# IN THE HIGH COURT OF JUDICATURE AT PATNA
**Civil Writ Jurisdiction Case No.15882 of 2024**

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M/s Engineered N Innovative Private Limited, having its Place of Business at R.M.S. Colony, Karbigahiya, Patna. Near Patliputra Sport Complex, Kankarbagh, Patna through one of its Director Shivam Kumar, aged about 27 Years, Gender Male, Son of Dharmendra Singh Resident of 34, Khushi Vihar, Kanausi, Manaknagar, P.S. Krishna Nagar, Lucknow (Uttar Pradesh)-226011.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Additional Commissioner of State Tax (Appeal), Patna West Division, Patna.
3. The Joint Commissioner, State Tax, Patna South Circle, Patna.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Alok Kumar, Advocate
Mr. Arjun Kumar, Advocate
Mr. Awadhesh Kumar, Advocate

For the Respondent/s : Mr.Vikash Kumar, Sc 11

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

**ORAL JUDGMENT**
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 21-10-2024**

The petitioner is aggrieved with the cancellation of registration by Annexure-1 order passed on 19.01.2023.

2. Admittedly, there is an appellate remedy which the petitioner availed with 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 19.01.2023. An appeal was to be filed on or before 18.04.2023 and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 22.12.2023, after the limitation period expired.

4. The petitioner has relied on a decision of a learned Single Judge of the High Court of Allahabad in Writ Tax No. 222 of 2023, ***Engineered And Innovative Pvt. Ltd. Vs. State of U.P. & Ors.*** dated 08.2.2024. There, on similar prayer and identical grounds, the order of cancellation was set aside, is the contention. We are unable to accede to the prayer and are in respectful disagreement with the decision. Especially, on the context of the provision for limitation, under Section 107, having stipulated a definite time within which a delayed appeal should be filed. The learned Single Judge in the cited decision, reckoning the non-constitution of the Tribunal under the GST Act, has found the delay of 95 days to be satisfactorily explained. Even if the Tribunal were constituted since the statute provides only 30 days to

file a delayed appeal; there could not have been any condonation beyond the period provided in the statute.

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. 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.

7. The petitioner does not have any case that the show-cause notice was not received by him, which has not been produced in the writ petition. Further, it is also pertinent that in the show-cause notice for cancellation of registration it is noticed that the petitioner has not filed reply to the show cause notice.

8. The writ petition would stand dismissed.

**(K. Vinod Chandran, CJ)**

**(Partha Sarthy, J)**

Sujit/-

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | |
| **Uploading Date** | 22.10.2024 |
| **Transmission Date** | |