IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1236 of 2024

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M/s Narayan Mandal (A Sole Proprietor Ship Firm), Having its Registered Office at- Barari, P.S- Katihar Sadar, District- Katihar through its legal heir Mr. Ajay Kumar, S/o Late Narayan Madal, aged about- 33 Years (M), resident of Market Barari, P.S.- Katihar Sadar, Dist.- Katihar.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Department of Revenue, having its office at Room No. 46, North Block, P.O. and P.S. North Block, New Delhi- 110001.
2. The Chief Commissioner, CGST and CX, Office at C.R. Building, 1st Floor, Bir Chand Patel Path, Patna, Bihar.
3. The State of Bihar, through Commissioner, BGST, New Secretariat, Patna.
4. Joint Commissioner of State Tax, Katihar Circle, Purnea Division, Bihar.
5. Assistant Commissioner of State Tax, Katihar Circle, Purnea Division, Bihar.
6. Additional Commissioner (Appeal) of State Tax, Purnea Division, Purnea.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Advocate
For the Union of India	:	Dr. K. N. Singh, ASG Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-01-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P/3 order passed on 01.09.2021.

2. Admittedly, there is an appellate remedy which

the petitioner availed with gross delay.

3. 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. Here, the order impugned in the appeal was dated 01.09.2021. An appeal was to be filed on or before 30.06.2022 as permitted by the Hon’ble Supreme Court and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 09.03.2023, after about eight months from the date on which even the extended 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 law favours the diligent and not the indolent.

4. The petitioner does not have any case that the show-cause notice was not received by him. Further, it is also pertinent that the reason stated in the show-cause notice for cancellation of registration is that the petitioner has not filed returns for a continuous period of six months. The petitioner does not have a case that he had in fact filed a return in the continuous period of six months.

5. The petitioner points out judgment dated 09.12.2022 passed in ***CWJC No.16203 of 2022 titled as M/s Best Bricks v. The Union of India & Ors.*** annexed as Annexure-5. Therein also the petitioner did not approach the appellate authority within time. In the present case also, the petitioner has approached the appellate authority but with long delay. There is no averment in the writ petition also that the ground stated in Annexure-P/2 that the tax payer has not filed returns for a continuous period of six

months is false.

6. We find no reason to entertain the writ petition and the same would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	24.01.2024
Transmission Date	