



केन्द्रीय विश्लेषण और आसूचना इकाई
Central Analysis & Intelligence Unit
कर्मचारी राज्य बीमा निगम
Employees' State Insurance Corporation
पंचदीप भवन, सी. आई. जी. मार्ग, नई दिल्ली - 110002
Panchdeep Bhawan, C.I.G. Marg, New Delhi - 110002.
(ISO 9001-2008 Certified Organisation)

No.13/HQ/06/2015-CAIU(VIP)

Dated : 02.12.2015

To

Regional Director/Director/Joint Director(I/c)
All Regional/Sub-Regional Offices,
Employees' State Insurance Corporation,

**Subject: Guidelines/instructions for – survey for coverage under ESI Scheme.,
Inspection of records for verification of compliance, follow up action on the
irregularities found in compliance and regarding redressal/disposal of
complaints received and their compliance - regarding.**

Sir/Madam,

With regard to the directions issued by the Headquarters' Office from time to time on the subjects noted above, which have also been mentioned below with the subject concerned and are available in the 'Revenue Manual' also, it has been observed that some of the field offices have either interpreted these instructions wrongly or proper attention has not been paid towards them resulting in that in most of the cases, the instructions are not being followed in true spirit, which not only causes unnecessary and avoidable correspondence but also in some cases, it may cause loss of revenue to ESI Corporation. Hence, Director General has directed to remind you again about these instructions and to ensure their strict compliance as below and has also ordered to clarify that in case of non-compliance and not adhering to time schedules/limits, strict action against the concerned employee, shall be taken. You are, therefore, requested to take a serious note of the orders of the Director General for compliance. At the same time, in continuation to the instructions already issued on the above subjects, explanatory clarifications for desired compliance, are also issued again as below :-

1. In spite of clear instructions, it has often been observed that Social Security Officers, who are deputed for surprise physical verification of the premises of the employer to investigate the complaint, instead of conducting complete physical verification of the premises, only report that - 'such number of employees were not registered under ESI Scheme or found coverable but not covered, whereas they are obliged to have details of all employees like - the names of the employees, their fathers' name, designation, date of appointment, wages, time of duty-shift, average monthly days of work etc. with the signatures of the employees and authentication of the employer, in addition to inquiry about the irregularity, if any other, in the complaint, to find out the factual position. After obtaining such details, they are supposed to give details about the employees not enrolled in the attendance register, the number of employees, who were in the attendance register but not in the premises but are somewhere else on the field duty etc. and also the details of employees, who are found uncovered and/or without enrolment in the attendance register with their tenure of service for whom the contribution is not being paid, which are now not being given. The details of the machinery/infrastructure etc., available in the premises of the employer, are also required to be taken to have evidence of its working capacity and employment potential. In addition to this, the details of the

employees of the other shifts, of units working in shifts, are required to be taken necessarily from the employer, through statements of the employees present and from the records available in premises but the same are also not taken. Each of the documents/statements/papers, which are attached with the Investigation Report, should be signed by the employees, verified by employer and signed/certified by SSO, but it has been observed that photocopies, without any attestation are attached, which have no evidentiary value in case of any legal dispute. Hence, it may be ensured that such types of shortcomings not occur in future and the reports have complete details as above.

