# HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

D.B. Civil Writ Petition No. 14232/2025
CNR: RJHC020791592025 | URN: CW / 32109U / 2025



M/s Mayur Timber, 82, Rohini Vihar, Badharana, Jaipur, Rajasthan, 302013 Through Its Proprietor Mr. Manoj Kumar Agarwal, S/o Late Mr. Sarwan Kumar Agarwal, Aged About 52 Years, F-210 Balaji Tower Ist, Sikar Road, Jaipur, Rajasthan-302023.

----Petitioner

Versus

1. State Of Rajasthan, Through The Finance Secretary (Revenue), Government Secretariat, Jaipur-302005.
2. The Chief Commissioner, Commercial Tax Department, Kar Bhawan, Jaipur-302004.
3. The Deputy Commissioner, State Tax, Circle-B, Zone-IV, Room No 143-142, Divisonal Taxes, Building Jhalana Institutional Area, Jaipur -302004
4. Union Of India, Through The Secretary, Ministry Of Finance, Department Of Revenue, New Delhi.
5. The Chief Commissioner, CGST Jaipur Zone, NCR Building, Statue Circle, C-Scheme, Jaipur -302005

----Respondents

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| For Petitioner(s) | : | Mr. Ravi Gupta, Adv.<br>Mr. Harsh Lodha, Adv. |
| For Respondent(s) | : | Ms. Mahi Yadav, AAG<br>Mr. Manish Acharya, Adv. for<br>Mr. Pawan Pareek, Adv.<br>Mr. Raj Kumar Yadav, Adv. |

**HON'BLE MR. JUSTICE ARUN MONGA**
**HON'BLE MR. JUSTICE ASHUTOSH KUMAR**
**Order(Oral)**

**Reportable**

**11/08/2026**

**Per : Arun Monga, J.**

1. The petitioner herein seeks quashing of the impugned show-cause notice dated 13.06.2024 and the consequent order dated 15.10.2024 passed under Section 74 of the CGST Act, 2017, whereby a demand of

Rs.3,13,894/- along with interest and penalty has been raised against the petitioner.

2. Brief facts of the case are as follows. The petitioner has filed the present writ petition challenging the order dated 15.10.2024 passed by respondent No.3 under Section 74 of the CGST Act, 2017 read with FORM GST DRC-07. By the said order, a demand of Rs.3,13,894 towards GST was confirmed against the petitioner. Interest of Rs.4,26,002 and penalty of Rs.3,13,894 were also confirmed. Prior thereto, an unsigned (as alleged) FORM GST DRC-01 (Summary of Show Cause Notice) along with the Show Cause Notice dated 13.06.2024 was issued on the GST portal. The allegation was that the petitioner had availed ITC of Rs.3,13,894 without actual receipt of goods.

2.1 The impugned order was uploaded on the GST portal on 15.10.2024. It was uploaded under the head "Additional Notices and Orders" and not under "Notices and Orders". It is stated that the order was never served upon the petitioner manually or in hard copy. It is further stated that no opportunity of personal hearing was afforded to the petitioner before the impugned order was passed.

2.2 Subsequently, on 20.08.2025, respondent No.3 issued FORM GST DRC-13 under Section 79(1)(c) of the CGST Act to the Manager, Kotak Mahindra Bank. The Bank was directed to recover Rs.9,00,820 from the petitioner's account. On 21.08.2025, the petitioner was informed by his banker of the pending GST demand. Petitioner's represented then checked the GST portal. It was only then that it came across the impugned order for the first time, lying under the head "Additional Notices and Orders".

2.3 Pursuant to the said FORM GST DRC-13, the petitioner's bank account was provisionally attached. The petitioner submitted an affidavit dated 22.08.2025 seeking release of the account. The respondent authority thereupon released the account. The petitioner has now approached this Court challenging the impugned proceedings. The principal grounds are denial of an effective opportunity of hearing and violation of the principles of natural justice.

3. Learned counsel for the petitioner argues that the impugned order dated 15.10.2024 was passed without proper communication of the show cause notice. It was also passed without affording any opportunity of personal hearing. This, he submits, violates the principles of natural justice. He points out that both the show cause notice and the impugned order were uploaded under the "Additional Notices and Orders" tab instead of the "View Notices and Orders" tab. Neither document was otherwise served upon the petitioner. The petitioner learnt of the impugned order only on 21.08.2025, when his banker informed him of the recovery proceedings initiated under FORM GST DRC-13 dated 20.08.2025.

