

The lease amount unpaid by the Corporate Debtor amounts to Operational Debt under IBC

The NCLT New Delhi in the case of **M/s Unified Credit Solutions Pvt Ltd. v/s M/s DS Home Construction Pvt Ltd. [Company Petition IB/70/ND/2024] dated May 09, 2025**, has held that when the lease amount is unpaid by the Corporate Debtor it amounts to Operational Debt under the Insolvency & Bankruptcy Code, 2016 ("the Code").

In the year 2020, M/s DS Home Construction Pvt. LTD. (Corporate Debtor) approached the Operational Creditor (M/s Unified Credit Solutions Private Limited) for lease of its premises for its office use. Thereafter, a Registered Lease Agreement was executed between the parties for 5 years, with exclusive liability on the Corporate Debtor to pay applicable taxes, maintenance charges, and electricity in addition to the monthly lease rent. Subsequently, the Corporate Debtor took possession of the premises and deposited the agreed security amount as per the lease deed. However, later he began delaying lease rent payments from January to June 2022, and has been in continuous default since July 2022.

In order to evade the payment of monthly lease rent, the Corporate Debtor purportedly concocted a false story of attachment of its bank accounts by the Real Estate Regulatory Authority. Later, it falsely alleged disconnection of electricity by the maintenance agency due to fire, while in reality, the electricity was disconnected for non-payment of maintenance charges. But the Corporate Debtor cleared the maintenance dues by December 2022, and electricity was restored. Thereafter, the Operational Creditor called upon the Corporate Debtor to clear the outstanding debt with interest. Despite receipt of the termination notice, the Corporate Debtor neither released any payment for outstanding lease rent nor vacated the premises. The Operational Creditor thus filed an eviction petition, which is pending consideration. In the meantime, the Operational Creditor applied for the initiation of Insolvency Proceedings against the Corporate Debtor.

The NCLT noted that the Operational Creditor has claimed an amount of Rs. 1,84,47,567.00, representing unpaid lease rent since July 2022. Despite admitting and acknowledging its liability, the Corporate Debtor has wilfully defaulted in making the payments. To find out whether the said amount claimed by the Operational Creditor would fall under the ambit of 'Operational Debt', the Tribunal referred to the definition of 'Operational Debt' as mentioned under Section 5(21) of the IBC, as per which "a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority".

The NCLT noted that the Operational Creditor has annexed true copies of the invoices to the petition, clearly evidencing that a commercial transaction took place between the parties. These documents substantiate the existence of a legally enforceable debt arising from the use and occupation of the leased premises. Thus, the Tribunal concluded that it is evident that a debt is due and payable, and there has been a clear default on the part of the Corporate Debtor.