

IMPORTANT GST UPDATES



Issued in case of M/S Vishwanath Traders by Hon Supreme Court of India
SLP(C) No.15594/2023 | Date: 04-08-2023

Ruling

SC upholds Patna High Court Order of dismissing writ petition for time extension in filing appeal post expiry of stipulated three-month timeframe.

Observations & Findings

The petitioner – M/s Vishwanath Traders is a registered vendor in Bihar who was served a demand notice by the department. The petitioner failed to respond within the stipulated time period of three months and filed an appeal for extension and the same was dismissed on grounds of delay in submission.

The petitioner approached the Patna High Court challenging this appellate order. The court observed that Section 107 of the Bihar Goods and Services Tax Act, 2017 allows for an appeal to be filed within a three-month timeframe, along with the option to seek condonation for delay if there are satisfactory reasons within an additional period of one month.

It also factored in the time limitation extension granted by the Hon'ble Supreme Court in the matter of *Suo Motu Writ Petition (C) No. 3 of 2020* wherein due to pandemic-related circumstances, the Supreme Court extended the limitation period from March 15, 2020, until February 28, 2022. Moreover, the Court stipulated that an appeal could be lodged within ninety days starting from March 1, 2022. Consequently, an appeal could have been submitted by May 29, 2022.

Regrettably, the petitioner in this instance did not avail of this provision and only filed the appeal on August 8, 2022. This was a delay of two months and nineteen days after the expiration of the stipulated limitation period set forth by the Supreme Court.

In consideration of these facts, the Patna High Court ruled that there seems to be no compelling justification to invoke the exceptional jurisdiction under Article 226, particularly when alternative remedies are at hand and the petitioner has not been proactive in seeking such remedies within the designated timeframe.

The order was then further challenged in the Hon'ble Supreme Court which again cited sub-section (4) of Section 107 of the Bihar Goods and Service Tax Act, 2017, and concluded that there was a delay in approaching the appellate authority therefore, the Patna High Court was justified in dismissing the writ petition.