IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9156 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, P.O. and P.S.- Bhaptiyahi, District-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 Commissioner of State Tax, Supaul Circle, Purnea Division, Supaul, Bihar.
3. The Additional Commissioner of State Tax (Appeal), Purnea Division, Purnea, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anubhav Khowala, Advocate
For the Respondent/s	:	Mr. Vikas Kumar, Standing Counsel (11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 02-07-2024

The petitioner is aggrieved with the dismissal of an appeal on the ground of delay. The acknowledgment of appeal is produced as Annexure-P/6. The petitioner relies on a notification issued by the Central Board of Indirect Taxes and Customs, Ministry of Finance, Government of India. The notification provided for delayed appeals to be filed from orders prior to 31.03.2023. The notification itself came on 02.11.2023.

2. We found in CWJC No.7388 of 2024 (Bijay Kumar Yadav Vs. The State of Bihar & Ors.) that there is no rationale

for fixing the cut-off date as 31.03.2023 when the notification itself came on 02.11.2023. In the present case also the order (for February, 2022 to March, 2022) challenged in appeal was dated 13.06.2023. An appeal could have been filed on or before 12.09.2023 or with one month delay, before 12.10.2023. When the notification came the appeal was already delayed.

3. In such circumstances, any order which was prior to 02.11.2023 the date on which the notification came and the appeal was delayed as on that date could be entertained, as a validly filed appeal.

4. On the above reasoning, we set aside the appellate order which dismissed the appeal on grounds of delay. The appeal shall stand restored to the files of the appellate authority and the same shall be considered on merits after hearing the petitioner/assessee.

5. The writ petition stands allowed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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CAV DATE	
Uploading Date	02.07.2024
Transmission Date	