IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3058 of 2024

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M/s Lunatash Biotech Private Limited, A Private Limited Company having GSTIN- 10AADCL0776A1Z8 concern having its office at House No-0, Moti Bhawan, Road No- 10, Sanjay Nagar, Kankarbagh, P.S.- Jakkanpur, Patna-800001 through its Director Mr. Vikash Kumar, Gender- Male, aged about 36 years, Son of Shri Ashwani Prasad Resident of Road No-10, Sanjay Nagar, Kankarbagh, P.S.- Jakkanpur, Patna-800001.

... ... Petitioner/s

Versus

1. The Union of India through the Under Secretary, Finance Department, 135, North Block, New Delhi, Delhi.
2. The Additional Commissioner (Appeals) of Customs, Central GST and Central Excise (Appeals), 2nd Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna-800001.
3. The Superintendent of CGST and Central Excise, Gandhi Maidan Range, Patna West Division, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Manish Kumar, Advocate
For the Respondent/s	:	Dr. K.N.Singh, ASG
		Mr. Anshuman Singh, Sr. SC CGST & CX
		Mr. Devansh Shankar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 19-02-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P2 order passed on 26.08.2022.

2. Admittedly, there is an appellate remedy which the petitioner availed with 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 26.08.2022. An appeal was to be filed on or before 25.11.2022 and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 15.11.2023, after eleven months twenty days from the date on which even the limitation period expired.

4. 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. 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 any case that he had in fact filed a return in the continuous period of six months.

7. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	21.02.2024
Transmission Date	