

# **Insolvency and Bankruptcy Law in India**

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**Week 03**

**Lecture 15**

As part of the course on insolvency and bankruptcy law in India, today we are going to discuss the topic of the initiation of CIRP by the operational creditor.

In the last class, we discussed who was considered an operational creditor and what was considered operational debt. So today, we are going to discuss the operational creditor and how it can be applied under the IBC. So, the procedure for insolvency resolution by an operational creditor is laid down under section 8 of the Act. If you observe the provision under section 7, it speaks about the procedure for the initiation of insolvency proceedings by the financial creditor, while section 8 speaks about the procedure for the initiation of insolvency proceedings by the operational creditor. So, both are different.

So, we will discuss it subsequently. What is the difference? First, let us complete section 8, then the subsequent interpretations. Then, subsequently, we will discuss how the position of the operational creditor is different from that of the financial creditor under the legislation. So, section 8 is the Magna Carta, which provides the entire procedure relating to the initiation of insolvency proceedings by the operational creditor.

If you observe section 8, an operational creditor may, upon the occurrence of default, deliver a demand notice. It is important to note that there should be some default. You are required to deliver the demand notice of unpaid operational debt or a copy of an invoice demanding payment. You must either send the notice or send the invoice demanding payment of the amount involved in the default to the corporate debtor, in such form as may be prescribed. So today, we are going to see the format and how to send the notice.

We will discuss everything about the format that should be used. Then the corporate debtor shall, within a period of 10 days, respond to what is required once you send the demand notice or invoice demanding payment. The corporate debtor must respond within a period of 10 days from the date of receipt of the demand notice or copy of the invoice. Thus, the operational creditor can either send the demand notice or the invoice. So, if he is sending a demand notice or invoice in both cases, he should make the payment within 10 days of receiving the demand notice or a copy of the mentioned invoice.

He should bring this to the operational creditor's attention, and he is supposed to reply within 10 days. What he is supposed to reply is that he may state the existence of a

dispute. If there is any dispute, then obviously the question of payment of money will not arise. So, until the dispute is settled, you are not going to repay the money. First, you have to raise the point of the existence of a dispute.

If there is any, you have to say that yes, there is a dispute; I am not going to pay the money for this reason. So, if there is any record of the pendency of the suit, if any case is pending, or if arbitration proceedings are filed before the receipt of such notice or invoice in relation to such dispute, you have to give notice to the opposite party. Then, the payment of the unpaid operational debts. So, the operational creditor is asking you to make the payment; then you can do so. So, if you have already made the payment, then in such cases, by sending an attested copy of the record of electronic transfer, you must have some evidence of where you transferred the money through bank transfer, NEFT, RTGS, or whatever it is.

Therefore, you must have transferred the money through bank transfer, so please have the receipt. You are supposed to send the information to the other person, stating that you have paid the money on such and such date, and this is the transaction receipt, etc. You have to provide the information. Then, by sending an attested copy of the record that the operational creditors have encashed a cheque issued by the corporate debtor, it may be that the corporate debtor must have issued some cheques to the opposing party. He must have encashed them, so you must have some data from the banking institution stating that the cheque with the number so and so has been encashed.

So, send the attested copy of the record showing that the operational creditors have encashed the cheque. Then, for the purpose of this section, what is the meaning of a demand notice? Demand notice means a notice served by the operational creditor to the corporate debtor, demanding payment of the operational debt in respect of which the default has occurred. So, what is the meaning of a demand notice? A demand notice means that under this Act, the operational debtor is supposed to send a notice to the corporate debtor. Thus, the notice that is sent is called a demand notice. Then, under section 9, which speaks about the application for the initiation of the corporate insolvency process by the operational debtor, how does the operational creditor initiate the application? You are supposed to make an application to the NCLT after the expiry of 10 days.

