EMPLOYEES’ PROVIDENT FUND ORGANISATION

AGENDA BOOK

39th Meeting of the
Sub-Committee of Central Board of Trustees, (EPF)
on
Exempted Establishments

Date : Monday, The 18th May, 2015
Time : 12.00 P.M.
Venue : Conference Hall, 3rd Floor, Head Office, EPFO,
14, Bhikaji Cama Place, New Delhi - 110066
EMPLOYEES’ PROVIDENT FUND ORGANISATION

Agenda for 39th Meeting of the
Sub-Committee of Central Board of Trustees, EPF
on Exempted Establishments

Date: 18.05.2015, Monday

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<tbody>
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<td>1-14</td>
</tr>
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<td>2.</td>
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<td>15-16</td>
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<td>3.</td>
<td>Grant of exemption under Section 17(1)(a) of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees’ Provident Funds Scheme, 1952 by Appropriate Government.</td>
<td>17-36</td>
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<td>Proposal for grant of exemption to M/s Bank Note Press Private Ltd. (Deferred Item)</td>
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<td>39-44</td>
</tr>
<tr>
<td>6.</td>
<td>Amendment to Condition No. 25 of the Appendix ‘A’ to Para 27AA of the Employees’ Provident Funds Scheme, 1952 for grant of exemption to establishments under Section 17(1)(a) of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees’ Provident Funds Scheme, 1952 by Appropriate Government.</td>
<td>45-57</td>
</tr>
<tr>
<td>7.</td>
<td>Correction in the date from which exemption was to be recommended as asked by M/s. Oxford University Press Limited from 01.06.1987 to 01.05.1987.</td>
<td>58</td>
</tr>
<tr>
<td>8.</td>
<td>Any other item with the permission of Chair.</td>
<td>59</td>
</tr>
</tbody>
</table>

Time: 12.00 PM
Item No.1  Confirmation of the minutes of 38th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 07.08.2014.

1.1 The minutes of the 38th meeting of the Sub-Committee of the Central Board of Trustees on Exempted Establishments held on 28.01.2015 were circulated to all members vide EPFO letter dated 06.02.2015.

1.2 The minutes circulated are placed at Annexure-1A.

Proposal: The minutes of the 38th Meeting of the Sub-Committee of the Central Board of Trustees on Exempted Establishments may please be confirmed.
No. E-III/18(1)04/Sub-Committee/Vol-II/ 1971

Date: 06.02.2015

To

All the Members, (As per the list enclosed),
Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments.

Subject: Minutes of the 38th Meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 28.01.2015 at Conference Hall, 3rd Floor, EPFO, Head Office, New Delhi-Regarding.

Sir,

The 38th meeting of the Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments was held on 28.01.2015 as per the notice circulated vide this office letter No. E-III/18(1)04/Sub-Committee/Vol-II/34464 dated 20.01.2015.

2. A copy of the approved minutes of the said meeting is enclosed herewith for your kind information.

Enclosure: - As above

Yours faithfully

(P. P. Vasapara)

Additional Central P.F. Commissioner-I (Compliance)
Telephone No.- 011-26172672

Copy forwarded for information to:

1. Central Provident Fund Commissioner and Chairman, Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments along with a copy of the approved minutes (through PS), EPFO, Head Office, New Delhi.
2. Smt. Meenakshi Gupta, IA & AS,
Joint Secretary & Financial Advisor,
Room No. 107, Shram Shakti Bhawan,
Ministry of Labour & Employment
Government of India, New Delhi.

3. Director (SS),
Ministry of Labour & Employment
Government of India,
Shram Shakti Bhawan,
New Delhi-110001.

4. Shri B.P. Pant
Secretary, FICCI & ED, AIOE
(Res.) V/5, NCERT Campus,
Aurobindo Marg, New Delhi-110016.

5. (Off.) Executive Director,
All India Organisation Of Employers,
Federation House,
Tansen Marg, New Delhi-110001.

5. Shri Sushanta Sen,
Principal Advisor,
Confederation of Indian Industry,
249-F, Sector 18, Udyog Vihar,
Phase-IV, Gurgaon-122015 (Haryana).

6. Shri A.K. Padmanabhan,
President, CITU, B.T.R. Bhawan,
13A, Rouse Avenue,
New Delhi-110002.

7. Shri Ashok Singh
VP, INTUC & Chairman, CBWE,
(Res.) No. 435,
Vishwas Khand III,
Gomti Nagar, Lucknow (UP).

(Off.) of the Chairman, CBWE,
Room No. 21 & 22,
Barrack No. 7/10, Jamnagar House,
Mansingh Road, New Delhi-110011.
The 38th meeting of the Sub-Committee, CBT (EPF) on Exempted Establishments was chaired by Shri K.K. Jalan, Central P.F. Commissioner. The following members attended the meeting:

- Smt. Meenakshi Gupta, Joint Secretary & Financial Advisor (Ministry of Labour & Employment)
- Shri Sushanta Sen, Employers' representative
- Shri B.P. Pant, Employers' representative
- Shri Ashok Singh, Employers' representative
- Shri A.K. Padmanabhan, President, CITU could not attend the meeting because of his pre-occupation and sought leave of absence.
- Shri D.S. Negi, Director (Ministry of Labour & Employment) could not attend the meeting because of his pre-occupation and sought leave of absence.
- Shri P.K. Udgata, Addl. Central P.F. Commissioner -I(Compliance) & Convener could not attend the meeting as he was on leave. Shri Rajesh Bansal, Addl. Central P.F. Commissioner (HQ) who is also the divisional head attended the meeting.

The list of officers of the Employees' Provident Fund Organisation, who attended the meeting, is at Annexure 'A'.

At the outset, Central P.F. Commissioner and Chairman welcomed all the Members.

Thereafter the agenda items were taken up.
Item No. 1 Confirmation of the minutes of 37th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 07.08.2014.

1.1 Addl. CPFC(HQ) informed that the minutes of the 37th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 07.08.2014 were circulated to all the members on 11.08.2014 and no feedback has been received from any of the members.

1.2 Hon'ble Members unanimously confirmed the minutes.

Item No. 2 Action Taken Statement in respect of decisions taken in the 36th and 37th meetings of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 15.05.2014 and 07.08.2014.

2.1 As regards actionable point No. 1, Addl. CPFC(HQ) apprised the Committee that a small booklet containing FAQs for facilitating the employers has been prepared and the same has been uploaded on EPFO website under FAQ tab for employers.

2.2 Members appreciated this. Shri B.P. Pant opined that employers of Exempted Establishments may be informed to avail this facility. The Central P.F. Commissioner assured the members that the employers of Exempted Establishments will be informed through e-mail addresses provided by them.

2.3 As regards actionable point No. 2, i.e., investigation into the compliance position of Sahara India, Jai Prakash Associates, UP Drugs and Pharmaceuticals and UP State Road Transport Corporation, members desired that investigations should continue and emphasized the need for pursuing the matter.

2.4 As regards actionable point No. 3, Addl. CPFC(HQ) informed the members that out of 35 exemption proposals which were considered and recommended by the Sub-Committee in their 37th meeting held on 07.08.2014, 34 proposals have already been sent to Appropriate Governments for issue of Notification/Order granting exemption. He further informed that the proposal of Heavy Engineering Corporation Limited could not be forwarded to the Appropriate Government as
the establishment has not yet paid the surcharge levied on account of deviation from investment pattern.

2.5 As regards actionable point No. 4, the members were informed that instructions have been issued to the RPFCs of Regional Offices and Sub-Regional Offices to levy and collect surcharge from exempted/relaxed establishments from 2000-01 to 2013-14, wherever deviation from the investment pattern is noticed.

Item No. 3 Grant of exemption under Section 17(1)(a) of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees’ Provident Funds Scheme, 1952 by Appropriate Government.

3.1 Introducing the agenda item, Addl. CPFC(HQ) informed Committee that proposals of enlisted 37 establishments have been processed and placed before the Sub-Committee for consideration and recommendation, on behalf of the Central Board of Trustees, EPF to the Appropriate Government for grant of exemption. He further elaborated that out of 37 proposals, 35 are complete in all respects and fit for grant of exemption. Out of this 35 proposals, 11 proposals relate to Para 27A for Class of Employees, whereas remaining 24 proposals relate to Section 17(1)(a) for the establishment as a whole.

3.2 Addl. CPFC(HQ) explained that the proposal in respect of M/s Bank Note Paper Mills India Pvt. Ltd., which is a subsidiary of Reserve Bank of India, figuring at Sl. No. 34 in the list, fulfils all requirements of grant of exemption except that it has been incurring losses for three consecutive financial years, which is violative of Condition No. 25 of Appendix ‘A’.

3.3 He further explained that earlier the proposal for grant of exemption in respect of Food Corporation of India was considered and recommended by the Sub-Committee in its 36th meeting. Food Corporation of India, a Central Public Sector Undertaking also fulfilled all the requirements of grant of exemption, except Condition No. 25 and the proposal was forwarded to the Ministry of Labour & Employment. However, the Ministry has rejected the proposal for grant of exemption in view of Condition No. 25. The Ministry had also asked EPFO to send a draft of a Condition to provide for exemption to statutory Corporations like
The Sub-Committee approved the proposals of the establishments in the list, except the two establishments in the list at Sl. No. 35 (M/s Bank Note Paper Mills India Pvt. Ltd.) and 37 (M/s BALCO).

3.4 The Sub-Committee decided to keep on hold the proposal of M/s Bank Note Paper Mills India Pvt. Ltd. for the time being.

3.5 Addl. CPFC(HQ) informed that the proposal in respect of M/s Bharat Aluminium Company Limited (BALCO) figuring at Sl. No. 37 in the list, has not paid surcharge for deviations in Investment, reduced the benefits to members which is violative of Section 12, amended the Trust Rules without approval of the appropriate authority, failed to remit dues within time prescribed. Further the establishment filed Writ Petition before Hon'ble High Court of Chhattisgarh against the action of RPFC in not agreeing to the amendment in the Trust Rules. FIR has also been filed by Asstt. Labour Commissioner(State) Korba in BALCO Nagar Police Station against the management of the establishment and the Trustees.

3.6 CPFC informed that representatives of all the 7 Trade Unions of the establishment met him on 23.01.2015 with Shri D.L. Sachdev, Member, CBT. They have given in writing that the establishment's application for grant of exemption should be processed favourably.

3.7 The Sub-Committee felt that proposal be re-examined in depth and be put up in the next meeting.

3.8 The Sub-Committee approved the proposals of the establishments in the list, except the two establishments in the list at Sl. No. 35 (M/s Bank Note Paper Mills India Pvt. Ltd.) and 37 (M/s BALCO).

3.9 The list of establishments whose applications for grant of exemption was approved by the Sub-Committee for recommendation to the Appropriate Governments, is given as below:

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Name of the establishment</th>
<th>Office</th>
<th>Code No.</th>
<th>With effect from</th>
<th>Section/Para</th>
<th>Appropriate Government</th>
<th>No. of member</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td>M/s. Mitra S.K. Private Ltd.</td>
<td>SRO, Park Street</td>
<td>WB/15279</td>
<td>01.05.1993 (From the date of relaxation)</td>
<td>17(1)(a)</td>
<td>Government of India</td>
<td>1091</td>
</tr>
<tr>
<td>S. No.</td>
<td>Company Name</td>
<td>Address</td>
<td>PIN Code</td>
<td>Date</td>
<td>Reference No.</td>
<td>Department</td>
<td>Address Code</td>
</tr>
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<td>5.</td>
<td>M/s. U.P. SamajKalyanNirman Nilam Ltd.</td>
<td>SRO, Lucknow</td>
<td>226001</td>
<td>01.05.1994</td>
<td>27A</td>
<td>Government of India</td>
<td>579</td>
</tr>
<tr>
<td>8.</td>
<td>M/s. India Tourism Development Corporation Ltd.</td>
<td>RO, Delhi (North)</td>
<td>110001</td>
<td>01.11.1967</td>
<td>27A</td>
<td>Government of India</td>
<td>877</td>
</tr>
<tr>
<td>10.</td>
<td>M/s. Chambal Fertilizers and Chemicals Ltd.</td>
<td>RPFC, RO, Kota</td>
<td>222001</td>
<td>01.11.1994</td>
<td>17(1)(a)</td>
<td>Government of India</td>
<td>947</td>
</tr>
<tr>
<td>11.</td>
<td>M/s. IVP Ltd.</td>
<td>RPFC, RO, Bandra</td>
<td>400057</td>
<td>01.05.2010</td>
<td>17(1)(a)</td>
<td>Government of India</td>
<td>154</td>
</tr>
<tr>
<td>12.</td>
<td>M/s. Mondelez India Foods Ltd. (Formerly known as Cadbury India Ltd.)</td>
<td>RO, Bandra</td>
<td>400057</td>
<td>01.04.1997</td>
<td>27A</td>
<td>Government of India</td>
<td>4395</td>
</tr>
<tr>
<td>17.</td>
<td>M/s. Wallem Ship-Management (India) Pvt. Limited</td>
<td>RO, Kandivali</td>
<td>400071</td>
<td>01.06.1993</td>
<td>17(1)(a)</td>
<td>Government of India</td>
<td>124</td>
</tr>
<tr>
<td>No.</td>
<td>Company Name</td>
<td>Address</td>
<td>Code</td>
<td>Date</td>
<td>Section 17(1)(a)</td>
<td>State/Region</td>
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<td>9.</td>
<td>M/s. Sangit Kala Mandir Trust</td>
<td>SRO, Park Street, Kolkata WB/42496</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>20</td>
<td></td>
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<td>20.</td>
<td>M/s. Aditya Marketing &amp; Manufacturing Ltd.</td>
<td>RO, Kolkata WB/48380</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>21.</td>
<td>M/s. Vasavadatta Services Ltd.</td>
<td>RO, Kolkata WB/48384</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>4</td>
<td></td>
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<tr>
<td>22.</td>
<td>M/s. Padmavati Investment Limited</td>
<td>RO, Kolkata WB/48382</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of India</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>23.</td>
<td>M/s. Birla Academy of Art &amp; Culture</td>
<td>SRO, Park Street WB/42494</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>24.</td>
<td>M/s. Precious Services &amp; Consultancy Limited.</td>
<td>RO, West Bengal WB/48436</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>09</td>
<td></td>
</tr>
<tr>
<td>25.</td>
<td>M/s. Jaya Shree Charity Trust</td>
<td>RO, West Bengal WB/48427</td>
<td>01.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td>26.</td>
<td>M/s. Emami Frank Ross Ltd.</td>
<td>RO, West Bengal WB/7905</td>
<td>09.01.2008</td>
<td>17(1)(a)</td>
<td>Government of West Bengal</td>
<td>927</td>
<td></td>
</tr>
<tr>
<td>31.</td>
<td>M/s. Ashok Leyland Ltd.</td>
<td>RO, Nagpur NG/NAG/236 58</td>
<td>01.06.1991</td>
<td>17(1)(a)</td>
<td>Government of Maharashtra</td>
<td>646</td>
<td></td>
</tr>
</tbody>
</table>
Item No. 4 Correction in the date from which exemption was to be recommended as asked for M/s Nokia India Private Limited from 30.06.2005 to 31.03.2008.

4.1 The Sub-Committee took note of the correction in the date of exemption.

Item No. 5 Rejection of the proposal of Food Corporation of India for grant of exemption under Para 27A of the Employees' Provident Funds Scheme, 1952 by the Government of India, the Appropriate Government.

5.1 Addl. CPFC(HQ) introduced this item for information and perusal of the Sub-Committee. He further elaborated that the proposal of Food Corporation of India was placed before the Sub-Committee in the 36th meeting held on 15.05.2014. The establishment has been incurring losses for three consecutive financial years and thereby attracting violation of Condition No. 25 of grant of exemption. The establishment is a Public Sector Undertaking of Central Government under the Ministry of Consumer Affairs and is a 'no profit, no loss' Organization. Hence, the Sub-Committee had decided to recommend the proposal to the Appropriate Government for consideration. However, the Ministry of Labour & Employment has conveyed the approval of the Government to reject the proposal and EPFO
has also been asked to send a draft of condition to provide for exemption to statutory corporations like FCI by amending Appendix 'A' to Para 27AA.

5.2 The Sub-Committee perused and took note of the decision of the Ministry of Labour & Employment, Government of India.

Item No. 6. Amendment to Condition No. 25 of the Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 for grant of exemption to establishments under Section 17(1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952 by Appropriate Governments.

6.1 Introducing the agenda item Addl. CPFC(HQ) explained the background and need for placing this item. Ministry of Labour and Employment, Government of India vide their letter dated 5th January, 2015 asked EPFO to send a draft condition to provide for exemption to statutory Corporations like Food Corporation of India by amending Appendix 'A' referred to in Para 27AA of the Employees' Provident Funds Scheme, 1952. Para 27AA of the Employees' Provident Funds Scheme, 1952 provides that all exemptions already granted or to be granted hereafter under Section 17 of the Act or under Para 27A of the Scheme shall be subject to the terms and conditions as given in the Appendix 'A', containing 31 Conditions. Condition No. 25 of the Appendix provides: "A company reporting loss for three consecutive financial years or erosion in their capital base shall have their exemption withdrawn from the first day of the next/succeeding financial year." Addl. CPFC(HQ) further elaborated that Condition No. 25 does not differentiate between a loss making Private Company and a loss making Public Sector Undertaking. Wherever, Private Companies incur losses consecutively for three years, their proposals are not considered for placing before the Central Board of Trustees, EPF as there remains always a threat to the Trust Fund wherein the hard earned Provident Fund contributions of the subscribers are accumulated. On the other hand, in case of Public Sector Undertakings, there is sovereign protection of the Trust Fund. As such, Private Companies and Public Sector Undertakings cannot be treated on similar footings. Both are to be treated separately. Therefore, it is felt that there has to be a distinction between a loss making Private Company and a loss making Public Sector Undertaking, so far as the content of Condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952.

6.2 Then the item was put to deliberation.
6.3 Shri Sushanta Sen put forth the view that all the establishments should be given the benefit of the proposed amendment. He also opined that financial health of state public sector enterprises is not sound and there is greater risk element. Hence, they should be kept out of the proposed amendment.

6.4 Jt. Secretary & FA raised the point - why CPSUs and SPSUs should get this preferential treatment? CPFC clarified at this stage that enterprises owned by Central and State Governments are on a different footing as they have the sovereign guarantee/backing.

6.5 Shri Ashok Singh and Shri B.P. Pant expressed that since there is government guarantee, it is okay.

6.7 The Committee approved unanimously the following amendment to Condition No. 25 after due deliberation:

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

Provided, this will not be applicable to statutory body, Public Sector Undertaking and corporations of Central/State Governments where the Government undertakes to pay the Provident Fund liabilities in case of default."

Item No. 7 Status of the proposals approved by the Central Board of Trustees, EPF and Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments and forwarded to Appropriate Governments since January, 2014.

7.1 Introducing the agenda item, Addl. CPFC(HQ) stated that the item intends to present the status of exemption proposals approved by the CBT and the Sub-Committee during the calendar year 2014. Altogether 174 proposals for grant of exemption were considered and recommended to the Appropriate Governments during the period 01.01.2014 to 31.12.2014. Out of this, notification/order has been issued in 68 cases for grant of exemption. Exemption proposal of M/s Food Corporation of India has been rejected by the Government of India and 103 proposals are pending with the Appropriate Governments for issue of notification/order. Proposal of M/s Heavy Engineering Corporation, Ranchi and M/s UP Twiga Fiber Glass Limited, Meerut could not be forwarded to the Government because confirmation regarding levy/collection of surcharge on
account of deviation from the statutorily prescribed pattern of investment is yet to be received.

7.2 At this stage CPFC elaborated that such large number of exemption proposals were never processed and forwarded to Governments in a single year in EPFO’s history. He further explained that large number of proposals are pending with the Governments, particularly with the State Governments. CPFC further informed the members that he has personally taken up the issue with State Governments by writing D.O. letters to Chief Secretaries and Principal Secretaries Labour. CPFC informed that EPFO had been functioning in a very transparent manner and requested the members to pursue the matter with the Governments at their level.

7.3 Members expressed their concern over large number of proposals pending with the State Governments for years.

7.4 Shri Ashok Singh expressed the view that there should be a time frame for the Government and some solution should be worked out. He further said that the proposals pending with the Central Government should be cleared, because EPFO is under Ministry of Labour & Employment, Government of India.

7.5 As regards time frame, CPFC clarified that prescription of time frame may not serve the purpose. He further informed that EPFO has accomplished the task in one year, which had not been completed during last 15 years. 7.6 The Committee was further assured that 35 proposals recommended in this meeting will be forwarded to the Appropriate Government immediately once the minutes of the meeting is approved. He further informed that some 59 proposals still remain pending for want of submission of requisite documents by the establishments. The figure of 59 also includes 5 proposals received after 37th meeting of the Sub-Committee held on 07.08.2014, and 2 proposals decided in this 38th meeting to be kept on hold or deferred till the next meeting. He further informed the Committee that he has personally taken the meetings of the applicant establishments and has also requested the employer associations like CII, FICCI and ASSOCHAM to take up the matter with their member establishments.

The meeting ended with vote of thanks to the Chair.
**ANNEXURE - 'A'**

**LIST OF EPF OFFICERS WHO ATTENDED THE MEETING:**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Ashok Kumar</td>
<td>RPFC-II(Exemption)</td>
</tr>
</tbody>
</table>
Item No.2  Action Taken Statement in respect of decisions taken by the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 28.01.2015 (upto 38th meeting).

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Decisions / Directions of the Committee</th>
<th>Action Taken/Updated Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Circulation of FAQs on exemption for facilitating the employers (already placed in the website) through e-mail. <em>(Item No. 2, 38th Meeting of the Committee, 28.01.2015)</em></td>
<td>SMS have been sent to the employers of Exempted Establishments to visit the official website of EPFO to which the FAQs prepared on exemption have been uploaded. Action complete.</td>
</tr>
<tr>
<td>2.</td>
<td>Forwarding the proposal of M/s Heavy Engineering Corporation Limited to Appropriate Government on payment of surcharge. <em>(Item No. 2, 38th Meeting of the Committee, 28.01.2015)</em></td>
<td>M/s Heavy Engineering Corporation Limited has deposited surcharge to the tune of Rs. 74,074/- and the same has been duly certified by RPFC, Ranchi. Accordingly, the proposal of the establishment has already been sent to Appropriate Government on 19.02.2015. Action complete.</td>
</tr>
<tr>
<td>3.</td>
<td>Grant of exemption under Section 17(1) (a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and 'Para 27A' of the Employees' Provident Funds Scheme, 1952 by Appropriate Government. <em>(Item No. 3, 38th Meeting of the Committee, 28.01.2015)</em></td>
<td>Thirty five proposals which were considered and recommended by the Sub Committee have been sent to Appropriate Governments on 19.02.2015. The proposal in respect of M/s Bank Note Paper Mills India Pvt. Limited which the Sub-Committee decided to keep on hold has been again included in Agenda of the 39th meeting at Item No. 4. The proposal in respect of M/s Bharat Aluminium Company Limited has been examined in detail and included in Agenda of the 39th meeting at Item No. 5. Action complete.</td>
</tr>
<tr>
<td>Sl. No.</td>
<td>Decisions / Directions of the Committee</td>
<td>Action Taken/Updated Status</td>
</tr>
<tr>
<td>--------</td>
<td>----------------------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>4.</td>
<td>Amendment to condition No. 25 of Appendix &quot;A&quot; to Para 27AA for grant of exemption to establishments under Section 17(1)(a) of the Employees' Provident Funds &amp; Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952.</td>
<td>The decision taken in the 38th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments in their meeting dated 28.01.2015 proposing to amend condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 was placed before the Central Board of Trustees, EPF in their 206th meeting held on 11.03.2015. As the Ministry would like this amendment to be legally examined before putting before the Board, it was decided that the agenda item be allowed to be withdrawn and it will be taken up later after legal examination of the same. Legal opinion has already been obtained from panel counsel on 00.03.2015. Basing on the legal opinion a proposal has been prepared and included in the Agenda of the 39th meeting at Item No. 6. Action complete.</td>
</tr>
<tr>
<td>5.</td>
<td>Status of the proposals approved by the Central Board of Trustees, EPF and Sub-Committee of the Central Board of Trustees EPF on Exempted Establishments and forwarded to Appropriate Governments since January 2014.</td>
<td>Matter had already been taken up with respective State Governments on 12.12.2014 with a request to expedite grant of exemption in respect of the proposals forwarded to them after approval by the Central Board of Trustees and its Sub-Committee. Similarly, matter has already been taken up with Central Government on 11.03.2015 for expeditious disposal of the proposals forwarded to them for grant of exemption. Action Complete.</td>
</tr>
</tbody>
</table>

*(Item No. 6, 38th Meeting of the Committee, 28.01.2015)*

*(Item No. 7, 38th Meeting of the Committee, 28.01.2015)*
Item No.3 : Grant of exemption under Section 17(1) (a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952 by Appropriate Government.

3.1 Section 17(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for 'exemption' as under:

Power to exempt – (1) The Appropriate Government may by notification in the Official Gazette, and subject to such conditions as may be specified in the notification exempt, whether prospectively or retrospectively, from the operation of all or any of the provisions of any Scheme, any establishment to which this Act applies, if, in the opinion of the Appropriate Government, the rules of its provident fund with respect to the rates of contribution are not less favourable than those specified in Section 6 and the employees are also in enjoyment of other provident fund benefit which on the whole are not less favourable to the employees than the benefits provided under this Act or any Scheme in relation to the employees in any other establishment of a similar character; or

a) Any establishment if the employees of such establishment are in enjoyment of benefits in the nature of provident fund, pension or gratuity and the Appropriate Government if of the opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other establishment of a similar character.

