IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4386 of 2023

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M/s Vinay Kumar Singh, son of Baijnath Singh, resident of Village Dhiri Bigha, P.O. Charan P.S. Mali, District Aurangabad (Bihar)

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Commercial Tax Department (G.S.T.), Govt. of Bihar, Patna.
2. The Additional Commissioner Tax, Magadh Division, Gaya.
3. The Joint Commissioner of State Tax, Aurangabad (Bihar) Circle Aurangabad District Aurangabad.
4. The Deputy Commissioner State Tax, Aurangabad (Bihar).

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shailesh Kumar Singh, 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 : 17-04-2023

The writ petition is filed against the appellate order dated 20.02.2023, Annexure-3 which rejected the appeal on the ground of delay. The appeal was from Annexure-A/1 series order of assessment passed on 11.01.2021. Annexure-2 is the

Appeal Memorandum which does not indicate a date. The appellate order, however, 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 15.03.20220 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 01.06.2022, which provision was not availed by the petitioner herein. The appeal is said to have been filed only on 11.02.2023, after about eight 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)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	20.04.2023
Transmission Date	