HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 8893/2024
CNR: RJHC020449852024 | URN: CW / 18072U / 2024

Star Raison Landmarks, Group Housing Residential Land, Khasra No. 139 To 148 Part, 197 To 200, 202 T, Bhiwadi, Alwar, Rajasthan. 301019 Through Its Authorised Signatory Mr. Nitin Kumar Gupta S/o Mr. Arun Kumar Gupta. Age 46 Years (Apporx), R/o A-2/83, Safdarjung Enclave, New Delhi- 110029.

----Petitioner

Versus

1. Chief Commissioner State Tax Commercial Taxes Department, Ambedkar Circle, Jaipur
2. The Deputy Commissioner (State Tax), Circle- C, Bhiwadi, Rajasthan
3. State Of Rajasthan, Through Additional Chief Secretary (Finance) To Government, Finance Department (Tax Division), Government Of Rajasthan, 1St Floor, Main Building, Government Secretariat, Jaipur Rajasthan, 302005
4. Union Of India, Through Its Secretary Department Of Revenue, Ministry Of Finance North Block, New Delhi.

----Respondents

For Petitioner(s)	:	Mr. JatinHarjai with Adv. Nikshubha Sharma
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Ms. Chelsi Agarwal Mr. Sandeep Pathak with Ms. Shefali Sharma

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE BHUWAN GOYAL

Judgment

Pronounced on : 15/09/2026

Reportable

Per: Arun Monga, J.

1. As originally framed, the petition in hand, inter alia, challenged four notifications issued under Section 168A of the CGST Act, as well as the corresponding State Government circulars, namely Notification No. 13/2022-Central Tax dated 05.07.2022, Notification No. F.12(15)FD/Tax/2022-29 dated 16.07.2022, Notification No. 09/2023-Central Tax dated 31.03.2023 and Notification No. F.12(11)FD/Tax/2023-07 dated 01.04.2023. It also challenged letter No. 427 dated 13.10.2022 and clarification No. 430 dated 18.10.2022. However, challenge to all these was given up subsequently during pendency of the writ proceedings. A co-ordinate bench of this Court, then seized of the matter, recorded the same in its order dated 09.07.2024 which is reproduced hereinbelow :-

> *"Learned counsel for the petitioner submits that the show cause notice and the impugned order are unsigned and no opportunity of hearing was granted. It is contended that the prayer challenging the vires of the notification and circular are not being pressed.*
>
> *Learned counsel for the respondent seeks time.*
>
> *Put up on 16.07.2024.*
>
> *Let record of the case be produced."*

2. This writ petition as it stands now, assails the show cause notice dated 23.09.2023 and the Order-in-Original dated 19.12.2023 passed in consequence thereof. It also assails the recovery notice dated 27.03.2024 issued under Section 79 of the Central Goods and Services Tax Act, 2017. The basis of grievance pressed before us is narrow i.e. neither the notice nor the order bears any signature, physical or digital. Both are therefore said to be non est in law. The controversy therefore stands confined to the effect of unsigned statutory documents.

FACTS IN BRIEF

3. The petitioner develops and constructs commercial, residential, township and retail real estate projects.

4. The genesis of the dispute, inter alia, are the scrutiny proceedings which were initiated through Form ASMT-10 dated 29.11.2022. The petitioner replied in Form ASMT-11 on 25.04.2023. The impugned show cause notice dated 23.09.2023 followed. The

impugned Order-in-Original dated 19.12.2023 was then passed by Respondent No. 2.

5. Both impugned documents were uploaded on the GST portal. Recovery followed. A notice under Section 79 in Form DRC-13 dated 27.03.2024 was addressed to the petitioner's banker. The bank received it on 08.04.2024.

6. In April 2024 the petitioner's banking transactions were disrupted. On enquiry with its banker, the petitioner learnt that its account stood frozen. It obtained a copy of the recovery notice from the bank. It also became aware of a demand of Rs. 11,76,97,600/- reflected on the GST portal on the strength of the Order-in-Original dated 19.12.2023.

