IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13044 of 2023

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Muskan Enterprises through its proprietor Mr. Ganesh Kumar, Aged about 48 years, Gender- Male, Son of Rajendra Prasad, Resident of Ramji Bhawan, Nala Road, P.O. and P.S.- Kadamkuan, District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Joint Commissioner, Kadam Kuan Circle (Patna East), Department of State Taxes, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Udbhav, Advocate
For the Respondent/s : Mr.Vivek Prasad (GP7)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-02-2024

The petitioner is before this Court challenging the cancellation of registration dated 22.01.2020 at Annexure-1, before which show-cause notice was issued as per Annexure-4, which was not replied to. An appeal is provided from Annexure-1, which was also not availed of.

2. In the BGST Act, u/s 107(4) there is a provision for 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 20.04.2020 or before 20.05.2020 with a delay condonation application.

3. 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.

4. 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.

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. 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 2020; with gross delay.

6. The petitioner 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. 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-4 that no returns were filed for a consecutive six month period.

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)

(Harish Kumar, J)

Ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2024
Transmission Date	NA