

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

Important Takeaway

In cases where a notice of dispute has been received or there exists a record of dispute in IU, such cases fall within the ambit of Section 9(5)(ii)(d) of the Code, which mandates rejection of an application.

NCLT, Ahmedabad Bench, in the CIRP Application filed by A.T.Trade Overseas Pvt Ltd under Section 9 of IBC, 2016 C.P. (IB)/289/AHM/2025, has rejected the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor Electrotherm (India) Ltd., vide Order dated 17.04.2026

In the above-mentioned Order, the Hon'ble members of NCLT have placed reliance on the contents of the Records of Default issued by NeSL-IU in determining Pre-existing Dispute for Rejecting the application filed under Section 9 of IBC, 2016, for CIRP.

The relevant extracts of the Orders of NCLT are as under:

Page 47-Para 44

"42.15. Further, the Record of Default (Form-D) placed on record by the Petitioner itself, as part of its additional affidavit (Annexure-II thereto), reflects the status of the debt as "disputed," with remarks indicating that disputes exist about quality, quantity, and short supply of goods. Although such record may not be determinative of the issue, it is nevertheless a relevant circumstance which lends support to the stand of the Corporate Debtor that the liability is disputed."

Page 47-Para 44

"44. Findings on Issue No. D: Whether, in view of the pre-existing dispute between the parties, the present petition is liable to be rejected under Section 9(5)(ii)(d) of the Code?"

44.1. In view of the findings recorded under Issue No. (B), the present case falls within the ambit of Section 9(5)(ii)(d) of the Code, which mandates rejection of an application where notice of dispute has been received or there exists a record of dispute. The NeSL in Form D has noted the liability as "Disputed".

Page 49- Para 45 &47

"45. In view of the foregoing discussion and findings recorded under Issue Nos. (A) to (D), this Adjudicating Authority is satisfied that there exists a pre-existing dispute within the meaning of Section 9(5)(ii)(d) of the Code and that the Petitioner has failed to establish the existence of a clear and undisputed operational debt and default in view of the pre-existing dispute.

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47. Accordingly, the present Company Petition CP(IB) No. 289 (AHM) 2025 is not maintainable and is accordingly dismissed. No order as to costs."*