

Kanwal Chaudhary v. Insolvency and Bankruptcy Board of India & Ors.

Case number: W.P.(C) 9410/2021

Citation: 2026:DHC:6587-DB

Decision date: 2026-08-13

Advocates acting as insolvency professionals: service-specific classification and forward-charge GST

Court: High Court of Delhi

Bench: Prathiba M. Singh and Shail Jain, JJ.

Decision stage: Final substantive writ disposal rejecting the challenge to IBBI's clarification and determining the GST payment mechanism for advocates supplying services as insolvency professionals. No remand.

01 Facts of case and issues

The petitioner had practised as an advocate since 1995 and was registered as an insolvency professional on 27 July 2017. On 13 December 2018 the NCLT appointed him interim resolution professional for Ireo Fiveriver Pvt. Ltd. in CP(IB) 408/2018. After he raised professional-fee invoices dated 13 August and 31 October 2019, a dispute arose over unpaid fees and the successor resolution professional's request for GST-compliant invoices. The petitioner maintained that his advocate status meant he did not need GST registration and that any GST was payable by the corporate debtor under reverse charge.

The NCLT's order of 7 October 2020 directed payment of the balance professional fees of ₹49,04,988 and referred the GST question to IBBI. IBBI's clarification of 9 March 2021 stated that insolvency and receivership services were outside reverse charge and required the petitioner to issue GST-compliant invoices for his IRP fees. The writ petition challenged that clarification and sought reverse-charge treatment for an advocate's work under the IBC. The ₹49,04,988 figure is the historical balance-fee direction, not a GST demand quantified by this High Court judgment.

The High Court had stayed the clarification in September 2021 and continued interim protection during the petition. It obtained the Bar Council of India's position, completed final hearing and reserved judgment on 9 July 2026. The final dispute was whether the relevant service was ordinary advocate legal work or the separately regulated service of an insolvency professional.

Pinpoint: Paragraphs 4–23, physical pp. 2–6; issue identified in paragraphs 31–32, p. 16.

02 Discussion by Hon'ble Court

The petitioner argued that the definition of legal services was broad enough to include insolvency work, that the insolvency examination was substantially legal, that advocates should retain the reverse-charge treatment associated with their profession and that a different classification could endanger their Bar enrolment. A jurisdictional objection to IBBI was also raised. These were submissions, not findings adopted by the Court. The GST Department, IBBI, the successor resolution professional and BCI supported distinguishing the service supplied from the supplier's underlying qualification.

The Court treated supplier liability under Section 9(1) as the default and recipient liability under Section 9(3) as applying to notified categories. It considered Notifications 12/2017 and 13/2017-Central Tax (Rate), the 25 September 2017 corrigendum and the J.K. Mittal litigation concerning advocate legal services. It then examined the IBC and IBBI regulatory framework: insolvency professionals have their own registration, eligibility, functions and duties, and entrants may come from several professional backgrounds. Insolvency services were not separately included in the reverse-charge categories considered by the Court, so the default mechanism applied.

Classification was central. The judgment distinguished legal services under group 99821 from the specific insolvency and receivership service code 998241. It treated the latter as its own category rather than the residual legal-services entry. The explanatory notes favour a specific description over a general one; the Court referred to Moorco (India) and A.R. Thermosets in applying that classification principle. The nature and capacity of the work performed, not merely the professional qualification held, therefore determined the treatment.

An advocate carrying out an insolvency appointment acts as an insolvency professional for that supply. The Court considered that professional class subject to the IBC/IBBI regime and rejected different GST treatment solely because some members are advocates. BCI's affidavit supported the distinction from conventional legal practice. The Court also rejected the concern that this classification necessarily jeopardised advocate enrolment: the IBBI regulations expressly recognised advocates as eligible, and the statutes were to be read harmoniously. This is not a general permission for advocates to conduct any unrelated business, nor a universal ruling on IBBI's competence over all tax disputes.

Pinpoint: Submissions: paragraphs 24–30, pp. 6–16. Charge mechanisms: paragraphs 34–65, pp. 17–27. Independent statutory class: paragraphs 68–87, pp. 28–34. Classification: paragraphs 88–96, pp. 34–42. BCI and harmonisation: paragraphs 97–110, pp. 42–46.

03 Judicial decision and operative relief

The Court held that IBBI's 9 March 2021 clarification reflected the correct position and that the challenge was untenable. Its operative directions were: advocates enrolled with the Bar Council who act as insolvency professionals under the IBC are governed by forward charge; they must obtain GST registration and comply with consequential requirements in the same manner as insolvency professionals as a class; the direction is confined to services rendered in the insolvency-professional capacity and does not alter the GST payment mechanism otherwise applicable to legal services supplied in the advocate capacity; and this petitioner must provide GST-compliant invoices for his IRP fees in CP(IB) 408/2018.