2. Likewise, despite the clear-cut instructions regarding inspection of the records, neither the irregularities mentioned in the complaints and if the complaint is first investigated through physical verification, the irregularities found therein, are taken into account/attended nor the income tax returns, balance sheets etc. are normally taken for their analytical examination for compliance verification whereas, in computerized-records-based inspection, only the balance sheet, income tax/ service tax/ sales tax returns/statements and their assessment orders, can certify authenticity/correctness of such computerized records and these should be taken necessarily, otherwise, neither the inspection will be reliable nor the genuineness of the records can be verified and analysis and examination of the inspection report, at office level, shall not be possible in absence of these documents with the report. Hence, **please ensure that in future, the inspection of the records and of the account books, should be based upon above documents and the copies of the same are enclosed by the SSOs with the inspection report** so that Revenue Branch Officer could examine the inspection report properly and could get the test inspection/vigilance inspection done, wherever deemed necessary.
3. Similarly, while conducting inspection of records in cases of the contractors/manpower supplier agencies, details of their clients where employees are deployed, client-wise details of employees and receipts against them and compliance verification accordingly, is required to be checked and given, in addition to the above documents along with client-wise details of employees working on the day of inspection, which are generally not given in any report. Such inspections does not meet the objectives implied in them because neither the details of those employees, whom employer has deprived from compliance and benefits of the scheme would be available nor the non-compliance could be detected. Hence, to make the inspection purposeful/objective and meaningful, it is necessary that the Inspection Report should necessarily have these details and documents as stated in para-2 above like income tax returns, balance sheet etc. along with their proper examination/analysis. As only such inspections may have deterrent and far-reaching effect, on those employers, who try to avoid or under-report compliance by adopting wrong means and resultantly, shall motivate them not to resort to such wrong practices. Headquarters has already issued detailed instructions vide Circular No.P-12(11)-11/10/2002-Ins.IV dated 31.05.2002 in this regard but these are not being adhered to properly. It should therefore, be ensured that in future, inspections are conducted strictly in accordance with the above instructions.
4. Headquarters Instructions issued vide circular No.S-11/12/2/2008-Rev.II dated 01.08.2014 wherein it is provided that inspection of all records including Accounts Books of one year, will be treated as one inspection for SSO, for the purpose of counting his man-days and, therefore, they will verify all records including account books for one year only, but it is being observed that due to its wrong interpretation, now SSOs verify only the accounts books and records of one year only and do not even verify attendance, wages register and compliance accordingly of the later period up to inspection, due to which non-compliance by employer in respect of wages/salary of coverable employees directly booked under these heads, cannot be detected in time and thus, despite the inspection, present status of compliance/its **prima facie correctness**, even of the inspected unit, could not be known. It may be that inspection of Accounts Books could not be done within 05 years of time-limit

and in such situation, if during the inspection, verification of attendance and wages/salary register is also not done, then non-compliance on the part of the employer even in salary/wages head, would never come to the notice and it would encourage such unscrupulous employers, who are under-reporting compliance. It is worth to note that nowhere in these instructions, it has been mentioned that this sort of general-compliance-verification will also be not done during inspection. **It is, therefore, clarified that SSOs will verify all records including accounts books only for the period of the allotment of inspection to them but also will verify attendance, wages/salary register and compliance including month-wise details of total no. of employees and covered employees, their wages/ salary and compliance wages for subsequent period up-to-date of inspection and submit the same with the Inspection Report.**

