



STATE BANK OF HYDERABAD STAFF ASSOCIATION

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CIRCULAR NO. SA-CO/03/2015

7TH April, 2015

To ALL the MEMBERS :

Dear Comrades,

We reproduce hereunder the CIRCULAR LETTER NO. 27/123/2015/19, dated: 6th April, 2015, issued by our National Organization – AIBEA – for your information.

With Greetings,

Yours Comradely,


(JAGDISH M BHAVTHANKAR)
GENERAL SECRETARY - SBHSA

Dear Comrades,

Payment of Bonus to eligible employees.

Units are aware that employees of the banks are entitled to receive Bonus from out of the gross profits of the banks subject to the eligibility criteria, available surplus, allocable surplus and other provisions of the Bonus Act, 1965.

Eligible Employees : Permanent employees and temporary employees who have worked for not less than 30 days in an year are eligible to receive Bonus (Section – 8). Employees drawing salary not exceeding Rs. 10,000/- per month are eligible (Section 2.13) to receive Bonus.

Eligible Salary : Where the monthly salary exceeds Rs. 3,500/- (but less than Rs. 10,000/-), the salary eligible for Bonus would be taken as Rs. 3,500/- p.m. (Section 12).

Bonus : Minimum 8.33% & Maximum 20% (Section 10 & 11). For the purpose of payment of Bonus and deciding the quantum of Bonus, **Available Surplus & Allocable Surplus** from out of the Gross Profit of the Banks has to be worked out.

However, it has come to our notice that in many Banks, without calculating and working out the Available Surplus and Allocable Surplus, mechanically, minimum of 8.33% Bonus is being declared & paid to eligible employees. Wherever, Allocable Surplus permits, Bonus is payable upto 20% to the eligible employees. Hence, all our All India Bankwise Unions/Federations should take up the matter with their managements to properly calculate the Allocable Surplus amount each year and demand payment of Bonus accordingly. We furnish herein the clarification given by IBA to one of the members recently in this regard for ready reference.

With greetings,

Yours Comradely,



**C.H. VENKATACHALAM
GENERAL SECRETARY**

CLARIFICATION BY IBA

“ We refer to your letter No. dated 9.2.2015, on the captioned subject.

We have examined the matter. In our opinion, the allocable surplus needs to be calculated in the case of all banking companies and the eligibility to bonus would not be limited to the minimum laid down under Section 10 of the Payment of Bonus Act, 1965 but be governed by Section 11 of the Act also.

In this regard, IBA had replied on a similar query received from a member bank, which is enclosed for your ready reference.”

Payment of Bonus Act, 1965 – Applicability of Section 2(4)

“ We refer to your letter No. dated

We have examined the matter in consultation with a leading firm of Chartered Accountants. For the reasons summarized herein below, we are of the opinion that Section 2(4) of the Payment of Bonus Act applies on all fours to Banking Companies:

- (i) The Act makes specific provisions for the computation of profits in the case of banking companies. To start with, the gross profits under Section 4 are to be calculated in terms of the First Schedule, which is specifically applicable to banking companies. At the next stage, the available surplus is to be computed under Section 5 by providing the deductions under Section 6, which includes deductions under the Third Schedule. The Third Schedule expressly deals with the deductions by way of prior charges for return on capital and reserves for banking companies. It also provides for a specific deduction of transfers to statutory reserves and reserves on direction and advice of the Reserve Bank in case of banking companies. The calculation of the available surplus under Sections 4, 5 and 6 is the logical approach to compute the allocable surplus under Section 2(4) of the Act. The allocable surplus quantifies the eligibility to bonus under Section 11 within the maximum of 20% of the salary. It is also the basis for computation of set on and set off under Section 15 of the Act.
- (ii) If the provisions of the Act were to be held inapplicable to banking companies, the specific provisions in the First and the Third Schedule for computation of available surplus would be reduced to a futile exercise. If the intention were to exclude the operation of the Act to the banking industry the appropriate basis would have been to place it on par with the Insurance Industry and make a provision in Section 32 without burdening the Act with special provisions for the banking industry.
- (iii) Even in relation to the finality of audited statements of accounts; a special provision is made in Section 24 for banking companies. A question of a dispute

under Section 22 with respect to bonus payable under the Act requiring a reference to audited statements of accounts would also have been reduced to an idle formality if the eligibility to bonus was limited to the minimum bonus under section 10. It would render the provisions of sections 22 and 24 to a nullity.

- (iv) The significance of the words "other than a banking company" appearing in section 2(4)(a) needs to be fully examined. These words were first omitted by the Amendment Act of 1976 and reinserted by the Second Amendment Act of 1980. The question is whether the re-insertion of these words "other than a banking company" in Section 2(4)(a) results in banking company not being required to calculate allocable surplus. The logical way of reading these words is to say that banking companies fall outside clause (a), which quantifies allocable surplus at 67% of available surplus. **The banking companies fall in clause (b), which determines the allocable surplus at 60% of the available surplus.**
- (v) In terms of Sub-section (2) of Section 12-A of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, an employee within the meaning of clause (13) of Section 2 of the Payment of Bonus Act, 1965 working in a nationalised bank is entitled to be paid bonus in accordance with the provisions of the Act. This would mean that Sections 10 and 11 of the Payment of Bonus Act governing payment of minimum and maximum bonus are applicable to nationalized banks.
- (vi) The applicability of the law under Section (3) of the Act is subject to any saving provided in the Act. A reference may be drawn to Section 32, which provides a set of cases where the Act is inapplicable. The Act has been made specifically inapplicable to Insurance employees. There is no exemption under Section 32 to banking employees. It is, therefore, not a case where the operation of the Act has been saved. Such an exclusion in Section 32 for banking companies was provided by the amendment in 1976 (clause vii of Section 32) but this was again reversed by deleting the exclusion by the amendment in 1980. Even under Sub-clause (g) to clause (ix) of Section 32, banking company has been excluded.

In our opinion the allocable surplus needs to be calculated in the case of all banking companies and the eligibility to bonus would not be limited to the minimum laid down under Section 10 but be governed by Section 11 also. The banks would also be required to maintain the requisite Registers showing the set off and set on as required under Section 15 of the Act.
