



NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL (SPECIAL), BENCH

Company Petition No. (IB)-390(PB)/2023

IN THE MATTER OF:

ASK TRUSTEESHIP SERVICES PRIVATE LIMITED

(Through ASK Property Investment Advisory Private Limited)

Birla Aurora. Level 16. Office Floor 9.

Dr. Annie Besant Road. Worli.

Mumbai-400030

...Applicant/Financial Creditor

Versus

M/s NOBILITY ESTATES PVT. LTD.

Registered Office:

711 /92, Deepali. Nehru Place,

New Delhi, Delhi - 1110019

.....Respondent/ Corporate Debtor

Section: 7 of IBC, 2016

Order Delivered on: 24.11.2023

CORAM:

JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT

SH. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Sr. Adv. Arun Kathpalia, Adv. Sanjeev Kumar
Sharma, Adv. Arunav Guha Roy, Adv. Divya Joshi,
Adv. Vala Srihitha, Adv. Diksha Gupta

For the Respondent : Presence not marked



ORDER

M/s ASK Trusteeship Services Pvt. Ltd (for brevity, the **‘Applicant’/ ‘Financial Creditor’**) has filed the present application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity, the **‘IBC 2016’**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, on 25.05.2023 with a prayer to initiate the Corporate Insolvency Resolution Process, declaring moratorium and for appointment of Interim Resolution Professional (IRP), against M/s Nobility Estates Pvt. Ltd (from now on referred to as **‘Respondent’/ ‘Corporate Debtor’**).

2. The Corporate Debtor (CD) was incorporated on 02.01.2014, having CIN: U70100DL2014PTC262971, under the Companies Act 2013, and is involved in Real estate activities. The registered address of the CD is at 711 /92, Deepali, Nehru Place, New Delhi-110019, hence the jurisdiction to deal with the application lies with this Tribunal.

3. In order to prove the existence of Financial Debt and the occurrence of default, the Respondent has submitted the following:

3.1 The Respondent is a Special Purpose Vehicle (SPV) promoted by Mr. Getamber Anand and ATS Infrastructure Limited (together referred to as ‘Promoters’) incorporated to develop certain parcels of land for the purposes of construction, development, and sale of a residential real



estate project by the name of 'ATS Le Grandiose' in Noida, Uttar Pradesh (hereinafter referred to as '**Project**').

3.2 Mr. Getamber Anand had requested the Applicant to invest in the Respondent Company. Accordingly, the Respondent, its Promoters, and the Applicant executed a Debenture Subscription Agreement dated 10.07.2015 pursuant to which the Applicant subscribed to certain debentures issued by the Respondent.

3.3 It is stated by the Applicant in Part-IV of the application that it had made disbursal of the amount as per the following schedule:

Date of Disbursement:

Date of allotment of debentures	Amount of debentures allotted
07.10.2015	Rs. 40,00,00,000/- (Rupees Forty Crores Only)
03.11.2015	Rs. 25,00,00,000/- (Rupees Twenty Five Crores)
22.03.2016	Rs. 60,00,00,000/- (Rupees Sixty Crores Only)

3.4 It is further stated by the Applicant that in terms of the Debenture Subscription Agreement ('**DSA**') dated October 7, 2015 executed between the Applicant, the Respondent, and the Promoters of the CD, the Applicant had subscribed to and has been allotted 1,250 (One thousand two hundred fifty) only unlisted optionally convertible cumulatively secured debentures ('**OCD**') of a face value of Rs. 10,00,000/-(Rupees Ten Lakh only) each, aggregating to Rs.



125,00,00,000/- (Rupees One Hundred and Twenty-Five Crores only) OCDs on the terms and conditions specified therein. Accordingly, various security documents were executed in favour of the Debenture Trustee to perfect the security in respect of the OCDs.