7. On 27.04.2024 the petitioner addressed a representation to Respondent No. 2 seeking certified copies of the attachment order, the show cause notice and the Order-in-Original but to no avail.

8. It then filed D.B. Civil Writ Petition No. 7722/2024 before this Court on 10.05.2024. Certified copies of the Order-in-Original dated 19.12.2023 and of the recovery notice dated 27.03.2024 were furnished on 13.05.2024.

9. In the premise, the earlier petition was withdrawn on 20.05.2024 with liberty to file afresh. Hence the present petition.

CASE OF THE PETITIONER/ARGUMENTS

10. Learned counsel for the petitioner submitted that the entire demand rests on documents that are non est in the eyes of law. The proceedings are therefore void ab initio.

10.1 He pointed out that four documents uploaded on the portal carry no signature at all. These are the show cause notice under Section 73 dated 23.09.2023, Form DRC-01 issued under Rule 142(1)(a) dated 23.09.2023, the Order-in-Original under Section 73 dated 19.12.2023 and Form DRC-07 dated 19.12.2023. None bears a physical signature. None bears a digital signature. Absence of authentication, it was urged, deprives these documents of legal existence. They can create no right and impose no liability.

10.2 The consequence, he submitted, is sequential. A non est show cause notice cannot be basis of any adjudication. An adjudication order that itself lacks legal existence cannot found a recovery. The notice under Section 79 dated 27.03.2024 and the attachment of the bank account must therefore also go.

10.3 He further submitted that the petitioner learnt of the demand only when its account was attached. Until then it had no knowledge of the proceedings culminating in the impugned order.

CASE OF RESPONDENTS(ARGUMENTS)

11 An order passed by the adjudicating authority is appealable under Section 107 of the State Goods and Services Tax Act, 2017. An appeal lies within three months under Section 107(1). That period is extendable by one further month under Section 107(4) on sufficient cause. The petitioner bypassed this remedy. The petition is therefore liable to be dismissed on that ground alone.

11.1 As regards allegation of unsigned SCN and OIO uploaded on the web portal, the relevant corresponding response in their reply, being opposite, is reproduced in verbatim as below :-

> *"E. That the contents of ground E(a) to E(f) are denied being misconceived and baseless. It is submitted that whenever DRC- 01 (Show Cause Notice) or DRC-07 (Order of Demand) is issued to a tax-payer on BOWEB Portal by the Department. The mechanism of working of BOWEB Portal and GSTN Portal is such that the moment any information/document e.g. issuance of DRC-01 (Show Cause Notice) or DRC-07 (Order of Demand) is uploaded on BOWEB Portal by the Department, instantly the said input is reflected on the GSTN Portal, in the access of the concerned tax payer. Furthermore, the information regarding such information/document is instantly sent to the email and phone number of the tax-payer registered on GSTN Portal. As such the tax-payer is always aware of the documents issued by the Department. Furthermore, the BOWEB Portal, which is used by the Department would not certify a document to be processed and reflected on GSTN Portal, unless the same has been digitally signed by the concerned officer. The digital signature of the officer concerned may not reflect in the print out but the very fact that a document has been uploaded on GSTN Portal, itself means that valid digital signature of the officer have been used while issuing the document/information. It is further submitted that when an officer uploads the document on BOWEB Portal, an ARN and Reference No. is generated. The said ARN and Reference No. is generated only when digital signature has been used. The Petitioner is trying to twist the facts on the basis of technical issues of the portal used by the Department. The manual issued by the Department would be kept ready for reference of this Hon'ble Court to explain the manner of*

> *working of BOWEB Portal & GSTN Portal. It is submitted that even the documents, that are digitally signed by the Petitioner, when uploaded on GSTN Portal are not bearing the signature of the Petitioner."*

11.2 Thus, it is argued that the digital signature may not appear on the printout. The very fact of upload, however, means that a valid digital signature was used. An ARN and a reference number are generated only when a digital signature has been affixed. Both appear on the impugned documents. The stand taken also is that even documents digitally signed by the petitioner do not display a signature when downloaded from the GSTN Portal. The contention is that no document is certified on the Back Office Web GST (BOWEB) Portal for reflection on the Goods and Services Tax Network(GSTN) Portal unless the concerned officer has digitally signed it.

