



KARNATAKA EMPLOYERS' ASSOCIATION

NO.74, 2nd FLOOR, SHANKARA ARCADE, VANIVILAS ROAD, BASAVANAGUDI

BENGALURU - 560 004

Reg. No. TU 507 / 20-3-1962

Date : 01-03-2019

CIRCULAR No.18/2019

To
All Members of the Association

HONOURABLE SUPREME COURT HOLDS EPF CONTRIBUTION PAYABLE ON ALLOWANCE EXCEPT HRA.

1. The Members were informed by KEA Circular No. 11/2019 dated 08.02.2019 that the Hon'ble Supreme Court has reserved the judgment in the case of Surya Roshini vs. EPF Organization and others in Civil Appeal No. 3965 to 3970/2013 and other appeals.
2. The Hon'ble Supreme Court has delivered its judgment on the above Appeals on 28.02.2019. The operative portion of the judgment is extracted below:

"In order that the amount goes beyond the basic wages, it has to be shown that the workman concerned had become eligible to get this extra amount beyond the normal work which he was otherwise required to put in. There is no data available on record to show what were the norms of work prescribed for those workmen during the relevant period. It is therefore not possible to ascertain whether extra amounts paid to the workmen were in fact paid for the extra work which had exceeded the normal output prescribed for the workmen. The wage structure and the components of salary have been examined on facts, both by the authority and the appellate authority under the Act, who have arrived at a factual conclusion that the allowances in question were essentially a part of the basic wage camouflaged as part of an allowance so as to avoid deduction and contribution accordingly to the provident fund account of the employees."
3. In the above judgment, the Supreme Court has reiterated the law laid down by it in the case of Bridge and Roof, Muir Mills Co. Ltd., and Manipal Academy of Higher Education (reported in AIR 2008 SC 1951).
4. PF Contribution shall have to be made on Basic wages + DA if any + Retaining Allowance if any, in accordance with Section 6 of the EPF Act, read with Paragraph 29 of the EPF Scheme. The 'Basic wages' is defined under Section 2 (b) of the EPF Act. The term 'Basic wages' as defined therein means, all emoluments which are earned by an Employee, while

on duty or on leave with wages, in accordance with the terms of the Contract of Employment and which are paid or payable in cash to him.

5. Section 2(b) itself excludes the following Allowances paid to the Employee from the definition of 'basic wages'.
 - Cash value of any food concession
 - 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.
 - Any present made by the employer.
6. In terms of the above decision, excluding the above category of allowances, PF contribution shall have to be made on all other allowances particularly, in the case of employees whose basic pay is less than R.15,000/- p.m. The judgment has no implication in the case of employees whose basic pay is above Rs.15,000/- p.m. and contributing to the provident fund on the basic pay.
7. The Association is organizing Workshop for discussing the implications of the judgment and the details will be informed separately.

for KARNATAKA EMPLOYERS' ASSOCIATION

**sd/-
(B.C. PRABHAKAR)
PRESIDENT**