Partners of a Partnership Firm are personally liable for GST dues of the Firm and bank account of an erstwhile partner can be attached for recovery

The Hon'ble Madras High Court in the case of ***M/s. VRAA and Co. v. Assistant Commissioner of GST and Central Excise, Guindy Division [W.P. No. 22458 of 2026 dated June 23, 2026]*** dismissed the writ petition filed by a partnership firm challenging the attachment of the bank account of its erstwhile partner, holding that the Assistant Commissioner is duly empowered to issue a communication under Section 79(1)(c)(i) read with Section 5(3) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) for initiating action against a garnishee pursuant to the crystallisation of the tax liability of the partnership firm, and that the partners of a partnership firm are personally liable for the dues of the firm.

Facts:

- M/s. VRAA and Co. (**"the Petitioner"**) is a partnership firm against which recovery proceedings were initiated by the Assistant Commissioner of GST and Central Excise, Guindy Division (**"the Respondent"**) in respect of the crystallised tax liability pertaining to the Financial Year 2019-20.

- The Respondent issued a communication in Form GST DRC-13 dated November 21, 2025 (**"the Impugned Communication"**) to the ICICI Bank Limited under Section 79(1)(c) of the applicable GST enactments, whereby the individual bank account of an erstwhile partner of the Petitioner firm was attached. The said partner had resigned from the partnership on June 4, 2020.

- The Petitioner contended that no prior notice was issued before attaching the bank account of the erstwhile partner. Further, relying upon Section 83 of the CGST Act, the Petitioner contended that only the Commissioner is empowered to order provisional attachment, whereas the recovery notice in the present case was issued by the Assistant Commissioner.

- On the other hand, the Revenue contended that the writ petition is completely misconceived, and that the Assistant Commissioner is duly empowered to issue a notice under Section 79(1)(c)(i) read with Section 5(3) of the CGST Act.
- Aggrieved by the Impugned Communication, the Petitioner filed a writ petition before the Hon'ble Madras High Court under Article 226 of the Constitution of India, seeking issuance of a writ of certiorari to quash the bank attachment order as illegal and against the provisions of law.

Issue:

Whether the bank account of an erstwhile partner of a partnership firm can be attached by the Assistant Commissioner by way of a garnishee notice under Section 79(1)(c)(i) of the CGST Act for recovery of the crystallised tax dues of the firm?

Held:

The Hon'ble Madras High Court in ***W.P. No. 22458 of 2026*** held as under:

- Observed that, the writ petition was filed by the partnership firm and not by the erstwhile partner whose bank account was attached. The recovery proceedings pertain to the Financial Year 2019-20, and as per the averments in the affidavit, the concerned partner resigned from the partnership on June 4, 2020. Therefore, it appears that he was a partner during the relevant period.
- Noted that, the Petitioner proceeded under the misconception that a provisional attachment was effected under Section 83 of the applicable GST statutes. On perusal of the Impugned Communication, it is clear that the same was issued under Section 79(1)

(c)(i) of the CGST Act pursuant to the crystallisation of the tax liability of the partnership firm, and Section 79(1)(c) of the CGST Act empowers the GST authorities to initiate action against a garnishee.

- Noted that, the Petitioner has not challenged the Order-in-Original making the tax demand on the firm.

- Held that, the partners of a partnership firm are personally liable for the dues of the firm. Since the notice has been issued in relation to the bank account of a partner of the firm, there is no infirmity in the order warranting interference under Article 226 of the Constitution of India.

- Hence, the writ petition was dismissed without any order as to costs.

Our Comments:

Section 79 of the CGST Act deals with "Recovery of tax". Section 79(1)(c)(i) of the CGST Act empowers the proper officer, where any amount payable by a person to the Government is not paid, to recover the amount by way of garnishee proceedings, i.e., by requiring, through a notice in writing, any other person from whom money is due or may become due to the defaulter, or who holds or may subsequently hold money for or on account of the defaulter (such as a banker), to pay to the Government so much of the money as is sufficient to discharge the amount due. Such garnishee notice is issued in Form GST DRC-13 in terms of Rule 145(1) of the Central Goods and Services Tax Rules, 2017. Further, Section 5(3) of the CGST Act enables the Commissioner to delegate his powers to any other officer subordinate to him, subject to specified conditions and limitations. Accordingly, once the tax liability has crystallised, a garnishee notice under Section 79(1)(c)(i) of the CGST Act can validly be issued by the jurisdictional proper officer, including the Assistant Commissioner.

It is pertinent to note the distinction between Section 79 and Section 83 of the CGST Act, which formed the crux of the present dispute. Section 83 of the CGST Act provides for provisional attachment of property, including bank accounts, during the pendency of specified proceedings, as a protective measure to safeguard the interest of the Government revenue, and such power can be exercised only by the Commissioner upon formation of an opinion in this regard. In contrast, Section 79 of the CGST Act operates at the post-adjudication stage, i.e., after the demand has attained finality and the liability stands crystallised. In ***Radha Krishan Industries v. State of Himachal Pradesh [Civil Appeal No. 1155 of 2021 dated April 20, 2021],*** the Hon'ble Supreme Court held that the power of provisional attachment under Section 83 is draconian in nature and can be exercised only upon strict fulfilment of the statutory pre-conditions. However, in the present case, since the attachment was effected under Section 79(1)(c)(i) of the CGST Act pursuant to a crystallised demand, and not under Section 83, the rigours applicable to provisional attachment were held to be inapplicable.

Further, the personal liability of partners for the dues of the firm flows from Section 90 of the CGST Act, which provides that, notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under the CGST Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment. The first proviso to Section 90 of the CGST Act provides that where any partner retires from the firm, he or the firm shall intimate the date of retirement to the Commissioner by a notice in writing, and such partner shall remain liable to pay tax, interest or penalty due up to the date of his retirement, whether determined or not on that date. The second proviso further provides that if no such intimation is given within one month from the date of retirement, the liability of such partner shall continue until the date on which such intimation is received by the Commissioner. This position is also in consonance with Section 25 of the Indian Partnership Act, 1932, whereunder every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

A pari materia view was taken by the Hon'ble Punjab and Haryana High Court in ***Harvinder Singh v. State of Punjab and Others [CWP-9172-2025 dated July 18, 2025],*** wherein the recovery proceedings, including attachment of property of a retired partner, were upheld on the ground that the retiring partner had failed to intimate his retirement to the Commissioner within the stipulated period, and consequently, his joint and several liability for the dues of the firm continued in terms of Section 90 of the CGST Act.

In view of the above, the present ruling reinforces two important propositions. First, once the tax liability of a partnership firm has crystallised, recovery can be effected against the partners personally, including by way of garnishee proceedings under Section 79(1)(c)(i) of the CGST Act against their bank accounts, and the mere resignation of a partner does not absolve him of liability pertaining to the period during which he was a partner. Second, taxpayers must be careful to assail the underlying adjudication order raising the demand, since a challenge confined only to the consequential recovery notice, without questioning the crystallised demand, is unlikely to succeed. From a compliance standpoint, retiring partners and firms would be well advised to duly intimate the jurisdictional Commissioner of the retirement within one month, in terms of the first and second provisos to Section 90 of the CGST Act, so as to ring-fence the retiring partner's liability up to the date of retirement.

<u>Relevant Provisions:</u>

Section 79(1)(c)(i) of the CGST Act:

"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:—

(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;"

Section 90 of the CGST Act:

"90. Liability of partners of firm to pay tax.—Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner."

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