IN THE HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE MR. JUSTICE SUJOY PAUL , THE HON'BLE MS. JUSTICE RENUKA YARA

WP NO. 21101 OF 2024	**&**	**WP NO. 5763 OF 2024**	**&**
WP NO. 20418 OF 2024	**&**	**WP NO. 20827 OF 2024**	**&**
WP NO. 20903 OF 2024	**&**	**WP NO. 20943 OF 2024**	**&**
WP NO. 20997 OF 2024	**&**	**WP NO. 21765 OF 2024**	**&**
WP NO. 22333 OF 2024	**&**	**WP NO. 22334 OF 2024**	**&**
WP NO. 22335 OF 2024	**&**	**WP NO. 22526 OF 2024**	**&**
WP NO. 22571 OF 2024	**&**	**WP NO. 22579 OF 2024**	**&**
WP NO. 22690 OF 2024	**&**	**WP NO. 23341 OF 2024**	**&**
WP NO. 26029 OF 2024	**&**	**WP NO. 29063 OF 2024**	**&**
WP NO. 29415 OF 2024	**&**	**WP NO. 29477 OF 2024**	**&**
WP NO. 29756 OF 2024	**&**	**WP NO. 30022 OF 2024**	**&**
WP NO. 31003 OF 2024	**&**	**WP NO. 31008 OF 2024**	**&**
WP NO. 31025 OF 2024	**&**	**WP NO. 31916 OF 2024**	**&**
WP NO. 32265 OF 2024	**&**	**WP NO. 32914 OF 2024**	**&**
WP NO. 32984 OF 2024	**&**	**WP NO. 33003 OF 2024**	**&**
WP NO. 33054 OF 2024	**&**	**WP NO. 33070 OF 2024**	**&**
WP NO. 33072 OF 2024	**&**	**WP NO. 33086 OF 2024**	**&**
WP NO. 33260 OF 2024	**&**	**WP NO. 33765 OF 2024**	**&**
WP NO. 33905 OF 2024	**&**	**WP NO. 33975 OF 2024**	**&**
WP NO. 34181 OF 2024	**&**	**WP NO. 34598 OF 2024**	**&**
WP NO. 35293 OF 2024	**&**	**WP NO. 35493 OF 2024**	**&**
WP NO. 35503 OF 2024	**&**	**WP NO. 35510 OF 2024**	**&**
WP NO. 35581 OF 2024	**&**	**WP NO. 35593 OF 2024**	**&**
WP NO. 35630 OF 2024	**&**	**WP NO. 35736 OF 2024**	**&**
WP NO. 35904 OF 2024	**&**	**WP NO. 35964 OF 2024**	**&**
WP NO. 35987 OF 2024	**&**	**WP NO. 35989 OF 2024**	**&**
WP NO. 36045 OF 2024	**&**	**WP NO. 36366 OF 2024**	**&**
WP NO. 36375 OF 2024	**&**	**WP NO. 36385 OF 2024**	**&**
WP NO. 36402 OF 2024	**&**	**WP NO. 36421 OF 2024**	**&**
WP NO. 36425 OF 2024	**&**	**WP NO. 36471 OF 2024**	**&**
WP NO. 36581 OF 2024	**&**	**WP NO. 36613 OF 2024**	**&**
WP NO. 36616 OF 2024	**&**	**WP NO. 36620 OF 2024**	**&**
WP NO. 36682 OF 2024	**&**	**WP NO. 36705 OF 2024**	**&**
WP NO. 36730 OF 2024	**&**	**WP NO. 36759 OF 2024**	**&**
WP NO. 36763 OF 2024	**&**	**WP NO. 36776 OF 2024**	**&**
WP NO. 36786 OF 2024	**&**	**WP NO. 36795 OF 2024**	**&**
WP NO. 36799 OF 2024	**&**	**WP NO. 36836 OF 2024**	**&**
WP NO. 36837 OF 2024	**&**	**WP NO. 36910 OF 2024**	**&**

WP NO. 36945 OF 2024 & WP NO. 36969 OF 2024 & WP NO. 37051 OF 2024 & WP NO. 37059 OF 2024 & WP NO. 37107 OF 2024 & WP NO. 37116 OF 2024 & WP NO. 14 OF 2025 & WP NO. 32 OF 2025 & WP NO. 89 OF 2025 & WP NO. 109 OF 2025 & WP NO. 123 OF 2025 & WP NO. 126 OF 2025 & WP NO. 129 OF 2025 & WP NO. 148 OF 2025 & WP NO. 160 OF 2025 & WP NO. 216 OF 2025 & WP NO. 268 OF 2025 & WP NO. 270 OF 2025 & WP NO. 273 OF 2025 & WP NO. 280 OF 2025 & WP NO. 304 OF 2025 & WP NO. 330 OF 2025 & WP NO. 335 OF 2025 & WP NO. 341 OF 2025 & WP NO. 342 OF 2025 & WP NO. 349 OF 2025 & WP NO. 366 OF 2025 & WP NO. 581 OF 2025 & WP NO. 1327 OF 2025 & WP NO. 1430 OF 2025 & WP NO. 1443 OF 2025 & WP NO. 1474 OF 2025 & WP NO. 1476 OF 2025 & WP NO. 1521 OF 2025 & WP NO. 1534 OF 2025 & WP NO. 1537 OF 2025 & WP NO. 1576 OF 2025 & WP NO. 1586 OF 2025 & WP NO. 1614 OF 2025 & WP NO. 1721 OF 2025 & WP NO. 1764 OF 2025 & WP NO. 1774 OF 2025 & WP NO. 1796 OF 2025 & WP NO. 1825 OF 2025 & WP NO. 1998 OF 2025 & WP NO. 2106 OF 2025 & WP NO. 2114 OF 2025 & WP NO. 2116 OF 2025 & WP NO. 2139 OF 2025 & WP NO. 2142 OF 2025 & WP NO. 2170 OF 2025 & WP NO. 2212 OF 2025 & WP NO. 2217 OF 2025 & WP NO. 2246 OF 2025 & WP NO. 2360 OF 2025 & WP NO. 2363 OF 2025 & WP NO. 2530 OF 2025 & WP NO. 2681 OF 2025 & WP NO. 2700 OF 2025 & WP NO. 2716 OF 2025 & WP NO. 2720 OF 2025 & WP NO. 2750 OF 2025 & WP NO. 2780 OF 2025 & WP NO. 2794 OF 2025 & WP NO. 2848 OF 2025 & WP NO. 2864 OF 2025 & WP NO. 2867 OF 2025 & WP NO. 2931 OF 2025 & WP NO. 2939 OF 2025 & WP NO. 2956 OF 2025 & WP NO. 2995 OF 2025 & WP NO. 3000 OF 2025 & WP NO. 3012 OF 2025 & WP NO. 3013 OF 2025 & WP NO. 3015 OF 2025 & WP NO. 3027 OF 2025 & WP NO. 3137 OF 2025 & WP NO. 3150 OF 2025 & WP NO. 3171 OF 2025 & WP NO. 3226 OF 2025 & WP NO. 3252 OF 2025 & WP NO. 4277 OF 2025 & WP NO. 4491 OF 2025

