



Reserved On : 04/04/2025

Pronounced On : 20/06/2025

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 2699 of 2025

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and

HONOURABLE MR.JUSTICE D.N.RAY

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Approved for Reporting	Yes	No
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RADHE ENTERPRISE

Versus

ASSISTANT COMMISSIONER OF STATE TAX , UNIT 67

Appearance:

JAIMIN A GANDHI(8065) for the Petitioner(s) No. 1

MS SHRUNJAL SHAH, AGP for the Respondent(s) No. 1

CORAM:HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and

HONOURABLE MR.JUSTICE D.N.RAY

CAV JUDGMENT

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

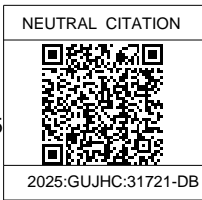
1. Heard learned advocate Mr. Jaimin A. Gandhi for the petitioner and learned Assistant Government Pleader Ms. Shrunjal



Shah for the respondent.

2. By this petition under Article 227 of the Constitution of India, the petitioner has prayed for quashing and setting aside order-in-original dated 14.03.2024 for Financial Year 2018-2019, order-in-original dated 29.12.2023 for Financial Year 2017-2018 along with show cause notice dated 26.12.2023 for Financial Year 2018-2019 and show cause notice dated 28.09.2023 for Financial Year 2017-2018.

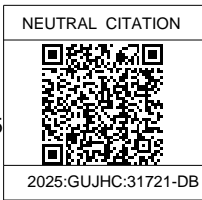
3. Brief facts of the case are that the petitioner is a proprietary concern of one Shri Jitendra Gordhanbhai Sojitra and is engaged in the business of trading, though the petitioner has not mentioned in the memo of the petition regarding the nature



of business carried out by the petitioner.

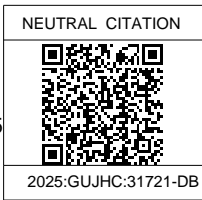
4. It is the case of the petitioner that respondent issued show cause notice dated 28.09.2023 for the tax period from July, 2017 to March, 2018 and show cause notice dated 26.12.2023 for the tax period from April, 2018 to March, 2019 in Form GST DRC-01. However, the petitioner has not placed on record the grounds as per the attached sheet of the summary of the notices which are available at Annexure-C (page no. 25 of the petition) and Annexure-D (Page no.27 of the petition).

5. It appears that the petitioner thereafter filed reply dated 30.10.2023 to the show cause notice dated 28.09.2023 (Annexure-F page no.30 of the petition)



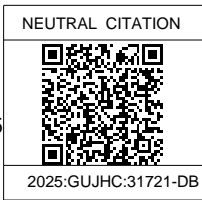
contending that show cause notice was not issued in time and the same is time barred as per the provisions of section 73(10) of the Central/State Goods and Services Tax Act, 2017 (for short 'the GST Act'). The petitioner has also placed on record reply dated 20.10.2023 wherein it is stated that impugned show cause notice was received on 24.10.2023 regarding not declaring tax on outward supplies on reconciliation of turnover while filing the annual returns of GSTR-09 for the tax period 2017-2018 on the ground that notice is time barred as the same was posted on 10.10.2023; that show cause notice was not received through email and it is not issued in prescribed time limit.

6. The petitioner filed reply dated



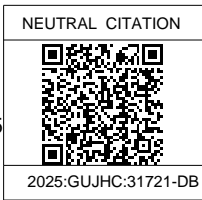
06.03.2024 in Form GST DRC-06 in respect of the show cause notice dated 26.12.2023 for Financial Year 2018-2019 contending that GST has cancelled registration on 28.02.2019 and the petitioner cannot download outward details from the GSTN and request was made to provide outward details of the issuance of notice so petitioner can reconcile with DRC-09 details (Annexure-E page no.29 of the petition).

7. The respondent passed the order in Form GST DRC-07 on 29.12.2023 for tax period 2017-2018 after considering the reply filed by the petitioner and adjudication order in Form GST DRC-07 dated 14.03.2024 for Financial Year 2018-2019.



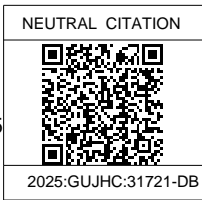
8. It is the case of the petitioner that orders received by the petitioner through courier are unsigned and on perusal of the impugned orders on GST Portal, the uploaded orders are also unsigned, and the respondent did not provide material sought for by the petitioner and therefore, the petitioner could not respond to the show cause notice accordingly.

