IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4777 of 2024

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M/s M.B. Construction 70, S.K. Colony, Malahi Pakri, Kankarbagh, Patna through its Proprietor Niranjan Singh, aged about 54 years, Gender Male, Son of Parmeshwari Singh, resident of Ward No.- 09, Rampur Dumra, P.S.- Mokama, 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 West Division, Patna.
3. The Joint Commissioner, State Tax, Patna South Circle, District- Patna.

... ... Respondent/s

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Appearance :

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

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

Date : 02-04-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-1 order passed on 29.08.2020.

2. Admittedly, there is an appellate remedy which the petitioner availed with gross delay. The cancellation order is produced as Annexure-1 and Appellate order is produced as Annexure-2. The order of cancellation is dated 29.08.2020 but the order impugned in appeal is noted as 21.06.2022. The learned Government Advocate informs us that there was an application filed for revocation of cancellation, which was rejected on

26.01.2022, against which the appeal was filed delayed.

3. The Appellate order indicates that the delay was of 138 days on which ground the appeal was dismissed.

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. 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. Here, the impugned order cancelling the registration is dated 29.08.2020. An appeal was to be filed on or before 29.05.2022 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 06.02.2023, after about seven months from the date on which even the extended 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. The petitioner does not have any case that the show-cause notice was not received by him. Further, it is also pertinent that in the show-cause notice for cancellation of registration it is noticed that the petitioner has not filed reply to the show cause notice.

7. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.04.2024.
Transmission Date	