The Odisha Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 2243 CUTTACK, FRIDAY, DECEMBER 7, 2012/MARGASIRA 16, 1934

LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 30th November 2012

S. R. O. No. 633/2012—Whereas M/s Larson & Toubro Ltd. (Kansbahal Works), Kansbahal, Sundargarh (hereinafter referred to as the said "establishment") has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provision Act, 1952 (19 of 1952) (hereinafter referred to as "the said Act") ;

And whereas in the opinion of the State Government, the rules of the Provident Fund of the said establishment with respect to the rates of contribution are not less favourable to the employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits which on the whole are not less favourable to the employees than the benefits provided under the said Act or under the Employees Provident Funds Scheme, 1952 (hereinafter referred to as "the said Scheme") in relation to the employees in any other establishment of a similar character.

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions specified in the Schedule below, the State Government do hereby exempt the said establishment from the operation of all of the provisions of the said Scheme with effect from the 1st June 1985 :—

SCHEDULE

1. The employer in relation to the said establishment shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the said Act within 15 days from the close of every month.

2. The rate of contribution payable under the Provident Fund rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishments and the said Scheme framed thereunder.

3. In the matter of advances, the Scheme of the exempted establishment shall not be less favourable than the Employees' Provident Fund Scheme, 1952.

4. Any amendment to the said Scheme which is more beneficial to the employee than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the provident fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment is likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their points of view.

5. All employees as defined in Section 2(f), the said Act who would have been eligible to become members of the Provident Fund had the Establishment not been granted exemption shall be enrolled as members.

6. Where an employee who is already a member of the Employees' Provident Fund (Statutory) or a provident fund of any other exempted Establishment is employed in his Establishment, the employer shall immediately enrol him as a member of the fund and arrange to have the accumulations in the provident fund account of such employee with his previous employer transferred and credited to his account.

7. The employer shall establish a Board of Trustees for the management of the provident fund according to such directions as may be given by the Central Provident Fund Commissioner or by the Central Government, as the case may be, from time to time.

8. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees Provident Fund Organization *inter alia* for proper accounts of the receipts into and payments from the Provident Fund and the balance in their custody.

9. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may by issued from time to time by the Central Government/ Central Provident Fund Commissioner or an Officer authorized by him.

10. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Central Provident Fund Commissioner or the Regional Provident Fund Commissioner in-charge of the Region shall have the right to have the accounts reaudited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

11. A copy of the audited annual provident fund accounts together with the audited balance sheet of the Establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For this purpose, the financial year of the provident fund shall be from the 1st April to the 31st of March.

12. The employer shall transfer to the Board of Trustees the contributions payable to the provident fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contributions in the same manner as an unexempted establishment is liable under similar circumstances.

13. The Board of Trustees shall invest the monies in the fund as per directions that may be given by the Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a Scheduled Bank under the Credit Control of the Reserve Bank of India.

14. Failure to make investments as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

15. The Board of Trustees shall maintain a scriptwise register and ensure timely realization of interest.

16. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee.

17. The Board shall issue an annual statement of accounts to every employee within six months of the close of financial/accounting year.

18. The Board may instead of the annual statement of accounts issue passbooks to every employee. These passbook shall remain in the custody of the employees and will be brought up-to date by the Board on presentation by the employees.

19. The accounts of each employee shall be credited with interest calculated or the opening balance as on the 1st day of the accounting year at such rate as may be decided by the Board of Trustees but shall not be lower than the rate declared by the Central Government under Para. 60 of the said Scheme.

20. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reasons, then the deficiency shall be made good by the employer.

21. The employer shall also make good any other loss that may be cause to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

22. The employer as well as the Board of Trustees shall submit such returns to the Regional Provident Fund Commissioner as the Central Government, Central Provident Fund Commissioner may prescribed from time to time.

23. If the Provident Fund Rules of the establishment provide for forfeiture of the employees' contributions in cases where employee ceases to be a member of the fund on the lines of Para. 69 of the said Scheme, the Board of Trustees shall maintain a separate account of the amounts so forfeited and may utilize the same for such purposes as may be determined with the prior approval of the Central Provident Fund Commissioner.

24. Not withstanding anything contained in the Provident Fund Rules of the establishment, if on the cessation of any individual from the membership of the fund consequent on retiring from service or on taking up the employment in some other establishment, it is found that the create of contribution rate of forfeiture under the Provident Fund Rules of the establishment are less favourable as compared to these under the statutory Scheme, the difference shall be borne by the employer.

25. The employer shall bear all the expenses of the administration of the Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations.

26. The employer shall display on the noticeboard of the establishment, a copy of the rules of the fund as approved by the appropriate authority and as and when amended thereto along with a translation of the salient points thereof in the language of the majority of the employees.

27. The "Appropriate Government" may lay down any further conditions for continued exemption of the establishment.

28. The employee shall enhance the rate of Provident Fund contributions appropriately, if the rate of Provident Fund contribution is enhanced under the said Act so that the benefits under the Provident Fund Scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

29. The exemption is liable to be cancelled for violation of any of the above conditions.

[No. 9834—SS-II-M-2/2011-LESI.]

By order of the Governor

C . T. M. SUGUNA

Commissioner-*cum*-Secretary to Government

Printed and published by the Director, Directorate of Printing, Stationery and Publication, Odisha, Cuttack-10
Ex. Gaz. 1691—193+20