In the previous section, we discussed that after 10 days, he has to reply, either stating that there is a dispute or that the money has already been paid in cash. So, after the expiry of 10 days from the date of delivery of the notice or invoice demanding payment, he must respond. If the operational creditor does not receive payment from the corporate debtor or notice of the dispute, then either the corporate debtor has to make the payment or provide notice stating that they have made the payment, or if there is a dispute, then the operational creditor may file an application before the adjudicating authority. There are

prescribed formats, and we are going to discuss those formats. In the prescribed format, the operational creditor has to make an application before the adjudicating authority.

Then the operational creditor shall, along with the application, submit a copy of the invoice demanding payment or the demand notice delivered by the operational creditor to the corporate debtor. He must have issued the demand notice to the corporate debtor, so the copy of the invoice demanding payment or the demand notice, whatever it is, must be submitted along with the application. Additionally, an affidavit to the effect that no notice has been given by the corporate debtor relating to the dispute of the unpaid operational debt must be provided. You may need to give an affidavit stating that no notice has been given by the corporate debtor relating to the dispute. Furthermore, a copy of the certificate from the financial institution is required, as these are the various attachments described under the legislation.

The certificate from the financial institution maintaining the accounts of the operational creditor must confirm that no payment of the unpaid operational debt has been made by the corporate debtor. If available, you may also provide the bank statement stating that you have not received any money from the corporate debtor. If available, you can provide a certified copy and then a copy of any record with information from the utility confirming that the corporate debtor has not paid any operational debt. If any information is available with the information utility, then you can provide such information stating that so-and-so person is liable to pay; the corporate debtor is liable to pay so-and-so person. Then any other proof confirming that there is no payment of unpaid operational debt by the corporate debtor, or such other information as may be prescribed.

So, if you have any other information stating that I have not received the payment, then in such cases, this other proof can be submitted along with the application. Then, an operational creditor initiating the CIRP under this section may propose a resolution professional to act as the interim resolution professional. You have to understand that in the previous sessions, when we discussed the financial creditor's initiation of the CIRP process, he must provide the name of the resolution professional; that is, he shall propose an interim resolution professional (IRP) who will manage the company as a resolution professional. Referring to an interim resolution professional is mandatory in the case of a financial creditor, whereas in the case of an operational creditor, the word used under the section is "may"; he may propose a resolution professional, but it is not mandatory in the case of an operational creditor. Then, once the application is made, what shall the adjudicating authority do? The adjudicating authority shall, within 14 days from the date of receipt of the application, admit the application and communicate such decision to the operational creditor.

It may admit the application, stating that yes, we have admitted case number so and so; it has to give the details. If the application is made when he is supposed to admit that it is

complete, there has been no payment of unpaid operational debt, the operational creditor has delivered the notice for payment to the corporate debtor, and the operational creditor has not received a notice of dispute, these conditions must be satisfied. There are no disciplinary proceedings against the resolution professional, so the adjudicating authority shall accept the application. The application is full; it should be complete, then. No payment is received by the corporate debtor from the operational debtor.

The notice for payment has been delivered by the operational debtor to the corporate debtor. Then there is no notice of dispute, a dispute is also not raised, and no disciplinary proceedings are against the interim resolution professional (IRP). If these conditions are satisfied, the adjudicating authority may accept the application. He shall reject the application when it is incomplete. If the application is not complete and there has been a payment for unpaid operational debt made by the corporate debtor, then if he made the payment, there is no concept of filing an application under this section.

The creditor has not delivered notice for payment, so one of the mandatory requirements is that the creditor, that is, the operational creditor, is supposed to deliver the notice of payment. If he fails to deliver the notice for payment, then he cannot file an application under this section. Then, notice of dispute has been received by the OC, so the OC has received the notice stating that you are asking me to pay some amount, but there is a dispute. There is also a record of the dispute in the information utility already. The record of the dispute has been updated in the information utility.

