**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.1786 of 2024**

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Munna Kumar S/o Sarvesh Kumar Address- C/o Manoj Kumar Gupta, Hari Bihar Colony, Mithapur Bus Stand Road, Ramnagar, PO- GPO, P.S.- Jakanpur, Patna- Bihar- 800001.

... ... Petitioner/s

Versus

1. The Union of India through Principal Secretary, Central Goods and Service Tax, India its Patna Branch.
2. The Commissioner CGST and CX, GST Bhawan, Patna Bir Chandra Path, Bihar.
3. The Joint Commissioner Appeal, CGST and CX, GST Bhawan Bir Chandra Patel Path, Second Floor, Patna.
4. The Superintendent Patna South, Patna West, CGST and CX, Kotwali Range, Bihar, Chandpura House, Opp. Dadiji Mandir, Bank Road, Patna.

... ... Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Uma Kant Tiwary, Advocate |
| For the Respondent/s | : | Dr. K.N. Singh, ASG |

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**CORAM: HONOURABLE THE CHIEF JUSTICE**
**and**
**HONOURABLE MR. JUSTICE HARISH KUMAR**
**ORAL JUDGMENT**
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 17-02-2024**

The petitioner is aggrieved with the cancellation of registration by Annexure-2 order passed on 23.06.2022.

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. Here, the order impugned in the appeal was dated 23.06.2022. An appeal was to be filed on or before 23.09. 2022 and if necessary

with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 28.10.2023, after about one year and one month. 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. Further, the Government had come out with an Amnesty Scheme by Circular No. 3 of 2023, by which the registered dealers, whose registrations were cancelled were permitted to restore their registration on payment of all dues between 31.03.2023 to 31.08.2023. The petitioner did not avail of such remedy also.

5. 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.

6. The learned counsel specifically refers to the appellate order and the reference made to the decision in ***Singh Enterprises v. Commissioner of Central Excise, Jamshedpur reported in 2008 (221) E.L.T. 163 (SC)*** to contend that under Article 226 of the Constitution of India, High Court can condone the delay. It is argued, that though the statutory authorities would not be empowered to condone the delay, if there is a specific period provided for filing an appeal with delay; the delay could be condoned on satisfactory explanation under Article 226 of the Constitution of India is the contention, even after the period prescribed for condonation of delay.

7. We see that such a contention raised before the Hon'ble Supreme Court was rejected at paragraph no. 8 of the decision in ***Singh Enterprises*** (supra).

8. We find absolutely no reason to entertain the writ petition.

9. The writ petition would stand dismissed.

**(K. Vinod Chandran, CJ)**

**(Harish Kumar, J)**

aditya/-

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| **AFR/NAFR** | |
| **CAV DATE** | |
| **Uploading Date** | 23.02.2024. |
| **Transmission Date** | |