

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

**In the matter of :**

**M/s Plethico Pharmaceuticals Ltd.**

A.B. Road, Manglia,  
Indore, (M.P.)-453 771

1. Vandana P. Prabhu  
C/o. Nikunj I. Sheth  
8, Sadhna Bapubhai Vashi Road  
Vile Parle West  
Mumbai 400 056 CP 203/2017
2. Suman Gupta  
Wife of D N Gupta  
R/o Block no. C-2B  
Flat No. 65-C, Janakpuri  
New Delhi 110 058 CP 204/2017
3. Sudesh Kumar  
Son of Shri Charan Dass  
M-95, Ramakrishna Apts.  
Plot No. 29, I.P. Extension  
Patparganj, Delhi 110 092 CP 205/2017
4. Mahabir Prashad Garg  
Son of Ganda Ram  
C-50, Delhi Citizen Society  
Sector 13, Rohini  
Delhi 110 085 CP 206/2017
5. Madhu Mittal  
Wife of Khem Chand Mittal  
Resident of F-4/55, Sector 16  
Rohini  
Delhi 110 085 CP 207/2017
6. Ajit Aswani  
Son of Late Shri Jairam Aswani  
14/86, 3<sup>rd</sup> Floor, Vikram Vihar  
Lajpat Nagar – IV  
New Delhi 110 024 CP 208/2017

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7. Ajit Aswani  
Son of Late Shri Jairam Aswani  
14/86, 3<sup>rd</sup> Floor, Vikram Vihar  
Lajpat Nagar – IV  
New Delhi 110 024 CP 209/2017
  
8. Radha Aswani  
Wife of late Shri Jairam Aswani  
14/86, 3<sup>rd</sup> Floor, Vikram Vihar  
Lajpat Nagar – IV  
New Delhi 110 024 CP 210/2017
  
9. Radha Aswani  
Wife of late Shri Jairam Aswani  
14/86, 3<sup>rd</sup> Floor, Vikram Vihar  
Lajpat Nagar – IV  
New Delhi 110 024 CP 211/2017
  
10. Champa Dua  
Wife of R.L. Dua  
20/27 First Floor  
Old Rajinder Nagar  
New Delhi 110 060 CP 212/2017
  
11. D.K. Shrivastava  
Son of G.C. Shrivastava  
D-14/151-152  
Sector 8, Rohini  
Delhi 110 035 CP 213/2017
  
12. Yogender Kumar Bansal  
Son of Late M.L. Bansal  
C-402, Jhulelal Apartments  
Pitampura  
Delhi 110 034 CP 214/2017
  
13. Shruti Rajesh Shah  
401 Manibhadravir Residency  
63, Jain Nagar  
New Sharda Mandir Road, Paldi  
Ahmedabad 380 007 CP 226/2017

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14. Daksh Rajesh Shah  
401 Manibhadravir Residency  
63, Jain Nagar  
New Sharda Mandir Road, Paldi  
Ahmedabad 380 007

CP 227/2017  
[Petitioners]

**VERSUS**

**M/s Plethico Pharmaceuticals Ltd.**  
A.B. Road, Manglia,  
Indore, (M.P.)-453 771

[Respondent]

**Order delivered on 1<sup>st</sup> February, 2018**

**CORAM: Hon'ble Mr. Bikki Raveendra Babu, Member Judicial  
Hon'ble Ms. Manorama Kumari, Member Judicial**

**Appearance:**

For the petitioners : Learned Advocate Mr. Jayesh Buch for  
Petitioner in CP 204/2017 to 2014/2017.

Learned Advocate Mr. Pavan Godiawala for  
Petitioner in CP 226/2017 and CP 227/2017

For the respondent :

**COMMON ORDER**

**[per: Hon'ble Mr. Bikki Raveendra Babu, Member Judicial]**

1. The petitioners in this batch petitions have deposited their hard earned money with Plethico Pharmaceuticals Ltd. in fixed deposits prior to 01.04.2014. Petitioners came forward before this Tribunal with a request for direction to Plethico Pharmaceuticals Ltd. to refund their fixed deposit amounts with interest as agreed under Section 73 (4) of the Companies Act, 2013.
2. It is the contention of the petitioners in all these petitions that inspite of the maturity period is over, fixed deposit amounts have not been returned to them by the company. Further, it is the case of the petitioners that inspite of the orders of Hon'ble Company Law Board,

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Mumbai and the dismissal of petition filed by the company for extension of time by National Company Law Tribunal, Ahmedabad bench, the company did not choose to make any payments. Learned counsel appearing for the petitioners contended that inspite of service of notice, none choose to appear for the company. Petitioners brought to the notice of this Tribunal the following facts that are germane for disposal of this batch petitions: -