28.02.2025

M/s. Bigleap Technologies and Solutions Pvt. Ltd. and others ***... Petitioner***

v.

The State of Telangana and others ***... Respondent***

<u>Information Technology Act, 2000</u> — Authentication Requirements (§§. 3, 3A, and 5) — Necessity of Digital or Physical Signature — Show-cause notices and orders must be signed by the Proper Officer — Secure digital portal alone does not absolve mandatory signature requirement — Non-compliance held fatal — Unsigned notices set aside — Authorities permitted to reissue notices fulfilling statutory norms.

<u>The Central/Telangana State Goods and Services Rules, 2017</u> — Show-cause notices and orders — Valid authentication mandatory — Absence of physical or digital signature invalid — Respondents' argument of mere technical omission rejected — Held, signature requirement under GST Act and Rules is indispensable — Unsigned notices/orders declared invalid — Liberty granted to issue fresh notices/orders duly signed — Limitation not to operate as a bar.

<u>The Central Goods and Services Act, 2017</u> — Show-cause notices and Final Orders — Absence of Proper Officer's signature (physical or digital) held a substantive defect — GST Act (§§. 73/74) read with relevant Rules (DRC-01 & DRC-07) mandates a valid signature — §. 160(1)(2) does not cure the absence of signature — Alternative remedy under §. 107 no bar to writ jurisdiction — Impugned notices/orders set aside — Authorities permitted to reissue with proper authentication.

<u>Indian Income-tax Act, 1922</u> — Notice under §. 34 — Unsigned notice invalid — High Court of Calcutta in B.K. Gooyee v. CIT [1966] 62 ITR 109 (Cal) held that absence of a signature renders a notice invalid — No waiver of an assessee's right to challenge an unsigned notice — Principle reaffirmed under GST laws — Unsigned notices/orders are void and liable to be set aside.

FACTS. Various writ petitions were filed challenging show-cause notices and final orders under the GST regime on the ground that they lacked physical or digital signatures by the Proper Officer. The petitioners assert that these documents are invalid because they are not properly authenticated. The Department contends that any omission in signatures is a mere technical defect and that alternative statutory remedies under the GST framework remain available. The dispute proceeded to the High Court through writ proceedings, where the issue of whether unsigned or non-digitally signed notices are legally enforceable was examined.

ISSUES OF LAW.

Whether the absence of physical or digital signatures on show-cause notices and orders invalidates them; whether such defects are merely technical or substantive; whether an alternative statutory remedy under the GST Act bars writ jurisdiction.

SUMMARY. Multiple writ petitions were filed challenging show-cause notices and final orders under GST laws. The petitioners argued that the absence of a physical or digital signature by the Proper Officer rendered the notices invalid and sought the High Court's intervention. The respondents contended that any defect in signature was a technical or procedural matter and that the notices were validly

generated through a secure digital system. The Court considered various precedents and statutory provisions under the GST Act and related rules, ultimately concluding that such notices require valid signatures to be enforceable. The impugned notices were set aside, with liberty granted to the authorities to issue fresh ones in accordance with the law.

HELD. The Court declared that show-cause notices and orders lacking the Proper Officer's signature are invalid, set them aside, and permitted the authorities to issue fresh notices in accordance with law. The Writ Petitions were allowed, and limitation was not treated as a bar for reissuance of validly signed notices or orders.

FINAL STATUS. Allowed.

CASES REFERRED

B.K. Gooyee vs CIT [1966] 62 ITR 109 (Cal)
Baru Ram vs Prasanni [AIR 1959 SC 93]
Collector of Central Excise, Madras vs M/s. M.M. Rubber and Company [1992 Supp (1) SCC 471]
Commissioner of Customs vs Dilip Kumar & Co. [(2018) 9 SCC 1]
Commissioner of Income Tax vs Deepak Family Trust and Ors. [MANU/GJ/0311/1993]
Commissioner of Income Tax vs SAE Head Office Monthly Paid Employees Welfare Trust [MANU/DE/0704/2004]
Commissioner of Income Tax, Mumbai vs Anjum M.H. Ghaswala [(2002) 1 SCC 633]
Dihingia Motors Pvt. Ltd. vs Union of India [(2025) 26 CENTAX 79 (Gau.)]
Kilasho Devi Burman vs Commissioner of Income Tax, W.B., Calcutta [(1996) 7 SCC 613]
M/s. Fortune Service vs Union of India [2024 (12) TMI 1512 (Ker)]
M/s. SRK Enterprises vs Assistant Commissioner [W.P.No.29397 of 2023, decided on 10.11.2023]
M/s. Silver Oak Villas LLP vs Assistant Commissioner (ST) [2024 (4) TMI 367-THC]
Prakash Krishnavtar Bharadwaj vs Income Tax Officer [2023 SCC OnLine Bom 59]
Ramani Suchit Malushte vs Union of India [W.P. No.9331 of 2022 decided on 21st September, 2022]
Umashankar Mishra vs Commissioner of Income Tax [1982 29 CTR 71 (MP)]
World Sport Group (Mauritius) Ltd. vs MSM Satellite (Singapore) Pte. Ltd. [(2014) 11 SCC 639]

