IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7388 of 2024

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Bijay Kumar Yadav a proprietorship Firm having its place of business at Kalyanpur, Ward Number- 1, Supaul, Bihar- 852105, through its proprietor namely Bijay Kumar Yadav alias Vijay Kumar Yadav, male aged about 62 Years, Son of Sudi Lal Yadav, resident of Ward number- 1, Supaul, Bihar- 852105.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Deputy Commisssioner of State Tax, Supaul Circle, Purnea Division, Supaul, Bihar.
3. The Additional Commissioner of State Tax (Appeal), Purnea Division, Purnea, Bihar.
4. The Assistant Commissioner of State Tax, Supaul Circle, Supaul, Bihar.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Anubhav Khowala, Advocate
For the Respondent/s : Mr. Government Pleader 7

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 02-05-2024 The writ petition is filed against Annexure-P/1 appellate order which dismissed the claim raised by the petitioner on the ground of delay. The petitioner placed reliance on Annexure-P/6 notification and Anneuxre-P/7 judgment of this Court. Anneuxre-P/6 notification issued on 02.11.2023 permitted filing of appeal from orders prior to 31.03.2022, even if there is a delay and the appellate

authorities were obliged to consider the same on merits, if the appeals were filed before 31.01.2024.

2. The petitioner challenged the order of 12.04.2023 on 23.12.2023; prior to 31.01.2024. Admittedly, the appeal filed was delayed under Section 107 of the BGST Act. The petitioner claimed benefit of Annexure-P/6 notification. The learned Government Advocate, however, submits that Anneuxre-P/6 notification applied only to orders prior to 31.03.2022.

3. The situation is covered by a judgment of this Court in Annexure-P/8 judgment and we refer to paragraph 5 of the aforesaid judgment, which is extracted hereunder:-

> 5. We do not see any rationale for the date fixed of 31.03.2023, as a cut off date. We notice that the notification itself was brought out on 02.11.2023 and in such circumstances any order passed in at least three months before that date; the time provided for filing an appeal, ought to have been considered for such beneficial treatment.

4. Going by the binding precedent, the appeal ought to have been considered on merits. Annexure-P/1 order is set aside only to restore the same to the files of the First Appellate Authority and to direct the authority to

consider the matter on merits after hearing the petitioner and pass a speaking order in accordance with law.

5. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

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