

Chapter-IV: Contribution and recovery

4.1 Responsibility of employers

As per Para 30(3) of the EPF Scheme, it shall be the responsibility of the principal employer to pay both the contributions payable by him in respect of the employees directly employed by him and also in respect of the employees employed through a contractor, as also administrative charges.

4.2 Demand Collection Balance Register (DCBR)

DCBR is maintained in ROs/SROs for all establishments. Entries in DCBR are made through monthly statements received from employers along with challans of remittances made in bank. DCBR facilitates preparation of defaulters' lists and damages statement which are then transferred to Enforcement Branch and Penal Damage Cell for initiating action to recover the dues. DCBR also facilitates reconciliation with schedule of receipts received from banks to get delayed remittances which constitute default by banks (Para 4.5.3 of the Manual of Accounting Procedure, Part 1- General). Thus, DCBR is an important control register and is required to be maintained properly.

Test check of records in respect of the selected ROs/SROs in the following States revealed that the DCBR was not being maintained or the reconciliation was not being done with the receipts of the bank.

- In Delhi RO (North) and RO (South) DCBRs were not being maintained.
- In Karnataka (RO Bangalore and SRO Chikkamagalur) monthly updation of DCBR was not done.
- In Rajasthan (RO Jaipur and three SROs) DCBR was not maintained since 2005-06.
- In Jharkhand, posting in DCBR was not being done monthly and in some cases the posting was done annually.

Due to non-maintenance or updation of the DCBR, the EPFO authorities lost an important control mechanism to watch receipt of dues and remittance towards the past accumulations and ensure correctness of defaulters' lists.

The EPFO stated (September 2013) that the Electronic Challan-cum-Return (ECR) facility has already been provided in the new Application Software which will auto update the DCBR.

Action taken by EPFO is commendable, however, the software will monitor current remittances only and past gaps in DCBR will remain.

Recommendation: The EPFO should ensure comprehensive updation of DCBRs, generate complete defaulters list and initiate necessary recoveries.

4.3 Arrears of Provident Fund and Administrative Charges

Para 38 of the EPF Scheme provides that every employer shall deduct the employees' contribution from their wages which together with their own contribution as well as administrative charges, he shall deposit within 15 days of the close of every month. Directorate of Recovery at EPFO Headquarters monitors the performance of its field offices regarding recoveries.

As on 31 March 2012, total arrears on account of EPF were ₹ 1723 crore. Test check in audit revealed that a sum of ₹ 313.20 crore was recoverable on account of EPF arrears from 20,974 establishments in selected ROs/SROs from the following five States as on 31 March 2012.

Table 4.1: Arrear of EPF

State	Number of Establishments	Total dues (₹ in crore)
West Bengal	96	6.55
Gujarat	1902	87.33
Tamil Nadu	10303	135.61
Haryana	1262	25.18
Punjab	7411	58.53
Total	20974	313.20

Further, as on March 2012 total arrears on account of administrative and inspection charges were ₹ 143.60 crore. The arrears of administrative charges pertaining to un-exempted establishments in three States of Kerala, Madhya Pradesh and Tamil Nadu had increased from ₹ 16.94 crore involving 17213 establishments to ₹ 27.87 crore involving 19316 establishments during 2006-12.

State specific findings for Maharashtra, Odisha, Kerala, Karnataka, Tamil Nadu, Haryana and Punjab regarding arrears of administrative/inspection charges are given below.