COUNSELS

Sri Swaroop Oorilla (Special Government Pleader for State Tax) - representing the respondent
Sri Karan Talwar - representing the petitioners
Sri Uma Shankar - representing the petitioners
Sri P. Karthik Ramana - representing the petitioners

Judgment Pronounced on 28.02.2025

***THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL**
AND
***THE HON'BLE SMT. JUSTICE RENUKA YARA**

+WRIT PETITION No. 21101 of 2024 and batch

% 28-02-2025

#M/s. Bigleap Technologies and Solutions Pvt. Ltd. and others.

...Petitioners

vs.

$The State of Telangana and others.

... Respondents

!Counsel for the Petitioners:

1. Sri Karan Talwar.
2. Sri M.V.J.K.Kumar.
3. Sri M.Uma Shankar.
4. Sri M. Naga Deepak
5. Sri A.V.A.Siva Kartikeya.
6. Sri Raja Shekar Rao Salvaji.
7. Sri P. Venkata Prasad, learned counsel appearing for Sri Md.Shabaz.
8. Sri Mohd.Mukhairuddin.
9. Sri P. Karthik Ramana.
10. Sri S.Suri Babu.
11. Smt. S.Rama Lakshmi
12. Sri Singam Srinivasa Rao.
13. Sri Kailash Nath P.S.S..
14. Sri Srinarayan Toshniwal.
15. Sri K.P.Amarnath Reddy and Sri Md.Asrar Ahmed, learned counsel appearing for Ms.Yammanuru Siri Reddy.
16. Sri V.Veeresham
17. Sri Shaik Jeelani Basha.
18. Sri M.Uma Shankar, learned counsel appearing for Sri Puppala Bharat Nandan.

^Counsel for Respondents:

1. Sri Swaroop Oorilla, learned Special Government Pleader for State Tax assisted by Sri T. Chaitanya Kiran, learned Assistant Government Pleader.
2. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC.
3. Sri B.Mukherjee, learned counsel represeintng Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India.
4. Sri C. Vishwanath, learned counsel for DCB Bank Limited.

<Gist :

>Head Note :

? Cases referred

1. 2024 (4) TMI 367-THC
2. W.P.No.9331 of 2022 decided on 21st September, 2022
3. (2025) 26 CENTAX 79 (Gau.)
4. W.P.No.29397 of 2023, decided on 10.11.2023.
5. (2018) 9 SCC 1
6. 1992 Supp (1) SCC 471
7. (1996) 7 SCC 613
8. 2023 SCC OnLine Bom 59
9. (1982) 29 CTR 71 (MP)
10. 2024 (12) TMI 1512 (Ker)
11. AIR 1959 SC 93
12. (2002) 1 SCC 633
13. (2014) 11 SCC 639
14. MANU/DE/0704/2004
15. MANU/GJ/0311/1993

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT PETITION Nos.21101, 5763, 20418, 20827, 20903, 20943, 20997, 21765, 22333, 22334, 22335, 22526, 22571, 22579, 22690, 23341, 26029, 29063, 29415, 29477, 29756, 30022, 31003, 31008, 31025, 31916, 32265, 32914, 32984, 33003, 33054, 33070, 33072, 33086, 33260, 33765, 33905, 33975, 34181, 34598, 35293, 35493, 35503, 35510, 35581, 35593, 35630, 35736, 35904, 35964, 35987, 35989, 36045, 36366, 36375, 36385, 36402, 36421, 36425, 36471, 36581, 36613, 36616, 36620, 36682, 36705, 36730, 36759, 36763, 36776, 36786, 36795, 36799, 36836, 36837, 36910, 36945, 36969, 37051, 37059, 37107 and 37116 of 2024 & 14, 32, 89, 109, 123, 126, 129, 148, 160, 216, 268, 270, 273, 280, 304, 330, 335, 341, 342, 349, 366, 581, 1327, 1430, 1443, 1474, 1476, 1521, 1534, 1537, 1576, 1586, 1614, 1721, 1764, 1774, 1796, 1825, 1998, 2106, 2114, 2116, 2139, 2142, 2170, 2212, 2217, 2246, 2360, 2363, 2530, 2681, 2700, 2716, 2720, 2750, 2780, 2794, 2848, 2864, 2867, 2931, 2939, 2956, 2995, 3000, 3012, 3013, 3015, 3027, 3137, 3150, 3171, 3226, 3252, 4277 and 4491 of 2025.

COMMON ORDER: *(Per Hon'ble The Acting Chief Justice)*

In this batch of Writ Petitions, the petitioners have challenged the legality, validity and propriety of the show-cause notices and final orders which admittedly do not contain physical or digital signatures of the Proper Officer, although the impugned show-cause notices and final orders were placed on the portal.

Contention of the Petitioners:-

2. Learned counsel for the petitioners commenced their arguments by placing reliance on the judgment of coordinate

Bench of this Court in the case of **M/s. Silver Oak Villas LLP v. Assistant Commissioner (ST)**[1]. It is submitted that the view taken in the said judgment was consistently followed in several matters. Therefore, in absence of any physical or digital signature on the impugned show-cause notices and orders, the same cannot sustain judicial scrutiny.

Contention of the Respondents:-

3. Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, at the outset, fairly admitted that the impugned show-cause notices and orders do not contain physical or digital signatures. However, absence of signature will not cause any dent to the said show-cause notices or orders, if the scheme of **The Central Goods and Services Act, 2017** ('GST Act') and **The Central/Telangana State Goods and Services Rules, 2017** ('GST Rules') are examined.

