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NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

T.P. No. 141/74(2)/NCLT/AHM/2016(New)
C.A. No. 149/74(2)/CLB/MB/2016(Old)

Coram:

Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 22.05.2017

Name of the Company: Layka Lab Ltd.

Section of the Companies Act: Section 74(2) of the Companies Act, 2013;

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1. PAVAN S. GODIAWALA ADVOCATE PETITIONER Madhur

2.

ORDER

Learned Advocate Mr. Pavan Godiawala present for Petitioner. None present for Respondent.

Order pronounced in open Court. Vide Separate Sheet.

Bikki Raveendra Babu
BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 22nd day of May, 2017.

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Asstt. Registrar
23/05/17
Asstt. Registrar
NCLT Ahmedabad Bench
Ahmedabad

**NATIONAL COMPANY LAW TRIBUNAL
AMEDABAD BENCH
AHMEDABAD**

CORAM: SRI BIKKI RAVEENDRA BABU, MEMBER JUDICIAL

**TP NO. 141/74(2)/NCLT/AHM/2016 (NEW)
C.A. No. 149/74(2)/CLB/MB/2016 (OLD)**

**IN THE MATTER OF
LYKA LABS LIMITED.**

1. LYKA LABS LIMITED. APPLICANT
4801/B & 4802/B GIDC Industrial Estate
Ankleshwar 393 002
Dist. Bharuch, Gujarat State

Appearance:

1. Mr. Pavan Godiawala, learned advocate for applicant

FINAL ORDER

Dated: 22-05-2017

1. M/s. Lyka Labs Ltd., under section 74 (2) of the Companies Act, 1956 filed this petition before the Company Law Board, Mumbai seeking extension of time for repayment of debentures and interest thereon as mentioned in the scheme.
2. The Company Law Board numbered the same as CA 149/74(2) of 2016 and upon constitution of National Company Law Tribunal, the said petition is transferred to this Tribunal and re-numbered as TP 141/74(2)/2016.



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3. The facts that are necessary for disposal of this petition are as follows: -
4. Lyka Labs Limited is a company registered under the Companies Act, 1956 having its registered office at 4801/B & 4802/B GIDC Industrial Estate, Ankleshwar 393 002, Dist. Bharuch, Gujarat State. The company is engaged in the business of manufacture and sale of pharmaceutical products both for domestic market and exports to large pharma companies. The company undertakes manufacturing activities on principal to principal basis and also on job work basis. The company also markets branded generic products in the form of tablets, capsules, ointments, syrups, dry powder and liquids. The company's factory is located at GIDC Estate, Ankleshwar, Dist. Bharuch, Gujarat State. Total number of employees working in the plant is around 250.
5. The Company had issued secured non-convertible debentures of Rs. 9.82 crores in various tranches under series I and Rs. 9.28 crores in various tranches under series II on private placement basis. The said debentures are secured by first charge on intangibles of the company and also by mortgage on factory land at Ankleshwar, land and building, plant and machinery on second charge basis by debenture trust deed dated 05.04.2012 in favour of IL & FS Trust Company Limited, trustee for debenture holders.
6. The company received a show cause notice from debenture trustee vide letter dated 23.01.2015 calling for the reasons for delay in repayment of debentures and interest.
7. Total amount of debentures on the date of application (Principle and interest) is as follows:

Principle: Rs.12.87 crores (unpaid debentures-Rs. 7.19 crores)

Interest: Rs. 56.61 lacs (unpaid)



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8. The Company is seeking extension of time for payment of outstanding principal amount of debentures and interest as on 31.03.2015 and subsequent payment of debentures and interest became due during the financial year 2015-16 and 2016-17.
9. The debentures due for payment but not paid on the date of application i.e. 31.03.2015 is Rs. 7.17 crores.
- a) Debentures overdue for payment for 2 years and more: Nil
- b) Debentures overdue for payment for one year or more but less than two years: Rs. 31,00,000/-
- c) Debentures overdue for payment for six months and more but less than one year: Rs. 3,91,00,000/-
- d) Debentures overdue for payment for three months and more but less than six months: Rs. 52,00,000/-
- e) Debentures overdue for payment for less than three months Rs. 2,45,00,000/-
10. Following amount of debentures are due to senior citizens

Number	Amount Rs.
125	2,86,00,000 (due up to 31 st March, 2015)
162	2,25,00,000 (due between 01.04.15 to 31.03.16)
005	11,00,000 (due between 01.04.16 to 30.09.16)

11. Month wise turnover of the company during two financial years 2012-13 and 2013-14 is as follows: -

Month	April 12 to March 13 12 months	April 13 to June 14 15 months
April	47868163	40588029
May	62714983	68825858



June	91564095	54053320
July	42200731	69942047
August	87652586	41031631
September	103691126	56392611
October	59832122	52854819
November	44026753	19736983
December	109014852	49949704
January	38407053	48221536
February	49627916	63821096
March	134895067	100976134
April 14		42472889
May		40938438
June		55952834
Total	871495447	805747930

12. There was reduction in the turnover and loss during financial years 2010-12, 2012-13 and 2013-14.
13. According to the company, following are detailed reasons for default in repayment of debentures.
- (i) The company's plant at Tarapur was closed for two years between 2011 and 2013 for modernization to meet the requirement of WHO and GMP and spent about 6.5 crores for modernisation.
- (ii) The products manufactured by Tarapur plant was not having potential for local market and therefore the company has to export this product for which the company has to get its plant approved by Health Authorities of various countries which required substantial time. As a result, the capacity utilisation of Tarapur factory was very low and was not recovering the fixed cost of the factory which affected profitability of the company.



