IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3891 of 2023

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Sheo Shankar Trading Company Bearing GST No- 10ACFFS6365P1ZP, Judg Bazar, Bihiya, Bhojpur Bihar 802152, P.O. and P.S.- Bihiya through its Managing Partner Manoj Kumar, S/o Dwarika Prasad.

... ... Petitioner/s

Versus

1. Bihar State Goods and Services Tax through its Principal Secretary, Bihar, Patna.
2. Addl. Commissioner State Tax Appeal, Patna West Division, Patna.
3. Joint Commissioner of State Tax, Shahabad Patna West, Bihar.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Ravi Shankar, 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 : 02-05-2023

The writ petition is filed against the order dated 25.05.2022 passed by the Joint Commissioner of State Tax, Shahabad Patna West, Bihar, Annexure-7 which rejected the ITC claim of the petitioner. There is no appeal filed against the said order. Section 107 of the Bihar Goods and Services Tax Act, 2017 ("BGST Act" hereafter) 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. We have to take 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. In the above circumstances, we find no reason to invoke the extraordinary jurisdiction under Article 226, 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.

The writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	03.05.2023
Transmission Date	