IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6043 of 2023

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M/S Sai All Solution through its Proprietor namely Jyoti Kumari (F), aged about 34 years Wife of Sonu Kumar, Having its Place of Business Office at Mohalla - G- 25 P.C Colony, Kankarbagh, Police Station - Kankarbagh Patna and resident of Jamuaw, Police Station Jamuaw, District - Aurangabad - 824113.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner State Tax, Government of Bihar, Patna.
2. The Principal Secretary cum Commissioner, State Tax, Government of Bihar, Patna.
3. The Additional Commissioner (Appeal) Western Division, State Tax, Govt. of Bihar, Patna.
4. The Joint Commissioner of State Tax Patna South Circle Patna West Division, Patna.
5. The Assistant Commissioner of State Tax Patna South Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Sharma
For the Respondent/s	:	Mr. P.K. Shahi (AG) Mr. Vipin Kumar, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-04-2023

The writ petition is filed against the appellate order dated 07.03.2023 (Annexure-3) which was rejected on the ground of delay. The appeal was filed against Annexure-2 order dated 20.11.2021.

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 01.03.2023, after 274 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)

Sumit/Shashank-

AFR/NAFR	
CAV DATE	
Uploading Date	29.04.2023
Transmission Date	