

J. Sivasubramanian v. Assistant Commissioner of GST and Central Excise, Pallikarnai Division, and Another

Case number: W.P. Nos. 8366 of 2025 and 6874 of 2026

Citation: No neutral or reporter citation stated in the retained official order.

Decision date: 26 March 2026

GST savings provisions do not transfer the company's pre-GST service-tax debt to its director's personal account

Court: Madras High Court

Bench: Hon'ble Mr. Justice C. Saravanan

Decision stage: Final common order allowing both writ petitions to the stated extent and directing removal of the director's personal-account lien. This is a pre-GST service-tax recovery case involving CGST transitional provisions.

01 Facts of case and issues

J. Sivasubramanian, a director of RU Information Technologies Private Limited, challenged recovery from his personal bank accounts. An order dated 28 February 2020 had confirmed the company's service-tax demand of Rs. 31,01,304, with interest, penalties and late fee, for October 2013 to March 2017. It separately imposed a Rs. 1 lakh penalty on him under Finance Act Section 78A.

The recovery communication dated 30 October 2024 invoked CGST Sections 89(1) and 174(2)(e). The connected petition sought removal of an Axis Bank lien of Rs. 64,52,000. The issue was whether the company's legacy liability could be recovered from the director personally, beyond his separately adjudicated penalty.

Pinpoint: Caption and prayers, physical pp. 1–2; paragraphs 2–6, pp. 3–6.

02 Discussion by Hon'ble Court

The Court distinguished the company's service-tax debt from the director's own liability. Reading Finance Act Section 87, it found no basis for making an individual director personally answerable for the company's tax merely by reason of that office. It treated Section 174(2)(e) as preserving enforceable liabilities, rather than creating the disputed new personal liability.

The Court expressly adopted support from paragraph 24 of Sanjiv Kumar Mittal, as reproduced in this order: Section 87(b)(i) is a garnishee mechanism concerning an assessee's money with others, and does not justify attaching a director's personal account on an assumption that he owes money to the company.

The director could therefore be proceeded against only for his own Rs. 1 lakh penalty. Counsel reported payment on 14 July 2023; the Court noted the challan and unanswered communications informing the Department. The savings discussion must remain confined to this liability question, rather than read as extinguishing other lawful legacy proceedings.

Pinpoint: Paragraphs 13–20, physical pp. 8–12; Section 87 quotation, paragraph 16, pp. 9–11.

03 Judicial decision and operative relief

W.P. No. 8366 of 2025 was allowed. The lien could extend only to the personally imposed Rs. 1 lakh penalty; the balance over the director's personal account was unenforceable. W.P. No. 6874 of 2026 was allowed to that extent. The Assistant Commissioner was directed to lift the balance lien, and the Rs. 1 lakh lien also stood lifted because payment was reported. Connected miscellaneous petitions were closed, without costs. No separate refund, interest award or compliance deadline was ordered.

Pinpoint: Paragraphs 21–23, physical pp. 12–13.

04 In favour of

The petitioner-director on personal-account recovery; his own penalty was recognised as distinct and discharged, not annulled.

Final substantive relief against this recovery, without a remand. The company's underlying assessment and the director's personal penalty were not set aside on their merits. Actual bank compliance was not independently verified.

Pinpoint: Paragraphs 17–23, physical pp. 11–13.

05 AKHB REVIEW POINT

AKHB analysis: Separate the corporate debtor, the relevant tax period, ownership of attached funds and every individually adjudicated penalty. For legacy service-tax recovery, require the statutory basis for pursuing the director's own assets; preserve penalty-payment challans and delivery evidence for requests to release liens.

Do not present this decision as immunity for directors from GST recovery generally. Section 89 has its own non-recovery trigger and statutory defence. Genuine company funds held by another person remain a different garnishee question. Check any appeal or stay and obtain written bank confirmation before treating an account as operational.

Pinpoint: AKHB commentary based on paragraphs 14–23 and CGST Sections 89 and 174; not additional Court directions.

