IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10269 of 2023

==

Premlata Kumari D/o Jay Prakash Singh Proprietor of Shivam Electricals, D.V.C. Colony, New Yarpur, P.S.- Gardanibagh, Dist. Patna. Pin Code-800001.

... ... Petitioner/s

Versus

1. The State of Bihar through the Addl. Commissioner, State Tax South Division 3rd Floor, Kautilya Bhawan Anta Ghat, Patna.
2. The Assistant Commissioner, State Tax South Circle, Patna.
3. The Branch Manager, Punjab National Bank Bihar Bar Council Branch, Patna High Court.

... ... Respondent/s

==

Appearance :
For the Petitioner/s : Mr. Chandra Bhushan Upadhyay, Advocate
For the Respondent/s : Mr. Raghwanand (GA-11)

==

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

Date : 02-01-2024

The petitioner challenges the appellate order which dismissed the appeal for non-prosecution. The appeal was filed in time and the appellate authority merely for the reason of the absence of the petitioner or the authorised representative rejected the appeal.

2. We have already held in **Purushottam Stores vs. The State of Bihar & Ors; CWJC No. 4349 of 2023** decided on 25.04.2023; looking at the provisions of the Bihar Goods and Services Tax Act especially sub-sections (8), (9), (10), (11) and (12) of Section 107 of the Act, that the Appellate Authority has a duty and an obligation under the statute to look into the merits of the matter and also examine the grounds raised by the appellant, even if there is no presence recorded of the appellant before the Appellate Authority and decide the issue on merits. The Appellate Authority by dismissing the appeal for non-prosecution would be abdicating its powers especially looking at the provisions where the Appellate Authority has been empowered to conduct such further enquiry as found necessary to decide the appeal, which decision also shall be on the points raised.

3. We, hence, set aside the order produced at Page 24 (Annexure-3) and direct the restoration of appeal before the Appellate Authority.

4. The petitioner shall appear before the Appellate Authority on 15.01.2024. The Appellate Authority or its office shall fix a date of hearing on the said date, with due acknowledgment taken from the appellant; if the date of hearing is issued from the office, proceed with the hearing on the date fixed and dispose of the appeal on merits within three months from the date of last hearing. We also direct the petitioner to cooperate in the hearing of the appeal and even if there is absence of the appellant or his authorized representative on the date of hearing, the Appellate Authority shall consider the appeal on merits and pass a speaking order.

5. The writ petition stands allowed with the above direction.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

sharun/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	04.01.2024
Transmission Date	