3.5 As per Clause 9 of the DSA, the Respondent was required to make annual interest/coupon payments to the Applicant till the redemption of the OCDs. Respondent was required to redeem the OCDs within 5 years (i.e., by October 6, 2020) by repaying the entire principal sums of the OCDs and subject to the terms contained in the DSA. Any delay in payment of any sums on their respective due dates would entitle the Applicant to receive a “default interest” as specified in the DSA.

3.6 As the Respondent was unable to meet its redemption obligation of the OCDs on the redemption date i.e., October 6, 2020, vide letter dated October 3, 2020 (page No. 343 of the application), the Respondent requested an extension for a period of 298 days i.e., until July 31, 2021 (**“the revised redemption date”**). In response, the Applicant consented to the extension till July 31, 2021, vide its letter dated October 5, 2020, and accordingly, the documents were amended/modified by way of an agreement of modification to the Debentures Subscription Agreement and Debenture Trust Deed (**‘DTD’**) dated June 16, 2021.

3.7 However, despite the extension, the Respondent failed to redeem the OCDs even by the revised redemption date and hence, led to a commission of default.



3.8 On occurrence of an event of default under the DTD or DSA, as per Clause 11.2 of the DTD and Clause 13.2 of the DSA, the Applicant has the right to be paid, the entire aggregate amount with an aggregate compound IRR of 27% calculated from the date of investment till the date of returns in full along with other conditions laid thereunder subject to a cure period of 90 days. However, the defect was not cured despite the passing of a year. On commission of default, the Applicant issued an EOD (**“Event of Default”**) notice dated 05.02.2022 (Annexure P/29) to the CD to cure the EODs within 90 days, failing which it was entitled to the repayment of the entire redemption amount of OCDs along with the annual compounded IRR of 27% from the date of subscription.

3.9 The Respondent replied to the notice dated February 5, 2022 and acknowledged that the redemption of the OCDs was extended to the Revised Redemption Date (i.e., July 31, 2021) and it also admitted that the OCDs were not redeemed by the Revised Redemption Date.

3.10 The “date of default” relied on by the Applicant is 06.05.2022 i.e., 90 days from the EOD notice dated 05.02.2022 and the Applicant has claimed that Respondent is obligated to redeem the OCDs by paying Rs.504,50,00,000/- only, as per the details given in the table below:

Sr. No.	Particulars	Amount (in Rs.)
1.	Principal Amount	Rs. 25,00,00,000/-
2.	Coupon Amount	Rs. 60,15,15,607/-
3.	Redemption Premium	Rs. 319,34,84,393/-
Total		Rs. 504,50,00,000/-



4. The Applicant has relied on the following documents to prove the existence of Financial Debt and commission of default by the Respondent:

(i) Copy of Debenture Subscription Agreement (DSA) dated 07.10.2015 executed between the Applicant and the Corporate Debtor;

(ii) Copy of Debenture Trust Deed (DTD) dated 07.10.2015 executed by and between the Corporate Debtor, Promoters, and Vistra ITCL (India) Limited;

(iii) Deed of Personal Guarantee dated 07.10.2015 executed by Mr. Getamber Anand;

(iv) Copy of Unattested Deed of Hypothecation dated 07.10.2015;

(v) Copy of Agreement of Modification to the Debenture Subscription Agreement and Debenture Trust Deed, dated June 16, 2021;

(vi) Copy of Event of Default Notice dated 05.02.2022;

(vii) Copy of the reply dated March 30, 2022, to EOD notice by the Corporate Debtor; and

(viii) Record of Default of the CD as registered with NeSL.

5. On perusal of Part IV of the Application, it is observed that the Applicant has claimed a debt of Rs.687,50,00,000/- as the defaulted amount as of 24.05.2023 and relied upon 06.05.2022 as the date of the Default.

6. Based on the aforesaid facts and documents, the Applicant has prayed for initiation of CIRP in respect of the Respondent.