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- (iii) Fire occurred in Lyophilisation plant at Ankleshwar on 31st October, 2012 as a result, there was damage to plant and machineries, raw materials and packing materials to the tune of Rs. 4.00 crores. The operation of this plant was suspended for about four months. There was loss of production and sales of the factory which severely affected liquidity of the company.
- (iv) Non-availability of timely finance and ever increasing cost of finance had adversely affected the fund flow position of the company.
- (v) Delay in respect of the payment from debtors of the company had also affected liquidity of the company.
- (vi) In addition to repayment of debentures and interest, simultaneously the company is required to make repayment of deposits and its interest and also other statutory dues which had put tremendous pressure on cash flow position of the company.
- (vii) In the recent past, the company sold its factory at Tarapur and planned to repay substantial outstanding of fixed deposits and debentures from sales realisation. However, as per condition stipulated by the Banker for release of the mortgage on the said factory for the purpose of sale, majority of the amount from sales realisation was recovered by the bank towards repayment of its current and future dues.
- (viii) As a result, adequate surplus fund was not available with the company for repayment of outstanding debentures on time.
- (ix) On sale of Tarapur factory, the company settled the substantial pending dues of employees as a result, there was a major cash out flow of the company.



(x) As per the new provisions of Companies Acceptance of Fixed Deposits Rules, 2014, the norms for acceptance and renewal of fixed deposits have become very stringent. Since the company is not meeting the new norms, it was not in a position to accept or renew the fixed deposits.

14. According to the applicant, despite financial crises and liquidity crunch being faced by the company, the company made repayment of debentures of Rs. 6.23 crores as against 13.42 crores due up to 31st March, 2015 leaving outstanding debentures of Rs. 7.19 crores and outstanding interest was Rs. 56.61 lacs.

15. Applicant is requesting for extension of time for repayment of outstanding debentures of Rs. 7.19 crores and also for extension of time for payment of Rs. 5.39 crores which became due during 2015-16 and debentures of Rs. 0.29 crores became due during 2016-17 and extension of time for payment of outstanding interest of Rs. 56.61 lacs up to 31.03.2015 and interest of Rs. 41.08 lacs payable during 2015-16 and interest of Rs. 0.32 lacs payable during 2016-2017 in the following manner.

(i) That extension may be granted in the form of moratorium for the petitioner company for repayment of unpaid/unclaimed debentures of Rs. 7.19 crores up to March 2015 from April 2015 – December 2018.

(ii) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.47 crores becoming due on 1st May, 2015 during the period between January 2019 to March 2019.



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- (iii) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.93 crores becoming due on 24th May, 2015 during the period between January 2019 to June 2019.
- (iv) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.45 crores becoming due on 1st June, 2015 during the period between July 2019 to September 2019.
- (v) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs.0.69 crores becoming due on 30th June 2015 during the period between July 2019 to September 2019.
- (vi) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.30 crores becoming due on 8th July, 2015 during the period between July 2019 to September 2019.
- (vii) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.71 crores becoming due on 17th July, 2015 during the period between July 2019 to September 2019.
- (viii) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.54 crores becoming due on 11th October, 2015 during the period between July 2019 to September, 2019.



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- (ix) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.39 crores becoming due on 30th November, 2015 during the period between October, 2019 to December, 2019.
- (x) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.26 crores becoming due on 1st February, 2016 during the period between October 2019 to December 2019.
- (xi) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.10 crores becoming due on 21st February, 2016 during the period between October 2019 to December 2019.
- (xii) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.34 crores becoming due on 27th March, 2016 during the period between January 2020 to March 2020.
- (xiii) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.24 crores becoming due on 30th March, 2016 during the period between January 2020 to March 2020.
- (xiv) That extension may be granted in the form of moratorium to the petitioner company for repayment of debentures of Rs. 0.29 crores becoming due on 1st April 2016 during the period between January 2020 to March 2020.



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EXTENSION OF TIME FOR REPAYMENT OF INTEREST

The company seeks extension of time for payment of outstanding interest of Rs. 56.62 lacs and also interest of Rs. 41.08 lacs payable during 2015-16 and also interest of Rs. 0.32 lacs payable during 2016-17.

