



For immediate release on 13 September 2018

### Press Release

#### **115 migrant workers receiving 8 million baht as compensation after mediation by the Labor Court Region 6, previously labor inspector ordering employer to pay the employees over 25 million baht**

On 12 September 2018, 115 Myanmar migrant workers, employed by Mae Sot P.A. Ltd. by Ms. Supha Chakcharoensap and Hun Bangkok Co. Ltd. by Ms. Pornthip Hun, authorized director, have gone to collect the amount of eight million baht from the Mae Sot Office of Labour Protection and Welfare. Previously, on 29 January 2018, the Tak labor inspector ordered the employers, Mae Sot P.A. Ltd. and Hun Bangkok Co. Ltd. to pay the 115 workers the amount of 20,041,318.04 baht (about 64,000 USD) for their outstanding wage, overtime payment, compensation, and a special severance pay in lieu of advance notice

#### **Background**

- On 27 September 2017, 115 migrant workers employed by a garment factory registered as Mae Sot P.A. Ltd., Mae Sot, Tak, have submitted their demand to the employer (via Ms. Supha Chakcharoensap, a partner of the company). The company was asked to sign a collective bargaining agreement in which the employees have tabled their demands in letter invoking Section 13 of the Labor Relations Act 1975. It was rejected by the employer who refused to participate in the negotiation as required by the law. This has given rise to a labor dispute.
- As the labor dispute emerged, the workers have filed their complaint with the official in charge of mediation who was asked to mediate the labor dispute. The mediation took place twice in October 2017 and no conclusion could be reached. Even though during that time, the workers were allowed to enter the factory and work as normal, but their wages were withheld by the employer. On 18 October 2017, the employer put up a notice requesting all workers who stayed in the factory to move out. It has prompted the workers to report a criminal case against the employer with the Mae Sot Police Station. The acts of the employer were accused as a breach of the Labor Relations Act. Even though another negotiation took place in November 2017, but it has failed to settle the dispute and the employer has then put up a notice barring the workers from entering the factory compound.
- On 10 November 2017, as the wage payment was due, the employer refused to pay the employees, and it was considered an unfair dismissal of employees. As a result, the 115 migrant workers have complained with the labor inspector of the Tak Office of Labour Protection and Welfare (the office of which is based in Mae Sot) seeking labor protection per the Labor Protection Act.
- On 12 January 2018, the labor inspector issued an Order no. 1/2018 granting the 115 migrant workers protection per the Labor Protection Act and for them to receive the amount of 20,041,318.04 baht plus incurred interest since the date the payment was not made, The employee was informed that they could bring this to the Court within 30 days, should they not be happy with the order.

- On 22 February 2018, the Hun Bangkok Co. Ltd. filed a motion with the Court seeking to annul the order issued by the labor inspector placing a deposit of 20,041,318.04 baht. The Court was asked to revoke the order as the company claimed it was not the employer and the arrangement was made between the Mae Sot P.A. Ltd. and the workers in the form of 'hire of work', not between employer and employee. Later, the labor inspector has changed the amount of compensation and as a result the Hun Bangkok Co. Ltd. has to increase the deposit placed with the Court for another five million baht.
- On 29 July 2018, the Court ordered the trial to proceed with witness examination of the plaintiffs, the defendants and the interpleaders. The workers were represented by attorneys from various organizations including MAP Foundation, Human Rights and Development Foundation (HRDF), and ADRA Thailand, During the trial, the Court proposed a mediation and eventually, the plaintiffs agreed to pay and the workers as interpleaders in this case agreed to accept the amount of 8 million baht, while they could continue to request for the remaining amount as ordered by labor inspector from Mae Sot P.A. Ltd. by pursuing another litigation against the employer.

Even though efforts have been made by the Thai government to provide for policy to manage migrant workers and to ensure they are entitled to protection as provided for by the state policy and laws and to receive equal payment as their Thai counterparts per the resolution of the Minimum Wage Committee, many employers continue and intentionally avoid paying their migrant employees at the rate provided for by law. As the incumbent Thailand's Labor Relation Act still restricts the right of migrant workers to form a labor union, or to become a member of committee or subcommittee of a labor union, they have been made vulnerable as far as labor protection is concerned and when it comes to negotiation with the employers.

In addition, the Thai government has initiated a policy to encourage business sector to pay more respect to human rights through the development of the National Action Plan on Business and Human Rights (NAP) in compliance with the UN Guiding Principle on Business and Human Rights. Therefore, the government should require large scale business entities which employ migrant workers as their main production force to conduct human rights due diligence as a measure to prevent abusive labor exploitation. Such due diligence report should also be disclosed to the public to raise the awareness and to make it convenient for traceability. Attention should also be paid to transparency and traceability in compliance with good governance.

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