NeSL®
National E-Governance Services Ltd.

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

NCLT Bangalore, in the CIRP Application filed by M/s Indus Ind Bank Ltd under section 7 of IBC, 2016 (C.P.(IB) No.132/BB/2022), has admitted the application for initiation of Corporate Insolvency Resolution against the Respondent M/s Coffee Day Global Ltd.

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 (1) Default amount above the threshold limit, (2) Applicability of Covid-19 exclusion period, (3) debt & default, and (4) period of limitation; and in admitting the application filed under Section 7 of IBC, 2016.

The extracts of the Orders of NCLT are as under:

a) *Page 7 – Point No.18 – -"**As per the NeSL report Form D produced by the Financial Creditor**, the one particular date of default for Sl.No.2 above (i.e., for one particular Unique Debt ID) is 28-2-2020 which is prior to the beginning of the period specified under Section 10A of IBC. The amount in default pertaining to this loan tranche is Rs.50,78,54,032/-. **Therefore, this Bench is of the view that, since the default in payment by the Corporate Debtor for this particular loan is well above the threshold limit of Rupees one Crore, the threshold requirement is met; and this particular loan is not hit by the provisions of Section 10A of the Code."***

b) *Page 8 – Point No.19 – "The Respondent in his reply has contended only that the present petition is not maintainable under Section 10A of the IBC, since the default occurred during the period or suspension of the IBC petition. **But it has nowhere disputed the default amount, nor contended in its submissions regarding the date of default mentioned in the NeSL report. Therefore, there is a "Debt" and a "Default".***

c) *Page 8 – Point 20 – "**The date of default as per NeSL report** for this loan amount of Rs.50,78,524,032/- is 28-2-2020; and the instant Company Petition has been filed on 28-4-2022, **which is within the period of limitation."***

d) *Page 8 – Point 21 - …….. "In view of the facts and circumstances as discussed above, the present petition being complete and having established the default in payment of the financial debt and for the default amount being above Rs.1,00,00,000/-, **the petition is admitted in respect of the Respondent M/s Coffee Day Global Ltd under Section 7 of the I & B Code, 2016.** Accordingly, moratorium is declared in terms of Section 14 of the Code………"*