

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP (IB)490/MB/2018

Under Section 7 of IBC, 2016

In the matter of

Andhra Bank ... Petitioner

Vs

Sterling Biotech Limited.... Respondent

Order Delivered on 11.06.2018

Coram: Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioners: Mr. Shyam Kapadia, Advocate a/w Ms. Pooja Kshirsagar,
Mr. Santosh Mariyapal, Advocates, i/b AZB & Partners.

For the Respondents: Mr. Prem Jha, Advocate.

Per B. S. V. Prakash Kumar, Member (Judicial)

ORDER

Order Pronounced on 11.06.2018

It's a Company petition filed under Section 7 of Insolvency & Bankruptcy Code, 2016 by this Financial Creditor, namely Andhra Bank against the Corporate Debtor namely, Sterling Biotech Limited, stating that for this Corporate Debtor having defaulted in making repayment of ₹250.13 crores dues outstanding in respect to the term loan dated 9.1.2015 and Open Cash Credit Facility dated 22.2.2006, the Petitioner filed this Petition for initiation of Corporate Insolvency Resolution Process against this Corporate Debtor.

2. According to the Petitioner, it has granted the Corporate Debtor two facilities, namely Rupee Term Loan and Working Capital Facility which are as follows:

1. Rupee Term Loan: The Rupee Term Loan Agreement dated 9.1.2015 (RTL Agreement) was executed interalia between Corporate Debtor and the petitioner alongwith other parties. Under the RTL Agreement two

facilities were granted to the Corporate Debtor (i) a Term Loan Facility- Facility C (Term Loan 1) of INR 32,74,00,000 was granted to the Corporate Debtor by the Petitioner, and the same was disbursed on 27.3.2015; and (ii) a Term Loan Facility – Facility A (Term Loan 2) of INR 5,00,00,000 (Rupees Five Crores) was granted to the Corporate Debtor by the Petitioner, and the same was disbursed on 27.3.2015. (RTL Agreement is at Exhibit B, Page 26 of Vol-I). The details of loan sanctioned by the Petitioner are at Page 122 of RTL Agreement.

2. Open Cash Credit Facility: On 22.2.2006, the Petitioner as lead banker of consortium executed the Working Capital Consortium Agreement with the Corporate Debtor (Exhibit H at Page 244 of Vol –II). It has been supplemented by the First Supplemental to Working Capital Consortium Agreement dated 21.8.2007, Second Supplemental to Working Capital Consortium Agreement dated 13.8.2008, Third Supplemental to Working Capital Consortium Agreement dated 2.4.2010; Fourth Supplemental to Working Capital Consortium Agreement dated 17.9.2011 (Exhibit I-1 to I-3 at Page Nos. 270 to 309). The current Open Cash Credit (OCC) limit sanctioned by the Petitioner is ₹138,52,00,000. The OCC has been revived by a revival letter dated 28.8.2017 (Exhibit F, Vol-II at Page 240). The amounts have been utilised by the Corporate Debtor from time to time under the OCC facility and the last date of disbursement was dated 28.9.2015.

3. To prove sanctioning and disbursal of the loan amount, the Petitioner placed Rupee Term Loan Agreement dated 9.1.2015 as Exhibit B, sanction letter No.1116/1/452 dated 17.2.2014 pertaining to Term Loan 1 and Term Loan 2 has been annexed with the Company Petition as Exhibit C, copies of accounts statements and certificate under Bankers' Books Evidence Act have been annexed as Exhibit D and E to the Company petition. In respect to OCC facility, sanction letter dated 28.7.2015 has been annexed and marked as Exhibit F, the letter dated 28.8.2017 reflecting revival of the limits has been annexed as Exhibit G, Working Capital Consortium Agreement dated 22.2.2016 in between the Corporate Debtor and Andhra Bank, UCO Bank, PNB, Allahabad Bank, The Catholic Syrian Bank, Oriental Bank of Commerce, Syndicate Bank, Vijaya Bank, Federal Bank and Bank of Maharashtra is annexed as Exhibit H, Supplemental Working Capital Consortium Agreements were made as Exhibit I-1 to I-3. A copy of the account statement alongwith the Certificate in respect to OCC facility has been annexed as Exhibit J and