IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6864 of 2023

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M/s Laxmi Barter Pvt. Ltd., having its place of business at Plot No. 291, Tauji No. 6207, Patna Gaya Highway SH-1, Mustafapur, Gaurichak, Masurhi, District Patna through its Authorized Signatory Arun Bharti, Aged about 46 years, Gender Male, son of Dr. Jyoti, Resident of B-4/20, Safdarjung Enclave, South- West Delhi, P.S. Safdarjung, District South Delhi, Delhi- 110029,

... ... 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 Assistant Commissioner of State Taxes, Patna Central Circle, 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. Anshuman Singh, Sr. S.C., CGST & CX

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-05-2023

The writ petition is filed against the appellate order dated 21.03.2023, Annexure-2 which rejected the appeal on the ground of delay. The appeal was from Annexure-1 order of assessment passed on 13.05.2022. 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. Here, the order impugned in the appeal was dated 13.05.2022. An appeal could have been preferred on or before 12.08.2022 and also filed with delay before 12.09.2022. The appeal is said to have been filed only on 13.03.2023, after about six months from the date on which even the limitation period 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)

(Rajiv Roy, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	11.05.2023
Transmission Date	