

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

NCLT, Special Bench, Chennai-I, in the CIRP Application filed by M/s MSA Ventures Private Limited under Section 7 Of IBC, 2016 (CP (IB) No. 172/(CHE)/2023, has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Infiniti Metal Products India Limited, vide Order dated 03-05-2024.

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, 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:

Para 14 Page 5:

“..... Not moving further, based on the Form C (NeSL) and on verification of Form D (RoD) issued by the NeSL we find the status of the debt as “Deemed to be Authenticated” as on 30.09.2023, which is as per section 21 of IBBI (IU) Regulations, 2017”

Para 15Page 5:

“At this juncture it is relevant to place reliance upon the Judgement passed by the Hon'ble Supreme Court of India in the matter of Innovative Industries Limited v. ICICI Bank reported in ((2018) 1 SCC 407), wherein, it is held that once there is a default, the application should be admitted. The relevant portion is reproduced below:

“On the other hand, as we have seen, in the case of a 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. It is of no matter that the debt is disputed so long as the debt is “due” i.e. payable unless interdicted by some law or has not yet become due the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.”

Para 25 Page 9

“Accordingly, the present petition stands admitted”