QUESTION FOR DETERMINATION

12. Shorn of all else, only one question survives i.e. can a show cause notice and an adjudication order which bear neither a digital signature nor a physical signature be sustained in law?

THE STATUTORY REQUIREMENT

13. Let us first see the applicable provision of the relevant Rules. The answer to the question, *ibid*, must be tested on the anvil of Rule 26(3) of the CGST Rules, 2017, which reads as under:

> Rule 26(3) of the CGST Rules, 2017 :-
>
> *"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."*

13.1 The rule is couched in mandatory language. It employs the word "shall". It admits of no exception. Every notice, certificate and order under the Chapter must be issued electronically. It must further be authenticated through a digital signature certificate, or through E-signature under the Information Technology Act, 2000, or through such other mode of verification as the Board may notify.

14. Learned counsel for the petitioner placed reliance on the following decisions. Several others were cited. They travel on the same lines. We do not therefore, consider it necessary to deal with each of them separately.

14.1 ***Kilasho Devi Burman &Ors. v. CIT, West Bengal***[1]

> *"12. The High Court based itself upon the demand notice and the acknowledgement slip signed by Phool Singh and observed, 'Unless an assessment order was passed under or in pursuance of the Act question of a notice of demand in the prescribed form specifying the sum payable by the assessee could not arise'. The High Court did not give due importance to the fact that upon the record produced by the Revenue before the Tribunal there was no signed assessment order nor a signed assessment form.*
>
> *13. That an assessment order has to be signed is established by the judgment of this Court in Kalyankumar Ray v. CIT. It said:*
>
> *'If, therefore, the ITO first draws up an order assessing the total income and indicating the adjustments to be made, directs the office to compute the tax payable on that basis and then approves of it, either immediately or sometime later, no fault can be found with the process, though it is only when both the computation sheets are signed or initialled by the ITO that the process described in Section 143(3) will be complete.*
>
> *All these decisions emphasise that all that is needed is that there must be some writing initialled or signed by the ITO before the period of limitation prescribed for completion of the assessment has expired in which the tax payable is determined and not that the form usually styled as the "assessment order" should itself contain the computation of tax as well.'*
>
> *14. A valid assessment upon the HUF for the Assessment Year 1955-56 was central to the case of the Revenue. Since it was unable to establish, by the production of a signed assessment order for that year, that there was such valid assessment, its case fell and the Tribunal was right in so holding. The High Court was in error in concluding that the findings of the Tribunal on the record were perverse."*

14.2 ***Pr. Commissioner of Income Tax, Gurgaon v. Prahlad Singh***[2]

> *"[5] We find that the order of the Tribunal is correct. The mere fact that reasons exist on the file cannot sanctify them and the only way to ascertain whether the requirements under Section 147 of the Act have been met out would be at the very least that the assessing officer sign the same. Without signatures, the document becomes anonymous piece of paper to which no credence can be given. The action under Section 147 of the Act is quasi-judicial action and if it is permitted that such*

1 (1996) 7 SCC 613
2 ITA No.91/2019, Punjab and Haryana High Court

action can be done as anonymously, it would have very serious consequences in other cases also. If the Court accepts such pieces of paper who can tomorrow stop an assessee from substituting a signed paper with another unsigned paper?"

14.3 ***CIT v. Aparna Agency Pvt. Ltd.***[3]

"8. The service of a valid notice, as already noticed, is a condition precedent to the assumption of jurisdiction by the Assessing Officer. The existence of a valid notice is, therefore, a jurisdictional fact. The question, therefore, is not to be looked at from the perspective that the decision to issue notice was by an authority competent in that behalf under the Act and, therefore, submitting to his jurisdiction without objection, the inference of waiver arises. The question being one of jurisdiction, to be more specific the condition precedent to the assumption of jurisdiction what has to be seen is that the person that purported to exercise the jurisdiction vested in him had in fact exercised that jurisdiction and signed the said notice. The said test has not been satisfied in the case on hand. Unlike the judgment of this court in Anand and Co., [1994] 207 ITR 418 relied upon by the Revenue the case on hand is not one where the authenticity of the show cause notice is in question. In the case on hand as held by the fact-finding authority the show cause notice has not been signed by any person and the place intended for signature was kept blank. We therefore find no reason to differ with the view of the Tribunal."

