# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.4129 of 2023**

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DWARIKA PROJECTS LIMITED (GSTIN - 10AACCD1620QIZZ) through its Authorized person Kumar Aditya.

... ... Petitioner/s

Versus

1. State Goods And Services Tax Through its Principal Secretary, New Secretariat, Patna, Bihar.
2. Deputy Commissioner of State Tax(proper Officer), Saran, Saran, Bihar.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Anup Kumar, 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 : 13-04-2023**

The petitioner is concerned with an assessment order, impugned in the above writ petition dated 07.01.2021.

2. The petitioner contends that it was an ex-parte order but however, the appellate remedy was not availed of. The appeal provided under Section 107(4) prescribes a limitation period of three months and a further period of one month within which the delay can be condoned by the appellate authority.

3. It is trite law that the appellate authority cannot condone the delay beyond the said period. The writ petition also cannot be maintained since it is beyond the powers under Article

226 to extend the period of limitation statutorily prescribed for condonation of delay. The specific period prescribed for condonation of delay in a statute, would constructively exclude Section 5 of the Limitation Act.

4. The challenge now made against the assessment order under Article 226 cannot be entertained.

5. The writ petition would stand dismissed.

**(K. Vinod Chandran, CJ)**

**( Madhuresh Prasad, J)**

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | |
| **Uploading Date** | 17.04.2023 |
| **Transmission Date** | |