7. On issuance of the notice, the Respondent filed its reply. The Respondent raised the following objections in its reply and during the course of the final hearing:

7.1 The present Application is not filed by an Authorized Person.

7.2 Neither the debt of the Applicant is a financial debt nor any default is committed by the Respondent. The Applicant is only an “investor” which is evident from the use of the word “investor” in the following Clauses of the DSA dated 07.10.2015:

“4. ASK REAL ESTATE SPECIAL OPPORTUNITIES FUND, a trust established under the Indian Trusts Act, 1882 having its principal office at Chennai and its trustees as ASK Trusteeship Services Private Limited, a company established under the Companies Act, 1956 and having its registered office at 1st Floor, Band Box House, 254-D, Dr, Annie Besant Road, Worli, Mumbai- 400 025 (hereinafter referred to as the “ASK PE” or the “Investor”, which expression shall, unless it be repugnant to the subject or context thereof, include each its successors and/or assigns, including in the event of any in specie distribution of assets, the beneficiaries of such distribution and their successors and assigns);”

“1. Definitions and Interpretation

1.1 Definition

t) “Debenture Holders” shall mean the PMS Investors, the Investor and Other Investors;

And

“OCD Holders” shall mean any person(s) who from time to time become holder(s) of any Debentures including the Investor;

dd) “IRR” shall mean the internal rate of return calculated using the XIRR function of Microsoft Office Excel 2007 (software developed and licensed by the Microsoft Corporation), calculated on the amount invested by the Investor, gross of Tax payments made to the Investor in relation to such investment amount, provided however that any sitting fees, remuneration to directors, indemnities, reimbursements of costs, etc. by the Company to the Investors and/or any of their advisors or affiliates shall not be taken into account

oo) “Monitoring Committee” means a committee established by the Company comprising of



representatives of the Guarantor and the representatives of the Investor, the Investor Representative, the Other Investors and/or the PMS Investors, as the case may be;

ss) "Other Investors" means ASK India Real Estate Special Opportunities Fund PTE. Ltd. and PMS Investors

tt) "Other Debenture Subscription Agreement(s)" means the one or more debenture subscription agreements executed by the Company and the Promoters with the Other investors for seeking subscription to debentures;

uu) "PMS Debenture Subscription Agreement" means the one or more debenture subscription agreements executed by the Company and the Promoters with the PMS Investors for seeking subscription to debentures;

w) "PMS Investors" means the Various Persons who have agreed to the terms of the ASK PMS Real Estate Special Opportunities Portfolio II;"

7.3. It is further stated by the Respondent that the debt of the Applicant does not fall within the ambit of Section 5(8) of IBC, 2016.

7.4 The Applicant is a speculative investor and not a Financial Creditor. The Debentures have trappings of Equity and hence, cannot be claimed.

7.5 The present Application is barred by Section 10A of IBC, 2016 as the redemption of the outstanding debentures (OCDs) was to be made on 06.10.2020, which was later revised to 31.07.2021. It is contended by the Respondent that the alleged default occurred during the Section 10A period.



7.6 There is a force majeure clause incorporated in the Debenture Subscription Agreement dated 07.10.2015 and the Debenture Trust Deed dated 07.10.2015 and in view of the Covid-19 pandemic, the repayment of the debt had to be suspended/extended i.e., from March 2020 to till date. Since the COVID-19 pandemic is a force majeure event, the time for performance under the DSA stands extended during the said event.

8. The Applicant has also filed its Rejoinder and Written Submissions and contended the following therein and during the course of arguments:

8.1 The 'debentures' are expressly mentioned as 'financial debt' under Section 5(8)(c) of the Code and hence, a Section 7 proceeding in case of default in the redemption of debentures is maintainable. The mere fact that the Applicant is a 'debenture holder' implies that it is also a Financial Creditor, as the definition of 'financial debt' includes debentures. Further, a 'debenture' as per Section 2(30) of the Companies Act, 2013, is essentially defined as an instrument 'evidencing a debt'. Hence, the nature of debentures as a security, holding debt is established in law.