9. It is also the case of the petitioner that since registration was cancelled in 2019, the petitioner was not able to verify the GST Portal and therefore, the petitioner was not aware about the impugned orders. The petitioner has clarified that the petitioner had appointed a Chartered Accountant and an advocate subsequently to file replies and the petitioner is not well educated and

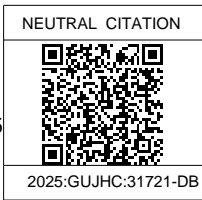


has cleared academic examination only till the 10th standard and the petitioner also has not engaged any employee or any regular Chartered Accountant to look into the matter. It is also the case of the petitioner that emails intimating the impugned notice and orders uploaded were received but it did not contain any of the notice or order. The petitioner, therefore, requested the consultants to look after what has happened and to do the needful whenever he came to know about such email.

10. It is also the case of the petitioner that the business operations of the petitioner are closed in Gujarat and he was having his business operations in the States of Andhra Pradesh and Telangana and he was also possessing GST registration in



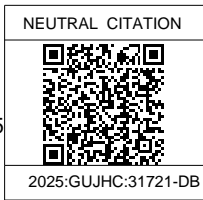
those States and his business operations are dominantly based at Hyderabad and is residing at Hyderabad. It is the case of the petitioner that when petitioner visited his registered address at Surat, the watchman of the flat of the petitioner provided the copy of notice of recovery received around 15.02.2024 to the petitioner when the petitioner visited the flat around 15.09.2024. The petitioner thereafter was advised to file Special Civil Application before this Court. The petitioner accordingly filed Special Civil Application No.17081 of 2024. However, due to some miscommunication between the petitioner and his advocate, factually incorrect averments were made in the memo of the petition and accordingly, the petition was withdrawn on 23.01.2025 with



a liberty to file fresh petition.

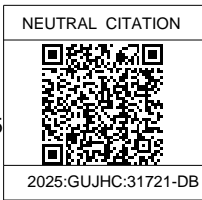
11. It is also the case of the petitioner that the petitioner made an application under the Right to Information Act to provide the details of the impugned orders and show causes notice along with proof of delivery on 25.12.2024 but no answer has been received on such application. The petitioner has also made application on 02.01.2025 for certified copy of orders and proof of delivery before Ghatak 67, Range 17, Division 8, however same is not provided.

12. Learned advocate Mr. Jaimin Gandhi submitted that the impugned orders are unsigned and hence the same are nullity. It was submitted that as per Rule 26(3) of



the Central/State Goods and Service Tax Rules, 2017(for short 'the Rules') it is mandatory for the respondent authority to issue the order through digital signature certificate or through e-signature or verified by any other mode of signature or verification as notified by the Board.

13. It was submitted that mere uploading the order on the Portal does not cure the defect of the order being unsigned. It was submitted that Rule 108 of the Rules deals with filing of appeal, and it does not deal with authentication of order and only Rule 26(3) provides for authentication of the order. It was submitted that in spite of the requests made by the petitioner, the respondent has not provided the authenticated i.e. signed copy, so adverse



inference should be drawn that no such copy of the order exists. In support of his submissions, reliance was placed on the following decisions:

1) **Silver Oak Villas LLP v. Assistant Commissioner (ST)** reported in (2024) 161 taxmann.com 103 (Telangana).

2) **High Noon Consulting Pvt. Ltd. v. Deputy Commissioner of State Tax** reported in (2024) 22 Centax 100 (Telangana).

3) **Kundan Steel Industries v. Assistant Commissioner, Medak** reported in (2024) 18 Centax 384 (Telangana).

4) **Mancheria Cement Company Pvt. Ltd. v. Deputy Commissioner** reported in (2024) 17



Centax 480 (Telangana).

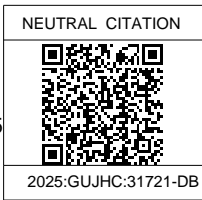
5) **SRK Enterprises v. Assistant Commissioner** reported in (2023) 157 taxmann.com 93.

6) **Ramani Suchit Malushte v. Union of India** (judgment of Bombay High Court dated 21.09.2022 in WP(C) No.9331 of 2022)

7) **Marg ERP Ltd v. Commissioner of Delhi GST** reported in (2023) 7 Centax 174 (Delhi).

8) **Sri Rama Energy Solutions v. Assistant Commissioner ST** reported in (2024) 22 Centax 263 (AP).

9) **Sravankumar Blasting Works v.**



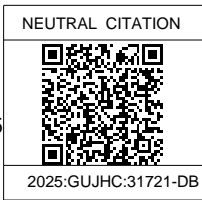
Assistant Commissioner (ST) reported in
(2024) 20 Centax 302 (AP).

10) **SRS Traders v. Assistant
Commissioner (ST) Guntur-II** reported in
(2024) 18 Centax 259 (AP).

11) **Sri Srinivasa Enterprises v. Assistant
Commissioner of Income Tax, Tirupati**
reported in (2024) 15 Centax 448 (AP).

