



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

Present: Shri.V.Vijaya Kumar, B.Sc., LLM, Presiding Officer.

(Monday the 21st day of December, 2020)

Appeal No.341/2018

Appellant : M/s.Shameema Cashew Company
Shameema Manzil
Kallumthazham
Kollam – 691004

By Adv.Mini Elisabeth George

Respondent : The Regional PF Commissioner
EPFO, Regional Office
Parameswar Nagar
Kollam – 691001

By Adv.Pirappancode V.S.Sudheer &
Megha A.

This case coming up for final hearing on 21.12.2020 and the same day this Tribunal-cum-Labour Court passed the following:

ORDER

Present appeal is filed from order no.KR/KLM/1473/ENF-1(2)/Area I/2018/190 dt.24.07.2018 U/s 7(B)(1) of the EPF & MP ACT, 1952, reviewing an earlier order U/s 7A of the Act dt.13.02.2009.

2. The appeal was posted on 18/07/2019 for admission. There was no representation for the appellant, though summons was already served. The matter was adjourned to 04.10.2019. On 04.10.2019, the appellant entered appearance and sought time on the ground that the owner of the appellant establishment died. The appellant is the establishment and not any individual, however the matter was adjourned to 12/12/2019 for admission. Thereafter, the matter was posted on various dates for admission and there was no representation for the appellant. The matter was finally posted to 21.12.2020 for admission. There was no representation for the appellant.

3. The respondent was represented and they filed counter.

4. It is seen that an assessment order U/s 7A of the Act assessing dues in respect of some non-enrolled employees and evaded wages for the period for 10/2003 to 05/2008 was issued by the respondent vide order dt.13.02.2009. This order was challenged by the appellant in W.P.no.8875/2009. The Hon'ble High Court directed the respondent to consider the review U/s 7B of the Act. The appellant did not produce any fresh evidence and the review was rejected. The appellant challenged that order before EPF Appellate Tribunal, New Delhi. The appeal was admitted subject to remittance of 40% of the dues U/s 7(O) of the Act. The appellant remitted only 5% of the dues and therefore the appeal was rejected. The appellant again approached the Hon'ble High Court of Kerala in W.P.no.19207/2011. The Hon'ble High Court vide its order dt.09.11.2017 remitted the case to the respondent on the

ground that a copy of the squad report was not given to the appellant. The respondent again initiated the Sec 7B review, provided copies of the squad report to the appellant and also provided adequate opportunity to the appellant before the impugned order is issued rejecting the Sec 7(B) review application. The appellant failed to produce any document before the respondent to substantiate their claims.

5. It is seen that the assessment is for the period 10/2003 to 05/2008. There are few poor cashew employees who are to be enrolled and benefited by the impugned order. The fate of the benefits are still hanging in the air after 22 years.

6. As already pointed out, the appeal was posted for admission for more than one year. The learned Counsel for the respondent submitted that the appeal is not maintainable as appeal is filed from an order rejecting a Sec 7B review application. As per Sec 7(I),

S.7(I). Appeals to the Tribunal – (1) Any person aggrieved by a notification issued by the Central Government or an order passed by the Central Government or any authority, under proviso to Sub Sec (3) or Sub Sec (4), Sec 1 or Section 3 or Subsection (1) of Sec 7A or **Sec 7B (except an order rejecting an application for review referred to in Sub Sec 5 thereof)** or Sec 7C or Sec 14B, may prefer an appeal to a Tribunal against such order.

(2) - - - - -

As per Sec 7B(5) “ No appeal shall lie against the order of the officer rejecting an application for review, but an appeal under this Act shall lie against an order passed under review as if the order passed under review were the original orders passed by him U/s 7A ”. A combined reading of Sec 7I(1) and Sec 7B(5) would clearly indicate that no appeal is maintainable against an order rejecting a Sec 7B review application.

Hence the appeal is dismissed as not maintainable.

Sd/-

(V. VIJAYA KUMAR)
Presiding Officer