4. It was strenuously contended by Sri Swaroop Oorilla that the judgment in **M/s. Silver Oak Villas** (supra) is founded upon the judgment of the Bombay High Court in **Ramani Suchit Malushte v. Union of India**[2]. A careful reading of said judgment makes it clear that the matter was relating to 'Registration'. Chapter-III of

[1] 2024 (4) TMI 367-THC
[2] W.P.No.9331 of 2022 decided on 21st September, 2022.

the GST Rules deals with 'Registration'. This Court in **M/s. Silver Oak Villas** (supra) not only followed the judgment of Bombay High Court in the case of **Ramani Suchit Malushte** (supra), but also heavily relied upon Rule 26 (3) of the GST Rules, which clearly provides that it relates to 'this chapter' i.e., Chapter-III i.e., 'Registration'. Thus, the judgment in the case of **Ramani Suchit Malushte** (supra) and Rule 26 (3) of the GST Rules are of no assistance to the petitioners because neither the said Rule nor the judgment deals with either issuance of show-cause notices or passing of final orders. Thus, the judgment of **M/s. Silver Oak Villas** (supra) cannot be pressed into service. Reliance is placed on the judgment of learned Single Judge of Gauhati High Court in the case of **Dihingia Motors Pvt. Ltd. v. Union of India**[3], wherein judgment of this Court in **M/s. Silver Oak Villas** (supra) was considered. Learned Single Judge of Gauhati High Court in the said judgment opined that the manner in which the Proper Officer should authenticate the show-cause notice or order in so far as other Chapters, the GST Rules are silent except Chapter-III, which deals with 'Registration'. Thus, the view taken in **M/s. Silver Oak Villas** (supra) is clearly distinguishable and not binding.

[3] (2025) 26 CENTAX 79 (Gau.)

5. It is highlighted that statutory Form issued under Chapter-III are in Form GST REG. Chapter-XVIII of the GST Rules deals with 'Demands and Recovery' and Forms under this Chapter are in FORM GST DRC. Rule 142 of Chapter-XVIII of the GST Rules deals with the procedure of issuing demand notice and passing of demand order. Rule 142 (1) (a) deals with serving of summary of notice in Form GST DRC-01 and Rule 142 (5) deals with summary or order to be uploaded electronically in Form GST DRC-07. In both the Rules, it is nowhere mentioned that summary of notice or order requires digital signature on it.

6. The Goods and Services Tax Network (GSTN) through its advisory dated 25.09.2024 clarified that the show-cause notices and orders are generated on the common portal through the officers' login, which is accessed using the digital signature. These documents being computer generated upon the officers' command do not require digital signature as they can only be issued by the officers by logging into the portal with their digital signatures. Thus, neither show-cause notices nor the orders can bear a stamp of invalidity in the absence of physical or digital signatures of the officers.

7. The next contention is that the impugned show-cause notices and orders contain the name of the Proper Officer, his designation and the name of the concerned circle. Thus, no prejudice is caused to the assessee. The judgment of Andhra Pradesh High Court in the case of **M/s. SRK Enterprises v. Assistant Commissioner**[4] on which reliance is placed by this Court in **M/s. Silver Oak Villas** (supra) deals with Section 160 (1) of the GST Act only. Furthermore, it is submitted that in the teeth of Section 160 (1) and (2), the technical defect, if any, about non-availability of signature will not make the show-cause notice/order as invalid. The Rules by no stretch of imagination can prevail over the main Sections namely Sections 73/74 of the GST Act. Both the Sections are silent about the requirement of physical or digital signature and in that event, no Rule can help the petitioners.

8. Sri Swaroop Oorilla, by placing reliance on the judgment in the case of **Commissioner of Customs v. Dilip Kumar & Co.**[5], urged that the taxation statute must be construed strictly. Thus, by inferential process a fiscal statute cannot be interpreted in a way which is neither intended nor expressed. A plain reading of

[4] W.P.No.29397 of 2023, decided on 10.11.2023.
[5] (2018) 9 SCC 1

relevant provisions of the GST Act, the GST Rules and Forms makes it clear that there is no requirement of putting physical/digital signature and placing the document on the portal is sufficient. Heavy reliance is placed on the following communication:

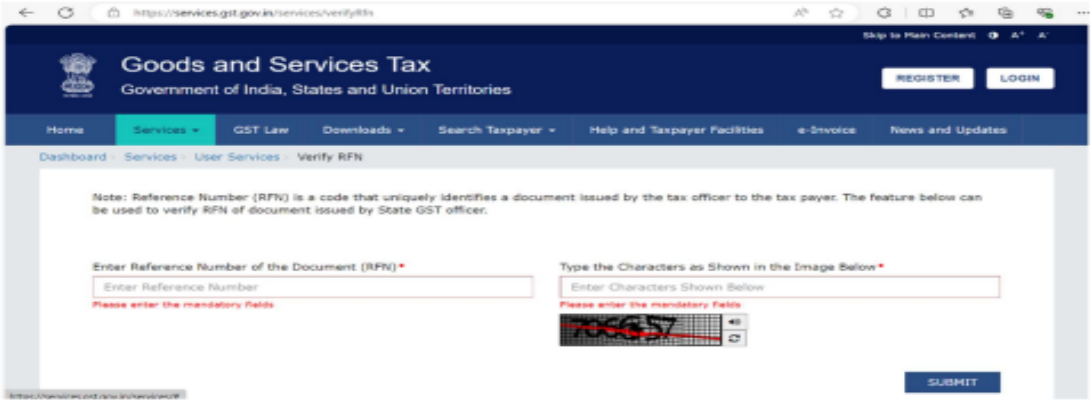
Advisory on issuance of Notices/Orders without digital signatures of the issuing authorities.