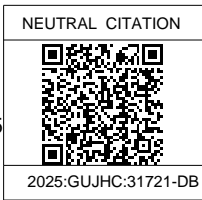
12) **M.S. Shoes East India Ltd. v. Union of
India** reported in 2016 (338) ELT 668
(Delhi).

13) **Vipul Plastic Industries v.
Commissioner of Customs, Mumbai** reported
in 2002 (141) ELT 777 (Tri. Bombay)



14. It was further submitted that decision of this Court in case of **Otsuka Pharmaceutical India Pvt. Ltd. v. Union of India & others** (Order dated 27.03.2024 in Special Civil Application No.13209 of 2023 and allied matters) is not applicable to the facts of the present case because in the said decision, it is held that at the time of filing the appeal against the adjudication order, the petitioner is not required to provide certified copy of adjudication order if order is uploaded on the GST Portal. It was submitted that in facts of the present case order is unsigned and therefore order is nullity.

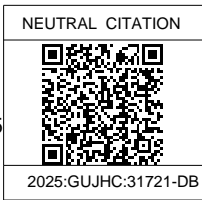
15. Relying upon the aforesaid decisions, it was submitted that as the impugned order is nullity, this Court may exercise



discretion under Article 226 of the Constitution of India by quashing and setting aside the same.

16. It was submitted by learned advocate Mr. Gandhi that the impugned orders are passed in violation of principles of natural justice as the respondent failed to provide necessary information as requested by the petitioner so as to enable the petitioner to file reply to the show cause notice. It was also pointed out that as the impugned order is unsigned, time limit for filing appeal has not even commenced. In support of his submission, reliance was placed on the following decisions:

1) Ramani Suchit Malushet v. Union of

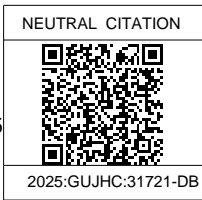


India (supra).

2) M.S. Shoes East India Ltd. v. Union of India (supra).

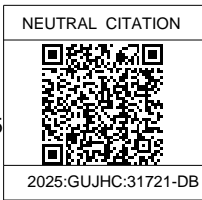
3) Vipul Plastic Industries v. Commissioner of Customs, Mumbai (supra).

17. It was submitted that in the alternative and without prejudice to the aforesaid submissions even if there is delay on part of the petitioner to file appeal, the delay is beyond the grace period of one month and therefore, the petition may be entertained so as to condone the delay. Reliance was placed on the decision of Hon'ble Bombay High Court in case of **Ramani Suchit Malushet v. Union of India (supra).**

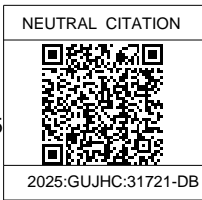


18. It was submitted that delay for Financial Year 2017-2018 is 8 months and 23 days as order is dated 29.12.2023 and petitioner had preferred Special Civil Application No.17081 of 2024 on 6.12.2024 and out of total period of 11 months 23 days, time limit to file appeal of three months is reduced and similarly, for Financial Year 2018-2019 delay is 5 months and 22 days which is required to be condoned if the petitioner is relegated to file an appeal before the appellate authority.

19. It was submitted by learned advocate Mr. Gandhi that since registration of the petitioner was cancelled, the petitioner was unable to verify the GST portal on



regular basis and the petitioner was not aware about the impugned orders. The petitioner has already appointed Chartered Accountant and he was also not well educated and he relied upon the consultants for conducting the proceedings before the respondent. It was submitted that the petitioner had provided all the details of his email to the respondent to his consultant. It was also highlighted by learned advocate Mr. Gandhi that the petitioner closed his business in Gujarat and is residing at Hyderabad and therefore, he was made aware about the impugned orders only when he visited his residence at Surat in the month of September, 2024. In support of his submission, Learned advocate Mr. Gandhi has referred to and relied upon the



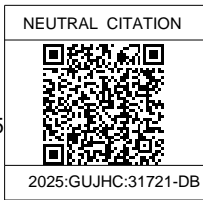
following decisions:

1) **SRM Engineering Construction v. The Assistant Commissioner** of Madras High Court (Order dated 24.08.2023 rendered in W.P. No.25013 of 2023 and allied matters).

2) **TVL Deepa Traders v. Deputy Commissioner** of Madras High Court (Order dated 13.08.2024 rendered in W.P. No.19277 of 2024 and allied matters).

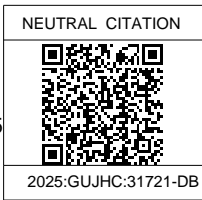
3) **Manjeet Cotton Private Limited v. Commissioner of Sales Tax** of this Court (Order dated 15.12.2022 rendered in SCA No.16857 of 2022).

