



**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.
(Thursday, 30th day of September 2021)

APPEAL No.565/2019
(Old ATA No. 960(7)12)

Appellant

M/s. K K Rocks & Granites India Pvt.Ltd.
Malayom P.O.
Thiruvananthapuram – 695 581

By Adv. C M Stephen

Respondent

The Regional PF Commissioner
EPFO, Regional Office
Pattom,
Thiruvananthapuram – 695 004

By Adv. N S Nitha

This case coming up for final hearing on 26/04/2021 and this Tribunal-cum-Labour Court on 30/09/2021 passed the following:

ORDER

The appellant filed appeal No. ATA No. 960(7) 2012 challenging a notice number KR/TVM/Circle 13/damages/ KR/ 22883/CA/9097 dated 6th November 2012 before the Hon'ble

EPF Appellate Tribunal, New Delhi. The Honourable EPF Appellate Tribunal found that the impugned order under challenged is not an appealable order under Section 7(I) (1) of EPF and MP Act and therefore dismissed the same vide order dated 19/02/2013. The appellant filed the review application on 15/04/2013 under Section 7 (L)2 of the Act on the ground that they received an order issued under Section 14B of the Act subsequently and therefore wanted to substitute the order issued by the respondent authority bearing No. KR/22883/TVM/PD/VK/2012/9729 dated 30th November 2012 as the impugned order in the appeal. According to the review petitioner he was not given any notice of the proceedings under Section 14B of the Act.

2. The review application was opposed by the learned Counsel for the respondent stating that the order dated 19/02/2013 issued by the EPF Appellate Tribunal is legally correct as the appellant challenged a notice of hearing under Section 14B of the Act which cannot be challenged under Section 7(I) of the Act. According to the Counsel for the respondent, the appropriate remedy available to the appellant /

review petitioner was to challenge the order issued under Section 14B of the Act in a separate appeal. Order issued under Sec 7L of the Act cannot be modified through a review petition by incorporating a fresh order issued by the respondent authority later.

3. On a perusal of the file, it is seen that the appellant challenged a notice issued by the respondent authority under Section 14B of the Act providing an opportunity to the appellant to appear before the respondent authority on 22/11/2012 at 10AM in this appeal. A detailed delay statement showing the delay in remittance of provident fund contribution for the period from 04/2002 to 10/2011 was also enclosed along with the notice. When the matter came up for hearing, the Hon'ble EPF Appellate Tribunal, New Delhi found that appellant has challenged a notice and there is no appealable order issued by the respondent authority. The EPF Appellate Tribunal, therefore dismissed the appeal. The respondent authority continued the proceedings and finally issued an order under Section 14B of the Act. The appellant thereafter approached the EPF Appellate Tribunal with the

present review application requesting to substitute the order issued under Section 14 B of the Act in the place of the notice.

As per sec “7L (2)” of the Act, “a tribunal may at any time within 5 years from the date of its order with a view to rectifying any mistake apparent from the record amend any order passed by it under Sub-section 1 and shall make such amendment in the order if the mistake is brought to its notice by the parties to the appeal.

Provided that an amendment which has the effect of enhancing the amount due from, or otherwise increasing the liability of the employer shall not be meant under this sub-section, unless the tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard”

4. From the above, it is clear that Section 7L (2) can be invoked only by the Tribunal Suo moto to rectify any mistake apparent from the records and it cannot be used to substitute a new order in the place of the old one which was

originally challenged in the appeal. Sec 7L (2) cannot be invoked by a party to the proceedings. The appropriate course open to the appellant was to challenge the subsequent order in a separate appeal.

Considering the facts, circumstances and pleadings in this review petition, I am not inclined to accept the same.

Hence the review petition is dismissed.

Sd/-
(V. Vijaya Kumar)
Presiding Officer