IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.335 of 2024

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M/s Upendra Prasad Verma having its office at 40, Kayasth Tola, Maheshamunda, Kahalgaon, Maheshamunda, Bhagalpur, Bihar, 813231 through its Authorized Representative Vikash Kumar Verma (Male), Aged about 34 years, S/o Upendra Prasad Verma, Residing at House No 203, Vill and PO Maheshamunda, Near Hanuman Mandir, P S - Kahalgaon, District Bhagalpur, Bihar - 813231.

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
2. The Commissioner cum Secretary, Commercial Tax Department, Govt. of Bihar, Patna.
3. The Additional Commissioner of State Tax (Appeal), Bhagalpur Division, Bhagalpur, Bihar.
4. The Joint Commissioner of State Tax, Bhagalpur Circle, Bhagalpur, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Singh, Advocate Mr. Sriram Krishna, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, GP-7

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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/2 order passed on 09.01.2020. The vehement contention of the learned counsel for the petitioner is that the show-cause notice for cancellation of registration dated 30.12.2019 directed appearance on 07.01.2020 and the order of cancellation of registration was passed on 09.01.2020.

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 09.01.2020. 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 24.11.2023, after about one year and 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 has a case that the show-cause notice was not received by him. However, it is 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. A remand would be an useless formality.

5. The writ petition would stand dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2024.
Transmission Date	