20. It was further submitted that petitioner by reply dated 06.02.2024 has



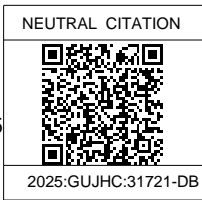
informed the respondent that GST registration is cancelled on 28.02.2019 and requested the respondent to provide copies of outward supply details so as to reconcile the same, however, same was not provided to the petitioner resulting into breach of principles of natural justice.

21. On the other hand, learned Assistant Government Pleader Ms. Shrunjal Shah for the respondent submitted that unless the orders are signed, same cannot be uploaded on the GST Portal. Learned AGP Ms. Shah invited the attention of the Court to the impugned orders at Annexure-A and Annexure-B which are placed on record by the petitioner to point out that both the orders are having the name of Shri B.A. Bhatt, State Tax Officer(1) Unit-67, Surat



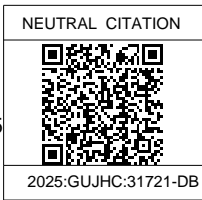
which means that orders are signed by the said officer and such signed orders are uploaded on Portal. It was submitted by learned AGP Ms. Shah that even the show cause notices uploaded on the portal are by one Bhavin Axaybhai Bhatt, State Tax Officer, Ghatak 67 (Surat) Range 17, Division-8, Gujarat and without signature, such notices cannot be uploaded. It was therefore, submitted that the petitioner is not justified in raising the contention that the orders are unsigned.

22. Learned Assistant Government Pleader Ms. Shah referred to and relied upon the decision of this Court in case of **M/s. Vishwa Enterprise v. State of Gujarat** (Order dated 20.03.2025 rendered in Special Civil Application No.8125 of 2024)



wherein this Court has taken into consideration that unique reference number which is generated itself symbolises that the document is verified on the GSTN Portal and the notices and orders cannot be said to be unsigned as the same were uploaded on GSTN Portal which can be done only after verification by the concerned State Tax officer through its Portal after logging into the Portal using the digital signature. Reliance was placed on Advisory dated 25.09.2024 issued by the CBDT.

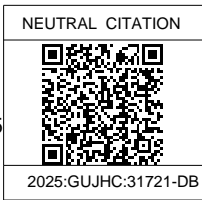
23. It was submitted that the petitioner has also not produced on record any material regarding the contention raised that registration was cancelled in 2019 and that he has shifted to Hyderabad. It was therefore, submitted that no



interference is called for as the petitioner has remained negligent in filing reply to the show cause notice and has also not preferred an appeal under section 107 of the GST Act.

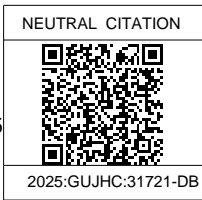
24. Having heard the learned advocates for the respective parties and considering the facts of the case, it appears that the petitioner has not disclosed true and correct facts in the petition and the statements made by the petitioner in the memo of the petition are also without any supporting material.

25. Learned advocate Mr. Gandhi has vehemently submitted that the impugned show cause notices and orders are unsigned. In rejoinder also he has tried to distinguish the judgment of this Court



in case of **Vishwa Enterprise** (supra) contending that in case of the petitioner there is neither any "green tick mark" nor any statement that "validity unknown signature valid" which was found in the facts of the said case, as no date and time of digital signature were mentioned in the order in case of the petitioner.

26. It was also contended by learned advocate Mr. Gandhi that Advisory dated 25.09.2024 is in context of login by the officer through digital signature. However, the Advisory does not indicate that the order may not necessarily contain digital signature of the officer. It was further submitted that the documents are contained in JSON Format and it would contain the digital signature of the issuing officer but such format is not



available to the taxpayer. It was submitted that the petitioner has also verified from the Portal of the GST and the screenshots of the GST Portal is annexed. It was pointed out that in case of digital signature order there is a yellow coloured question mark but in case of the petitioner there is no mention of order being digitally signed and therefore, the order is nullity.

27. We have taken into consideration the submissions made by learned advocate Mr. Gandhi and have also perused the various decisions relied upon by him but the same are not applicable to the facts of the case in view of Rule 26(3) of the CGST Rules which reads as under:

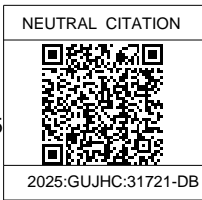


"Rule 26 – Method of authentication

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(3) All notices, certificates and orders under the provisions of this Chapter shall be issued electronically by the proper officer or any other officer authorised to issue such notices or certificates or orders, through digital signature certificate [or through E-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf."

28. There is nothing on record to suggest that the impugned show cause notices or orders have not been signed either digitally or physically as is otherwise required under Rule 26 of the Rules and therefore, the same cannot be said to be unsigned document as the orders and show cause notices are duly uploaded on the GST Portal.



