IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.394 of 2024

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Sunil Kumar Son of Jhotan Yadav Resident of Tiri, Ward No. 1, P.O Dhanchhoa, Saharasa, P.S.- Saurbazaar, District- Saharsa.

... ... Petitioner/s

Versus

1. The Union of India Through the Principal Commissioner, Central GST and Central Excise-II, Patna.
2. The Joint Commissioner (Appeals), CGST and CX (Appeals), Patna
3. The Deputy/Assistant Commissioner, CGST and CX, Purnea Division, Purnea
4. The Superintendent, CGST and CX, Madhepura Range, Madhepura.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prashant Sinha, Advocate

For the Respondent/s : Dr. K.N. Singh, Additional Solicitor General

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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-2(B) order passed on 12.04.2021.

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 12.04.2021. 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 16.11.2023, after about one year five 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. 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 writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Anushka/-

AFR/NAFR	
CAV DATE	
Uploading Date	24.01.2024
Transmission Date	