IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12334 of 2024

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M/s Khan Brothers, having GSTIN-10AARFK3344C1ZR, through its partner namely Mohammad Asharaf Alee aged about 45 yrs, Male, son of Mohammad Taiyab Alee, resident of Bitandipur, P.S.-Jandaha, District-Vaishali.

... ... Petitioner/s

Versus

1. The Union of India through Commissioner, Central GST & Central Excise, Patna-II Budh Marg, Patna.
2. The Assistant Commissioner (A.E.) CGST & Central Excise, Patna-II Budh Marg, Patna.
3. Assistant Commissioner, Central GST & Central Excise, Vaishali Division, Hajipur.
4. The Superintendent, Central GST & Central Excise, Hajipur Range, Vaishali at Hajipur.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rajeev Ranjan, Advocate Ms. Bela Singh, Advocate
For the Respondent/s	:	Dr. K.N. Singh, Additional Solicitor General Mr. Anshuman Singh, Sr. SC, CGST & CX Mr. Shivaditya Dhari Sinha, Advocate Mr. Devansh Shankar Singh, Advocate

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

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-09-2024

The petitioner is aggrieved with Annexure-P/13 order dated 30.04.2024, passed under Section 74 of the Central Goods and Services Tax Act, 2017 (for brevity 'CGST Act'). The petitioner's contention is that five days after Annexure-P/10 order, a show-cause notice was issued at Annexure-P/11 alleging fraud, under Section 74 of the CGST Act.

2. On going through the records, we are of the opinion that Annexure-P/10 order is on a quite different aspect from what has been alleged in Annexure P/11. Annexure-P/10 was an order in a writ petition filed against the cancellation of registration. The cancellation of registration was revoked by order dated 11.12.2023, in which circumstance the writ petition was withdrawn, which is evident from Annexure-P/10.

3. Admittedly, a Demand-cum-Show-cause Notice at Annexure-P/11 dated 18.12.2023 was issued against the petitioner, which culminated in Annexure-P/13 order. The petitioner had also filed a response to Annexure-P/11 notice, which is seen to have been considered in Annexure-P/13.

4. In any event, Annexure-P/13 is appealable under Section 107 of the CGST Act. The time for filing an appeal is three months from the date of order or within a further period of one month, within which the delay occasioned can be condoned. In the present case, the writ petition was filed on 17.08.2024 while the petitioner had time to file a delayed appeal till 30.08.2024.

5. In the above circumstances, we are of the opinion that the petitioner should be entitled to avail the remedy of appeal. If the petitioner files an appeal within four weeks from

today, the same will be considered on merits without reckoning the delay.

6. With the above directions, the writ petition stands disposed of.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	24.09.2024
Transmission Date	