

EMPLOYEES STATE INSURANCE CORPORATION  
PANCHDEEP BHAWAN 20 MARG NEW DELHI

Website: www.esic.org.in

No. P-11/4/32/2009-Rev. II

Dated 2/03/2010

To,  
The Regional Director/Director/  
Joint Director I/c,  
ESI Corporation  
Regional Office/Sub-Regional Office/Divisional Office,

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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.

Sir/Madam,

The Corporation in its 149<sup>th</sup> 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 new Amnesty scheme provides withdrawal of cases subject to following terms and conditions.

**A. SCHEME TO WITHDRAW COURT CASES FILED u/s 84, 85& 85-A OF ESI ACT- 1948**

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- (a) **Case filed against the Insured Person under section 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 under section 85 and 85-A of the ESI Act:-

All the prosecution cases filed against the employers under section 85 and 85-A of the ESI Act up to 28 February, 2010 may be withdrawn subject to the following conditions:-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 that 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
    - (a) Monthly wages declared in form-01.,
      - Or
      - (b) Monthly wages reported by I.I. in the Survey Report.,
        - Or
        - (c) 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. SETTELLEMENT 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 Hon'ble Court for out of 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 in the provisions of ESI Act in future or else he/she shall forfeit the right to avail of such amnesty scheme.
- C. **All cases are required to be settled as per this scheme, within 3 months from the date of filing of application by the Principal Employer/Insured Person.**
- D. The Scheme will also be available to those employers/ insured persons who have already availed of the benefits of earlier Amnesty Schemes.
- E. **The New Amnesty Scheme –2010, will be in force from 1<sup>st</sup> March 2010 till 28th February 2011.**
- F. **The Regional Directors/Joint Directors I/c of the Regional /Sub-Regional Office/ Divisional Office are fully empowered to accord sanction for withdrawal/ settlement of cases referred as per Para (A) and (B) on receipt of compliance as per the scheme.**
- G. The details of cases withdrawn against the Insured Persons may be submitted as per Annexure- B on monthly basis. Monthly position of the cases withdrawn against the employer may be submitted at Annexure – C in the similar manner. Consolidated position of cases withdrawn during the period of Amnesty in respect of prosecution cases filed both against Insured Person and Employer may be submitted in 'E' and 'F' respectively. In respect of cases settled against the matter pending in Employees Insurance Court information may be submitted in Annexure – 'D', while consolidated position of such cases may be submitted in Annexure – 'G'.
- The Regional Director /Joint Director I/c are requested to give wide publicity to the scheme through advertisement/press release in leading local newspapers and by holding continuous interaction/meeting with Employer and Trade Union etc.. The contents of the new amnesty scheme 2010 must also be posted on the Regional Web site. The members of Regional Board/Local Committee/Worker Union and**

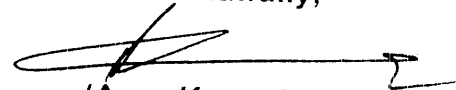
Employer Association must also be informed about launch of New Amnesty Scheme 2010.

- H. RD/JD I/c's need not refer any case to Hqrs.
- I. Keeping in view benefits available to the employer concerned in the current Amnesty Scheme, it is expected that all out efforts as envisaged above shall be made for making the scheme achieve its objective in totality both with settlement of Court cases as well as Revenue income for the Organisation.
- J. The receipt of this communication may be acknowledged.

This issues with the approval of Director General.

Hindi version will follow.

Yours faithfully,

  
(Arun Kumar)  
Director (Rev.)

Copy forwarded to :

1. All Divisional Heads in Hqrs. office.
2. All SSMCs/SMCs- for information.
3. Joint Directors/Dy. Director (Fin.), ESI Corporation, Regional Office, \_\_\_\_\_ for information.
4. A.C. (Vig.) Hqrs. Office.
5. Dir. (Vig.)/JD (V) (NZ)/JD (V) (EZ)/JD(V) (WZ)/JD (V) (SZ) for information.
6. Dir. System Division, Hqrs. office with the request to post the matter in the Official Website of ESI Corporation.
7. All branches in Hqrs. office for information.

  
Asst. Director (Rev. II)

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 order 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 a avail of such Amnesty scheme.

Signature of the Applicant

Date:  
Place:

Name:  
Status:

Details of Prosecution cases withdrawn under Section 84 of ESI Act against Insured Persons in respect of \_\_\_\_\_ Region

For the month of \_\_\_\_\_

Sl.No	Name of insured person & Ins. No.	Period of false Declaration etc.	Amount of excess payment involved in the criminal case	Date of refund of full amount of excess payment	Date of withdrawal of prosecution from the Court	Remarks
1	2	3	4	5	6	7

ANNEXURE - C

Details of Prosecution cases withdrawn under Section 85/85-A of ESI Act against Insured Persons in respect of \_\_\_\_\_ Region

For the month of \_\_\_\_\_

Sl No	Name of Employer/Co de No.	Period of default involved in criminal case	Compliance position		Amount of Interest	Total amount paid	Date of Payment		Date of withdrawal of prosecution from the Court	Remarks
			Amount of Cont. Employees' Cont.	Employer's Cont.			Cont.	Interest		
1	2	3	4	5	6	7	8	9	10	11

Details of cases settled in respect of matters pending in Employees Insurance Court in respect of \_\_\_\_\_ Region

For the month of \_\_\_\_\_

Sl No	Name of Employer/Code No.	Compliance position		Amount of Interest	Total amount paid	Date of Compliance		Remarks
		Amount of Contribution Employees' Cont.	Employer's Cont.			Cont.	Interest	
1	2	3	4	5	6	7	8	9

ANNEXURE- E

Details of Prosecution cases withdrawn under Section 84 of ESI Act as on 28.2.2011.

Sl.No	No. of prosecution cases pending against insured persons at the begn. Of the Amnesty Scheme	No. of cases where applications were received for withdrawal during Amnesty period	Amount of excess payment refunded	No. of cases where prosecutions have been withdrawn	No. of cases where prosecutions were not withdrawn	Remarks
1	2	3	4	5	6	7

REGIONAL DIRECTOR

Details of Prosecution cases withdrawn under Section 85/85-A of ESI Act as on 28.2.2011

Sl. No.	No. of prosecution cases pending against Factories/Es	No. of cases where applications were received for withdrawal during Amnesty Scheme	Amount paid			Total Amount	Number of cases where prosecution were withdrawn	Number of cases where prosecution were not withdrawn	Remarks
			Employees' Cont.	Employer's Cont.	Interest				
1	2	3	4	5	6	7	8	9	10

Consolidated position of matters settled against cases pending in Employees Insurance Court as on 28.2.2011

Sl. No.	No. of cases where the applications were received for settlement of contribution during the Amnesty period	Compliance made /amount paid			Total Amount	Date of Compliance		Remarks
		Contribution	Interest			Cont.	Interest	
1	2	3	4	5	6	7	8	