IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5267 of 2024

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M/s Manoj Kumar Chauhan (A Sole Proprietorship Firm), Having its Registered Office At- Nawada, Bijaili, Dhankhora, Katihar, Bihar- 855114 through its sole proprietor Mr. Manoj Kumar Chouhan, S/o Ramdhin Prasad Chauhan, aged about- 52 Years, (M).

... ... Petitioner

Versus

1. The Union of India, through the Secretary, Ministry of Finance, Department of Revenue, having its office at Room No. 46, North Block, P.O. and P.S.- North Block, New Delhi- 110001.
2. The State of Bihar through its Commissioner, BGST, New Secretariat, Patna.
3. Joint Commissioner of State Tax, Katihar, Purnea, Bihar.
4. Additional Commissioner of State Tax (Appeal), Purnea Division, Purnea.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, CGST & CX
For the State	:	Mr. Vikash Kumar, SC-11

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

Date : 08-04-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P/3 order passed on 30.08.2019.

2. Admittedly, there is an appellate remedy which the petitioner 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. Here, the order impugned in the appeal was dated 30.08.2019. An appeal was to be filed on or before 30.06.2022 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 31.10.2023, after about one years and five 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.

4. 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.

5. 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.

6. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09-04-2024
Transmission Date	