3.2 Provided that no such exemption shall be made except after consultation with the Central Board which on such consultation shall forward its views on exemption to the Appropriate Government within such time limit as may be specified in the Scheme.

Para 27A (1) of the Employees' Provident Fund Scheme, 1952 provides that:

"The Appropriate Government may by order and subject to such conditions as may be specified in the order exempt from the operation of all or any of the provisions of this Scheme any class of employees to whom the Scheme applies:

Provided that such class of employees is entitled to benefits in the nature of Provident Fund, gratuity or old age pension according to the rules of the factory or other establishment and such benefits separately or jointly are on the whole not less favourable than the benefits provided under the Act and this Scheme".

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3.3 As per the above provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Ministry of Labour and Employment letter dated 01.04.2008, all cases of grant of exemption shall be placed before the Central Board of Trustees, EPF for consideration before sending the same to Appropriate Governments. The copy of the Ministry’s DO letter dated 01.04.2008 is placed as Annexure-3A.

3.4 Before placing a proposal in the CBT, EPF, its suitability is scrutinized with respect to the provisions for grant of exemption as contained under Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Further in view of the guidelines issued by Ministry of Labour & Employment, Government of India vide their letter dated 27.02.2007, as placed at Annexure-3B, all RPFCs shall furnish a certificate after due verification carried out at their end with regard to the Ten Point Check List.

3.5 Ministry of Labour & Employment, Government of India has also issued directions to the effect that the proposals shall be forwarded only if the latest Compliance Audit Report is found to be satisfactory. Hence compliance audit covering all the points as mentioned under the revised conditions for grant of exemption is undertaken and a copy of the said report is ready to be forwarded to the Appropriate Government.

3.6 Central Board of Trustees in its 202nd meeting held on 13.01.2014 authorized this committee to consider exemption proposals subject to ratification by the Board.

3.7 A list of establishments as indicated in Annexure-3C is now placed before Sub-Committee for consideration and recommendation to Appropriate Government on behalf of the Central Board of Trustees, EPF in accordance with the proviso to Section 17 of the Act.

Proposal: The Sub-Committee is requested to consider and recommend the proposals in respect of establishments indicated in Annexure-3C to the Appropriate Government on behalf of the Central Board for grant of exemption.
ANNEXURE-3A


April 1, 2008

Dear Shri V.Srivastava,

As you are aware, section 17(3) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 provides that appropriate Government may, inter alia, exempt any establishment from the operations of any schemes subject to the condition that such exemption shall be made after consultation with Central Board of Trustees (EPF).

2. The Ministry is receiving a number of cases of establishments recommending exemption under Section 17(3) of the Act and para 77A of EPF schemes. In these cases, as decided in some earlier meetings of Central Board of Trustees (EPF), Central Provident Fund Commissioner has been exercising the powers of the Board while recommending the cases to the appropriate Government.

3. This matter has recently been examined in consultation with Department of Legal Affairs who have opined that under section 58 of the Act, essential function of the Central Board of Trustees (EPF) like this function cannot be delegated and such delegation by the Board under general powers of section 58 of special function of consultation under section 17 will not be permissible.

4. The matter has been brought to the kind notice of Chairman, CBT/Hon'ble LEM who has also concurred with these views and it has been decided that henceforth all such cases of exemption be placed before the Central Board of Trustees (EPF) for consideration before sending the same to appropriate Government as per the provisions of the Act.

5. In view of the above, I shall be grateful if you could kindly take further action in this subject matter accordingly.

Yours sincerely,

S.K. Srivastava

Shri A. V. Srivastava
Central Provident Fund Commissioner,
Employees' Provident Fund Organisation,
New Delhi-110066.
ANNEXURE-3B

MINISTRY OF LABOUR & EMPLOYMENT
GOVERNMENT OF INDIA

DEAR SIR/Madam,

Please refer to Ministry's d.o. letter bearing no. 8-35015/19/2003-SS-II dated 1st Jan., 2004 from the then Joint Secretary regarding incorporation of nine-point checklist in the EPFO's proposal while sending the same to the Ministry seeking exemption to establishments under the EPF & MP Act, 1952.

2. As you are aware that due to changes in the Income Tax Act, 1962 announced in the Budget 2006-07, a number of establishments are seeking exemption under the EPF & MP Act, 1952 before 31-3-2007 in a time-bound manner. As a part of the initiative for disposal of such cases in a speedy and efficient manner it has been decided that EPFO should incorporate one more check-point to the existing nine-point check list viz. "Whether the establishment is fulfilling the prescribed conditions after grant of relaxation under Para 79 of the EPF Scheme, 1952 and that there is no violation of these conditions".

3. Hence, a standardized forwarding letter may be devised - mentioning the requisite check points in a systematic manner. Revised ten-point check list is enclosed herewith. Further this ten-point check list should be filled in and signed by the competent officer concerned of the EPFO and not by the establishment. Since CBT, EPF has delegated powers to CPFC for recommending exemption cases to the Central Government, EPFO's letter should clearly mention that the exemption proposal has the approval of the CPFC.

4. I shall be grateful if you could arrange to furnish the proposal in respect of each establishment in future on the above lines so that the same could be scrutinized and processed in the Ministry in a more efficient and time-bound manner. It may kindly be ensured that the proposals received from EPFO are complete in all details.

With regards,

[Signature]

Shri A. Viswanathan,
Central Provident Fund Commissioner,
Bhavan, New Delhi-110 006.
**ANNEXURE-3C**

LIST OF THE ESTABLISHMENT PLACED BEFORE THE 39th SUB-COMMITTEE OF CBT, EPF ON EXEMPTED ESTABLISHMENTS

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Name of the establishment</th>
<th>Office</th>
<th>Code No.</th>
<th>With effect from</th>
<th>Section/Para</th>
<th>Appropriate Government</th>
<th>No. of members</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>M/s. Comviva Technologies Limited (formerly Bharati Telesoft Limited)</td>
<td>RO, Delhi (South)</td>
<td>DL/23780</td>
<td>01.03.2009</td>
<td>17(1)(a)</td>
<td>Central Government</td>
<td>1054</td>
</tr>
<tr>
<td>6.</td>
<td>M/s. Kalyani Carpenter Special Steel Ltd.</td>
<td>RO, Pune</td>
<td>MH/32824</td>
<td>01.04.1999</td>
<td>27A</td>
<td>Govt. of Maharashtra</td>
<td>335</td>
</tr>
<tr>
<td>8.</td>
<td>M/s. Delhi Public School, Mathura Road.</td>
<td>RO, Delhi (North)</td>
<td>DL/6211</td>
<td>01.06.1990</td>
<td>27A</td>
<td>Government of NCT of Delhi</td>
<td>418</td>
</tr>
<tr>
<td>9.</td>
<td>M/s. Hindustan Electro Graphite (HEG) Ltd.</td>
<td>SRO, Bhopal</td>
<td>MP/3448</td>
<td>01.08.2008</td>
<td>27A</td>
<td>Central Government</td>
<td>11</td>
</tr>
<tr>
<td>12.</td>
<td>M/s Heinz India Pvt Ltd.</td>
<td>RO, Bandra</td>
<td>MH/40581</td>
<td>01.10.1994</td>
<td>27A</td>
<td>Central Government</td>
<td>578</td>
</tr>
</tbody>
</table>
2. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by RO, Bandra to Head Office on 21.05.2014. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 22.01.2015.

3. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952.
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC concerned has verified the investments made by the Trust for the period from 2000-2001 to 2012-13. RPFC concerned levied surcharge to the tune of Rs. 175/- for the deviations from prescribed investment pattern observed during the year 2000-01 to 2012-13 in investment in accordance with guidelines of Head Office issued under circular dated 06.05.2014 and confirmed the payment made by the establishment.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix ‘A’ to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
2. The above establishment has submitted the proposal for exemption under Section 17(1)(a) addressed to Central Government. The same was forwarded by RPFC, RO, Vadodara to Head Office on 09.08.2011. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 04.03.2015.

3. The following requirements for grant of exemption under Section 17(1)(a) are fulfilled by the applicant establishment:
   - The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
   - The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:
   - The application for exemption is by the employer and is addressed to the Appropriate Government.
   - RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
   - RPFC concerned has verified the investments made by the Trust for the period from 2011-2012 to 2013-14 and found deviation in Investments made by the Trust during the year 2012-13. RPFC concerned levied surcharge for such deviations in investment in accordance with guidelines of Head Office issued under circular dated 06.05.2014 to the tune of Rs. 12/- and confirmed the payment made by the establishment.
   - There is specific recommendation of the RPFC for grant of exemption.
   - There is consent of a majority of employees for exemption.
   - The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
   - Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
   - The establishment is stated to be regular in compliance.
   - The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
2. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by RO, Kandivali to Head Office on 24.03.2008. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 20.02.2015.

3. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC concerned certified that the investments by the Trust during the last three years have been as per the pattern of investment prescribed by the Government of India Ministry of Labour and Employment in this regard from time to time.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
The application for exemption is by the employer and is addressed to the Appropriate Government.

RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.

As per RC's certificate the investment pattern followed by the establishment during the year 2010-11 and 2011-12 has been reviewed and surcharge amounting to Rs. 100/- has been levied and the same has been deposited in A/C-II of RO, Delhi (South) by the establishment.

There is specific recommendation of the RPFC for grant of exemption.

There is consent of a majority of employees for exemption.

The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.

Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.

The establishment is stated to be regular in compliance.

The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.

D. Name of the Establishment : M/s. Comviva Technologies Limited (formerly Bharati Telesoft Limited)
   Code No. : DL/23780
   No of members : 1054
   Name of the Office : RO, Delhi (South)
   Date from Exemption sought : 01.03.2009
   Section/Para under which Exemption sought : 17(1)(a)
   Appropriate Government : Central Government

2. The above establishment has submitted the proposal for exemption under Section 17(1)(a) addressed to Central Government. The same was forwarded by RPFC, RO, Delhi (South) to Head Office on 07.07.2014. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 05.03.2015.

3. The following requirements for grant of exemption under Section 17(1)(a) are fulfilled by the applicant establishment:
   - The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
   - The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:
   - The application for exemption is by the employer and is addressed to the Appropriate Government.
   - RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
   - As per RC's certificate the investment pattern followed by the establishment during the year 2010-11 and 2011-12 has been reviewed and surcharge amounting to Rs. 100/- has been levied and the same has been deposited in A/C-II of RO, Delhi (South) by the establishment.
   - There is specific recommendation of the RPFC for grant of exemption.
   - There is consent of a majority of employees for exemption.
   - The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
   - Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
   - The establishment is stated to be regular in compliance.
   - The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
2. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by RO, Nagpur to Head Office on 15.10.2013. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 19.03.2015.

3. RPFC, RO, Nagpur has recommended grant of exemption under Section 27A in respect of M/s. Ultra Tech Cement Limited w.e.f. 01.08.1990. Relaxation order dated 07.01.1993 has been issued in respect of M/s. Larson and Toubro Limited, Awarpur Cement Works Chandrapur w.e.f. 01.08.1990. Since the establishment has undergone merger/amalgamation in the past the RPFC has recommended grant of exemption w.e.f. 01.08.1990.

4. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:
   - The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952.
   - The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

5. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:
   - The application for exemption is by the employer and is addressed to the Appropriate Government.
   - RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
   - RPFC concerned certified that an amount of surcharge of Rs.257/- levied on account of deviation as reflected in the pattern of investment for the period 2000-01 to 2013-14.
   - There is specific recommendation of the RPFC for grant of exemption.
   - There is consent of a majority of employees for exemption.
   - The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
   - Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
   - The establishment is stated to be regular in compliance.
   - The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.

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The application for exemption is by the employer and is addressed to the Appropriate Government.

RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.

RPFC concerned certified that surcharge for deviation in investment has been levied for the period 2000-01 to 2013-14 amounting to Rs. 709/- and Rs. 114/- and the said amount has been recovered from the establishment.

There is specific recommendation of the RPFC for grant of exemption.

There is consent of a majority of employees for exemption.

The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.

Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.

The establishment is stated to be regular in compliance.

The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
<table>
<thead>
<tr>
<th>G.</th>
<th>Name of the Establishment : M/s. Patel Engineering Limited</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Code No. : MH/20119</td>
</tr>
<tr>
<td></td>
<td>No of members : 1782</td>
</tr>
<tr>
<td></td>
<td>Name of the Office : RO, Kandivali</td>
</tr>
<tr>
<td></td>
<td>Date from Exemption sought : 01.09.1981</td>
</tr>
<tr>
<td></td>
<td>Section/Para under which Exemption sought : 17(1)(a)</td>
</tr>
<tr>
<td></td>
<td>Appropriate Government : Central Government</td>
</tr>
</tbody>
</table>

2. The above establishment has submitted the proposal for exemption under Section 17(1)(a) addressed to Central Government. The same was forwarded by RPFC, RO, Kandivali to Head Office on 10.10.2013.

