IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10844 of 2023

M/s Maa Janki Enterprises having its principal place of business Dhaneshwari Navtol Bhargama Araria, Bihar 854202 through its proprietor Guddu Kumar male aged about 31 years, S/o Jwahar Yadav, resident of ward No 13 Navtol Dhaneshwari Bhargama P.S and District- Araria.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner of Bihar, Patna.
2. The Additional Taxes (State Taxes), Purnea Division, Purnea.
3. The Additional Commissioner (Administration), State Taxes Purnea Division, Purnea.
4. The Joint Commissioner state Taxes, Araria Circle Araria Forebesganj circle Forbesganj.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Chandeshwar Prasad, Advocate
For the Respondent/s	:	Mr.Vivek Prasad (GP-7)
		Ms. Roona, AC to GP-7
		Mr. Sanjay Kumar, AC to GP-7
		Ms. Supragya, AC to GP-7
		Ms. Manisha Singh, AC to GP-7

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-11-2023

The petitioner is aggrieved with the cancellation of registration by Annexure-1 dated 10.07.2021. An appeal was filed which was dismissed for delay occasioned by Annexure- 3 dated 17.09.2022.

2. The learned Government Advocate submits that there was an Amnesty Scheme available whereby an application

for revocation of cancellation would have facilitated the same and the revival of registration. It is also submitted that the facility was available between 31.03.2023 to 31.08.2023. The petitioner having not availed of this remedy cannot now file a writ petition, especially when the appeal itself was delayed.

3. We are quite conscious of the delay occasioned and the restriction insofar as invocation of the extraordinary remedy under Article 226 of the Constitution of India. However, in the present case, it is a fact that the order issued does not show any reason nor does the notice raise any allegation against the petitioner of not having filed returns for a continuous period of six months; as stated by the learned counsel. Only in the circumstance of no reasons having been shown, we are of the opinion that the order has to be interfered with. The order also does not clearly indicate the failure to file the return despite the fact that the petitioner has not filed any reply to the show cause notice issued.

4. We have already held in **Purushottam Stores v. The State of Bihar & Ors; CWJC No. 4349 of 2023** decided on 25.04.2023; looking at the provisions of the Bihar Goods and Services Tax Act especially sub-sections (8), (9), (10), (11) and (12) of Section 107 of the Act, that the Appellate Authority has a

duty and an obligation under the statute to look into the merits of the matter and also examine the grounds raised by the appellant, even if there is no presence recorded of the appellant before the Appellate Authority and decide the issue on merits.

5. Considering **Purushottam Stores** (supra), we set aside Annexure-1 order conditionally on the specific undertaking made by the petitioner.

6. The undertaking made by the petitioner before Court is that the entire tax, interest and penalty would be paid within a period of one month after Deepawali holidays and the returns filed accordingly. If the said undertaking is compiled with, the petitioner’s registration shall be restored and if not the registration shall stand cancelled, as has been ordered by Annexure-1.

7. The writ petition stands allowed in the aforesaid terms.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	29.11.2023
Transmission Date	