So, in these cases and in any other case where any disciplinary action is pending against the resolution professional, the application can be rejected. So, provided that the adjudicating authority gives the applicant 7 days' notice to rectify the defects before rejecting, it gives the notice of 7 days. So, after 7 days, if the operational creditor is still unable to rectify the issue, you may reject the application. Now, let us try to discuss in detail, specifically the section where how to make an application is given in detail. Now, let us discuss the application.

So, how do we make an application? Form number three, the operational creditor, is expected to make an application in form number three. Form number three addresses the form of a demand notice or invoice demanding payment under the IBC. Therefore, it is not necessary to attach any other document; form number three will be more than sufficient. Now, let us look at form number three.

This is form number three. So, form number three of the rules is the form of demand notice or invoice demanding payment under the Insolvency and Bankruptcy Code 2016. So, what we are asking here is the date, then the address, then the name of the person you are, the from address, the to address, and these are all the particulars of the operational debtor. Total amount of debt, details of the transaction on account of which the debt

failed, and the date from which such debt failed you. So, when it is due, what are the details of the transaction? Then, the amount claimed to be in default, how much you are claiming it to be in default, and the date on which the default occurred are needed. Particulars of the security held: if you have any security, then what is it? If any, provide the date of its creation and its estimated value according to the creditor.

Attach a copy of the certificate of registration of charge issued by the registrar of companies. Suppose we take the example when the company has created a charge on its assets; it must have registered the CHD form with the ROC, so the attached copy of the certificate of registration issued by the Registrar of Companies can be provided here. Then, details of the retention of the title arrangement, if any, in that case. Then, a record of default with the information utility. So, if the record is provided, even with the information utility, please provide the information.

Then, provide the law, contract, or other document under which the debt has become due, as well as the section and legislation under which the debt is due. You have to give the provision of the law, along with a list of attachments and documents attached to this application, to prove the existence of operational debt and the amount in default. Therefore, you have to attach the list. This is how you are going to make an application. So, these are all the various things that you are supposed to give along with the application.

If you dispute the existence or amount of unpaid operational debt, please provide the undersigned with information within three days of receiving this letter. Then, if you believe that the debt was repaid before you received this letter, please demonstrate that repayment. So, because you are giving to the corporate debtor, you are asking the corporate debtor to state whether there is a dispute; please do so within 10 days. So, if you have already deposited the money, please give me the bank data. The bank statement shows where you have deposited the money.

These are all the various other things to be given. The undersigned requests the unconditional repayment of the unpaid operational debt in default in full within seven days. You are asking the corporate debtor to make the payment within 10 days; within 10 days in full, you are requesting him to pay. So, in this form, that is form number three, you are going to make an application; you are going to give the notice to the corporate debtor. Then, form number four, which is the notice with which the invoice demanding payment is to be attached.

So, in form number three, I do not need to give any invoice, whereas in the case of form number four, I am supposed to give the invoice. So, form number four speaks about the form of notice with which the invoice demanding payment is to be submitted. Therefore, when I have the invoice, I am supposed to give the notice in form number four. When I

don't have an invoice or the invoice is under normal circumstances, I am supposed to make an application and give notice in Form Number 3. Now, let us look at form number 4; even in form number 4, the address and the from address will be there.

So, you are going to give, hereby providing notice for repayment of the unpaid amount of INR so and so amount. This is in default, as reflected in the invoice; by attaching the invoice, you can know what the purpose of the claim is. So, did you render the services, or did you avail yourself of the services? Everything will be there. So, in this format, you are supposed to make the notice. Then form number 3 is a form for the demand of notice invoice, demanding payment under the IBC when you have only the invoice form of notice to which the invoice demanding payment is to be attached.

Now, whether the issuance of notice is mandatory and what the significance of the issuance of notice is, because whenever you want to file an application under sections 8 and 9, you are supposed to give the notice under section 8. So, that is why it is considered to be a sine qua non; that is, a mandatory notice in Forms number 3 and 4. They are mandatory, please remember. Failure to give 10 days' notice as per section 8, subsection 2, would entail the dismissal of the application. So, if you fail to give the 10-day notice, then the application can be dismissed.

