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

NCLT, Division Bench (Court No. II), Kolkata, in the CIRP Application filed by M/s Tata Capital Limited under Section 7 of IBC, 2016 (CP (IB) No. 124/KB/2023), has admitted the application for initiation of Corporate Insolvency Resolution against the Corporate Debtor M/s Glory Furnishers Private Ltd, vide Order dated 22-03-2024.

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 **<u>debt, default & date of default</u>** 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.

<u>The relevant extracts of the Orders of NCLT are as under:</u>

<u>Page 7, Para 24:</u>
".....the NESL report annexed ... Annexure "A4" to the Application, which confirms "Debt" and "Default" and the "Date of Default"."

<u>Page 9, Analysis and Findings - Para 32:</u>
" *Further, we would note that the NeSL report, ……., envisages the Record of Default (hereinafter referred to as **"RoD"**) in Form D, as information utility under 21(1) of the Insolvency and Bankruptcy Board of India (Information Utility) Regulations, 2017 issued to the Financial Creditor herein.* ***<u>The RoD shows that the Corporate Debtor has a total outstanding amount due and payable to the Financial Creditor of Rs. 2,29,36,232/- and Date of Default is reflected as on 28.08.2022</u>***..... *Thus, as per the Information Utility, the total outstanding amount due and payable to the Financial Creditor is more than the threshold financial limit as prescribed under Section 4 of the I&B Code and the application is filed on 02.06.2023, ………*

<u>Page 11, Analysis and Findings - Para 33:</u>
"*We have further noted that the Corporate Debtor in its Reply has not raised any dispute regarding the Information Utility, debt and default on its part……….. In a summary proceeding, this Court examines the records that show the debt which is disbursed, and such is in default on the part of the Corporate Debtor herein. At this juncture, we would rely upon the judgement rendered in **Vipul Himatlal Shah v. Teco Industries, Partnership** ..where the Hon'ble NCLAT held that:*

> *"16. In the light of the detailed discussion as above, it is clear that **in case the record of Information Utility shows that there is a debt which is in default, the Adjudicating Authority or the Appellate Authority are not required to further examine the record maintained by the Information Utility**, more so when the record of the Information Utility is deemed authenticated and no dispute or refutation of said record has been done by the corporate debtor earlier.."*

<u>Page 12, Analysis and Findings - Para 34 (i) :</u>
"*The Application filed by **TATA CAPITAL LIMITED (Financial Creditor),** under Section 7 of the Insolvency & Bankruptcy Code, 2016, is hereby, **ADMITTED** for initiating the **Corporate Insolvency Resolution Process** in respect of **M/s. Glory Furnishers Private Limited (Corporate Debtor).**"*