IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5361 of 2023

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Shankar Kumar Tiwari Son of Parmanand Tiwari, Resident of Gupteshwar Laudge, Quarter no.5, Old G.T. Road, Police Station-Aurangabad, District-Aurangabad.

... ... Petitioner/s

Versus

1. The State of Bihar through the Secretary-Cum-Commissioner of State Tax, Bihar Having its Office at Vikas Bhawan, Bailey Road, Patna.
2. The Additional Commissioner of State Taxes (Appeal), Magadh Division, Gaya, Bihar.
3. The Assistant Commissioner of State Tax, Aurangabad Circle, Aurangabad, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Parijat Saurav, Advocate

For the Respondent/s : Mr.P.K. Shahi, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-04-2023

The writ petition is filed against the appellate order dated 08.02.2023, Annexure-6 which rejected the appeal on the ground of delay. The appeal was from Annexure-4 order of assessment passed on 17.11.2021. 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 22.12.2022, after six months and twenty-one days 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)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.04.2023
Transmission Date	