

(2022) 11 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 5364 Of 2022, Civil Review No. 340 Of 2019 In Civil Writ Jurisdiction Case No. 24121 Of 2018

M/S Mahesh Prasad Singh

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 01-11-2022

Acts Referred:

Citation : (2022) 11 PAT CK 0003

Hon'ble Judges : Sanjay Karol, CJ; Partha Sarthy, J

Bench : Division Bench

Advocate : Saket Gupta, Dr. K. N. Singh, Anshuman Singh, Rakesh Kumar, Anshuman Singh

Final Decision : Disposed Of

Judgement

CWJC No. 5364 of 2022.

Petitioner has prayed for the following relief(s):-

"a. Issuance of a writ of Certiorari to set aside the order dated 10.03.2022 in Appeal being Order-In Appeal Number-140/Pat/S.Tax/Appeal/2021-22, dated 10.03.2022 passed by the Respondent No. 04 by which the appeal preferred by the Petitioner has been rejected on the sole ground of limitation in filing of the appeal.

b. A direction to remand the matter back to the Appellate Adjudicating Authority for considering the appeal of the Petitioner on merits.

c. An issuance of a writ in the nature of certiorari to set aside the order of recovery dated 12.01.2022 passed by the Respondent No. 06 directing the employers of the petitioner to deduct Rs. 1,71,73,864/- (rupees one crore seventy one lac seventy three thousand eight hundred sixty four only) from the payments to be made to the petitioner.

d. Directions that till the pendency of the writ application the operation of the

impugned orders of recovery, if any, may be stayed and no coercive steps may be taken against the petitioner.

e. Direction to the Appellate Authorities to consider the appeal filed by the petitioner on merits and pass reasoned order on it before making the impugned recovery.

f. Direction to the authorities to hear and dispose the appeal on merits filed by the petitioner in expeditious manner and within limited time before making any recovery.

g. Any other relief or reliefs that the petitioner is entitled to in the facts and circumstances of the case.”

Having heard learned counsel for the parties, we are quite convinced that the delay in preferring the appeal before the Commissioner (Appeals) ought to have been condoned, more so, in view of the explanation furnished by the petitioner, as a result of an accident leading to making the petitioner completely bed ridden for almost two and a half years and also suffering from Corona. The order impugned before the Commissioner (Appeals) was passed on 16.02.2018, which was received on 24th of February, 2018. The appeal was preferred on 08.02.2022.

Needless to add, this Court on the basis of the orders passed by Hon’ble the Supreme Court had been passing order condoning the delay in preferring the appeals during the time pandemic, Covid-19. Needless to add that the petitioner had also approached this Court by way of CWJC No. 24121 of 2018 and the Court vide order dated 5th of September, 2019 (Annexure -7, Page -44) had allowed the petitioner to avail alternative statutory remedy. It is post passing of such order that the petitioner had met with an accident and was bed ridden.

For all the aforesaid reasons, we quash and set aside the impugned order dated 11.03.2022 whereby the petitioner’s appeal stands dismissed only on the ground of limitation and direct the petitioner to appear before the Commissioner(Appeals) on 15.11.2022 at 10.30 a.m. along with a copy of this order who shall decide the appeal on merit.

The instant petition stands disposed of in the aforesaid terms.

Interlocutory application, if any, stands disposed of.

Re. C.Rev. 340 of 2019.

Petitioner has sought review of the order, which, in effect, is in the nature of seeking extension of limitation.

Prayer allowed.

Period for preferring the appeal is extended by four weeks from today.

Review petition stands disposed of.