29. Judgment of this Court in case of **Vishwa Enterprise** (supra) would be squarely applicable to the facts of the present case wherein it is held as under:

"6. Having heard the learned advocates for the respective parties and considering the facts of the case, it appears that the contention raised on behalf of the petitioner that the impugned notice and the order are unsigned does not merit any acceptance in view of the fact that the same were uploaded on the GSTN Portal which can be done only after the verification by the concerned State Tax Officer through its portal after logging into the portal using the digital signature.

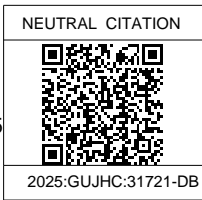
7. Advisory dated 25th September, 2024 issued by the CBDT in this connection which is relied upon by the respondent reads as under :

"Doubts have been created regarding the validity of documents issued by the tax officers on the common portal viz. Show cause Notices, Order of Assessment, Refund Orders etc. which are not containing



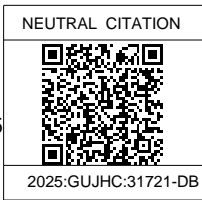
the Digital signatures on the pdf. document downloaded from the common portal. In this context, it is to be mentioned that such documents (i.e. SCN/Orders) are generated on the common portal from the login of the officer, who logs in through Digital Signatures. Further, these documents being computer generated on the command of the officer, may not require physical signatures of the officer as these documents can be issued by the officer only after logging into the common portal using Digital Signature. Thus, all these documents in JSON format containing the order details along with the issuing officer details are stored in the GST system with the digital signature of the issuing officer. The validity of the document in question vis-a-vis who and for what purpose these documents have been issued can also be verified by the taxpayer pre-login as well as after login from the GST common portal by navigating to the following path:

Post-login: www.gst.gov.in --> Dashboard --> Services --> User Services --> Verify RFN"



8. Considering the above advisory as well as the details submitted by the learned Assistant Government Pleader, the contention of the petitioner that the notice and the order are unsigned is not tenable."

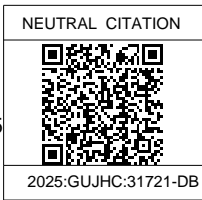
30. It is also pertinent to note that the learned advocate for the petitioner has failed to make out any case for remand on the ground of unsigned order because if we come to the conclusion that the order is unsigned, the same would be liable to be quashed and set aside whereas in the facts of the case, the petitioner is not able to demonstrate that the impugned orders are not electronically signed. Without there being any digital signature, no order can be uploaded as per Advisory dated 25.09.2024. Even otherwise, the petitioner has remained totally negligent for the



business carried out by the petitioner during the period 2017-2018 and 2018-2019 in the State of Gujarat. It is also required to be noted that though the petitioner has submitted that registration of the petitioner is cancelled on 28.02.2019, no material is placed on record to demonstrate such fact.

31. The contention raised on behalf of the petitioner to remand the matter and in alternative that delay in filing the appeal may be condoned cannot be accepted as the petitioner has remained negligent for his business transactions carried out for the period under consideration.

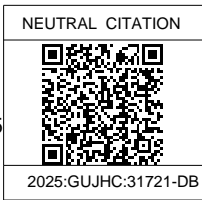
32. At this stage, it would be relevant to deal with the various judgments cited by



the learned advocate for the petitioner. In support of his submission that the impugned orders are unsigned and hence the same are nullity, reliance was placed on the following decisions:

1) In case of **Silver Oak Villas LLP v. Assistant Commissioner (ST)** (supra), the petitioner therein had raised primary contention that the impugned notice as well as the assessment order have not been signed by the respondents therein either digitally or physically as is otherwise required under Rule 26 of the CGST Rules. In such facts the Hon'ble Telangana High Court has held as under:

"9. Considering the judicial precedents referred to in the preceding paragraphs, we are of the considered opinion that the impugned order in the instant case also since it an un-signed



document which lose its efficacy in the light of requirement of Rule 26(3) of the CGST Rules 2017 and also under the TGST Act and Rules 2017. The show cause notice as also the impugned order both would not be sustainable and the same deserves to be and is accordingly set aside/quashed. However, the right of the respondents would stand reserved to take appropriate steps strictly in accordance with law governing the field.

10. Accordingly, this Writ Petition stands allowed. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed."

2) In case of **High Noon Consulting Pvt. Ltd. v. Deputy Commissioner of State Tax** (Supra), the facts were that the show cause notice as also the impugned order were not signed either digitally or physically as is otherwise required under Rule 26 of the CGST Rules. The Hon'ble Telangana High Court in such facts held as



under :

"9. Considering the judicial precedents referred to in the preceding paragraphs, we are of the considered opinion that the impugned order in the instant case also since it an un-signed document which lose its efficacy in the light of requirement of Rule 26(3) of the CGST Rules 2017 and also under the TGST Act and Rules 2017. The show cause notice as also the impugned order both would not be sustainable and the same deserves to be and is accordingly set aside/quashed. However, the right of the respondents would stand reserved to take appropriate steps strictly in accordance with law governing the field.

