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, Division Bench, Court No. I, Kolkata in the CIRP Application filed by Union Bank of India under Section 7 of IBC, 2016 (CP(IB) No.33/KB/2024), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Solapur Tollways Private Limited, vide Order dated 20.12.2024.

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 **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:

Page 20 - Para 43:
"It is a settled position of law that in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has to check the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. In this context, the Hon'ble Apex Court in the case of Innoventive Industries Ltd. v. ICICI Bank reported at (2018) 1 SCC 407*.... has laid down that-.*

30. 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 in 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."

Page 21 – Para 44:
"We find that Default on part of the corporate debtor has also been acknowledged and identified in the record of default by way of a Report furnished by the NeSL, annexed at pages 490-496 to the petition."

Page 23 – Para 47:
"We find that this debt qualifies for Financial Debt as per the definition enshrined in Section 5(8) of the I&B Code. The amount claimed to be in default is in excess of the threshold limit described under Section 4 of the I&B Code and the petition has been filed within time period and complies all the parameters for admission under I&B Code".

Page 23 – Para 48:
"*In terms of the foregoing discussions, we* ***ALLOW*** *the application bearing* ***Company Petition (IB) No. 33/KB/2024*** *filed under* ***Section 7 of the I&B Code****, and accordingly, we order the initiation of* ***Corporate Insolvency Resolution Process (CIR Process)*** *in respect of the Corporate Debtor."*