IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.8366 of 2025 & 6874 of 2026
and
W.M.P.No.9389 of 2025 & W.M.P.Nos.7476 & 7481 of 2026

W.P.No.8366 of 2025

J. Sivasubramanian ... Petitioner

Vs.

Assistant Commissioner of GST and Central Excise,
Pallikarnai Division,
Chennai South Commissionerate,
692, M.H.U. Complex,
GST Nilayam, Nandanam,
Chennai – 600 035. ... Respondent

W.P.No.6874 of 2026

J. Sivasubramanian ... Petitioner

Vs.

1. Assistant Commissioner of GST and Central Excise,
Pallikarnai Division,
Chennai South Commissionerate,
692, M.H.U. Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

2. The Branch Manager,
Anna Nagar 5th Avenue Branch,
Axis Bank,
Y-203, First Floor, 5th Avenue,
Anna Nagar, Chennai – 600040. ... Respondents

Prayer in W.P.No.8366 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter dated 30.10.2024 issued by the Respondent in F. No. IV/09/02/2022-Tech and quash the same and further direct the Respondent to lift the attachment of the Petitioner following bank account: (i) State Bank of India Branch : Anna Nagar (Navalpattu), Trichy; Account No : 31044377396 and (ii) State Bank of India Branch : Anna Nagar West Branch, Chennai Account No : 20021315677 within a specified time frame and further direct the Respondent to refrain from recovering the dues payable by M/s. RU Information Technologies Pvt. Ltd. from the Respondent herein.

Prayer in W.P.No.6874 of 2026: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the 1st Respondent to lift the lien of Rs. 64,52,000/- marked against the Petitioner's bank account bearing Account No. 922010024838131 maintained with the 2nd Respondent Bank and further direct the 1st Respondent to refrain from recovering the dues payable by M/s. RU Information Technologies Pvt. Ltd. under Order-in-Original No. 1/2020 dated 28.02.2020, from the Petitioner herein.

W.P.No.8366 of 2025

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.K.S.Ramaswamy
Senior Standing Counsel

W.P.No.6874 of 2026

For Petitioner : Mr.Hari Radhakrishnan

For R1 : Mr.K.S.Ramaswamy
Senior Standing Counsel

COMMON ORDER

By this common order, both these writ petitions are being disposed of, as they are connected and arise out of the same facts and circumstances.

2. In W.P.No.8366 of 2025, the petitioner challenged the impugned Recovery Notice dated 30.10.2024 issued by the 1st respondent, wherein an amount was sought to be recovered pursuant to the Order-in-Original No.1/2020 dated 28.02.2020.

3. In W.P.No.6874 of 2026, the petitioner sought to lift the lien of Rs.64,52,000/- marked against the petitioner's bank account bearing Account

No.922010024838131 maintained with the 2nd Respondent Bank and further sought a direction to the 1st Respondent to refrain from recovering the dues payable by M/s. RU Information Technologies Pvt. Ltd. under Order-in-Original No. 1/2020 dated 28.02.2020 from the petitioner.

4. The Order-in-Original No.1/2020 dated 28.02.2020 was passed against the Company M/s. RU Information Technologies Private Limited, following Show Cause Notice (SCN) No.01/2019(ST) dated 16.04.2019, in which the petitioner herein was a Director.

5. By the said Order-in-Original, the following demands were confirmed against M/s. RU Information Technologies Private Limited, including a penalty of Rs.1 Lakh imposed on the petitioner.

> *"8(i) I confirm the demand of Rs.31,01,304 /- (Rupees Thirty-One Lakhs One Thousand Three Hundred and four only) being the Service Tax (including Cesses), payable on the value of Information Technology Service provided by M/s. Ru Information Technologies Private Limited during the period from Oct. 2013 to Mar. 2017 under the provisions of Section 73(2) of FA, 1994 and direct them to pay the same forthwith;*
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> *8(ii) 1 confirm the demand of interest at appropriate rate on delayed payment of service tax determined to be payable at para. No. 8(i) above from M/s. Ru Information Technologies Private Limited under the provisions of Section 75 of the FA, 1994;*

8(iii) I impose a penalty of Rs.31,01,304/-(Rupees Thirty-One Lakhs One Thousand Three Hundred and four only) on M/s. Ru Information Technologies Private Limited under the provisions of Section 78 of FA, 1994. As per the proviso to Sec. 78 of FA, 1994, if service tax and interest determined to be payable is paid within a period of thirty days of the date of receipt of this order the penalty payable shall be twenty-five percent of the service tax determined to be payable at above. The benefit of reduced penalty shall be available only if the amount of such reduced penalty is also paid within Thirty days;

