IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5085 of 2026

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M/s Bhardwaj Construction through its Partner Kamlesh Kumar, aged about 48 years (Male), Son of Ramashray Singh, Resident of 286, AP Colony, P.S.-Rampur, District-Gaya Ji.

... ... Petitioner/s

Versus

1. Union of India through the Principle Secretary, Ministry of Finance (Department of Revenue) Government of India, New Delhi.
2. The Principal Secretary, Department of Finance, Government of India, New Delhi.
3. The State of Bihar through its Additional Chief Secretary, Department of Finance, Government of Bihar, Patna.
4. The Additional Chief Secretary, Department of Finance, Government of Bihar, Patna.
5. The Commissioner, State Tax, Magadh Circle, Gaya Ji.
6. The Additional Commissioner (Appeal) State Tax, Magadh Division, Gaya Ji.
7. The Joint Commissioner, State Tax, Gaya Ji.
8. The Assistant Commissioner State Tax, Gaya Ji.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Priya Ranjan
For the Respondent/s	:	Mr.Additional Solicitor General
		Mr. Vivek Prasad, G.P. 7

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
and
HONOURABLE MR. JUSTICE VIKASH KUMAR

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA)

2 13-07-2026 1. The petitioner has filed the present writ application for quashing the order dated 28.10.2023 passed by State Tax Joint Commissioner, Gaya Ji Circle 01 by which petitioner has been directed to deposit Rs. 1,23,12,453/- including Rs. 1,08,95,975/- as tax, Rs. 3,26,880/- as interest and Rs. 10,89,598/- as penalty.

2. Learned counsel for the petitioner submits that out of total tax liability, Rs. 93,36,719/- has been recovered by the respondents.

3. Mr. Vivek Prasad, learned Govt. Pleader No. 7 submits that there is provision for appeal before the appellate authority but the petitioner without availing the remedy under the statute has directly filed the present writ application. He further submits that under Section 107 of the Bihar Goods and Services Tax Act, 2017 (for short “BGST”) any person aggrieved by the order of the proper authority can avail the remedy of appeal within three months from the date on which the said decision / order is communicated to such person and the appellate authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, as the case may be, allow it to be presented within a further period of one month. Therefore, submission is that total time prescribed for filing the appeal can go up to 120 days. Since the petitioner has approached this Court after more than 2½ year, the writ court may not entertain the writ application filed against the order passed by the proper authority.

4. At this juncture, learned counsel for the petitioner seeks permission to withdraw this writ application in order to file

appeal along with condonation of delay petition before the appellate authority.

5. Without giving any opinion on the merit of the case including the provision under Section 107 of the BGST, permission as sought for by the petitioner is granted.

6. Accordingly, this application is dismissed as withdrawn with the aforesaid liberty.

7. It is made clear that if any such appeal is filed along with condonation of delay petition, the appellate authority shall decide it in accordance with law without being prejudiced by the fact that the present writ application has been permitted to be withdrawn with aforesaid liberty.

(Anil Kumar Sinha, J)

(Vikash Kumar, J)

praful/-

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