided by retirement benefit plans include the following, if applicable:

(a) a statement of net assets available for benefits disclosing:
   (i) assets at the end of the period suitably classified;
   (ii) the basis of valuation of assets;
   (iii) details of any single investment exceeding either 5% of the net
        assets available for benefits or 5% of any class or type of
        security;
   (iv) details of any investment in the employer; and
   (v) liabilities other than the actuarial present value of promised
       retirement benefits;

(b) a statement of changes in net assets available for benefits showing the following:
   (i) employer contributions;
   (ii) employee contributions;
   (iii) investment income such as interest and dividends;
   (iv) other income;
   (v) benefits paid or payable (analysed, for example, as retirement,
       death and disability benefits, and lump sum payments);
   (vi) administrative expenses;
   (vii) other expenses;
   (viii) taxes on income;
   (ix) profits and losses on disposal of investments and changes in
        the value of investments; and
   (x) transfers from and to other plans;

(c) a description of the funding policy.
for defined benefit plans, the actuarial present value of promised retirement benefits (which may distinguish between vested benefits and non-vested benefits) based on the benefits promised under the terms of the plan, on service rendered to date and using either current salary, levels or projected salary levels; this information may be included in an accompanying actuarial report to be read in conjunction with the related financial statements; and

(e) for defined benefit plans, a description of the significant actuarial assumptions made, and the method used to calculate the actuarial present value of promised retirement benefits.

36. The report of a retirement benefit plan contains a description of the plan either as part of the financial statements or in a separate report, and may contain the following:

(a) the names of the employers and the employee groups covered;
(b) the number of participants receiving benefits and the number of other participants, classified as appropriate;
(c) the type of plan—defined contribution or defined benefit;
(d) a note as to whether participants contribute to the plan;
(e) a description of the retirement benefits promised to participants;
(f) a description of any plan termination terms; and
(g) changes in items (a) to (f) during the period covered by the report.

It is not uncommon to refer to other documents that are readily available to users and in which the plan is described, and to include only information on subsequent changes.

Effective date

An entity shall apply this Accounting Standard for accounting periods commencing on or after 1st April 2011 and will be mandatory in nature from that date.

This implies that, while discharging their attest function, it will be the duty of the members of the Institute to examine whether this Accounting Standard is complied with in the preparation of financial statements or provided in their audit. In the event of any deviation from this Accounting Standard, it will be their duty to provide adequate disclosures in their audit reports so that the users of financial statements may be aware of such deviations.
Appendix A

Note: This appendix is not a part of the Accounting Standard. The purpose of this appendix is only to bring out the major differences, if any, between Proposed Accounting Standard (AS) 36 (Issued 20XX) and the corresponding International Accounting Standard (IAS) 26, Accounting and Reporting by Retirement Benefit Plans.

Comparison with IAS 34, Accounting and Reporting by Retirement Benefit Plans

There is no major difference between the Draft of AS 36 (Issued 20XX), Accounting and Reporting by Retirement Benefit Plans and International Accounting Standard (IAS) 36, Accounting and Reporting by Retirement Benefit Plans.
No. E-III/18(1)2004/Sub Committee/Vol. II

To

1. Shri Sankar Saha,
   Chairman, Sub-Committee on Exempted Establishments,
   Secretary, All India Committee United Trade Union Centre,
   Lenin Sarani, 77/2/1, Lenin Sarani (1st Floor), Kolkata - 700 013.

2. Shri Babulal B. Todi,
   Managing Director,
   M/s Todi Estate, Sun Mill Compound,
   Lower Parel, Mumbai- 400013.

3. Shri M. Jagadishwara Rao,
   National Executive Member, BMS,
   D.No. 31-3-3/2, Gowri Nagar,
   Opp. All India Radio Station, Kurmannapalem,
   Visakhapatnam-530046 (A.P).

4. Shri B.P. Pant
   Secretary, All India Organisation of Employers Federation Hous
   V/10, NCERT Campus,
   Aurobindo Marg,
   New Delhi-110016.

5. Joint Secretary (Social Security),
   Ministry of Labour & Employment,
   New Delhi.

Sub: Minutes of the 31st Meeting of the Sub-Committee on Exempted Establishments.

