IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6578 of 2023

B.R. Auto Shine, a Proprietorship firm, through its Proprietor namely Shri Baliram Singh, Male, aged about 54 Years, S/o Jaleshwar Singh, Resident of Hariharpur Lalgarh, Siwan, Bihar-841434 having its registered Office at Chapra Road, West of Vatayan School, Siwan, Bihar-841226,.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Taxation Government of Bihar Patna.
2. Principal Secretary, Department of Taxation Government of Bihar Patna.
3. Additional Commissioner (Appeal) Eastern Division State Taxation Department, Patna.
4. Joint Commissioner of State Tax, Siwan Saran Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr.Pranjal Singh, Advocate

For the Respondent/s : Mr.Vivek Prasad (GP-7)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 04-05-2023

The writ petition is filed against the appellate order dated 27.01.2023, Annexure-3 which rejected the appeal on the ground of delay. The appeal was from Annexure-1 order of assessment passed on 01.02.2021. 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. 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 12.01.2023, after more than six months 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)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	09.05.2023
Transmission Date	