IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12171 of 2024

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Shiv Kumar, through its Proprietor Shiv Kumar Son of Sachidanand Prasad Resident of S/o Sachidanand Prasad Hajipur Dumri Patna, Dumari, Bihar, P.O.-803201, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State GST, New Secretariat, Patna.
2. The Joint Commissioner of State Tax, Vaishali.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Mayank Manvendra
For the Respondent/s : Mr.Government Pleader (7)

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

Date : 23-08-2024

The petitioner is before this Court challenging the cancellation of registration dated 29.05.2020 at Annexure-P/2, before which show-cause notice was issued dated 06.12.2019, which was replied to on 15.12.2019. 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. 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 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 does not have any case that the show-cause notice was not received by him. The petitioner also has not produced the show-cause notice before this Court.

6. Learned Counsel for the petitioner submits that no appeal was filed and benefit under the circular was not availed because the petitioner came to know of the cancellation very late, however, there is no such contention taken in the writ petition nor is the date on which he came to know of the cancellation order specified with substantiation.

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)

Harsh/-

AFR/NAFR	NAFR
CAV DATE	N.A
Uploading Date	27.08.2024
Transmission Date	