IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9228 of 2020

The Braithwaite Ram and Jessop Construction Company Limited having its registered office at 27, Rajendra Nath Mukherjee Road, P.O. Box No. 264, Kolkata- 700001 through its authorised signatory namely Chandrima Banerjee female aged about 48 years daughter of Nishit Kumar Bhattacharya resident of 21, Gariahat Road, West, Jodhpur Park, Kolkata (West Bengal)- 700068.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Government of India at New Delhi.
2. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Additional Commissioner of State Taxes (Appeals), Bhagalpur Division, Bhagalpur.
4. The Joint Commissioner of State Taxes, Munger Circle, Munger.
5. The Principal Chief Commissioner of Central GST and CX, Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate
		Mr. Atal Bihari Pandey, Advocate
		Mr. Alok Kumar Jha, Advocate
		Mr. Mukund Kumar, Advocate
		Mr. Akash Kumar, Advocate
		Mr. Aditya Raman, Advocate
For the Respondent/s	:	Dr. K.N. Singh (ASG)
		Mr. Anshuman Singh, CGC
		Mr. Anshuman Singh, Sr. SC, CGST & CX
		Mr. Devansh Shankar Singh, Advocate
		Mr. Shivaditya Dhari Sinha, Advocate
For the State	:	Mr. Sushil Kumar Singh, AC to AAG-13

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

Date : 14-05-2024

The petitioner was aggrieved with Rule 108 as it existed originally in the Central Goods & Services Tax Rules,

2017. As per rule, after filing of an appeal, a certified copy of the impugned order had to be filed within seven days of the filing of an appeal. If it is filed after seven days, then the appeal was deemed to have been instituted only on the date of filing of certified copy. Thus, bringing the rigor of limitation, as applicable; to that date on which the certified copy was filed. There has been an amendment to the rules and hence the challenge in the writ petition to the said rule, does not survive. As of now, there is no insistence for a certified copy.

2. The appellate order in this case, which is produced at Annexure-4 of the memorandum, rejected the appeal on the ground of late production of certified copy. The certified copy was produced even beyond the one month period in which a delay condonation application could have been filed, after the three month period initially provided for instituting a proper appeal.

3. As the provision exists now, there should be a self-attested copy of the impugned order, if the order is not uploaded in the portal. In the present case, the order is uploaded in the portal, hence, there is no requirement for even an attested copy.

4. In the circumstance of the amendment made, which removed the condition of filing a certified copy, we are of the

opinion that Annexure-4 has to be set aside. The appeal will stand restored with the First Appellate Authority, which will be considered on merits. The appellant would be issued with a notice and given an opportunity of hearing before disposal of the appeal by a speaking order.

5. We make it clear that we have not made any observation about the merits of the order.

6. The writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	15.05.2024
Transmission Date	