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

NCLT, Bengaluru Bench in the CIRP Application filed by Canara Bank under Section 7 of IBC, 2016 (C.P(IB) No.11/BB/2024), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Avishkar Innovative Pvt Ltd, vide Order dated 01.01.2025.

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 default amount, date of default for 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 13 - Para 18:

"The fulfilment of the requirement of the existence of debt and default is also on the basis of the Record of Default in Form-D issued by the NeSL. The summary of the Form-D filed by NeSL is shown as under:

Default amount	*Date of Default*	*State of Authentication*	*Date of Authentication*
7528734.62	*02.06.2022*	*Authenticated (Colour Code: GREEN)*	*12.09.2023*
19596397.24	*02.06.2022*	*Authenticated (Colour Code: GREEN)*	*12.09.2023*
1318423.12	*30.05.2022*	*Authenticated (Colour Code: GREEN)*	*12.09.2023*
1318687.93	*18.06.2022*	*Authenticated (Colour Code: GREEN)*	*12.09.2023*

*Therefore, it is noticed that in the **Record of Default issued by the NeSL for all the above four loan accounts submitted by the Petitioner,** the default amount and the date of default is mentioned and all four have been clearly Authenticated (Colour Code: GREEN). This Authentication is done by the NeSL after giving an opportunity to the Corporate Debtor, and only after receiving an acknowledgement by the Corporate Debtor, the same is treated as Authenticated (Colour Code: GREEN); otherwise there are other categories like "Disputed" and "Deemed to be Authenticated". "Authenticated".*

Page 14 – Para 19:

*"In this connection, it is pertinent to mention here that the date of default as mentioned in Form-D NeSL Report is a valid proof to establish debt and default as observed by the Hon'ble Supreme Court in in **Innoventive Industries Ltd. v. ICICI Bank and Ors**, ……wherein the Hon'ble Supreme Court with regards to admission of cases under Section 7 held as under:*

> *30. On the other hand, as we have seen, in the case of corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred.*

In the present case, the date of default given by the Information Utility shows that the CD has defaulted in payment of outstanding dues on multiple occasions for different Loan accounts…….”

Page 15 – Para 20:

“Accordingly, from the above discussions, it is seen that there is a debt and default, which is above the threshold requirement of Rs.1 crore which clearly establishes the case against the Corporate Debtor on the following four points:

> *iv)* ***The Record of Default in Form-D submitted by the NeSL*** *in which the default amount and date of default for the above-mentioned loan accounts have been confirmed along with marking the same as “Authenticated…….”.*

Page 22 – Para 31:

“*In view of the foregoing reasons, we are of the considered view that the debt and default are clearly established and therefore, the instant Petition is liable to be admitted. In view of the facts and circumstances discussed above, the present Petition being complete and having established the default in payment of the financial debt exceeding the threshold requirement of Rs.1 crore, the Petition is admitted in respect of the Corporate Debtor i.e. M/s. Avishkar Innovative Private Limited under Section 7 of the I&B Code, 2016.”*