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By Nidhi, Advocate



Judgment No.: 187
Dt.:15-01-2025



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Judgment Deals With

Orders issued under Section 73 of the CGST/SGST Acts must carry the digital or manual signature of the officer passing the order in order to treat the order to be a valid order for the purposes of the CGST/SGST Acts.

Section/Rule	Section 73
Authority	Kerala High Court
Case Name	M/s. Fortune Service Vs Union Of India
Dated	29 th November, 2024
Citation	WP(C) NO. 20656 OF 2024

Brief facts of the case:

The short question arising is whether orders issued under Section 73 of the CGST/SGST Acts must carry the digital or manual signature of the officer passing the order in order to treat the order to be a valid order for the purposes of the CGST/SGST Acts.?

Contention of the Petitioner:

In the Division Bench judgment of the Telangana High Court in *Silver Oak Villas LLP V. Assistant Commissioner (ST)*, it was held that:-

An unsigned order cannot be covered under —any mistake, defect or omission therein as used in Section 160. The said expression refers to any mistake, defect or omission in an order with respect to assessment, re-assessment; adjudication etc and which shall not be invalid or deemed to be invalid by such reason, if in substance and effect the assessment, reassessment etc is in conformity with the requirements of the Act or any existing law.

These would not cover omission to sign the order.

Unsigned order is no order in the eyes of law. Merely uploading of the unsigned order, may be by the Authority competent to pass the order, would, in our view, not cure the defect which goes to the very root of the matter i.e. validity of the order.

Findings and Decision of the Court:

In the light of the above judgment, the impugned orders were quashed. It will be open to the competent authority to upload fresh orders by affixing digital signatures or by serving a copy of the order after affixing manual signature.

Since it is possible that in several of the cases, there may have been a change of officer, who passed the original order, therefore, fresh orders shall be passed by the competent officer presently in office, after affording a fresh opportunity of hearing to the petitioners in these cases.

It is made clear that none of the orders directed to be issued in the terms of this judgment shall be questioned on the ground that they are issued beyond the period of limitation and it will be deemed for all purposes that the fresh orders will relate back to the date on which the original orders (which have been set aside) have been issued.