IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13853 of 2024

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M/s Goswami and Sons, having one of its office situated at N/A Charitravan Veer Kunwar Singh Colony P.S- Buxar Town Thana District- Buxar State- Bihar Pin Code- 802101. through its Authorized Signatory Vivek Kumar aged about 37 yrs. S/o Madan Mohan Goswami, Ward-3 Charitravan, Veer Kunwar Singh Colony, P.S- Buxar Town, Thana District- Buxar State- Bihar Pin- 802101.

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Finance, Government of India, New Delhi.
2. The Principal Chief Commissioner, CGST, Central Revenue Building, Birchand Patel Path, Patna.
3. The State of Bihar, through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
4. The Assistant Commissioner of State Taxes, Patna West Circle, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Piyush Kant Singh, Advocate
For the Respondent/s	:	Mr.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)

3 17-09-2024 The petitioner is aggrieved with an order 18.01.2022, issued under Section 73 of the Central Goods and Services, Act.

2. The petitioner's contention is that the petitioner was not given an opportunity before the order was passed.

3. The detailed order is seen at page 19 of the writ petition, which indicates that under Section 61 of the CGST Act, ASMT-10 notice was issued first to the petitioner finding a discrepancy in the return. The petitioner having not cleared the

discrepancy DRC-01, notice has been issued under Section 73 based on which the order has been passed. The petitioner has failed to respond to the same.

4. 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.

5. 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.

6. In such circumstances, we find absolutely no reason to invoke the extraordinary remedy under Article 226 of the Constitution of India, especially since there was an appellate

remedy under Section 107, which the petitioner failed to invoke.

7. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Harsh/-

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