# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.4494 of 2023**

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Urmila RCP Projects Private Limited A Company incorporate under the companies Act, 1956 bearing CIN-U99999BR2002PTC012188 having its Registered Office at- Ground Floor, 149F, C/o Smt. Asha Sinha) Srikrishnapuri, Boring Road, Patna- 800013, Bihar, India represented through its Director, Deepak Kumar Bharthuar (Male) aged about 53 years, S/o Late Ram Chandra Prasad, R/o 100, New A.G. Co-operative Colony, Kadru, Doranda, Ranchi- 834002, Jharkhand, India.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
2. The Under Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
3. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary Cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
5. The Additional Commissioner of State Taxes (Appeal), Central Division, Patna.
6. The Assistant Commissioner of State Taxes, Special Central Circle, Patna, Bihar.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Surendra Singh, Advocate |
| For the Respondent/s | : | Dr. K.N. Singh, Additional Solicitor General |

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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 Annexure-5, appellate order dated 25.10.2022. The appellate order rejected the appeal for reason of there being a delay of 23 days in filing the appeal. The original order passed is produced at Annexure-3 which is dated

13.02.2021. Admittedly, a notice was issued prior to the assessment under Section 73(1) of the Bihar Goods and Services Tax Act, 2017. It is the submission of the appellant that he has been regularly filing the returns and paying tax despite which the assessment order has been passed as in seen from Annexure-3. It is also submitted that the petitioner had obtained the order from the GST portal and filed the appeal on 23.07.2022 which, however, was grossly delayed. The petitioner seeks for condonation of delay.

2. The appellate order which is challenged herein has elaborately considered the issue on facts about the petitioner having not been given reasonable opportunity for hearing. It is noticed that Section 169 which requires service of notice only by making it available on the common portal which even the petitioner admits was uploaded by the Department. The appellate authority has then considered Section 107(4) which grants three months time for filing an appeal and a further period of one month within which a delayed appeal is maintainable, on satisfactory explanation for the delay being shown. In the present case, the notice and the assessment order were available on the common portal which was not noticed by the petitioner only because of his own default. It is also to be noticed that the appeal itself was filed on 07.10.2022. The Hon'ble Supreme Court in **Miscellaneous**

**Application No. 21 of 2022** in **Suo Motu Writ Petition (C) No. 3 of 2020**, saved limitation between 15.03.2020 and 20.02.2022. A further three months was also granted from 01.03.2022. The appeal was filed long after the said time provided. It is trite law when the statue provides for delay condonation, the appellate authority or even this Court under Article 226 cannot extend the said period. In the present case due to the pandemic situation, the Hon'ble Supreme Court had granted further leverage insofar as extending the period of limitation till about 28.02.2022, and a further time of three months therefrom; even within which period the appeal was not filed.

3. In such circumstances, we find no reason to interfere with the order passed and dismiss the writ petition.

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

**( Madhuresh Prasad, J)**

sharun/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | N/A |
| **Uploading Date** | 20.04.2023 |
| **Transmission Date** | N/A |