

Bonus Act 1965

1. INDIAN BONUS ACT – 1965

2. Bonus - History

- o The practice of paying bonus in India appears to have originated during First World War when certain textile mills granted 10% of wages as war bonus to their workers in 1917. In certain cases of industrial disputes demand for payment of bonus was also included. In 1950, the Full Bench of the Labour Appellate evolved a formula for determination of bonus.

3. Introduction

- o An Act to provide for the payment of bonus to persons employed in certain establishments on the basis of profits or on the basis of production or productivity and for matters connected therewith.

4. Short title, extent and application

- o It extends to the whole of India
- o Every other establishment in which twenty or more persons are employed on any day during an accounting year.

5. Bonus - Applicability

- o (a) Every factory (as def. in Factories Act), & (b) Every other establishment in which 20 or more persons (less than 20 but 10 or more if appropriate Govt. notifies) are employed on any day subject to certain exemptions. (b) Bonus to be paid within eight months from the expiry of the accounting year.

6. Cont-2

- o Establishments to include departments, undertakings and branches
- o Where an establishment consists of different departments or undertakings or has branches, whether situated in the same place or in different places, all such departments or undertakings or branches shall be treated as parts of the same establishment for the purpose of computation of bonus :

7. Bonus - Eligibility

- o Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

8. Disqualification for bonus

- o An employee shall be disqualified from receiving bonus under this Act :-
 - o (a) fraud; or
 - o (b) riotous or violent behaviour while on the premises of the establishment; or
 - o (c) theft, misappropriation or sabotage of any property of the establishment

9. Computation of number of working days

- o An employee shall be deemed to have worked in an establishment in any accounting year also on the days on which,-
 - o (a) he has been laid off under an agreement or as permitted by standing orders under the Industrial Employment (Standing Orders) Act, 1946, or under the Industrial Disputes Act, 1947, or under any other law applicable to the establishment;
 - o (b) he has been on leave with salary or wages;
 - o (c) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment, and
 - o (d) the employee has been on maternity leave with salary or wages, during the accounting year
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10. Payment of minimum & Maximum bonus

- o A minimum bonus which shall be 8.33 per cent of the salary or wage earned by the employee during the accounting year.
- o Where in respect of any accounting year referred to in section 10, the allocable surplus exceeds the amount of maximum bonus payable to the employees. be bound to pay to every employee in respect of that accounting; year bonus which shall be an amount in proportion to the salary or wage earned by the employee during the accounting year subject to a maximum of 20 per cent, of such salary or wage.

11. CALCULATION OF BONUS

- o The method for calculation of annual bonus is as follows:
- o Calculate the Available Surplus.
- o Available Surplus =
- o Gross Profit – (deduct) the following :
- o Depreciation admissible u/s 32 of the Income tax Act.
- o Development allowance

12. Available Surplus (Deductions)

- o Direct taxes payable for the accounting year (calculated as per Sec.7) – Sums specified in the Third Schedule.
- o Direct Taxes (calculated as per Sec. 7) in respect of gross profits for the immediately preceding accounting year.
- o Allocable Surplus = 60% of Available Surplus, 67% in case of foreign companies.
- o Make adjustment for 'Set-on' and 'Set-off'. For calculating the amount of bonus in respect of an accounting year, allocable surplus is computed after considering the amount of set on and set off from the previous years

13. Set On & Set Off

- o Where in any accounting year any amount has been carried forward and set on or set off under this section, then, in calculating bonus for the succeeding accounting year, the amount of set on or set off carried forward from the earliest accounting year shall first be taken into account.
- o The allocable surplus so computed is distributed amongst the employees in proportion to salary or wages received by them during the relevant accounting year.

14. Time-limit for payment of bonus

- o where there is a dispute regarding payment of bonus pending before any authority under section 22, within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute;
- o (b) in any other case, within a period of eight months from the close of the accounting year:

15. Recovery of bonus due from an employer(Sec-22)

- o Where any money is due to an employee by way of bonus from his employer under a settlement or an award or agreement, the employee himself or any other person authorized by him in writing in this behalf, or in the case of the death of the employee, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government or such authority as the appropriate Government may specify in this behalf is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in particular employee.

16. RIGHTS OF EMPLOYEES

- o Right to claim bonus payable under the Act and to make an application to the Government, for the recovery of bonus due and unpaid, within one year of its becoming due.
- o Right to refer any dispute to the Labour Court/Tribunal.
- o Employees, to whom the Payment of Bonus Act does not apply, cannot raise a dispute regarding bonus under the Industrial Disputes Act.
- o Right to seek clarification and obtain information, on any item in the accounts of the establishment

17. Reference of disputes under the Bonus Act

- o Where any dispute arises between an employer and his employees with respect to the bonus payable under this Act or with respect to the application of this Act to an establishment in public sector, then, such dispute shall be deemed to be an industries dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or of any corresponding law relating to investigation and settlement of industrial disputes in force in a State and the provisions of that Act.

18. Maintenance of register, records & Inspectors

- o Every employer shall prepare and maintain such registers, records and other documents in such form and in such manner as may prescribed.
- o The appropriate Government may, by notification on the Official Gazette, appoint such person as it think fit to be Inspectors for the purposes of this Act and may define the limits within which they shall exercise jurisdiction.

19. Inspectors Duties :

- o An Inspector appointed under sub-section (1) may, for the purpose of ascertaining whether any of the provisions of this Act has been complied with --
- o (a) Require an employer to furnish such information as he may consider necessary;
- o at any reasonable time and with such assistance, if any, as he thinks fit enter any establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of salary or wage or bonus in the establishment.

20. OFFENCES AND PENALTIES

- o For contravention of the provisions of the Act or rules the penalty is imprisonment upto 6 months, or fine up to Rs.1000, or both.
- o For failure to comply with the directions or requisitions made the penalty is imprisonment upto 6 months, or fine up to Rs.1000, or both.
- o In case of offences by companies, firms, body corporate or association of individuals, its director, partner or a principal officer responsible for the conduct of its business, shall be deemed to be guilty of that offence, unless the person concerned proves that the offence was committed without his knowledge or that he exercised all due diligence

(NOTE: This information is given for the limited purpose)