

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5663 of 2023

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M/s IEL AVIAN (JV), Having its Place of Business at A-107, Block-A, Veena Vihar Apartment, Rukanpura. Danapur, Patna through Its Authorised Signatory Amit Rawat, aged about 47 Years, Gender Male, Son of Balwant Singh Eawat, Resident of Plot No.11-A and 11-B, Thied Floor, Sewak Park, West Delhi, P.S. Uttam Nagar, District-Delhi-110059.

... .. 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 of State Taxes (Appeals), Patna West Division, Patna.
5. The Joint Commissioner of State Taxes, Danapur Circle, Danapur, District-Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Kumar, Advocate
For the Respondent/s : Dr. K.N. Singh, Additional Solicitor General
Mr. Vivek Prasad, GP-7

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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 07.03.2023, Annexure-2 which rejected the appeal on the ground of delay. The appeal was from Annexure-1 order of assessment passed on 03.01.2022. 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. We have to take 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 14.02.2023, after 286 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/PKP

AFR/NAFR	
CAV DATE	
Uploading Date	29.04.2023
Transmission Date	

