

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

WP(C).No. 25100 of 2015 (J)

PETITIONER(S) :

**M/S.ABAD BUILDERS,
14/392-Q3, OFFICE NO.82, VIIIITH FLOOR,
ABAD NUCLEUS MALL AND OFFICE, NH-49, MARADU P.O.,
KOCHI - 682 304, KERALA,
REPRESENTED BY ONE OF ITS PARTNER AND
AUTHORISED SIGNATORY, DR.NAJEEB ZACKERIA, AGED 45 YEARS,
S/O.ZACKERIA USMAN.**

**BY SRI.C.C.THOMAS (SENIOR ADVOCATE)
ADVS. SRI.N.VIJAYAKUMAR (CHILAVANOOR)
SRI.NIREESH MATHEW**

RESPONDENT(S) :

- 1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY, MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE, NORTH BLOCK,
NEW DELHI - 110 001.**
- 2. COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX,
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
CUSTOMS AND SERVICE TAX, C.R. BUILDING, I.S PRESS ROAD,
KOCHI- 682 018.**

**BY ADV. SRI.JOHN VARGHESE, S.C
BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL, S.C**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 18-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

WP(C).No. 25100 of 2015 (J)

APPENDIX

PETITIONER(S)' EXHIBITS :

**EXHIBIT-P1: TRUE COPY OF THE ORDER DATED 30/07/2015 PASSED BY
THE 2ND RESPONDENT.**

**EXHIBIT-P2: TRUE COPY OF THE JUDGMENT DATED 02/03/2015 IN
W.P.(C).NO.6173/2015, M/S.MUTHOOR FINANCE LTD.'S CASE,
PASSED BY THIS HON'BLE COURT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A. MUHAMED MUSTAQUE, J.

W.P(C). No. 25100 of 2015

Dated this the 18th day of August, 2015

J U D G M E N T

The petitioner has approached the 2nd respondent in appeal as against the assessment order. The petitioner has been directed to remit pre-deposit of 7.5% of the demand for entertaining the first appeal. The petitioner relying on the judgment of this Court in **Muthoot Finance Ltd. V. Union of India, 2015 (320) E.L.T. 51** and submits that since the proceedings are prior to the amendment on 06.08.2014, they are not liable to remit pre-deposit of 7.5%.

2. The learned standing counsel submits that the departmental authorities already preferred an appeal against **Muthoot Finance's case** and that claim is pending before the Division Bench.

3. In view of the facts and circumstances, the respondent is directed to entertain the appeal without pre-deposit on undertaking by the petitioner that in the event **Muthoot Finance's case** is being reversed by the Division Bench of this Court in appeal, they shall remit pre-deposit of 7.5%.

This writ petition is disposed of.

Sd/-
A. MUHAMED MUSTAQUE, JUDGE.

The work **“respondent”** occurring in the first line of paragraph 3 of the judgment dated 18/08/2015 in W.P.(C) No. 25100/2015 is corrected and substituted as **“Customs, Excise and Service Tax Appellate Tribunal, South Zonal Bench, Bangalore”** as per order dated 09/10/2015 in I.A 14453/2015 in W.P.(C) No. 25100/2015.

Sd/-

REGISTRAR (JUDICIAL)