

with other employers or self employed. Hence, a pigmy deposit collector does not fall u/s 2[f] of the Act as he is not employed by Bank/the establishment.

4. It is also contended by the establishment that the commissions paid to these pigmy deposit collectors do not amount to Basic wages and Dearness Allowances and therefore the same is not attracting PF contributions. In support of their contention they have also filed the judgment of the Karnataka High Court passed by the single bench as well as Divisional bench, i.e. Gokarnanatha Co-operative Bank Limited versus The Asst.PF Commissioner, Mangalore [Writ Petition No.35152/2010]. The PF department has filed the SLP before the Supreme Court against the order of the Division Bench of Karnataka High Court and the said S.L.P. has been dismissed by the Hon'ble Supreme Court. I have gone through the said case-law carefully. The facts of the said case identical to the facts of the present case. The ratio laid down by the said case-law is squarely applicable to this case. The Hon'ble Karnataka High Court has made observation in the said case that the commissions paid to the pigmy collectors is not Basic wages as defined in Section 2[b] of the Act and therefore PF contributions are not payable on the commissions paid to such persons.

[D] Submission by the department [EO]

The Enforcement Officer has referred the various case laws decided by the Supreme Court and High Courts in the first part of his report. He has stated that almost all pigmy deposit collectors are employed simultaneously in some other Establishments. Apart from these, the Enforcement Officer has not reported any other facts.

[E] Findings

1. I have gone through both the rival contentions made by the department as well as the establishment. It is well settled law that the designation or label given to the employee cannot be considered to decide whether the particular person is employee u/s 2 [f] of the Act, but the main consideration to decide the same is nature of duties and the service conditions of the pigmy deposit collectors are not universal in all the Banks, but varies from Bank to Bank. The Hon'ble EPF Appellate Tribunal probably for these reasons only, has remanded back the matter by giving specific directions to decide whether they are an employee or not, after examining their nature of duties. As per the direction given by the Tribunal, I have carefully gone through the nature of duties and service conditions of the pigmy deposit collectors engaged by the establishment. In the Appointment Order given to