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KARNATAKA HIGH COURT ON IDENTIFICATION OF BENEFICIARIES

A. Introduction

The Karnataka High Court ('**HC**'), in the *WeP Peripherals* case,¹ reiterated that determination of Employees' Provident Fund ('**EPF**') additional contribution under section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ('**Act**') without identification of beneficiaries is not proper.

B. Brief Facts

1. WeP Peripherals Limited ('**WeP**')² paid a fraction of the basic salary paid to their employees as 'Personal Pay'.
2. According to their appointment letters, Personal Pay encompassed expenses for local transportation, lunch, and mobile phone usage.
3. The Regional Provident Fund Commissioner-II ('**RPFC**') initiated an enquiry under Section 7A³ of the Act in respect of Personal Pay.
4. Based on WeP's reply and the response of the Enforcement Officer, the RPFC passed order directing WeP to work out the contribution dues on Personal Pay up to the ceiling limit of Rs. 6,500 and pay the same within 15 days ('**Order**').
5. Aggrieved by the Order, WeP appealed before the EPF Appellate Tribunal ('**Tribunal**').
6. The Tribunal dismissed the appeal and upheld the Order. Aggrieved by this, WeP approached the HC.

C. Contentions of WeP

WeP filed an affidavit ('**Affidavit**') stating that:

- a. Personal Pay was paid to its employees only from the 2000 until March 2008 after which it was discontinued.
- b. The Employees who were effected Personal Pay in that period are no longer on WeP's rolls.

D. HC's Judgment & Reasoning

1. The HC, relying on the Order and Affidavit, observed that the RPFC had neither identified the employees in respect of whom the additional EPF contribution is required to be made nor determined the amount on the basis of which the contribution was required to be made."⁴

¹*WeP Peripherals Ltd. vs. Regional Provident Fund Commissioner-II* (21.11.2022 - KARHC) : MANU/KA/5965/2022.

² Previously, Wipro e-Peripherals Limited.

³ Determination of monies due from employers.

⁴ Paragraph 4 of the Judgment.

2. It allowed the petition and:
 - a. Set aside the Order and the order passed by the Tribunal.
 - b. Remanded the matter to the RPFC with instructions to proceed with the enquiry under Section 7A of the Act.
 - c. Allowed the parties to submit additional materials, if required.

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