



Lawgics

By Nidhi, Advocate



Judgment No.: 026
Dt.: 06-12-2023



<https://chat.whatsapp.com/Ie4VxuhvToe76Us7e5>

CLICK TO JOIN
WHATSAPP GROUP

Judgment Deals With

Section/Rule	Section 107
Authority	Patna High Court
Case Name	M/s. Vishwanath Traders VS The Union of India
Dated	20 th April, 2023

Brief Facts:

The assessment order was passed on 12.03.2022. The present writ petition was filed against the appellate order dated 17.10.2022, which rejected the appeal on the ground of delay.

Contention of Department:

The appellate order specifically noticed Section 107 of the CGST Ac, 2017 which permits an appeal to be filed within 3 months and also apply for delay condonation with satisfactory reasons within a further period of 1 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 90 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. The appeal is said to have been filed only on 08.08.2022, with a delay of 2 months 19 days from the date on which even the limitation period as stipulated by the Hon'ble Supreme Court, expired.

Findings & Order:

There exists 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 appeal was dismissed.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.