IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3373 of 2024

==

Pramod Kumar Son of Sri Laleshwar Singh, resident of village- Tira, Chero, P.S. Chero Harnaut, District - Nalanda - 803110, Bihar.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
2. The Under Secretary, Ministry of Finance (Department of Revenue), Government of India, New Delhi.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
5. The Joint Commissioner, State Tax (J.C.S.T.) Patna East Patna.
6. The Assistant Commissioner State Tax, Nalanda, Bihar Sarif.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr.Uday Prasad Singh, Advocate
For the UOI	:	Dr. Krishna Nandan Singh (ASG)
		Mr. Anshuman Singh Sr. SC, CGST&CX
For the State	;	Mr. Vikash Kumar SC-11

==

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

Date : 21-02-2024

The petitioner in the above writ petition challenges the demand notice pursuant to the assessment order passed on 10.04.2023, produced in the writ petition as Annexure-P1 and P2. The petitioner assessee does not have a case that the assessment order was not served on him as required under law. The petitioner also had a statutory remedy by way of an appeal under Section 107 (4) of the Bihar Goods and Services Tax Act, 2017. The aforesaid provision requires an appeal to be filed within a period of three months and upon delay, to be filed within a further period of one month; which could also be considered if there is satisfactory explanation for the delay occasioned. The petitioner has not availed the remedy and at this point of time, cannot seek to avail the appellate remedy for reason of the limitation period having expired long prior. It is also trite that when the statute provides for a period of limitation and also requires a delayed appeal to be filed within a specified period, the appellate authority does not have the power to condone the delay occasioned in excess of the period specifically provided under the statute.

2. The present writ petition is filed on the demand notice being issued, which is not permissible when there was an alternate efficacious remedy, which was not availed by the petitioner for reason of his own default. There are specific contours for invocation of the extraordinary remedy under Article 226 of the Constitution of India, as has been delineated in the **State of H.P & Ors. v. Gujarat Ambuja Cement Limited & Anr.; (2005) 6 SCC 499**.

3. We find no such ground existing and in any event

the attempt of the petitioner to bypass the appellate remedy, which he chose to not avail of, cannot be countenanced. We, hence, dismiss the writ petition *in limine*.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA