

Sub : The New Amnesty Scheme-2010, for withdrawal of Criminal Cases filed against the Insured Persons and Employers under Sec. 84, 85 and 85 A of ESI Act 1948 and settlement of cases filed by Employers under Sec. 75 of ESI Act 1948.

The Corporation in its 149th meeting held on 19/02/10 has approved launching of new Amnesty Scheme 2010 to reduce the number of litigation and to unlock the dues stuck up in Court cases.

The salient features of current Amnesty Scheme 2010 are as under:-

A. SCHEME TO WITHDRAW COURT CASES FILED U/S 84, 85 & 85-A OF ESI ACT – 1948

a.) Cases filed against the Insured Person U/s 84 of ESI Act.

- i) The amount paid in excess to the Insured Person is refunded in full by him/her to the Corporation.
- ii) No interest will be claimed.
- iii) An undertaking is also given by Insured Person to the effect that he/she would not give wrong declaration in future.

b.) Cases filed against the employers U/s 85 & 85A filed upto 28/2/2010.

All the prosecution cases filed against the employers under Section 85 and 85-A of the ESI Act up to 28th February 2010 may be withdrawn subject to the following conditions:-

- i) The employer shall pay both the Employees and Employer's share of contribution in full as per his records, which he shall produce before the assessing officers if the contribution has been assessed on assumed wages.
- ii) In case the relevant records are not available with the employer, he shall produce alternative records such as income Tax Returns etc., and shall pay the contribution as per the record. However, if the employer is not able to produce any records, he shall pay contribution on the basis of following, in the same order. (i.e. only in cases where records as per option 'a' is not available, down below alternatives in the same order is to be exercised for assessing dues.)
 - (a) The rate of monthly contribution paid for the month prior to the month from which default started.,
Or
 - (b) Monthly wages declared in Form -01.,
Or
 - (c) Monthly wages reported by I.I. in the Survey Report.,
Or
 - (d) Minimum wages applicable in the State/Region.,
- iii) The employer pays the interest due for the period of prosecution in full.
- iv) No damages shall be levied.
- v) The employer shall also furnish an undertaking to the Corporation to the effect that he/she shall be regular in compliance with the provisions of ESI Act in future or else he/she shall forfeit the right to avail of such Amnesty Scheme.

B. SETTLEMENT OF CASE FILED U/S 75 OF ESI ACT-1948

This Scheme shall also include cases filed upto 28.2.2010, in which the employer has disputed the determination or recovery of contribution in the Employees' Insurance Court, u/s 75 of the ESI Act, subject to fulfillment of the following conditions:-

- i)** The employer shall file a petition before the court where he has raised the dispute and seek the permission of Ld. Court for out of Court settlement of matter under litigation. If Court allows, then the matter shall be settled as per this scheme. The employer/IP shall apply for the Scheme in the enclosed proforma of Annexure 'A'.
- ii)** The employer shall pay both the Employees' and Employers share of contribution in full as per their records, which he shall produce before the assessing officers if the contribution has been assessed on assumed wages and he shall comply with other provisions of the Act.
- iii)** In case the relevant records are not available with the employer, they shall produce alternative records such as Income Tax Record etc. and shall pay the contribution accordingly as per that record
- iv)** However, if the employer is not able to produce any records and the assessment has been made in respect of wages other than the wages shown in Reg. 32 register, he shall pay the contribution which shall not be less than the 30% of the assessed amount of contribution. However, cases where assessment has already been made as per Hqrs. Instruction No. P.11/13/97-Ins.-IV dated 26.05.2003 or where the contribution has been assessed on actual basis will not fall under the purview of this scheme.
- v)** The employer pays the interest in full.
- vi)** No damages shall be levied.
- vii)** The employer shall also furnish an undertaking to the Corporation to the effect that he/she shall be regular in compliance with the provisions of ESI Act in future or else he/she shall forfeit the right to avail of such Amnesty Scheme.

C. The Scheme will also be available to those employer/Insured Persons who have already availed of the benefits of earlier Amnesty Schemes.

D. The New Amnesty Scheme-2010, will be in force from 1st March 2010 till 28th February 2011.

PROFORMA FOR WITHDRAWAL OF COURT CASES.

- i) Name and address of the Insured person/employer
- ii) Employer Code No./Insurance No.
- iii) Date of Institution of case
- iv) Name of the Court/Forum in which case is pending
- v) Section of ESI Act 1948 under which the case was filed
- vi) Present status of the case and the issues involved
- vii) Details of amount involved with period.

S.No.	Nature of default	Compliance made

- viii) Copy of Court permitting out of Court settlement in case of litigation u/s 75 of the Act.
- ix) Proof & Details of deposit of the amount.

The above information is true and correct to the best of my knowledge. I also undertake that I shall be regular in compliance in the provisions of ESI Act in future or else shall forfeit the right to avail of such Amnesty Scheme.

Signature of the Applicant

Date:

Name:

Place:

Status: