

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(T) No. 4197 of 2023

M/s. Nayan Enterprises, having its office at Kothan, P.O.- Kothan, P.S.- Kothan, District- Godda, through one of its partners Raju Kumar Mandal, son of Late Mahesh Prasad Mandal, resident of Kothan, P.O. & P.S.- Kothan, District- Godda

... .. Petitioner

Versus

1. Commissioner of State Tax, State of Jharkhand, Jharkhand Goods and Service Tax, Ranchi
2. Deputy Commissioner of State Tax, Jharkhand Goods and Service Tax, Godda and Dumka, having his office at P.O. & P.S.- Godda, District- Godda
3. State Tax Officer, Jharkhand Goods and Service Tax, Godda and Dumka, having his office at P.O. & P.S.- Godda, District- Godda

... .. Respondents

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Petitioner : Mrs. Darshana Poddar Mishra, Advocate
Mr. Deepak Sinha, Advocate
For the Respondents : Mr. Aditya Kumar, A.C. to Sr.S.C.-I

Order No. 06

Dated: 16.03.2026

1. Heard learned counsel for the parties.
2. The petitioner challenges the adjudication order dated 07.04.2022, summary of which was issued in Form GST DRC-07 dated 07.04.2022. The impugned order concerns the period April 2020 to March 2021.
3. Learned counsel for the petitioner states that by order dated 29.05.2022, the petitioner's GST registration was cancelled. The same was restored only on 04.07.2023. Therefore, during the period 29.05.2022 and 04.07.2023, the petitioner was precluded from appealing the adjudication order dated 07.04.2022. She, therefore, submits that the petitioner had sufficient cause for not

instituting an appeal within the prescribed period of limitation of three months, extendable by one month.

- 4.** Learned counsel for the petitioner further submits that even the adjudication order dated 07.04.2022 was in violation of the principles of natural justice because no notice of hearing was given to the petitioner.
- 5.** Mr Aditya Kumar, learned A.C. to Sr.S.C.-I appearing on behalf of the respondents, submits that this petition was instituted only on 26.07.2023. He submitted that show cause notices were issued to the petitioner, which it did not respond to. Therefore, the claim of failure of natural justice is bereft of any merit.
- 6.** Mr Aditya Kumar submits that a petitioner cannot allow the limitation period to lapse and, after that, invoke this Court's extraordinary jurisdiction on the specious plea that the petitioner had a sufficient cause for not instituting the appeal within the period of limitation. He submitted that this is a case of fraud and therefore, no leniency must be extended to the petitioner.
- 7.** We have considered the rival contentions, and we are satisfied that there is no merit in this petition. Brief reasons for this conclusion follow.
- 8.** Firstly, we are not satisfied that any sufficient cause has been shown by the petitioner for not availing of the alternate remedy of appeal to question the adjudication order dated 07.04.2022.
- 9.** Admittedly, the petitioner's registration was cancelled only on 29.05.2022, though, w.e.f. 31.03.2022. For the period between

07.04.2022 and 29.05.2022, nothing prevented the petitioner from instituting an appeal. The argument that the petitioner was unaware of the order dated 07.04.2022 is not made good and is, in fact, contrary to the record.

- 10.** Secondly, nothing is shown to us to indicate that the petitioner's appeal would not have been entertained because registration was cancelled by order dated 29.05.2022. Admittedly, the adjudication order dated 07.04.2022 relates to the period April 2020 to March 2021, during which the petitioner had a registration.
- 11.** Thirdly, this petition was instituted only on 26.07.2023. Surely, the cancellation of registration did not preclude the petitioner from instituting a petition before this Court well within the limitation period prescribed under the statute for instituting appeals. Though no limitation period as such is prescribed for invoking this Court's extraordinary jurisdiction under Article 226 of the Constitution, still, it is expected that the petitioner institutes a writ petition with utmost dispatch, assuming that there was any real difficulty in instituting an appeal before the appellate authority.
- 12.** Fourthly, nothing whatsoever was submitted on the merits of the matter or the probable defence to resist the demand. Only ground urged was that the impugned order was ex parte and allegedly not served on the Petitioner. If, despite the service of a show cause and the grant of opportunities, the Petitioner does

not avail of the same, the resulting order cannot be attacked as ex parte.

- 13.** The Hon'ble Supreme Court in the case of **Assistant Commissioner (CT) LTU, Kakinada & Ors. Vs. GLAXO SMITH KLINE Consumer Health Care Limited**, reported in **2020(19) SCC 681**, has held that the extraordinary jurisdiction of this Court must not be exercised to help parties to defeat the statutory regime, which includes the limitation period prescribed under the statute. This is precisely what the petitioner seeks to achieve by belatedly instituting this petition.
- 14.** In the case of **Rikhab Chand Jain Vs. Union of India and Ors.** (Civil Appeal No. 6719 of 2012 decided on November 12, 2025), the Hon'ble Supreme Court, after referring to the Constitution Bench decision in **Thansingh Nathmal Vs. A. Majid, Superintendent of Taxes**, reported in **AIR 1964 SC 1419**, has held that ordinarily the Court will not entertain a petition for a writ under Article 226, where the petitioner has an alternate remedy, which, without being unduly onerous, provides an equally efficacious remedy. Therefore, where it is open to the aggrieved petitioner to move another Tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by the statute, the high court normally will not permit, by entertaining a petition under Article 226 of the Constitution, the machinery created by the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up.

15. Further, the Hon'ble Supreme Court, in the case of **Rikhab Chand Jain (supra)**, by referring to the majority view in a previous Constitution Bench in the case of **A.V. Venkateswaran, Collector of Customs, Bombay Vs. Ramchand Sobhraj Wadhvani**, reported in **AIR 1961 SC 1506**, has held that if a petitioner has disabled himself from availing himself of the statutory remedy by his own fault in not doing so within the prescribed time, he cannot certainly be permitted to urge that as a ground for the court dealing with his petition under Article 226 to exercise its discretion in his favour. In essence, the Court believed that once a petitioner has, due to his own fault, disabled himself from availing a statutory remedy, the discretionary remedy under Article 226 may not be available.
16. In paragraph-13 of **Rikhab Chand Jain (supra)**, the Hon'ble Supreme Court has held that although there is no period of limitation for invoking the writ jurisdiction of a High Court under Article 226, all that the courts insist is the invocation of its jurisdiction with utmost expedition and, at any rate, within a "reasonable period". What would constitute "reasonable period" cannot be put in a straitjacket, and it must invariably depend on the facts and circumstances of each particular case. Nonetheless, the period of limitation prescribed by an enactment for availing the alternate remedy provided thereunder in certain cases thus provides an indication as to what should be the reasonable period within which the writ jurisdiction has to be invoked.

- 17.** Therefore, considering the facts and circumstances of the present case and the law laid down by the Hon'ble Supreme Court in the cases of **GLAXO SMITH KLINE Consumer Health Care Limited (Supra), Rikhab Chand Jain (supra), Thansingh Nathmal (supra)** and **A.V. Venkateswaran (supra)**, we decline to entertain this petition by exercising our discretion under Article 226 of the Constitution.
- 18.** This petition is therefore dismissed. No costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

March 16, 2026
Ritesh/Pawan
A.F.R.
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