So, in the case of Uttam Galva Steel Limited versus DF Deutsche Forfait AG, in this case law, NCLAT, the demand notice containing the particulars in Form Number 3 or Form Number 4 is mandatory. You are required to submit Form Number 3 or Form Number 4, which must be submitted compulsorily. Then, in the case of Mobilox Innovations Private Limited, the Supreme Court held that upon the occurrence of a default, OC is needed to deliver a demand notice, which means you are compulsorily supposed to give the notice; without giving the notice, you cannot proceed further. Okay, so even in the case of Neeraj Kumar Singh versus LI Digital Payments Private Limited, in this case, NCLAT (National Company Law Appellate Tribunal), a slight deviation from the format can be accepted. So, because we have form number three or four, is it mandatory to follow the forms only? No.

It's not mandatory, so if there is any slight deviation from the prescribed format, the court will observe whether all the essentials are satisfied. They will not verify whether it is exactly as per the form; they will see the content. Okay, then, as per Regulation 2C of the CIRP regulations, the operational creditor is mandated to furnish the PAN number and email ID when filing an application under Section 9. You are required to submit the PAN number and email ID. The authority of the person issuing the notice who can issue the notice.

So, in the case of Uttam Galve Steels Limited v. D.F. Duetsche Forfiat AG, the NCLAT held that the OC can apply them himself. Who can submit an application? OC can apply

either in person or through a person authorized to act on behalf of the operational creditor. So, you can give the notice yourself, or you can authorize someone else to give the notice.

A person authorized must hold a position with or in relation to the operational creditor, and only such a person can apply. You cannot authorize everyone; the person to whom you are authorizing must hold some position. Unless they have a position, they cannot give the notice. Once the notice is given, we have discussed how the operational creditor can give the notice. Once the notice is given, it states that the opposite party is liable to make the payment.

Then, how does the corporate debtor have to give a reply? The CD may issue a reply within 10 days from the date of receipt of such notice, highlighting the following points. So, what are they supposed to highlight? Existence of any dispute; either they can say that there is a dispute or that there is not. We are not liable to make the payment. Then the details of any payment that has already been made. If any payment has already been made, you are supposed to provide the details.

So here, when I talk about the details, maybe you can provide the bank statement. Then what is the meaning of dispute, because the corporate debtor can raise the issue stating that there is a dispute; therefore, I am not liable to make the payment? The term dispute is defined under section 5, subsection 6. A dispute can be a suit or arbitration proceedings relating to the existence of an amount of debt, so there is a possibility that there is a dispute as to whether I am liable to make the payment or not. Additionally, there is the existence or quality of the goods or services, so the dispute can be related to the quality of the goods. So, I am asking you to provide A-category services, but you are providing B-category services or B-category goods, so the quality is different.

Then the breach of representations or warranties occurs when a corporate debtor is selling the goods, and the opposite party is also selling the goods. He must have made certain statements; if there is any breach of representations or warranties, then in such cases, the corporate debtor can raise these issues. So, when you are selling the product, you have stated that the product will have ABCD characteristics, but the ABCD characteristics are missing. Then you can raise a dispute regarding the quality of the goods. Then what is the meaning of pre-existence? Because if there are any pre-existing disputes, you cannot file a case; you cannot make an application.

Then what is the relevant date for determining the pre-existence? When is it considered to be pre-existing? The dispute must exist prior to the notice of section 8. When I use the word pre-existence, I do not mean that when you give the notice, I immediately state that there is a dispute; I cannot say it like that. The dispute must exist before or prior to the notice under section 8. Before the operational creditor gives notice to us or notice to the

corporate debtor, the corporate debtor must have raised the dispute; it must be there before that. Then, if a dispute is raised for the first time in response to section 8, please remember that it cannot be considered a dispute because there should be a pre-existing dispute.

