IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18500 of 2023

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Manish Kumar Son of Sri Wakil Gupta, Proprietor of Jay Ma Katyanya Builders Ltd., resident of Village - Thuthi (Mohanpur), P.O. -Thuthi, P.S.-Chautham, District - Khagaria, Bihar PIN Code 851214.

... ... Petitioner/s

Versus

1. The State of Bihar through the State Tax Commissioner cum- Secretary, Bihar, Patna.
2. The State Tax Additional Commissioner, Purnia Division, Purnia.
3. The Deputy Commissioner of State Tax, Khagaria.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akash Anand, Advocate

For the Respondent/s : Mr.Vikash Kumar (SC-11)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 10-01-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P/5 order passed on 03.08.2022.

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 03.08.2022. An appeal was to be filed on or before 03.11.2022 and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 09.10.2023, after about ten 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 writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2024
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