



कर्मचारी राज्य बीमा निगम
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
EMPLOYEES' STATE INSURANCE CORPORATION
(Ministry of Labour & Employment, Govt. of India)



मुख्यालय
Headquarters
पंचदीप भवन सी.आई.जी. मार्ग, नई दिल्ली-110002
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-110 002
Phone: 011-23604700 Email: dir-gen@esic.nic.in
Website : www.esic.nic.in / www.esic.in

No. T-11/13/66/01/2023-Rev.II

Dated:24.07.2024

To,

All AC & RDs/Directors I/c /JD I/c /DD I/c
All ROs/SROs, ESI Corporation,

Sub: Timely determination of contribution as per section 45-A of ESI Act ,1948 (as amended)- Reg.

Sir/Madam,

I am directed to draw your attention to the instruction issued by this office vide circular dt.24.08.2023 (copy enclosed) wherein all RO/SROs were advised to issue demand notices online, so that C-18 register may reflect the complete status in respect of all cases for monitoring by the RD/SRO I/c. It will also help the RD/SRO I/c to closely monitor the issuance of 45-A with in the time limit as provided in second proviso to the section 45 A of ESI Act to avoid the cases becoming time barred.

It has come to notice of Hqrs office that some of the RO/SROs have issued 45-A order for time barred period and assessment has been challenged by the employer before the Hon'ble Courts. In one of the such cases Apex court has dismissed the assessment order on the ground that assessment has been made beyond the period of five years. The action of assessment of the contribution for a period beyond the limitation envisaged under Section 45 A of the ESI Act-1948 has resulted in protracted litigation and infructuous expenditure in the form of litigation which ultimately went against the Corporation. This has been viewed seriously by the competent authority.

Consequently, all field offices are directed to adhere to the time limit provided u/s 45-A of ESI Act 1948 (as amended) while determining the contribution and issuing of speaking orders to avoided litigation and resultant loss to the Corporation.

Your attention is also invited to this office letter dt. 01.12.2010 (copy enclosed) whereby it was directed that where the employer disputes coverage/ claim of contribution in court of law and further proceedings are stayed by the court conditionally or unconditionally, it is the responsibility of the concerned ROs/SROs to make a request to the court granting such stay, that the period of stay be excluded for the purpose of the proviso to section 45- A of ESI Act for determination of the contribution.

Further in such cases where the RO/SRO have filed case U/s 85(g) before Hon'ble

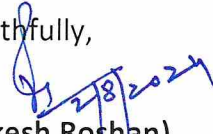
El court for Non-production of records by the employer and issue is under sub judice, concerned field offices are advised to request the courts that while convicting the employer, the direction for production of the records may also be given so that, assessment may be made in time.

This circular may be brought into the notice of all concerned for guidance and strict compliance.

This issues with the approval of Insurance Commissioner (Rev).

Encls: Circular dt. 01.12.2010 & 24.08.2023.

Yours faithfully,


(Rakesh Roshan)
Dy. Director, Revenue

Copy to: The Website Content Manager with the request to upload on the website of ESIC.


Dy. Director, Revenue

EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN', C.I.G ROAD,
NEW DELHI - 110 002.

Website - esic.nic.in ((011) 23234092



No. P-12/11/11/38/2010-Rev.II

Dated:

11/12/2010

To
The RD/Director/JD I/c,
ESI Corporation,
RO/SRO/DO

Sub: **ESI Amendment Act, 2010 – issue of order under section 45-A
of Act – Clarification thereof.**

Sir,

A reference has been received where the employer disputes coverage/
claim of contributions in the court of law & further proceedings are stayed by court.
In this connection, the matter was analyzed & the legal opinion was obtained from
Shri K.N. Chaturvedi (Copy enclosed).

It was opined by Shri Chaturvedi that where the employer disputed
coverage/claim of contribution in court of law & further proceedings are stayed by
the court conditionally or unconditionally, it is for the corporation to make a request
to the court granting stay that the period of stay be excluded for the purpose of the
proviso to Sec 45-A

You are requested to take action according to the enclosed legal
opinion.

Encl: As above

Yours faithfully,

(SUSHIL SACHDEVA)
ASSTT. DIRECTOR (REV.II)

Copy to:

Regional Director, Kolkata with reference to their letter of even no. dated
06/07/2010 & 26/07/2010 for information.

ASSTT. DIRECTOR (REV.II)

Dr. K.N. Chaturvedi

L.L.B. L.L.M., Ph.D

Advocate

Supreme Court

Former Secretary (Law)
Ministry of Law & Justice
Government of India

ESIC-Legal Opinion/ -2010(October

Reference- An urgent legal opinion has been sought on the point where the employer disputes coverage/claim of contribution in court of law and further proceedings are stayed by the court, conditionally or unconditionally, and the corporation is not in a position to proceed further on account of stay, can this office claim for the barred period in the light of recent amendment.

Legal Analysis.-The ESI Amendment Act 2010 has been notified and it has come in to effect w.e.f. 01-06-2010. The unbridled powers of the visiting inspectors demanding the contribution for the very old periods also, have been put to hold by the Parliament (on the recommendations of the Apex Court). The New Proviso has been inserted in Section 45A, which provides as under

"Provided further that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable".

Legal Opinion- The object of the proviso to section 45-A is that no such order shall be passed by the Corporation in respect of the period beyond five years from the date on which the contribution shall become payable. Where the employer disputes coverage/claim of contribution in court of law and further proceedings are stayed by the court, conditionally or unconditionally, it is for the corporation to make a request to the court granting stay that the period of stay be excluded for the purpose of the proviso to section 45-A.



K.N.Chaturvedi 13.10.2010



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(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
Employees' State Insurance Corporation
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Panchdeep Bhawan, C.I.G. Marg, New Delhi - 110002
Website : <https://esic.nic.in> / www.esic.in

F. No. I-11012/5/2022/ICT

Dated:- 24-08-2023

To,

The Regional Director/Joint Director/Dy. Director (In-Charge)
Regional Office/Sub Regional Office
Employees' State Insurance Corporation

Sub:- Provision of C-18 Register- reg

Sir,

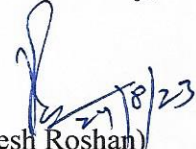
With reference to above mentioned subject, it is informed that as per Revenue Manual, C-18 register has been incorporated in the Insurance Module (Others – MIS Reports-AOD C18- C19 Register Details) wherein details of C-18, SO 45-A and C-19 can be viewed. The access to view the C-18 register has been provided to Office Superintendent, Revenue Branch Officer & Regional Director of concerned RO/SRO and Insurance Commissioner (Revenue) at Hqrs. Office. This will enable the concerned head of the office of ROs/SROs to monitor the revenue notices, orders u/s 45 A etc.

All the RO/SRO are advised that Revenue notices must be issued online, so that C-18 register may be maintained accordingly. In case of any issue, the matter may be reported to ithelpdesk.

Further, communication or direction in this regard, will follow from Revenue Branch, Hqrs. Office.

This issues with the approval of Insurance Commissioner (ICT).

Yours faithfully,


(Rakesh Roshan)
Dy. Director (ICT)

Copy to:-

1. PPS to DG/CVO/IC (Revenue) for kind information please.
2. Revenue Branch, ESIC Hqrs. Office for information and further necessary action.
3. Website Content Manger with request to upload on website.