IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6078 of 2024

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Gulapsa @ Gulapsa Khatun Wife of Nausad, R/o- Bidepur, Bhelaganj, P.S.- Balia Belon, District- Katihar.

... ... Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Additional Chief Secretary, Department of State Tax, Govt. of Bihar, Patna.
3. The Commissioner State Tax, Madhepura, Purnea, Bihar.
4. The Joint Commissioner of State Tax, Madhepra circle, Purnea, Bihar.
5. The Assistant Commissioner of State Tax, Madhepura, Purnea, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sinha, Advocate
For the Respondent/s : Mr.Standing Counsel (11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-07-2024

The writ petition is filed against the demand notice dated 19.11.2021, Annexure-1, against which no appeal has been filed.

2. Section 107 of the Bihar Goods and Services Tax Act, 2017 (for brevity “BGST Act”) 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.

3. 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, Cognizance for Extension of***

Limitation, In Re (2021) 5 SCC 452. 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. Hence, an appeal could have been filed on or before 29.05.2022, and also filed with delay before 28.06.2022, and any appeal filed which is pending before the authority could also be considered as properly filed, even if there is delay in such filing. The said provision was not availed by the petitioner herein.

4. The Central Board of Indirect Taxes and Customs has by Notification No. 53 of 2023- Central Tax, dated 02.11.2023 (S.O. 4767(E)) extended the time for filing appeal against an order passed by the Proper Officer on or before 31.03.2023 under Sections 73 and 74 of the 'BGST Act'. This in fact extends the period for filing a delayed appeal beyond the one month period as provided under Section 107(4) of the 'BGST Act', on following the special procedure prescribed under the said Notification, provided an appeal was filed before 31.01.2024 and 12.5% of the balance tax due was paid. The petitioner did not avail this remedy also.

5. The petitioner neither filed an appeal against the impugned assessment order nor availed the benefit of

Notification No. 53 of 2023- Central Tax, dated 02.11.2023 (S.O. 4767(E)).

6. 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.

7. The law favours the diligent and not the indolent. The delay stands against the petitioner.

8. The writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

sharun/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.07.2024
Transmission Date	