

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

Date: 24-04-2026

**PRESENT: SUSHIL KUMAR-II,
PRESIDING OFFICER**

Review Petition &

**Appeal No. 96/2023
(ATA No.612(7)2007)**

BETWEEN

**M/s. Kailas Cashew Exports
Pezhukonam, Cheerankavu,
Ezhukone, Kollam-691 505.**

AND

**The Regional Provident Fund Commissioner,
Employees Provident Fund Organisation,
36/685A, Bhavishyanidhi Bhavan,
Kaloor, Kochi – 682 017.**

... I Party / Appellant

... II Party / Respondent

Appearance

For the Appellant

M/s. Vivek Menon, Advocates

For the Respondent

Mr. N. Raghuraj, Advocate

Called out. Heard the learned counsel appearing on behalf of either parties on the Review Petition.

2. It is stated in the Review petition that Order No.KR/KC/ATA /612(7)(07)/Legal Cell/2013 dated 16.06.2013 was challenged by the Appellant. This appeal was disposed off vide order dated 08.08.2012 of the EPF Appellate Tribunal, New Delhi by holding that the Respondent authorities issued direction without any verification

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and examination of records/documents. Thus, it has no legal basis and liability, accordingly, quashed the impugned assessment order. It is further stated that the Tribunal has observed that even if, the Appellant has not produced the desired records pertain to 204 employees, the Respondent authority is expected to exercise the powers conferred on it u/s.7A(2) of the Act to collect the necessary material to establish that PF benefits were not conferred on the 204 employees. It is further stated that the appeal was posted before the Tribunal at New Delhi on 26.11.2007 and counter affidavit was sent to the Deputy Registrar of EPFAT by registered post on 16.11.2007 with a copy to standing counsel and the employer. But, an ex-parte order was passed by this Tribunal by quashing the impugned order which resulted in miscarriage of justice and to the detriment of beneficiary of the employees, who are legitimately eligible and entitled to become PF members.

3. It is an error apparent on the face of the record. Therefore, it is pleaded that the Tribunal order dated 08.08.2012 has to be rectified by this Tribunal by modifying the impugned order.

4. I have gone through the order passed by the EPF Appellate Tribunal, New Delhi dated 08.08.2012. On perusal of records, it reveals that the appeal was filed before the Appellate Tribunal situated at New Delhi and the Presiding Officer held that various opportunities were given to the Respondent to file reply, but no reply has been filed by the Respondent and even its Counsel was not present before the Tribunal during last two hearings. Keeping in

view of the mandate issued by Hon'ble High Court of Kerala in Writ Petition No.23354 of 2007 to decide the appeal within the time limit, the matter was taken up for final disposal.

5. As per the case of the Appellant, it has three units namely M/s.Kailas Cashew Exports, Thamarakkulam, M/s. Kailas Cashew Exports, Karakkadu and M/s.Sajeev Cashew Company, Ulavukkadu. All the above units are situated at Alappuzha District of Kerala under the common management, but have separate code numbers to all three units. On the basis of false complaint before the Respondent authority, enquiry was initiated u/s.7A of the Act by the Respondent. During the enquiry proceedings, the Appellant through its representative submitted all the records demanded by the Respondent and pleaded that due to acute scarcity of young , skilled workers, the Appellant was employing persons who have retired from service of Kerala State Cashew Development Corporation and CAPEX, who have got their EPF & EPFS accounts settled and presently drawing pension from EPF organization and therefore, comes under 'excluded employees'.

6. Upon considering the facts submitted by the Appellant, it was concluded by the Tribunal that if the Appellant has not produced the desired records pertain to 204 employees, the Respondent authority is expected to exercise the powers conferred on it u/s.7A(2) of the Act to collect the necessary material to establish that PF benefits were not conferred on the 204 employees. In such circumstances, ^{would have been} ~~it is~~ fair and proper to remand the matter back to the

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Respondent authority to conduct fresh enquiry, but the Tribunal has inadvertently set aside the whole enquiry proceedings and the impugned order. Therefore, there is an error apparent on the face of the record as committed by the EPF Tribunal and hence, the present Review Petition is allowable.

7. In view of the above discussion, the Review Petition is allowed and the Tribunal order dated 08.08.2012 is modified as under:-

ORDER

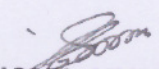
8. The appeal filed by the Appellant is allowed for statistical purposes and the matter is remitted back the file of the Respondent authority with a direction to decide the matter afresh, after providing due opportunity of being heard to the Appellant and pass orders on merits in accordance with law. Ordered accordingly.

Copy of this order be sent to both the parties.

Record be consigned to the record room.

Place:Ernakulam
Date: 24-04-2026




(SUSHIL KUMAR-II)
Presiding Officer