September 25th, 2024

Doubts have been created regarding the validity of documents issued by the tax officers on the common portal viz. Show cause Notices, Order of Assessment, Refund Orders etc. which are not containing the Digital signatures on the pdf. document downloaded from the common portal. In this context, it is to be mentioned that such documents (i.e. SCN/Orders) are generated on the common portal from the login of the officer, who logs in through Digital Signatures. Further, these documents being computer generated on the command of the officer, may not require physical signatures of the officer as these documents can be issued by the officer only after logging into the common portal using Digital Signature. Thus, all these documents in JSON format containing the order details along with the issuing officer details are stored in the GST system with the digital signature of the issuing officer.

The validity of the document in question vis-à-vis who and for what purpose these documents have been issued can also be verified by the taxpayer pre-login as well as after login from the GST common portal by navigating to the following path:

Post-login: www.gst.gov.in-->Dashboard-->Services-->User Services-->Verify RFN



All communications from the officers to the taxpayer/ any other person initiated through the system can also be verified pre-login through the link https://services.gst.gov.in/services/verifyRfn .

It is further mentioned that all the critical actions on the part of officers are performed through digital signature authentication of the officer concerned who is authorised for taking that action, such as:

1. Issue of any notice in any module
2. Issue of any order in any module
3. Issue of any refund order

Thanks

Team GSTN

(Emphasis Supplied)

9. The tax payers have an alternative remedy under Section 107 of the GST Act is the last submission put-forth by Sri Swaroop Oorilla.

10. Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, submits that CBIC is just a formal party and as such no arguments were advanced by him.

Rejoinder submissions of the Petitioners:-

11. Sri Karan Talwar submits that the law is well settled that show-cause notices/orders must contain the signature of the officer, who has issued them. In absence of any signature, the document is not authenticated. Reliance is placed on judgments of Supreme Court in **Collector of Central Excise, Madras v. M/s. M.M. Rubber and Company** [6] and **Kilasho Devi Burman v. Commissioner of Income Tax, W.B., Calcutta**[7]. To counter, the argument of Sri Swaroop Oorilla, which is based on Section 160 (1) and (2) of the GST Act, it is submitted that the defect in the show-cause notices are substantive in nature and not merely technical defect. When the impugned show-cause notices and final orders are pregnant with such serious inherent defect, in the light of judgment in the cases of **M.M.Rubber and Company** and

[6] 1992 Supp (1) SCC 471
[7] (1996) 7 SCC 613

Kilasho Devi Burman (both supra), the said notices and orders cannot be treated to be valid notices/orders. Thus, both Sub-sections (1) and (2) of the Section 160 of the GST Act do not improve the case of the Department. No *principle of waiver* can be pressed into service in view of the judgment of Bombay High Court in the case of **Prakash Krishnavtar Bharadwaj v. Income Tax Officer**[8].

12. The next submission of Sri Karan Talwar is based on Sections 3 and 5 of **The Information Technology Act, 2000** ('IT Act'). To elaborate, it is urged that as per those Sections, documents in question must contain digital or physical signature.

13. Sri M.V.J.K.Kumar, learned counsel for petitioners in some of the Writ Petitions, argued in the same line and placed reliance on the judgment of Madhya Pradesh High Court in the case of **Umashankar Mishra v. Commissioner of Income Tax**[9].

14. Sri Uma Shankar, learned counsel for petitioners in some of the Writ Petitions, placed reliance on Rules 59 (2) and 104 of the GST Rules and urged that digital or physical signature is must for treating an order/show-cause notice as valid.

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[8] 2023 SCC OnLine Bom 59
[9] (1982) 29 CTR 71 (MP)

15. Sri M. Naga Deepak, learned counsel for petitioners in some of the Writ Petitions, placed reliance on paragraph No.6 of the counter of the respondents, wherein the respondents admitted that it is settled law that the show-cause notice or order must contain signature.

16. Sri A.V.A. Siva Kartikeya, learned counsel for petitioners in some of the Writ Petitions, placed reliance on Forms DRC-01 and DRC-07 to submit that certain informations are required to be furnished with the signature of the Proper Officer.

17. Sri Raja Shekar Rao Salvaji, learned counsel for petitioners in some of the Writ Petitions, in addition, relied on the statutory Form DRC-01B and urged that this Form in no uncertain terms provides that in this Form the signature of the Proper Officer is not required, whereas DRC-01 and DRC-07 provides a column for signature of Proper Officer. Thus, the intention of the law makers was clearly spelled out in DRC-01B that signature is not a requirement. Rule 26 (1) of the GST Rules was highlighted to show that it talks about *method of authentication*. Rule 26 (1) is not confined to Chapter-III, instead, it is wider in nature and as rightly held by the Gauhati High Court in **Dihingia Motors Pvt.**

Ltd. (supra) unless there exists anything contrary, requirement of Rule 26 must be followed.

18. Sri P. Karthik Ramana, learned counsel for petitioners in some of the Writ Petitions, urged that Rule 142 of the GST Rules uses the words 'served' and 'issued' which shows that both are used for different purposes and have different meaning. A notice/order can be said to be validly issued only when it contains signature. The question of service is a different facet. Rule 142 (5) is highlighted to show that notice/order needs to be 'issued' and 'uploaded'.

19. Sri Venkata Prasad, learned counsel representing Sri Md. Shabaz, learned counsel for petitioners in some of the Writ Petitions, submits that the statutory Forms are medium to perform statutory function and therefore, must be strictly followed.

20. Sri Mohd.Mukhairuddin, Sri S. Suri Babu, Smt. S.Rama Lakshmi, Sri Singam Srinivasa Rao, Sri Kailash Nath P.S.S., Sri Srinarayan Toshniwal, Sri K.P.Amarnath Reddy and Md.Asrar Ahmed, learned counsel representing Ms.Yammanuru Siri Reddy, Sri V.Veeresham and Sri Shaik Jeelani Basha, also appeared for

Writ Petitioners in some of the cases and borrowed the arguments of learned counsel for the petitioners.

21. Sri Swaroopa Oorilla, learned Special Government Pleader for State Tax, in support of his submissions filed written synopsis.

22. It is noteworthy that the learned counsel for the parties have produced compilation of judgments. However, we are dealing with only such judgments which were relied upon by them during the course of arguments.

