

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

**I.A. No.2664 & 2665 of 2020 in**  
**Company Appeal (AT) (Ins) No.612 of 2019**

**IN THE MATTER OF:**

**Union Bank of India  
(Erstwhile Andhra Bank)**

**...Applicant**

**Versus**

**Sundaresh Bhat  
(RP for Sterling Biotech Limited)**

**...Respondent**

**And**

**IN THE MATTER OF:**

**Andhra Bank**

**Versus**

**Sterling Biotech Limited (Through Liquidator)  
& Ors.**

**...Respondents**

**For Applicant:**

**Mr. Rohan Aggarwal and Mr. Ayush Aggarwal,  
(Applicant in I.A. No. 2664 & 2665 of 2020)**

**For Respondents:**

**Mr. Abhishek Baid, Advocate for R-4  
Mr. Darpan Sachdev (for Madison Pacific Trust)  
Mr. Sandeep Bajaj and Ms. Mamti Binani  
(Liquidators)  
Mr. Hemant Shah (for promoter of Sterling  
Biotech)  
Mr. Zoheb Hossain and Mr. Nitesh Rana (for ED)  
Mr. Ayush J Rajani, Ms. Khushboo Shah Rajani  
(for RP)**

**ORDER**  
**(Virtual Mode)**

**04.03.2021**      Heard the Counsel for Applicant – Union Bank of India representing consortium of lenders. He draws our attention to our record of proceeding dated 23.02.2021. He submits that the Applicant has filed brief written submissions (Diary No.25784) and copy of the Order of Hon'ble

Supreme Court dated 22<sup>nd</sup> February, 2021, copy of which is at Page – 16 of the said Diary No. Referring to the same, the Counsel submits that the effect is that the liquidation gets activated. The Counsel submits the for such reasons, the other request which the Application was making in this I.A., the Counsel is not making submissions with regard to them. He says that he is limiting his request to modify Order of this Tribunal passed on 28<sup>th</sup> August, 2019, copy of which is filed at Annexure – A-1 of the I.A. in which para – 21 (Page – 34) reads as under:-

“21. So far as the fees and resolution cost of the ‘Resolution Professional’/‘Liquidator’ are concerned, the ‘Committee of Creditors’ will determine the same and will be paid by ‘Andhra Bank’ on behalf of the ‘Committee of Creditors’ and may adjust the same with other members.”

The learned Counsel refers to context in which such direction was passed and submits that it would not have been the intention of this Bench that the Liquidator should be paid by the Committee of Creditors in view of the provisions as existing in Insolvency and Bankruptcy Code, 2016 (IBC – in short) especially in Section 34(9) of the IBC which reads as under:-

“(9) The fees for the conduct of the liquidation proceedings under sub-section (8) shall be paid to the liquidator from the proceeds of the liquidation estate under section 53.”

Learned Counsel for the Liquidator is present and agrees to this legal position.

The learned Counsel for the Applicant submits that the Lis which was carried to the Hon'ble Supreme Court did not relate to this part of the Order.

Considering the above submissions and, Section 34(9) of IBC under Rule 11 of NCLAT Rules, 2016, we are deleting the word "Liquidator" from para – 21 of our Order dated 28<sup>th</sup> August, 2019 passed in Company Appeal (AT) (Ins) No.601 of 2019.

The original to be corrected accordingly.

The I.A. No.2664 & 2665 is disposed of.

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

[Kanthi Narahari]  
Member (Technical)

[Dr. Alok Srivastava]  
Member (Technical)

*rs/md*