

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

NCLT, Mumbai Bench, Court No. III, in the CIRP Application filed by M/s SREI Equipment Finance Limited under Section 7 of IBC, 2016 (C.P.(IB)- 1134(MB)/C-III/2022), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Supreme Innovative Building Projects Private Ltd, vide Order dated 06-03-2024.

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 the debt, 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 4, Para 11:

"Now we proceed to examine the Petition. The Petitioner has annexed copies of the following documents with the Petition:

v) the Record of Default (RoD Certificate) issued by NeSL with status showing Deemed Authenticated."

Page 6, Para 14:

*"In the judgement of the Hon'ble Supreme Court in the **Innoventive Industries Limited vs. ICICI Bank and Another (2018)1 SCC 407**, it was held 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 to satisfy itself that a default has occurred**"*

Page 6, Para 15 :

" In view of the aforementioned judgement it is clear that the Adjudicating Authority only has to determine whether the "debt" was due and remained unpaid. If the adjudicating authority is of the opinion that a "default" has occurred, it has to admit the application. In the present case, sufficient evidence has been adduced by the Petitioner to prove the debt and default."

Page 7, Para 17 (a):

" The above Company Petition (IB)1134(MB)/2022 is allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Supreme Innovative Building Projects Private Limited."