IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13977 of 2024

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Brijesh Kumar Singh Son of Shri Mahanand Singh, a proprietorship firm having its office at Basuhar, Bawanak, Basuhar, P.S.- Parsa Bazar, Patna, Bihar Pin- 804453 through its Proprietor, Brijesh Kumar Singh (Male) (aged about 59 years), resident of vill - Basuhar, Bawanak, Basuhar, P.S. - Parsa Bazar, Patna, PIN - 804453, Bihar.

... ... Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax, having its Office at Vikas Bhawan Bailey Road, Patna.
2. Addnl. Commissioner of State Tax, Patna West Division, Patna, Bihar.
3. Joint Commissioner of State Tax, Patna South, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sadashiv Tiwari, Advocate
For the Respondent/s : Mr. Vivek Prasad, Government Pleader (7)

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 17-09-2024 The petitioner is aggrieved with the order of cancellation of registration passed on 06.05.2023.

2. Admittedly, there is an appellate remedy which the petitioner availed with gross delay.

3. 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. An appeal was to be filed on or before

04.08.2023 and if necessary with a delay condonation application within one month thereafter, i.e. on or before 03.09.2023. Hence, an appeal could have been filed on or before 03.09.2023, which provision was not availed by the petitioner herein. The appeal is said to have been filed only on 26.04.2024, after about eight months from the date on which even the extended limitation period expired.

4. Section 30 of the GST Act also provides for an application for revocation of cancellation within thirty days of the order. 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. In the above circumstances, we find no reason to invoke the extraordinary jurisdiction under Article 226, especially since it is not a measure to be employed where there are alternate remedies available and the assessee has not been diligent in availing such alternate remedies within the stipulated time. The law favours the diligent and not the indolent.

6. The petitioner does not have any case that the

show-cause notice was not received by him. Further, it is also pertinent that the reason stated in the show-cause notice for cancellation of registration is that the petitioner has not filed returns for a continuous period of six months. The petitioner does not have a case that he had in fact filed a return in the continuous period of six months.

7. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Saurabh/-

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