3. The proposal was earlier sent to Ministry on 07.07.1994 but nothing has been heard from Ministry as yet. Copy of forwarding letter to Ministry is annexed herewith. But, the details of the proposals and annexures are not traceable after thorough search.

4. As per the direction of the Central Board in its 120th meeting held on 26.09.1989, the proposals for grant of exemption were approved by Central Provident Fund Commissioner and sent to the Appropriate Government and thereafter were placed before the Central Board of Trustees for information.

5. Subsequently, Ministry of Labour & Employment, Government of India, after taking a legal opinion at their level, informed EPFO that the Central Board of Trustees cannot delegate its essential powers i.e. consideration, recommendation and transmission of exemption proposals to Appropriate Government. Accordingly, vide letter dated 01.04.2008 Ministry directed EPFO to first place the proposals, whether under 17(1)(a) of the Act or under Para 27A of the Scheme, before the Central Board and then sent to the Appropriate Government alongwith its recommendation. Since then, all proposals, whether under 17(1)(a) of the Act or under Para 27A of the Scheme, are invariably placed before the Central Board for consideration and recommendation to Appropriate Government. without being routed through CBT.

6. Records were checked to see as to whether the proposal was ever placed before CBT. On scrutiny, it is found that the proposal was never placed before CBT.

7. The present compliance position of the establishment is satisfactory and duly certified by RPFC vide letter dated 10.10.2013. The requirements of exemption are met by the establishment.

8. Since the proposal has already been sent to Ministry in 1994, the case may be formally considered and recommended to the Appropriate Government for grant of exemption. In view of above the Sub-Committee may take note and recommend the proposal for consideration of the appropriate Government.
EMPLEYES' PROVIDENT FUND ORGANISATION

CENTRAL OFFICE

No. E-III/10(25)/90/HD

To

The Secretary to the Govt. of India,
Ministry of Labour,
New Delhi.

Sub-:


Sir,

M/s. Patel Engineering Co. Ltd., situated at B.T. Road,
Jogeshwari, Bombay - 400010 is an establishment covered under the E.P.F. & M.P. Act 1952. w.e.f. 1.11.1980 under the Schedule headed Building & Construction.

2. The establishment was granted relaxation under Para 179 of the E.P.F. Scheme 1952 w.e.f. 1.9.1981 pending disposal of the application for grant of exemption under section 17(1)(a). The establishment is having its own Provident Fund Rules. The rules have been examined and found in order. The benefits provided to its employees are on the whole not less favourable than those provided under the statutory scheme i.e. the E.P.F. Scheme 1952. The E.P.F. rules of the establishment provide for the rate of contribution both by the employer and employees of 10% of basic wages plus dearness allowance including cash value of any food concession and retaining allowance.

The provisions regarding eligibility for the membership, contribution and withdrawals are on the lines of E.P.F. Scheme 1952.

3. The rate of interest payable by the establishment provides in the rules would be at par with the statutory rate of interest.

Date: 7 June 1994

[Signature]

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4. The establishment has its Head Office at Bombay and Branch in different States of Union of India. As such the appropriate Govt. for the purpose of grant of exception under Section 17(1)(a) of the Act is the Central Govt.

5. The following documents are enclosed for favourable consideration and grant of action:

(1) Copy of P.P. Rules of the establishment.
(2) Copy of first application from the employer for grant of exception.
(3) Copy of Income Tax Recognition Certificate.
(4) Copy of recommendation in prescribed format for grant of exception.
(5) Copy of Trust Deed.
(6) Copy of Consent letter.
(7) Copy of list of branches of the establishment.
(8) Draft Notification.

6. In view of the above it is therefore, requested that a notification may please be issued in the Gazette of India granting exemption under Section 17(1)(a) of the E.P.F. & M.P. Act, 1952 to M/s. Patel Engineering Co. Ltd., Bombay w.e.f. 1.9.1981.

Yours faithfully,

(Signature)

(K. D. Sharma)

REGIONAL PROVIDENT FUND COMMISSIONER (HCS)

DIST. THANE &
GR. MUNIBAI
REG. NO.
1848
The Regional Provident Fund Commissioner, Mahrashtra wrote his letter No. NH/2011/Ex-17/27/2011 dated 22-4-94.

N/S Patel Engineering Co. Ltd., S.V. Road, Phosphate
Bombay-400 102.

R.D. Bhanja
REGIONAL PROVIDENT FUND COMMISSIONER (MHR)

TRUE COPY
ADVOGATE
C.R. Naik & Co.
The above establishment has submitted the proposal for exemption under Para 27A addressed to Government of NCT of Delhi. The same was forwarded by RO, Delhi (North) to Head Office on 24.03.2015.

3. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- As per RC's certificate the investment pattern followed by the establishment during the year 2000-01 to 2012-13 has been reviewed and surcharge amounting to Rs. 18,914/- has been levied and the same has been deposited in A/C-II of RO, Delhi (North) by the establishment.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
1. **Name of the Establishment**: M/s. Hindustan Graphite (HEG) Ltd.

   **Code No.**
   **No of members**
   **Name of the Office**
   **Date from Exemption sought**
   **Section/Para under which Exemption sought**

   MP/3448, 11
   SRO, Bhopal
   01.08.2008
   27A

   **Appropriate Government**: Central Govt.

2. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by RPFC, SRO, Bhopal to Head Office on 17.03.2009. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 23.03.2015.

3. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:
   - The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952.
   - The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:
   - The application for exemption is by the employer and is addressed to the Appropriate Government.
   - RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
   - RPFC, SRO, Bhopal concerned certified that surcharge for deviation in investment has been levied for the period 2008-09 to 2013-14 amounting to Rs. 206/- and the said amount has been recovered from the establishment.
   - There is specific recommendation of the RPFC for grant of exemption.
   - There is consent of a majority of employees for exemption.
   - The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
   - Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
   - The establishment is stated to be regular in compliance.
   - The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
2. The above establishment has submitted the proposal for exemption under Section 17(1)(a) addressed to Central Government. The same was forwarded by RPFC, SRO, Bhopal to Head Office on 09.08.2012. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 31.03.2015.

3. The following requirements for grant of exemption under Section 17(1)(a) are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952.
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC concerned certified that the investments by the Trust during the last three years have been as per the pattern of investment prescribed by the Government of India Ministry of Labour and Employment in this regard from time to time.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' topara 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
K. Name of the Establishment : M/s. Bharat Pumps & Compressors Ltd.

Code No. : UP/4882

No. of members : 780

Name of the Office : SRO, Allahabad

Date from Exemption sought : 01.04.1977

Section/Para under which Exemption sought : 17(1)(a)

Appropriate Government : Central Government

2. The above establishment has submitted the proposal for exemption under Section 17(1)(a) addressed to Central Government. The same was forwarded by RPFC, SRO, Allahabad to Head Office on 04.01.2011. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 27.03.2015.

3. The following requirements for grant of exemption under Section 17(1)(a) are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC, SRO, Allahabad certified that surcharge for deviation in investment has been levied for the period 2000-01 to 2013-14 amounting to Rs. 1875/- and the said amount has been deposited by the establishment.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.

The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years. For all purpose Bharat Pumps Compressors Ltd. is a Central Public Sector undertaking and is an identical case of Bank Note Paper Mill India Pvt. Limited, this proposal was placed before the Sub-Committee of CBT in its 38th meeting on 28.01.2015, and the Sub-Committee had decided to keep the proposal on hold for the time being in view of the proposed amendment to Condition No. 25. The only issue which hinders in processing the proposal is that Bharat Pumps & Compressors Limited has been incurring loss consecutively for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and Instructions issued by EPFO from time to time in this regard it is placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
1. **Name of the Establishment** : M/s. Heinz India Pvt. Ltd.
   **Code No.** : MH/40581
   **No of members** : 578
   **Name of the Office** : RO, Bandra
   **Date from Exemption sought** : 01.10.1994
   **Section/Para under which Exemption sought** : 27A
   **Appropriate Government** : Central Government

2. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by RO, Bandra to Head Office on 08.02.2007. The inconsistencies observed in the proposal were informed to RPFC, Bandra vide Head Office letter dated 14.10.2014 and last such reference was made by RPFC, Bandra on 16.12.2014 and 24.04.2015.

3. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:
   - The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
   - The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:
   - The application for exemption is by the employer and is addressed to the Appropriate Government.
   - RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
   - The investments by the Trust during the last three years have been as per the pattern of investment prescribed by the Government of India Ministry of Labour and Employment in this regard from time to time.
   - There is specific recommendation of the RPFC for grant of exemption.
   - There is consent of a majority of employees for exemption.
   - The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
   - Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
   - The establishment is stated to be regular in compliance.
   - The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

   Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CST, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
Item No.4 : Proposal for grant of exemption to M/s. Bank Note Paper Mills India Pvt. Ltd.

4.1 The proposal in respect of M/s. Bank Note Paper Mills India Pvt. Ltd. was placed before the 38th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 28.01.2015. Having gone through the proposal, the Sub-Committee decided to keep on hold the proposal of the establishment for the time being. The details of the proposal are as under:

4.2 Name of the Establishment : M/s. Bank Note Paper Mills India Pvt. Ltd.

<table>
<thead>
<tr>
<th>Code No.</th>
<th>PY/BOM/60951</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of members</td>
<td>40</td>
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<tr>
<td>Name of the Office</td>
<td>SRO, Bommasandra</td>
</tr>
<tr>
<td>Date from Exemption sought</td>
<td>From the date of notification.</td>
</tr>
<tr>
<td>Section/Para under which Exemption sought</td>
<td>27A</td>
</tr>
</tbody>
</table>

4.3. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by SRO, Bommasandra to Head Office on 27.03.2014. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 10.11.2014.

4.4. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4.5. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC concerned certified that the investments by the Trust during the last three years have been as per the pattern of investment prescribed by the Government of India Ministry of Labour and Employment in this regard from time to time.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment for last three years.
4.6 The establishment has been complying as an un-exempted establishment with RPFC, Bommasandra. It is a wholly owned subsidiary of Reserve Bank of India. The holding pattern of Bank Note Paper Mills India Private Ltd is as under:

(a) 50% share are of Security Printing & Minting Corporation of India Ltd. (SPMCIL)- a Govt. of India Enterprise and 100% subsidiary of Ministry of Finance, Govt. of India.

and

(b) 50% share by Bharatiya Reserve Bank Note Mudran Pvt. Ltd. - a wholly owned subsidiary of RBI.

4.7 Bank Note Paper Mills India Private Ltd. is a subsidiary of Reserve Bank of India. The issue which hinders in processing the proposal is that the Bank Note Paper Mills India Pvt. Ltd., has been incurring losses consecutively for last three years. In past, several proposals were rejected for violation of Condition No. 25 of Appendix A to Para 27AA of the Employees' Provident Funds Scheme, 1952.

4.8 The proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard. Except consecutive loss for three years, the establishment fulfils all other requirements. It is, thus, placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration of the facts of the case and recommendation to Appropriate Government, if considered fit for grant of exemption.

4.9 The proposal is thus placed before the Sub-Committee.

Proposal: The Sub-Committee is requested to consider and recommend the proposal in respect of the establishment in question to the Appropriate Government on behalf of the Central Board of Trustees, EPF for grant of exemption.
Item No.5 : Proposal for grant of exemption to M/s Bharat Aluminium Company Ltd. (BALCO).

5.1 The proposal in respect of M/s Bharat Aluminium Company Ltd. (BALCO) for grant of exemption under Section 17 (1)(a) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 was placed before the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments in its 38th meeting held on 28.01.2015. The Sub-Committee felt that the proposal be re-examined in depth and be put up in the next meeting. The proposal has been re-examined and the details are as under.

5.2 Name of the Establishment : M/s. Bharat Aluminium Company Ltd.

<table>
<thead>
<tr>
<th>Code No.</th>
<th>CG/2305</th>
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<tr>
<td>No of members</td>
<td>3609</td>
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<tr>
<td>Name of the Office</td>
<td>Regional Office, Raipur, Chhattisgarh</td>
</tr>
<tr>
<td>Date from Exemption sought</td>
<td>01.05.1976</td>
</tr>
<tr>
<td>Section/Para under which Exemption sought</td>
<td>17(1)(a)</td>
</tr>
<tr>
<td>Appropriate Government</td>
<td>Government of India</td>
</tr>
</tbody>
</table>

5.3 The above establishment has submitted the proposal for exemption under Section 17(1) (a) addressed to Government of India. The same was forwarded by RPFC, RO, Raipur to Head Office on 16.03.2009. The inconsistencies observed in the proposal by the Head Office were rectified by respective Office and last such reference was received from field office on 12.05.2015.

