IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14538 of 2024

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Vikash Kumar Son of Ram Chandra Kunwar, resident of Village - Daniyalpur, Ward No. 6, Gaura-2 P.O. and P.S. - Teghra, District - Begusarai.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Tax, Bihar, New Secretariat, Patna, District Patna.
2. Th Joint Commissioner of State Tax, Teghra Circle, Teghra, District-Begusarai.
3. The Assistant Commissioner of State Tax, Teghra Circle, Teghra, District-Begusarai.
4. The Union of India through the Under Secretary, Finance Department, Government of India, New Delhi.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar, Advocate

For the Respondent/s : Mr. Government Pleader 07

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

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 09-12-2024 The petitioner is aggrieved with the order passed at Annexure-P/1 on two counts, one on the ground of limitation and also on the ground of personal hearing having not been afforded.

2. The assessment year is 2017-18 and as per the provision under BGST Act, 2017 being Section 73(10), an assessment has to be completed within 3 years from the due

date of filing of returns. The due date of filing of returns was the 31st of December of the relevant year. Hence, counted from 31.12.2018, the limitation expires on 31.12.2021. However, the date of filing of returns was extended to 07.02.2020. As per the said extension, the limitation for assessment would have normally expired on 07.02.2023. The State Government then by Notification S.O. No.174 dated 29.08.2022, on the recommendation of the GST Council extended the last date for passing an order under Section 73(9) to 30.09.2020 and later by Notification No. S.O. No.134 dated 17.05.2023 to 31.12.2023. Annexure-P/1 assessment order, challenged herein, was passed on 27.11.2023 within the extended limitation period. The challenge against the extension of limitation was negatived by judgment dated 27.11.2024 in C.W.J.C. No. 4180 of 2024, ***M/s Barhonia Engicon Private Limited v. The State of Bihar and Others*** and analogous cases. We find absolutely no reason to interfere with the assessment order on the ground of limitation.

3. The other contention raised is of no personal hearing having been afforded. In fact, the order specifically

speaks of a personal hearing having been granted on 28.09.2023, to which the petitioner did not respond to. In such circumstances, there is no violation of Section 75(4) of the BGST Act.

4. Faced with the situation, the learned Counsel for the petitioner sought for filing an appeal. We see that the order itself was passed on 27.11.2023 and the petitioner had a time of 3 months to file an appeal without delay and a further time of 1 month to file an appeal with sufficient explanation for the delay occasioned. Hence, an appeal ought to have been filed before 27.02.2024. The writ petition itself was filed long after that, on 20.09.2024. In such circumstances, we do not see any reason to pass an order enabling the petitioner to file an appeal which is not permissible, as per the statute.

5. The writ petition, hence, stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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