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-VI, in the CIRP Application filed by M/s Incred Financial Services Limited under Section 7 of IBC, 2016 (CP(IB) No.758/MB/2O22), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Suumaya Industries Limited, vide Order dated 02.08.2024.

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 **date of default, 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:

Page 21 - Para 6.10

"If at all there is a dispute, it is only with regard to the actual amount of financial debt owed to the FC, as evident from the response of the CD furnished to the NeSL during the process of authentication of the Record of Default. As held by the Hon'ble Supreme Court in Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors. 2019 SCC On Line SC 73 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…"

Page 23 - Para 6.13:

"*The Financial Creditor has also placed on record copy of Record of Default dated 20.07.2022 with the NeSL showing date of default as 03.12.2021 and the default amount at Rs.4.05 Crores. In Part-B of the NeSL report, the Corporate Debtor has admitted that the "debt exists"…………….Thus, we find that the Financial Creditor has brought on record sufficient materials to prove the existence of 'financial debt' under Section 5(8) of the Code and default in repayment thereof on part of the Corporate Debtor…"*

Page 25 – Order:

"In view of aforesaid findings, this Application bearing C.P. (IB) No.758/MB/2022 filed under Section 7 of the Code by Incred Financial Services Ltd., the Financial Creditor, for initiating CIRP in respect of Suumaya Industries Limited, the Corporate Debtor, is ***admitted****."*