IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17589 of 2023

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M/s Ashish Enterprises Through its Proprietor Bhola Kumar, aged about 35 years, Gender-Male, Principal Place of Business Bhupatipur Kankarbagh Road No. 20, S/o Surendra Singh, resident of Etwan Tola Arai, Ward No. 11, P.S.-Shahjahanpur, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State GST, New Secretariat, Patna.
2. The Commissioner, Central GST and Central Excise, Patna.
3. The Joint Commissioner, GST and CX Appeal, Patna.
4. The Superintendent of CGST, Kankarbagh Range Patna Central Division, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Sinha, Advocate
For the UOI	:	Dr. K. N. Singh, ASG Mr. Anshumann Singh, Sr. SC, CGST & CX
For the Respondent/s	:	Mr. Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-03-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P/3 order passed on 01.03.2023. against which an appeal was filed which was rejected as delayed, on 18.09.2023 at Annexure-P/5.

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. Here, the order impugned in the appeal was dated 01.03.2023. An appeal was to be filed on or before 29.05.2023 and if necessary with a delay condonation application within one month thereafter, i.e. on or before 29.06.2023. The appeal is said to have been filed only on 10.08.2023, after the limitation period expired.

3. 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.

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

5. The petitioner relies on ***Purushottam Stores vs. The State of Bihar & Ors; CWJC No. 4349 of 2023,*** which

is not applicable since the dismissal of the appeal is, as a consequence of the delay occasioned.

6. 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 favors the diligent and not the indolent.

7. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Sharun/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	07.03.2024
Transmission Date	