

PF Update: EPFO issues instructions for initiating an inquiry under the EPF Act

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Background

- Under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act), an EPF officer is authorized to conduct inquiries on employers in case of any dispute on the applicability of law or determination of amount due under the EPF Act, the EPF scheme, the pension scheme or the insurance scheme.
- To ensure uniformity in initiating and conducting an inquiry, the Employee's Provident Fund Organization (EPFO) has now laid down standardized procedures for initiating inquiry proceedings under the EPF Act.
- Further, in order to bring transparency in conclusion of assessments and inquiries, the EPFO has also instructed PF officers to conduct proceedings through the e-court management system.

Instructions for initiating an inquiry

- **Applicability:** It has been reiterated that inquiries should be initiated only to resolve disputes related to applicability of the EPF Act or determination of dues. In this regard, it has been clarified that grounds such as non-submission of returns, non-production of records, non-cooperation in inspections, etc. are not sufficient ground for initiating an inquiry.
- **Reasons for initiating an inquiry to be recorded:** It has been prescribed that EPF officers should mandatorily record reasons for initiating an inquiry.
 - Reasons should be based on evidence available on record with respect to **"existence of a prima-facie case"** of default.
 - A mere complaint would not be considered as sufficient evidence for initiating an

inquiry. It has, however, been clarified that such complaints can be investigated by an enforcement officer and substantiated on the basis of admissible evidence gathered during investigation.

- **Scope of inquiry:** It has been prescribed that inquiry shall be only with respect to fact-in-issue and cannot be extended to other issues identified during the inquiry. For any new reason or period, a separate notice is required to be issued.
- **Other instructions:**
 - The EPF officer is required to estimate and record the timeline in writing for which the inquiry is intended to be held, prior to initiating the inquiry.
 - A notice issued to initiate the inquiry shall be assigned a computer-generated diary number from the compliance e-proceedings portal. **Any notice without such case number shall be treated as non-existent.**
 - It has also been prescribed that copies of all documents forming basis of inquiry should be supplied to all the concerned parties, along with the notice.

Instructions with respect to conducting an assessment or inquiry under the EPF Act

- All 'show cause notices' to be issued only through e-court management system. **Notices or communication issued in any other manner shall be considered as non-existent.**
- All new cases to be registered and processed through the e-court management system. Further, zonal offices have been instructed to register existing cases in the e-court system within 15 days.

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