IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12991 of 2023

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M/s Gopal Enterprises, a Proprietary Concern having GSTIN-10ATLPK5015B3ZD and its Office at Mohalla-Itahari, Post-Nawagarhi, Police Station- Naya Ramnagar, Dist-Munger, Bihar through its Proprietor Gopal Kumar, Gender-Male, aged about 43 Years, Son of Shri Suresh Prasad Singh, Resident of Mohalla-Itahari, Post-Nawagarhi, Police Station-Naya Ramnagar, Dist-Munger, Bihar-811214

... ... Petitioner/s

Versus

1. Union of India through the Under Secretary, Finance Department, 135, North Block, New Delhi, Delhi.
2. The Joint Commissioner (Appeal) of Customs, Central GST & Central Excise, 2nd Floor, C.R. Building (Annexe), Bir Chand Patel Path, Patna-800001
3. The Superintendent of CGST, Munger Range, Bhagalpur Division, Bhagalpur,

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bijay Kumar Gupta, Advocate Mr. Vikash Kumar, Advocate Mr. Manish Kumar, Advocate
For the Respondent/s	:	Dr. K.N. Singh, Additional Solicitor General Mr. Anshuman Singh, Sr. SC, CGST & CX

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 25-01-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P2 order passed on 11.01.2023.

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. Here, the order impugned in the appeal was dated 11.01.2023. An appeal was to be filed on or before 11.04.2023 and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 09.06.2023 (online) and through hard copy on 20.06.2023, after about two months from the date on which the limitation period expired. 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.

4. 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 any case that he had in fact filed a return in the continuous period of six months.

5. The petitioner has relied on the decision in CWJC

No. 14777 of 2023 wherein the cancellation order was interfered with on the ground that there is no clear indication of the failure to file returns or consideration of an explanation filed.

6. In the present case it is specifically indicated that the reply was considered and that there was failure to furnish returns for a continuous period of six months.

7. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	26.01.2024
Transmission Date	