IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12907 of 2024

Vikash Kumar Ray Son of Sanjiv Kumar Ray, resident of village - Taraon, P.O.- Taraon, P.S.- Nasriganj, District - Rohtas, (Bihar) proprietor of Ray Rice Processing, a having business at, NH-2, Bamhaur, Shivsagar, Rohtas, Bihar, 821111

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State GST, New Secretariat, Patna.
2. Superintendent GST of State Tax, Sasaram, District- Sasaram, Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Alka Singh, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11

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

Date : 04-09-2024

The petitioner is before this Court challenging the cancellation of registration dated 02.09.2022 at Annexure-P/3, before which show-cause notice was issued as per Annexure-P/2 dated 02.08.2022, which was not replied to. An appeal is provided from Annexure-P/3, 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. An appeal was to be filed on or before

01.12.2022 and if necessary with a delay condonation application within one month thereafter, i.e. on or before 31.12.2022. Hence, an appeal could have been filed on or before 31.12.2022, which provision was not availed by the petitioner herein.

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. 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. Annexure-P/4 was a case in which there was no reason stated, while here the ground was of non-filing of returns for a consecutive period of six months; which is not disputed.

6. 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 also does not in the memorandum of writ petition controvert the allegation in the show cause notice produced as Annexure-P/2 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. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.09.2024
Transmission Date	