8(iv) Since, penalty under the provisions of Section 78 of FA, 1994 has been imposed, I do not impose any penalty under the provisions of Section 76 of the FA, 1994;

The benefit of reduced penalty shall be available only if the amount of such reduced penalty is also paid within Thirty days;

8(iv) Since, penalty under the provisions of Section 78 of FA, 1994 has been imposed, I do not impose any penalty under the provisions of Section 76 of the FA, 1994;

8(v) M/s. Ru Information Technologies Private Limited are also liable for payment of late fee of Rs.1,40,000/- (Rupees One Lakh Forty thousand only) for non-filing of ST-3 returns for the period 2013-14 to 2016-17 under the provisions of Section 70 of FA, 1994 read with Rule 7C of STR, 1994.

8(vi) 1 impose a penalty of Rs. 10,000/- (Rupees. Ten thousand only) under Section 77 of the FA, 1994 on M/s. Ru Information Technologies Private Limited for the reasons mentioned in para. 6.6 above;

8(vii) 1 impose a penalty of Rs.1,00,000/-(Rupees. One Lakh only) under the provisions of Section 78A of the FA, 1994 on Smt. Aarti Seshadri, Director of RITPL, and

8(viii) I impose a penalty of Rs.1,00,000/-(Rupees. One Lakh only) under the provisions of Section 78A of the FA, 1994 on Shri. J. Sivasubramanian, Director of RITPL."

6. The impugned communication, issued on 30.10.2024, invokes Section 89(1) and Section 174(2)(e) of CGST Act, 2017, to recover tax arrears due from M/s. RU Information Technologies Private Limited, pursuant to the aforesaid Order-in-Original dated 28.02.2020.

7. Arguing the case on behalf of the petitioner, the learned counsel would submit that this issue is no longer *res integra* and is covered by a detailed order of the Division Bench of Delhi High Court in ***Sanjiv Kumar Mittal vs. Deputy Commissioner (TRC), CGST, Delhi South [2021 (44) G.S.T.L. 14 (Del.), dated 06.11.2020***.

8. On the other hand, the Learned Senior Standing Counsel for R1 would submit that this issue has already been settled by the Division Bench of the Kerala High Court in ***K. Vinod Chandran vs. Ashok Menon [2019 (367) E.L.T. 166 (Ker.)]*** and by a Learned Single Judge of the Calcutta High Court in ***Roopchand Prasad vs. Union of India [2019 (365) E.L.T. 868 (Cal.)]***.

9. The Learned Senior Standing Counsel also drew attention to Paragraphs 5 and 6 of the counter affidavit filed in W.P.No.8366 of 2025,

wherein reference is made to the Guwahati High Court case in ***Lakshmi Narayan Sahu vs. Union of India***, decided on ***12.10.2018***.

10. For the sake of convenience, paragraphs 5 and 6 of the counter affidavit in W.P.No.8366 of 2025 are reproduced below:

> "*5. It is submitted in para A, that the petitioner has stated that Section 174 2(e) of the CGST Act 2017 does not confer any right to apply the provisions of the GST Act to recover the dues said to be payable by the Company, under the provisions of the Finance Act, 1994. It is submitted that section 174(2) (e) states that the repeal of previous tax laws does not affect any investigation, inquiry, verification, assessment proceedings, adjudication or any other legal proceedings or recovery of arrears related to any duty, tax, surcharge, penalty, fine or interest under old laws. Therefore, the contention of the petitioner in para-A of Grounds of appeal in untenable in view of the above. Further, the validity of continuing proceedings under the repealed Finance Act, 1994 post GST implementation has been upheld by various High courts, including Guwahati High court in the case Lakshmi Narayan Sahu Vs Union of India.*
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> *6. It is submitted that the contentions of the petitioner in para-Bare not supported by facts and applicable law.It is submitted that as per Section 87(b)(1) of Finance Act, 1994, the Central*

Excise Officer may, by notice in writing, require any other person from whom money is due or may become due to such person, or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held or at or within the time specified in the notice, not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount; Therefore, the act of freezing of bank account of the petitioner is well within the limitations of the applicable law. Any person includes the individual of the company."

11. Although no counter-affidavit has been filed in W.P.No.6874 of 2026, I am inclined to dispose of these matters based on the counter-affidavit in W.P.No.8366 of 2025, as the relief sought in W.P.No.6874 of 2026 would be consequential to the order to be passed in W.P.No.8366 of 2025.

12. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for R1.