Table 4.2: State specific findings on arrears of administrative/inspection charges

State	Observation
Maharashtra	In RO (Mumbai-I Bandra) total amount of ₹ 25.95 crore (₹ 14.64 crore up to 2003-04, ₹ 8.95 crore from April 2004 to March 2009 and ₹ 2.36 crore from April 2009 to March 2011) was pending for recovery towards the inspection charges from Maharashtra State Road Transportation Corporation.
Odisha	The arrears of administrative charges were ₹ 4.33 crore from 2279 defaulting establishments. In respect of exempted establishments, arrears of recoverable inspection charges were ₹ 4.65 crore. SRO, Keonjhar did not maintain records from 2006-07 to 2011-12. SRO, Berhampur also did not maintain records relating to the required information in respect of inspection charges of exempted establishments.
Kerala	In RO Thiruvananthapuram non recovery of administrative charges increased from ₹ 5.89 crore to ₹ 7.78 crore from 3602 to 4400 establishments during the period 2006-07 to 2011-12.
Karnataka	In RO, Bangalore, amount of contribution and inspection charges recoverable as on 31 March 2012 was ₹ 10.23 crore.
Tamilnadu	An amount of ₹ 9.48 crore was pending for collection from 12182 establishments towards administration charges as on March 2012.
Haryana	Administrative charges in respect of 1284 establishments amounting to ₹ 2.03 crore in RO Faridabad and 960 establishments involving an amount of ₹ 41.71 crore in RO Gurgaon were in arrears as on 31 March 2012.
Punjab	₹ 5.21 crore in respect of 4329 establishments in RO Chandigarh and ₹ 1.29 crore in respect of 2573 establishments in RO Ludhiana were pending on account of administrative charges as on 31 March 2012.

No reply was received from the EPFO (November 2013).

4.4 Interest due from bank for delayed credits

State Bank of India (SBI) collects the amounts leviable on behalf of the EPFO.

As per Para 6.9.1 of Manual of Accounting Procedures (General), the amount of contributions and other dues received by the branches of SBI every day should be remitted to SBI's concerned link branch on the same day. Any delay in transfer would adversely affect the Fund and interest thereon. Further, the amount deposited with the SBI is to be credited in the EPFO account within seven days from the date of presentation of challan by establishment. The delay in transfer of amount attracts interest of two *per cent* over and above its savings rate.

Test check in audit of selected ROs/SROs revealed that as on 31 March, 2012 due to delays in crediting in EPFO account by bank, interest amounting to ₹ 7.74 crore was recoverable towards additional two *per cent* in following States:

Table 4.3: Details of interest recoverable

State and RO/SRO	Amount of recoverable interest (₹ in crore)
West Bengal (RO Kolkata, SRO Parkstreet)	2.99
Karnataka (RO Mangalore, SROs Mysore and Chikkamagalur)	1.13
Punjab (RO Ludhiana)	0.40
Madhya Pradesh (SROs Gwalior and Bhopal)	1.12
Kerala (RO Thiruvananthapuram)	2.10
Total	7.74

Although, the Central Office along with Regional Provident Fund Commissioner were responsible to ensure proper and prompt recovery but system to track the delayed credits by the bank was non functional.

Steps taken by the EPFO to recover the amount were not on record.

Recommendation: *The EPFO may put in place an effective mechanism to monitor timely remittance of its deposits by SBI.*

4.5 Levy and realisation of damages and penalties

All the covered establishments are required to pay their dues within 15 days of the close of every month. If the amount is not deposited within the stipulated time, penal damages can be imposed under section 14B of the Act. (Para 5.1.3 of the Manual of Accounting Procedure (Part -1 General) read with Para 32A of the Scheme).

It was seen that outstanding amount of damages levied but not realised from defaulting un-exempted establishments as on 31 March 2012 was ₹ 265.75 crore. Further, it was noticed that the balance outstanding amount had doubled from ₹ 132.62 crore as on 1 April 2006 to ₹ 265.75 crore as on 31 March 2012. The details for selected ROs/SROs of five States i.e. Kerala, Madhya Pradesh, Rajasthan, Tamil Nadu and Goa are given below.

