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The Code on Social Security, 2020

Section 125 - Assessment and determination of dues from employer

(1) The Central Government may, bynotification, authorise, such officers of the Central Board or the Corporation, as the case may be, not belowthe rank of Group 'A' officer of that Government, to function as the Authorised Officers for the purposes ofChapter III or Chapter IV, as the case may be, who may, by order---
(a) in a case where a dispute arises regarding the applicability of Chapter III or Chapter IV, as thecase may be, to an establishment, decide such dispute; and
(b) determine the amount due from any employer under any provision of Chapter III or Chapter IV,as the case may be, or the schemes, or rules, regulations made under such Chapter; and
(c) for any of the purposes relating to clause (a) and clause (b), conduct such inquiry, as he may deemnecessary for such purposes:
Provided that no proceeding under this sub-section shall be initiated after the expiry of the period offive years from the date on which the dispute referred to in clause (a) is alleged to have been arisen or, asthe case may be, the amount referred to in clause (b) is alleged to have been due from an employer.
(2) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), the inquiryunder sub-section (1), as far as practicable, shall be held on day-to-day basis and endeavour shall be madeto ensure that the inquiry is concluded within a period of two years:
Provided that where the inquiry is not concluded within the said period of two years, the AuthorisedOfficer conducting such inquiry shall record the circumstances and reasons for not having concluded soand submit the circumstances and reasons so recorded to the Central Provident Fund Commissioner or theDirector General of the Corporation, as the case may be, or such other officer authorised by him in thisbehalf:
Provided further that the Central Provident Fund Commissioner or the Director General of theCorporation, as the case may be, after considering the circumstances and the reasons which have beensubmitted by the Authorised Officer may grant an extension for a period up to one year to conclude the saidinquiry:
Provided also that the inquiries which are pending immediately before the date of commencement ofthis Code shall be concluded by the Authorised Officer within a period not exceeding two years from thedate of such commencement.
(3) The Authorised Officer conducting the inquiry under sub-section (1) shall, for the purposes of suchinquiry have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908),for trying a suit in respect of the following matters, namely:---
(a) enforcing the attendance of any person or examining him on oath;
(b) requiring the discovery and production of documents;
(c) receiving evidence on affidavit; and
(d) issuing commissions for the examination of witnesses,
and any such inquiry shall be deemed to be a judicial proceeding within the meaning of sections 193 and228, and for the purpose of section 196 of the Indian Penal Code (45 of 1860).
(4) No order shall be made under sub-section (1), unless the employer concerned is given a reasonableopportunity of representing his case.
(5) Where the employer, employee or any other person required to attend the inquiry undersub-section (1) fails to attend such inquiry without assigning any valid reason or fails to produce anydocument or to file any report or return when called upon to do so by the Authorised Officer conductingthe inquiry, such inquiry officer may decide the applicability of the relevant provisions of this Code ordetermine the amount due from any employer, as the case may be, on the basis of the evidence adducedduring such inquiry and other documents available on record.
(6) Where an order under sub-section (1) is passed against an employer ex parte, he may, within threemonths from the date of communication of such order, apply to the Authorised Officer for setting asidesuch order

and if the Authorised Officer is satisfied that the show cause notice was not duly served or thatsuch employer was prevented by any sufficient cause from appearing when the inquiry was held, theAuthorised Officer shall make an order setting aside his earlier order and shall appoint a date for proceedingwith the inquiry:

Provided that no such order shall be set aside merely on the ground that there has been an irregularityin the service of the show cause notice if the Authorised Officer is satisfied that the employer had notice ofthe date of hearing and had sufficient time to appear before the Authorised Officer.

Explanation.---Where an appeal has been preferred under this Code against an order passed *ex parte*and such appeal has been disposed of otherwise than on the ground that the appellant has withdrawn theappeal, no application shall lie under this sub-section for setting aside the *ex parte* order.

(7) No order passed under this section shall be set aside on any application under sub-section *(6)* unlessnotice thereof has been served on the opposite party.

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