

**GOVERNMENT OF KERALA**

**Ministry of Finance**

(Department of Economic Affairs)

CD-Special Cell

**OFFICE MEMORANDUM**

No. F4(9)-CD/78.

*New Delhi, the 7<sup>th</sup> July, 1978.*

Sub:- Additional Emoluments (Compulsory Deposit) Act, 1974- Adjustment of amounts in deposit accounts towards outstanding Government dues.

Under section 19(1) of the Additional Emoluments (Compulsory Deposit) Act, 1974, the amount standing to the credit of an employee in any deposit account is exempt from attachment under any decree or order of any court in respect of any debt or liability incurred by the employee. The extent of protection available under the above provision had been brought out in this Ministry's Office Memorandum No. F4(13)-CD/76 dated the 29<sup>th</sup> September, 1976. As indicated therein, the immunity against attachment ceases as soon as the money 'ceases to stand credited in the deposit account' i.e. goes out of that account. There is, thus, no legal bar to the amount drawn by the specified authority (DDO) for payment to an employee (or his nominee) being attached or adjusted against the employer's dues. Government dues outstanding against an employee who has ceased to be in service can also be recovered by drawing the amount of compulsory deposits standing to his credit and then appropriating it towards those dues.

2. The question whether instructions contained in the above-quoted O.M. are applicable in cases where repayments are to be made by credit to the employees provident fund accounts under section 9 (4) of the Act has been considered in consultation with the Ministry of Law, Justice and Company Affairs (Department of Legal Affairs) who have advised that, so long as the amount remains standing to the credit of an employee in a deposit account, it enjoys the immunity under section 19 of the A.E. (C.D.) Act, i.e. cannot be attached or adjusted against the employer's dues. Thereafter, since the amount is required to be credited to the employees provident fund account and treated as his subscription to the provident fund, it enjoys the protection

under section 3 of the Provident Funds Act, 1925, according to which a compulsory deposit in any Government or Railway provident fund is not liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor. In other words, in the case of subscribers to a provident fund, it would not be lawfull for the employer to draw the amounts due to them by way of repayment of deposits from Additional Dearness Allowance Deposit account (New) and payment of interest for appropriating the same towards his (i.e. employer's) dues.

(sd.)

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