13. There is no dispute that M/s. RU Information Technologies Private Limited, has been proceeded against under the provisions of the Finance Act,

1994, and that the petitioner is one of its Directors, along with one Aarti Seshadri.

14. The demand confirmed against the said company has been extracted above. The invocation of Sections 89(1) and 174(2)(e) of the CGST Act, 2017, applies only where liability accrued under the relevant enactments referred to in Section 173 of the CGST Act, 2017, and Section 173 of the TNGST Act, 2017.

15. Under the scheme of the Finance Act, 1994, there were no provisions for recovering tax liability from individual directors. This is evident from a reading of Section 87 of the Act.

16. Section 87 of the Finance Act, 1994 is reproduced below:

> *"Where any amount payable by a person to the credit of the Central Government under any of the provisions of this Chapter or of the rules made thereunder is not paid, the Central Excise Officer shall proceed to recover the amount by one or more of the modes mentioned below:*
>
> > *(a) the Central Excise Officer may deduct or may require any other Central Excise Officer or any officer of customs to deduct the amount so payable from any money owing to such person which may be under the control of the said Central Excise Officer or any officer of customs;*

(b) (i) the Central Excise Officer may, by notice in writing, require any other person from whom money is due or may become due to such person, or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central Government either forthwith upon the money becoming due or being held or at or within the time specified in the notice, not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in a case where the person to whom a notice under this section is sent, fails to make the payment in pursuance thereof to the Central Government, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and all the consequences of this Chapter shall follow;

(c) the Central Excise Officer may, on an authorisation by the Commissioner of Central Excise, in accordance with the rules made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

> *(d) the Central Excise Officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue."*

17. Section 174(2)(e) of the CGST Act, 2017 only empowers the authorities under the respective GST enactments to enforce liabilities that have already crystallized. Therefore, the petitioner, at best, can be proceeded against only to the extent of Rs.1 Lakh, which was imposed as a penalty under Section 78A of the Finance Act, 1994 by Order-in-Original No.1/2020 dated 28.02.2020.

18. It is submitted by the learned counsel for the petitioner that the aforesaid penalty of Rs.1 Lakh was already paid by the petitioner on 14.07.2023. A copy of the challan evidencing the payment is enclosed in the typed set of papers.

19. It is also noticed that the petitioner informed the 1st respondent of the aforesaid payment via Communications dated 15.07.2023 and 20.09.2023, however, the respondent has failed to respond.

20. In view of the above discussions, my view is also fortified by the view of the Division Bench of the Delhi High Court in ***Sanjiv Kumar Mittal vs. Deputy Commissioner (TRC), CGST, Delhi South***, referred to supra. In Paragraph 24 of the said judgment, the Division Bench observed as under:

> *"**24.** This Court is in agreement with the submission of Learned Counsel for petitioner that the impugned attachment order is beyond the purview of Section 87(b)(i) of the Finance Act as the said provision provides for a garnishee order only – i.e. provides for attachment of funds of an assessee lying with third parties. Accordingly, Section 87(b)(i) of the Finance Act does not entitle the Revenue to attach personal bank accounts of a director like the petitioner, for recovery of dues of the assessee company, on the assumption that money is due or may become due from the petitioner to the assessee company. This perspective is wholly misconceived, contrary to the basic tenets of liability of the Company law, discussed in the preceding paras."*

21. Consequently, W.P.No.8366 of 2025 is allowed. The lien, if any, is to be confined to Rs.1 Lakh, as confirmed by Order-in-Original No. 1/2020 dated 28.02.2020. The balance lien exercised over the personal account of the petitioner cannot be enforced, as the petitioner did not incur any personal liability for the dues committed by M/s. RU Information Technologies Private Limited or by its directors.

22. In view of the above observations, W.P.No.6874 of 2026 also deserves to be allowed, and it is accordingly allowed to that extent.

23. The Respondent / Assistant Commissioner of GST and Central Excise is directed to lift the lien over the petitioner's bank account for the balance amount. The aforesaid lien of Rs.1 Lakh imposed by Order-in-Original No.1/2020 dated 28.02.2020 shall stand lifted, as the petitioner has discharged the same as submitted by the learned counsel for the petitioner. Connected miscellaneous petitions are closed. No costs.

26.03.2026

raja

Neutral Citation : Yes / No

To

The Assistant Commissioner of GST and Central Excise,
Pallikarnai Division,
Chennai South Commissionerate,
692, M.H.U. Complex,
GST Nilayam, Nandanam,
Chennai – 600 035.

C.SARAVANAN, J.

raja

W.P.Nos.8366 of 2025 & 6874 of 2026

26.03.2026