The petition and pending applications were disposed of on those terms. The operative order does not fix a GST rate, quantify a new tax demand, award a refund or impose an amount of interest or penalty. It does not decide how any recipient's earlier reverse-charge payment should be adjusted. Its registration direction should be reported with its express same-class qualification, rather than expanded into a statement that all statutory thresholds or exemptions are removed.

Pinpoint: Paragraphs 111–114, physical pp. 46–48; directions in paragraph 113(i)–(iii), pp. 47–48.

04 In favour of

IBBI and the Revenue on the disputed GST payment mechanism. The petitioner's reverse-charge claim for IRP services failed; the Court expressly preserved the separate treatment of services supplied in the advocate capacity.

Final substantive rejection of the challenge to IBBI's clarification, with forward-charge and compliant-invoice directions. The earlier interim protection during the writ proceedings is not the final result. No remand or separate quantified monetary award.

Pinpoint: Paragraphs 18–19, p. 6, for interim history; paragraphs 112–114, pp. 47–48, for final result.

05 AKHB REVIEW POINT

AKHB analysis: For a person with more than one professional qualification, establish the capacity in which the particular service was supplied. An insolvency appointment, IBBI registration, engagement terms and actual functions are more useful classification evidence than Bar enrolment alone. Do not assume that every service supplied by an advocate falls within advocate legal-service reverse charge.

Where insolvency work and separate legal advice or representation are genuinely supplied, keep their records and invoices distinguishable and examine each supply on its own facts. Check the applicable registration provisions, classification, rate, recipient conditions, exemptions and notifications for the relevant period. This judgment determines the payment mechanism for the identified category; it is not a universal rate ruling or an exemption analysis covering every legal service.

Historical correction needs separate work. Before proposing re-invoicing, recovery, credit, refund, interest or penalty consequences, identify who actually paid tax, on which supply and period, and which statutory route may apply. The Court neither grants a general waiver for past invoices nor settles adjustment of tax already paid under a reverse-charge assumption. Its direction to issue compliant invoices should not be converted into an unsupported monetary assessment.

The source's incidental professional-count statistics and broad-heading typographical inconsistencies are not needed for the ratio and are omitted. The specific insolvency service code, the distinct statutory role and the precise operative directions carry the analysis.

Pinpoint: AKHB source-based analysis of paragraphs 88–114, physical pp. 34–48; not an additional judicial holding.

Sources and limitations

Relevant provisions

CGST Act 2017: Sections 9(1), 9(3), 2(107) and 22 as discussed by the Court; Notifications 12/2017 and 13/2017-Central Tax (Rate), dated 28 June 2017, and corrigendum dated 25 September 2017 as considered in the judgment; IBC 2016: Sections 3(19), 5(27), 17, 18, 25, 207, 208 and 240; IBBI (Insolvency Professionals) Regulations 2016, especially Regulations 3, 4 and 5 as reproduced in the judgment; Service classification: group 99821 and specific code 998241 as considered in the judgment

Statutory note

This note reports the statutory and notification analysis in the deciding judgment. It does not independently certify the current consolidated law, every exemption or recipient condition, or a universal tax rate. The original's broad-heading references contain apparent typographical inconsistencies; no broad-heading code is adopted here.

Treatment note

Bounded searches on 17 October 2026 using the exact party, writ number, decision date and citation, with appeal/stay/review/recall terms and official-domain checks for the Supreme Court, Delhi High Court and IBBI, identified no later primary order affecting this judgment. Results consisting of earlier cause lists or unrelated

neighbouring review entries were not treated as later treatment. This is not exhaustive appellate-docket clearance or proof that no appeal exists.

Scope of source review

Complete official judgment, including title, submissions, reproduced statutory material, reasons and operative directions. The underlying NCLT file, IBBI communication and BCI affidavit were reviewed only as quoted/described by this judgment. Earlier judgments and historical notifications were not independently reverified in full for this note.

Identity note

Single writ judgment, W.P.(C) 9410/2021; reserved 9 July 2026, pronounced/uploaded 13 August 2026. Neutral citation 2026:DHC:6587-DB visually verified in original page headers. The bench and author are taken from the title page.

Primary source

Complete 48-page official Delhi High Court judgment, including the image of the 25 September 2017 corrigendum on physical p. 23; full text and all pages visually reviewed.

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