A pre-existing dispute means that today, if I am giving notice to you, an existing dispute must be in place. When I give the notice today and you say that there is a dispute, do you remember now that this is not considered to be a dispute? So, an already existing dispute must be there; that is the meaning of a pre-existing dispute. In the case of Mobilox Innovations Private Limited, it was held that the dispute must have arisen before the issuance of the notice. So that means you should have raised the dispute before the issuance of the notice itself.

Once the notice is issued, you cannot raise the dispute now. Then, suppose you fail to reply to the notice. If the operational creditor gives notice to the corporate debtor and the corporate debtor fails to reply, then in such cases, what happens? So, mere non-response to the notice under section 8 does not entitle the corporate debtor, CD, to raise the defense of a pre-existing dispute. When the operational creditor gives notice to the corporate debtor, the corporate debtor has the option to raise a dispute immediately, stating that there is already an existing dispute. There is another possibility: the corporate debtor may not have replied.

Operational data has already filed the case. Do you have the option to raise the point of a pre-existing dispute during the proceedings? Yes, during the proceedings, you can also raise the dispute or point out that a pre-existing dispute exists. So, mere non-response to the notice under section 8 does not disentitle you; it will not take away your right to represent yourself before the court of law. So, when the decree or award is challenged in an appeal, is it a dispute or not? Suppose we take the example that I am saying that the corporate debtor is liable to pay a certain amount.

So, I filed a case. Imagine I am the operational creditor. I filed a case before the court. Then the court of law issued an order stating that I am entitled to receive the claim amount. However, the corporate debtor challenged it before the court of law; I mean, the appellate court. So, is it considered a disputed decree? So, NCLAT in the case of Pragat Akshay Urja Limited versus Madhya Pradesh Urja Vikas Limited. So, in this case law, it was held that whenever there is a pendency of cases, that is considered to be the existence of a dispute, so you cannot file the case when there are any cases pending before the appellate tribunal.

Suppose, take the example where there is an arbitration clause; the corporate debtor and operational creditor have entered into an agreement in which there is an arbitration clause, so if the arbitration clause is there, can you file an application under this section?

NCLAT, in Milton Consultancy and Engineering Services Limited versus Vitthal Corporation Limited, held that the mere existence of an arbitration clause between the parties would not bar an application under Section 9. So, just because you have an arbitration clause does not mean that I cannot file a case under Section 9. So, even if you have an arbitration clause, you can file a case, but get the next case law, Pramod Yadav versus Divine Infracon Pvt Ltd; in this case, the NCLAT held that if the arbitration clause has been acted upon by giving the notice in terms of section 21, you have already started the process of arbitration. You have already issued the notice under the Arbitration Act, which is Section 21 of the Arbitration and Conciliation Act; therefore, in such cases, that amounts to the existence of a dispute. You cannot file a case, nor can you make an application under this section.

So, the same would be the existence of a dispute. If there is any arbitration clause, that is not the existence of a dispute; the opposite party has already issued the notice. Then, in such cases, it is considered to be an existing dispute. Whether the pendency of criminal proceedings will constitute pre-existing disputes. In the case of Thothappa Nainar Mohmed Airajdheen versus Intex Technologies India Ltd., the NCLAT held that if there are any criminal proceedings that do not fall under or do not constitute a pre-existing dispute, we are considering this because the IBC is civil legislation; we are only considering civil disputes and do not consider criminal disputes.

So, merely filing an application for reference under sections 17 and 18 of the MSME Act is not sufficient. Suppose that under sections 17 and 18, one of the vendors is supposed to pay the money. He failed to make the payment. Then there is a possibility that you can refer the matter to the MSME Board. If you are referring the matter to MSME, then you cannot file against it under Section 1 of this Act, IBC.

