

Bihar State Hydroelectric Power Corporation Ltd.

Civil Writ Jurisdiction Case No.15002 of 2022

FORUM

Patna High Court

ORDER DATE

24 Jan 2024

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

7. In C.W.J.C. No. 14920 of 2022, the order impugned is one in which penalty was imposed which is dated 07.02.2022. 8. The learned counsel for the petitioner submits that there is no cause for penalty and if there is excessive quantum fixed than that provided in the statute. Again these are matters which could be agitated before the Appellate Authority, which the petitioner has not done even within the time permitted by the Hon'ble Supreme Court. What was observed about the assessment order equally applies to the penalty orders. 9. Having said that there could be no interference caused in the writ petitions, we notice that the provision under the Income Tax Act, 1961, does not provide for any specific period within which a delayed appeal has to be filed. The statute provides the power on the Commissioner Appeals to look into the grounds for delay and if satisfied admit the appeal and consider it on merits. 11. In such circumstances, it is only proper that we direct the petitioner to file an appeal with a delay condonation application, the delay having to be explained from 28.05.2022. 12. We also make it clear that, since, the writ petition was filed on 01.11.2022, the petitioner would not be called upon to explain the delay after 01.11.2022, which is only because of the pending writ petition. We make it clear that we have not said anything about the merits of the matter nor on the delay, the satisfaction of which is exclusively with the Commissioner of Appeals. 13. The writ petitions are disposed of with the above directions. 14. The petitioner would file an appeal within three weeks' from today in which case, the above directions would apply squarely. aditya/sudha (Rajiv Roy, J)

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