

**Rejection of CIRP Applications on the basis of Form D (Record of Default) issued by NeSL- Information Utility**

NCLAT, Principal Bench, New Delhi, allowed the Company Appeal (AT)(Ins.) No. 1145 of 2025 vide order dated 11th December 2025, rejecting the CIRP Application admitted under Section 9 of IBC, 2016 in the matter of M/s Maverick Developers & Colonisers Pvt Ltd Vs. M/s OFB Tech Private Limited, having (C.P. (IB)/369/(AHM)/2024).

**Background**

The CIRP application was filed under Section 9 of IBC, 2016, read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 before Hon'ble NCLT Ahmedabad Bench, by M/s Maverick Developers & Colonisers Pvt Ltd (Operational Creditor(OC)), for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor M/s OFB Tech Private Limited (Corporate Debtor(CD)), and vide Order dated 31.07.2025, the Hon'ble NCLT Ahmedabad Bench admitted the application by rejecting CD's claim of pre-existing dispute, by placing reliance on the Hon'ble Supreme Court Judgment in the matter of **Mobilox Innovations Private Limited v. Kirusa Software Private Limited** where it was held – “All that the adjudicating authority is to see at this stage is whether there is a plausible contention which requires further investigation and that the ‘dispute’ is not a patently feeble legal argumaent or an assertion of fact unsupported by evidence.....” and finds that there is no pre-existing dispute within the meaning of Section 9(5)(ii)(d), as the Corporate Debtor's claim of set-off is unsupported by any evidence establishing a nexus between the Operational Creditor and Giga Pipe Systems, and the existence of debt and occurrence of default stand duly established, thereby satisfying the requirements of Section 9 of the Code (**para 23 of NCLT Order**). This order was challenged before the Hon'ble NCLAT on the issue of “**pre-existence of dispute between the parties**”.

**In this Company Appeal, the Hon'ble members of NCLAT have placed reliance on the contents recorded in the Records of Default issued by NeSL-IU in determining pre-existing dispute** for rejecting the Sec 9 application for initiating CIRP, on the ground of there being pre-existing dispute between the parties by placing reliance on Sec 9(5)(ii)(d) which provides that “The Adjudicating Authority shall... reject the application...if notice of dispute has been received by the operational creditor or there is a record of dispute in the information utility.”

**Page 3 - Para 2(vii):**

*“The Operational Creditor sent information of debt to the National E-Governance Services Ltd. (“NeSL”) on 21.10.2024 as per IBBI (Information Utilities) Regulations, 2017. The NeSL forwarded the information to the CD for authentication. The CD disputed the debt. The NeSL in its record of default mentioned the status of authentication of default as disputed.”*

**Page 4 - Para 2(x):**

*“The Adjudicating Authority by the impugned order admitted Section 9 application. The Adjudicating Authority came to the conclusion that there was no pre-existing dispute between the parties within the meaning of Section 9(5)(ii)(d), as the CD's set-off is unsupported by evidence linking the Operational Creditor to Giga Pipe Systems. The debt and default are established..”*

**Page 9 – Para 9:**

*“In the present case, the reliance is placed on Section 9(5)(ii)(d), which refers to two grounds for rejection of Section 9 application, they are – (i) notice of dispute has been received by the Operational Creditor; or (ii) there is a record of dispute in the information utility. We need to first examine the second ground, i.e. record of dispute in the information utility. In Section 9 application, the Operational Creditor has brought on record, the record of default with the information utility...”*

**Page 10 – Para 10:**

*“The record of default was also filed as Annexure A-16 to Section 9 application, which record of default is on the record of the Appeal at page 1170. Form-D indicates that default information was submitted by the Operational Creditor on 21.10.2024 and authentication was applied on 22.10.2024, where the CD disputed the claim...”*

**Page 13 – Para 13:**

*“The Operational Creditor itself brought on the record, the Record of Information Utility. Section 9 proceedings are summary proceedings, which an Operational Creditor can initiate on there being existence of debt and default having been committed by the CD. Section 9, sub-section (5)(ii) requires the Adjudicating Authority to reject the application, if any of the circumstances from (a) to (e) are found. When there is record of dispute in the Information Utility, the Adjudicating Authority is obliged to reject the application. The legislative scheme of Section 9 is not for resolving any dispute between the Operational Creditor and the CD and when the record of Information Utility contains mention of dispute, the Adjudicating Authority is obliged to reject the application..”*

**Page 19 – Para 16:**

*“The Adjudicating Authority in the impugned order has noticed in paragraph 7 (x) record of financial information and Form-D. However, in its consideration has not adverted to Record of Dispute as captured in the Certificate of Information Utility.”*

**Page 19 – Para 17**

*“In view of the above, we are of the view that there being Record of Dispute in the Information Utility, the Adjudicating Authority was obliged to reject Section 9 application as required by Section 9, sub-section (5)(ii)(d) and the order of admission of Section 9 application, cannot be sustained on this ground alone.”*

**Page 35 – Para 30 - Order**

*“In result, the Appeal is allowed. The impugned order dated 31.07.2025 is set aside. Section 9 application being C.P.(IB)/369(AHM)2024 is rejected..”*