23. No other point was pressed.

24. We have heard the parties at length and perused the records.

Findings:

25. The parties have taken diametrically opposite stand regarding applicability of judgment of this Court in **M/s. Silver Oak Villas** (supra). Indisputedly, in the said case, the notice/order was interfered with because it did not contain physical/ digital signature. However, this order was sought to be distinguished by Sri Swaroop Oorilla on twin counts. *Firstly*, the order in **M/s. Silver Oak Villas** (supra) is based on a Bombay

High Court judgment which relates to registration and not issuance of show cause notice or order. *Secondly*, the order in **M/s. Silver Oak Villas** (supra) refers to Rule 26 (3) of the GST Rules which relates to Chapter-III which deals with 'Registration' and not relating to 'Demands and Recovery' which forms part of Chapter-XVII.

26. It is noteworthy that this aspect has been considered by Gauhati High Court in **Dihingia Motors Pvt. Ltd.** (supra) and Kerala High Court in **M/s. Fortune Service v. Union of India**[10]. The Gauhati High Court opined that unless the void is fulfilled in relation to requirement of signature in the notice/order, the requirement of Rule 26 of the GST Rules can be followed. The Kerala High Court, although, did not agree with the view taken in **M/s. Silver Oak Villas** (supra) by this Court to the extent reliance is placed on Rule 26(3) of the GST Rules, otherwise ruled in agreement with the findings in the judgment of **M/s. Silver Oak Villas** (supra). No doubt that Chapter-III deals with 'registration' and judgment of Bombay High Court deals with a case relating with the registration. It is equally true that in **M/s. Silver Oak Villas** (supra), this Court also placed reliance on Rule 26 (3) of the GST Rules which essentially relates with Chapter-III of the GST

[10] 2024 (12) TMI 1512 (Ker)

Rules. However, the ancillary question is whether despite these two aspects strenuously highlighted by Sri Swaroop Oorilla to distinguish the judgment in **M/s. Silver Oak Villas** (supra), the said judgment becomes distinguishable and whether a different view can be taken in view of the scheme of the GST Act, the GST Rules and Forms prescribed thereunder. Learned counsel has certainly raised a ponderable point which deserves serious consideration.

27. Before dealing with the relevant provisions of the GST Act, Rules and Forms on which heavy reliance is placed by learned counsel for the parties, it is apposite to note that this Court in **M/s. Silver Oak Villas** (supra) has not only considered the judgment of Bombay High Court and Rule 26 (3) of the GST Rules, the Court considered other judgments of different High Courts including Delhi and Andhra Pradesh High Courts and came to hold that in view of judicial precedents, the Court is of considered opinion that the impugned order in the instant case being an unsigned document lost its efficacy under the GST Act and the GST Rules. Thus, conclusion drawn in paragraph No.9 of the judgment in **M/s. Silver Oak Villas** (supra) shows that it is based on various precedents as well as on the provisions of the GST Act and Rules.

28. In this backdrop, the relevant provisions of GST Act and the GST Rules can be looked into. Rule 26 of the GST Rules deals with 'Method of authentication'. Sub-rule (3) of Rule 26, in no uncertain terms, makes it clear that it talks about notice, certificates and orders issued under the provisions of Chapter-III. To this extent, we find no difficulty in accepting the argument of Sri Swaroop Oorilla that unsigned document will not be hit by Rule 26 (3) of the GST Rules. It is apposite to note that Sections 73 and 74 of the GST Act are the substantive provisions for 'Demands and Recovery'. In order to translate Demands and Recovery into reality, Rules were introduced and the Rules are pregnant with statutory Forms for effectively exercising the power.

29. Indisputedly, statutory Form GST DRC-01 talks about 'summary of show cause notice'. Likewise, GST DRC-07 talks about 'summary of the order'. In both the statutory Forms namely DRC-01 and DRC-07, it is imperative to provide signature, name, designation, jurisdiction and address. The statutory Form DRC-01 is reproduced for ready reference.

"FORM GST DRC - 01
[See rule 100 (2) & 142(1)(a)]

Reference No:

Date:

To
_____ GSTIN/Temp. ID
---------- Name
_____Address

Tax Period ---------- F.Y. ---------- Act –
Section / sub-section under which SCN is being issued: -
SCN Reference No. ----
Date ----

Summary of Show Cause Notice

(a) Brief facts of the case :
(b) Grounds :
(c) Tax and other dues :

(Amount in Rs.)

Sr. No	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												

Signature
Name
Designation
Jurisdiction
Address

(Emphasis Supplied)

30. There is no 'head on' between Sections 73/74 of the GST Act and DRC-01 and DRC-07 and hence we find no merit in the contention of Sri Swaroop Oorilla that since Sections 73/74 of the GST Act are silent about the requirement of digital/physical signature any such requirement in DRC-01 and DRC-07 can be ignored. This is trite that Rules are introduced to translate the scheme of the Act into reality. When there is no difference or 'head on' between the Sections and the Rules/Forms, the Rules supplement the Sections and do not supplant it. In this view of the matter, we are constrained to hold that once there exists a

specific column earmarked for the signature, the said requirement becomes a statutory requirement. For this reason, the argument that taxation statute must be strictly interpreted based on the judgment of Supreme Court in **Dilip Kumar & Co** (supra) is of no assistance to the respondents. Instead it supports the contention of the petitioners. If strict rule of interpretation is applied in view of statutory requirement of existence of signature in the statutory Forms, it cannot be said non-existence of signature will not cause any dent to the notice/order. It is also noteworthy that in paragraph No.6 of counter of respondent No.3, it is pleaded that *'it is settled law that the order of any authority should contain signature of officer concerned who is passing the order'*.

