

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 769 of 2019**

**IN THE MATTER OF:**

**Janak Dhawan**

**...Appellant**

**Versus**

**M/s. Famous Innovations Digital  
Creative Pvt. Ltd. & Ors.**

**...Respondents**

**Present:**

**For Appellant :**

**Mr. Abhijeet Sinha and Mr. Pawan Sharma,  
Advocates**

**ORDER**

**30.07.2019** Learned counsel for the Appellant submits that the 'agreement' cited by the Respondent was the 'partnership agreement', pursuant to which Respondent was entitled to profit sharing (35%). Learned counsel for the Appellant also submits that it cannot come within the definition of 'Operational Debt' as defined u/s 5(21) of the 'I&B Code' even he cannot claim to be a 'Financial Creditor' as it does not come within the definition of 'financial debt' as defined u/s Section 5(8) of the 'I&B Code'. Therefore, according to the Appellant, the application u/s 9 of the 'I&B Code' was not maintainable and the Adjudicating Authority failed to notice the same.

Learned counsel for the Appellant further submits that if any amount is payable to the Respondent pursuant to the 'partnership agreement', the Appellant is ready to amicably settle the same. It is informed that the 'Committee of Creditors' has not been constituted.

Let notice be issued on the respondents by Speed Post. Requisite along with process fee, if not filed, be filed by 31<sup>st</sup> July, 2019. If the appellant provides the *e-mail* address of respondents, let notice be also issued through *e-mail*.

Post the case 'for orders' on **29<sup>th</sup> August, 2019**. Pendency of the appeal will not come in the way of the parties to settle the matter.

In the meantime, the 'Interim Resolution Professional' will not constitute the 'Committee of Creditors' if not yet constituted. The Appellant and Respondent may settle the matter amicably before the next date. However, the 'Interim Resolution Professional' will ensure that the company remains going concern and will take assistance of the (suspended) Board of Directors and the officers/ Directors/employees. The person who is authorised to sign the bank cheques may issue cheques but only after approval of the 'Interim Resolution Professional'. The bank account of the 'Corporate Debtor' be allowed to be operated for day-to-day functioning of the company such as for payment of current bills of the suppliers, salaries and wages of the employees'/workmen electricity bills etc.

[Justice S.J. Mukhopadhaya]  
Chairperson

[ Justice A.I.S. Cheema ]  
Member (Judicial)

[ Kanthi Narahari ]  
Member (Technical)

/ns/gc