Punit Kumar Choubey vs The Commissioner, Commercial Tax, Patna & Ors.

Appeal – Limitation for filing appeal under Sections 107(1) and 107(4) of the BGST Act, 2017 – writ petition against assessment order when appeal filed beyond statutory limitation.

Date of Order: August 10, 2023
Case Law No: GIB-PHC-2023-01
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :
The petitioner challenged an assessment order dated 10.12.2021 passed under Section 73(9) of the BGST Act determining excess input tax credit. Notices were issued through the GST portal and reminders were sent, but the petitioner did not respond. The petitioner later filed an appeal with delay, which was rejected as time-barred, and thereafter approached the High Court.

Court Decision:
The Court held that the statutory remedy of appeal under Section 107 must be filed within three months with a further condonable period of one month. Even considering the extension of limitation granted by the Supreme Court in *In Re: Cognizance for Extension of Limitation*, the appeal should have been filed by 28.06.2022, but it was filed only on 10.07.2022.

The Court held that when the statute prescribes a specific period for condonation of delay, neither the appellate authority nor the High Court under Article 226 can extend the limitation further. As the petitioner failed to avail the statutory appellate remedy within the prescribed period and no jurisdictional error or violation of natural justice was established, the writ petition was dismissed.

Cases Referred by Court: In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No.3 of 2020 (Supreme Court of India ; State of H.P. & Ors. v. Gujarat Ambuja Cement Limited & Anr., (2005) 6 SCC 499

© 2026 GST INDIA Biz. All rights reserved.