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EFP Bulletin# 35

Minutes of the Consultative Meeting on the EOBI Case

A consultative meeting of EFP members was convened by EFP on 14th November 2022 at 3:30 pm at Hotel Movenpick Karachi to discuss issues related to EOBI. The meeting was attended by more than 100 participants. Mr. Zaki Ahmed Khan, Vice President EFP, Mr. Zaheer Minhas, Advocate Supreme Court of Pakistan, and Mr. Fasihul Karim Siddiqi, Senior Advisor EFP, addressed the meeting which was moderated by Syed Nazar Ali, Secretary General EFP.

The following issues confronted by members from EOBI were brought out for discussion:

EOBI has been issuing notices to companies demanding arrears of contribution for the years 2013 onwards as arrears of land revenue under threat of attachment.

EOBI was demanding contribution on the basis of minimum wages of Rs. 25000, locked the online portal at Rs. 25000 per month, and was not accepting payment of contribution at the rate of less than Rs. 25000 per month. A Notification by Commissioner Islamabad notifying Rs. 25000 as minimum wage applicable to ICT has been quoted as a reference in support of the change of contribution rate in the online portal.

On the first point mentioned above, members were informed that in a civil suit filed before the Sindh High Court, the Sindh High Court has been pleased to issue orders restraining EOBI unconditionally from taking coercive action against the companies which are parties in the case. Companies receiving EOBI demand notices for payment of contributions as arrears of land revenue were well advised to approach the Sindh High Court through a civil suit for seeking appropriate relief.

So far as the second point is concerned, members were informed that the ICT notification is applicable and valid for ICT only. EOBI did the same a few years ago when similar notifications were issued in all provinces. When challenged Lahore and Peshawar High Courts declared them invalid, and the matter is still pending in Baluchistan HC. Sindh High Court however gave a judgment dismissing the petitions based on frivolous grounds which has been challenged in the Supreme Court of Pakistan.

The members were informed about the legal position that unless the definition of "wages" is not amended in EOBI Act 1976 by the Federal Govt(which is not possible due to the 18th amendment) or by the provincial govt in the post-2010 adopted /amended/enacted EOBI Act, or the Supreme Court comes out declaring ICT notifications applicability throughout Pakistan (which does not logically and legally seem to be a possibility), EOBI by itself can not take the law-making power in its own hand and demand increased contribution from Provinces on the basis of an ICT notification which has limited jurisdiction.

Federal Govt is however currently trying to find out a way for Federal legislation in the matter to make EOBI federally managed to which Sindh Govt is not in agreement.

Till such time the matter is not legally resolved between the Federal and Provincial Govt., the SHC has allowed EOBI to collect contributions as per EOBI Act 1976.

In view of the above, EOBI has no jurisdiction to demand contributions from provinces on the basis of an ICT notification. The legality of any such action that will have to be challenged is however also trying to have an exclusive meeting with the Chairperson of EOBI next week to find out if there could be any solutions to issues without approaching the court. The members will be dully informed about the progress in due course.



EMPLOYERS' FEDERATION OF PAKISTAN

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

Since EOBI is demand for contributions at the rate of minimum wage of Rs. 25000 is illegal and without any legal base, EOBI has also made changes in the online portal demanding contributions at the increased minimum wage rate of rupees 25000 in all four provinces, the matter can be challenged in all 4 provincial high courts.

EFP is ready to facilitate companies in the following legal action:

challenging EOBI's demand of contribution for the period 2013onwards as arrears of land revenue in the Sindh High Court and other provincial High Courts through civil suits seeking appropriate reliefs including an order restraining EOBI from taking coercive action through illegal demand notices for collection as arrears of land revenue

challenging EOBI's act of demanding contribution at the increased minimum wage rate of 25000 on the basis of ICT notification. These cases may be filed in all 4 provincial High Courts seeking appropriate relief restraining EOBI from seeking forced payment from enterprises through a change in the online portal.

Member enterprises were free to approach the court through their own lawyers.

However, the companies interested to file the suit and constitutional petitions through EFP are advised to send to the EFP secretariat the following documents as early as possible:

Copy of the notice/s received by the company from EOBI demanding arrears of contribution.

[Consent Letter](#) in the attached prescribed format.

[Authority Letter- Civil Suit](#) in the attached prescribed format.

[Authority Letter- CP](#) in the attached prescribed format.

Cheque of Rs. 200,000 in favor of the Employers' Federation of Pakistan as processing and professional fee for each case.

It may be noted that since the filing of a civil suit challenging demand notices and the filing of constitutional petitions challenging EOBI demands of increased contributions at the minimum wage of Rs. 25000 and a consequent change in the online portal will be two separate cases, companies which are interested in filing both the cases will be required to pay Rs. 400,000 as processing fee through crossed cheque in favor of "Employers Federation of Pakistan."

For more details, please contact fs@efp.org.pk / +92 300 8237979

With warm regards,

Fasihul Karim Siddiqi

Senior Advisor