

Item No. 18 Request for waiver of damages under section 14B of the EPF & MP Act, 1952 to M/s. Indo Gulf Industries Ltd.-consideration.

M/s. Indo Gulf Industries Ltd., is covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 under Code No.DL/9760.

2. The establishment committed default in payment of damages and interest for the period 09/1997 to 01/2005 and upto 10/2010. Accordingly, damages & interest under Section 7Q were levied for the said period as per details as under:

(A) Period Prior to 01.07.1997

Period of Default	Damages	Actual Interest Component	Amount eligible for waiver
NIL	NIL	NIL	NIL

(B) Period from 01.07.1997

Period of Default	Damages	Actual recommended for waiver
(1)	(2)	(3)
09/1997 to 01/2005 and upto 10/2010	Rs.54,48,351/-	Rs.54,48,351/-

Period of Default	Damages levied	Actual Interest Component	Amount eligible for waiver	Interest levied under section 7Q
1	2	3	4(2-3)	5
09/1997 to 01/2005 and upto 10/2010	Rs.54,48,351/-	Rs.0/-	Rs.54,48,351/-	Rs.36,87,009/- Paid by the establishment
Total	Rs.54,48,351/-		Rs.54,48,351/-	

3. The establishment was registered with Board for Industrial and Financial Reconstruction (BIFR) with case No.12/2008. The BIFR vide order dated 23.10.2008 declared the establishment sick and sanctioned rehabilitation scheme vide order dated 24.06.2010 with cut-off date i.e. 01.10.2008. The BIFR also recommended:

“To consider to exempt the company from payment of damages and penalties in accordance with their extant regulations and guidelines for reliefs and concessions to sick industrial companies under the Rehabilitation Schemes sanctioned by BIFR”.

4. The establishment has made a request for waiver of damages and interest.
5. As per the provisions of Employees Provident Funds and Miscellaneous Provisions Act, 1952 interest levied under Section 7Q cannot be waived as the interest so levied goes to the accounts of the members. Accordingly, the establishment was directed to deposit interest levied under Section 7Q first.
6. The establishment has deposited the interest of Rs.36,87,009/- in 3 (three) equal instalment of Rs.12,29,003/- on 14.08.2014, 25.08.2015 and 19.07.2016 interest under section 7Q and the same has been confirmed by RPFC-I, R.O., Delhi South vide enclosed letter dated 07.06.2017.
7. In order to qualify for waiver of damages, the establishment has to fulfil the following conditions:
 - (a) It must be a sick industrial company.
 - (b) A sanctioned scheme of rehabilitation by BIFR is available.
8. There is no provision in the Act or in the Scheme with reference to fixing of the period of such waiver.
9. As per rules, the damages levied under Section 14B can be considered for waiver in accordance with IIInd proviso to Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 which reads as under:

“Provided further that the Central Board may reduce or waive the damages levied under this section in relation to an establishment which is a sick industrial company and in respect of which a scheme for rehabilitation has been sanctioned by the Board for Industrial and Financial Reconstruction, established under section 4 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), subject to such terms and conditions as may be specified in the Scheme”.

10. The terms and conditions as have been specified in the Employees' Provident Fund Scheme, 1952 under Para-32-B provides that:

“The Central Board may reduce or waive the damages levied under Section 14B of the Act in relation to an establishment specified in the second proviso to Section 14B, subject to the following terms and conditions, namely:-

- (a) In case of a change of management including transfer of the undertaking to workers' co-operative and in case of merger or amalgamation of the sick industrial Company with any other industrial company, complete waiver of damages may be allowed;
- (b) In cases where the Board for Industrial and Financial Reconstruction, for reasons to be recorded in its scheme, in this behalf, recommends, waiver of damages upto 100 per cent, may be allowed;
- (c) In other cases, depending on merits, reduction of damages upto 50 percent may be allowed.”

11. RPFC-I, R.O. Delhi South vide letter dated 07.06.2017 has recommended for waiver of damages.
12. The request of the establishment has been examined in accordance with the above provisions and keeping in view the order of BIFR dated 24.06.2010.
13. On examination, the amount of damages eligible for waiver as per the existing policy has been worked out to be Rs.54,48,351/-for the period 09/1997 to 01/2005 and upto 10/2010.

Proposal: The damages levied to the tune of Rs.54,48,351/-for the period 09/1997 to 01/2005 and upto 10/2010 is to be waived.