Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9558 OF 2025

Himmatsingh Bhavarsingh Chadana … Petitioner

Versus

Union of India and Others … Respondents

Mr. Nirmal Pasaria, for Petitioner.

Ms.Neeta Masurkar with Ms. Sangeeta Yadav, for Respondents.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.

DATED : 16 September 2025

ORDER:- *(Per M.S. Sonak, J.)*

1. Heard learned Counsel for the parties.

2. We correct our order dated 2nd September 2025 made in this Petition by substituting the figure '2025' with the figure '2020'.

3. Necessary corrections are to be carried out in the original order and in the order uploaded on the website.

4. In any event, our order of 2nd September 2025 should be read along with this order.

5. Rule. The Rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.

6. The Petitioner challenges the order dated 14th November 2020 by which the Petitioner's GST registration came to be cancelled with retrospective effect. The Petitioner appealed the order dated 14th November 2020 by instituting such an Appeal in 2024. This Appeal was rejected as barred by limitation on 28th February 2025.

7. The learned Counsel for the Petitioner now points out that the impugned cancellation order dated 14th November 2020 was neither signed by the Officer who made it, nor was any digital signature affixed as required under Rule 26 (3) of the CGST Rules, 2017. He therefore submits that the impugned cancellation order was no order in the eyes of the law and, in fact, the same was a nullity. He relied upon the order dated 21st September 2022 made by the Co-ordinate Bench of this Court in the case of ***Ramani Suchit Malushte Vs. Union of India and Ors. in Writ Petition No. 9331 of 2022*** in support of this contention.

8. Ms. Masurkar submitted that since the Petitioner filed an Appeal, it must be presumed that the Petitioner was served with a signed or a digitally signed copy. She pointed out that without a signed or a digitally signed copy, no Appeal could be filed. Second, she submitted that she had written instructions from Brijay Singh Rathod, Assistant Commissioner (Legal) CGST and C.Ex, Palghar, to state that when the impugned order of 14th November 2020 was made, there was no provision to digitally sign the correspondence issued to the taxpayers. She also produced on record the written instructions issued to her.

9. The rival contentions now fall for our determination.

10. The impugned order dated 14th November 2020 neither bears the signature of the officer who passed it nor is it digitally signed. Rule 26 (3) of the CGST Rules, 2017 reads as follows:-

> ***26 (3)- Method of authentication-*** *(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 for 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].*

11. The above Rule came into effect from 22nd June 2017. Therefore, the contention that on 14th November 2020, there was no provision to digitally sign the correspondence issued to the taxpayer may not be correct. The contention that since an Appeal was filed, the Petitioner must have been issued a signed or a digitally signed order also cannot be accepted. There is neither any record nor any statement made on oath that a signed or digitally signed order was indeed issued to the Petitioner. The Petitioner has produced a copy of the order dated 14th November 2020, which bears no signature or digital signature.

12. Therefore, the onus was on the Respondents to establish compliance. This onus cannot be discharged based upon the inferential contention now raised before us. If there was any signed order, the respondents should have produced it. The respondents should have explained how the petitioner was in possession of the unsigned order, the authenticity of which is not disputed.

13. The Co-ordinate Bench of this Court, in the case of *Ramani Suchit Malushte Vs. Union of India and Ors.* in Writ Petition No. 9331 of 2022, was concerned with a matter where the Assessee's Appeal was dismissed on the ground of limitation. The Assessee had, however, contended that the impugned order had not been digitally **signed** and consequently, it was no order in the eyes of the law. The Co-ordinate Bench accepted this contention, and the order rejecting the Assessee's Appeal was interfered with.

14. In paragraph No. 4 of the order dated 21st September 2020, the Co-ordinate Bench transcribed the averments in paragraph Nos. 6, 7, and 8 of the Petition and after that made the following observations: -

> *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.*

15. Considering the above, we declare that the order dated 14th November 2020, as it now stands, would be no order in the eyes of the law until the same is signed or digitally signed in accordance with the law. The usual consequences of this declaration shall follow.

16. In view of this declaration, the order of the Appellate Authority dated 28th February 2025 dismissing the Appeal on the ground of limitation shall not survive.

17. Liberty is granted to the Respondents to sign the order dated 14th November 2020 digitally or otherwise, by any other mode permissible under the law and to communicate the same to the Petitioner.

18. If such an order aggrieves the Petitioner, the Petitioner will have the liberty to appeal the same, particularly now that we have held that the appellate order dated 28th February 2025 no longer survives. The fresh appeal, if instituted, must be decided on its own merits and in accordance with the law.

19. The Rule is made absolute to the above extent, with no order as to costs.

20. All concerned must act on an authenticated copy of this order.

(Advait M. Sethna, J) **(M.S. Sonak, J.)**