

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

NCLT, Mumbai Bench (Court-III), in the CIRP Application filed by M/s Intec Capital Limited under Section 7 of IBC, 2016 (C.P.(IB)-641(MB)/C-III/2022), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Shivani Flexipack Limited, vide Order dated 28-11-2023.

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 debt and default, 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 3 - Para 5:

“In addition to the Loan Agreement with transitional documents dated 18.01.2012, the Financial Creditor has also filed – e. Record of default available with Information Utility.”

Page 11 – Para 23:

“.....In the present case, apart from the loan agreement, charge registration certificate, arbitration award, the Financial Creditor has also filed the Record of default certificate issued by NeSL dated 01.11.2021.”

Page 12 – Para 24:

“We are of the considered view that the Financial Creditor has proved existence of debt and default.”

Page 12 – Para 25:

*“
i. The above Company Petition (IB) 641(MB)/2022 is allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Shivani Flexipack Limited.”*