3. Citibank N.A. London Branch, a US National banking corporation incorporated under the laws of the New York and acting through its London Branch having its principal office in London through its authorised signatory filed winding up petition vide Company Petition No. 35 of 2013 before Hon'ble High Court of Madhya Pradesh, Indore Bench against Plethico Pharmaceuticals Ltd. Hon'ble High Court of Madhya Pradesh, Indore Bench admitted the said winding up petition on 01.10.2014. Hon'ble High Court of Madhya Pradesh, Indore Bench in the said winding up petition and appointed provisional liquidator vide order dated 07.04.2015.
4. Plethico Pharmaceuticals Ltd. approached State Government of Madhya Pradesh seeking relief under section 3 of the Madhya Pradesh Sahayta Upkarm Adhinyam 1978 and the State Government of Madhya Pradesh accordingly granted relief to the company vide notification dated 16.06.2015. Basing on the said notification, the company filed application IA No. 4759 of 2015 under section 3 of the aforesaid Act for staying the said winding up proceedings. Hon'ble High Court of Madhya Pradesh vide order dated 15.05.2015 stayed the winding up proceedings till 16.06.2016. While granting stay Hon'ble High Court of Madhya Pradesh observed that the order will not affect the order already passed on 07.04.2015.

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5. The company again approached State Government and sought further extension under the aforesaid Relief Act. State Government was pleased to grant relief vide notification 19.09.2016 for one year subject to certain terms and conditions mentioned in the notification dated 19.09.2016. Petitioner company instead of complying with the conditions challenged the notification before Hon'ble High Court of Madhya Pradesh at Jabalpur vide Writ Petition No. 21400 of 2016. In the said writ petition No. 21400 of 2016, Hon'ble High Court of Madhya Pradesh at Jabalpur vide order dated 06.01.2017 directed that no coercive action shall be taken against the company pursuant to the notification dated 19.09.2016. Said petition was listed before the Hon'ble High Court of Madhya Pradesh at Jabalpur on 08.11.2017 and the same was taken up for hearing on 27.11.2017.
6. Winding up petition No. 35 of 2013 is pending before Hon'ble High Court of Madhya Pradesh, Indore Bench.
7. The company as well as depositors approached Hon'ble Company Law Board, Mumbai Bench in the year 2014-15. Hon'ble Company Law Board, Mumbai vide order dated 11.09.2014 directed the Company to repay the amount to deposit holders but the company did not honour the order of Hon'ble Company Law Board, Mumbai Bench.
8. Plethico Pharmaceuticals Ltd. filed CP No. 4 of 2016 under Section 74 (2) of the Companies Act, 2013 seeking extension of time for repayment of deposit holders. Said petition was disposed by NCLT, Ahmedabad bench on 02.01.2017 dismissing the same. This Tribunal refused to extend time to the company to make payment to the deposit holders.

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9. From the aforesaid material placed on record it is more than clear that the petitioners are entitled for their deposit amounts with interest as per the agreed rates.
10. Winding up petition No. 35 of 2013 is pending before Hon'ble High Court of Madhya Pradesh, Indore Bench wherein provisional liquidator has already been appointed. It appears from the material placed before this Tribunal that, at present there is no stay on the winding up proceedings.
11. Material on record also show that Writ Petition No. 21400 also is pending before Hon'ble High Court of Madhya Pradesh, Indore Bench wherein direction was given not to take any coercive steps against the company and it appears that the said order is in force and the writ petition is pending.
12. Winding up petition is filed under section 73 (4) of the Companies Act, 2013 for direction to the company for repayment to the deposit holders.
13. Section 446 of the Companies Act, 1956 says that no legal proceedings shall be commenced after winding up order has been made or Official Liquidator is appointed as provisional liquidator, except with leave of the Court. In the case on hand, winding up petition No. 35 of 2013 filed under the provisions of the Companies Act, 1956 is pending before the Hon'ble High Court of Madhya Pradesh by the date of filing of this petition under section 73 (4) of the Companies Act, 2013.
14. It is a fact that, petitioners did not obtain leave of court at the time of filing this petition or during the pendency of this proceedings. In view of the pendency of winding up petition No. 35 of 2013 and in view of Section 446 (1) of the Companies Act, 1956, proceedings filed by the





deposit holders cannot be proceeded with at the instance of deposit holders against Plethico Pharmaceuticals Ltd.

15. Moreover, there is an order by the Hon'ble High Court of Madhya Pradesh in writ petition No. 21400 of 2016 that no coercive action shall be taken against Plethico Pharmaceuticals Ltd.
16. In fact, the petitioners are entitled for their deposit amount with unpaid interest at the agreed rates and the company has to make payment of such amount on par along with other creditors and other liabilities.
17. In view of the pendency of winding up petition No. 35 of 2013 and writ petition No. 21400 of 2016, petitioners are at liberty to approach the Hon'ble High Court of Madhya Pradesh in the winding up petition No. 35 of 2013 for refund of their deposit amount. These petitions are disposed of accordingly.



**Ms. Manorama Kumari,  
Member Judicial**



**Bikki Raveendra Babu  
Member Judicial**

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