14.4 A common thread runs through all three. An unsigned document is an anonymous document. Anonymity and quasi judicial authority cannot coexist.

15. Per contra, learned counsel for the respondents relied on the decision of the Gujarat High Court in ***M/s Vishwa Enterprise v. State of Gujarat***[4], the relevant portion of which reads as under:

"5.6. It was further submitted that both the impugned notice and the order were digitally signed by DS Goods and Service Tax Network along with the date and time and therefore, the same is a valid document.

5.7. Learned Assistant Government Pleader Ms. Shrunjal Shah further submitted that when the uploaded document is opened in the updated Adobe Reader, instead of '?' and stating 'Signature Not Verified', there is a 'green tick mark' which further says 'Validity Unknown Signature Valid' and therefore, cannot be said that the notice and the order were not signed. It was therefore submitted that merely because there is a technical issue when the date and time of the digital signature is mentioned and when clarified by the CBDT that reference number can be verified, the impugned notice and order are legal and valid and the contention of the petitioner is liable to be rejected.

3 (2004) 267 ITR 50
4 Special Civil Application No.8125/2024

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."

15.1 We respectfully agree with the view taken by the Gujarat High Court. It does not, however, assist the respondents. The facts there were materially different.

15.2 In Vishwa Enterprise (Supra), the documents did carry a digital signature. The signature was present and could be opened in an updated reader. The grievance was only about how the signature was displayed, that is, an unverified status marker thrown up by the software. The Court was dealing with a display defect on an otherwise signed document.

15.3 The present case is not of that description. Here there is no signature to display. A bare perusal of the show cause notice dated 23.09.2023 and of the Order-in-Original dated 19.12.2023 shows that neither carries a digital signature certificate nor a physical signature. Each carries only a reference number generated at the time of creation. A defect in the display of an existing signature and the total absence of a signature stand on entirely different footings. The former is curable. The latter is not.

ANALYSIS AND FINDINGS

16. The position of law is clear. A show cause notice and an Order-in-Original must be signed, either digitally or physically. Those two modes of authentication are exhaustive. They operate to the exclusion of every other mode, save one notified by the Board, and no such notification was placed before us.

17. The candid stand of the respondents, as it emerges from their pleadings and from the arguments addressed, is this. Even if the impugned documents carry no signature, physical or digital, the fact that they were uploaded on the portal after the competent officer logged in by way of his digital signature access to the portal, establishes authentication. Logging in itself requires a digital

signature. The documents must therefore be treated as digitally signed.

17.1 We are unable to persuade ourselves to accept the aforesaid stand. It asks us to read into the statute a concept of "deemed digital signature". Rule 26(3) contains no such concept. What the rule requires is authentication of the document, not authentication of the officer's session on a portal. The two are not the same. A login authenticates access. A signature authenticates content. Substituting the first for the second would leave the contents of an order unattributable to any identified officer.

17.2 The consequences of accepting such a proposition are serious. Accountability for the contents of the order would stand diluted. Transparency, which the applicable Rule is designed to secure, would be lost. Arbitrariness would follow.

18. There is a further consideration. In the absence of any signature, the possibility of the document being altered at a later stage cannot be ruled out. We make this observation as a matter of abundant caution and nothing more. It is not to be read as suggesting that anything of the kind has occurred here. That is neither the case of the petitioner nor of the respondents. The observation is made only to show what may follow if the practice canvassed by the respondents were permitted to continue.

