IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7021 of 2025

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M/S Dharmendra Kumar through its proprietor Sumanjay Kumar, male aged about-31- years son of Rudal rai, resident of Garh Sisai-, P.O and P.S-Samastipur, District- Samastipur

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner of State Taxes, New Secretariat, Patna.
2. The Assistant Commissioner of State Taxes, Muzaffarpur
3. The Additional Commissioner (Appeal) of Tirhut Commissionery, Muzaffarpur

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Swarna Roy

For the Respondent/s : Mr.Standing Counsel (11)

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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)

3 24-07-2026 1. Heard the parties.

2. The petitioner has challenged the order passed by Appellate Authority dated 19.02.2025 in Appeal No. AD101224008163Y by which the order dated 29.08.2024 passed by the Adjudicating Authority has been upheld.

3. Learned counsel for the petitioner submits that the petitioner challenged the order of assessment dated 29.08.2024 in Appeal before the Appellate Authority under Section 107 of Bihar Goods and Services Tax Act, 2017 (for short “the Act”). As per Section 107(2) of the Act the delay is condonable up to

120 days i.e. 90 days + 30 days. The petitioner filed the Appeal on 25.12.2024 i.e. before expiry of 120 days. The respondent-Appellate Authority did not appreciate this aspect of the matter and dismissed the Appeal of the petitioner as time barred.

4. Learned counsel for the State submits that it is true that petitioner filed the Appeal before expiry of 120 days.

5. Having regard to the submissions made by the parties and taking into consideration the provisions of Section 107(2) of the Act under which the Appellate Authority has the power to condone the delay within 120 days and the fact that petitioner has filed Appeal before expiry of 120 days, accordingly, the Appellate Order dated 19.02.2025 is hereby set aside and the matter is remanded back to the Appellate Authority for fresh consideration with liberty to the petitioner to file fresh condonation of delay petition explaining delay in approaching the Appellate Authority beyond the period of 90 days.

6. It is made clear that if condonation of delay petition is filed by the petitioner within fifteen days from today, the Appellate Authority will consider the same particularly in view of the provision under Section 107(4) of the Act and shall decide it in accordance with law and pass a reasoned order.

7. With the aforesaid observation and direction, this writ application is disposed of.

(Anil Kumar Sinha, J)

(Vikash Kumar, J)

praful/-

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