IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11832 of 2023

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M/s Silverpoint Construction Pvt. Ltd. a private limited company having its Working Site at 703, Gharaunda Complex, Jagdev Path, Crossing Bailey Road, Patna through one of the Directors Smt. Nutan Kumari, aged about 54 years, Female, wife of Shri Ravindra Kumar, resident of Near Alakhnanda Apartment, North Sashtri Nagar, VTC, P.S. Lal Bhadur Sashtri Nagar, District- Patna.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The State of Bihar, through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Principal Secretary cum Commissioner, State Taxes, Government of Bihar, Patna.
4. The Additional Commissioner of State Taxes (Appeal), Central Division, Patna.
5. The Joint Commissioner of Sales Taxes, Special Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mohit Agarwal, 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 : 20-09-2023

The writ petition is filed against the order at Annexure-4, which dismissed an appeal for reason of the delay occasioned. In fact, the assessment order was passed on 04.03.2023 and the appeal was filed on 13.06.2023. Obviously the appeal was delayed by ten days since the three month period expires on 04.06.2023. The appellate authority dismissed the appeal on the ground of delay.

2. We, specifically, queried the learned counsel whether an application to condone the delay was filed; noticing Section 107(4) of the BGST Act which empowers the appellate authority to condone the delay for a period of one month, if sufficient reasons are shown. Admittedly, there was no delay condonation application filed.

3. In such circumstances, we do not find any infirmity with the order passed at Annexure-4. However, the petitioner has now produced an application for condonation of delay which will have to be filed before the appellate authority. Hence, we direct the petitioner to pay a cost of Rs.1000/- to the Bihar State Legal Services Authority and produce the receipt before the appellate authority along with the delay condonation application. The delay condonation application, in such circumstances, shall be considered by the appellate authority and then if delay is condoned, the appeal shall be considered on merits.

4. Annexure-4 is set aside for enabling the applicant to file a proper delay condonation application which shall be entertained only on payment of cost. If the cost is not paid and the application is not filed within a period of three weeks from today then Annexure-4 will revive and operate against the petitioner.

5. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Prakash/avinash

AFR/NAFR	
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A