- (a) There is outstanding interest payable on debentures up to 31st March, 2015 is Rs. 56.62 lacs. The company seeks extension of time for the said payment during the period from April 2015 to March 2017.
- (b) Extension of time is requested for payment of interest of Rs 18.68 lacs due during the period from April 2015 to June 2015 and during the period from April 2016 to March, 2017.
- (c) Extension of time is requested for payment of interest of Rs. 10.65 lacs due during the period from July 2015 to September, 2015 to during the period from April 2017 to September, 2017.
- (d) Extension of time is requested for payment of interest of Rs. 6.90 lacs due during the period from July 2015 to September 2015 to during the period from October 2017 to December 2017.
- (e) Extension of time is requested for payment of interest of Rs. 4.85 lacs due during the period from January 2016 to March 2016 to during the period from October 2017 to March 2018.
- (f) Extension of time is requested for payment of interest of Rs. 0.32 lacs due in the month of April 2017 to October 2017 to March 2018.



16. In their additional affidavit it is stated that, the company has issued post-dated cheques of Rs. 53.00 lacs towards repayment of debentures and after considering issue of above cheques the company will be required to pay balance amount of debentures of Rs. 7.37 crores. It is also stated in the additional affidavit that, the company settled the earlier complaints of debenture holders received from ROC, CLB and SEBI. It is also stated that the company has sought extension for repayment of fixed deposit from CLB, Mumbai Bench and CLB Mumbai bench has granted extension of time vide order dated 22.01.2016. The company has followed the repayment schedule in respect of deposit holders. It is stated that, in view of the payment of deposit holders before 31.03.2017, company's cash flow will be under severe pressure as it has to meet the deposit obligation and also to meet the operating expenses.
17. In the additional affidavit, the company has proposed to repay outstanding debentures of Rs. 7.37 crores in the following manner: -

Outstanding debentures due up to 31.03.2015	Rs. 3.85 crores	Proposed payment by 30.09.2017
Outstanding debentures due from April 2015 to July 2015 as per original terms	Rs.2.13 crores	Proposed payment by 31.03.2018
Outstanding debentures due from August 2015 to April 2016 as per original terms	1.39 crores	Proposed payment by 30.09.2018
Total	7.37 crores	

18. In the additional affidavit is also stated that, the company approached its bankers to sanction loan for repayment to debenture holders and in case loan is sanctioned, the entire amount of debentures will be paid irrespective of the proposed schedule of payment.



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19. On this application, the company gave notice to Regional Director, Registrar of Companies as well as to all the debenture holders.
20. Point for consideration is whether time can be extended for payment of debentures to the applicant company.
21. Applicant company is a public limited company and the company is engaged in the business of manufacture and sale of pharmaceutical products both for domestic market and exports to large pharma companies. The company undertakes manufacturing activities on principal to principal basis and also on job work basis. The company also markets branded generic products in the form of tablets, capsules, ointments, syrups, dry powder and liquids.
22. Further it is stated that, there was a fire in lyophilisation plant at Ankleshwar factory and due to that plant was closed for four months. There was damage to plant and machinery, raw material and packing materials worth Rs. 4.00 crores. Fire insurance claim is not yet settled. Sale proceeds of Tarapur plant has gone to the bankers since the assets were mortgaged to the bankers. Another reason is adverse market conditions and economic recession. It is also stated that, the company is planning reconstructing of debts including preferential allotment to the promoters. The company is taking necessary steps to repay the principle amount to senior citizens and debenture holders who need medical assistance on priority basis. It is also stated that, the company is showing growth and increase in profit.
23. Considering background of the company, its activities and its turnover, there appears to be some justification in delay in payment to the debenture holders but at the same time needs of the debenture holders cannot be relegated to secondary position. At the same time, it is necessary to see that financial position of the company, overall interest of the company and interest of the employees working in the company. In case if



the company is directed to repay the entire debenture holders at a time, there is no other go to the company except to go for winding up.


24. Moreover, in the past also pursuant to the orders of Company Law Board, the company has repaid deposits as per the schedule.
25. Considering all the facts and circumstances, this Tribunal is inclined to granting for repayment of debenture holders as follows: -
- (a) Outstanding debentures due up to 31st March, 2015 shall be repaid on or before 30th July, 2017.
 - (b) Outstanding debentures due from April 2015 to July 2015 shall be repaid on or before 31st December, 2017.
 - (c) Outstanding debentures due from August 2015 to April 2016 shall be repaid on or before 30th March, 2018.
 - (d) The company, irrespective of the above repayment schedule granted by this Tribunal, shall forthwith repay to the debenture holders who are senior citizens and who are suffering from major diseases, on production of age certificate and medical certificate from government medical officer.
 - (e) Copy of the order shall be sent to the Registrar of Companies, Ahmedabad with a direction to the Registrar to verify whether the company followed the repayment schedule of debentures as ordered by this Tribunal or not and send reports to the Tribunal immediately after the respective due dates.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Pronounced by me in the open court on this 22nd day of May, 2017.



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Asstt. Registrar
NCLT Ahmedabad Bench
Ahmedabad

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