IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10876 of 2024

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Tarun Kumar Son of Baleshwar Singh, Resident of Village- Jiwan Chak, Near Shiv Mandir, P.S.- Shahjahanpur, District- Patna, Pin Code- 801304.

... ... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance, Govt. of India, New Delhi.
2. The Secretary, Department of Revenue, Govt. of India, New Delhi.
3. The Principal Commissioner of Central Goods and Services, New Delhi.
4. The Commissioner of Central Tax, C.R. Building, Birchand Patel Path, Patna- I
5. The Joint Commissioner of State Tax, Patna East, Patna.
6. The Superintendent, Central Goods and Service Tax, Barh, Patna East, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Dr. Alok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, CGST
		Mr. Devansh Shankar, Advocate

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

Date : 23-07-2024

The petitioner is before this Court challenging the cancellation of registration dated 03.01.2020 at Annexure-P/2, before which show-cause notice was issued as per Annexure-P/1 dated 23.12.2019, which was not replied to. An appeal is provided from Annexure-P/2, which was also not availed of.

2. 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. The Hon'ble Supreme Court, in **Suo Motu Writ Petition (C) No. 3 of 2020, In Re: Cognizance For Extension of Limitation**, due to the pandemic situation, saved limitation 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. Hence, an appeal could have been filed on or before 30.05.2022, which provision was not availed by the petitioner herein. The Hon'ble Supreme Court also declared that if a longer period than 90 days is provided in a Statute, then that longer period will apply. Hence, a delayed appeal could also have been on or before 30.06.2022.

3. The petitioner has not availed such remedy and at this point of time, cannot seek to avail the appellate remedy for reason of the limitation period having expired long prior.

4. Annexure P/3 and P/4 decisions were based on the peculiar circumstance due to the pandemic, which has been reckoned by the Hon'ble Supreme Court in the cited

decision and a measure provided to get over the limitation which was not availed by the petitioner. Annexure-5 judgment is on the peculiar circumstances there, which has no application here.

5. 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.

6. The learned counsel relies on a judgment authorized by one of us (the C.J) dated 25.04.2023 in which a Division Bench directed revocation of cancellation made on 21.02.2022 on the terms of Circular No. 3 of 2023. First, the said order was in the currency of the Amnesty Scheme, then, the order was of 2022, while here the order challenged is of 2019; with gross delay.

7. The petitioner was not a registered dealer after cancellation and there was no monitoring of his activities by the Department in the intervening period. There is no way to ascertain as to whether there was any transaction carried out during the said period. There is also the fact that the petitioner

has not availed of the appellate remedy nor the Amnesty Scheme which was made applicable. The petitioner also does not in the memorandum of writ petition controvert the allegation in the show cause notice produced as Annexure-P/1 that no returns were filed for a consecutive six months period.

8. The law favours the diligent and not the indolent. The delay stands against the petitioner.

9. Hence, we dismiss the writ petition; declining exercise of discretion.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	.07.2024
Transmission Date	07.2024