IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5050 of 2023

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M/s Dilip Kumar Singh, Sanjay Nagar, Bhojpur Colony, Kankarbagh, Patna through its Proprietor Dilip Kumar Singh, Aged about 55 Years, Gender Male, Son of Mithilesh Kumar Singh, Resident of Ashok Nagar, Bhojpur Colony, Ramlakhan Path, Kankarbagh, P.S. Kankarbagh, District- Patna.

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Principal Chief Commissioner, CGST, Central Revenue Building, Birchand Patel Path, Patna.
3. The State of Bihar, through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
4. The Additional Commissioner, State Tax (Appeal), Patna West Division, Patna.
5. The Assistant Commissioner, State Tax, Patna South Circle, District- Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Alok Kumar, Advocate
For the UOI	:	Dr. K.N.Singh, A.S.G.
		Mr.Anshuman Singh, Sr. SC CGST & CX
For the State	:	Mr. Vikash Kumar, SC 11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-05-2023

The writ petition is filed against the appellate order dated 18.03.2023 (Annexure-3) which was rejected on the ground of delay. The appeal was filed against Annexure-1 order dated 29.11.2021.

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 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 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 filed only on 16.03.2023 after 260 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. The writ petition hence would stand dismissed

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	18.05.2023
Transmission Date	