IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4975 of 2023

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M/s New Microsoate Computer Khirchowk Bhathabazar Purnea through its Proprietor Keshav Kumar, Male, aged about 33 years, Son of Suresh Bhagat, Resident of Gandhi Nagar Arvind Society, Gandhi Nagar, Purnea, Distirct- Purnea, Bihar-854301.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of Commercial State Taxes, New Secretariat, Patna.
2. Joint Commissioner, State Taxes, Purnea Circle, Purnea, Bihar.
3. Additioanl Commissioner, State Taxes, Purnea Circle, Purnea, Bihar.
4. Assistant Commissioner, State Taxes, Purnea Circle, Purnea, Bihar.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Archana Sinha @ Archana Shahi, Advocate
For the Respondent/s : Mr. Vivek Prasad (GP-7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 17-07-2023 The writ petition is filed against the appellate order dated 03.02.2023 (Annexure-3) which was rejected on the ground of delay. The appeal was filed against Annexure-2 order dated 12.02.2021.

2. 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 gratned by the Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020**, In Re: Cognizance For Extension of Limitation 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 Hon'ble Supreme Court also declared that if a longer period than 90 days is provided in a Statute, then that longer period will apply. In the BGST Act, u/s 107(4) there is a provision for condonation of delay, if the appeal is filed delayed, within one month of expiry of limitation. Even if that be deemed to be appealable then the appeal ought to have been filed by 28.06.2022. The appeal is said to have been filed only on 31.01.2023, after 216 days from the date on which even the limitation period as stipulated by the Hon'ble Supreme Court, expired.

3. 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.

4. As such, the writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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