In the case of I Value Advisors Private Limited versus Srinagar Banihal Expressway Limited, the NCLAT held that the pendency of a civil court case for the recovery of money constitutes a pre-existing dispute. Whenever there is a case pending before a court of law for the recovery of money, such a dispute is considered to be an existing dispute. This was supported and reiterated by the NCLAT in the case of Landmark Reality versus Siroya Developers Private Limited. So, is a dispute raised via email sufficient or not? Before receiving the notice, the corporate debtor is supposed to provide a reply stating that there is a dispute. Suppose the corporate debtor raised a dispute and submitted an objection through email; will it be accepted? So, in the case of Krishna High Tech Infrastructure Pvt. Ltd. versus Bengal Shelter Housing Development Ltd., the NCLAT held that merely informing the opposite party of a dispute through mail constitutes a valid ground and is considered to be a pre-existing dispute.

Now, suppose there are proceedings under Section 138 of the Negotiable Instruments Act; there are check bounce cases, and proceedings exist. So, will it be considered a pre-existing dispute? It was held that it was considered to be a pre-existing dispute.

So, there is a case law, AD Electro Steel Company Pvt. Ltd. v. Anil Steels. In this case, the Supreme Court held that Section 138, if there are any cases, will not bar the provisions under the IBC. So, you can still continue the IBC in parallel. Then, is any pendency of a civil suit for the recovery of money considered a pre-existing dispute? There is a question mark. So, in the case of Landmark Reality versus Siroya Developers Private Limited, it was held that if the civil code is pending for recovering the money, then it is considered to be an existing dispute.

Now, let us look at the application under Section 9 of the IBC. In Form number 5, we have already discussed how to give the demand notice in Form number 4. In Form 5, we will examine how to make an application to the NCLT, either directly to the NCLT or to the NCLAT, in a case mode. Please look at the screen application by the operational creditor to initiate the CIRP process under Chapter 2 of Part 2 and Chapter 4 of Part 2 of the code. Here you are going to give two addresses. Then, from where you are supposed to give the address, provide the name of the operational creditor.

Whoever is making the application, their name, the identification number of the operational creditor, and any identification numbers that are available should be provided. Then, the address for correspondence. You are providing the name, address, and identification. These are the three things.

Then, part two pertains to the particulars of the corporate debtor. Here, you are going to explain more about the corporate debtor. So, what you are going to explain is the name of the corporate debtor and the identification number of the corporate debtor. Each corporate debtor will have an identification number. The identification number, debt of the corporation, date of incorporation, corporation data, nominal share capital, paid-up share capital, and the address of the registered office of the corporate debtor are all basic details.

So, names, address, authority name, and address of the person resident in India. The details of the corporate data are as per the notification. These are all the basic information to be given along with the application. Part three is also there: particulars of the proposed interim resolution professional. As I already told you, whenever you are making an application under this section, you are supposed to give the information regarding the solvency professional. Then, particulars of the operational debt, the total amount of the debt, details of the transaction, and the account to which the debt is filed.

So, basic data. Then particulars of the operational debt, that is, documents, records, and evidence of default. Any other information that is available to you can be provided here.

Then you are going to give the recognition. So, this is how you are going to make an application in Form Number 5. Are you clear on the concept of application under Section 9 of the IBC? Then, a joint application can be made, unlike in the case of a financial creditor; there is a possibility of making a joint application, but in the case of an operational creditor, they cannot make a joint application.

So NCLAT, in the case of Yuvraj Agarwal versus Aspek Media Pvt. Ltd., held that the notice is to be delivered individually and the application is to be made individually. So, whenever you are making an application, you are expected to have the triggering point. As we have already discussed, a minimum default of 1 crore is considered to be triggered, so you are expected to have that. So, who can exercise jurisdiction in the case of Mobilox. The Supreme Court commented on whether there is an operational debt, as defined, exceeding the amount. So, whenever you are accepting or exercising jurisdiction under this law, you have to consider these points: whether there is an operational debt or not.

So, you have to refer to the operational debt definition. So, whether there is an operational debt or not. Next question: whether the documentary evidence furnished with the application shows that the aforesaid debt is due and payable and has not been paid. The documentary evidence we need should state that the financial operational creditor has not received the money. At this point, you have to remember whether there is the existence of a dispute between the parties.