31. It is profitable to examine the legal journey on this aspect. The Supreme Court in **M/s. M.M. Rubber and Company** (supra) opined as under:

> "12. It may be seen therefore, that, if an authority is authorised to exercise a power or do an act affecting the rights of parties, he shall exercise that power within the period of limitation prescribed therefor. The order or decision of such authority comes into force or becomes operative or becomes an effective order or decision on and from the date when it is signed by him…."
>
> (Emphasis Supplied)

32. Similarly view was taken in **Kailasho Devi Burman** (supra).

33. In view of these two judgments of Supreme Court coupled with the statutory requirement ingrained in DRC-01 and DRC-07, we are constrained to hold that a notice or final order can become legal or bear authenticity on its forehead only when it is physically/digitally signed by the Proper Officer. Section 160 on which reliance is placed by Sri Swaroop Oorilla reads thus:

> '**Section 160. Assessment proceedings, etc., not to be invalid on certain grounds.**
> (1) No assessment, reassessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.
> (2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.'
>
> (Emphasis Supplied)

34. These sub-sections were highlighted by the Revenue to show that the assessment proceedings cannot be invalidated on technical grounds. A careful reading of sub-section (1) of Section 160 of the GST Act makes it clear that the assessment, re-assessment, adjudication, review, revision, appeal, rectification,

notice, summons and other proceedings will not become invalid for any mistake, defect or omission if in substance and same is in conformity with and according to the intent, purpose and requirement of this Act or any existing law. As noticed above, the requirement of the GST Rules read with Forms is to put the signature on DRC-01 and DRC-07 at specified place. Thus, sub-section (1) does not help the respondents in any way.

35. So far, sub-section (2) of Section 160 of the GST Act is concerned, the argument of Sri Swaroop Oorilla is that the respondents have already acted upon the notices in certain cases and filed their reply and therefore notices cannot be invalidated. We do not see any merit in this contention. In none of the cases, it could be pointed out that the petitioners fulfilled the demand or satisfied the recovery.

36. It is apt to take into account Rule 142 which reads thus:

> '**Rule 142. Notice and order for demand of amounts payable under the Act. -**
>
> (1) The proper officer shall serve, along with the
>
> (a) Notice issued under section 52 or section 73 or section 74 or section 74A or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01**,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74 or sub-section (3) of section 74A, a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.

(1A) The proper officer may, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, [3][communicate] the details of any tax, interest and penalty as ascertained by the said officer, in **Part A** of **FORM GST DRC-01A.**;

(2) Where, before the service of Notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of subsection (5) of section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in **FORM GST DRC-03** and an acknowledgement, accepting the payment made by the said person in **FORM GST DRC–04.**

(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in **Part B** of **FORM GST DRC-01A.**

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), or where the person concerned makes payment of the amount referred to in sub-section (1) of Section 129 within of section 129 within seven days of the notice issued under subsection (3) of section 129 but before the issuance of order under the said sub-section (3) of Section 129, he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer of such payment in **FORM GST DRC-03** and the proper officer **shall** issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

> (4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 or the reply to any Notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) **shall be** furnished in **FORM GST DRC-06.**
>
> (5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or sub-section (12) of Section 75 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 **shall be** uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty, as the case may be, payable by the person concerned.
>
> (6) The order referred to in sub-rule (5) shall be treated as the Notice for recovery.
>
> (7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order **shall be** uploaded electronically by the proper officer in **FORM GST DRC-08**.
>
> (Emphasis Supplied)

37. A minute reading of this Rule makes it clear like noonday that the Rule mandates and makes it imperative for the Proper Officer to serve the notice/order in the prescribed Forms. At the cost of repetition, the requirement of the Form is to provide signature, name, designation, jurisdiction and address. Thus, the Form DRC-01 and DRC-07 have statutory backing and requirement. We also find substance in the argument of Sri Raja Shekar Rao Salvaji, learned counsel for petitioners in some Writ Petitions, that when there was no such requirement of putting

signature, it was specifically spelled out in such Forms such as Form GST DRC-01B. Clause 4 of this Form provides "*this is a system generated notice and does not require signature*". Thus, where signature was not a statutory requirement, a specific note was put in the statutory Form itself.

38. Conversely, in every sub-rule of Rule 142 of the GST Rules, the law makers have used the word 'shall' for issuance of Statutory Forms which makes the issuance of Forms in prescribed form as mandatory. Since prescribed Forms as per Rule 142 need signature, such requirement must be held to be mandatory. In absence of signature, notice/order cannot be held to be a valid notice/order.

39. As analyzed, in view of judgment of Supreme Court in **M/s. M.M. Rubber and Company** (supra) and **Kailasho Devi Burman** (supra), such notices/orders issued without signatures are held to be invalid, the same will not get immunity in the teeth of sub-sections (1) and (2) of Section 160 of the GST Act. At the cost of repetition, the principle of waiver also cannot be pressed into service (see **Prakash Krishnavtar Bhardwaj** (supra). Relevant para reads thus:

> "14. The High Court of Calcutta in **B.K. Gooyee v. CIT** [1966] 62 ITR 109 (Cal) was considering the legal impact of an

unsigned notice issued under section 34 of the Indian Income-tax Act, 1922 and whether there can be a **waiver** of a right of an assessee to challenge the same on the ground that the notice was unsigned. Whilst holding that a lack of signature on a notice invalidates the same, it has further gone on to hold that there can be **no waiver to the** right of an assesseeto raise this objection where **the condition precedent for assuming jurisdiction by the Assessing Officer is not fulfilled. To quote from the judgment it holds** (page 119 of 62 ITR):

> **In the present case there was more than a mere irregularity or a clerical mistake for, in my view, a notice without the signature lacks an essential and/or an integral and/or an inseparable vital part or requirement of a notice under section 34, a notice in terms of which is a condition precedent to the assumption of jurisdiction by the Income-tax Officer. It is notice with a body but without a soul. Hence, it is an invalid notice and consequently equivalent to no notice...**"
>
> (Emphasis Supplied)

40. We will be failing in our duty, if we do not consider the advisory dated 25.09.2024 reproduced hereinabove on which Sri Swaroop Oorilla has placed heavy reliance. Despite repeated query from the Bench, it could not be pointed out whether this advisory has any statutory backing or at least can be called as an executive instruction issued under any enabling provision. Thus, at best, it is an internal communication between the Departmental Authorities. Curiously, in the latter portion of this advisory also, it is clearly mentioned that the officers need to perform through digital signature authentification in relation to (i) issuance of notice, (ii) issuance of order and (iii) issuance of refund order. In view of statutory requirement of putting signature on the notice

and the order, this advisory will not improve the case of the respondents.

