

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

NCLT Hyderabad Bench II, in the CIRP Application filed by M/s Catalyst Trusteeship Limited under Section 7 of IBC, 2016 (C.P.(IB) No. 296/2022), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Manjeera Retail Holdings Private Limited, vide Order dated 18-07-2023.

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 and (2) default in repayment, by the Corporate Debtor, 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 10 - Para 5:

....."As per NeSL certificate produced to us the date of default is 31.12.2021 as CD has defaulted on the instalment of principal amount due on the quarter ending December 2021. NeSL Certificate also shows that Corporate Debtor has not disputed existence of debt but it has raised dispute about outstanding amount and also about default.

..... In its reply and written statement, Corporate Debtor has not denied the existence of debt or default but it has submitted various reasons, more particularly the impact of pandemic, for the default. There may be number of reasons of non-payment of due amount. However, that cannot change the status of default. The object of the Code has to be given effect to, if the ingredients are satisfied. In view of the above, our answer to the issue framed that there exists a debt of sum over Rupees One Crore due and payable by the Corporate Debtor and Corporate Debtor has defaulted in repayment if the same is answered in the affirmative.

Page 14 - Para 10:

..... We find due compliance of the requirements in terms of Section 7(3) of the Code, 2016, by the Applicant and this Adjudicating Authority in terms of its power under Section 7(4) ascertained the existence of debt and default, as alleged on the part of the Corporate Debtor from the record placed by the Applicant, under sub-section (3) of Section 7 of the Code, 2016.

We are fully satisfied that the present Application under sub-section (2) of Section 7 of the Code, 2016, is complete in all aspects..... In these circumstances, we are inclined to admit the instant Application."