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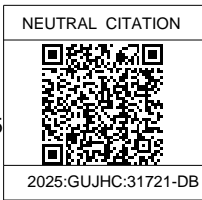
3) In case of **Kundan Steel Industries v. Assistant Commissioner, Medak** (supra), the facts were that the show cause notice dated 12.12.2023 and the subsequent



assessment order dated 30.12.2023 have not been signed either digitally or physically as is otherwise required under Rule 26 of the the CGST Rules. In such facts, Hon'ble Telangana High Court has held as under:

"9. Considering the judicial precedents referred to in the preceding paragraphs, we are of the considered opinion that the impugned order in the instant case also since it an un-signed document which lose its efficacy in the light of requirement of Rule 26(3) of the CGST Rules 2017 and also under the TGST Act and Rules 2017. The show cause notice as also the impugned order both would not be sustainable and the same deserves to be and is accordingly set aside/quashed. However, the right of the respondents would stand reserved to take appropriate steps strictly in accordance with law governing the field.

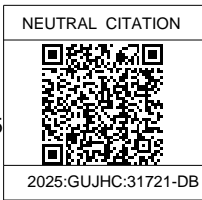
10. Accordingly, this Writ Petition stands allowed. No order as to costs. Consequently, miscellaneous petitions pending, if any, shall stand closed."



4) In case of **Mancheria Cement Company Pvt. Ltd. v. Deputy Commissioner** (supra), the singular question raised before the Hon'ble Telangana High Court was that in the notice dated 10.02.2022 and order dated 15.11.2023 issued by respondent no.1 therein and notice dated 12.2.2021 issued by respondent no.2 therein, the said respondents have not put their signatures nor there exists any digital signature which runs contrary to the statutory mandate en-grained in Rule 26(3) of the Central Board of Service Tax Rule, 2017. In such facts, the Telangana High Court held as under:

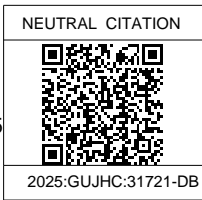
"4. It is also not in dispute that the aforesaid singular point is covered by the recent order passed by this Court cited 4th supra.

5. In this view of the matter,



notices dated 10-2-2022, 12-2-2021 and order dated 15-11-2023 are set aside. Liberty is reserved to the department to proceed against the petitioner in accordance with law. 6. The writ petition is disposed of. No costs."

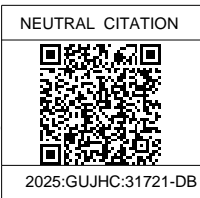
33. On perusal of the above decisions, it appears that in facts of each of the respective cases, it was found that the order was not signed either digitally or physically as required under Rule 26 of the Rules. However, in the facts of the present case, the impugned orders are uploaded on the GSTN Portal and without signatures, the orders cannot be uploaded. Therefore, the contention raised on behalf of the petitioner that the impugned orders are unsigned is not acceptable as there is nothing on record to show that unsigned orders are uploaded on the Portal.



34. In support of his submission for remand on the ground of unsigned order, reliance was placed on the following judgments:

1) In case of **SRK Enterprises v. Asstt. Commissioner (ST)** (supra), it was the case of the petitioner therein that the impugned order has not been signed and in such facts, the Hon'ble Andhra Pradesh High Court held as under:

"7. On consideration of the submissions advanced and the legal provisions, we are of the view that Section 160 of CGST Act 2017 is not attracted. An unsigned order cannot be covered under any mistake, defect or omission therein as used in Section 160. The said expression refers to any mistake, defect or omission in an order with respect to assessment, re-assessment; adjudication etc and which shall not be invalid or deemed to be invalid by such reason, if in substance and effect the assessment, reassessment etc



is in conformity with the requirements of the Act or any existing law. These would not cover omission to sign the order. Unsigned order is no order in the eyes of law. Merely uploading of the unsigned order, may be by the Authority competent to pass the order, would, in our view, not cure the defect which goes to the very root of the matter i.e. validity of the order.

8. We are of the further view that Section 169 of CGST Act 2017 is also not attracted. Here, the question is of not signing the order and not of its service or mode of service.

9. In the case of A. V. Bhanoji Row v. Assistant Commissioner (ST) in W.P.No.[WP No.[WP No.2830 of 2023,dated 14-2- 2023],dated 14-2-2023] decided on 14.02.2023, upon which reliance has been placed by learned counsel for the petitioner (Ex.P6), a Co-ordinate Bench of this Court has held that the signatures cannot be dispensed with and the provisions of Sections 160 and 169 of CGST Act would not come to the rescue.

