IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5273 of 2023

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Md. Irshad Ansari @ Mohammad Irshad Ansari, aged about 43 years, Male, Proprietor Ajanta Battery, S/o Ashraf Hussain Ansari, resident of Main Road Kumhrar, Near Shivani Fules, P.O. Kumhrar P.S.- Agam Kuan, District- Patna at present belal Complex, 3rd Floor, Flat No. C-1, Mohamad Shah Lane, Dariyapur P.S.- Bankipore, Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner State Tax, Govt. of Bihar, New Secretariat, Patna.
2. The Addl. Commissioner, State Tax, Govt. of Bihar, Patna.
3. The Assistant Commissioner, State Tax, Govt. of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey, Advocate

For the Respondent/s : Mr.Vivek Prasad, GP-7

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

Date : 24-04-2023

The petitioner is aggrieved with the dismissal of the appeal for the reasons of no notice having been issued in the appeal. The impugned assessment order is dated 09-02-2021 and produced as Annexure-1 to the writ petition.

Learned counsel for the petitioner submits that he has received information regarding the impugned order of assessment dated 09-02-2021 passed by the Assistant Commissioner of State Tax Patna on 10-11-2022. However, the order is auto populated and there is deemed service insofar as the assesse is concerned. The appeal was instituted only on 03-12-2022. 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 03.12.2022, after about six months from the date on which even the limitation period as stipulated by the Hon’ble Supreme Court, expired.

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)

Shyambihari/
Sumit/--

AFR/NAFR	
CAV DATE	
Uploading Date	26-04-2023
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