5.4 The following requirements for grant of exemption under Section 17(1) (a) are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952.
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

5.5 Other essential requirements for grant of exemption have also been verified and many of them are not found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Central Government. As per the application addressed to the Appropriate Government, Government of India is the Appropriate Government. However, as per particulars of the establishment, the establishment has only one branch at Lodhi Road, New Delhi with employment strength of 32. This branch was separately covered under code No. DL/3864 with RPFC, RO, Delhi (North). Delhi branch of the establishment had been maintaining a separate PF Trust and was granted relaxation by RPFC, Delhi. However, RPFC, RO, Delhi(North) has withdrawn relaxation granted to Delhi branch vide order dated 15.10.2014 w.e.f. 01.04.2002 consequent upon closure of PF Trust/shifting of establishment from Delhi to Korba. Since exemption is to be granted w.e.f 01.05.1976 and since the establishment had a branch at Delhi in all probability the Appropriate Government should be Central Government.
RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.

RPFC has reported vide letter dated 12.05.2015 that surcharge of Rs. 4510/- on account of deviation for the period 2001-02 to 2007-08 and of Rs. 2728/- for the period 2008-09 to 2012-13 has been recovered from the establishment.

There is specific recommendation of the RPFC for grant of exemption.

There is consent of a majority of employees for exemption.

The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.

Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.

The establishment is stated to be regular in compliance. However, a complaint regarding belated remittance of Provident Fund dues by the management has been received. Complaint is based on the remittance details taken from EPFO Website. RPFC has commented in this regard that the squad which conducted the audit has not pointed out such discrepancy and periodical action is taken under Section 14B for levying damages for belated remittance.

The RPFC has forwarded copies of balance sheets of the establishment for the years 2006-07 to 2012-13 and has certified that the establishment is not in loss and Condition No. 25 is not contravened.

The RPFC has forwarded copies of balance sheets of the Trust for the years 2006-07 to 2012-13.

5.6 Violation of Section 12

In the year 2004, the establishment changed the name of the salary head "Dearness Allowance" into "Personal Allowance" and discontinued remitting PF contribution and other charges on it. Here it is pertinent to refer to Section 12 of the EPF & MP Act, 1952. Provisions contained in Section 12 of the Act is reproduced hereunder verbatim:

"No employer in relation to [an establishment] to which any [Scheme or the Insurance Scheme] applies shall, by reason only of his liability for the payment of any contribution to [the Fund or the Insurance Fund] or any charges under this Act or the [Scheme or the Insurance Scheme] reduce whether directly or indirectly, the wages of any employee to whom the [Scheme or the Insurance Scheme] applies or the total quantum of benefits in the nature of old age pension, gratuity [, provident fund or life insurance] to which the employee is entitled under the terms of his employment, express or implied."

5.7 Assistant PF Commissioner (Exemption) of R.O., Raipur held it to be the violation of the provision contained in Section 12 of the Act and directed the management of the establishment to work out PF and allied dues on "Personal Allowance" paid to the employees from 2004 onwards vide order dated 22.08.2011 followed by reminders dated 14.09.2011 and 14.10.2011.
5.8 Writ Petition (L)/7157/2011

The establishment moved the Hon'ble High Court of Chhattisgarh against the impugned order dated 22.08.2011 vide Writ Petition (L)/7157/2011. The Hon'ble High Court stayed the effect and operation of the impugned order vide interim order dated 01.12.2011, and the Writ Petition is still pending for final orders before the High Court.

5.9 The fact remains that EPFO has been defending the impugned order dated 22.08.2011 before the High Court. All along the stand of Regional Office has been that the establishment has violated provisions contained in Section 12 of the Act which is indeed a major violation by any standards. RPFC has reported that reply in the Writ Petition has been filed in January, 2012.

5.10 Violation of Condition No. 11

As such, amendments of the Trust Rules to that extent is also violative of the statutory provisions, hence illegal.

Recommend the establishment's application for grant of exemption with the existing amended Trust Rules, would tantamount to unwittingly toeing the establishment's stand/line which may weaken our stand in the High Court and may be detrimental to the interest of thousands of workers of the establishment.

5.11 Legal Opinions in the matter of pending Writ Petition

RPFC (Legal) of RO, Raipur has sent a copy of legal opinion dated 18.12.2014 received by them from Panel Advocate Shri Pradeep Sakikena. Panel Advocate opined that this fact be brought to the notice of the Appropriate Authorities where proceedings of exemption are pending and any action they may take should be made only after the orders of the High Court are passed in the petition. With regard to the early disposal of the above mentioned petition, we may take the following steps only after ensuring the interest of the organization:

i) Since the orders dated 22.08.2011 and 14.09.2011 have been stayed we should first assess the effect of the violation done by BALCO and the effect on the number of persons affected by the amendment of the pattern of salary adopted by BALCO and next assess the effect of withdrawing the relaxation given under Para 27 of EPF Scheme of 1952.

Further, RPFC-I of RO, Raipur sent a different legal opinion dated 06.01.2015 from the same Panel Advocate. While the 1st legal opinion is very specific and advises against grant of exemption to the applicant establishment, the 2nd legal opinion is of general nature.

5.12 Complaint regarding legal opinions

Here it is pertinent to bring to notice that EPFO is in receipt of a complaint dated 11.01.2015 through e-mail. Complainant has alleged that RPFC, Raipur has managed a second legal opinion to favour the establishment for granting exemption, while deliberately suppressing the first legal opinion.

In this regard, RPFC has clarified that at the outset it is submitted that as per recent CVC guidelines dated 25.11.2014 no action should be taken on
anonymous/pseudonymous complaints and such complaints should be filed. Further, both the legal opinion received from the panel advocates were forwarded to Head Office. Hence there is no question of suppression of the first legal opinion. On receipt of first legal opinion, RPFC-I had recorded on the file following observations:
- Please ascertain which violation's assessment is to be done?
- This office had already taken a stand on the issue which is challenged in Hon'ble High Court & the matter is sub judice, hence assessing of the effect on the number of persons and assessing the effect of withdrawing is how relevant? Please ask panel advocate to clarify.

Accordingly second opinion was received from the panel advocate, which was also forwarded to Head Office.

The establishment also appears to have contravened a major condition of grant of exemption/relaxation, i.e., Condition No. 11, which is reproduced hereunder verbatim:

"No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner (referred to as RPFC hereafter). The RPFC shall before giving his approval give a reasonable opportunity to the employees to explain their point of view."

The establishment is in enjoyment of relaxation subject to 31 conditions laid down in Appendix 'A' to Para 27AA of the Scheme, 1952. The establishment should have taken prior approval of the RPFC and RPFC should have given reasonable opportunity to the employees to explain their point of view. This procedure was not been followed in the instant case.

5.13 Allegation of Violation of Condition No. 5

An anonymous complaint regarding belated remittance of Provident Fund dues by the management has also been received through e-mail. Complaint is based on the remittance details taken from EPFO Website. RPFC has commented in this regard that the squad which conducted the audit has not pointed out such discrepancy and periodical action is taken under Section 14B for levying damages for belated remittance.

In this regard, RPFC has clarified that at the outset is submitted that as per recent CVC guidelines dated 25.11.2014 no action should be taken on anonymous/pseudonymous complaints and such complaints should be filed.

5.14 FIR by ALC, Korba against the management and Trustees under EPF & MP Act, 1952

In the State of Chhattisgarh, State Government has notified authorities of State Labour Department as Inspectors under Section 13 of the EPF & MP Act, 1952. In that capacity Shri Satya Prakash, Assistant Labour Commissioner, Korba initiated an investigation on the complaint of INTUC against the management of BALCO.

On completion of investigation, having found irregularities committed by BALCO management and the Trustees of the BoT, ALC, Korba filed a complaint in BALCO Nagar Police Station.
However, when the BALCO Nagar Police Station did not register FIR, the complainant Union representatives moved Chief Judicial Magistrate, Korba for issuing direction to the Police authorities to register FIR. CJM Court issued direction vide order dated 22.07.2014 to the police to register FIR and file final investigation report by 22.09.2014.

Consequent to direction issued by the CJM Court, BALCO Nagar Police Station registered FIR No. 256/2014.

Then the establishment moved the Hon'ble Chhattisgarh High Court for quashing FIR. High Court granted stay vide interim order.

Complainant Union moved Hon'ble Supreme Court against interim order of the High Court vide Special Leave to Appeal (Crl.) No. 7571/2014. Supreme Court took cognizance and directed the petitioners vide order dated 13.10.2014 to file appropriate application to bring it to the notice of the Judge who granted interim stay order who shall consider the same and recuse himself and also recall the impugned interim order.

Consequent upon direction of the Hon'ble Supreme Court, High Court of Chhattisgarh vacated the stay and asked police authorities to proceed with investigation.

Understandably BALCO Nagar Police Station is yet to complete investigation in the matter.

Though, FIR has been filed by State Government Authority the issues raised in the complaint may have valid grounds having bearing on the exemption proposal of the establishment. This is particularly significant in view of the fact that RO, Raipur has also issued direction to the establishment on identical issue which has already been dealt in the preceding paragraphs.

In this regard, RPFC has reported that subsequent to Hon'ble Supreme Court's order dated 05.08.2014, the following developments had taken place:


13.11.2014 - in the above review petitions, the Hon'ble Supreme Court modified the earlier order dated 13.10.2014 and directed the High Court of CG to hear the case on merits and passed order.

19.12.2014 - The Hon'ble High Court of CG after hearing both the parties passed order and granted Interim stay of all proceedings pursuant to the order passed by JMFC, Korba.

5.15 The proposal has been examined in the light of Act and Scheme provisions, Conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard.
5.16 On earlier occasions, in cases where the establishment applying for grant of exemption there is pendency of High Court case and undertaking was taken from the establishment to the effect that they will withdraw the petition from the High Court. In the instant case also, the establishment has filed a Writ Petition before the Hon'ble Chhattisgarh High Court and the same is subjudice as on date. A decision needs to be taken as to whether a similar undertaking has to be taken before considering the proposal.

Proposal: The Sub-Committee is requested to consider the proposal in view of the pendency of the writ petition filed by the establishment before Hon'ble High Court, Chhattisgarh
Item No.6 : Amendment to Condition No. 25 of the Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 for grant of exemption to establishments under Section 17(1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952 by Appropriate Government.

6.1 Ministry of Labour and Employment, Government of India vide their letter dated 5th January, 2015 (placed as Annexure-6A) asked EPFO to send a draft condition to provide for exemption to statutory Corporations like Food Corporation of India by amending Appendix 'A' referred to in Para 27AA of the Employees' Provident Funds Scheme, 1952.

6.2 Para 27AA of the Employees' Provident Funds Scheme, 1952 provides that all exemptions already granted or to be granted hereafter under Section 17 of the Act or under Para 27A of the Scheme shall be subject to the terms and conditions as given in the Appendix 'A'.

6.3 Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 contains 31 conditions. Condition No. 25 stipulates that:

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

6.4 Condition No. 25 does not differentiate between a loss making Private Company and a loss making Public Sector Undertaking. Wherever Private Companies incur losses consecutively for three years, their proposals are not considered for placing before the Central Board of Trustees, EPF as there remains always a threat to the Trust Fund wherein the hard earned Provident Fund contributions of the subscribers are accumulated. On the other hand, in case of Public Sector Undertakings, there is always sovereign backing of State/Central Government. As such, Private Companies and Public Sector Undertakings cannot be treated on similar footings. Both are to be treated separately.

6.5 Accordingly, it is felt that there has to be a distinction between a loss making Private Company and a loss making Public Sector Undertaking in the content of condition No. 25 of Appendix A to Para 27AA of the Employees' Provident Funds Scheme, 1952.
The following were proposed:

<table>
<thead>
<tr>
<th>Existing content of Condition No. 25 of Appendix A to Para 27AA of the Employees' Provident Funds Scheme, 1952.</th>
<th>Proposed changes</th>
</tr>
</thead>
</table>
| 25. A company reporting loss for three consecutive financial years or erosion in their capital base shall have their exemption withdrawn from the first day of the next/succeeding financial year. | 25. A company, other than statutory body, Public Sector Undertaking and corporations of Appropriate Government reporting loss for three consecutive financial years or erosion in their capital base shall have their exemption withdrawn from the first day of the next/succeeding financial year.  

Or

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

Provided, this will not be applicable to statutory body, Public Sector Undertaking and corporations of Appropriate Government where the Appropriate Government undertakes to pay the provident fund to the members in case of financial insolvency of these concerns. |

6.7 The above proposal was placed before the Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments in its 38th meeting held on 28.01.2015 and the committee unanimously approved the following amendments to Condition No. 25.
"A company reporting loss for three consecutive financial years or erosion in their capital base shall have their exemption withdrawn from the first day of the next/succeeding financial year.

Provided, this will not be applicable to statutory body, Public Sector Undertaking and Corporations of Central/State Governments where the Government undertakes to pay the Provident Fund liabilities in case of default."

6.8 The recommendations of the Sub-Committee was placed before the Central Board of Trustees, EPF as an agenda item on amendment of Condition No. 25 of Appendix ‘A’ to Para 27AA of the Employees' Provident Funds Scheme, 1952 in its 206th meeting held on 11.03.2015.

