

# TAX INFO

*Dated 19/01/2023*

Latest update on GST Law: **Order passed without signature of the issuing authority shall have no effect in the eyes of law** as given in judgement by **Bombay High Court**.

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<b>Name of Petitioner</b>	Ramani Suchit Malushte
<b>Name of Respondent</b>	Union of India
<b>Authority</b>	Bombay High Court
<b>Date of Judgement</b>	21.09.2022
<b>Appeal No.</b>	Writ Petition No. 9331 of 2022

## **Brief Facts of the Case Law:**

Petitioner's appeal came to be dismissed on the ground that appeal was not filed within a period of three months provided under Section 107(1) of CGST Act, 2017. It is petitioner's case that the order in original dated 14<sup>th</sup> November 2019 which was impugned in the appeal has not been digitally signed. Therefore, it was not issued in accordance with Rule 26 of CGST Rules. Hence, the time limit for filing the appeal would begin only upon digitally signed order being made available.

## **Contention of the Petitioner:**

Rule 26(3) of the CGST Rules, 2017 requires orders issued to be authenticated by a digital signature certificate or through E-signature or by any other mode of signature or verification notified in that behalf. Form GST-REG which was notified under the Rules for the purpose of passing order for cancellation of registration specifically requires the signature of the officer passing the order. The order dated 14<sup>th</sup> November 2019 is merely uploaded on the GST Portal without any signature. The signature was affixed for the first time only on 19<sup>th</sup> May 2021 when Petitioner had to get an attestation from Department for the purposes of filing appeal. This attestation was required precisely because the Order for Cancellation of Registration dated 14<sup>th</sup> November 2019 was not signed. The Form GST-REG 19 which was notified under the Rules for the purposes of passing order for cancellation of registration specifically requires the signature of the officer passing the order. Thus, the limitation period for filing the appeal against the Order for Cancellation of Registration dated 14 November 2019 never began because the Order was not signed in accordance with the rules. Alternatively, the limitation period began only from 19 May 2021 which is the date on which the signature of the Department was put on the order for the purposes of "attestation". The Order of Cancellation of Registration dated 14 November 2019 as well as the First Appeal Order dated 4 August 2021 are therefore liable to be quashed and set aside.

## **Findings and Decision of the Court:**

It is not denied that the order in original dated 14th November 2019 was not digitally signed. Unless digital signature is put by the issuing authority that order will have no effect in the eyes of law. In the circumstances, petitioner's stand that only on the date on which the signature of issuing authority was put on the order dated 14th November 2019 for the purpose of attestation, time to file appeal would commence. In the circumstances, the impugned order dated 4<sup>th</sup> August 2021 was quashed. The appeal is restored to file of Appellate authority who shall consider the appeal on merits and pass such order as deemed fit in accordance with law. Before passing any order, personal hearing shall be given to petitioner with atleast seven working days advance notice. The order passed shall be a reasoned order.

**Suresh Aggarwal, Advocate**

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