

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.205 of 2024

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Ramesh Radav Son of Ramcharitra Yadav, through it proprietor Ramesh Yadav, Resident of Ward no. 8, Meghaul, PO and PS- Kumbhi, Meghaul, District- Begusarai.

... .. Petitioner/s

Versus

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

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Archana Sinha, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Mr. Anshuman Singh, Sr. SG, CGST & CX

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 11-01-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-P/1 order passed on 20.01.2021. The vehement contention of the learned counsel for the petitioner is that the show-cause notice for cancellation of registration dated 06.01.2021 directed appearance on 04.01.2021 and the order of cancellation of registration was passed on 20.01.2021.

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. We have to take into account the saving of limitation granted by the Hon'ble Supreme Court in *Suo Motu Writ Petition (C) No. 3 of 2020, In Re: Cognizance For Extension of Limitation*. Therein, due to the pandemic situation limitation was saved 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. Here, the order impugned in the appeal was dated 20.01.2021. An appeal was to be filed on or before 30.06.2022 as permitted by the Hon'ble Supreme Court and if necessary with a delay condonation application within one month thereafter. The appeal is said to have been filed only on 29.10.2023, after about one year and three months from the date on which even the extended 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. True, there is an illegality in so far as the notice



issued having shown a date prior to the date of the notice for hearing. However, the reply was directed to be submitted within seven days. The petitioner could have responded to the notice and asked for a further date which was not done by the petitioner. 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. The petitioner also did not file a reply to the show-cause notice.

5. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.01.2024
Transmission Date	

