

TAX INFO

Dated: 13.10.2020

Latest update on GST Law: Information regarding **NCLT appointed liquidator liable to pay GST & Register** based on the **Judgement issued by West Bengal Authority for Advance Ruling**.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication

NCLT appointed liquidator liable to pay GST & Register

Name of Appellant	M/s Mansi Oils and Grains Pvt Ltd
Name of Court	AAR-West Bengal
Appeal Number	024/WBAAR/2020-21
Date of Judgement	29.06.2020

Facts of the Case:

The applicant submits that its business has been closed for ten years. It had been registered under the West Bengal Value Added Tax Act, 2003 and provided provisional registration under the GST Act for migration. It did not file REG-26 and thus did not migrate to the GST Act. The applicant being unregistered, neither the central nor the state administration has ascertained administrative jurisdiction on the applicant.

Question on which Ruling is sought:

Whether any sale done by the liquidator of the assets of the applicant results in a supply of goods and/or services or both within the meaning of "supply" as defined under section 7 of the GST Act. If the answer is affirmative, then what will be the rate of GST. The applicant also wants to know whether the liquidator needs to get registered under the GST Act

Contention of Applicant:

The applicant submits that NCLT has appointed Smt. Rachna Jhunjhunwala as liquidator. After her appointment as liquidator all powers of directors in decision making are vested in Ms. Jhunjhunwala under section 34 (2) of IBC. The plant and machinery, office equipment and furniture of the applicant were auctioned as per regulation laid down under section 32 (c) of the IBC at the price Rs. 2.82 crore.

Observations:

The sale of the applicant's assets like the plant and machinery, office equipment & furniture is, therefore, a supply of goods by the liquidator. She is required to take registration under section 24 of the GST Act. If she is already registered as a distinct person of the corporate debtor in terms of Notification No. 11/2020 - Central Tax dated 21/03/2020, she should continue to remain registered till her liability ceases under section 29 (1) (c) of the GST Act.

Ruling:

The sale of the assets of the applicant by NCLT appointed liquidator is a supply of goods by the liquidator, who is required to take registration under section 24 of the GST Act. If she is already registered as a distinct person of the corporate debtor in terms of Notification No. 11/2020 - Central Tax dated 21/03/2020, she should continue to remain registered till her liability ceases under section 29 (1) (c) of the GST Act.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone: 91-9810032846; 011 - 45131427

Email: sureshagg@gmail.com

Website: <http://www.sureshtaxation.com>