

GST paid under a Wrong Head by Mistake can be transferred to the Right Head: Kerala HC

The Kerala High Court has directed the GST department to transfer the tax amount paid by the petitioner under a wrong head instead of another by mistake.

In the instant case, the goods transported by the petitioner was detained by the department and imposed tax and penalty on the same. To get the goods released, the petitioner agreed to pay the whole amount. However, the amount was paid under the head 'SGST' instead of 'IGST.'

Before the High Court, the petitioners relied on Section 77 of the GST Act and also Rule 4(1) of the GST Refund Rules, 2017.

Section 77 provides for the refund of the tax paid mistakenly under one head instead of another. But Rule 4 speaks of adjustment. Where the amount of refund is completely adjusted against any outstanding demand under the Act, an order giving details of the adjustment is to be issued in Part A of FORM GST RFD-07. The petitioner's counsel lays stress on this process of adjustment and asserts that the amount remitted under one head can be adjusted under another head, for the demand can be any amount under the Act.

Allowing the petition, Justice Dama Seshadri Naidu held that "Under these circumstances, I find no difficulty for the respondent officials to allow the petitioner's request and get the amount transferred from the head 'SGST' to 'IGST'. It may, as the Government Pleader has contended, take some time, but it is inequitable for the authorities to let the petitioner suffer on that count."

"So I hold that the 2nd respondent will release the goods forthwith along with the vehicle and, then, ensure that the tax and penalty already stood remitted under the 'SGST' is transferred to the head 'IGST'," Court Said.