



## CONTRIBUTION TOWARDS EMPLOYEES PROVIDENT FUND (EPF) IS REQUIRED TO BE COMPUTED ON AMOUNT OF SPECIAL ALLOWANCE OR ANY OTHER ALLOWANCE AS WELL UNLESS IT SATISFIES CERTAIN SPECIFIED TEST.

In a recent ruling of the Apex Court in the case of The Regional Provident Fund Commissioner & Others vs Vivekananda vidyamandir & others dated 28<sup>th</sup> February 2019 “Contribution towards EPF is required to be computed on amount of Special Allowance or any other allowance as well unless it satisfies certain specified test”.

### BACKGROUND

Section 6 of " EPF and miscellaneous provisions act, 1952" (hereinafter referred to as the 'Act') requires employer and employee to contribute a prescribed percentage of Basic Wages and Dearness Allowance towards Employee Provident Fund ('EPF').

For this purpose, Basic Wages is defined in Section 2(b)(ii) of the Act which is reproduced below

“basic wages” means all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case in accordance with the terms of the contract of employment and

which are paid or payable in cash to him but does not include-

Any dearness allowance that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living, house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment.

### Question before the Hon'ble Court

– *Whether contribution towards EPF is required to be paid on Special Allowance?"*

### Arguments before the Hon'ble Court

It was argued that the special allowance paid to the teaching and non-teaching staff of the respondent school was nothing but camouflaged dearness allowance to reduce the contribution towards EPF. It is liable to taken into account for the purpose of

calculating contribution towards EPF. The allowance shall fall within the term dearness allowance, irrespective of the nomenclature, since it was being paid to all employees on account of rise in the cost of living.

### **FOCAL POINT**

Basic wages which vary from individual to individual according to their efficiency and diligence will stand excluded for the purpose of computation of contribution towards EPF. Hon'ble Court in its verdict held that special allowances such as conveyance, canteen, education, medical, night shift allowances, city compensatory allowances will be included as part of the basis wages liable to deduction unless the employer is able to demonstrate that such allowance is:

- Linked to any incentive for production resulting in greater output by an employee; or
- Not paid across the board to all employees in a particular category.
- Being paid especially to those who avail the opportunity.

For instance, if an employee's basic salary is Rs 10,000 and Mr X gets special allowances of Rs 5,000, unlike earlier where the PF deduction would apply only on basic salary, now it will be clubbed with special allowance and deductions calculated on a combined sum of Rs 15,000.

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