First of all, there should be operational debt. Then there should be evidence stating that I am supposed to pay the money. Third point: whether there is an existence of a dispute. Is there any dispute between you and me? You and I. The parties or the records of the pendency of the suit. If any suit is pending before the court of law, then the arbitration proceedings are suspended. Then these are the things you are supposed to verify before exercising jurisdiction in these scenarios. The treatment of financial creditors and operational creditors is then distinguished. If you observe the definition of OC, OC is a person to whom an operational debt is owed; FC is a person to whom a financial debt is owed. What is the nature of the debt that arises from the provision of goods or services, whereas in the case of financial credit, the debt arises from borrowing or lending? It can be either borrowing or lending; it's not a day-to-day activity. The initiation of the process initiates insolvency under section 9 of the Act, whereas section 7 initiates insolvency based on the default.

Here, the default is very, very important. The types of creditors include operational creditors, which typically involve trade creditors, service providers, and suppliers, while financial creditors include banks, financial institutions, and other entities. Whatever it is, everyone is included. The claim types are as follows: operational claims are related to

day-to-day business transactions, whereas financial claims generally involve principal and interest on loans and other financial instruments.

Then there is the resolution process. OC is generally required to prove the default. So, OC is supposed to submit proof of evidence stating that such and such a person is liable to make the payment. FC can initiate with evidence of default. He need not show anything; he just has to show that there is a default.

There is evidence there; that is more than sufficient. Then the role of resolution. In the case of an operational creditor, the OC may file a claim but does not participate in COC meetings or the decision-making process. So, are you going to participate in the decision-making process? No, I am not going to participate in the decision-making process regarding operational creditors. In the case of financial creditors, he is obviously a central figure; he is a key person. Financial creditors play a central role in the COC.

They influence the resolution plan, its approval, and so on. So, he is a person; he is one of the people who can influence the board of directors. Then, will operational creditors have any voting rights? No, they do not have any voting rights. Then, financial creditors will have voting rights and influence in the creditors' committee.

The influencer is a resolution professional. He can exercise voting rights only to influence; that's it. He cannot exercise voting rights otherwise. So, with this, we have completed the application to be made by the operational creditor. Let us look at how you are going to make an application. This is the application you are going to use: Form Number Five. Form number 5A is to be issued on the bank's letterhead, as we are attaching the evidence; it can be attached in this form.

Let us recap what we discussed today. In today's session, we discussed the initiation of the CIRP. In the initiation of CIRP, who can initiate it? Then we discussed that CIRP can be initiated by an operational creditor, and we examined Section 8 in detail. The application by the corporate debtor to initiate the corporate insolvency resolution process, which is discussed under Section 9 of the IBC, is presented. We have also discussed the process. Then please remember that whenever you want to make an application, file an application under Section 9, and you are expected to give the notice under Section 8.

Issuing the notice under Section 8 is mandatory to file an application under Section 9. The provisions relating to Section 8 and Section 9 have been discussed in this class. Then reply to section 8. When a notice is served under section 8, we have discussed how to reply to the notice given under section 8. Then subsequent to that, we discussed the concept of the pre-existence of a dispute.

So wherever there is a dispute, it is there. Then, in such cases, the operational creditor cannot initiate the CIRP under section 9. So, what is the meaning of the pre-existence of

the dispute we have discussed? Then, in the case of any arbitration clauses existing between the parties, how to deal with that scenario we have discussed. Then we discussed the concept of application under section 9, which is Form 5; practically, we have also seen the form and how to make an application. Then, is there any possibility of a joint application by the operational creditors we have discussed? Then, subsequent to that, we discussed the comparison between financial creditors and operational creditors.

So, in terms of application. And in terms of notice, we have discussed various criteria. The difference between a financial creditor and an operational creditor.

Thank you.