8.2 The suspension period under Section 10A of the Code is from 25.03.2020 to 24.03.2021. The date of default i.e., 06.05.2022 does not fall within the Section 10A suspension period. Even the Revised Redemption Date of OCDs i.e., 31.07.2021 also falls outside the Section 10A suspension period.



8.3 The Applicant was already granted the benefit of an extension of the redemption date owing to financial hardship caused to the Respondent on account of the COVID-19 pandemic. The initial date of redemption of the OCDs was 06.10.2020 which, upon the request of the Respondent was extended by the Applicant up till 31.07.2021.

8.4 The Respondent has admitted the commission of default in its Reply.

8.5 The present Section 7 petition is signed by Mr. Bhavesh Pandya, who is the authorized signatory of ASK Property Investment Advisors Private Limited and was duly authorized to institute the petition. The chain of Authority in favour of the AR is duly explained in Part I, Para 5 of the Petition on page no. 13. All documents supporting the chain of authority have been annexed with the petition as Annexure nos. P/2 to P/4 in Volume I.

9. We heard the submissions of both parties and perused the documents placed on record. The Respondent has objected to the application, mainly on the ground that the Applicant is not a Financial Creditor since it invested the money (in the form of Debentures) in the Respondent Company. It is also the contention of the Respondent that the Applicant is only an Investor, where the money invested through the debentures has trapping of equities. Per Contra, the Applicant has stated that the Debenture is a form of 'debt' and cannot be considered as 'equity'. Further, the 'debentures' are expressly included in the term 'Financial Debt' as defined under Section 5(8)(c) of IBC, 2016.



10. Against this backdrop, we would like to examine **Whether an investment made in the Debentures/OCD of a Company is a Financial Debt.**

11. It is in this context; that we refer to the definition of “Financial Debt” as defined under Section 5(8) of IBC 2016 which reads thus:

(8) “financial debt” means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes–

- (a) money borrowed against the payment of interest;
- (b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;
- (e) receivables sold or discounted other than any receivables sold on non-recourse basis;
- (f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

¹[*Explanation.* -For the purposes of this sub-clause, -

- (i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and
- (ii) the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]
- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
- (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
- (i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;



⇒ Evidently, the term “Financial Debt” as defined under Section 5(8) of IBC 2016 read with sub-clause (c) means ***a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes***, inter alia, *any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stocks or any similar instruments.*

12. In the instant case, the Applicant has given the details, in Part IV of the Application, of the disbursement of money through its investment in Debentures of the CD, which has not been disputed by the Respondent. Moreover, as per Clause 9 of the Debenture Subscription Agreement (DSA), the Respondent was required to make payments of “interest in the form of Annual Coupon” to the Applicant till the redemption of the OCDs, which brings in the component of the time value of money in the debt. The clause 9 of the Debenture Subscription Agreement (DSA) reads thus:

9. **DEBENTURE YIELD; DISTRIBUTION MECHANICS AND WATERFALL**

9.1 **Interest/Annual Coupon**

The Company shall pay to each holder of Debenture or subscriber of Debentures, as the case may be, within 120 (one hundred and twenty) days of the end of each Financial Year, an interest in the form of Annual Coupon for the relevant Financial Year which has ended, in a sum equal to 10% (ten percent) of the face value / principal value outstanding on such Debenture during such period; provided however that the last Annual Coupon shall be payable simultaneously with the redemption in full of the principal sums or conversion of the Debentures and shall be calculated from the relevant April 1 till the Redemption Date or the date of conversion.

