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WPA 5170 of 2023

M/s. J.J. Exporters Limited
Vs
The Principal Commissioner of CGST & Central Tax, Kolkata North Commissionerate, GST Bhawan & Ors.

Mr. Sourav Bagaria,
Mr. Indranil Banerjee,
Mr. Subrata Mukherjee
... For the Petitioner.
Mr. K.K. Maiti,
Mr. Tapan Bhanja
... For the CGST Authorities.
Mr. Aninda Bhattacharya
... For the UOI.

Heard learned Advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned order dated 29th December, 2022 passed by the Assistant Commissioner (HQ Tech), CGST & CX, Kolkata North Commissionerate in compliance of an earlier order of this court dated 21st November, 2022, in the case of the petitioner, in WPA 23009 of 2022, which was filed on the ground that the appeal in question filed by the petitioner was dismissed on the technical ground that payment of pre-deposit made by the petitioner was under the wrong heading "Union Excise" instead of "Customs". On perusal of the aforesaid impugned order dated 29th December, 2022, I find that the claim of the petitioner for treating the aforesaid amount under the wrong heading as pre-deposit was rejected mainly on the ground as appears at paragraph 5 of the said impugned order which was quoted are as hereunder: -

> "It may be mentioned in this respect that the change of Accounting Head sought by the Applicant cannot be done by this office and it can be done only by the Pay and Accounts Officer who functions under the Pr. Chief Controller of Accounts, New Delhi. Despite the continued non-cooperation of the Applicant in participating in these proceedings, the matter was refereed by this office to the jurisdictional PAO, who intimated vide letter No.PAO/REV/KOL/Accounts/2022-23/205 dated 19.12.2022; "The deposited amount cannot be diverted from one accounting head to another head due to previous (2014-15) financial year".

Considering such stand taken by the Adjudicating Authority concerned that the claim of the petitioner for diverting the pre-deposit amount in question from one accounting head to other head cannot be considered and the appropriate authority in this regard is Pay and Accounts Officer who functions under the Principal Chief Controller of Accounts, New Delhi, this writ petition being WPA 5170 of 2023 is disposed of by granting liberty to the petitioner to make application before the Principal Chief Controller of Accounts for transferring the pre-deposit amount which has been admittedly made under the wrong heading "Union Excise" instead of "Customs" and if such application is made by the petitioner within two weeks from date before the Principal Chief Controller of Accounts, New Delhi, he will pass necessary order for transferring the admitted pre-deposit amount from "Union Excise" to

“Customs” within four weeks from the date of receipt of such application with an intimation to the petitioner and all legal consequences will follow automatically including re-hearing of appeal in question, which was dismissed by the Appellate Authority on the technical ground of making pre-deposit under the wrong heading.

(Md. Nizamuddin, J.)