

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)- 225(MB)/C-III/2022), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Supreme Star Villa 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 6, Para 16:

"During the hearing of the Present Petition, the Financial Creditor has tendered the Record of Default (RoD Certificate) dated 09.03.2022 issued by NeSL with status showing Deemed Authenticated. We cannot refuse to look into impeccable document like RoD certificate issued by the Nesl."

Page 9, Para 19:

*"In the judgement of the Hon'ble Supreme Court in the **Innovative 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 or other evidence produced by the financial creditor to satisfy itself that a default has occurred***

Page 10, Para 20 :

"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 10, Para 22 (a):

"The above Company Petition (IB) 225(MB)/2022 is allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Supreme Star Villa Private Limited.