Even otherwise, Section 5(8)(c) of IBC, 2016, as already noted in Para 11 above, explicitly includes any amounts raised pursuant to the issue of “Debentures”. At this stage, we refer to the Judgement of Hon’ble NCLAT dated 23.04.2019 in the matter of **“MAIF Investments India Pte. Ltd Vs**



M/s. Ind-Barath Energy (Utkal) Limited” Company Appeal (AT) (Insolvency) No. 597 of 2018 [Case Citation: (2019) ibclaw.in 307 NCLAT], which held that the “Optionally Convertible Debentures (OCDs)” are Financial Debt. The relevant paragraph 23 of the Judgement reads thus:

“23. In the present case, there has been a disbursal of Rs.102 Crores in favour of the ‘Corporate Debtor’ by way of ‘OCDs’. In terms of Section 5(8)(c), any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument, comes within the meaning of ‘financial debt’. Therefore, from the aforesaid fact, we find that there is a disbursal of Rs. 102 Crores in favour of the ‘Corporate Debtor’ and the ‘OCDs’ originally met is against time value of money and per se, constitute ‘financial debt’ in the light of Section 5(8)(c) of the ‘I&B Code’”

13. Certainly, the amount could not have been raised by the Respondent unless an investment was made by the Applicant. The terming of the Applicant by the Respondent as an ‘Investor’ and money invested by it as an ‘Investment’, is nothing but a form of “disbursement of money” through an instrument of ‘debenture’, which is a form of financial debt within the ambit of Section 5(8)(c) of IBC 2016. Hence, we find no merit in the contention of the Respondent that (a) the debt in terms of debentures is not a Financial Debt; and (b) the Applicant, being an investor in debentures issued by the Respondent is not a Financial Creditor. Further, as the Debentures under reference at no stage were converted into Equity, we have no hesitation in concluding that the Debentures had no trapping of equity in the instant case.



14. The next plea raised by the Respondent is that the present Application is barred by Section 10A of IBC 2016 since the Respondent committed the alleged default during the COVID-19 Period that falls within the Section 10A period. Per Contra, the Applicant stated that the suspension period under Section 10A of the Code was from 25.03.2020 to 24.03.2021 and the date of default in the present case is 06.05.2022, which does not fall within the Section 10A period. Even the Revised Redemption Date of debentures was 31.07.2021, which too falls outside the suspension period.

15. On perusal of the pleadings, it is observed that the original Date of Redemption of Debentures was 06.10.2020, which, upon the request of the Respondent only, was extended by the Applicant up till 31.07.2021. Thus, we find that the date of 31.07.2021 became the “Revised Redemption Date”. Accordingly, the parties including the Respondent executed an Agreement of Modification to the Debenture Subscription Agreement and Debenture Trust Deed, dated June 16, 2021, which is available on record and not disputed by the Respondent. Thus, the debt was not due and payable as of 06.10.2020, rather the parties themselves decided that debentures were to be redeemed until the “Revised Redemption Date” of 31.07.2021. Thus, in our considered view, the debt can only be considered due and payable on and after the “Revised Redemption Date” of 31.07.2021. Since the aforesaid date neither falls within the suspension period stipulated under Section 10A of IBC 2016 nor does it make the Application time-barred, we



find no force in the contention of the Respondent that the alleged default falls within the suspension period of IBC and the present Application is barred by Section 10A of IBC 2016. Hence, the objection on this account is rejected.

16. The other plea raised by the Respondent is that the Force Majeure Clause in the Debenture Subscription Agreement (DSA) is applicable to the present case. Per contra, the Applicant has contended that the Respondent was already granted the benefit of an extension in the redemption date owing to financial hardship caused to the Respondent on account of the COVID-19 pandemic. The initial date of redemption of the debentures was 06.10.2020 which, upon the request of the Respondent was extended by the Applicant up till 31.07.2021. Thus, we find that the hardship, if any, caused due to COVID-19, was already taken care of by the Applicant in terms of agreeing to the request of the Respondent for an extension to the debenture redemption date from 06.10.2020 to 31.07.2021 to clear its dues. Therefore, we find no merit in this objection of the Respondent and hence, rejected.

