IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2398 of 2023

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Jindal Construction through its proprietor namely Anand Kumar, Male, aged about 60 years, Son of Late Shashi Bhal Chandra, residing at Ward No. - 2, N.H.- 31, Chakfarid, Singhaul Pokhar, Sinhgaul, P.S. - Sinhgaul, District-Begusarai, Bihar - 851134.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Taxes, Government of Bihar, New Secretariat, Bailey Road, Patna- 800001.
2. The Additional Commissioner (Appeals), State Taxes, Division- Darbhanga, Near Bus Stand, Laheriasarai, P.S.- Laheriasarai, District- Darbhanga.
3. The Joint Commissioner-cum-Adjudicating Authority, State Taxes, Circle-Begusarai.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajni Kant Jha, Advocate

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

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

Date : 06-04-2023

The petitioner is before us, challenging the cancellation of registration under the Bihar Goods and Services Tax Act, 2017, as seen from Annexure-P/2 dated 08.02.2022. An appeal was filed on 15.10.2022 and the certified copy of the order was submitted on 28.11.2022. The Appellate Authority by Annexure-P/1, dated 28.11.2022, dismissed the appeal, since the appeal was filed beyond the time stipulated under Section 107 (4) of the Act and even beyond the period stipulated for condonation of delay.

We have heard the learned counsel for the petitioner and the learned State counsel.

The learned State counsel points out that the appeal is to be filed within time and also the production of the certified copy is to be made within the stipulated time for the appeal to be in proper form. In the present case, even if the period between 01.03.2022 to 28.06.2022, as condoned by the Hon'ble Supreme Court, is reckoned, the appeal is filed beyond time.

The order of cancellation was passed on 08.02.2022 and the period condoned by the Hon'ble Supreme Court for reason of the Covid pandemic commenced on 01.03.2022 and expired on 28.06.2022. It was argued that the appeal was filed on 15.10.2022. The mere fact that the certified copy was produced a bit delayed cannot stand against the petitioner.

We agree with the learned State counsel that the appellate authority could not have condoned the delay beyond the period stipulated. However, here we see that the appeal itself was filed within time.

In such circumstances, we are of the opinion that the appeal should be considered afresh and we set aside Annexure-P/1 order dated 28.11.2022 passed by the Additional Commissioner (Appeals), State Taxes, Division Darbhanga and restore the appeal to the file of the appellate authority.

The writ petition stands disposed of with the aforesaid observation.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2023
Transmission Date	