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EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour & Employment, Govt. of India)

Regional Office: Delhi (West)

EPFO Complex, Plot No. 23, Sector No. 23, Dwarka, New Delhi – 110 075

No. E/DL/7413/Exem/Higher Pension/ 2024/ 491/1593

Dated: 04 MAR 2024

To,

M/s GAIL INDIA LTD.,
16, Bhikaji Cama Place,
R K Puram, New Delhi-110066

Subject: Pension on higher wages of employees/pensioners of exempted establishment in light of Hon'ble Supreme Court Judgement dated 04.11.2022 in SLP (C) no 8658-59 of 2019- Regarding.

Sir,

Reference is invited to Hon'ble Supreme Court Judgement dated 04.11.2022 in the matter of **Special Leave Petition (c) No.8658-8659 of 2019** and EPFO, Head Office Circulars issued (available in EPFO website www.epfindia.gov.in) on subject cited above. In order to implement the orders of Hon'ble Supreme Court, an online facility was provided for filing applications/validation of option/joint options. This office is in receipt of large number applications of employees/pensioners after approval of rejection by the Employer i.e. M/s GAIL INDIA LTD.

M/s GAIL INDIA LTD is an establishment covered under the provisions of Employees' Provident Funds and Miscellaneous Provisions Act 1952 under P.F. Code No. DL/CPM/7413 and is maintaining its own P.F Trust by virtue of grant of exemption under section 17(2) of EPF & MP Act 1952 read with Para 27A of the EPF Scheme, 1952 vide notification on S-35015/20/2014-SS-II dated 12.11.2014 w.e.f. 01.05.1987.

Further, as you are very well aware that the **trust rules** are prepared and submitted by the employer after getting the consent of the employees to EPFO. The application for grant of exemption is processed and the appropriate government by way of notification exempt whether prospectively or retrospectively from the operation of all or any of the provisions of scheme. However, it is observed that the approved trust rules of M/s GAIL INDIA LTD. restrict the pension contributions on statutory wage ceiling even when the pay of the member exceeds statutory ceiling limit.

The relevant portion of GAIL India Employees' Provident Fund Trust Rules is reproduced as under: -

Rule 10: Contribution of Members

(a) Every member shall subscribe to the Fund every month a sum equal to 12% of the total of monthly basic pay, defames allowance and retaining allowance, if any. The rate of contribution payable by each member of the Fund under these Rules shall at no time be lower than the rate of contribution payable under the Act and Scheme framed thereunder.

(b) Every member contributing to the provident fund under sub-rule (a) herein may, if so desires, can configure voluntarily to the provident fund over and above the amount contributed by him in terms of sub-rule (a) herein, by such percentage of his monthly basic pay, dreams allowance and retaining allowance, if any, as he may at hi discretion deem fit, subject to the condition that employer shall not be under obligation to pay any contribution over and above his contribution payable under rules.

(c) A member desiring to contribute to the Provident Fund an additional amount shall submit an application in the form set out in "Annexure-E" or as prescribed by the Employer in electronic mode. A member who is permitted to contribute to the provident fund an additional amount shall be allowed to change the rate of voluntary contribution on his applying for such change in contribution, only at intervals of a minimum period of one month.

(d) Each monthly contribution to the Fund shall be calculated to the nearest rupee that is 50 paise or more shall be counted as the next higher rupee and any fraction of a rupee less than 50 paise shall be ignored.

(e) The establishment shall every month deduct from the emoluments of the members, such sum as may be required under sub-rule (a) and (b) herein and shall transfer every month not later than 15th of the following month to the Board of Trustees. The money so deducted shall be credited to the Member(s) individual account.

(f) No subscription shall be recovered from an employee for such period as he is absent from duties without pay.

Rule 11: Employer's contributions to the Fund

(a) The employer shall not later than the fifteenth day of the succeeding month, in respect of each of the members of the fund, pay to the trustees as employer's cont. (ablation to the Fund a sum equal to the total of the Member's compulsory contribution under rule 10(a) hereinbefore.

(b) From and out of the contribution payable by the employer each month under Rule 11 above, a part of contribution representing 8.33% of the employees pay shall be remitted by the employer to the Employee's Pension Fund within fifteen days of the close of every month by a separate bank draft of cheque on account of Employees' Pension Fund contribution in such manner as may be specified in this behalf by the Regional Provident Fund Commissioner. The cost of the remittance, if any, shall be borne by the Employer. **Provided** that where the pay of the member exceeds Rs.6500/- per month contribution payable by the employer be limited to the amount on his pay of Rs.6500/- only. The balance of employer's contribution after the remittance of contribution to the Employee's Pension Fund shall be credited to the member's individual account. The establishment shall not be liable to make any contribution in respect of the voluntary contribution, if any, made by the member to the Provident Fund under Rule 10(b) hereinbefore.

(c) The contributions shall be calculated on the basis of the basic wages, dearness allowance (including the cash value of any food concession) and retaining allowance (if any) actually, drawn during the whole month whether paid on weekly, fortnightly or monthly basis.

(d) The contribution to the Employees' Pension Fund shall be applicable only in case the employee in question is a member of the Employee's Pension Scheme, 1995 as laid in Para 6 of the Employees' Pension Scheme 1995, and shall cease on the employee attaining the age of superannuation as defined in the Employee's Pension Scheme, 1995. Provided further that if the employee continues in service even after the date superannuation the entire contribution payable by the employer as per Rule 11 (a) shall be credited to the Member's account.

(e) Each monthly contribution to the Fund shall be calculated to the nearest rupee that is 50 paise or more shall be counted as the next higher rupee and any fraction of a rupee less than 50 paise shall be ignored.

(f) The Employer shall, subject to approval from RPFC and Jurisdictional Commissioner of Income Tax, pay administration charges, as may be fixed by the Trustees, every month, along with the remittances towards monthly contribution to the Employee's Pension Fund.

(g) The rate of contribution payable under these Rules by Employer shall at no time be lower than the rate of contribution payable under the Act and Scheme framed thereunder. The Employer shall enhance the rate of contributions appropriately if the rate of contribution for the class of establishment which the Company falls is enhanced under the Act, so that the benefits under the Rules of Fund shall not become less favorable than the benefits provided under the Act.

Provided that where the pay of the member exceeds Rs. 6500/- (or amended by Government from time to time) per month, the contribution payable by the Corporation shall be limited to the amount of his/her pay of Rs. 6500/- only (or as revised from time to time by the Government). The balance of employer's contribution after the remittance of contribution to the employee's Pension Fund shall be credited to the member's individual account.

Provided further, that if at the option of the employee and employer with the approval of Regional Provident Fund Commissioner, contribution payable on the pay in respect of an employee appointed on or after commencement of these Regulations, exceeding Rupees Six thousand and five hundred (or as revised by Government from time to time) per month, 8.33 percent share of employer's contribution shall be remitted to the Pension Fund from the date of appointment or from the date on which his/her pay exceeds Rupees Six thousand and five hundred (or as revised by the Government from time to time), whichever is later.

The contribution to Employees' Pension Fund shall be applicable only in case the employee, in question, is a member of the Employees' Pension Scheme, 1995 and shall cease on attaining the age of superannuation as defined in Employees' Pension Scheme, 1995 for the purpose:

Provided that if the employee continues in service even after the date of such prescribed age, the entire contribution as per this Regulation shall be credited to the member's account."

Therefore, it is requested to submit your comments on the above said matter so that further course of action on higher wage pension applications may be taken accordingly.

Yours faithfully,



(Ritu Kanojia)

Assistant P F Commissioner
Exemption