3.1 Learned counsel further argues that the very foundation of the proceedings is vitiated. The show cause notice dated 13.06.2024 was unsigned. An unsigned show cause notice, he contends, has no legal sanctity. Consequently, the impugned order founded upon it cannot be sustained. He also submits that the impugned order travels beyond the scope of the show cause notice. It confirms interest of Rs.4,26,002 and penalty of Rs.3,13,894, which is contrary to Section 75(7) of the CGST Act.

3.2 Learned counsel next contends that the impugned order breaches Section 75(4) of the CGST Act. An adverse decision was contemplated against the petitioner. Yet no opportunity of personal hearing was afforded to him. Such denial of hearing, he submits, has caused serious prejudice. It renders the adjudication unsustainable in law.

3.3 Learned counsel lastly argues that the allegation of wrongful availment of ITC is vague. It is unsupported by any cogent material. The petitioner had duly received the goods. He had availed ITC against valid tax invoices. No material has been placed on record to establish any nexus between the petitioner and the alleged irregular availment of ITC. In view of these infirmities and the violation of natural justice, he prays that the impugned order be set aside and the matter be remitted for fresh adjudication in accordance with law.

4 Per contra, learned Additional Advocate General for the respondents vehemently opposes the writ petition. She seeks dismissal of the petition. She submits that the show cause notice and the impugned order were duly uploaded on the common GST portal. Uploading on the portal, she contends, is a valid and recognised mode of service under Section 169(1)(d) of the CGST Act. The petitioner, being a registered taxpayer, was obliged to remain vigilant and to access the portal regularly. Its failure to do so cannot be attributed to the department. It is further submitted that every document bore a system generated reference number. The documents were generated electronically from the portal itself. Their authenticity, therefore, cannot be doubted merely for want of a visible signature. She also submits that the petitioner has an efficacious alternative remedy of appeal under Section 107 of the CGST Act. The writ petition, she thus contends, is not maintainable and deserves dismissal on this ground alone.

5. In the aforesaid backdrop, we have heard learned counsel for the parties and perused the case file.

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.

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. Reverting to the contention canvassed by learned AAG on behalf of the respondents, that the reference number lends authenticity to the documents, same cannot be accepted. A reference number, or a document identification number, serves an altogether different purpose. It merely tracks and catalogues the document within the system. It

shows when a document was created. It does not show that the proper officer authenticated it. Tracking is not authentication. The one cannot substitute the other. Rule 26(3) demands authentication by signature. That demand is not answered by pointing to a reference number.

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.

12. There is yet another additional infirmity in the case in hand. The unsigned documents were uploaded only under the head "Additional Notices and Orders" on the portal. They were not served upon the petitioner in any other manner. The petitioner remained unaware of the proceedings. He learnt of the demand only when his banker informed him of the attachment of his account. The absence of an authenticated and properly communicated notice appears to have occasioned a miscommunication regarding the date fixed for personal hearing as well. On that date the petitioner remained unrepresented. He was thus not heard contrary to the mandate of Section 75(4) of the CGST Act. In the premise, the plea of alternative remedy raised by the respondents does not deter us. It is well settled that the existence of an alternative remedy is no bar to the exercise of writ jurisdiction where the principles of natural justice stand violated.

13. Resultantly, the impugned show cause notice is set aside. As a consequence thereof, the consequential proceedings culminating in the impugned order dated 15.10.2024 and the recovery notice in FORM GST

DRC-13 dated 20.08.2025 are also set aside. Liberty is however reserved to the respondents to proceed afresh. They may issue a duly authenticated show cause notice and pass a fresh order after affording the petitioner an effective opportunity of hearing, in accordance with law. Nothing observed herein shall be construed as an expression of opinion on the merits of the demand. All issues and contentions raised on merits are left open to be adjudicated in accordance with law by the competent authority.

14. The writ petition is disposed of in the above terms. Pending applications, if any, also stand disposed of. No order as to costs.

**(ASHUTOSH KUMAR),J** **(ARUN MONGA),J**

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