Sir,

Please find enclosed herewith approved minutes of the 31st Meeting of the Sub-Committee on Exempted Establishments held on 29.4.11 at Kochi for your kind information. Further, a draft format of Balance Sheet is also enclosed herewith as per decision of the last meeting.

Yours faithfully,

Encl.: As above.

Regional PF Commissioner

(R. K. Pal)

(Exemption)
DRAFT MINUTES OF THE 31ST MEETING OF THE SUB COMMITTEE OF CENTRAL BOARD OF TRUSTEES (EPF) ON EXEMPTED ESTABLISHMENTS

Date: 29th April, 2011
Venue: Hotel Gokulam Park, Kaloor, Kochi -17 (Kerala).

Time: 11.00 A.M.

The 31st Meeting of the Sub Committee of Central Board of Trustees, EPF on Exempted Establishments was held under the Chairmanship of Sri Sankar Saha, Hon'ble Member, Central Board of Trustees, EPF.

The following members of the Sub Committee were present at the meeting:

1. Sri Babu Lal Todi, Member, Central Board of Trustees (EPF).
2. Sri M. Jagadiswara Rao, Member, Central Board of Trustees (EPF).
3. Sri B.P. Pant, Member, CBT (EPF) and Sri S.D. Xavier, Under Secretary, Ministry of Labour could not attend the meeting due to pre-occupation. Officers from the Head Office, EPF Organisation, New Delhi also could not attend the meeting due to the Air India Strike.

The following dignitaries, who were specially invited, attended the meeting:

1. Sri T.L. Jawaharlal, Member, Regional Committee, Tamil Nadu
2. Sri M.M. Lawrence, General Secretary, CITU, Kerala.
3. Sri Dinesan, State Committee, UTUC, Kerala
4. Sri Mohan Kumar, State Committee, UTUC, Kerala
5. Sri V. Sudhakaran, General Secretary, Port & Shipyard Mazdoor Mahasangh (BMS), Kochi, Kerala.
6. Sri K.S. Harikumar, M/s. FACT PF Trust, Kochi
7. Sri V.B. Thomas, M/s. FACT PF Trust, Kochi
8. Sri Sasidharan, M/s. FACT PF Trust.
9. Sri C. Ganesan, Employee Trustee, Ashok Leyland Employees Ennore PF, Chennai
10. Sri Balasubramanlyan, Employee Trustee, M/s.Ashok Leyland Employees Ennore PF, Chennai.

The following officers representing the EPF Organisation attended the meeting:

1. Sri K.Srinivasan, Additional Central PF Commissioner (Tamil Nadu & Kerala Zone), Chennai
2. Sri K.V. Sarveswaran, RPFC (I), Chennai Region.
3. Sri V. Vijayakumar, RPFC (I), Madurai Region.
4. Sri M.P. Varghese, RPFC (I), Coimbatore Region.
5. Sri N. Balachandran Nair, RPFC (I), Kerala State.
7. Sri N. Gopalakrishnan, RPFC-II, Sub Regional Office, Kochi
10. Sri S. Govindan, APFC, SRO, Kochi.
11. Smt. V.M. Chandramathy, APFC, SRO, Kochi.

Sri N. Balachandran Nair, RPFC (I), Kerala welcomed the Chairman, other members of the Sub-Committee and all the dignitaries who were specially invited, to the 31st Meeting of the Sub-Committee of Central Board of Trustees, (EPF) on Exempted Establishments and has expressed his...
thanks for giving an opportunity to Kerala Region to host this meeting. RPFC (I), Kerala has specially expressed his thanks to some of the participants who have taken much pain to attend the meeting even in the situation of non availability of public conveyance because of the 'Harthal' in Kerala State on this day.

