



## GES Alert

### Harmonizing global & local perspectives

Supreme Court rules successor employer to be liable for PF defaults prior to transfer

**Issue no: GES/8/2015**

**In this issue:**

Facts  
Issues before the Court  
Ruling of the Supreme Court  
Comments  
Upcoming Dbriefs–Register  
Contacts

# Facts

- Mcleod Russel India Limited (previously known as Eveready Industries (India) Ltd.) (“Successor Company”) acquired M/s. Mathura Tea Estate, previously owned by Saroda Tea Company Ltd. (Transferor Company).
- M/s. Mathura Tea Estate had defaulted in remitting the contributions and accumulations payable under the Employees Provident Fund and Miscellaneous Provisions Act, 1956 (“the EPF Act”) and sundry schemes formulated under that.
- The agreement of transfer indicated that any damages for failure to deposit PF dues remains the liability of the Transferor Company.
- The Successor Company, while paying the PF dues, contended before the PF authorities (Regional Provident Fund Commissioner/RPFC) that proceedings under Section 14B were unjustified. The contention was rejected by the RPFC.
- While the single-judge bench of the Calcutta High Court ruled in favour of the Successor Company, the division bench, on appeal reversed the decision. Aggrieved by this Ruling, the Successor Company filed a Special Leave Petition (SLP) before the Supreme Court of India.

## Issues before the Court

Whether the Successor Company can be held liable to pay damages for default committed by the Transferor Company under the PF Act?

## Ruling of the Supreme Court

The Supreme Court ruled that the Successor Company would be held liable for damages under Section 14B of the Act for defaults committed prior to transfer. The Court affirmed the decision of the RPFC highlighting that as per Section 17B of the Act, both the Transferor and the Successor Companies shall, in case of transfer of an establishment, jointly and severally be liable to pay

contribution and other sums due from the employer under any provisions of the Act.

The Supreme Court also clarified that the covenants between the two entities would not insulate the Successor Company.

## Comments

The Employees Provident Fund Organisation (EPFO) has circulated this judgment internally for adherence by the PF officers. The decision highlights the necessity to evaluate any possible liabilities under the PF Act at the time of take-over of an establishment more specifically with reference to defaults and related penalties.

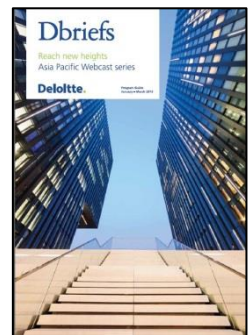
**Source:** RPFC - HO No. LC-2(613)2008/WB/38657 dated 19/02/2015 read with judgment by Hon'ble Supreme Court of India in Civil Appeal No. 5927 of 2014 - McLeod Russel Indian Ltd., Vs. RPFC, Jalpaiguri & Others

## Upcoming Dbriefs - Register

### India's Budget 2015: Will the Promised Land of Tax-friendly Reforms Finally Exist?

**Monday, 2 March, 11:30 AM – 12:45 PM IST**

Budget 2015 is seen as the apt platform for the Finance Minister to set a larger context and introduce a strong reform and growth-focused agenda. Gain insights from the Deloitte experts with an in-depth analysis of the 2015 India's Budget. For more information, visit the [Dbriefs](#) page.



[Register now](#)

# Contacts

## Ahmedabad

Heritage, 3rd Floor,  
Near Gujarat Vidyapith,  
Off Ashram Road,  
Ahmedabad – 380 014.  
Tel: + 91 (079) 2758 2542  
Fax: + 91 (079) 2758 2551

## Coimbatore

Shanmugha Manram  
41, Race Course,  
Coimbatore  
Tamil Nadu - 641018  
Tel: + 91 (0422) 439 2801  
Fax: +91 (0422) 222 3615

## Kolkata

Bengal Intelligent Park Building Alpha,  
1st floor, Block EP and GP Sector V,  
Salt Lake Electronics Complex,  
Kolkata - 700 091.  
Tel : + 91 (033) 6612 1000  
Fax : + 91 (033) 6612 1001

## Bangalore

Deloitte Centre, Anchorage II,  
100/2, Richmond Road,  
Bangalore 560 025.  
Tel: +91 (080) 6627 6000  
Fax: +91 (080) 6627 6010

## Delhi/Gurgaon

Building 10,  
Tower B, 7th Floor,  
DLF Cyber City,  
Gurgaon 122 002  
Tel : +91 (0124) 679 2000  
Fax : + 91 (0124) 679 2012

## Mumbai

Indiabulls Finance Centre,  
Tower 3, 28th Floor,  
Elphinstone Mill Compound,  
Senapati Bapat Marg, Elphinstone (W),  
Mumbai – 400013  
Tel: + 91 (022) 6185 4000  
Fax: + 91 (022) 6185 4101

## Chennai

No.52, Venkatanarayana Road,  
7th Floor, ASV N Ramana Tower,  
T-Nagar,  
Chennai 600 017.  
Tel: +91 (044) 6688 5000  
Fax: +91 (044) 6688 5050

## Hyderabad

1-8-384 and 385, 3rd Floor,  
Gowra Grand S.P.Road,  
Begumpet,  
Secunderabad – 500 003.  
Tel: +91 (040) 6603 2600  
Fax: +91 (040) 6603 2714

## Pune

106, B-Wing, 7<sup>th</sup> Floor,  
ICC Trade Tower,  
Senapati Bapat Road,  
Pune – 411 016.  
Tel: + 91 (020) 6624 4600  
Fax: +91 (020) 6624 4605

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India Private Limited (DTTIPL) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites). DTTIPL is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sources. None of DTTIPL, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this material, rendering professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

© 2015 Deloitte Touche Tohmatsu India Private Limited. Member of Deloitte Touche Tohmatsu Limited.

[Home](#) | [Add Deloitte as a safe sender](#)

Follow us on:

