IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2572 of 2020

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Shree Krishna Bhandar a proprietary concern of Kamlesh Kumar having its office at Chhata Bazar, Gandhi Chowk Muzaffarpur, 842001 through its authorized signatory Krishna Kumar (Male aged about 33 years) son of Kamlesh Kumar resident of Chhata Bazar, Gandhi Chowk, near D.N. High School, P.O. and P.S.- Muzaffarpur-842001

... ... Petitioner/s

Versus

1. Addl. Commissioner of State Tax (Appeal) Tirhut Division, Muzaffarpur
2. Joint Commissioner of State Tax, Muzaffarpur, West, Muzaffarpur

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. D.V.Pathy, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 21-12-2020

The petitioner has prayed for following relief(s):

> 1.(i) the order dated 28.05.2019 (as contained in Annexure-2) passed by the respondent no.2 under Section 73 of the Bihar Goods and Services Tax Act, 2017 Act denying set off transitional credit be quashed.
>
> (ii) the show cause notice dated 01.06.2019 (as contained in Annexure-3) issued by the respondent no.2 under Section 73 of the Bihar Goods and Services Tax Act, 2017 Act be quashed.
>
> (iii) the order dated 29.11.2019 (as contained in Annexure-7) passed by the respondent no.1 dismissing the appeal in limine on the solitary ground of delay in filing the

appeal be quashed.

For the reasons emanating from the record, more so, the delay having explained on account of non-preparation of the certified copy, we quash and set aside the impugned orders dated 28.05.2019 passed by respondent no. 2, namely, Joint Commissioner of State Tax, West Muzaffarpur, as contained in Annexure-2 as also the order dated 29.11.2019 passed by Respondent No. 1, namely, Additional Commissioner of State Tax (Appeal), Tirhut Division, Muzaffarpur, as contained in Annexure-7 with further following directions:-

(i) The petitioner shall appear before the appellate authority on 28.12.2020, when a date shall be fixed for further hearing of the matter, which stands restored to its original number and status.

(ii) The parties shall be afforded opportunity of filing additional material in support of their contentions, which they shall positively do so within two weeks.

(iii) The appropriate authority shall decide the issue of limitation afresh and if the appeal is found to be within the prescribed period of limitation, the main appeal itself shall be heard, considered and decided within a period of two months thereafter, i.e. on or before 31st March, 2021.

(iv) The petitioner through learned counsel, undertakes to fully co-operate and not take unnecessary adjournment;

(v) All issues are left open to be adjudicated by the authority below;

(vi) Liberty is reserved to either of the parties to approach the Court assailing the order, if so required and desired.

Petition stands disposed of.

Interlocutory application(s), if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Amrendra/P.K.P/

AFR/NAFR	
CAV DATE	
Uploading Date	23.12.2020
Transmission Date	