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

NCLT, Mumbai Bench-IV in the CIRP Application filed by M/s Intec Capital Limited under Section 7 of IBC, 2016 (C.P.(IB)/1388/MB/C-1V/2020), has admitted the application for initiation of Corporate Insolvency Resolution (CIRP) against the Corporate Debtor M/s Nirmiti Stampings Private Limited, vide Order dated 01-12-2022.

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 the (1) date of default, (2) period of limitation, 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:

"

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Para 6:

The Hon'ble NCLAT in ***Vipul Vs. Techo Industries in Company Appeal (AT) 470/2022****, held that it is clear in case the record of information utility shows that there is a debt which is in default, the Adjudicating Authority or the Appellate Authority are not required to further examine the record maintained by the information utility, more so when the record of the information utility is deemed authenticated and no dispute of refutation of said record has been done by the Corporate Debtor earlier.*

Para 7:

On perusal of Petition in the present case, this ***Bench observed that the NeSL Report filed by the Financial Creditor along with Petition reflects that the date of default of the Account of the Corporate Debtor is 15.01.2018 and the Petition was filed on 27.11.2020, which is well within the period of limitation*** *i.e. three years prescribed under the Limitation Act, 1963.*

Para 8:

The Financial Creditor successfully proved the existence of the debt and default and the debt…… ***Thus, the present Company Petition satisfies all the necessary requirement for admission.***

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This Application *being C.P.(IB) No. 1388/NCLT/MB/C-1V/2020 filed under Section 7 of I & B Code, 2016, filed by Intec Capital Limited, Financial Creditor/ Applicant against Nirmiti Stampings Private Limited, Corporate Debtor* ***for initiating Corporate Insolvency Resolution Process is admitted****."*