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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9410/2021

KANWAL CHAUDHARY

..... Petitioner

Through Mr. Rajat Navet, Advocate.

versus

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA & ORS.

..... Respondents

Through Mr. Puneet Jain, Advocate with
Mr. Harsh Jain, Ms. Yashika Sharma
and Mr. Harshit Khanduja for
R-1/ IBBI.
Mr. Pulkit Deora, with
Mr. Arnav Vidyarthi Advocates
for R-2
Ms. Shiva Lakshmi, CGSC with
Mr. Siddharth Singh, Advocate for
UOI.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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09.09.2021

The hearing has been done by way of video conferencing.

CM APPL.29224/2021

Exemption allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.



W.P.(C) 9410/2021 & CM APPL.29223/2021

Present writ petition has been filed challenging the Communication/order dated 09th March, 2021. Petitioner also seeks a direction that services provided by an Advocate under the Insolvency and Bankruptcy Code, 2016 as an Insolvency Resolution Professional (IRP) are covered under the reverse charge mechanism in terms of Section 9 of the Central Goods & Services Tax Act, 2017 (for short 'CGST Act') and notifications issued under the said Act from time to time.

Learned counsel for the Petitioner states that by way of the impugned order dated 09th March, 2021, Respondent no. 1/IBBI has directed the Petitioner, (who is an Advocate registered with the Bar Council of Delhi and governed by the Advocates Act, 1961) to furnish GST compliant invoices towards professional fees being charged by him in his capacity of IRP by holding that 'Insolvency and Receivership' services are not covered under 'reverse charge mechanism' under the CGST Act.

He states that an Advocate/Lawyer while discharging duties as IRP provides legal services and therefore GST has to be charged on reverse charge basis.

Learned Counsel for the Petitioner submits that the Respondent no.1/IBBI is neither the competent authority nor does it has the jurisdiction to decide the issue. He further states that the impugned order has been passed without recording any reason whatsoever for the basis of its finding/direction, and without affording an opportunity of hearing to the Petitioner which in itself makes it liable to be set aside.



Issue notice.

Mr. Puneet Jain, Advocate on behalf of R-1/IBBI accepts notice. Mr. Pulkrit Deora, Advocate on behalf of R-2 accepts notice. Ms. Shiva Lakshmi, Advocate on behalf of R-4/Union of India accepts notice. They pray for and are permitted to file their counter affidavits within four weeks. Rejoinder affidavits, if any, be filed before the next date of hearing.

List on 21st January, 2022.

Till further orders, the impugned order dated 09th March, 2021 is stayed.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

SEPTEMBER 9, 2021
AS