

EMPLOYEES' PROVIDENT FUND ORGANISATION
(Ministry of Labour Govt. of India)
REGIONAL OFFICE
"Bhavishyanidhi Bhavan", Nr.
R.B.I., Income Tax Circle, Ashram
Road, Ahmedabad-380014.

19 MAY 2004
પટેલ બિડી પ્રોડક્ટ્સ
શ્રી

In the matter of Applicability Dispute - Inquiry under Section 7A of the Employees' Provident Funds & Misc. Provisions Act, 1952, against M/s. Patel Bidi Products, 745/43, Cement Chawl, Gorntipur, Ahmedabad, bearing Provident Fund Code No. GJ/25100.

ORDER

The facts of the case are as under :-

The subject establishment has been covered under the Provisions of the Employees' Provident Funds & Misc. Provisions Act, 1952 vide this Office Code Draft letter No. GJ/AH/25100/ENF.IV/9012 dated 24/3/1995 with effect from 1/4/1994 as a under Schedule Head "Bidi Industry" on the basis of Inquiry Report submitted by Squad consisting of Shri P.S.Chauhan, Assistant P.F.Commissioner, Shri D.M.Patel, Enforcement Officer & Shri J.K.Yadav, Enforcement Officer. The squad has also submitted a report stating that the establishment is engaged in the trading activity of bidi and purchases unlabeled bidies from the contractors/sellers. After purchase of bidi the heat treatment is given to these unlabeled bidies and sold with label by the establishment under its brand name. The squad has also mentioned in the Report that the contractor/seller do not maintain any record and therefore it is not possible to ascertain the actual number of workers engaged as well as actual cost of labour charges and suggested that to ascertain the number of persons engaged for manufacturing of unlabeled bidies, presuming that one person rolls 1000 bidies per day and the rate of prevailing labour charges for manufacturing unlabeled bidies for 1000 may be considered to ascertain the cost of labour charges paid to the bidi rollers of the contractors/seller.

The establishment did not report compliance and therefore an inquiry under Section 7A of the Act was initiated vide Summon No. GJ/25100/ENF.2/1105 dated 18/10/1996 asking the Representative of the establishment to appear on 11/11/1996 to represent the case either in person or through authorised representative along with necessary documents as listed in the Summon. With reference to 7A Summon, the establishment has submitted a letter stating that the Act is not applicable

to the subject establishment as the employment strength never exceeds than 10 employees on any single day. The establishment is not manufacturing bidies, the establishment purchases bidi from open market and resale it after putting lables of their brand and therefore the 7A Inquiry initiated against the establishment is illegal and disputed applicability of the Act. Since the bidi workers working in the establishment are members of SEWA, an Organization engaged in the welfare of women in Gujarat. The Union Co-ordinator of the SEWA was also made a party in the 7A Proceedings and the 7A Proceedings have been continuing since than. On going through the 7A Proceedings dated 24/11/1998, 11/1/1999, 26/10/1999, 7/2/2000, 6/3/2000, 3/4/2000, 8/5/2000, 5/6/2000, 4/7/2000, 22/10/2002, & 14/7/2003 it is observed that Kum. Geeta Koshti, Representative from SEWA & Ms. Manali Shah, Union Co-ordinator appeared on behalf of the SEWA and assured that they will file documentary evidences such as list of workers engaged by the establishment, identification of the workers and wages paid to bidi but it appears that the documents as assured by the Representative of SEWA have not been submitted on the aforesaid dates. The establishemnt was also represented by Shri Chetan G.Patel, Karta of the establishment and Shri Ashok Shukla, Advocate. The Representative of the establishment has always taken the same plea as was taken in the letter submitted by the establishment with reference to 7A Summon dated 18/10/1996 stating that the Act is not applicable to their establishment as the establishment never employed more than 10 employees.

The Representative of SEWA were requested vide this Office letter No. GJ/PFC/ENF.II/23/25100/1231 dated 8/7/2003 and lastly vide letter No. GJ/PFC/ENF.II/25100/3977 dated 15/3/2004 pointig out that the establishment has been disputing applicability of the Act on the ground that it never employed more than 10 employees on any single day and the 7A inquiry is pending from 11/1996 and onwards and inspite of giving ample opportunities the SEWA has not submitted any documentary proof regarding total number of workers and wages paid. With reference to letter dated 8/7/2003, & 15/3/2004 the Union Co-ordnt., SEWA has informed vide

letter dated 16/7/2003 & 5/4/2004 that negotiations are going on between bidi employers, Officials from Labour Department, Representatives of SEWA, & Regional & Central Provident Fund Commissioner, regarding the formation of tripartite Trust that will look after the provident fund benefits of the bidi workers and it is on the verge of finalisation and Ms. Manali Shah, Union Co-ordinator/Vice President, requested to keep the inquiry under Section 7A of the Act, in respect of subject establishment pending till the tripartite Trust is finalised.

The Representative of the SEWA, Ms. Shalini Trivedi who appeared on last date of hearing fixed on 5/4/2004 has been explained that so far provident fund Act is concerned, it is a central legislation and therefore it is uniformly applicable to all bidies establishments covered under the Employees' Provident Funds & Misc. Provisions Act, 1952 in various States and therefore there is no possibility of formation of tripartite Trust only for bidi workers of Gujarat State and requested to submit the documentary proof if any available in respect of bidi workers working in the subject establishment, but SEWA has failed to submit the documentary proof.

I have gone through the Inquiry Report submitted by the Squad of Assistant PF Commissioner along with their submission wherein they have not given the details of employees working in the establishment and suggested that number of employees may be counted on the basis of bidi rolled presuming that one bidi worker rolls 1000 bidies per day similarly the cost of manufacturing bidi be ascertained on the basis of total bidi rolled. I have gone through the representation made by the Representative of the establishment disputing applicability of the Act, stating that establishment never employed more than 10 persons on any single day and always insisting upon to ask the SEWA to produce the documentary evidence in respect of workers working in the establishment. I have also gone through the submission made by Representative of SEWA, the Representative of SEWA never submitted any documents with reference to number of workers working as well as wages paid to the workers of the establishment and stated that negotiations are going on between the bidi

employers, officers of Labour Dept., Representative from SEWA, Regional & Central Provident Fund Commissioner, regarding tripartite formation Trust and requested to keep the inquiry in respect of subject establishment pending till the tripartite Trust is finalised.

I have therefore applied my mind to the facts of the case, and it is noticed that the establishment always taken the plea that it never employed more than 10 workers on any single day and the Representative of the SEWA has also failed to produce the documents in respect of workers working in the establishment with wages paid it has become very difficult to decide the issue and since the 7A Inquiry has been pending from 11/1996 i.e. more than 7 years, therefore, I am of the opinion that there is no purpose in prolonging further the present 7A Inquiry against the establishment. Therefore, in exercise of the powers conferred on me under Section 7A of the Employees' Provident Funds & Misc. Provisions Act, 1952, I hereby close the inquiry initiated against the establishment without any conclusion. However, the said inquiry may be reopened if the SEWA/Employees' Representative submit any documentary proof for the said purpose.

I order accordingly.



R.D. DEO

[R.D. DEO]

ASSISTANT PF COMMISSIONER

To,

M/s. Patel Bidi Products,
745/43, Cement Chawl,
Gomtipur, Ahmedabad.

No. 651/PF/EI/ENT-II/272 dated 05/05/04

Copy to :

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The Vice President,
Self Employed Women's Association,
Sew Reception Center,
Opp. Victoria Garden,
Bhadra,
Ahmedabad-380001.