6.9 The Central Board of Trustees, EPF was apprised about the direction of the Ministry to get the proposal legally examined before putting the same before the Board. Accordingly, the Board decided that the agenda item be allowed to be withdrawn and will be taken up later after legal examination of the same.

6.10 In accordance with the decision taken by the Central Board in its 206th meeting held on 11.03.2015, legal opinion was sought from Panel Counsel. The legal opinion received from Panel Counsel is placed at Annexure - 6B. The Panel Counsel opined that:

a) The existing Condition No. 25 of the Appendix "A" provides that the exemption granted to a Company shall stand withdrawn from the first day of the next/succeeding financial year if the Company reports loss for three consecutive financial years or erosion in their capital base.

b) The Employees' Provident Fund Organisation intends to amend the said Condition so as to take the Public Sector Undertaking out of purview of the said Condition meaning thereby that even if a Public Sector Undertaking reports loss for three consecutive financial years or erosion in their capital base even then the exemption granted to Public Sector Undertaking will not be withdrawn.

c) The existing Condition no. 25 does not differentiate between a loss making Private Company and a loss making Public Sector Undertaking as such there is every probability and likelihood that Private or Public Limited Companies may claim the same benefit by virtue of Article 14 of the Constitution. The concept of equality and equal protection of laws guaranteed by Article 14 of the Constitution of India in its proper spectrum encompasses social and economic justice. However, the principle of equality does not mean that every law must have universal application for all persons who are not by nature,
attainment or circumstances in the same position, as the varying needs of different class of persons often require separate treatment. As such, the principle of equality as enshrined in Article 14 does not take away from the State the power of classifying persons for legitimate purposes (State of Bombay v. Balsara F.N. AIR 1951 SC 318). The legislature is competent to exercise its discretion and make classification. Differential treatment does not per se constitute violation of Article 14. The Article 14 is violated only when there is no reasonable basis for differentiation.

d) The Hon'ble Supreme Court in Budhan Choudhary v. State of Bihar, 1955 (1) SCR 1045 and catena of judgments has held that in order to pass the test of permissible classification, two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differential which distinguishes persons or things that are grouped together from others left out of the group and (ii) that differential must have a rational relation to the object sought to be achieved by the statute in question. The laying down of the intelligible differentia does not, however, mean that the legislative classification should be scientifically perfect and logically complete (Dharam Dutt v. Union of India, AIR 2004 SC 1295).

e) In Hindustan Paper Corporation Ltd. v. Government of Kerala (1986) 3 SCC 398:AIR 1986 SC 1541, a provision granting exemption to Government companies and co-operative societies alone for selling forest produce at less than selling price fixed under the Kerala Forest Produce (Fixation of Selling Price) Act, 1978 was held to be constitutionally valid and not violative of Articles 14 and 19(1)(g) of the Constitution of India. It was held that the Government or public sector undertakings formed a distinct class. In this context, it was held as under (at pp. 1545-46 of AIR):

"...As far as Government undertakings and companies are concerned, it has to be held that they form a class by themselves since any profit that they make would in the end result in the benefit to the members of the general public. The profit, if any, enriches the public coffer and not the private coffer. The role of industries in the public sector is very sensitive and critical from the point of view of national economy. Their survival very often depends upon the budget any provision and not upon private resources which are available to be industries in the private sector..."

f) In M. Jhangir Bhatshia v. Union of India (1989) 2JT465: AIR 1989 SC 1713, a concession in import duty granted to the State Trading Corporation was upheld on the ground that public policy can support the differentiation. The Hon'ble Supreme Court observed:
"Now it is the Central Government which has to be satisfied, as the authority appointed by Parliament under Section 25(2), that it is necessary in the public interest to make the special orders of exemption. It has set out the reasons which prompted it to pass the orders. In our opinion, the circumstances mentioned in those notifications cannot be said to be irrelevant or unreasonable. It is not for this Court to sit in judgment on the sufficiency of those reasons. The limitations on the jurisdiction of the Court in case where the satisfaction has been entrusted to executive authority to judge the necessity for passing orders is well defined and has been long accepted."

The Hon'ble Supreme Court in the case of Shashikant Laxman Kale & anthr. v. Union of India, AIR 1990 SC 2114 had to deal with the issue of differentiation and classification of the Public Sector Undertaking and other private Companies. The Hon'ble Supreme Court upheld the constitutional validity of Clause (10C) inserted in Section 10 of the Indian Income-tax Act, 1961 (hereinafter referred to as 'the Act 1) by the Finance Act, 1987 with effect from 1-4-1987 whereby a benefit was extended to employees of the Public Sector Undertaking and rejected the contention that the denial of this benefit to an employee of a private sector company at the time of his voluntary retirement amounts to an invidious distinction between public sector employees and private sector employees in the matter of taxation and is arbitrary and unintelligible amounting to hostile discrimination. The Hon'ble Supreme Court while upholding the constitutional validity of the statutory provisions observed:

"It is clear that the Government or the public sector undertakings have been treated as a distinct class separate from those in the private sector and the fact that the profit earned in the former is for public benefit instead of private benefit provides an intelligible differentia from the social point of view which is of prime importance for the national economy. Thus, there exists an intelligible differentia between the two categories which has a rational nexus with the main object of promoting the national economic policy or the public policy. This element also appears in the impugned enactment itself wherein 'economic viability of such company' is specified as the most relevant circumstance for grant of approval of the scheme by the Central Government. This intrinsic element in the provision itself supports the view that the main object thereof is to promote and improve the health of the public sector companies even though its effect is a benefit to its employees."

"As already indicated, Clause (10-C) of Section 10 of the Act itself mentions economic viability of a public sector company as the most relevant circumstance to attract the provision. The economic status of
employees of a public sector company who get the benefit of the provision is also lower as compared to their counterpart in the private sector. If this be the correct perspective as we think it is in the present case, the very foundation of the challenge to the impugned provision on the basis of economic equality of employees in both sectors is nonexistent. Once the stage is reached where the differentiation is rightly made between a public sector company and a private sector company and that too essentially on the ground of economic viability of the public sector company and other relevant circumstances, the argument based on equality does not survive. This is independent of the disparity in the compensation package of employees in the private sector and the public sector. The argument of discrimination is based on initial equality between the two classes alleging bifurcation thereafter between those who stood integrated earlier as one class. The basic assumption being fallacious, the question of any hostile discrimination by granting the benefit only to a few in the same class denying the same to those left out does not arise."

h) The Hon'ble High Court of Delhi in Saint Travel Services v. Union of India while considering the substantial question that whether the action of the Government in preferring public sector entities over other entities would amount to an unreasonable classification falling foul of Article 14 of the Constitution of India relied on the aforementioned decisions and observed that:

"If the above settled principles are applied to the facts of the present case, it is found that the decision to avail services of a public sector enterprises over other private travel agents cannot be subjected to judicial review. First of all, the petitioner has no vested right to insist that the government authorities avail its services. Secondly, the decision of the government to restrict its purchase of services from public sector entities cannot be called into question for being arbitrary; or unreasonable; as it is neither malafide nor without reason. A person has an unfettered discretion to choose his service provider, however, the state would require to take its decision on some basis. In the present case, restricting availing of services from only public sector entities does provide an intelligible differentia. The action of a state to avail services of its extended arms, in the given facts, is clearly in public interest. Further, even if the said action is viewed to be akin to a business group preferring to avail services from its own group over others, the obvious rationale of the same cannot be called into question."

i) In view of the discussion herein before and catena of judgments, it clearly emerges that Public Sector Undertaking, Statutory bodies and Statutory Corporations are a distinct class and statutory provisions can be enacted to benefit this class. Moreover, the Public Sector Undertaking, Statutory bodies and Corporations fall within ambit and
scope of 'State' as defined in Article 12 of the Constitution and there is a sovereign protection of the Trust Fund.

6.11 Accordingly, the Panel Counsel opined that the proposed amendment to Condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 is constitutionally valid and is not hit by right to equality as enshrined in Article 14 of the Constitution.

Proposal : The Sub-Committee is requested to consider the legal opinion obtained from Panel Counsel on the proposed changes mentioned at Para 6.7 above for proposing amendment to Government of India, Ministry of Labour & Employment for necessary amendment.
To

The Central Provident Fund Commissioner,
Employees’ Provident Fund Organisation,
14, Bhikaji Cama Place,
New Delhi-110066.

Subject:- Grant of exemption under para 27A of the EPF Scheme, 1952 to M/s Food Corporation of India DL/2271-regarding.

Sir,

I am directed to refer to your letter No.Exem/5/(22)09/DL/NZ/Vol-I/2437 dated 2-12-2014 on the subject mentioned above and to convey herewith approval of the Ministry to reject the proposal for grant of exemption under para 27A of EPF Scheme, 1952 to M/s Food Corporation of India. Further, EPFO is requested to send the draft of a condition to provide for exemption to statutory Corporation like FCI by amending Appendix ‘A’ referred to in para 27AA of the Section 17 of the Act.

Yours faithfully,

(Ajay Malik)
Under Secretary to Govt. of India
April 13, 2015

To,

Shri P. K. Udgata,
Addl. Central P. F. Commissioner – I (Compliance),

Ref: Letter dated 30.03.2015 seeking opinion on Amendment of Condition No. 25 of the Appendix “A” to Para 27AA of the Employees’ Provident Funds Scheme, 1952 for grant of Exemption to Establishments under Section 17(1) and (2) of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952.

The existing Condition No. 25 of the Appendix “A” provides that the exemption granted to a Company shall stand withdrawn from the first day of the next/succeeding financial year if the Company reports loss for three consecutive financial years or erosion in their capital base. The Employees’ Provident Fund Organization intends to amend the said Condition so as to take the Public Sector Undertaking out of purview of the said Condition meaning thereby that even if a Public Sector Undertaking reports loss for three consecutive financial years or erosion in their capital base even then the exemption granted to Public Sector Undertaking will not be withdrawn.

The existing Condition no. 25 does not differentiate between a loss making Private Company and a loss making Public Sector Undertaking as such there is every probability and likelihood that Private or Public Limited Companies may claim the same benefit by virtue of Article 14 of the Constitution. The concept of equality and equal protection of laws guaranteed by Article 14 of the Constitution of India in its proper spectrum encompasses social and economic justice. However, the principle of equality does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position, as the varying needs of different class of persons often require separate treatment. As such, the principle of equality as enshrined in Article 14 does not take away from the State the power of classifying persons for legitimate purposes (State of Bombay v. Balsam F.N. AIR 1951 SC 318). The legislature is competent to exercise its discretion and make classification. Differential treatment does not differentiate between a loss making Private Company and a loss making Public Sector Undertaking as such there is every probability and likelihood that Private or Public Limited Companies may claim the same benefit by virtue of Article 14 of the Constitution.
not per se constitute violation of Article 14. The Article 14 is violated only when there is no reasonable basis for differentiation.

The Hon'ble Supreme Court in Budhan Choudhary v. State of Bihar, 1955 (1) SCR 1045 and catena of judgments has held that in order to pass the test of permissible classification, two conditions must be fulfilled, namely, (i) that the classification must be founded on an intelligible differential which distinguishes persons or things that are grouped together from others left out of the group and (ii) that differential must have a rational relation to the object sought to be achieved by the statute in question. The laying down of the intelligible differentia does not, however, mean that the legislative classification should be scientifically perfect and logically complete (Dharmendra v. Union of India, AIR 2004 SC 1295).

In Hindustan Paper Corporation Ltd. v. Government of Kerala (1986) 3 SCC 398:AIR 1986 SC 7541, a provision granting exemption to Government companies and co-operative societies alone for selling forest produce at less than selling price fixed under the Kerala Forest Produce (Fixation of Selling Price) Act, 1978 was held to be constitutionally valid and not violative of Articles 14 and 19(1)(g) of the Constitution of India. It was held that the Government or public sector undertakings formed a distinct class. In this context, it was held as under (at pp. 1545-46 of AIR):

"...As far as Government undertakings and companies are concerned, it has to be held that they form a class by themselves since any profit that they may make would in the end result in the benefit to the members of the general public. The profit, if any, enriches the public coffer and not the private coffer. The role of industries in the public sector is very sensitive and critical from the point of view of national economy. Their survival very often depends upon the budgetary provision and not upon private resources which are available to be industries in the private sector..."

In M. Jhangir Bhatashia v. Union of India (1989) 2 JT 465: AIR 1989 SC 1713, a concession in import duty granted to the State Trading Corporation was upheld on the ground that public policy can support the differentiation. The Hon'ble Supreme Court observed:

"...Now it is the Central Government which has to be satisfied, as the authority appointed by Parliament under Section 25(2), that it is necessary in the..."
public interest to make the special orders of exemption. It has set out the reasons which prompted it to pass the orders. In our opinion, the circumstances mentioned in those notifications cannot be said to be irrelevant or unreasonable. It is not for this Court to sit in judgment on the sufficiency of those reasons. The limitations on the jurisdiction of the Court in case where the satisfaction has been entrusted to executive authority to judge the necessity for passing orders is well defined and has been long accepted.”