17. Regarding the contention of the respondent that the present Application is not filed by an Authorized Person, the Applicant referred to the chain of documents placed in Annexure A-2 to A-4 of the Applications, more specifically Copy of the Indenture of Trust dated July 14, 2010 establishing ASK Real Estate Special Opportunities Fund (Page 51-85), Copy of Investment Management Agreement dated 03.08.2010 executed between ASK Trusteeship Services Private



Limited and ASK Property Investment Advisors Private Limited (Page 86 to 114) and Copy of Board resolution dated 21.01.2022 issued by ASK Property Investment Advisors Private Limited authorizing Mr. Bhavesh Pandya (Pages 115-116). Thus, the Authority along with the relevant Board resolution being on record, the contention of the respondent that the present Application is not filed by an Authorized Person, is devoid of merits and therefore rejected.

18. As far as the Applicant is concerned, it has brought on record the admissions of default made by the Respondent. Both in the pleadings and during the arguments, it was pointed out that in Para 6 of Reply dated 28.08.2023 on Page 39, the Respondent clearly admitted in para 'x' that it failed to redeem the OCDs on the Redemption Date. The relevant extracts of the admission read thus:

"6. That the contents of Paragraph No. (u) to (x) of the Application/Petition save as matter of the record, are transactional in nature and therefore no reply is needed. However, anything contrary to the record is denied. **It is submitted that the Respondent had failed to redeem the OCDs even by the Revised Redemption Date due to the economic crises as a result of the Covid-19 Pandemic situation. The Respondent gave clarifications about the same in its reply vide email dated 30.03.2022 to the notice issued by the Financial Creditor/ ASK Trusteeship Services Pvt. Ltd.**



dated 05.02.2022. The contents of the email are produced below for ease of reference:

X. **We understand that in terms of the Agreement, the OCDs were to be redeemed by Nobility on 06.10.2020.** However, the same could not be done as our company requested for an extension vide letter dated 03.10.2020. It is not unknown that in 2020, on account of the widespread COVID-19 and subsequent lockdown orders passed by the Government of India, a nation-wide lockdown was brought into effect. As a consequence of the said lockdown, all the constructions activities across India were completely stalled. You will appreciate that during the whole lockdown period, the real estate business was at its lowest which has led to severe losses to our company. **Nonetheless, our company has never denied the redemption of OCDs to ASK and is fully aware of its contractual obligation to redeem the OCDs to ASK.**

(Emphasis Placed)

Thus, we find that the Respondent has admitted in unequivocal terms that it had failed to redeem the OCDs even by the Revised Redemption Date due to the economic crises.

19. Further, the Applicant has also placed on record the Certificate (Form C) issued by NeSL on Pages 411 and 412 of the Application, and the “Record of Default” in Form D vide additional document dated 5.7.2023. The Form D, as placed by the Applicant, is reproduced overleaf for the immediate reference:



FORM D
RECORD OF DEFAULT(RoD)

(Issued By information utility under sub- regulation (4) of regulation 21 of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017)

This Record of Default is issued to the Financial Creditor M/s CREDITOR GROUP REPRESENTED BY VISTRA ITCL (INDIA) LIMITED in respect of the default of debt as per details given below-

(a) Name of the Submitter: M/s CREDITOR GROUP REPRESENTED BY VISTRA ITCL (INDIA) LIMITED
(b) Schedule-2 Bank (Y/N): N
(c) Name of Corporate Debtor: M/s NOBILITY ESTATES PRIVATE LIMITED
(d) Unique Debt Identifier Number: TRUST0578D_INE793Q07015 - N
(e) Registered Address: IL & FS Financial Centre, plot No C22 G Block, Bandra Kurla Complex, Bandra (East), Mumbai Maharashtra
(f) Total Outstanding Amount: 6149700000.00
(g) Default Amount: 6149700000.00
(h) Date of Default: 31-07-2021
(i) Status of Authentication of Default: DEEMED TO BE AUTHENTICATED

Filing of Default(Submission ID No.)	Submitted on	Status of Authentication(Authenticated/Disputed/Deemed to be authenticated)	Authentication completed on
(1)	08-12-2022 19:56:00	*DEEMED TO BE AUTHENTICATED Colour Code :YELLOW	28-12-2022 19:27:21

NeSL is authorized to issue this record of default and has accordingly affixed its digital signature, as per the provisions of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017, Guidelines for Technical Standards for Performance of Core Services and Other Services and the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2017.



