BEFORE THE ASSISTANT PROVIDENT FUND COMMISSIONER
REGIONAL OFFICE, BARKATPURA

In the matter of levy of damages under section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 on
M/s KDM Engineers And Consultants Private Limited,Plot No 401, Sriramana Colony, Kharmanghat, Saroor Nagar Mandal, Hyderabad, Telangana - 500039 (AP/HYD/1853352)

WHEREAS, **M/s KDM Engineers And Consultants Private Limited,Plot No 401, Sriramana Colony, Kharmanghat, Saroor Nagar Mandal, Hyderabad, Telangana - 500039, AP/HYD/1853352** (hereinafter referred to as the **"establishment"**) to which the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, (hereinafter referred to as the **"Act"**) applies was required to pay the following dues within 15 days of the close of every month:

i. The Provident Fund Contributions and Administrative charges towards the Employees' Provident Fund under section 6 of the Act read with para 38 of the Employees Provident Funds (EPF) Scheme, 1952;
ii. The Pension Fund Contributions under section 6A of the Act read with para 3 of the Employees' Pension (EPS) scheme, 1995;
iii. Employees' Deposit Linked Insurance Fund Contributions and Administrative charges towards Insurance Fund under section 6-C of the Act read with para 8 of the Employees' Deposit Linked Insurance (EDLI) Scheme, 1976.

And whereas, under section 14B of the Act, where an employer makes default in payment of the contributions and/or any charges, the commissioner is required to recover by way of penalty such damages, not exceeding the amount of arrears and at the rates of damages specified under para 32A of the EPF Scheme, 1952; para 5 of the EPS, 1995 and para 8A of the EDLI Scheme, 1976.

And whereas, the records have been produced before me that indicated belated remittances by the establishment for the period **04/2019 ro 12/2022** beyond the statutory due dates of payment.

And whereas, the employer was directed to remit the penal damages under section 14B of the Act for the belated remittances for period from **04/2019 to 12/2022** *vide* summons No. AP/HYD/1853352/000/Enf 502/Damages/856, dated 02.11.2023 duly fixing the date of hearing on **23.11.2023.**

And whereas, the case was called for hearing on 23.11.2023, 12.01.2024, 01.02.2024, 15.02.2024 and finally on 13.03.2024.

And whereas, As per the Office order No.C-I/Misc./2019-20/Vol.II./Part./9 dated 15/04/2020, " the competent authority has decided to allow grace period of 30 days from 16/04/2020 to 15/05/2020 for filing of ECR",the Employer who remit the contributions for the month of 03/2020 on or before 15.05.2020 will get relief from PD & Interest. The Employer has filed ECR for the month of 03/2020 on 16/02/2023. Hence, the employer request to wave off PD & Interest during the pandemic period for the month of 03/2020 is not considered. The employer has not raised any dispute against levy of Penal Damages and Interest on belated remittances made by him.

And whereas, the Act is a piece of beneficial legislation and a successful working of the social security schemes framed under the Act depends on the prompt compliance made by the employer. Para 38 of the EPF Scheme, 1952 casts upon the employer a duty to pay the statutory dues within 15 days of the close of every month and the section 14B of the Act provides for levy of Penal Damages on belated remittances. In Civil Appeal No. 2136 in **Horticulture Experiments Station Gonikoppal, Coorg** VS **The Regional Provident Fund Organization**, the Hon'ble Supreme Court held that any default or delay in the payment of EPF contributions by the employer under the Act is a *sine qua non* for imposition of levy of damages under section 14B of the Act, 1952 and *mens rea* or *actus reus* is not at all an essential element for imposing penalty/damages. In the instant case, the establishment has itself agreed with the belated payments and also to pay the damages towards belated payment of statutory EPF dues.

ORDER

NOW, THEREFORE, I, G. Ram Mohan, Assistant Provident Fund Commissioner, in exercise of powers conferred on me by the notifications of the Government of India in the Ministry of Labour No. S.O.1553, dated 17.4.2002 issued under section 14-B of the Act, come to the conclusion that the ends of justice would be met by imposing damages on the belated payments of EPF dues and charges payable by the establishment for the period from **04/2019 to 12/2022** at the rates specified under para 32-A of the EPF Scheme, 1952 Para 5 of the EPS, 1995 and Para 8A of the EDLI Scheme, 1976; and order to levy the damages for belated payments in various EPF Accounts as mentioned in Column (3) for the amounts mentioned in Column (4) of the Table below:

TABLE: LEVY OF DAMAGES FOR THE PERIOD FROM 04/2019 to 12/2022

SL NO	NAME OF ACCOUNT	A/c No.	Damages levied u/s 14B	Damages Paid	Balance to Pay
1	2	3	4	5	6
1	The EPF Contributions	1	111378	0	111378
2	The Administrative Charges	2	3749	0	3749
3	The Pension Fund Contributions	10	59242	0	59242
4	The EDLI Contributions	21	3757	0	3757
5	The EDLI Administrative Charges	22	0	0	0
		TOTAL	178126	0	178126

As the establishment has not paid any payment of damages as mentioned in Column (5) of the said Table, the amount payable by the establishment is Rs.1,78,126/-. The same to be paid in reasonable time after date of order.

This order is without prejudice to the levy of penal damages for the earlier period of default, if any.

A copy of the said order may be served on the employer of the establishment.

