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

NCLT, Chennai, Special Bench-II in the CIRP Application filed by Mrs. V. Rajalakshmi and others under Section 7 of IBC, 2016 (C.P (IB)/124 (CHE)/ 2023, has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/S Lokaa Developer Private Limited, vide Order dated 07.06.2024.

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:

Page 6 – Para 6:
"In Part-V of the application the following documents have referred to substantiate the debt disbursed to the Corporate Debtor.

a) …………

h)Record of Default issued by the Information Utility."

Page 16 – Para 25:
"…………………………. In addition to that, the ***Applicants have filed the updated Record of Default (RoD) from the Information Utility****, which is in the status of 'deemed to be authenticated'……...."*

Page17 – Para 26:
"Reading the above we see that the homebuyers with the requisite majority are unanimous in initiating CIRP against the Corporate Debtor. ***The Record of Default establishes the existence of debt and default by the Corporate Debtor and the default amount of 1st Financial Creditor itself is above Rs.1 crore."***

Page 17 – Para 27:
Hon'ble Supreme Court in the case of M/S. Innoventive Industries ltd vs ICICI Bank & Anr., [(2018) 1 SCC 407] has held as under: -

> *"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."

<u>Page 17&18 – Para 28:</u>

"*It is clear that from the above discussions, that there is debt and it was defaulted by the Corporate Debtor.* ***The judgment supra also mandates to initiate CIRP when there is clear proof from the Information Utility.*** *We therefore admit this application and order for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor."*