5. According to instructions issued vide Headquarters circular No.S-11/13/1/1/2009-Rev.II dated 30.09.2010 and circular No.S-11/12/2/2008-Rev.II dated 14.03.2012, the concept of inspection for determination of final date of coverage has been abolished and it has now been instructed to do this sort of complete verification during first survey itself to determine correct and final date of coverage, but it is being observed that SSOs generally check either the attendance register for the day of inspection or for a month or two before or see only the number of employees working on the day of survey/visit and recommend the coverage even without conducting Physical Verification in prescribed proforma, which is not in accordance with the instructions. It is required that SSO should physically verify the working employees/premises, in prescribed format as clarified in Para-1 of this circular for verification of complaints and he should verify attendance/wages register also in addition to obtaining the information from the employees particularly for their tenure of service and to get it verified from employer. It is necessary to take information about workers working in the field and other shifts also and on basis of all these, the date of coverage should be determined. If coverage is detected/likely to be from much back period, then, other records, which are necessary for inspection to determine correct date of coverage, should be demanded from employer and if employer does not produce them, then, a notice can be served to employer for production of required records, in accordance with the rules but this is not being done. So, strict compliance of these instructions is required because otherwise, in many cases, despite a complaint by the employees against employer to have deprived them from ESI Scheme Benefits for several years, SSO does not investigate on this aspect and recommend coverage from the date of visit, which is not fair.
6. In addition to this, follow up action on inspection reports, action against defaulter employers is not being taken timely and it has also come to the notice that in many cases, due to not taking action against defaulter for years, contribution claim has either become time-barred or going to be time-barred shortly. In this connection, Headquarters has already given clear instructions vide Circular No. P-12/11/11/38/2010-Revenue-II (Revenue Instructions No.03,04 and 05), dated 24.06.2010, Circular No.P-12/11/11/38/2010-Revenue-II dated 01.12.2010 and No.T-11/13/BIFR/2011-Revenue-I, dated 12.01.2011 and also provided in Chapter-XI of 'Revenue Manual', at pages-187 to 196, which prescribes the time period for identifying the defaulters and about timely action against them. Despite that, this has not been taken seriously. Director General has taken a very serious view of it and has instructed to fix up responsibility for the delay/loss of revenue because of not taking appropriate and timely action in such defaulter cases. Hence, please take it seriously and ensure strict compliance of all related instructions as well as prescribed time limits for taking action in such cases including follow-up action on Inspection Reports.
7. It has also been noticed that the complaints which are forwarded to the field offices by Public Grievances (PG) Branch or Central Analysis and Investigation Unit (CAIU) of Head Quarters, are sent back without the desired details and the complaints received directly by field offices are also forwarded to Hqrs. Office after considerable



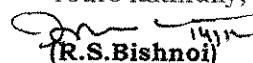
delay and without the prescribed details. The concerned office, which has information related to the complaint case, is expected to examine it first and see that if the complaint can be redressed by the details already available with it and without conducting inspection/physical verification, then to dispose it off immediately and give appropriate reply to the complainant with a copy to the concerned branch of Headquarters and where the reply to the complainant has to be given by the Headquarters Office, the Head of the field office(RO/SRO) should ensure to provide appropriate information/details under his own supervision, to the Hqrs. Likewise, for complaints received by field offices directly/from Hqrs., redressal of which requires inspection of records/surprise physical verification of employer's premises, desired details/required information should be provided in time/immediately to CAIU, Hqrs. Office/concerned branch, as per the present Inspection Policy, and then, after approval of inspection of records/investigation of complaint etc. by the Hqrs. Office, to ensure timely completion of approved action and to take follow up action on investigation/inspection and send compliance report with complete details to Hqrs. Office but from the experience, it has been observed that it is not being done properly and in time resulting in unnecessary and avoidable delay in redressal of the complaints which has been viewed very seriously by the Director General and he has directed to inform that, in future, in case of delay in forwarding of complaints/providing of the required details and follow-up action, responsibility shall be fixed on the concerned official/officer, who has delayed the information/action. So, please ensure **to provide necessary and required details along with the complaint itself in the cases, in which complaints are to be redressed through inspections after approval of Hqrs. Office.** In other complaints also, timely action needs to be ensured for quick disposal. It is also worth to mention that according to present Inspection Policy, **investigation/inspection in cases of complaints for deficiencies/irregularities in compliance under ESI Act, cannot now be conducted without approval from Hqrs. Office.**

It is, therefore, requested to ensure strict and timely compliance of above said instructions/orders of the Director General in regard to **investigation of complaints by Surprise Physical Verification of premises of employer, inspection of records, follow-up action on the reports, surveys, disposal of complaints and defaulter cases etc.**

This issues as per the directions and approval of the Director General.

(English Version of Hindi Circular dated 02.12.2015)

Yours faithfully,


(R.S. Bishnoi)
Director(CAIU)
for Insurance Commissioner

Copy to :

1. PPS/PS to Director General/Finance Commissioner/all Insurance Commissioners for information of the officer concerned.
2. All Branch Officers, ESIC, Headquarters, New Delhi.
3. Deputy Director, WCM with the request to upload the Circular on ESIC website.