

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.82 of 2023

M/s Vishwanath Traders through its Proprietor Ajay Kumar, Male aged about 47 yrs. Son of Shri Shivnath Prasad Resident of Mohalla-Ward No.24, Bhabua, P.S.-Bhabua, District-Kaimur at Bhabua.

... ... Petitioner/s

Versus

1. The Union of India through the Commissioner, Central Goods and Services Tax, Patna, Government of Bihar, Patna.
2. The Additional Commissioner of the State Tax, Magadh Division, Gaya.
3. The Joint Commissioner of the State Tax, Kaimur at Bhabua.
4. The Assistant Commissioner of the State Tax, Kaimur at Bhabua.

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Mishra, Advocate
For the Respondent/s : Dr. K.N. Singh, Additional Solicitor General
Mr. Vikash Kumar, S.C. 11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-04-2023

The writ petition is filed against the appellate order dated 17.10.2022, Annexure-4 which rejected the appeal on the ground of delay. The appeal was from Annexure-1 order of assessment passed on 12.03.2022. The appellate order



specifically noticed Section 107 of the Bihar Goods and Services Tax Act, 2017 (“BGST Act” hereafter) which 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. The Appellate Authority also took 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. Hence, an appeal could have been filed on or before 29.05.2022, which provision was not availed by the petitioner herein. The appeal is said to have been filed only on 08.08.2022, with a delay of two months nineteen days from the date on which even the limitation period as stipulated by the Hon’ble Supreme Court, 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 writ petition hence would stand dismissed.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

AFR/NAFR	
CAV DATE	
Uploading Date	25.04.2023
Transmission Date	

