IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10565 of 2024

==

M/s Shivam Super Industries LLP, Office Address - House of Kashi Mahto, P.S.- Fatuha, Dist- Patna, Bihar, 803201, Through its Partner - ANSHU KUMAR (Male) aged about 22 years, S/o ANIL KUMAR, Resident of Village- Mosimpur, P.S.- Fatuha, Dist - Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Finance Department, Patna, Bihar.
2. The Additional Commissioner State tax (Appeal), Patna East, Patna.
3. The Joint Commissioner of State tax, Patna City East, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Mithilesh Kumar Upadhyay, Advocate Mr. Raju Prasad, Advocate Ms. Tetara Kumari, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7

==

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

Date : 15-07-2024

The petitioner is before this Court challenging the cancellation of registration dated 30.07.2021 at Annexure-P/3, before which a show-cause notice was issued on 14.07.2021 at Annexure-P/2. Against the order of cancellation of registration, the petitioner preferred an appeal on 01.05.2024.

2. In the BGST Act, u/s 107(4) there is a provision for filing an appeal within three months of the order and a further provision of condonation of delay, if the appeal is filed delayed, within one month of expiry of limitation. The appeal ought to

have been filed on or before 30.10.2021 or before 30.11.2021 with a delay condonation application.

3. The Hon'ble Supreme Court has extended the limitation in ***Suo Motu Writ Petition (C) No. 3 of 2020, Cognizance for Extension of Limitation, In Re (2021) 5 SCC 452***. Therein, due to the pandemic situation limitation was saved 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 or before 30.06.2022 with a delay condonation application. 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.

4. 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.

5. The petitioner filed an appeal on 01.05.2024, after expiry of the limitation period.

6. The petitioner being not a registered dealer, 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. It is also a fact that the petitioner has filed a delayed appeal and also not availed the remedy of 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 that he failed to furnish returns for a continuous period of six months.

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

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

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	16.07.2024
Transmission Date	