



WEB COPY

WP No. 50484 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-02-2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 50484 of 2025
and
WMP.Nos.56526 & 56527 of 2025

Khalid Buhari,
S/o. Abdul Kadar,
Old No.26 New no. 14,
Khader Navas Khan Road,
Greems Road,
Chennai- 600 006.

..Petitioner(s)

Vs

1. Assistant Commissioner of CGST and C.Ex.,
Alandur Division ,
Office of the Assistant Commissioner of GST
and Central Excise, 692, M.H.U. Complex,
Anna Salai, Nandanam, Chennai 35.
2. The Branch Manager, HDFC Bank,
759, ITC CENTRE, Anna Salai,
Opp. T.V.S. Chennai- 600 002.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for records on files of the 1st respondent in his proceedings in OC.No. GEXCOM/TAR/D/GST/6513/2025- CGST- DIV- ALA- COMMRTE- CHENNAI (S) dated 25.11.2025 and



quash the same as arbitrary, violative of principles of natural justice and constitutional and direct the 1st respondent to conduct an enquiry granting an opportunity to the petitioner before invoking Section 89 of the CGST Act.

For Petitioner(s): Mr.T.V.Lakshmanan
For R1: Mr. Su. Srinivasan,
Standing Counsel
For R2: Mr.C.Mohan assisted by
M/s.A.Rexy Josephine Mary
for M/s.King and Partridge

ORDER

In this writ petition, the petitioner is against the impugned recovery notice dated 25.11.2025 in Form GST DRC – 13, whereby, the petitioner's bank account was attached for the tax liability of M/s.Trans Car India Private Limited.

2. The case of the petitioner is that the petitioner is a Director of M/s.Trans Car India Private Limited and the said company suffered an adverse Order- in- Original No.25/2023(DGGI) dated 31.05.2023 bearing reference GEXCOM/ADJN/GST/ADC/569/2022.

3. The aforesaid assessment order was challenged before this Court in WP.No.27678 of 2023. By an order dated 22.09.2023, the said writ petition was



dismissed granting liberty to the petitioner to challenge the said order before the Appellate Authority within a period of 30 days from the date of the receipt of a copy of the said order.

4. Instead of challenging the aforesaid Order-in-Original before the Appellate Authority, the company, wherein the petitioner is a Director, preferred a Writ Appeal in W.A.No.3497 of 2023 against order dated 22.09.2023 of this Court before the Hon'ble Division Bench of this Court. The said writ appeal was also dismissed by the Hon'ble Division Bench vide order dated 19.12.2023.

5. It appears that the company thereafter filed an application seeking extension of time to file an appeal before the Appellate Commissioner. However, since no order has been secured by the petitioner against the aforesaid Order-in- Original No. No.25/2023(DGGI) dated 31.05.2023, the respondents proceeded to attach the petitioner's bank account on 25.11.2025.

6. The learned counsel for the petitioner submits that the impugned proceedings are contrary to Section 89 of the respective GST Enactments.

7. On the other hand, learned Standing counsel for the respondents submits that a huge amount of tax liability is due form the said company, which



is the assessee in default. It is further submitted by the learned Standing counsel for the respondents that the petitioner, being a Director of the said company, is liable to discharge the tax liability of the aforesaid company under Section 89 of the respective GST Enactments.

8. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing counsel for the respondents.

9. For the sake of clarity, Section 89 of the respective GST Enactments is reproduced below:-

“89. Liability of directors of private company:-

(1) Notwithstanding anything contained in the Companies Act, 2013 (18 of 2013), where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(2) Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company.

Provided that nothing contained in the sub-section shall apply to any personal penalty imposed on such director.”



10. Reading of the above provisions makes it clear that the burden of proof lies on the Director to establish that the non-recovery of tax cannot be attributed to any gross neglect, misfeasance, or breach of duty on his part in relation to the affairs of the company.

11. It is therefore, open for the petitioner to discharge the burden of proof required to be discharged under Section 89 (1) of the respective GST Enactments before the respondents. Therefore, the impugned recovery notice is quashed and the case is remitted back to the first respondent to pass a fresh order on merits, as expeditiously as possible, within a period two weeks from the date of receipt of a copy of this order.

12. Within such time, the petitioner shall also file a proper reply, explaining the case as to why no recovery can be made against the petitioner for the tax liability of the company.

13. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.



14. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

15. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

13-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

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Alandur Division ,
Office of the Assistant Commissioner of CGST and Central Excise,
692 MHU Complex, Anna Salai,
Nandanam, Chennai 35.
2. The Branch Manager, HDFC Bank,
ITC CENTRE, 759, Anna Salai,
Opp. T.V.S.Chennai- 600002.



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C.SARAVANAN, J.

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