

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WA.No. 1796 of 2009

AGAINST THE JUDGMENT IN W.P(C).NO.22312/2009, DATED 06-08-2009

APPELLANT(S)/(PETITIONER IN WRIT PETITION) :

**M/S.ABAD OVERSEAS PVT.LTD.,
ABAD BUILDING, JEW TOWN ROAD, KOCHANGADI,
KOCHI, KERALA - 682 002, REPRESENTED ITS DIRECTOR,
SHRI.ANWAR HARSHIM.**

BY ADV. SRI.JOY THATTIL ITTOOP

RESPONDENT(S)/(RESPONDENT IN WRIT PETITION) :

**RESERVE BANK OF INDIA,
FOREIGN EXCHANGE DEPARTMENT, CENTRAL OFFICE,
11TH FLOOR, CENTRAL OFFICE BUILDING,
SHAHEED BHAGAT SINGH MARG, P.B.NO.1055,
MUMBAI - 400 001.**

**BY ADVS. SRI.VIVEK VARGHESE P.J.
SRI.VARUGHESE M EASO
SRI.P.J.VINOD JOSEPH**

**THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 17-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

WA.No. 1796 of 2009

APPENDIX

PETITIONER(S)' ANNEXURES :

NIL

RESPONDENT(S)' ANNEXURES :

ANNEXURE R(A): TRUE COPY OF THE FOREIGN EXCHANGE (COMPOUNDING PROCEEDINGS) RULES, 2000.

//TRUE COPY//

P.S.TO JUDGE.

Msd.

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.A. No. 1796 OF 2009

Dated this the 17th day of November, 2015

JUDGMENT

Shaffique, J.

The petitioner in W.P.(C) No.22312 of 2009 has filed the appeal challenging the judgment dated 06.08.2009 by which the writ petition was disposed of by the learned Single Judge directing the appellate Tribunal to consider and pass appropriate orders on the appeal preferred by the petitioner.

2. The short facts involved in the writ petition discloses that the petitioner being an Indian Company engaged in the business of processing and export of Marine Food Products had received foreign inward remittance from persons residing outside India for acquisition of shares or convertible debentures. Proceedings were taken by the Enforcement Authority under the Foreign Exchange Management Act, 1999(FEMA). The petitioner applied for compounding, which was allowed by the respondent in terms of Ext.P2 order dated 17.03.2009, by which the petitioner was called upon to remit an amount of Rs.5 lakhs as compounding fee.

3. Petitioner Company contended that they have preferred an appeal. Though the learned Single Judge expressed

doubt regarding the maintainability of the appeal, still the appellate authority was directed to dispose of the matter in accordance with law.

4. The main contention urged by the appellant is about validity of Ext.P2 order. Since the application for compounding had been submitted by the petitioner, it was the obligation of the respondent authority to pass appropriate orders. When such orders has been passed, we do not think that the appellant was entitled to challenge Ext.P2 order. At any rate since the parties are relegated to prosecute the appeal, we do not think that any grounds are made out to exercise the appellate jurisdiction and to interfere with the judgment.

Accordingly, the Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

WA No. 1796 of 2009

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