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## When would the adjudicating authority(NCLT) have to be rejected application under section 9(5)(ii) of Insolvency & Bankruptcy Code(IBC), 2016

The adjudicating authority, when examining an application under Section 9 of the Insolvency & Bankruptcy Code, 2016 will have to determine:

- (i) Whether there is an “operational debt” as defined exceeding Rs.1 lakh? (See Section 4 of the Act)
- (ii) Whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not yet been paid? and
- (iii) Whether there is existence of a [dispute](#) between the parties or the record of the pendency of a suit or arbitration proceeding filed before the receipt of the demand notice of the unpaid operational debt in relation to such dispute?

If any one of the aforesaid conditions is lacking the application would have to be rejected.

Apart from the above, the adjudicating authority must follow the mandate of Section 9, as outlined above, and in particular the mandate of Section 9(5) of the Act, and admit or reject the application, as the case may be, depending upon the factors mentioned in Section 9(5) of the Act.

Supreme Court in case of [Mobilox Innocations Private Ltd. vs. Kirusa Software Private Ltd.](#)

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