IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5113 of 2024

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M/s Rajesh Kumar Dubey through proprietor Rajesh Kumar Dubey, Male, aged about 43 years, Son of M.N. Dubey, resident of Magistrate Colony, Road No.- 3, Ashiana Nagar, District- Patna, Bihar.

... ... Petitioner/s

Versus

1. The Union of India through the Commissioner of Central Tax, Bihar, GST Bhawan, Beerchand Patel Path, Patna.
2. The Commissioner of Central Tax, Bihar, GST Bhawan, Beerchand Patel Path, Patna.
3. The Superintendent, CGST, Patna Central, Karpoori Sadan, Patna.
4. The Additional Commissioner of CGST and CX (Appeal), Central Revenue Building (Annexe), Second Floor, Birchand Patel Path, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Archana Sinha @ Archana Shahi, Advocate
For the Respondent/s	:	Dr. K. N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, CGST & CX
		Mr. Alok Kumar, Advocate
		Mr. Dewansh Singh, Advocate

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

Date : 23-04-2024

The writ petition is filed against the appellate order dated 09.01.2024 (Annexure-5) which was rejected on the ground of delay. The appeal was filed against Annexure-2, order of cancellation of registration dated 16.08.2019.

2. Admittedly, the appellate remedy was 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. 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, In Re: Cognizance For Extension of Limitation,*** 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.

4. Here, the order impugned in the appeal was dated 16.08.2019. An appeal was to be filed on or before 30.05.2022, as permitted by the Hon’ble Supreme Court and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 25.11.2023, after about one year five months from the date on which even the extended limitation period expired.

5. 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.

6. 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 30.06.2023. The petitioner did not avail of such remedy also.

7. 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.

8. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.04.2024
Transmission Date	