IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1827 of 2024

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Sandeep Kumar Son of Rambachan Singh Resident of Village Shahjahanpur, P.S.- Biharsharif, District- Nalanda, Presently residing at Shahjahanpur, P.S.- Shahjahanpur, District- Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax (Appeal), Patna East Division, Patna.
3. The Joint Commissioner, State Tax, Biharsharif Circle, District- Nalanda.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar, Advocate

For the Respondent/s : 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 : 06-02-2024

The petitioner is challenging Annexure-1 order of cancellation of registration. The order itself specifically refers to a show-cause notice dated 05.01.2022, and there is no contention raised that the petitioner has not received a show-cause notice. The order in Annexure-1 is dated 25.03.2022.

2. The learned counsel for the petitioner would point out a decision in ***C.W.J.C. No. 15301 of 2023*** titled as ***M/s Kapildeo Prasad v. The State of Bihar & Ors.*** dated 30.10.2023, in which we had directed that on an undertaking

made by the petitioner to pay up the dues the registration would stand restored. However, there is no dictum laid down in the above case.

3. The impugned order in this writ petition is one passed on 25.03.2022 and the petitioner has not taken any remedies provided within time.

4. 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. The appeal is said to have been filed only on 29.11.2023, after five months from the date on which the 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.

5. 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.

6. We do not find any reason to allow the writ petition, especially since, after 2022, the petitioner availed of the remedy of an appeal, only with gross delay. The appeal was disposed of on 13.12.2023, within which period there was also an amnesty scheme available, which also was not availed of.

6. There is also no contention raised as to what is the reason shown in the show-cause notice, which we find, often is with respect to the returns having not been filed for the prior six months. There is nothing stated in the writ petition as to such returns having been filed.

7. In such circumstances, we find absolutely no reason to entertain the writ petition and dismiss the same.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.02.2024.
Transmission Date	