IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4633 of 2023

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M/s Dilip Kumar a Proprietary Concern Having its Office in Bypass, Near Sangh Bhawan, Post-Aurangabad, Police Station-Aurangabad, Dist.-Aurangabad, Bihar-824101 through its Proprietor Prasad Bypass, Near Sangh Bhawan, Post-Aurangabad, Police Station-Aurangabad, Dist.-Aurangabad, Bihar-824101.

... ... Petitioner/s

Versus

1. The State of Bihar through The Principal Secretary, State Tax, Bihar, Patna having its Ofice at Vikas Bhawan, Patna.
2. The Principal Secretary Cum Commissioner, Department of State Taxes, Government of Bihar,
3. The joint Commissioner of State Taxes, (Appeal), Magadh Division, Gaya, Government of Bihar, Bihar.
4. Assistant Commissioner of State Tax, Aurangabad Circle, Aurangabad.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bijay Kumar Gupta, 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 : 20-04-2023

The writ petition is filed against the appellate order dated 08.02.2023, Annexure-4 which rejected the appeal on the ground of delay. The appeal was from Annexure-3 order dated

18.11.2021 for the assessment year 2020-21. 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 30.01.2023, after about eight months from the date on which even the limitation period as stipulated by the Hon’ble Supreme Court, expired.

2. In the above circumstances, we find no reason to invoke the extraordinary writ jurisdiction under Article 226 of the Constitution of India, 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.

3. The writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

sharun/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25.04.2023
Transmission Date	N/A