ISSUED UNDER MY SIGNATURE & SEAL ON 15th day of March, 2024 AT HYDERABAD

Digitally Signed by G Ram Mohan Rao
Date: 15-03-2024 18:11:11
Reason: Approved

(G. RAM MOHAN)
ASSISTANT P.F. COMMISSIONER
REGIONAL OFFICE: BARKATPURA

N. o. **TS/RO/HYD-I/1853352/PD–II/T-3/2024/** **Date:15.03.2024**

To

The Employer,
M/s KDM Engineers And Consultants Private Limited,
Plot No 401, Sriramana Colony, Kharmanghat,
Saroor Nagar Mandal, Hyderabad - 500039.

Copy to:
M Hamje Naik,
EO, RO-I,Hyderabad ………For information and necessary action.

ORDER FOR THE PAYMENT OF INTEREST UNDER SECTION 7Q OF THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952 ON
M/s KDM Engineers And Consultants Private Limited,Plot No 401, Sriramana Colony, Kharmanghat, Saroor Nagar Mandal, Hyderabad, Telangana - 500039 (AP/HYD/1853352)
FOR BELATED REMITTANCES MADE DURING THE PERIOD 04/2019 to 12/2022

WHEREAS, M/s KDM Engineers And Consultants Private Limited,Plot No 401, Sriramana Colony, Kharmanghat, Saroor Nagar Mandal, Hyderabad, Telangana - 500039, AP/HYD/1853352 (hereinafter referred as the "establishment") to which the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred as the "Act") applies was required to pay the following dues within 15 days of the close of every month:

(i) The Provident Fund Contributions and Administrative charges towards the Employees' Provident Fund under section 6 of the Act read with para 38 of the Employees Provident Funds (EPF)Scheme, 1952.
(ii) The Pension Fund Contributions under section 6A of the Act read with para 3 of the Employees' Pension Scheme, 1995 (EPS, 1995).
(iii) Employees' Deposit Linked Insurance Fund Contributions and Administrative charges towards Insurance Fund under section 6-C of the Act read with para 8 of the Employees' Deposit Linked Insurance (EDLI) Scheme, 1976.

And whereas, the employer is liable to pay an interest under section 7Q of the Act at the rate of twelve per cent per annum on any amount due from him under the Act from the date on which the amount has become so due till the date of its actual payment.

And whereas, the scrutiny of the records maintained by this office for the remittances made by the establishment during the period **04/2019 to 12/2022** shows that payments of statutory dues were made belatedly beyond the prescribed statutory dates.

And whereas, the Act is a piece of beneficial legislation and a successful working of the social security schemes framed there under depends on the prompt compliance made by the employer. Para 38 of the EPF Scheme, 1952 casts upon the employer the duty to pay the statutory dues within 15 days from the close of every month and section 7Q of the Act provides for employer's liability of paying interest on belated remittances. Irrespective of date of remittance of dues by the Employer, interest is required to be credited from the due date to the EPF accounts of the members. In order to safeguard the interest of the employees by providing them the due interest, a provision for levy of interest is provided in the Act. Moreover, the Hon'ble Supreme Court in **Arcot Textile Mills Ltd *Vs* Regional PF Commissioner** (CIVIL APPEAL NO. 9488 OF 2013) held that the scope of enquiry under section 7Q is very limited only to the realm of computation ***"which is statutorily provided regard being had to the range of delay. Beyond that nothing is permissible."*** In the instant case, the establishment has already paid the interest under section 7Q.

NOW THERERORE, I, G. Ram Mohan, Assistant Provident Fund Commissioner, RO, Hyderabad-I, having perused the records placed before me, arrive at the conclusion that the employer of the establishment failed to deposit the provident fund dues and other charges within the prescribed statutory dates during the period from **04/2019 to 12/2022 and is, hence, liable to pay** interest u/s 7Q of the Act in various EPF Accounts as mentioned in Column (3) for the amounts mentioned in Column (4) of the Table below:

TABLE: INTEREST PAYABLE FOR THE PERIOD FROM 04/2019 to 12/2022

S. No	EPF ACCOUNT	A/c No.	Interest payable Under Sec. 7Q (Rs)	Interest Paid (Rs)	Balance Interest to be paid (Rs)
(1)	(2)	(3)	(4)	(5)	(6)
1.	**The EPF Contributions**	**1**	**63,666**	**0**	**63,666**
2.	**The Administrative Charges**	**2**	**2,121**	**0**	**2,121**
3.	**The Pension Fund Contributions**	**10**	**33,862**	**0**	**33,862**
4.	**The EDLI Contributions**	**21**	**2,126**	**0**	**2,126**
5.	**The EDLI Administrative Charges**	**22**	**0**	**0**	**0**
		TOTAL	**1,01,775**	**0**	**1,01,775**

This order is without prejudice to the interest payable for the earlier period of default, if any.

A copy of the said order may be served on the employer of the establishment.

ISSUED UNDER MY SIGNATURE & SEAL ON 15th day of March, 2024 AT HYDERABAD

Digitally Signed by G Ram Mohan Rao
Date: 15-03-2024 18:11:41
Reason: Approved

(G. RAM MOHAN)
ASSISTANT P.F. COMMISSIONER
REGIONAL OFFICE: BARKATPURA

No. TS/RO/HYD-I/1853352/PD–II/T-3/2024/ **Date:15.03.2024**

To

The Employer,
M/s KDM Engineers And Consultants Private Limited,
Plot No 401, Sriramana Colony, Kharmanghat,
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