Sources and limitations

Relevant provisions

CGST Act 2017 Sections 89(1), 173 and 174(2)(e); Finance Act 1994 Sections 78A and 87, especially 87(b)(i); Constitution Article 226. Finance Act 1994 Sections 70, 73(2), 75 and 76–78 appear in the quoted adjudication; Service Tax Rules 1994 Rule 7C appears in that quotation; TNGST Act 2017 Section 173 is mentioned in paragraph 14, with no independent State-law holding extracted.

Statutory note

This concerns October 2013–March 2017 service tax, not an ordinary GST assessment. CGST Section 89(1) separately provides joint-and-several director liability where the private company's relevant tax, interest or penalty cannot be recovered, subject to its defence concerning gross neglect, misfeasance or breach of duty. Section 173 omits Finance Act Chapter V. Section 174(2)(c)–(f) preserves accrued liabilities and also permits relevant investigations, adjudication, recovery and other proceedings to be instituted, continued or enforced. Accordingly, paragraph 17's crystallised-liability language is not a general rule requiring all legacy assessments to have been completed before GST. The order itself concerns a 2020 adjudication. Finance Act Section 78A personal penalties remain distinct from corporate tax debts. The current India Code compilation retrieved is labelled as at 11 June 2026; targeted Section 89/173/174 comparison was made, not an exhaustive audit of every subsequent enactment. The Section 87 extract in the judgment should not be treated as a complete, independently consolidated historical statute.

Treatment note

Checked 13 October 2026. Bounded party-name, both writ-number, decision-date and official-domain searches did not identify a verified later appellate, review or stay order affecting this common order. Search results also pointed to an earlier 8 February 2024 petition by the same named litigant; that is not later treatment, and its procedural connection was not independently verified from an official original. No complete Madras appellate registry, Supreme Court docket or professional citator clearance is claimed. The failed fresh PDF response establishes neither withdrawal of the retained order nor absence of a later decision. Actual removal of the liens and the present status of the company's assessment were not independently checked.

Scope of source review

All fourteen physical pages of the retained official order were fully read and individually viewed, including the complete administrative and statutory quotations and the final cover page. The retained bytes match the 12 October 2026 acquisition receipt. On 13 October the stored official PDF URL returned HTTP 200 with a 145-byte HTML message saying the order was not uploaded for WP/8366/2025; no fresh PDF or unchanged-content comparison was obtained. Historical official CGST compilation pages 121–122 and 195–196 were read and individually viewed; current India Code physical pages 77 and 123–124 were checked through extracted text. Current statutory page-image review is not claimed. Sanjiv Kumar Mittal is used only as quoted and adopted in paragraph 20, not as an independently reviewed complete judgment.

Source notes

Paragraph 8 prints “K. Vinod Chandran vs. Ashok Menon” with 2019 (367) E.L.T. 166 (Ker.). This is an unresolved apparent case-name/citation error; a reliable official identity was not established and the supposed title is not adopted as a verified precedent. Other authorities advanced by Revenue are recorded as submissions, not independent supporting holdings. The quoted adjudication repeats item 8(iv) and its reduced-penalty sentence on physical page 5; this duplication does not create another liability. Physical page 13 contains the uncompleted field “Neutral Citation : Yes / No”; no neutral citation is inferred. The

official file has a leading UTF-8 BOM, preserved unchanged, and cryptographic signature validation was not performed.

Primary source

Source description: Complete fourteen-page retained official Madras High Court common order. Original bytes preserved; fresh official endpoint returned HTML rather than a PDF.

Official source: [Open source document](#)

Source pages: 14

Judgment author: C. Saravanan, J.

Outcome type: final substantive recovery relief

Additional source

India Code: Central Goods and Services Tax Act 2017, compilation as at 11 June 2026

Official source: [Open source document](#)

Pinpoint: Physical p. 77, Section 89; pp. 123–124, Sections 173–174. Targeted extracted-text review; local binary download timed out.

CBIC: Central Goods and Services Tax Act, historical compilation as on 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical pp. 121–122, Section 89; pp. 195–196, Sections 173–174. Retained official compilation, targeted text and individual page-image inspection.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete retained official judgment and identified primary statutory sources. No human legal review is claimed.

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