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Recovery is Valid post adjudication, Without Prior Notice to Dealer

The Hon'ble Andhra Pradesh High Court in the case of *V.V.S. Enterprises vs. State of Andhra Pradesh & Ors. [Writ Petition No. 6645 of 2026, order dated April 15, 2026]* held that once tax liability is crystallized through an assessment order, recovery proceedings under Section 79(1)(c) can be directly initiated against third parties (including banks) without issuing prior notice to the assessee, and no separate authorization is required for issuing such recovery notice.

Facts:

V.V.S. Enterprises ("**the Petitioner**"), a registered dealer under the GST Act, challenged the garnishee notice issued to its bank directing payment of Rs. 7,54,108/- towards tax dues.

The State of Andhra Pradesh & Ors. ("**the Respondent**"), through the tax authorities, issued a notice dated February 05, 2026 under Section 79(1)(c) directing the Petitioner's bank to remit the outstanding tax dues.

The Petitioner contended that the impugned notice was issued without initiating adjudication under Sections 73/74, without authorization from the competent authority, and without prior notice to the Petitioner, thereby violating principles of natural justice.

The Respondent contended that an assessment order dated January 17, 2025 determining tax liability had already been passed and uploaded on the portal, which remained unchallenged and attained finality. It was further contended that the proper officer was duly empowered under Gazette Notification dated December 14, 2022 to exercise powers under Section 79.

Aggrieved by the recovery action without prior notice and alleging lack of jurisdiction and violation of natural justice, the Petitioner approached the High Court by way of a writ petition seeking quashing of the impugned notice.

Issue:

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Whether recovery proceedings under Section 79(1)(c) of the GST Act can be initiated against third parties without prior notice to the assessee and without specific authorization, once an assessment order determining tax liability has attained finality?

Held:

The Hon'ble Andhra Pradesh High Court in **Writ Petition No. 6645 of 2026** held as under:

- Observed that, Section 79 is a recovery provision enabling recovery of tax dues from third parties from whom money is due or may become due to the defaulting dealer.
- Noted that, No authorization is required under Section 79, as the provision itself does not mandate obtaining prior approval from any competent authority.
- Observed that, the impugned notice was issued by the proper officer duly empowered under Gazette Notification dated December 14, 2022.
- Held that, there is no requirement under Section 79 to issue prior notice to the defaulting dealer before initiating recovery proceedings against third parties.
- Noted that, in the absence of any such provision, there is no bar to recover the tax dues from any person from whom money is due or may become due.
- Observed that, the Petitioner failed to remit dues even after one year from the assessment order dated January 17, 2025.
- Held that, since there was no dispute regarding determination of tax and the assessment order remained unchallenged, recovery proceedings under Section 79 were valid. Accordingly, the writ petition was dismissed.

Our Comments:

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The Court has interpreted Section 79 as a pure recovery mechanism that operates post-determination of tax liability. The reasoning hinges on the absence of any express requirement in Section 79 mandating prior notice or authorization, thereby treating recovery as a consequence of crystallized liability rather than a stage requiring adjudicatory safeguards.

However in the case of ***SJR Prime Corporation Pvt. Ltd. vs. Superintendent of Central Taxes [WP No. 35114 of 2024, order dated April 09, 2025]***, the Karnataka High Court noted that the dispute pertained to recovery proceedings initiated for interest liability without proper adjudication, and that the petitioner had not yet submitted its reply to the communication issued by the department. The Court observed procedural deficiency in the process and directed the petitioner to submit its reply, and correspondingly directed the department to provide opportunity of hearing and proceed in accordance with law before continuing recovery. The reasoning in SJR Prime thus reflects that where liability is not conclusively determined or procedural opportunity is pending, recovery proceedings under Section 79 cannot be finalized without adherence to principles of natural justice and completion of due process.

Similar holding has been observed in the case of ***M/s. RAMMS India Pvt. Ltd. vs. Deputy Commissioner of Commercial Taxes [WP No. 34270 of 2025]*** by the Karnataka High court and in the case of ***M/s. Galaxy International vs. Union of India [WP No. 11399 of 2024]*** by the Bombay High Court.

It is to be noted and distinguished that in the judgments above, there existed a dispute with regard to the tax liability and the authorities had proceeded to invoke Section 79 of the GST Act without adjudicating such disputed liability. In those circumstances, the Courts have consistently held that in the absence of determination of actual tax dues, recourse to recovery proceedings under Section 79 is impermissible, and accordingly quashed such notices while granting liberty to the authorities to first adjudicate the tax liability in accordance with law.

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However, the present case stands on a different footing, as the tax liability had already been determined by way of an assessment order which remained unchallenged and had attained finality. Consequently, the said precedents do not come to the aid of the Petitioner.

Relevant Provisions:

Section 79 of the CGST Act, 2017

“79. Recovery of tax.-

(1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:-

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

(c) (i) the proper officer may, by a 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 Government either forthwith upon the money becoming due or being held, 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 the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company

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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 case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice

(v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

(vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof

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