

Miscellaneous Provisions (Sections 416 – 424)

Employees' securities and provident funds (417 – 419)

Employees' securities to be deposited in post office savings bank or Scheduled Bank (Section 417)

Question 1

M/s Flyover Constructions Ltd. has to recruit 2,000 Civil Engineers on contract basis for a period of 5 years. The company entered into an agreement with the employees that each employee will have to deposit ₹ 50,000 as security which sum will be returned on completion of 3 years of contract of service. The company wants to utilize the fund so collected in their business. Advise the company with reference to Companies Act in the matter of collection and utilization of money received from employees as security deposit. (November 2007)

Answer

Section 417 of the Companies Act, 1956 provides that

- (1) any money or security deposited with a company by any of its employee in pursuance of his contract of service with the company shall be kept or deposited by the company within fifteen days from the date of deposit.
 - (i) in a post office savings bank account, or
 - (ii) in a special account to be opened by the company for the purpose in the state bank of India or in a scheduled bank, or
 - (iii) where the company itself is a scheduled bank, in a special account to be opened by the company for the purpose either in itself or in the state bank of India or in any other scheduled bank.
- (2) No portion of such moneys or securities shall be utilized by the company except for the purposes agreed to in the contracts of service.
- (3) A receipt for moneys deposited with a company by its employee shall not be deemed to be security within the meaning of this section; and the moneys themselves shall accordingly be deposited as provided in sub-section (1).

So the company cannot utilize the money so collected. It will have to deposit the money in the special accounts as referred in the section.

Provisions applicable to provident funds of employees (Section 418)

Question 2

As per the terms of the agreement of service between NOC Ltd. and its employees, an amount equal to 12.5% of the salary shall be transferred to the recognized Provident Fund and shall be payable to the employee either on retirement or termination, as the case may be. An amount equal to 12.5% of the salary shall be contributed by the company to the recognized provident fund.

Mr. A earning ₹ 3000 p.m. has been working with the company since the last four years. Due to some personal reasons Mr. A is in need of ₹ 100,000 and wants to obtain as advance the amount standing to the credit in the fund. With reference to the provisions of the Companies Act, 1956. advice as regards the following:

- (i) *When and where should the money so collected by the company be deposited?*
 - (ii) *Can Mr. A obtain the advance from his accumulated contribution to recognized Provident Fund?*
- (November 2008)**

Answer

Section 418 of the Companies Act, 1956 dealing with the provident fund of the employees provides that:

- (1) Where a provident fund has been constituted by a company for its employees or any class of its employees, all moneys contributed to such fund (whether by the company or by the employees) or received or accruing by way of interest or otherwise to such fund shall, within fifteen days from the date of contribution, receipt or accrual, as the case may be either-
 - (a) be deposited-
 - (i) in a post office saving bank account, or
 - (ii) in a special account to be opened by the company for the purpose in the State Bank of India or in a Scheduled Bank, or
 - (iii) Where the company itself is a Scheduled Bank, in a special account to be opened by the company for the purpose either in itself or in the State Bank of India or in any other Scheduled Bank; or
 - (b) be invested in the securities mentioned or referred to in clauses (a) to (e) of Section 20 of the Indian Trusts Act, 1882 (2 of 1882).
- (2) Notwithstanding anything to the contrary in the rules of any provident fund to which sub-section (1) applies or in any contract between a company and its employees, no employee shall be entitled to receive, in respect of such portion of the amount to is credit in such fund as is invested in accordance with the provisions of sub-section (1), interest at a rate exceeding the rate of interest yielded by such investment.

- (3) Nothing in sub-section (1) shall affect any rights of an employee under the rules of a provident fund to obtain advances from or to withdraw money standing to his credit in the fund, where the fund is a recognized provident fund.
- (i) So the money collected by NOC Ltd. from its employees will have to be deposited in any of the following:
- (a) in a post office saving bank account, or
 - (b) in a special account to be opened by the company for the purpose in the State Bank of India or in a Scheduled Bank, or
 - (c) be invested in securities mentioned or referred to in clauses (a) to (e) of Section 20 of the Indian Trusts Act, 1882 (2 of 1882).
- (ii) As per the provision of Section 418 (3), Mr. A can obtain advances from or withdraw money standing to his credit in the fund provided the fund is a recognized provident fund.