

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

NCLT, Court No. V, Mumbai Bench, in the CIRP Application filed by M/s Axis Bank Limited under Section 7 of IBC, 2016 (CP No. 115/(IB)-MB-V/2021), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Maharashtra Theatres Private Limited, vide Order dated 31-03-2023.

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) the date of default, (2) default in repayment, in admitting the application filed under Section 7 of IBC, 2016, read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating CIRP.

The relevant extracts of the Orders of NCLT are as under:

Page 4 - Para 5:

"..... the Financial Creditor also duly reported the occurrence of the default to the information utility i.e..... ("NeSL"). The NeSL Reports annexed to the Petition show the record of communication between NeSL and the Corporate Debtor with respect to the defaults arising under each of the Facilities. Despite several opportunities and reminders given to it, the Corporate Debtor did not dispute any part of the debt, and therefore, each of the defaults was deemed to be authenticated, as is evident from the Records of Default with the information utility..."

Page 10 – Para 21:

As borne out from the Petition, the date of default with respect to which the Petition has been filed is 29th January 2019 which is also the date on which the account of the Corporate Debtor was classified as NPA. Further, the documents executed between the Corporate Debtor and Financial Creditor, the record of default stated by NeSL reconfirms the date of default as 29th January 2019.

Page 10 – Para 22:

The Financial Creditor duly reported the occurrence of default to the information utility i.e. NeSL and the NeSL report annexed to the Petition show the record of communication between NeSL and the Corporate Debtor with respect to the default arising under all the facilities. The Corporate Debtor did not dispute any part of the debt.

Page 10 – Para 24:

..... keeping the aforesaid facts in mind, it is an undisputed fact that the Petitioner has not received the outstanding amount from the Corporate Debtor and that the formalities as prescribed under the Code have been complied by the Petitioner, we are of the considered view that this Petition deserves 'Admission'

Page 11 ORDER:

- a. *The above Company Petition.....is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Maharashtra Theatres Private Ltd.*