



30 May 2022

EFP Bulletin #33

Attention: Companies in Appeal of Supreme Court of Pakistan on EOBI Case and those receiving notices from EOBI for payment of arrears

This refers to the EFP members informing EFP about EOBI issuing notices to companies for payment of arrears of contribution and update on the status of the case filed by the EFP in the Supreme Court of Pakistan challenging the judgment of Sindh High Court dated 03 December 2021, in the EOBI matter.

Upon enactment of the 18th Constitutional Amendment in the Constitution of the Islamic Republic of Pakistan 1973, the subject "Labour" was devolved upon the provinces. Pursuant to such devolution, the province of Sindh had enacted Sindh Employee Old-Age Benefits Act 2014. Section 55 of the Sindh EOBI Act had repealed the operations of the Employees Old-Age Benefits Act 2014 to the extent of Sindh Province. However, the province of Sindh has failed to establish an institution under the Sindh EOBI Act 2014 to date. On the other hand, EOBI (established 1976 Act) notwithstanding its repeal, continues to operate in the province of Sindh.

In this background, a large number of petitions were filed in Sindh High Court. On 7th September 2021, the High Court disposed of a bunch of petitions, observing that pending resolution of the matter of EOBI between Provincial and Federal Governments, to safeguard the interest of employees, Court directed the employers to continue paying the contribution to the Federal EOBI.

In another set of petitions, wherein, EOBI's circular demanding contribution at the rate of PKR 13,000 was challenged, Sindh High Court on 3rd December 2021 decided in favor of EOBI. Pursuant to this decision, EOBI had locked its portal at the rate of PKR 13,000 per month.

EFP along with petitioner companies filed an appeal in the Supreme Court of Pakistan challenging the above judgment of the Sindh High Court. The Supreme Court has admitted the petition and vide its order on 17 May 2022 has issued notices to EOBI, the Attorney General of Pakistan, and Advocate General Sindh to file their responses to the important questions of law raised in the appeal, further directing that the case will be heard within three weeks.

In the above background, EFP has advised the petitioner companies to pay the contribution as per the portal which is PKR 13,000 which will be adjustable till the matter of rate of contribution is decided by the Supreme Court conclusively.

It is brought to the notice of EFP that given the above two order(s), EOBI has not only started recovering contribution at the rate of PKR 13,000 but has also started demanding arrears since 2013.



EMPLOYERS' FEDERATION OF PAKISTAN

A Company Setup Under Section 42 of The Companies Act 2017
The Apex Body of Employers of Pakistan

Please be advised in very clear terms that:

- Order dated 7. 09. 2021 which authorized EOBI to collect contribution is only an interim arrangement.
- Sindh High Court has authorized EOBI to collect contributions till the resolution of the dispute between the Provincial and Federal Governments.
- EOBI, by any stretch of the imagination, is not empowered to undertake an audit/inspection of accounts or recover any arrears.

EOBI had issued a notice of arrears to several companies who challenged those notices in the High Court of Sindh, wherein EOBI is restrained from recovering arrears from the companies.

In case, any member company receives any notice of audit/inspection or notice of arrears, it may approach EFP for obtaining similar relief by becoming a party in the above case pending for disposal in Sindh High Court.

Interested companies are requested to convey their consent by sending the following documents to the EFP Secretariat Karachi at the earliest:

1. Consent Letter on the attached prescribed format
2. Authority Letter on the prescribed attached format
3. Crossed cheque of PKR 100,000/- (Exclusive of tax) to be made in favor of 'Employers' Federation of Pakistan

With warm regards,

Syed Nazar Ali
Secretary-General