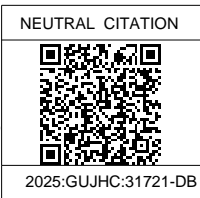
10. Paragraph 6 of A. V. Bhanoji Row (supra) is reproduced as under:- 6. A reading of Section 160 of the Act makes it very much



clear and candid that the safeguards contained therein cannot be made applicable for the contingency in the present case. Section 169 of the Act, which deals with the service of notice, enables the department to make available any decision, order, Summons, Notice or other communication in the common portal. In the guise of the same, the signatures cannot be dispensed with. In the considered opinion of this court, the aforesaid provisions of law would not come to the rescue of the respondent herein, for justifying the impugned action.

11. The writ petition deserves to be allowed on the first ground itself.

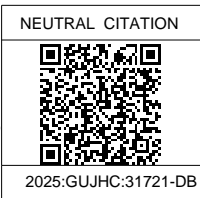
12. Consequently, we are not entering into the merits of the second ground, leaving it open to the concerned authority to consider, if the ground as in the impugned order, is different than the one contained in the show cause notice, and if it is so, it shall be open for the Authority to issue fresh notice, if it is proposed to proceed on such ground. However, at this stage, learned counsel for the petitioner submits that the petitioner has submitted reply to the show cause



notice dated 31.01.2023 and he shall also file additional reply, with respect to the alleged new ground as in the impugned order of his own, within a period of four (04) weeks from today."

2) In case of **Ramani Suchit Malushte v. Union of India** (supra), it was the case of the petitioner therein that the adjudication order dated 14/03/2019 was an unsigned order and therefore, the petitioner challenged it by way of an appeal before the first appellate authority and it was dismissed by order dated 02/08/2021 on the ground that the appeal was not filed beyond the limitation of 3 months. In such facts. Hon'ble Bombay High Court held as under:

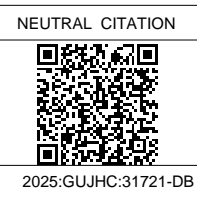
"4. ...In the affidavit in reply it is not denied that the order in original dated 14th November 2019 was not digitally signed. In the affidavit in reply it is specifically stated that the show



cause notice was digitally signed by the issuing authority but when it refers to the order in original dated 14th November 2019 there is total silence about any digital signature being put by the issuing authority. Conveniently, respondent stated that petitioner cannot take stand of not receiving the signed copy because the unsigned order was admittedly received by petitioner electronically. However, if this stand of respondent has to be accepted, then the Rules which prescribe specifically that digital signature has to be put will be rendered redundant. In our view, unless digital signature is put by the issuing authority that order will have no effect in the eyes of law.

5. In the circumstances, we have to agree with petitioner's stand that only on the date on which the signature of Respondent No.4 issuing authority was put on the order dated 14th November 2019 for the purpose of attestation, time to file appeal would commence.

6. In the circumstances, we hereby quash and set aside the impugned order. The appeal is restored to file of Respondent No.3 who shall consider the appeal on merits and pass such order as deemed fit in

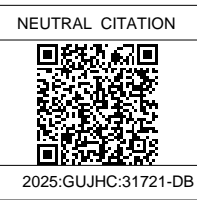


accordance with law.

"7. Before passing any order, personal hearing shall be given to petitioner with at least seven working days advance notice. The order passed shall be a reasoned order."

3) In case of **Marg ERP Ltd v. Commissioner of Delhi GST**(supra), the respondent therein had issued show cause notice dated 06/02/2021 & 01/01/2021 which was unsigned and therefore, the petitioner therein had challenged the adjudication order by filing the petition. In such facts, Hon'ble Delhi High Court held as under:

"14. Concededly, the impugned order cannot be sustained as it is unsigned. This issue is covered by the decision of a coordinate Bench of this Court in **Railsys Engineers Private Limited & Anr. v. The Additional Commissioner of Central Goods and Services Tax (Appeals-II) & Anr.**: W.P.(C) 4712/2022; decided on 21.07.2022.



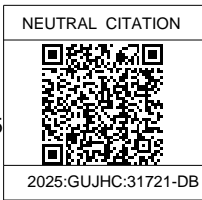
15. An unsigned notice or an order cannot be considered as an order as has been held by the Bombay High Court in Ramani Suchit Malushte v. Union of India and Ors.: W.P.(C) 9331/2022; decided on 21.09.2022

16. In view of the above, the impugned order dated 07.06.2022 is set aside.

17. Since it is stated that the Show Cause Notice dated 06.02.2021 should be confined to the discrepancies as pointed out in the notice dated 01.01.2021, this Court does not consider it apposite to set aside the said Show Cause Notice but to provide an opportunity to the petitioner to file a reply to the notice dated 01.01.2021 and 06.02.2021. The said reply be filed within a period of two weeks from today.