41. This is trite that if a law prescribes a thing to be done in a particular manner, the same must be done in the same manner and other methods are forbidden (see **Baru Ram v. Prasanni**[11] and **Commissioner of Income Tax, Mumbai v. Anjum M.H. Ghaswala** [12]). Since Rule and prescribed Forms mandate requirement of signature of Proper Officer, its violation makes the notice/order vulnerable. Any contrary view taken by Court about DRC-07 having no signature without considering the above rule and prescribed Form must be held as *per incuriam.*

42. Chapter-II of the IT Act deals with digital signature and electronic signature. The authentification of electronic records is based on fulfillment of requirement of Sections 3 and 5 and we find substance in the argument of Sri Karan Talwar that apart from GST Act, GST Rules and Statutory Forms prescribed thereunder and Sections 3 of the IT Act, make it obligatory for the Proper Officer to put his signature. Section 3A of the IT Act on which Sri Swaroop Oorilla placed reliance does not insulate the notice/order if it does not contain signature of Proper Officer.

[11] AIR 1959 SC 93
[12] (2002) 1 SCC 633

43. The legal journey discussed hereinabove shows that various High Courts including Delhi, Andhra Pradesh, Kerala, Gauhati and this Court have taken the view that notice/order must contain the signature, and in absence thereof, they are invalid.

44. Hence, the matter may be viewed from another stand point i.e., point of *comity*. As per **Bryan A.Garner's Black's Law Dictionary (9th Edition)**, the *comity* is defined as under:

> "**1.** A practice among political entities (as nations, states, or **courts or different jurisdictions)**, involving esp. mutual recognition of legislative, executive, and judicial acts. Also termed *comitas gentium; courtoisie internationale.*"

45. In **World Sport Group (Mauritius) Ltd. v. MSM Satellite (Singapore) Pte. Ltd.**[13], the Supreme Court opined as under:

> "**22.** We are unable to accept the first contention of Mr. Venugopal that as Clause 9 of the Facilitation Deed provides that any party may seek equitable relief in a court of competent jurisdiction in Singapore, or such other court that may have jurisdiction over the parties, the Bombay High Court had no jurisdiction to entertain the suit and restrain the arbitration proceedings at Singapore because of the principle of Comity of Courts. In Black's Law Dictionary, 5th Edition, Judicial Comity, has been explained in the following words:
>
> "Judicial comity. The principle in accordance with which the courts of one state or jurisdiction will give effect to the laws and judicial decisions <u>of another, not as a matter of obligation, but out of deference and respect.</u>"

[13] (2014) 11 SCC 639

> Thus, what is meant by the principle of "comity" is that courts of one state or jurisdiction will give effect to the laws and judicial decisions of another state or jurisdiction, not as a matter of obligation but out of deference and mutual respect."
>
> (Emphasis Supplied)

46. The similar view is taken by Delhi High Court in **Commissioner of Income Tax v. SAE Head Office Monthly Paid Employees Welfare Trust** [14] and High Court of Gujarat in **Commissioner of Income Tax v. Deepak Family Trust and Ors.** [15]. In **SAE Head Office Monthly Paid Employees Welfare Trust** (supra), the Division Bench of the Delhi High Court opined as under:

> "27. When in the tax matters which are governed by all India statute, there is a decision of another High Court on the interpretation of a statutory provisions, it would be a wise judicial policy and practice not to take a different view barring, of course, certain exceptions, like where the decision is sub silentio, per incuriam, obiter dicta or based on a concession or takes a view which it is impossible to arrive at or there is another view in the field or there is a subsequent amendment of the statute or reversal or implied overruling of the decision by a higher Court or some such or similar infirmity is manifestly perceivable in the decision. [see Arvind Boards and Paper Products Ltd. v. CIT, (1982) 137 ITR 635 (Guj)]
>
> 28. It must be remembered that it is a general policy in Income Tax matters that whatever the view of the Bench at the time of hearing may be, but the Bench should follow the view taken by another High Court on the interpretation of section. In case of CIT v. Sarabhai Sons Limited (1983) 143 ITR 473 (Guj), the Gujarat High Court observed that "Even though we may be persuaded to take a different view, we are not inclined to do so in view of the settled practice referred to

[14] MANU/DE/0704/2004
[15] MANU/GJ/0311/1993

> in the decision of Madras High Court and the decisions of Bombay High Court and Madhya Pradesh High Court adverted above."
>
> (Emphasis Supplied)

47. Thus, from the view point of *comity* also, we are inclined to interpret the provisions of the GST Act, GST Rules and Statutory Forms prescribed thereunder in the same manner different High Courts have considered it. More-so, when Revenue could not make out any exception based on aspects of *per incuriam, sub silentio, obiter dicta* or concession, etc. We have considered the scheme of the GST Act, Rules and Statutory Forms prescribed thereunder and, in our judgment, the impugned show cause notices and the orders which are not pregnant with the signature of the Proper Officer cannot sustain judicial scrutiny.

48. Resultantly, the impugned notices and orders in all the Writ Petitions are set aside. Liberty is reserved to the respondents to issue fresh show cause notices/orders in accordance with law and, for undertaking this exercise afresh, the limitation will not be a hurdle for the respondents. It is made clear that this Court has not expressed any opinion on the merits of the case.

49. The Writ Petitions are **allowed** to the extent indicted above. There shall be no order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

SUJOY PAUL, ACJ

RENUKA YARA, J

Date: 28.02.2025.

Note:
LR copy be marked.
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