

section 2[f] of the EPF & MP Act 1952 and therefore no PF contributions can be claimed on the commissions paid to the Pigmy deposit collectors. They have also contended that even if it is presumed that their employees, then also PF contributions are not payable as all of them are 'excluded' employees as they were getting more than Rs.6500/- p.m. as commission.

The Enforcement Officer has submitted his report in the said 7A proceedings. In this report, he has not dealt with the nature of duties of the pigmy deposit collectors or any other issues but has only stated that the Establishment is liable to pay PF contributions of Rs.15,25,831/- for the period 1994-95 to March 2010.

Said Pigmy Collectors are freelances and also working as a commission agents for other institution such as LIC, Star Health Insurance etc., as per documents placed on record.

2. The establishment in its letter dated 19/08/2013 has stated that there is no master & servant relation between the Bank and the pigmy deposit collectors. There is no specific time to do their work and there is no supervision by any of the Bank's officers on the work done by them. It is also stated that there is no restriction for the pigmy deposit collectors to take some other employment and accordingly all the pigmy deposit collectors simultaneously doing some other job in different establishments. It is stated that there is no target for the pigmy collectors to collect the daily deposits from the customers and they are not at all paid salary but only paid commissions. It is further contended that the PF contribution is payable only on the basic wages and Dearness Allowances etc. Commissions paid to the pigmy deposit collectors does not amount to Basic wages and Dearness Allowances and therefore no PF dues are payable on that amount. They have also stated that almost all of them are 'excluded employees' as their monthly commissions exceeds Rs.6500/ p.m. and therefore no PF contributions can be claimed on the amount paid to these pigmy deposit collectors. There is no time or remuneration fixed as normal working.
3. It is also contended by the establishment that as per Tribunal Order, the employer has submitted the copy of Contract with Pigmy deposit collectors wherein they are free to work with other establishment. There is no control over these collectors of money in respect of timing and targets etc.
Moreover, it is a contract for service and the contractor is himself working. He has not employed any manpower to execute his duties. It is a professional contract. It has been held in a number of court cases that a contractor is not an employee. He is also free to work