Table4.4: Levy and realisation of damages from un-exempted establishments

(Amount ₹ in lakh)

Year	Opening Balance of damages		Amount of damages levied during the year		Balance outstanding of damages	
	Number of Establishments	Amount	Levied	Realised	Number of Establishments	Amount
2006-07	6429	13261.84	4317.61	2401.21	5405	15178.24
2007-08	5405	15178.24	11453.27	2404.52	5606	24226.99
2008-09	5606	24226.99	4854.01	3014.90	5814	26066.10
2009-10	5814	26066.10	3458.07	1824.93	6327	27699.24
2010-11	6327	27699.24	4067.91	3411.39	9429	28356.46
2011-12	9429	28356.46	2701.12	4482.15	9270	26575.43

In the States of Gujarat, Punjab and Haryana, an amount of ₹ 68.12 crore was in arrears on account of damages (as on 31 March 2012) as per details given below:

- In Gujarat, arrear of damages was of ₹ 47.72 crore.
- In Haryana (ROs Faridabad and Gurgaon), damages of ₹ 15.28 crore from 1371 defaulting establishments were due.
- In Punjab (RO Chandigarh), damages of ₹ 5.12 crore were outstanding from 702 defaulting establishments.

The EPFO stated (November 2012) that directions have been issued for active follow up of the provisions of the Act by its field offices.

Audit also noted that the arrears of penalties from un-exempted establishments in respect of selected ROs/SROs of Chhattisgarh, Odisha, Gujarat, Delhi, Rajasthan, Tamil Nadu and West Bengal increased from ₹ 443.65 lakh in 2006-07 to ₹ 1371.90 lakh in 2011-12. The details are in table below.

Table 4.5: Levy of penalties

(Amount ₹ in lakh)

Year	Number of defaulting Establishments	Penalties leviable	Penalties levied	Shortfall
2006-07	7546	2799.19	2355.54	443.65
2007-08	9105	4082.12	3129.99	952.13
2008-09	7286	7666.87	6279.28	1387.59
2009-10	9918	3127.33	1982.63	1144.70
2010-11	15949	13397.98	7764.13	5633.85
2011-12	8176	3603.02	2231.12	1371.90

4.6 Transfer of Funds by exempted establishments to Board of Trustees (BOT)

4.6.1 Transfer of Funds

As per EPF Scheme 1952, for exempted establishments, the employer shall transfer to its Board of trustees (BOT) the contributions payable to the Provident fund by himself and employees at the rate prescribed under the Act from time to time by 15th of each month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of section 7-Q of the Act for any delay in payment of any dues to the BOT. In the event of any violation of the conditions for grant of exemption, by the employer or the Board of Trustees, the exemption granted may be cancelled.

Test check of records in selected ROs/SROs in the States of Madhya Pradesh, West Bengal, Rajasthan and Kerala revealed that employers of exempted establishments did not deposit ₹ 129.20 crore¹ to their respective Boards of Trustees.

¹ Madhya Pradesh – ₹ 17.67 crore, West Bengal ₹ 62.84 crore, Rajasthan: ₹ 45.43 crore, Kerala: ₹ 3.26 crore.

Non-transfer of funds by the establishments to their respective BOTs indicates that the establishments were violating the exemption provisions. EPFO did not initiate action to cancel exemption of these erring establishments.

The EPFO stated (November 2012) that directions have been issued to take action as per rules immediately.

4.6.2 Funds remaining un-invested by the BOT

The Boards of Trustees (BOTs) of exempted establishments are required to invest every month the accumulated funds in the manner prescribed by the Central Government from time to time. Failure to make investments as per directions of the Government shall make the BOT liable to surcharge payments.

It was seen that an amount of ₹ 299.78 crore was not invested by the BOTs of 249 exempted establishments in the selected ROs/SROs in five States as per details given below (as on 31 March, 2012):

Table 4.6: Details of funds not invested by BOTs

State	Number of establishments	Amount (₹ in crore)
Odisha	21	5.76
Kerala	161	73.84
Gujarat	46	5.86
Chattisgarh	5	211.24
Punjab	16	3.08
Total	249	299.78

Non-investment of funds was in violation of the exemption conditions.

