Khalid Buhari vs Assistant Commissioner of CGST and Central Excise & Another

Attachment of director's bank account for company's GST liability under Section 89 of the CGST Act without giving opportunity to discharge burden of proof.

Date of Order: February 13, 2026
Case Law No: GIB-MHC-2026-3
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Court Decision:
The writ petition challenged the recovery notice dated 25.11.2025 issued in Form GST DRC-13 by which the petitioner's bank account was attached for the tax liability of *M/s. Trans Car India Private Limited*, where the petitioner was a Director.

The company had earlier suffered an adverse Order-in-Original dated 31.05.2023. The writ petition filed against that order was dismissed with liberty to file an appeal before the Appellate Authority. Instead of filing the appeal, the company filed a writ appeal which was also dismissed. Since no relief was obtained against the Order-in-Original, the department proceeded to attach the petitioner's bank account for recovery.

The Court examined Section 89 of the CGST Act relating to liability of directors of a private company. The Court held that under Section 89(1), directors can be held jointly and severally liable for unpaid tax of the company if the tax cannot be recovered from the company, unless the director proves that the non-recovery cannot be attributed to gross neglect, misfeasance, or breach of duty on his part. The burden of proof lies on the director to establish this.

The Court held that the petitioner must be given an opportunity to discharge this burden. Therefore, the impugned recovery notice attaching the petitioner's bank account was quashed and the matter was remitted to the first respondent to pass a fresh order on merits after giving notice and opportunity to the petitioner to file a proper reply explaining why recovery should not be made from him. The authority was directed to complete the process within two weeks from receipt of the order.

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