IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1990 of 2023

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Pawan Kumar Yadav S/o Suryanath Yadav, Resident of Mohalla/Village Raghunathpur, Belahi, P.S. Lohat, District- Madhubani, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Commissioner of State Tax, Darbhanga, Bihar.
4. The Additional Commissioner of State Tax (Appeal), Darbhanga, Bihar.
5. The Joint Commissioner of State Tax, Darbhanga, Bihar.
6. AKS Industries Limited, Subhojeet Path, First Flor, Radhika Complex, Opposite Harihar Chamber, Boring Road, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhairaw Nand Sharma, Advocate

For the Respondent/s : Mr. Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-04-2023

The writ petition is filed against the appellate order dated 13.12.2022, Annexure-3 which rejected the appeal on the ground of delay. The appeal was from Annexure-2 notice dated 12.04.2022 for the assessment year 2020-21. The appellate order specifically noticed Section 107 of the Bihar Goods and Services Tax Act, 2017 (“BGST Act” hereafter) which permits an appeal to be filed within three months and also apply for delay condonation with satisfactory reasons within a further period of one month. The Appellate Authority also took into account the saving of limitation granted by the Hon’ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020**, In Re: Cognizance For Extension of Limitation. Therein, due to the pandemic situation limitation was saved between 15.03.2020 till 28.02.2022. It was also directed that an appeal could be filed within ninety days from 01.03.2022. Hence, an appeal could have been filed on or before 29.05.2022, which provision was not availed by the petitioner herein. The appeal is said to have been filed only on 09.12.2022, after about seven months from the date on which even the limitation period as stipulated by the Hon’ble Supreme Court, expired.

2. In the above circumstances, we find no reason to invoke the extraordinary writ jurisdiction under Article 226 of the Constitution of India, especially since it is not a measure to be employed where there are alternate remedies available and the assessee has not been diligent in availing such alternate remedies within the stipulated time.

3. The writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

sharun/-

AFR/NAFR	NAFR
CAV DATE	N/A
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