

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

ERNAKULAM

Date: 24.04.2026

PRESENT: SHRI SUSHIL KUMAR-II,
PRESIDING OFFICER

APPEAL No. 02/2024

BETWEEN

M/s. Kerala State Cashew Development
Corporation Ltd.
Cashew House, Mundakkal
Kollam – 691 001

...

I Party / Appellant

AND

The Regional Provident Fund Commissioner - II,
Employees Provident Fund Organization,
Ponnamma Chambers, Parameswar Nagar
Kollam – 691 001

...

II Party / Respondent

Appearance

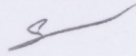
For the Appellant

M/s. V.J.Mathew & Co.

For the Respondent

ORDER

This appeal has been filed by the Appellant against Order No. KR/KLM/1183/Penal Damages/2023/798 dated 02.08.2023 of the Regional Provident Fund Commissioner – II, Kochi by which damages amounting to Rs. 9,48,872/- was levied against appellant under Section 14B of the Act.



2. The learned Counsel for the respondent pointed out that the appeal is barred by limitation. It is seen that the impugned order is dated 02.08.2023 and the appeal ought to have been filed before 01.12.2023. The limitation and the extended period of limitation granted by the Hon'ble Supreme Court of India in *Suo Motu Writ Petition(Civil) No.3/2020* will not be applicable in the present case since the order of the Hon'ble Supreme Court in the above referred case is applicable only w.e.f. 15.03.2020, whereas the extended period of limitation in this case expired on 01.12.2023 itself and the appeal was filed on 05.01.2024.

3. As per Rule 7(2) of EPF Appellate Tribunal (procedure) Rules 1997 which is applicable for filing of appeals under Section 7(I) of EPF & MP Act, 1952, any person aggrieved by an order passed under the Act, may prefer an appeal to the Tribunal within 60 days from the date of issue of order provided that the Tribunal may if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the prescribed period, extend the said period by a further period of 60 days. As per the above provision, appeal from an order issued under the provisions of the Act need to be filed within 120 days. There is no power to condone delay beyond 120 days under the provisions of the Act.

4. The Hon'ble High Court of Kerala considered the issue in **Dr.A.V.JosephVs APFC, 2009 (122) FLR184**. The Court observed that

"maximum period of filing appeal is only 120 days from the date of impugned order. When the statute confers the power on the authority to condone the delay only to a limited extent, it can never be widened by any court contrary to the intention of the law makers".

The Hon'ble High Court of Kerala also examined the issue whether the EPF Appellate Tribunal can condone the delay beyond 120 days in **Kerala State Defence Service Co-operative Housing Society Vs Assistant P.F. Commissioner, 2015 LLR 246** and held that the employer is precluded from approaching the Tribunal after 120 days and Section 5 of Limitation Act, 1963 is not applicable to proceedings before the Tribunal.

In **M/s. Port Shramik Co-operative Enterprise Ltd Vs EPFO, 2018 LLR 334 (Cal.HC)**, the Hon'ble High Court of Calcutta held that the limitation provided under Rule 7(2) of the Appellate Tribunal(Procedure) Rules, 1997 cannot be relaxed.


In **EPFO represented by Assistant P.F. Commissioner Vs K. Nasiruddin Biri Merchant Pvt Ltd, 2016 LLR 367(Pat.HC)**, the assessment of dues U/s 7A of the Act to the tune of Rs.3,36,30,036/- was under challenge. EPF Appellate Tribunal

condoned the delay in filing the appeal and set aside the order. The Hon'ble High Court of Patna set aside the order of the Tribunal holding that the Tribunal has no power to condone delay beyond 120 days.

In view of the above decision, the appeal is dismissed as barred by limitation.

Place:Ernakulam
Date: 24.04.2026




(SUSHIL KUMAR-II)
Presiding Officer