The Hon’ble Supreme Court in the case of Shashikant Laxman Kale & antr. v. Union of India; AIR 1990 SC 2114 had to deal with the issue of differentiation and classification of the Public Sector Undertaking and other private Companies. The Hon’ble Supreme Court upheld the constitutional validity of Clause (10C) inserted in Section 10 of the Indian Income-tax Act, 1961 (hereinafter referred to as ‘the Act 1) by the Finance Act, 1987 with effect from 1-4-1987 whereby a benefit was extended to employees of the Public Sector Undertaking and rejected the contention that the denial of this benefit to an employee of a private sector company at the time of his voluntary retirement amounts to an invidious distinction between public sector employees and private sector employees in the matter of taxation and is arbitrary and unintelligible amounting to hostile discrimination. The Hon’ble Supreme Court while upholding the constitutional validity of the statutory provisions observed:

35. It is clear that the Government or the public sector undertakings have been treated as a distinct class separate from those in the private sector and the fact that the profit earned in the former is for public benefit instead of private benefit provides an intelligible differentia from the social point of view which is of prime importance for the national economy. Thus, there exists an intelligible differentia between the two categories which has a rational nexus with the main object of promoting the national economic policy or the public policy. This element also appears in the impugned enactment itself wherein ‘economic viability of such company’ is specified as the most relevant circumstance for grant of approval of the scheme by the Central Government. This intrinsic element in the provision itself supports the view that the main object thereof is to promote and improve the health of the public sector companies even though its effect is a benefit to its employees.
36. As already indicated, Clause (10-C) of Section 10 of the Act itself mentions economic
viability of a public sector company as the most relevant circumstance to attract the provision.
The economic status of employees of a public sector company who get the benefit of the provision
is also lower as compared to their counterpart in the private sector. If this be the correct
perspective as we think it is in the present case, the very foundation of the challenge to the
impugned provision on the basis of economic equality of employees in both sectors is non-
existent. Once the stage is reached where the differentiation is rightly made between a public
sector company and a private sector company and that too essentially on the ground of economic
viability of the public sector company and other relevant circumstances, the argument based on
equality does not survive. This is independent of the disparity in the compensation package of
employees in the private sector and the public sector. The argument of discrimination is based
on initial equality between the two classes alleging bifurcation thereafter between those who
stood integrated earlier as one class. This basic assumption being fallacious, the question of any
hostile discrimination by granting the benefit only to a few in the same class denying the same
to those left out does not arise."

The Hon'ble High Court of Delhi in Saint Travel Services v. Union of India while
considering the substantial question that whether the action of the Government in
preferring public sector entities over other entities would amount to an unreasonable
classification falling foul of Article 14 of the Constitution of India relied on the
aforementioned decisions and observed that:

"12. If the above settled principles are applied to the facts of the present case, it is found that that
the decision to avail services of a public sector enterprises over other private travel agents cannot be
subjected to judicial review. First of all, the petitioner has no vested right to insist that the
government authorities avail its services. Secondly, the decision of the government to restrict its
purchase of services from public sector entities cannot be called into question for being arbitrary or
unreasonable; as it is neither malafide nor without reason. A person has an unfettered discretion to
choose his service provider, however, the state would require to take its decision on some basis. In
the present case, restricting availing of services from only public sector entities does provide an
intelligible differentiation. The action of a state to avail services of its extended arms, in the given facts,
is clearly in public interest. Further, even if the said action is viewed to be akin to a business group

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preferring to avail services from its own group over others, the obvious rationale of the same cannot be called into question."

In view of the discussion herein before and catena of judgments, it clearly emerges that Public Sector Undertaking, Statutory bodies and Statutory Corporations are a distinct class and statutory provisions can be enacted to benefit this class. Moreover, the Public Sector Undertaking, Statutory bodies and Corporations fall within ambit and scope of 'State' as defined in Article 12 of the Constitution and there is a sovereign protection of the Trust Fund. As such, in my opinion, the proposed amendment is constitutionally valid and is not hit by right to equality as enshrined in Article 14 of the Constitution.

Amit Tyagi, Advocate
Item No. 7 : Correction in the date from which exemption was to be recommended as asked by M/s. Oxford University Press Limited from 01.06.1987 to 01.05.1987.

7.1 The proposal of M/s. Oxford University Press Limited, an establishment covered under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 was forwarded by RPFC, Bandra wherein a copy of the order granting relaxation w.e.f. 01.05.1987 was enclosed.

7.2 The said proposal after due examination was placed before the Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments in the 37th meeting held on 07.08.2014.

7.3 The Sub-Committee considered and recommended the proposal to appropriate Government for grant of exemption.

7.4 In the meanwhile, it came to notice that effective date from which the exemption is to be granted to M/s. Oxford University Press Limited was mentioned as 01.06.1987 instead of 01.05.1987 due to typographical error. The Ministry has also sought clarification in this regard vide their letter dated 30.04.2015. This fact has already been informed to the appropriate Govt. vide EPFO letter dated 01.05.2015.

7.5 Thus there is a departure in the date of grant of exemption which was placed in the 37th meeting of the Sub-Committee and the date from which exemption is to be granted in the letter to the appropriate Government.

Proposal : The Sub-Committee is requested to approve the correction in the date of exemption.
Item No. 8 : Any other Item with the permission of the Chair.
ADDENDUM TO ANNEXURE-3F OF AGENDA ITEM NO. 3 OF THE 39TH
MEETING OF THE SUB-COMMITTEE OF CENTRAL BOARD OF
TRUSTEES, EPF ON EXEMPTED ESTABLISHMENTS

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the establishment</th>
<th>Office</th>
<th>Code No.</th>
<th>With effect from</th>
<th>Section/Para</th>
<th>Appropriate Government</th>
<th>No. of members</th>
</tr>
</thead>
</table>
2. The above establishment has submitted the proposal for exemption under Para 27A addressed to Central Government. The same was forwarded by RO, Delhi (North) to Head Office on 21.05.2010. The inconsistencies observed in the proposal by the Head Office from time to time were communicated to RPFC, Delhi (North). RPFC through various letters rectified the inconsistencies pointed out and informed Head Office from time to time and last such reference has been received from RPFC, Delhi (North) on .

3. The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952.
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

4. Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC concerned has verified the investments made by the Trust for the period from 2009-2010 to 2013-14. RPFC concerned levied surcharge to the tune of Rs. 38,089/- for the deviations in investment during the period from 2010-11 to 2013-14 in accordance with guidelines of Head Office issued under circular dated 06.05.2014 and confirmed the payment made by the establishment vide letter dated 16.03.2015.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix 'A' to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
The above establishment has submitted the proposal for exemption under Para 27A addressed to Government of NCT Delhi. The same was forwarded by RO, Delhi (North) to Head Office on 17.09.2014 and The inconsistencies observed in the proposal by the Head Office were rectified by respective Office last reference was made by RPFC, Delhi (North) on 14.05.2015.

The following requirements for grant of exemption under Para 27A of the Scheme are fulfilled by the applicant establishment:

- The Rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in Section 6 of the EPF & MP Act, 1952 and
- The employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable than the benefits provided under this Act or the EPF Scheme, 1952.

Other essential requirements for grant of exemption have also been verified and are found in order. The same are detailed below:

- The application for exemption is by the employer and is addressed to the Appropriate Government.
- RPFC concerned has examined the proposal in accordance with the Ten Point Checklist prescribed by the Ministry of Labour and Employment, Government of India and certified that the proposal is in order.
- RPFC, RO, Delhi (North) certified that surcharge for deviation in investment has been levied for the period 2000-01 to 2013-14 amounting to Rs. 6028/-.
- There is specific recommendation of the RPFC for grant of exemption.
- There is consent of a majority of employees for exemption.
- The composition of the Board of Trustees is in accordance with the provisions of Para 79 of the Scheme.
- Names and addresses of all the members of the BOTs have been incorporated in the Trust Rule.
- The establishment is stated to be regular in compliance.
- The RPFC has submitted copies of balance sheets of the establishment and of the Trust for last three years.

Above all, the proposal has been examined in the light of Act and Scheme provisions, conditions stipulated in Appendix ‘A’ to Para 27AA of the EPF Scheme, 1952, Ten Point Checklist prescribed by Ministry of Labour & Employment, Government of India and instructions issued by EPFO from time to time in this regard and it is found to be a fit case to be placed before the Sub-Committee of CBT, EPF on Exempted Establishments for consideration and recommendation to Appropriate Government for grant of exemption.
To

All the Members, (As per the list enclosed),
Sub-Committee of Central Board of Trustees, EPF
On Exempted Establishments.

Subject: Minutes of the 39th Meeting of the Sub-Committee of the Central Board of Trustees EPF on Exempted Establishments held on 18.05.2015 at Conference Hall, 3rd Floor, EPFO., Head Office, New Delhi- Regarding.

Sir,

The 39th meeting of the Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments was held on 18.05.2015 as per the notice circulated vide this office letter No. E-III/18(1)04/Sub-Committee/Vol-II/5080 dated 12.05.2015.

2. A copy of the approved minutes of the said meeting is enclosed herewith for your kind information.

Yours faithfully

Enclosure:- As above

Copy forwarded for information to:

1) Central Provident Fund Commissioner and Chairman, Sub-Committee of Central Board of Trustees, EPF on Exempted Establishments alongwith a copy of the approved minutes (through PS), EPFO, Head Office, New Delhi.
2. Smt. Meenakshi Gupta, IA & AS,
Joint Secretary & Financial Advisor,
Room No. 107, Shram Shakti Bhawan,
Ministry of Labour & Employment
Government of India, New Delhi

3. Director (SS),
Ministry of Labour & Employment
Government of India,
Shram Shakti Bhawan,
New Delhi-110001.

4. Shri B.P. Pant
Advisor, FICCI & ED, AIOE
(Res.) V/5, NCERT Campus,
Aurobindo Marg, New Delhi-110016.
(Off.) Executive Director,
All India Orgn. Of Employers,
Federation House,
Tansen Marg, New Delhi-110001.

5. Shri Sushanta Sen,
Principal Advisor,
Confederation of Indian Industry,
249-F, Sector 18, Udyog Vihar,
Phase-IV, Gurgaon-122015 (Haryana).

6. Shri A.K. Padmanabhan,
President, CITU, B.T.R. Bhawan,
13A, Rouse Avenue,
New Delhi-110002.

7. Shri Ashok Singh,
VP, INTUC & Chairman, CBWE,
(Res.) No. 435,
VishwasKhand III,
Gomti Nagar, Lucknow (UP).
(Off.) INTUC Shramik Kendra,
4, Bhai Veer Singh Marg,
New Delhi.
EMPLOYEES' PROVIDENT FUND ORGANISATION
MINUTES OF THE
39TH MEETING OF THE SUB-COMMITTEE, CBT (EPF) ON EXEMPTED ESTABLISHMENTS
(EPF HEADQUARTERS, NEW DELHI; 18TH MAY, 2015; 12:00 P.M.)

The 39th meeting of the Sub-Committee, CBT (EPF) on Exempted Establishments was chaired by Shri K.K. Jalan, Central Provident F. Commissioner. The following members attended the meeting:

Smt. Meenakshi Gupta

Joint Secretary & Financial Advisor
(Ministry of Labour & Employment)

Shri Sushanta Sen

Employers’ representative

Shri Ashok Singh

Employees’ representative

Shri A.K. Padmanabhan

Employees’ representative

Shri P.K. Udgata

Addl. Central P.F. Commissioner-I & Convenor

Shri Rajesh Bansal, Addl. Central P.F. Commissioner (HQ), who is the divisional head of Compliance Division, also attended the meeting.

Shri D.S. Negi, Director (Ministry of Labour & Employment) could not attend the meeting because of his pre-occupation and sought leave of absence.

Shri B.P. Pant, Secretary, FICCI could not attend the meeting because of his pre-occupation and sought leave of absence.

The list of officer(s) of the Employees’ Provident Fund Organisation, who attended the meeting, is at Annexure 'A'.

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At the outset, Central P.F. Commissioner and Chairman welcomed all the Members and thereafter, the agenda items were taken up one by one.

**Item No. 1 Confirmation of the minutes of 38th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 28.01.2015.**

1.1 Addl. CPFC-I (Compliance) informed that the minutes of the 38th meeting of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 28.01.2015 were circulated to all the members on 06.02.2015 and no feedback has been received from any of the members.

1.2 Hon’ble Members unanimously confirmed the minutes.

**Item No. 2 Action Taken Statement in respect of decisions taken in the 38th meetings of the Sub-Committee of the Central Board of Trustees, EPF on Exempted Establishments held on 28.01.2015.**

2.1 As regards actionable point No. 1, Addl. CPFC-I (Compliance) apprised the Committee that the employers of Exempted Establishments have been informed through SMS to visit the official website of EPFO to which the FAQs prepared on exemption have been uploaded.