18. The concerned authority shall pass an order afresh after affording the petitioner, an opportunity to be heard."

4) In case of **Sri Rama Energy Solutions v. Assistant Commissioner ST** (supra), it was the case of the petitioner therein

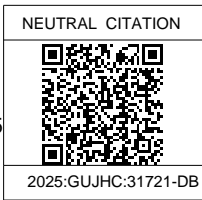


that the impugned order dated 25.09.2023 is not signed by the authority. In such facts, the Hon'ble Andhra Pradesh High Court held as under:

"5. In SRK Enterprises's (supra), this Court referred to the previous order of the Co-ordinate Bench in the case of A.V.Bhanoji Row v. Asstt. Commissioner (ST) in [W.P.No. 2830 of 2023, dated 14-2-2023] and held that the signatures cannot be dispensed with and the provisions of Section 160 & 169 of the CGST Act, 2017 would not come to the rescue.

6. In view of the aforesaid, we allow this petition and set aside the proceedings/order issued by respondent No.1 dated 25.09.2023. The respondent authorities to pass fresh orders in accordance with law, expeditiously.

7. We observe that this is not the first case in which the order is not signed by the concerned authority but uploaded. The challenge to such kinds of order has been upheld. This defect and consequently passing fresh orders, delays the proceedings in tax

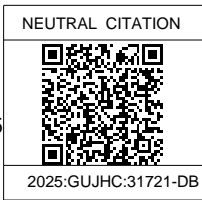


matters. Also unnecessarily burdens this Court."

5) In case of **Sravankumar Blasting Works v. Assistant Commissioner (ST)**(supra), it was the case of the petitioner therein that the impugned order dated 10.11.2020 is not signed by the authority. In such facts, the Hon'ble Andhra Pradesh High Court held as under:

"7. In view of the aforesaid, we allow this petition and set aside the proceedings/order issued by respondent No.1 dated 10.11.2020. The respondent authorities shall pass fresh orders in accordance with law, expeditiously and preferably within a period of three (03) weeks from the date of receipt of a copy of the order.

6) In case of **SRS Traders v. Assistant Commissioner (ST) Guntur-II** (supra), the case of the petitioner therein was that the impugned order dated

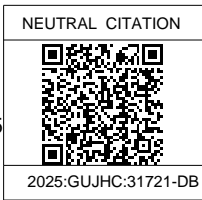


5-6-2023 is not signed. In such facts, the Hon'ble Andhra Pradesh High Court held as under:

"6. In view of the aforesaid, we allow this petition and set aside the proceedings/order issued by respondent No. 1 dated 5 6-2023. The respondent authorities to pass fresh orders in accordance with law, expeditiously.

7. The Writ Petition stands allowed in part in the aforesaid terms"

7) In case of **Sri Srinivasa Enterprises v. Assistant Commissioner of Income Tax, Tirupati** (supra), it was the case of the petitioner therein that the impugned order in FORM GST 07 dated 4-8-2023 vide DIN No. MA3708230062617 has not been signed and without signature there can be no order in the eyes of law. The Hon'ble Andhra Pradesh High Court held as under:

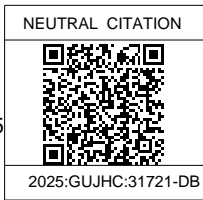


"10. Following the judgements of the Co-ordinate Bench, the impugned order is quashed only on the ground that it has not been signed.

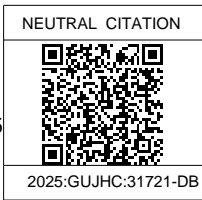
11. The authority shall pass fresh orders preferably within the period of four (04) weeks from the date of receipt of a copy of this order, in accordance with law."

35. The above decisions are rendered in facts of each case on the ground that the order was not signed and accordingly, the matter was remanded. In facts of the present case, the impugned orders are uploaded and it is not in dispute that without signing the orders, same cannot be uploaded and therefore, the petitioner has failed to make out a case for remand.

36. With regard to the decisions relied upon by the petitioner for the contention that no appeal can be filed against



unsigned order and delay in filing the appeal is required to be condoned in case if it is considered that the impugned orders are signed orders, considering the facts of the case it appears that the petitioner has remained negligent after cancellation of registration in the year 2019 and has not even bothered as to what happened to the returns filed by the petitioner as it is admitted by the petitioner that he has shifted to Hyderabad on closure of business in Gujarat and is having the registration under the GST Act in States of Andhra Pradesh and Telangana. Thus, the petitioner is now raising technical grounds so as to challenge the impugned orders by making alternative submissions which cannot be accepted in facts of the



present case.

37. In view of the foregoing reasons the petition being devoid of any merit is summarily rejected. No order as to costs.

(BHARGAV D. KARIA, J)

(D.N.RAY,J)

RAGHUNATH R NAIR