

The assignment of tax dues by the GST Department doesn't violate Article 265 or the GST Act if CIRP has been initiated

The NCLAT, New Delhi, in the case of **Ellison Oil Field Services Pvt Ltd. vs CITOC Ventures Pvt Ltd. [Comp. App. (AT) (Ins) No. 1876 of 2024]** dated September 17, 2025, has held that the assignment of tax dues by the GST Department doesn't violate Article 265 or the GST Act if CIRP has been initiated. The Tribunal observed that when the corporate debtor had not entered into CIRP, tax collection must be done directly by the GST authority as per the statutory scheme. However, once the CIRP of the corporate debtor was initiated and a moratorium was imposed, the execution of the recovery order was prohibited.

The NCLAT further observed that after the initiation of the CIRP, the tax dues became operational debt, and the GST authority became the operational creditor. Since, as per section 5(20) of the Insolvency and Bankruptcy Code, 2016 (IBC), the operational creditor is empowered to assign its admitted debt, therefore, the assignment agreement is legally valid. The Tribunal further observed that the tax department's assignment of debt needs to be examined more closely, as it includes the discount rate also. This also raises the issue that at the time of assignment, the amount to be collected or tax receivables can be reduced based on this discount.