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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6683/2025**

AB PLAYERS EXPORTS PVT. LTD. .....Petitioner

Through: Mr. Bharat Bhushan Gupta, Mr. Anurag Mishra and Ms. Nidhi Gupta, Advocates.

versus

COMMISSIONER, CGST, DELHI WEST .....Respondent

Through: Mr. Pranay Mohan Govil, SSC.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE RAJNEESH KUMAR GUPTA**

**O R D E R**

**% 19.05.2025**

1. This hearing has been done through hybrid mode.

**CM APPL. 30328/2025 (exemption)**

2. Allowed, subject to all just exceptions. The application stands disposed of.

**W.P.(C) 6683/2025 & CM APPL. 30327/2025**

3. The present petition has been filed by the Petitioner-AB Players Export Pvt. Ltd. under Article 226 of the Constitution of India, *inter alia*, assailing the Order-in-Original bearing no. 69/CGST WEST/GST/SKG/ADC/2024-25 dated 1st February 2025 (hereinafter, '*impugned order*') passed by Respondent- Office of Commissioner, Central Tax, Delhi West. In the said impugned order, there is an allegation of wrongful availment of Input of Tax Credit (hereinafter, '*ITC*') by the Petitioner.

4. The submission on behalf of the Petitioner is that during the process of

investigation, a sum of Rs.27,40,328/- was deposited by the Petitioner on 29th December, 2019 with the GST Department. If the same is taken into consideration, then no pre-deposit would be required by the Petitioner for the purpose of filing the appeal against the impugned order. Thus, the only submission on behalf of the Petitioner is that the order ought to take into consideration the said deposit which has been made.

5. Ld. Counsel for the Respondent has handed over a ***Circular No. 224/18/2014-GST*** dated 11th July, 2024 which provides guidelines in respect of pre-deposit for appeals. The relevant portion of the said circular is set out below:

> *"8.1 Currently, the above-mentioned functionality for filing of an application in FORM GST DRC-03A, is not available on the common portal. Therefore, till the time such functionality is made available on the common portal, in respect of cases where an amount of pre-deposit has been inadvertently paid through FORM GST DRC-03 instead of making the said payment through Electronic Liability Ledger-II against the demand created in the said ledger, the concerned taxpayer may intimate the proper officer about the same, and on such intimation, the proper officer may not insist on recovery for the remaining amount payable by the concerned taxpayer, till the time the said functionality of FORM GST DRC-03A is made available on the portal.*
>
> *8.2 Once the functionality of FORM GST DRC-03A is made available on the portal, the concerned taxpayer may file an application in FORM GST DRC-03A, on the common portal, at the earliest, as mentioned in para 7.1 above and on doing so,* ***the amount paid vide FORM GST DRC-03 may be adjusted against the pre-deposit under section 107 or section 112 of the CGST Act,*** *as the case may be, as detailed in para 7.2 above. However, in case the taxpayer fails to file an application in FORM GST DRC-03A on the common portal, the proper officer*

*may proceed to recover the amount payable as per provisions of section 78 and section 79 of CGST Act."*

6. From the above, it is clear that Form DRC-03A has been created for this purpose by the GST Department in order to enable parties like the Petitioner to take credit of any deposit which they may have made so at the time of filing of the appeal. Due consideration can be given to the fact that money already stands deposited with the GST Department.

7. Accordingly, for the said purpose, let the Petitioner appear before the Adjudicating Authority and present the Form DRC 03A to the concerned official. Thereafter, a confirmation to this effect be issued by the Adjudicating Authority within a month. Upon the said confirmation being issued, the same shall be used for the purpose of pre-deposit to file the appeal before the Commissioner (Appeals) challenging the impugned order dated 01st February, 2025.

8. In view of the matter, the following directions are issued:

(i) The Petitioner shall file the Form DRC 03A by 30th May, 2025 through the portal.

(ii) The Petitioner, shall appear on 09th June, 2025 before the Adjudicating Authority who shall deal with the said application and permit adjustment of the pre-deposit and pass an order by 30th June 2025.

(iii) The Petitioner is permitted to file an appeal by 31st July, 2025. If the same is filed within the abovementioned timelines, it shall not be dismissed on ground of limitation and shall be considered on merits.

9. The petition is disposed of in these terms. Pending application(s), if

any, also stand disposed of.

**PRATHIBA M. SINGH, J.**

**RAJNEESH KUMAR GUPTA, J.**

**MAY 19, 2025**
v/ck