IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7381 of 2024

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Shree Azad Transport Company Private Ltd. Jai Krishna Road, Patna City, Patna Branch, Patna-800007, through its Manager, Shri Yogendra Kumar Singh, male, aged about 52 years, son of Shri Bachhan Prasad Singh, resident of Jai Krishna Road, Patna City, Patna-800007

... ... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary Cum Commissioner, Department Of State Taxes, Govt. of Bihar, Patna
2. The Additional Commissioner of State Taxes (s), Patna East Circle, Patna.
3. The Assistant Commissioner of State Taxes, Patna City West, Patna East, Bihar

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Hrishikesh, Advocate
For the Respondent/s	:	Mr.Government Pleader 7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-07-2024

The petitioner is aggrieved with dismissal of appeal filed under Section 107 of the Bihar Goods and Services Tax Act, 2017('BGST Act' for short) for reason of delay.

2. Learned Counsel for the petitioner submits that within the time provided under the BGST Act for filing an application with delay condonation, the petitioner had

attempted to file an appeal which had to be filed online. However, since there was a technical glitch the appeal was not uploaded. The petitioner informed the same to the 1st Appellate Authority by *email* communication dated 04.03.2023 and on the very same day a hard copy was also sent through courier service, the invoices issued of which is produced as Annexure-3 series. The petitioner then uploaded the appeal on 10.03.2023 when the time admittedly had elapsed.

3. Section 107 of the BGST Act 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. Here, the order impugned in the appeal was dated 06.11.2022. An appeal was to be filed on or before 05.02.2023 and if necessary with a delay condonation application within one month thereafter i.e. 05.03.2023.

4. We see from Annexure-3 that the petitioner had addressed an *email* pointing out a technical glitch in the uploading of the appeal on 04.03.2023 itself. In fact the assessment order produced as Annexure-2 was dated

06.11.2022 and the petitioner had to file an appeal within 05.02.2023 or within 05.03.2023, when the petitioner could have filed an appeal under Section 107(4) of the BGST Act with a delay condonation application. The petitioner could eventually file an appeal only on 10.03.2023 which was dismissed as per Annexure-5.

5. We see that the petitioner had attempted to file an online appeal, which is evidenced by the *email* addressed to the 1st Appellate Authority, produced at Annexure-3 series. The petitioner had also with due alacrity; finding the technical glitch to have disabled the filing of the appeal, filed a hard copy through courier. It is also the submission of the learned Counsel for the petitioner that though the 1st Appellate Authority's Office was approached with a hard copy, it was not accepted, in which circumstance the courier had been sent.

6. We find the contentions to be one which would enable invoking the jurisdiction under Article 226 of the Constitution of India and giving the equitable remedy of the petitioner's appeal being considered on merits.

7. We hence set aside Annexure-5 order and direct

the Appellate Authority to consider the appeal on merits after issuing due notice to the petitioner and also giving him an opportunity of hearing. The appeal shall stand restored to the files of the 1st Appellate Authority.

8. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2024
Transmission Date	NA