

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

**Company Appeal (AT) (Insolvency) No. 86 of 2018**

**IN THE MATTER OF:**

**APS Buildtech Pvt. Ltd.**

**...Appellant**

**Versus**

**Khushal Infratech Pvt. Ltd.**

**...Respondent**

**Present:**

**For Appellant : Mr. V. Shekhar, Senior Advocate with Mr. Rajiv Shankar, Mr. Utkarsh Singh, Mr. Ziauddin Ahmad and Mr. Prithviraj Singh, Advocates.**

**O R D E R**

**14.03.2018** – In view of the decision of the Hon’ble Supreme Court in ***“Innoventive Industries Ltd. Vs. ICICI Bank and Ors, (Civil Appeal Nos. 8337-8338 of 2017)”***, Learned counsel for the Appellant prays for and allowed one-week time to file an application for substitution of Mr. Atul Mittal, Director of the ‘Corporate Debtor’ as Appellant and to transpose the present Appellant- ‘APS Buildtech Pvt. Ltd.’ through ‘Insolvency Resolution Professional’ as 2<sup>nd</sup> Respondent.

*Prima facie* it appears that there is a debt payable by the ‘Corporate Debtor’ if defaulted in paying the debt. However, to find out whether the Respondent comes within the meaning of ‘Financial Creditor’ in terms of the Memorandum of Understanding dated 7<sup>th</sup> February, 2014, we issue notice on the Respondent.

Contd/-.....

Let notice be issued on Respondent by speed post. Requisite along with process fee, if not filed, be filed by 19<sup>th</sup> March, 2018. If the Appellant provides the e-mail address of Respondent, let notice be also issued through e-mail.

Post the matter on 4<sup>th</sup> April, 2018.

In the meantime, it will be open to the Appellant to file additional affidavit enclosing the copy of the Form 1, including the enclosures attached thereto filed by the Respondent- 'Financial Creditor'.

Further, during the pendency of the appeal, the Interim Resolution Professional will also ensure that the company remains on-going and if so necessary may take assistance of the (suspended) Board of Directors. The person who is authorised to sign the bank cheques may issue cheques only after authorization of the Resolution Professional. The bank account(s) 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 Bansi Lal Bhat ]  
Member (Judicial)