

Communication including notice, order issued by the authorities should be signed; the extension of limitation period by the SC applies even to the condonable period-  
Delhi HC

1 September 2022



## Summary

The petitioners submitted that the limitation period for filing appeal was extended by the Supreme Court (SC) vide the orders passed in *suo motu* petition. The Delhi High Court (HC) placed reliance on SC orders and stated that extension of limitation applies not just to the prescribed period of limitation, but even to the condonable period. Further, in the present case, both the show cause notice (SCN) and the order passed by the authorities are unsigned. In this respect, the HC stated that it is not mentioned under the Goods and Services Tax (GST) provisions<sup>1</sup> that signing is not required on any notice, decision, order, summon or any other communication. The HC further held that at least digital signature should have been affixed by the Revenue on the SCN and the order.

## Facts of the case

- The petitioners<sup>2</sup> have disputed the order-in-appeal, SCN and the order whereby the registration has been cancelled.
- The petitioners submitted that the limitation period has been extended by the SC vide various orders. Further, the petitioners observed that both the SCN and the order for cancellation of registration did not bear the signature of the concerned authority. Also, the detail of the venue for conduct of the proceedings was not prescribed in the SCN.
- The petitioner contended that the provision required the Revenue to issue a notice<sup>3</sup> to the petitioners for non-filing of returns for the period in dispute. Therefore, before exercising the powers conferred under rule 22, the notice should have been issued under rule 68.

The petitioner has filed the present writ petition against the appellate order.

## Delhi HC observations and ruling<sup>4</sup>:

- **Extension of limitation applies even to condonable period:** Placing reliance on various orders<sup>5</sup> passed by the SC, the HC stated that extension of limitation applies not just to the prescribed period of limitation<sup>6</sup>, but even to the condonable period. Therefore, the order-in-appeal is contrary to the directions issued by the SC. Thus, the order stands overruled.
- **Digital signatures on SCN and the order:** The HC stated that the GST provision<sup>7</sup> does not suggest that the orders need not be signed. Further, digital signature should have been affixed by the Revenue on the SCN and the order, considering the grave implications on the assessee.

<sup>1</sup> Section 169 of the CGST Act, 2017

<sup>2</sup> Railsys Engineers Private Limited & Anr.

<sup>3</sup> Rule 68 of CGST Rules, 2017

<sup>4</sup> W.P.(C) 4712/2022 dated 21 July 2022

<sup>5</sup> Order dated 23 March 2020 in Writ Petition (Civil) No.3/2020, Order dated 08 March 2021 in Writ Petition (Civil) No.3/2020, Order dated 04.01.2022 in SLP(C)No.17298/2021, Order dated 10.01.2022 Writ Petition (Civil) No.3/2020

<sup>6</sup> Section 107 of the CGST Act, 2017

<sup>7</sup> Section 169 of CGST Act, 2017

## Our comments

In January 2022, the Apex Court affirmed the order passed by the Madras High Court in case of Centaur Pharmaceuticals Private Limited and had held that the HC has not committed any error in extending the limitation period<sup>8</sup>. Further, even the limitation period which could have been extended and/or condoned by the Tribunal/Court is excluded and/or extended even up to 7 October 2021.

The CBIC has also clarified<sup>9</sup> that in case where any appeal is required to be filed before the concerned authority<sup>10</sup>, the timeline would stand extended as per the SC order. Thus, the specified period would be excluded while computing the period of limitation for any appeal irrespective of the limitation, whether condonable or not.

Further, the GST provision prescribes the method of service of notice, order, other communication, which does not suggest that signing is not required. Therefore, the communication like notice, order, summon etc. should be properly signed by the authorities, to provide validity.

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<sup>8</sup> in filing the written statement and consequently taking on record the written statement filed on behalf of the original defendant

<sup>9</sup> Circular No. 157/13/2021-GST dated 20 July 2021

<sup>10</sup> Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal, and various courts against any quasi-judicial order

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