Shri K. Srinivasan, ACC briefly explained the members of the Sub Committee on the specific functions of Exempted and Un-Exempted establishments in Tamil Nadu & Kerala Zone. The Additional CPFC, Chennai further informed the Sub-Committee that the Tamil Nadu and Kerala Zone is one of the biggest zones in the Country and have more than one crore of accounts. Most of the members in the States are very much aware of the social legislations and the officials have been trained to cope-up with their requirements. There are 17 offices in both the States, 11 in Tamil Nadu and 6 in Kerala. The number of voluntary coverages under Section 1 (4) of the Act is also on the higher side in Tamil Nadu & Kerala which indicates about the willingness on the part of even smaller establishments to come under the Act voluntarily for extending social security benefits to the workers. Every year, during the month of November, the zone is conducting Compliance Audit/Inspections of all the exempted establishments by squads consisting of RPFCs/APFCs and Enforcement Officers. After the introductory speech, Addl. CPFC invited the Chairman to address the Committee and to take up the Agenda for deliberations.

The Chairman welcomed the members and officers and invited them to make out their points regarding functioning of the Exempted Trusts in the zone as this is the first meeting of the Sub-Committee at Kochi. The Chairman hoped that the next meeting can be held at Bangalore. The Chairman opined that the Committee found that there are deficiencies in various ways in the functioning of the exempted establishments. In many ways the establishments are not coming up to the expectation of the EPF Organisation. In many cases, there are violations in the matter of timely deposit of contributions in respect of the employees with the Board of Trustees within fifteen days etc. The Chairman further opined that this Committee is chaired by a Trade Union leader and consists of employer's and employees' representatives and that is exceptional in this era. He expressed his thanks to the EPF Organization for its initiation to have such provisions. The rate of coverage is going down when compared to the total no. of employees engaged through contractors etc. The exemption granted to the establishments running in loss for a consecutive period of three years, should be cancelled as they lose their right to remain exempted. The rights of the workers are to be taken care of. The Chairman appreciated the steps taken by the Kerala and Tamil Nadu Regions as the ACC has already briefed on the functioning of the exempted sector, but opined that he personally feels that overall compliance by the exempted establishments needs to be improved to a greater extent. The Chairman further expressed his anxiety that even at this stage of money value
going down day by day, the EPF Pension given to the members is very low and it is not sufficient even to cover the minimum requirements of the pensioners. The ESI Corporation has raised the wages limit to Rs. 15,000/- but the EPFO is still limiting the same to Rs. 6500/- only.

The Chairman after his welcome speech invited the participants to introduce themselves. The members of the Committee, the special invitees and the Officers of the EPFO have introduced themselves. The Addl. CPFC has invited the members, the trade union representatives and the representatives of the establishments to inform the Committee the problems if any they are facing in the implementation of the Scheme Provisions.

Sri Babu Lal Todi, Member, CBT, EPF suggested that Shri K. Srinivasan, ACC, Chennai shall act as the Secretary of the Committee for its proceedings which was accepted by the Chairman.

Sri M.M. Lawrence, General Secretary, CITU Kerala informed that he is attending this meeting of the Sub-Committee for the first time and he will be submitting his points to the Chairman in writing later.

The representatives from M/s. Ashok Leyland, Chennai and M/s. FACT, Kochi have expressed their concern about the withdrawal of two options available to the pensioners of EPF i.e. Commutation and Return of Capital and requested the Committee to take necessary action with all the concerned to reintroduce the benefits. They further informed the Committee that though the new Pension Scheme has been introduced in 1995, no revision in the pension amount has been made. Pension amount sanctioned is meager in most of the cases and it has to be increased. The ACC, Chennai informed that the amendments to the relevant provisions in the Employees' Pension Scheme, 1995 were done by the Government of India taking into account the various factors. The representatives of the establishment M/s. Ashok Leyland, Employees Ennore PF informed that they have introduced a separate superannuation Pension Scheme also for their members with M/s. LIC of India and the Scheme is having a Commutation provision.

The representatives of M/s. FACT, Kochi has informed the Committee that the accounts are well maintained in their Trust. The representatives informed that their pay revision has been implemented with retrospective effect and the arrears have been paid in August, 2010 and in view of the benefits available under the Employees' Pension Scheme, the members have opted to contribute on the higher salary over and above Rs.6500/- into the Pension Scheme and consequently they are eligible for pension on their actual salaries. However, the outgoing members are given pension with the pensionable salary restricted to Rs.6500/- which needs to be looked into.

