

CHAPTER IX : MINISTRY OF INFORMATION AND BROADCASTING

Satyajit Ray Film and Television Institute, Kolkata

9.1 Excess contribution to Employees' Provident Fund

In contravention of the Employees' Provident Fund and Miscellaneous Provisions Scheme, 1952, the Satyajit Ray Film and Television Institute, Kolkata, deposited excess Provident Fund contribution of ₹ 1.89 crore in respect of its 89 employees.

Para 29(1) of the Employees' Provident Fund and Miscellaneous Provisions Scheme, 1952 (Scheme), provides that the contribution payable by an employer under the Scheme shall be 12 *per cent* of the Basic Wages, Dearness Allowance and Retaining Allowance, if any, payable to each employee to whom this Scheme applies. Para 26A (2) of the Scheme further stipulates that the contribution payable by the employee and employer shall be limited to the amount payable on a monthly pay of ₹ 6,500 (enhanced to ₹ 15,000 from 01 September 2014). Para 29 (2) of the Scheme stipulates that the contribution payable by an employee to whom the Scheme applies could, if he so desires, be an amount exceeding the above limit subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under the Scheme.

SRFTI, an academic Institution under the Ministry of Information & Broadcasting, is substantially financed by the Government of India through grants-in-aid. The bye-laws of the Institute provide that the Provident Fund of its employees will be guided by the Scheme. As per the scheme, out of 12 *per cent* of wages, 8.33 *per cent* is deposited in Employees' Pension Scheme (EPS) and balance 3.67 *per cent* is transferred to the Employees' Provident Fund (EPF). Accordingly, the Institute was required to restrict its employer's contribution to ₹ 1,800 per month i.e. 12 *per cent* of the maximum wage ceiling of ₹ 15,000 per month in respect of those employees who were drawing pay more than ₹ 15,000 per month.

Audit noticed that the Institute contributed its share of Provident Fund to the employees at the rate of 12 *per cent* of total pay instead of restricting it to the maximum wage ceiling of ₹ 15,000. Although the share of EPS of the total employers' contribution was 8.33 *per cent* of maximum wages of ₹ 15,000, the whole balance amount i.e. 12 *per cent* of actual wages which meant wages more than ₹ 15,000 p.m. (-) 8.33 *per cent* of wage ceiling of ₹ 15,000 was transferred

to EPF which resulted in excess contribution of ₹ 1.89 crore towards employer's share of Provident Fund in respect of its employees who were members of the Scheme and were drawing monthly salary of more than ₹ 15,000 during the period from April 2015 to March 2019.

Audit further noted that SRFTI had obtained the approval of its Governing Council only for adoption of the EPF Scheme for its employees. Payment of matching contribution (SRFTI's share towards EPF), above the maximum wage ceiling, had, however, neither been placed before its Governing Council, nor before the Ministry (MIB)/EPFO, for obtaining prior concurrence/approval thereon. Further, as per Para 26(6) of the Scheme, the procedure for enhancement of contribution stipulates that an officer not below the rank of an Assistant Provident Fund Commissioner may, on the joint request in writing, of any employee and his employer, allow him to contribute more than the prescribed amount. However, the prior intimation/joint request in this instant case was not made. As such, SRFTI continued to pay the Employer's share towards EPF contribution, in excess of the prescribed ceiling, without approval of the appropriate authority.

In reply, SRFTI stated (March 2020) that the employer's contribution is being paid since the very beginning, from the time of its registration with EPFO in October 1997. It continued to pay 12 *per cent* matching contribution of Basic Pay plus Dearness Allowance, on behalf of the employer, as there is no such restriction/limitation on the employer's contribution of wages. It, however, stated that the matter would be put up for *ex-facto* approval of Standing Finance Committee/Governing Council, in due course.

The reply is not tenable because Para 26A(2) does not empower the employer to contribute over and above the limit fixed under Para 29(2) and relaxation for enhancement of contribution allowed in Para 26(6) is for employee's contribution and not for employer's contribution

The Ministry (January 2021) has also directed SRFTI to immediately revert to making matching contribution of employer (SRFTI) at 12 *per cent* of the pay, restricted to maximum of ₹ 1,800 per month.