Salary or employment-related claims can qualify as "operational debt" under Section 5(21) of IBC, but admissibility under Section 9 will still fail if the claimed default includes amounts arising during the Section 10A suspension period, if the creditor seeks to artificially cross the Section 4 threshold by adding unsupported interest

The **New Delhi National Company Law Tribunal (NCLT)** in the case of **Devesh Bbyan vs Spicejet Ltd [C.P. (IB)-148/ND/2025] dated June 12, 2026**, has held that employment dues do fall within the definition of "operational debt" under Section 5(21) of the IBC, and therefore, in principle, a petition under Section 9 may be filed on that basis. However, the Tribunal held that the petitioner's claim included Rs. 47.52 lakhs for the period April 2020 to March 2021, which fell within the period protected by Section 10A, and such amount could not be considered for the purpose of the threshold for filing a petition under the IBC.

The NCLT reaffirmed that salary or employment-related claims can qualify as "operational debt" under Section 5(21), but admissibility under Section 9 will still fail if the claimed default includes amounts arising during the Section 10A suspension period, if the creditor seeks to artificially cross the Section 4 threshold by adding unsupported interest, or if the record discloses a plausible pre-existing dispute regarding liability or quantum.

The Tribunal observed that employment dues fall within the definition of "operational debt" under Section 5(21) of the IBC, since the provision expressly includes a claim in respect of employment, and therefore a petition under Section 9 can, in principle, be maintained for employment dues. The Tribunal then examined the petitioner's own calculation sheet and noted that a sum of Rs. 47.52 lakhs was claimed for the period April 2020 to March 2021. Referring to Section 10A, the Tribunal observed that no application shall ever be filed for initiation of CIRP for defaults occurring during the protected period commencing March 25, 2020, and accordingly this amount could not be counted towards the threshold of Rs. 1 crore.

On the claim for interest, the Tribunal observed that the Operational Creditor had claimed Rs. 56.78 lakhs as interest at 24% per annum, but no agreement or other record establishing entitlement to such interest was produced. It also held that, in the absence of any agreement for interest, the interest amount could not be added for the purpose of meeting the threshold under Section 4 of the IBC.

The Tribunal further observed that there existed a pre-existing dispute between the parties regarding the quantum of employment dues. In the reply to the Section 8 notice, the Corporate Debtor had asserted novation of the contract, acceptance of revised terms, and that only Rs. 3.95 lakhs were payable as full and final settlement. The petitioner had not refuted these contentions in the petition, and the e-mail exchanges on record also indicated disagreement as to the amount payable. Thus, the Tribunal observed that for Section 9 purposes it is sufficient if there exists a plausible pre-existing dispute which is not spurious, hypothetical or illusory, and that such disputes on employment dues cannot be adjudicated in IBC proceedings.

On these findings, the Tribunal held that the alleged default was below Rs. 1 crore and that the dispute pre-dated the demand notice, and therefore dismissed the Section 9 petition as not admissible.