Sri M. Jagadiswara Rao, Member, CBT has asked the representatives of the exempted units whether they have any suggestions to discuss in the Committee for the improvement in the running of the Exempted Trust. The representatives of the establishments informed that the fund is well
maintained but shared their difficulties in providing higher rate of interest at 9.5% as declared by the EPFO. This is because of the fact that the yield on investment made by the trusts as per the pattern of investment is lower than 9.5% and consequently, the employers of the exempted establishments are put into strain. The representatives of the establishment M/s. Ashok Leyland opined that sizable amount of trust money is kept in Special Deposit Scheme. As the yield in Special Deposit Scheme is only 8%, the funds are to be either facilitated with high rate of interest for Special Deposit Scheme or they should be allowed to withdraw the fund and invest them in high yielding securities. The Chairman opined that the investments are to be made within the frame work of the standard Pattern of Investment prescribed by the Government.

Sri V. Sudhakaran, General Secretary, BMS informed that General Workers working under exempted establishments should be elected to the trusts and there should not be any nominations from the trade unions. Sri Sudharakaran further complained that the circulars on any changes in EPF, EPS and EDLI Schemes received from EPF Organization are not circulated or made known to the common workers by the exempted managements and trustees. Trustees should be made responsible along with Principal Employer for coverage of contract workers. Pension should be modified and a minimum pension of Rs. 3000/- with DA should be introduced under EPS 1995 Scheme. Medical Insurance to EPF Pensioners should be introduced. Proper inspection should be carried out in exempted sector by EPF officials and also there should be interaction with the workers and trade unions on the proper functioning of exempted trusts.

The Chairman opined that it is correct that the common workers working in the establishments are not aware of most of the changes taking place in the Schemes and the establishments are not displaying these changes. The members should be made aware by conducting seminars.

The Addl. CPFC has replied that the EPFO is conducting two days regular programme in the Zonal Training Institute at Chennai for the awareness of the EPF members (Employees) and Employers both in exempted and un-exempted sectors by collecting only nominal fees. The existing provisions and modifications on EPF/EPS 1995/EDLI are covered in the said programme. Further, the EPFO is also having a website and all amendments and circulars are available in the Web site www.epfindia.gov.in

RPFC (I), Kerala has informed that during the last meeting of the Regional Committee, EPF, Kerala there was a request from the trade union leaders to conduct seminars for the benefit of employees and trade union leaders. On the request of the trade union leaders, we have already conducted one seminar at Idukki District and seminars in other districts of Kerala are also being conducted.
The Chairman opined that the trade unionists should also share their responsibilities in successfully implementing the provisions of EPF & MP Act.

Sri T.M. Jawahar Lal, Member, Regional Committee, EPF, Chennai drew the attention of the Chairman on the difficulties experienced by the trusts of exempted establishments on the investment side of the fund. He opined that the rate of interest declared by the Govt. this year is on the higher side when compared to the yield the trusts are getting. The higher rate of interest at 9.5% on EPF, though it is a matter of satisfaction for the members but the exempted trusts finds it very difficult to pay more than 8.5%. Even most of the Special Deposit Schemes are not yielding high rate and the yield is only around 8%. It is a challenge to the Exempted Trusts. The Govt. can think on long term high yielding rate of interest Schemes. The Govt. Securities and other securities are giving low yield. Because of this position, some of the exempted trusts have surrendered their exemption and some more are thinking to surrender. The employees have to be taken care of regarding the interest. There is no alternative to meet the high rate of interest paid to the members. The exempted establishments should not be pressurized to pay 9.5% of rate of interest. We have to seek flexibility regarding investment pattern.

Shri Jawahar Lal further informed that the cases of grant of exemption are being delayed by the EPF Organization. The CBT and Ministry have to verify the same. There are so many exempted establishments asking for exemption as per the new amendment to Income Tax Act. These cases have not been cleared by the EPFO. Shri Jawahar Lal further opined that the trustees to conduct the election to elect members from the employee's side has caused lot of difficulties for the employees and employers. Wherever there are recognized unions, the unions have to nominate their representative to include in the Committee.

