IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.552 of 2024

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Shailesh Kumar, a proprietorship firm having its office at Raghopur, Parbatta, Bhagalpur, Bihar, PIN- 853202 through its Proprietor, Shailesh Kumar (Male) (aged about 45 years) son of Shri Shiv Narayan Mandal, Resident of Vill-Raghopur, Parbatta, District- Bhagalpur, PIN- 853202, Bihar

... ... Petitioner/s

Versus

1. State of Bihar through the Commissioner of State Tax, having its office at Vikas Bhawan Bailey Road, Patna
2. Addnl. Commissioner of State Tax Purnea Division, Purnea, Bihar
3. Deputy Commissioner of State Tax Khagaria, Bihar

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Sadashiv Tiwari, 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 : 15-01-2024

The petitioner is aggrieved with the cancellation of registration by Annexure-2 order passed on 17.03.2021.

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 17.03.2021. An appeal was to be filed on or before 30.05.2022 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 06.06.2023, after almost an year 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)

Aditya/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.01.2024.
Transmission Date	