2.2 As regards actionable point No. 2, the Committee was informed that exemption proposal of Heavy Engineering Corporation Limited has since been forwarded to the appropriate Government on 19.02.2015 after receipt of confirmation report from the concerned RPF on payment of surcharge levied.

2.3 As regards actionable point No. 3, Addl. CPFC-I (Compliance) informed the Committee members that all the 35 exemption proposals which were considered and recommended by the Sub-Committee in the 38th meeting held on 28.01.2015 have already been sent to appropriate Governments on 19.02.2015 for issue of Notification/Order granting exemption. As regards the exemption proposals of Bank Note Paper Mills India Pvt. Limited and M/s Bharat Aluminum Company Limited, which were kept on hold deferred in the last meeting, separate items have been included in the agenda of the present meeting for deliberation.
2.4 As regards actionable point No. 4, i.e., proposed amendment to condition No. 25 of Appendix ‘A’ to Para 27AA of the EPF Scheme, 1952 the Sub-Committee was informed that the decision taken on the issue by it was placed before the Central Board of Trustees, EPF in its 206th meeting held on 11.03.2015. It was decided by the Central Board that the proposal be examined legally and along with the legal opinion be brought before the Board. Accordingly, the Agenda item was withdrawn for getting the matter legally examined. The Sub-Committee was apprised that legal opinion has already been obtained from panel counsel and an has been separately included in the agenda for deliberation and consideration.

2.5 Actionable point No. 5 was on status of the proposals approved by the Central Board of Trustees, EPF and Sub-Committee of the Central Board of Trustees EPF on Exempted Establishments and forwarded to appropriate Governments since January 2014. The Sub-Committee was informed in this regard that the matter had already been taken up with respective State Governments on 12.12.2014 and similarly with Central Government on 11.03.2015. The appropriate Governments have been requested for expeditious disposal of the proposals forwarded to them for grant of exemption.

2.6 Shri A.K. Padmanabhan desired to know the status of the proposals forwarded to the Appropriate Governments.

2.7 Addl. Central PF Commissioner-I (Compliance) & Convener informed that efforts have since yielded positive results particularly from Government of West Bengal, Government of Maharashtra and from Government of India, Ministry of Labour & Employment.

2.8 The Sub-Committee was further informed that Government of Uttar Pradesh, being the Appropriate Government, has declined to grant exemption and passed non-speaking monosyllabic orders rejecting the proposals in respect of 3 establishments of Uttar Pradesh, (a) M/s Triveni Engineering Industries Ltd., (b) M/s UP Stock Exchange Association Ltd. and (c) M/s Seth Anandram Jaipuria School.

2.9 All the members of the Sub-Committee unanimously opined that the action on the part of the State Government of Uttar Pradesh is not appropriate as while rejecting the proposals it had not spelt out the reasons as to why the proposals of the above establishments for grant of exemption was rejected. Further, the members felt that the issue may be taken up with the State Government of Uttar Pradesh to ascertain the reasons as to why the proposals were rejected. The members of the Sub-Committee also desired that all such cases of rejection be brought to the notice of the Sub-Committee.

2.10 All the members of the Sub-Committee desired that in future the status of proposals considered and recommended by the Sub-Committee to the Appropriate Government be placed before the Sub-Committee in its subsequent meetings.
Item No. 3 Grant of exemption under Section 17(1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952 by Appropriate Government.

3.1 The Addl. CPFC-I (Compliance) informed the Sub-Committee that proposals in respect of 14 establishments as stated at have been processed and placed before the Sub-Committee for consideration and recommendation, on behalf of the Central Board of Trustees, EPF to the Appropriate Governments for grant of exemption. Out of these 14 proposals, 09 proposals relate to grant of exemption for class of employees under Para 27A of the EPF Scheme, 1952 and the remaining 05 proposals relate to grant of exemption for the establishment as a whole under Section 17(1)(a) of the Employees' Provident Funds & Miscellaneous Provisions Act, 1952.

3.2 He further apprised the Committee that out of 14 proposals, one proposal in respect of M/s. Patel Engineering Limited, MH/20119 figuring at Sl. No. 7 is not a new proposal. As per the direction of the Central Board of Trustees, in their 120th meeting held on 26.09.1989, the Central Provident Fund Commissioner was authorized to forward the proposals in connection with grant of exemption to the Appropriate Government on its behalf and to place the details in the subsequent meetings of the Central Board. The proposal in question is a proposal of that nature which was forwarded by Central Provident Fund Commissioner to Appropriate Government i.e. Government of India, Ministry of Labour & Employment on 07.07.1994. But, after the transmission of the proposal to the Central Government, the details concerning the proposal was not placed before the Central Board for information. He also apprised that the decision of the Ministry is yet to be conveyed to EPFO in this case. Ministry vide letter dated 01.04.2008 issued direction to EPFO to the effect that all the proposals, whether under 17(1)(a) of the Act or under Para 27A of the Scheme, be first placed before the Central Board and then sent to the Appropriate Government alongwith the recommendation of the Board. Since then, all proposals, whether under 17(1)(a) of the Act or under Para 27A of the Scheme, are invariably placed before the Central Board for consideration and recommendation to Appropriate Government. Additional CPFC-I (Compliance) further apprised the Sub-Committee that the RPFC concerned reported that the present compliance position of the establishment is satisfactory and the requirements of exemption are met by the establishment. Since the proposal had
already been sent to Ministry in the year 1994, the details are placed before the Committee for information.

The Sub-Committee took note of the position and desired that the matter may be taken up with the Appropriate Government for grant of exemption to **M/s. Patel Engineering Limited, MH/20119**.

3.3 Shri Ashok Singh pointed out that the proposal for grant of exemption in respect of **M/s Hindustan Electro Graphite (HEG) Ltd., MP/3448 figuring at Sl. No. 9**, is only for a class of employees and the membership strength of the Trust is only 11. He opined that it will not be feasible to recommend the proposals of such type of establishments to the Appropriate Government for grant of exemption as management and investment of funds of the Trusts may not be viable and cost effective. He suggested that a policy may be put in place so as to decide as to what should be the fund size of the Trust for which exemption will be considered.

3.4 Consenting the views of Shri Ashok Singh, Shri Sushant Sen stated that time has come now to decide which class of establishments, exemption will be recommended.

3.5 CPFC assured the Sub-Committee that a concept paper on this aspect will be brought before the Sub-Committee for further deliberation.

3.6 It has been decided that the proposal of **M/s Hindustan Electro Graphite (HEG) Ltd., MP/3448 figuring at Sl. No. 9** needs detailed examination with reference to the concerns raised by the members and be brought before the Sub-Committee for deliberation.

3.7 Additional CPFC-I (Compliance) apprised the Committee that the proposal of **M/s Bharat Pumps & Compressors Ltd. (UP/4882)** which is a Central Public Sector Undertaking under the Ministry of Heavy Industries, Government of India, has incurred losses for three consecutive financial years which is violative of condition No. 25 of the Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 though satisfies all other conditions. He further informed that earlier the Sub-Committee in its 38th meeting held on 28.01.2015 had decided to recommend the proposals of Public Sector Undertakings (both Public and Private) incurring losses for three financial years consecutively if there is guarantee by the Appropriate Government for safety of the Trust Fund.
3.8 The Sub-Committee in their 38th meeting held on 28.01.2015 approved the proposal for giving preferential treatment to the Public Sector Undertakings (both Central and State) even though incurring losses by proposing amendment to condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952. The proposal of amending condition No. 25 was placed before the Central Board in its 207th meeting held on 31.03.2015 where the Board has decided that the issue be legally examined and then brought before it for further discussion. The said agenda was allowed to be withdrawn.

In view of above, the Sub-Committee decided to keep the proposal for grant of exemption in respect of Bharat Pumps & Compressors Ltd., UP/4882 on hold till the proposed amendment to condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 is through by the Central Board.

3.9 Except the above two proposals, the Sub-Committee considered the following twelve proposals for recommending to the Appropriate Government for grant of exemption.

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Name of the establishment</th>
<th>Office</th>
<th>Code No.</th>
<th>With effect from</th>
<th>Section/Para</th>
<th>Appropriate Government</th>
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<tr>
<td>4.</td>
<td>M/s. Comviva Technologies Limited (formerly Bharati Telesoft Limited)</td>
<td>RO, Delhi (South)</td>
<td>DL/23780</td>
<td>01.03.2009</td>
<td>17(1)(a)</td>
<td>Central Government</td>
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Item No. 4 Proposal for grant exemption to M/s. Bank Note Paper Mills India Pvt. Ltd.

4.1 Additional CPFC-I(Compliance) reiterated the decision of Sub-Committee taken in its 38th meeting held on 28.01.2015 to keep the proposal of M/s Bank Note Paper Mills India Pvt. Ltd., (PY/BOM/60951) on hold for further deliberating and accordingly the agenda is again brought before the Sub-Committee.

4.2 Shri A.K. Padmanabhan stated that the establishment has been incurring losses for three consecutive financial years which is violative of condition No. 25 of Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952. He suggested that the case may be taken up for consideration once a final decision is taken on amendment to condition No. 25 by the Central Government.

4.3 Additional CPFC-I(Compliance) apprised the Sub-Committee even though the establishment is a joint venture of Security Printing and Minting Corporation of India Limited (SPMCIL) - a Government of India Enterprise and Bhartiya Reserve Bank Note Mudran Pvt. Ltd. (BRBNMPL) - a subsidiary of Reserve Bank of India under the Ministry of Finance. He informed that the applicant establishment has been complying as an un-exempted establishment with RPFC, Bommasandra. He drew kind attention of Hon'ble members to the fact that the conditions stipulated under Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 are effective from the date exemption is granted and in the case of the
establishment in question the exemption to be granted is prospective and hence it will not be proper to enforce condition No. 25 and reject the proposal.

4.4 Shri Ashok Singh pointed out that the present establishment has only 40 number of employees and it will not be viable on the part of it to manage the Trust Fund if exemption is granted. He reiterated his earlier stand that the fund size should be prescribed as a pre-condition for grant of exemption.

4.5 Central PF Commissioner and the Chairman of the Sub-Committee informed the members that the Managing Director of the establishment will be called to discuss in detail as to why they wish to get exemption for the trust where the number of employees is only 40. He directed Additional CPFC-I (Compliance) and Convener to arrange for a meeting immediately to discuss this issue. He also suggested that till that time the proposal may be kept on hold.

4.6 All the members of the Sub-Committee unanimously consented the views of Hon'ble Chairman.

Item No.5 Proposal for grant of exemption to M/s Bharat Aluminium Company Ltd. (BALCO).

5.1 Additional CPFC-I(Compliance) reiterated the decision of the Sub-Committee taken in its 38th meeting held on 28.01.2015 where it was decided to make an indepth study of the proposal and to bring a separate agenda item in the subsequent meeting of the Sub-Committee. He further apprised Hon'ble members that in accordance with the direction of the Sub-Committee, the proposal was re-visited and the present agenda is brought before the Sub-Committee.

5.2 Intervening in between, the Central PF Commissioner and Chairman informed Hon'ble members that during January, 2015, Shri D.L. Sachdeva, Hon'ble Member of the Central Board of Trustees, EPF came for a discussion to EPFO alongwith representatives of 6-7 Trade Unions of the establishment and pressed for expeditious disposal of the establishment's application for grant of exemption. He further informed that perhaps the establishment's case has been unnecessarily got stuck for extraneous reasons and the Sub-Committee should consider the proposal for recommendation to the Appropriate Government.
5.3 Shri A.K. Padmanabhan and Shri Ashok Singh were of the view that intricacies of the case be examined and instead of taking a decision hurriedly which may end up detrimental to the interest of the workers.

5.4 The Sub-Committee thus decided to defer the agenda item and in the meanwhile the facts of the case be investigated before placing the agenda before the Sub-Committee for deliberation.

Item No. 6 Amendment to Condition No. 25 of the Appendix 'A' to Para 27AA of the Employees' Provident Funds Scheme, 1952 for grant of exemption to establishments under Section 17(1)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 and Para 27A of the Employees' Provident Funds Scheme, 1952 by Appropriate Governments.

6.1 The proposal as contained in the agenda has been approved and the Sub-Committee decided to recommend the proposal to Central Government for further necessary action.

Item No. 7 Correction in the date from which exemption was to be recommended as asked by M/s Oxford University Press Limited from 01.06.1987 to 01.05.1987.

7.1 Additional CPFC-I (Compliance) drew kind attention of the Sub-Committee that there is typographical error in the effective date of exemption in respect of M/s. Oxford University Press Limited (MH/BAN/3972). He informed that the exemption should be effective from 01.05.1987 instead of 01.06.1987.

7.2 The Sub-Committee took note of the correction.

The meeting ended with vote of thanks to the Chair.
LIST OF EPF OFFICERS WHO ATTENDED THE MEETING:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name</th>
<th>Designation</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
<td>Ashok Kumar</td>
<td>RPFC-II(Exemption)</td>
</tr>
</tbody>
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