IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8403 of 2023

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M/s. Pushpa Devi through its Proprietress Pushpa Devi (Female), aged about 54 years, Wife of Surendra Kumar Shawarn, having residence cum office at Manik Kunwar Niwas, Sati Sthan, P.O. - Masaurhi, P.S. - Masaurhi, District - Patna, Bihar.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
2. The Secretary Department of Revenue, Ministry of Finance, North Block, New Delhi - 110001.
3. The State of Bihar through the Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
4. The Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
5. The Additional Commissioner of State Tax (Appeals), West Division, Patna, Bihar.
6. The Joint Commissioner of State Tax, South Circle, Patna, Bihar.
7. The Deputy Commissioner of State Tax, South Circle, Patna, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Madan Kumar, Advocate
Mr. Abhishek Kumar, Advocate
Mr. Brisketu Sharan Pandey, Advocate

For the Respondent/s : Dr. K.N.Singh, ASG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-06-2023

The writ petition is filed against the appellate order dated 06.04.2023 (Annexure-3) which was rejected on the ground of delay. The appeal was filed against Annexure-1 order dated 23.01.2021.

2. 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 Hon’ble Supreme Court also declared that if a longer period than 90 days is provided in a Statute, then that longer period will apply. In the BGST Act, u/s 107(4) there is a provision for condonation of delay, if the appeal is filed delayed, within one month of expiry of limitation. Even if that be deemed to be applicable then the appeal ought to have been filed by

28.06.2022. The appeal is filed only on 28.03.2023 after 273 days from the date on which even the limitation period as stipulated by the Hon'ble Supreme Court, expired.

3. 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.

4. The writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.06.2023
Transmission Date	