IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.301 of 2024

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Nirmal Kumar Agarwal Through its proprietor Nirmal Kumar Agarwal aged about 38 years, male, son of Vijay Kumar Agarwal resident of ward no 11 Malipur, Malipur P.S- Malipur Begusarai, Bihar- 848204

... ... Petitioner/s

Versus

1. The Union of India through the Commissioner of Central GST, Patna.
2. Superintendent, Central GST, Samastipur, Bihar
3. Joint Commissioner CGST and CX(Appeals), Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Archana Sinha, Advocate
For the U.O.I.	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SC, CGST & CX
		Mr. Devansh Shankar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-01-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-1 order passed on 27.05.2023.

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 27.05.2023. An appeal was to be filed on or before 26.08.2023 and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 05.10.2023, after 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)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.01.2024
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