PART A

- (Information of default filed with IU, covering information of debt, submitter and other parties connected with the debt, security interest and default details)
- Status of authentication by the party on whom the report is generated by the submitter
- Communication made by IU to intimate the party on the default filing)

Record of Default for Party M/s NOBILITY ESTATES PRIVATE LIMITED (Debtor)

Unique Debt Identifier :TRUST0578D_INE793Q07015 - N

Information as of 08-12-2022

Received by NeSL on 08-12-2022 19:56:00

Status of Authentication (DEBTOR) : DEEMED TO BE AUTHENTICATED (as on :28-12-2022 19:27:21)

Registered in IU : YES

Registration Date : 15-05-2023 12:10:16

Last Login : 09-06-2023 12:54:41

Submitter Information	
UIN	TRUST0578D
Name	M/s CREDITOR GROUP REPRESENTED BY VISTRA ITCL (INDIA) LIMITED
Relationship to the Debt	Financial Creditor
Communication address	IL & FS Financial Centre, plot No C22 G Block, Bandra Kurla Complex, Bandra (East), Mumbai Maharashtra
PIN code	400051
Telephone number	02226593535
Email ID	itcl.dt@vistra.com
Email ID - Dispute Alert	itclcomplianceofficer@vistra.com
Email ID - Default Alert	itclcomplianceofficer@vistra.com

Other Party Information	
Relationship to the Debt	Debtor
Party name	M/s NOBILITY ESTATES PRIVATE LIMITED
Registered/ permanent Address of counterparty	711/92,DEEPALI,NEHRU PLACE, NEW DELHI
PIN code	110019
Address for Communication	711/92,DEEPALI,NEHRU PLACE, NEW DELHI
PIN code	110019
Legal Constitution	PVTL
Date of Incorporation	02-01-2014

TRUE COPY

Registered Office : Gresham Assurance House,4th Floor,Sir P.M. Road,Fort,Mumbai-400001.
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The NeSL “Record of Default” (ibid) also indicates ‘debt’ and ‘default’ on the part of the Corporate Debtor. The objection of the Respondent that the claim of the Applicant is exaggerated is immaterial as long as the quantum of the unpaid Financial Debt is above the minimum threshold of Rs 1 Crore.

20. In sequel to the above, we conclude that there is sufficient material on record that proves the existence of Financial Debt and commission of Default by the Corporate Debtor.

21. In the given facts and circumstances, the Applicant/Financial Creditor having established the default in payment of the Financial Debt for the default amount being committed above the threshold limit and the Application being complete, **the present Application is admitted in terms of Section 7(5) of the IBC and accordingly, the moratorium is declared in terms of Section 14 of the Code.** As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed:

- “(a) The institution of suits or continuation of pending suits or proceedings against the Respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the Respondent any of its assets or any legal right or beneficial interest therein;



- (c) Any action to foreclose, recover or enforce any security interest created by the Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Respondent.”

22. As proposed by the Applicant, this Bench appoints Mr. Hitesh Goel as IRP having Registration IBBI/IPA-001/IPPO1405/2018-2019/12224 (Email: iphiteshgoel@gmail.com) subject to the condition that no disciplinary proceeding is pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. This Adjudicating Authority orders that:

“Mr. Hitesh Goel (E-mail: iphiteshgoel@gmail.com) as IRP having Registration No. IBBI/IPA-001/IP PO1405/2018-2019/12224 is directed to take charge of the CIRP of the Respondent with immediate effect. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.

23. The Applicant is directed to deposit Rs. 10,00,000/- (Ten Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Applicant.



24. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Applicant, the Respondent, and the IRP mentioned above. In addition, a copy of the Order shall also be forwarded by the Registry/Court Officer to the IBBI for their records.

Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

Sd/-
(L. N. GUPTA)
MEMBER (TECHNICAL)