IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5919 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.
5. The Additional Commissioner of State Taxes (Appeal), Central Division, Patna.
6. The Assistant Commissioner of State Taxes, Special Centre Circle, Patna, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Singh, 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 : 26-04-2023

The petitioner is aggrieved with the dismissal of his appeal on the ground of delay. The petitioner submits that his chartered accountant was sick and was on bed rest for three months for reason of which there is delay in filing of appeal. The petitioner has also raised contentions on merits as against the assessment order.

2. The assessment order dated 30.11.2021 is produced as Annexure-2. The appeal was filed as late as on 12.07.2022 as is disclosed from Annexure-3; copy of acknowledgement for submission of appeal. The appellate order dismissing the appeal is produced as Annexure-4.

3. It is trite that when there is a limitation provided for filing an appeal and specific period stipulated in the statute within which there could be condonation of delay; there could be no further condonation of delay occassioned for a further period, in excess of that provided. The Appellate Authority thus by the statute is interdicted from considering any appeal or considering the condonation of delay beyond the period of one month as provided under Section 107 (4); which is the period of delay that could be condoned, if the appeal is not filed within the stipulated time of three months.

4. It is also to be noticed that Hon’ble Supreme Court vide judgment dated 10.01.2022 passed in Miscellaneous Application No. 21 of 2022 in Suo Motu Writ Petition (C) No. 3 of 2020, saved the limitation between 15.03.2020 and 28.02.2022, due to the pandemic situation. A further time of three months was also granted to initiate original proceedings or

appeals. Obviously, the petitioner had not taken the said remedy within the period stipulated in the Statute or by the Hon'ble Supreme Court.

5. The petitioner having failed to avail the statutory remedy cannot invoke Article 226 of the Constitution of India to raise a challenge against the assessment order passed. For the aforesaid reasons, the writ petition is found to be not maintainable and is dismissed in *limine*.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

aditya/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.04.2023.
Transmission Date	