The EPFO stated (November 2012) that instructions have been issued to all field offices to examine such cases in the light of Act and Scheme provisions to take appropriate action against the BOT who retained the fund at their disposal without investing the same.

4.6.3 Transfer of accumulated balances to Fund by the exempted establishments after cancellation of exemptions

As per Para 28(1) (ii) of the Scheme, the exempted establishments on cancellation of exemption are required to transfer all accumulations to the credit of the subscribers, within ten days of cancellation of the exemption.

It was observed that in RO Kolkata even after cancellation of exemption of 86 establishments, the past accumulation of 42 establishments amounting to ₹ 97.38 crore had not been transferred for one to five years.

4.7 Determination of dues from employers in case of default

Section 7A of the Act empowers the Organisation to determine the amount due from an employer under any provision of this Act, the scheme or the pension scheme or the insurance scheme and may conduct such inquiry as deemed necessary. Accordingly, EPFO quantifies the provident fund dues and raises demand against defaulters. The proceedings under these provisions are quasi-judicial.

The EPFO Headquarters fixed (January 2009) the target of minimum disposal of 50 cases under Section 7A per month for each Assessing Officer. Further, all the cases were required to be finalised within three months and no case was to remain pending for more than 6 months.

Audit noted that in selected ROs/SROs in the States of Andhra Pradesh, Bihar, Delhi, Haryana, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and Goa, the number of cases pending for determination of dues increased from 7324 in March 2007 to 11850 in March 2010 which subsequently decreased to 7089 during next two years.

Extent of delay in determination of dues as on 31 March 2012 in respect of 7089 cases was as under:

Delay upto three months	847 cases
Delay from 3-6 months	1833 cases
Delay more than six months	4409 cases

Thus there were persistent pendencies in cases for determination of dues from defaulters.

Case study - Karnataka (RO Bangalore)

M/s. KSRTC Industrial Training Centre, Shanthi Nagar, Bangalore (code No.41318) was covered since 30 September, 1987. KSRTC had gone on appeal against the coverage of the institution under EPF Act, 1952 which was dismissed in January 2000. However, the unit did not comply with the EPF Rules and its provisions since coverage. Summons was issued under Section 7A in January 2006 after a gap of six years. However, no further progress had been made till date 31 March 2012, except issuing notice in September 2011 and an adjournment notice in December 2012. Thus, dues have not been determined even after 25 years of the Unit's coverage.

4.8 Recovery of dues from defaulters

Where any amount is in arrear from the employers, Section 8B, 8C and 8F of the Act empower the EPFO to issue Revenue Recovery Certificate (RRC) and recover the amount by attachment and sale of movable or immovable property of the establishment or the employer.

Scrutiny of records in selected ROs/SROs in Chhattisgarh, Delhi, Madhya Pradesh, Maharashtra, Odisha and Punjab revealed that (during 2006-07 to 2011-12):

- 14170 bank accounts were seized. Further, against the recoverable amount of ₹ 911.72 crore, only ₹ 182.07 crore was recovered.
- Against 3353 properties to be seized involving ₹ 686.97 crore, only 259 properties were seized and a sum of ₹ 5.50 crore was recovered.

Case studies: Delay in initiating recovery proceedings

Karnataka (RO, Bangalore)

M/s. Ismart Global Ltd., Bangalore (KN23372): ₹ 2.16 crore. The establishment defaulted from December 2007 to October 2009 and an amount of ₹ 209.62 lakh was recoverable. RRC was issued in April 2010 and prosecution was launched only in February 2011. ₹ 216.00 lakh remains to be recovered at the end of December 2012.

M/s Lakshmi Vatika Ltd., Vasant Vihar, New Delhi: ₹ 3.85 crore. The establishment defaulted in depositing the EPF dues for the period June 2006 to April 2007. A notice was served in December 2009 which was followed by issue of RRC for ₹ 3.85 crore in April 2010. Subsequently, the establishment was not traceable and the bank account of the establishment was found to be closed. Consequently, the amount could not be recovered.