IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5911 of 2023

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M/S. Capital Offset Naya Tola, Patna Bihar through Sole Proprietor, Sandeep Kumar, Male, aged about 43 years approximately, Son of Sidhnath Rai, R/o Saketpuri, Bazar Samiti, Rajendra Nagar Sampatchak, P.S. Sampatchak, District- Patna, Bihar (800016)

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary-cum-Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Taxes (Appeal), Patna East Division, Patna.
3. The Joint Commissioner of State Taxes, Kadamkuan Circle, Patna.
4. The Assistant Commissioner of State Taxes, Kadamkuan Circle, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Sriram Krishna
Mr. Prabhat Kr. Singh
Mr. Devansh Shankar Singh, Advocates
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 : 17-05-2023

The writ petition is filed against the appellate order dated 15.03.2023 (Annexure- P4) which was rejected on the ground of delay. The appeal was filed against the assessment order dated 21.10.2022 (Annexure- P2).

Section 107 of the Bihar Goods and Services Tax Act, 2017 (“BGST Act” hereafter) 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 appeal is said to have been filed only on 11.03.2023, after the date on which the limitation period expired and even the further time for maintaining an appeal with delay.

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. It is also trite that when the statute provides for a period within which a delayed appeal could be instituted and maintained on satisfactory explanation offered for the delay occasioned; the appellate authority or this Court cannot extend such time and Section 5 of the Limitation Act has no application.

The writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

Shyambihari/
Raj Kishore/-

AFR/NAFR	
CAV DATE	
Uploading Date	19-05-2023
Transmission Date	