19. After the judgment was reserved in the instant case, in somewhat similar circumstances, another coordinate Bench of this Court (presided over by one of us i.e. Arun Monga, J.) had subsequently an occasion to consider the identical controversy in **M/s Mayur Timber v. State of Rajasthan &Ors.**[5], D.B. Civil Writ Petition No. 14232/2025, wherein it was observed as under:

> "*6.Having considered the rival contentions along with the annexures appended to the writ petition and the reply filed by the respondents, the short question that arises is this. Can a show cause notice and an adjudication order, which bear neither a digital signature nor a physical signature, be sustained in law?*
> *7. A bare look at the show cause notice, the reminder and the impugned order reveals that none of them is digitally signed or physically signed. Each document, no doubt, carries a reference number generated at the time of its creation. But a signature, in any form, is conspicuously absent.*

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8. The controversy in hand has to be tested on the anvil of applicable Rule 26(3) of the CGST Rules, 2017, which reads as under:

> *"26(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."*

9. A plain reading of Rule 26(3) shows that it is couched in mandatory language. The rule employs the word "shall". It admits of no exception. Every notice, certificate and order issued under the Chapter must be issued electronically. It must further be authenticated through a digital signature certificate, or through E-signature under the Information Technology Act, 2000, or through such other mode of verification as the Board may notify. Issuance and authentication are thus two distinct and cumulative requirements. Mere electronic generation of a document on the portal satisfies only the first requirement. However, it does not satisfy the second.

9.1 The legislative intent behind Rule 26(3) is not far to seek. The GST regime is a paperless regime. Documents are created, transmitted and received only in electronic form. In such a regime, the digital signature performs the very function that the physical signature performed in the paper regime. The rule making authority consciously substituted the pen with the digital signature certificate. It did not dispense with authentication altogether. The requirement of signature, therefore, is not an empty formality or a procedural nicety. It is the very mode by which an electronic document acquires legal existence and binding character.

9.2 The objective of the Rule 26(3), ibid, is threefold.

(i) Firstly, the signature authenticates the document. It assures the taxpayer that the document has in fact emanated from the proper officer, and not from an unauthorised source or from a mechanical process untouched by human agency.

(ii). Secondly, the signature fixes accountability. It identifies the officer who takes responsibility for the contents of the notice or the order.

(iii). Thirdly, the signature operates as an inbuilt safeguard against arbitrariness. It evidences due application of mind by a designated authority before a demand is raised against a citizen.

Each of the above objectives is in the interest of transparency and to obviate arbitrariness. We may also add that, each one of these stands defeated when an unsigned document is acted upon.

10. xxxx-xxxx-xxxx

11. The consequence of lack of digital or physical signature thus follows inevitably. A show cause notice and an order which are neither digitally signed nor physically signed are no notice and no order in the eyes of law. The defect is not a mere curable irregularity. It goes to the root of the matter and strikes at the very authority to proceed. All consequential proceedings founded upon such still born documents must share their fate."

20. We see no reason to take a different view. The defect here is jurisdictional. It is not an irregularity that Section 160 of the CGST Act can save, because there is no notice and no order in existence to be saved.

21. The objection of alternative remedy must fail for the same reason. An appeal under Section 107 presupposes an order. Where the very existence of the order is in question, and that question is answered against the revenue, the bar of alternative remedy does not operate. A writ court is not powerless merely because a statutory appeal is provided against something that does not exist in law.

22. Since the challenge succeeds on the ground of want of authentication, the rival contentions on knowledge, service and opportunity of hearing do not survive for consideration. We leave them open.

CONCLUSION AND DIRECTIONS

23. The show cause notice dated 23.09.2023 and the Order-in-Original dated 19.12.2023 are neither digitally signed nor physically signed. They are therefore non est in law.

24. The writ petition is accordingly allowed. The show cause notice dated 23.09.2023 and the Order-in-Original dated 19.12.2023 are quashed and set aside. The recovery notice dated 27.03.2024 issued under Section 79 in Form DRC-13, and the consequent attachment of the petitioner's bank account, stand set aside as well.

25. Liberty is reserved to the competent authority to pass fresh orders in accordance with law. Any such notice or order shall bear a physical or digital signature as required by Rule 26(3) of the CGST Rules, 2017. It shall be duly served on the petitioner. The petitioner shall be at liberty to assail any such fresh proceeding in accordance with law.

26. All pending applications, stand disposed of.

(BHUWAN GOYAL),J **(ARUN MONGA),J**

1/Bjsh