

DIRECT TAX – RECENT JUDGMENT

CA. Paras K. Savla, CA. Hemant R. Shah

SUPREME COURT DECISIONS:

1) Pawan Hans Limited & Others Vs. Aviation Karmachari Sanghatana (Supreme Court)

Contractual employees are entitled to Employee Provident Fund benefits

Appeal No.: 353 of 2020, Date of Order:17/01/2020,

Members of the Respondent Union have been in continuous employment with the Company for long periods of time. They have been receiving wages/salary directly from the Company without the involvement of any contractor since the date of their engagement. The work being of a perennial and continuous nature, the employment cannot be termed to be 'contractual' in nature.

In the considered view of Hon. Supreme Court, Clause 2.5 of the PF Trust Regulations would undoubtedly cover all contractual employees who have been engaged by the Company, and draw their wages/salary directly or indirectly from the Company.

As per Section 2(f) of the EPF Act, the definition of an 'employee' is an inclusive definition, and is widely worded to include "any person" engaged either directly or indirectly in connection with the work of an establishment, and is paid wages.

In view of the above discussion, the Apex Court found that the members of the Respondent Union and all other similarly situated contractual employees, are entitled to the benefit of provident fund under the PF Trust Regulations or the EPF Act. Since the PF Trust Regulations are in force and are applicable to all employees of the Company, it would be preferable to direct that the members of the Respondent Union and other similarly situated contractual employees are granted the benefit of provident fund under the PF Trust Regulations so that there is uniformity in the service conditions of all the employees of the Company.