Addl. CPFC, Chennai has replied that there may be some difficulties to the exempted establishments in the matter of rate of interest at 9.5% but there are some other trusts also who are giving more than 9.5% interest. Further to reduce the problem, the surplus fund available in the trusts should be utilized for giving at statutory rate or higher rate of interest. The Head Office of the EPFO has issued a circular dated 17.3.2011 on the subject. The Head Office of EPF Organization is processing all cases of exemption on a fast track. All these relaxation cases are getting cleared expeditiously.

The Chairman informed that the election to the Board of Trustees is the question related to democratic value. The workers in the Company should have the right to be elected and to be in the Board to do his best in the Board. If there is a single union, only the nominated member of the Union can be considered. However, the individual worker should have the right to be elected. There
may be separate Unions but the workers should have the right to elect their representative to the Board.

Sri Babu Lal Todl, Member, CBT, EPF wanted the feedback from the participants on the specific instances of violations by the employers, if any. Shri K.V. Sarveswaran, RPFC-I, Chennai explained that some of the employers are violating the condition No.6 as provided in Para 27AA of the EPF Scheme, 1952. As per condition No.6, the employer shall bear all the expenditure towards administration of the fund. But some of them resort to book the expenditure to the Trusts. Regional PF Commissioners, Chennai, Kochi and Madurai pointed out that during the inspections conducted in the exempted sectors it was noticed that in order to cope up with higher rate of interest to be paid to the employees on the contributions, the Trusts resort to grant of refundable loans liberally to its members. The refundable loans granted to the members is on a higher interest and this income is used for declaring interest to all the members. This sort of grant of refundable loans liberally is not appropriate. Shri Gopalakrishnan, RPFC-II, Kochi informed that the employers of the exempted establishments besides the Board of Trustees are regularly informed on the irregularities noticed in the investment pattern for corrective actions.

ACC, Chennai informed the members about the issues concerning deduction of TDS by the exempted establishments whenever accounts are settled in respect of the members who have not completed 5 years membership. It was observed by many of the participants that newspaper reports have appeared about the huge sums demanded by the Income Tax Department from the RPFCs on the settlements done by them in respect of the un-exempted establishments wherever the members have not completed 5 years membership but have chosen to withdraw the accumulations.

The Chairman opined that the PF money of the workers should not be subject to any TDS. He further felt that there is a scope for enrolling large number of employees into the social security manned by the EPFO and no employee can be deprived of his rights. In order to safeguard the interest of the workers, exemptions granted need to be cancelled when there is no proper compliance on the expected lines. The Chairman subsequently made a critical review of the functioning of the exempted establishments within Tamilnadu & Kerala States on the basis of the statistics placed before them.

Shri M. Jagadishwar Rao, Member, CBT, EPF opined that the instances of various kinds of defaults are observed more in Chennai Region. He further stated that the contract workers employed by the exempted establishments are covered in various states under the un-exempted category. The employers of exempted establishments are responsible for non-enrollment of any of the contract employees engaged in various States/locations and notices are to be issued to the
employers as well as Trusts in this regard. Shri M. Jagadiswara Rao, Member, CBT, EPF further felt that the Trusts should also be responsible for non-enrollment of employees.

Shri M.P. Varghese, RPFC-I, Coimbatore informed the Sub Committee that in many of the cases, the compliance is done centrally in a single code number and workers are distributed to various states/sites. It is very difficult to assess the actual extent of evasions and hence wherever larger concentration of workers are available in sites, provisions of Section 2A of the Act is to be resorted and compliance is to be secured locally. The Chairman of the Sub Committee felt that the basic wages indicated by employers in many cases are very less for the purpose of EPF contributions and it is even below the minimum wages or statutory limit prescribed. This practice cannot be accepted and employers have to comply with the statute in the manner desired. All the Officers present in the meeting felt that there is an urgent need for raising the statutory limit of the wages for contribution to EPF as the present limit of Rs.6500/- is meager and many of the employers are resorting to evasion citing that the employees are falling under the definition of excluded employee.

