The Payment of Bonus Act

Introduction:

The Payment of Bonus Act, 1965 is a significant legislation in India that ensures the provision of bonuses to employees working in a specific establishment. The primary objective of this act is to bridge the gap between the rich and the poor by allowing employees to partake in the success of the company. It aims to distribute the benefits of a company's prosperity equitably among its employees to foster social justice and economic equality.

For businesses, Labour laws compliance with the Bonus Act is not only a legal obligation but also a step towards building a motivated and satisfied workforce. Understanding the nuances of this Act is important to ensure that employers and employees are able to implement the benefits prescribed by labour laws in India. With periodic amendments and judicial interpretations, the law continues to evolve to reflect the changing economic landscape and workforce needs. This is a testament to the Indian Parliament's commitment to ensure fair labour practices and promote social justice.

Historical Context:

Prior to the implementation of the Payment of Bonus Act, the concept of bonuses lacked consistency, resulting in disparities and discontent among employees. To address this issue, the Indian Government established a Bonus Commission in 1961 to examine and propose a comprehensive bonus payment scheme. The recommendations put forth by this commission eventually led to the enactment of the Payment of Bonus Act in 1965.

Objectives of the Act:

The primary goal of the Payment of Bonus Act, 1965 is to grant employees a legal entitlement to receive bonuses from their employers. The act stipulates both minimum and maximum bonus amounts to be paid based on the company's profits, ensuring that employees are entitled to a portion of the profits.

The Payment Bonus Act Applicability and Scope:

The Payment of Bonus Act is applicable to:

- Every factory as defined under the Factories Act, 1948.

- Every other establishment with twenty or more employees during an accounting year.

Additionally, the act extends to various other establishments as designated by the Government through notifications. However, it does not apply to specific categories of employees, including those in the Life Insurance Corporation, seamen, employees under dock workers' management boards, employees in industries operated by or under the authority of any department of the Central Government or a State Government, among others.

Definitions under the Act:

Employee

An "employee" under the Payment of Bonus Act is any person (other than an apprentice) employed on a salary or wage not exceeding Rs. 21,000 per month in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical, or clerical work.

Establishment

An "establishment" means any place where any industry, trade, business, manufacture, or occupation is carried on. This includes factories, shops, mines, and other places where workers are employed.

Salary or Wages

"Salary or wages" includes basic pay, dearness allowance, and any other allowances, excluding other benefits such as provident fund, pension, bonus, traveling allowance, gratuity, etc

Minimum and Maximum Bonus

The Act specifies the minimum and maximum limits of bonus payable:

Minimum Bonus: 8.33% of the salary or wages or Rs. 100 (whichever is higher), regardless of whether the employer has made any profit.

Maximum Bonus: 20% of the salary or wages, provided the employer has sufficient allocable surplus.

Allocable Surplus and Available Surplus

Allocable Surplus: Refers to 67% of the available surplus in case of a company other than a banking company and 60% in case of a banking company.

Available Surplus: Is computed according to the rules laid down in the Payment of Bonus Act, which include deducting certain prior charges (such as depreciation, development rebate or investment allowance, etc.) from the gross profits.

Set-On and Set-Off

The Payment of Bonus Act also contains provisions for "set-on" and "set-off" of allocable surplus. If, in any year, the allocable surplus exceeds the amount required for payment of the maximum bonus, the excess shall be carried forward to be "set-on" in the succeeding accounting years up to and including the fourth accounting year. Conversely, if there is a shortfall, the amount of minimum bonus paid can be "set-off" against the allocable surplus of the succeeding accounting years up to and including the fourth accounting year.

Payment Procedure

Time Limit

The bonus must be paid within eight months from the close of the accounting year. However, the government can extend this period upon request and for sufficient reasons.

Mode of Payment

The payment of bonus should be made through cash, cheque, or direct credit to the bank account of the employee.

Maintenance of Registers and Records

Employers are required to maintain the following records:

Register A: A register showing the details of the available surplus.

Register B: A register showing the details of the allocable surplus.

Register C: A register showing the set-on and set-off of the allocable surplus.

Register D: A register showing the details of the amount of bonus due to each employee, the deductions under Section 17, and the amount actually disbursed.

These records must be preserved for a minimum of eight years.

Rights and Obligations

Employee Rights:

Right to Receive Bonus: Employees have the right to receive a minimum bonus irrespective of profits.

Right to Inspect Registers: Employees can inspect the registers maintained by the employer related to the payment of bonuses.

Employer Obligations

Timely Payment: Employers must ensure timely payment of the bonus.

Maintain Records: Proper maintenance of records and registers as specified under the Payment of bonus act.

Disqualification and Recovery

Disqualification:

An employee can be disqualified from receiving a bonus if they are dismissed from service due to:

- Fraud

- Riotous or violent behavior

- Theft, misappropriation, or sabotage of any property of the establishment

Recovery:

If any amount payable to an employee under the Payment of Bonus Act remains unpaid, it can be recovered as if it were an arrear of land revenue. This ensures that employees receive their due bonuses without unnecessary delay.

Penalties for Non-Compliance

Non-compliance with the provisions of the Payment of Bonus Act can lead to penalties, which include:

Fine: The employer can be fined which may extend to Rs. 1,000.

Imprisonment: The employer can also face imprisonment for a term which may extend to six months, or both fine and imprisonment.

Amendments and Recent Changes

Over the years, the Payment of Bonus Act has undergone several amendments to enhance its applicability and effectiveness. The most notable amendments include:

Bonus Calculation Ceiling: The salary ceiling for calculation of bonus has been periodically revised to adjust for inflation and changes in economic conditions.

Coverage Extension: The scope of the Act has been extended to include more establishments and a broader category of employees.

Recent changes include the increase in the salary threshold for eligibility from Rs. 10,000 to Rs. 21,000 and the change in the method of calculation of the bonus to ensure more employees benefit from the Act.

Conclusion

The Payment of Bonus Act, 1965 is a landmark in Indian labour law. Mandating payment of bonus to employees ensures that they have a stake in the financial success of the company they work for. This fosters a sense of belonging and motivation among employees. Meanwhile, it encourages employers to maintain transparency and fairness in financial transactions, thereby promoting a fairer and more just working environment.