IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3398 of 2023

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M/S Maa Tara Rani Construction, through its Partner Shambhu Kumar, aged about 31 years (Male), Son of Late Shankar Sah, Resident of Rajwara, Vitha, P.O.- Garhara, P.S.- Barouni, District- Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary-cum-Commissioner, Department of State Taxes, Bihar, Patna.
2. The Commissioner-cum-Secretary of State Tax, Bihar, Patna.
3. The Additional Commissioner of State Tax, Darbhanga Division, Darbhanga.
4. The Joint Commissioner of State Tax, Begusarari.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Mohammad Abu Shajar, 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 : 10-04-2023

The petitioner is concerned with the cancellation of registration as brought on by Annexure-2 dated 24.06.2022. An appeal was filed which also stood dismissed by Annexure-1 dated 07.01.2023. The dismissal of the appeal was on account of the appeal having not been filed within the period of limitation and even the further period in which the appellate authority, as per Section 107(4) of the Bihar Goods and Services Tax Act, 2017, had power to condone the delay.

The learned counsel for the petitioner relied on the

Notification bearing No.03/2023 dated 31st March, 2023 of the Government of India, Ministry of Finance, (Department of Revenue) Central Board of Indirect Taxes and Customs.

The learned State Counsel, however, points out that in the present case, the appeal was rejected for the reason of it being not maintainable for reason of the delay and not due to failure of adherence to the time limit specified under Section 30(1) of the Act.

We extract the Explanation to the Notification dated 31st March, 2023 hereinbelow:-

> "Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section (1) of Section 30 of the Act."

The Notification makes applicable the benefit to persons who have failed to apply for revocation of the cancellation of registration within the time period prescribed in Section 30 of the said Act, if such cancellation was effected prior to 30.06.2023. As per the aforesaid Explanation, even in cases where an appeal filed against the rejection for reason of non-adherence to the time limit under Section 30(1) of the Act was enabled the benefit of the Notification.

We do not find any exclusion insofar as a person having applied for revocation of cancellation, which was rejected and an appeal therefrom was delayed under Section 107 of the Act. The Notification does not exclude such cases. When a defaulter is enabled the benefit, we are of the opinion that such benefit should be available even to persons who availed the benefit but failed to file an appeal within the time specified under Section 107 of the Act.

In such circumstances, we set aside the order under Appeal, Annexure-1 and direct the petitioner to comply with the Notification in its letter and spirit, upon which he will be enabled the benefit of the Notification.

The writ petition stands allowed without any order as to costs.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.04.2023.
Transmission Date	