$~3 (SDB)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 23rd May, 2025

\+ **W.P.(C) 5650/2024 & REVIEW PET. 166/2025**

ADITYA MADAAN .....Petitioner

Through: Mr. Ashok Kumar Babbar, Adv.

versus

COMMISSIONER CGST GST COMMISSIONERATE DELHI & ORS. .....Respondents

Through: Mr. Aakarsh Srivastava, SSC with Mr. Anand Pandey, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

REVIEW PET. 166/2025 in W.P.(C) 5650/2024

2. The present review petition has been filed on behalf of the Petitioner-Aditya Madaan seeking review of the judgment dated 7th February, 2025 *(hereinafter, the 'judgment')* passed in a batch of matters titled ***M/s Addichem Speciallity LLP v. Special Commissioner I, Department of Trade and Taxes Anr. (2025:DHC;737-DB).***

3. Vide the said judgment, the Court *inter alia* decided the issue, whether delay can be condoned in an appeal under Section 107 of the CGST Act. On this issue, it was held that the delay is not condonable. The relevant portion of the judgment is extracted hereunder:

> *"69. In summary, the power to condone delay caused in*

pursuing a statutory remedy would always be dependent upon the statutory provision that governs. The right to seek condonation of delay and invoke the discretionary power inhering in an appellate authority would depend upon whether the statute creates a special and independent regime with respect to limitation or leaves an avenue open for the appellant to invoke the general provisions of the Limitation Act to seek condonation of delay. The facility to seek condonation can be resorted provided the legislation does not construct an independent regime with respect to an appeal being preferred. Once it is found that the legislation incorporates a provision which creates a special period of limitation and proscribes the same being entertained after a terminal date, the general provisions of the Limitation Act would cease to apply.

70. In view of the forgoing discussion, as it is evident that each of the appeals was filed beyond the prescribed period of limitation provided by Sections 107 (1) and 107 (4) of the CGST Act, the aforesaid writ petitions lack merit and are accordingly dismissed."

4. The submission of Mr. A.K. Babbar, ld. Counsel appearing for the review applicant, who was the Petitioner in the matter, is that apart from the issue of delay, there were various other grounds which were raised in the writ petition. The same are as under:

"7. GROUNDS OF CHALLENGE

(*A) There is digital signature appended to the Show Cause Notice dated 03.02.2023 and order of Cancellation of RC dated 18.04.2023 and response dated 31.03.2022 to Petitioner application for Cancellation of RC which carries a stamp "Signature Not Verified" and digitally signed by "DS Goods and Services Tax Network 07". This makes the order of cancellation a nullity as Goods and Services Tax Network is not a proper officer and this order. Therefore, it has to be treated as unsigned document and as such the SCN dated 03.02.2023 and impugned order dated 18.04.2023 are not*

> *official documents/orders and as such bad in law.*
> X X X
>
> (H)
>
> *The Ld. Appellate Authority had erred in law in dismissing appeal on the reasoning appeal is time barred when no signed order by Proper Officer had been issued and period to file Appeal will run when copy of signed order is delivered."*

5. It is the submission of ld. Counsel for the Petitioner that in the judgment, apart from the issue of delay no other contentions of the Petitioner have been considered. His submission is that since the impugned order dated 18th April, 2023 was not properly signed, it was not an order in law and therefore, the writ petition deserved to be allowed.

6. The brief background of this petition has been recorded in the judgment in paragraph nos 22 to 26. All the grounds raised by the petitioner in the petition have been enumerated in the said paragraphs. The relevant paragraphs read as under:

> *"22. The petitioner submits that the SCN dated 03.02.2023, reflected the reason for cancellation of the Registration Certificate, which reads as follows: -*
>
> > *"Failures to furnish returns for a continuous period of six months" in facts and circumstances is not an erroneous reason when six months period has not exhausted."*
>
> *23. The petitioner submits that this reason does not suffice as he had applied for the cancellation of the Registration Certificate on 09.03.2022.*
>
> *24. It is further stated that the order dated 18.04.2023 directed the petitioner to pay "ZERO" (0) amount, contradicting the SCN dated 03.02.2023, which alleged failure to pay tax, interest, or penalty beyond six months from the due date. The cancellation order dated*

18.04.2023, based on the SCN dated 03.02.2023, is illegal, arbitrary, and invalid, as the cited reason is incorrect. The SCN was issued before the six-month period had expired, and the petitioner had already applied for cancellation, which was still pending. Therefore, the order violates Section 29(2) of the CGST Act, rendering it legally flawed.

25. Aggrieved by the cancellation of the Registration Certificate, the petitioner filed an appeal before the Appellate Authority on 18.10.2023, which was rejected on 09.01.2024 for being time-barred.

26. The petitioner contends that the Registration Certificate was suspended on the same day the Show SCN dated 03.02.2023 was issued, and no order revoking the suspension was passed within a reasonable time. Instead, the impugned cancellation order was arbitrarily issued after a prolonged period on 18.04.2023. The cancellation, citing non-filing of returns for a continuous period of six months, lacks statutory backing as it does not fall within the causes outlined in Section 29(2) of the CGST Act. Furthermore, the retrospective cancellation of the RC, without prior notice or explicit mention in the SCN, is unlawful and exceeds the authority conferred by law. Reliance is placed on the judgment of this Court in Aditya Polymers vs. Commissioner, DGST13, which underscores the illegality of retrospective cancellation without due process. Accordingly, the impugned order should be quashed as it violates principles of natural justice and statutory provisions.”

