NeSL®
National E-Governance Services Ltd.

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 State Bank of India under Section 7 of IBC, 2016 [CP(IB) No. 544/MB-IV/2021], has admitted the application for initiation of Corporate Insolvency Resolution (CIRP) against the Corporate Debtor M/s SND Limited, vide Order dated 29-09-2022.

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 (1) the date of default (2) the amount of default (3) the date of last repayment; and (4) in-applicability of Covid-19 exclusion period as per Sec 10A of IBC, 2016** 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 2 – Para 3:***

The Date of Default is 05.09.2019 as given in the NeSL Report dated 28.09.2021.The date of NPA is 05.12.2019. *The Petition is filed on 13.05.2021.*

Page 4 – Para 6:

*The Financial Creditor has submitted the **NeSL Report dated 28.09.2021 showing the default amount Rs. 85,41,44,407.80/- ….. and the Date of Default as 05.09.2019** which is at pp12-18 as Annexure '1' of the Re-joinder filed by the Financial Creditor. Further, the Report is also reflecting the date of last repayment as 02.07.2020 for amount of Rs.31,84,179.04 …..*

Page 14- Para 14:

……….

i. *With respect to the Limitation:*
*……….. It is observed by the Bench that the as per the **NeSL Report filed by the Financial Creditor, the Date of Default is reflecting as 05.09.2019.** Even if we consider the Default occurred in May 2015, the Corporate Debtor has acknowledged its liability in the Balance Sheets for the period of 31.03.2014 to 31.03.2019, i.e for each year. Hence, from the perusal of the above observations, this Bench finds that the Petition filed by the Financial Creditor is well within limitation.*

ii. *With respect to the default occurred in Section 10-A period:*
*…………………..From the perusal of section 10-A, it is observed that the Petition under section 7 shall not be filed when the default has occurred between the period mentioned above, It is observed by the Bench that **the Date of Default is clearly mentioned as 05.09.2019 in the NeSL Report** filed by the Financial Creditor. Hence, the contentions of the Corporate Debtor cannot be considered.*

Page 19 – ORDER:
*This Application being C.P. (IB) No. 544/NCLT/MB/C-IV/2021 filed under Section 7 of I&B Code, 2016, filed by State Bank of India, Financial Creditor/Applicant against SND Limited, Corporate Debtor for initiating Corporate Insolvency Resolution Process is **admitted**.*