Sri Babu Lal Todl, Member, CBT, EPF agreed that there is a scope for increasing the statutory limit of wages but it may not be fair to insist the employers to pay contribution on the total wages as there are different components of wages. Sri Babu Lal Todl, Member, CBT, EPF further felt that with the insistence by the EPFO on enrolling even a single day worker is creating hardship to the employers and the Organization can think of reintroducing the concept of eligibility period for enrollment which was in vogue some time back.

The Chairman summed up the various issues raised by the participants and thanked the participants representing the industry, trade unions and trusts for their valuable suggestions. He assured that the various issues raised will be taken up with the appropriate forums and proceeded to take up the other agenda items.

At this juncture, the invitees other than the officers of the EPFO and the members of the CBT, EPF have taken leave of the Committee. The deliberations on the other Agenda Items are as follows:

Item No.1: Action taken statement in respect of 30th meeting of the Sub Committee on Exempted Establishments.

Mr. Jagadiswara Rao, Member, CBT, EPF informed that the Action Taken Report is not reflecting on the suggestions/observations made by him in the last meeting. He requested the Chairman that the Action Taken Report on the specific suggestions made by him may also be indicated.

Sri Babu Lal Todl, Hon’ble member, CBT informed that when the exemption granted to the establishment is cancelled there is considerable time lag towards acceptance of Past Accumulations
by the EPFO. This creates hardship to the members who resign during the interregnum period to get their accounts settled. Shri Babu Lal Todi felt that a brief note on the exact procedure to be followed on the issues concerning the Transfer of Past Accumulations, its acceptance etc. should be placed before the Sub Committee during its next meeting for better appreciation of the issue.

Item no. 2: Status Report on the Exempted Establishments of Tamil Nadu & Kerala

The Chairman informed that detailed discussion on the status of the functioning of the exempted establishments in Tamil Nadu & Kerala was held in the presence of Officers and Special Invitees. Sri Jagadiswara Rao, Member, CBT, EPF opined that the EPFO should be very restrictive in granting exemption to the establishments and should not be liberal in this area in view of the instances of violations observed.

Item no. 3: Format of the balance sheet for Exempted PF Trusts

The Chairman explained about the salient features of this particular item. The CBT Members made a detailed analysis of the contents of the items placed before them. It was informed by Sri Jagadiswara Rao, Member, CBT, EPF that he needs some more time to make suggestions to the Sub Committee to this specific issue. Further it was felt by the members present that the format of the Balance Sheet and Schedules as mentioned in the concluding para of the Agenda Items sought to be approved may once again be circulated to the members by the EPFO Head Office for their information. Accordingly, it was resolved to defer the item.

Item no. 4: Process of grant of Exemption

The note on the process for grant of exemption was discussed by the members. The members even while appreciating the efforts taken by the Head Office in scrutinizing the applications due for grant of exemption felt that there is a need for better scrutiny at the field level even before recommendation of the cases for exemption. Sri Jagadiswara Rao, Member, CBT, EPF opined that the field Offices of the EPFO have to make it clear that the establishments satisfy the conditions and the Enforcement Officers are to be appropriately oriented to scrutinize the applications with reference to the conditions prescribed. The funds will be more safer in the hands of EPFO than with the exempted trusts. At this point, the Chairman made a critical evaluation about the actual quantum of amount in default by the various exempted establishments and asked the RPFCs In-charge of the Regions to clarify on the individual cases of defaulters. The Chairman summed up the difficulties on this item and opined that the process of grant of exemption are to be scrutinized at both the field Offices and Head Office level more carefully in view of the large scale instances of violations by the exempted establishments. Similarly, the exemptions already granted need to be cancelled immediately on noticing the violations and they are to be brought to the un-exempted fold quickly.
The Chairman felt that the Head Office may take up with the Appropriate Governments for issuance of notification at the earliest, wherever the concerned establishments have satisfied all the conditions but are in the relaxation stage for a long period in view of the specific problem faced by them due to the amendment to the Income Tax Act.

Sri N. Gopalakrishnan, RPFC (II), SRO., Kochi has expressed thanks to the Chairman and the Members of the Committee for their valuable guidance. He also thanked the Special Invitees representing the industry, exempted establishments, trade unions, and also the Officers of EPFO for their active participation, views and suggestions.

The meeting ended with vote of thanks to the Chair.