7. The background of this petition is that the Goods and Services Tax *(‘GST’)* registration was obtained by the petitioner on 17th July, 2017. The Petitioner then applied for cancellation of the GST registration on 9th March, 2022. Almost one year later, a Show Cause Notice *(hereinafter, the ‘Show Cause Notice’)* was issued to the Petitioner on 3rd February, 2023 in Form

GST REG-17/31. As per the said notice, the Registration Certificate of the Petitioner stood suspended from 3rd February, 2023 itself. The ground on which the Show Cause Notice was issued was that the Return was not furnished by the Petitioner. A hearing in the Show Cause Notice was fixed on 2nd March, 2023. However, no reply was filed to the Show Cause Notice and the said hearing also was not attended. Subsequently, on 18th April, 2023 the Order-in-Original came to be passed by Mr. Gulshan Bhatia, Superintendent, Ward 61. Below the said name, it is stated as under:

Place: RANGE - 128
Date :18/04/2023

Signature Not Verified
Digitally signed by DS GOODS AND SERVICES TAX NETWORK 07
Date: 2023.04.18 14:01:29 IST

Gulshan Bhatia
Superintendent
Ward 61

For Vishvakarma Packs Industry

Proprietor

“

8. The order having been passed on 18th April, 2023, the same was appealable by the Petitioner in terms of Section 107 of the CGST within a period of 3+1 months *i.e.,* 4 months from the date the order was communicated to the person concerned. Thus, the limitation period for filing the said appeal expired on 17th August, 2023. However, the appeal was filed on 18th October, 2023, which was rejected by the Appellate Authority on the ground that the same was barred by limitation.

9. Before this Court, in view of the absence of the GST Appellate Tribunal, a writ petition being ***W.P.(C) 5650/2024*** has been first preferred under Article 226 of the Constitution of India and the prayer in the writ petition was for setting aside of the impugned order dated 9th January, 2024

passed by the Office of the Commissioner of Central Tax Appeals-II, Delhi along with the order dated 18th April, 2023.

10. The Court in the said writ petition, after recording the stand of the Petitioner, dismissed the writ petition on the ground that the appeal could not be entertained as it was barred by limitation. The Court held that the delay in filing the appeal was not condonable.

11. When the delay in filing the appeal was not condonable, the arguments raised by the Appellant *i.e.*, the Petitioner herein, on merits in the said appeal, was not required to be considered by the Court inasmuch as after deciding the legal issue, the petition was dismissed.

12. Be that as it may, today even after seeing the order dated 18th April, 2023, it is clear that the authenticity, credibility and the legitimacy of the order cannot be questioned as the name of the official, his designation, his ward number, range number along with the digitally signed stamp is appearing clearly in the said order. In the opinion of this Court, there may be some technical glitch with the wording in the Stamp *"Signature Not Verified"* but the same is digitally signed and the said expression would not render the order void or *non est* as is being argued. The fact that the officer has digitally signed the order and the order is uploaded on the GST portal renders the same as a valid order.

13. In ***M/s Vishwa Enterprise v. State of Gujarat (2025:GUJHC:18982-DB)*** wherein vide order dated 20th March 2025, on squarely similar facts, it was argued that the copy of the impugned order therein ought to have been signed by the concerned authority and the same not being signed, is invalid. The Gujarat High Court while considering the facts and contentions *inter alia* held that in view of the fact that the impugned order therein was uploaded on

the GSTN portal which can only be done after verification by the concerned State Tax Officer, the said order is valid. The relevant portions of the oral order is set out herein:

> *"4.2. It was therefore submitted that the petitioner may be given an opportunity to continue her business. In support of his submissions, reliance was placed on the following decisions raising the contention that SCNs and the Orders are to be signed by the Authority and that even if the SCNs and Orders were uploaded on the portal, the digital signature is required to be affixed:*
>
> > *(i)* ***Railsys Engineers Pvt Ltd vs Additional Commissioner of CGST*** *reported in* ***2022 (65) G.S.T.L. 159 (Del.)****;*
> >
> > *(ii)* ***Marg ERP Ltd vs Commissioner of Delhi Goods and Services Tax reported*** *in* ***(2023) 7 Centax 174 (Del.);***
> >
> > *(iii)* ***Ramani Suchit Malushte vs Union of India*** *reported in* ***2023-TIOL-81-HC-MUM- GST;***
> >
> > *(iv)* ***Prakash Krishnavtar Bhardwaj vs ITO*** *reported in 2023* ***SCC OnLine Bom 59;***
> >
> > *(v)* ***SRK Enterprises vs Assistant Commissioner (ST)*** *reported in* ***(2023) 13 Centax 60 (A.P.).***
>
> *4.3. Learned advocate Mr.Jeevan Vasave also referred to and relied upon the decision of the Hon'ble Kerala High Court in case of* ***M/s. Fortune Service versus Union of India and***

__Others__ in Writ Petition No.20656 of 2024 and other allied matters to submit that in the facts of the said case the Hon'ble Kerala High Court held that the copy of the order is required to be signed by the respondent before uploading or serving upon the petitioner. It was submitted that Hon'ble the Kerala High Court has relied upon the decision of the Hon'ble Talangana High Court in case of **Silver Oak Villas LLP Versus Assistant Commissioner (ST), Begunpet Division Hyderabad** *reported in* **(2024) 17 Centax 442 (Telangana)** *to quash and set aside the orders which were not signed by the State Tax Officer.*

4.4. It was therefore submitted that the impugned order cancelling the registration is liable to be quashed and set aside.

* * *

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****."*

14. Thus, in the opinion of this Court, the review petition is unmerited, both on the issue of lack of error apparent on the face of the record as also on merits.

15. In view thereof, the review petition is dismissed.

PRATHIBA M. SINGH
JUDGE

DHARMESH SHARMA
JUDGE

MAY 23, 2025
acm/rks