



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

*(Exercising powers of Adjudicating Authority under
The Insolvency & Bankruptcy Code, 2016)*

I.A No. 54 OF 2023

U/s 60 (5) of I& B Code,2016 r/w
Rule 11 of the NCLT Rules, 2016

in

C.P (IB) No. 09/BB/2022

U/s 7 of the IBC Code
r/w Rule 4 of Insolvency and Bankruptcy
(AAA) Rules, 2016

In the matter of

Twentyone Sugars Limited

Unit 4, Peninsula Chambers,
Peninsula Corp.Park,
G.K.Marg, Lower Parcel
Mumbai-400018

-Applicant

Versus

1.Mr.Shivadutt Bannanje

The Resolution Professional
M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited
N-705, North Block, Manipal Centre
No.47, Dickenson Road
Bangalore-560042

2.Committee of Creditors of Dnyanyogi

Shri Shivkumar Swamiji Sugars Limited
N-705, North Block, Manipal Centre
No.47, Dickenson Road
Bangalore-560042

-Respondents

Order delivered on: 28th June ,2023

Coram: 1. Hon'ble Justice (Retd) T.Krishnavalli Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the applicant : Shri Amit T
For the Respondent : Shri Raghuram Cadambi with Tamoghna
Manish



ORDER

Per:Manoj Kumar Dubey, Member (Technical)

1. This application has been filed by the M/s Twentyone Sugars Limited (hereinafter called as **Applicant**) under Section 60(5) of IBC,2016 r/w Rule 11 of the NCLT,2016, seeking relief as follow:

- a) *To condone the delay of 10 days of the Applicant to submit the Expression of Interest.*
- b) *To directed the Committee of Creditors of the Corporate Debtor to extent the date of Expression Of Interest of the Corporate Debtor.*
- c) *To issue directions to the Respondents to allow the Applicant to submit its Expression of Interest ie, from 22.08.2022 to 02.09.2022.*
- d) *To issue directions to the respondents to allow the applicant to submits its Resolution Plan*
- e) *Pass any such further orders which this Hon'ble Tribunal may deem fit and proper this Hon'ble Court may deem fit in the interest of Justice, Equity and Good Conscience.*

2. The facts of the case, briefly stated as under:-

- a. The Applicant viz Twentyone Sugars Limited (herein after referred to as the 'Applicant') is a Company incorporated under the provisions of Companies Act,1956.
- b. It is stated that this Tribunal, vide Order dated 07.03.2022 passed in C.P (IB) No.09/BB/2022 initiated CIRP against the Corporate Debtor M/s Dnyanyogi Shri Shivkumar Swamiji Sugars Limited(herein after the "Corporate Debtor"), whereby Smt Pvitra Vyas was appointed as the Interim Resolution Professional.Later vide order dated 30.05.2022 respondent no 1 was appointed as Resolution Professional.
- c. It is stated that the Form G was never published by the Respondent No.1 on the website of the IBBI , therefore the Applicant was completely unaware about the same being published.
- d. On 1.09.2022, the applicant came to know about the Form G being published by the Respondent No.1 in Financial Express on



07.08.2022. Further it is submitted that the Applicant is having its registered address in Mumbai and was completely unaware about the publishing of the Form G.

- e.** The last date of receipt of Expression of Interest was 22.08.2022. Upon gaining the knowledge of the Form G last date, the applicant vide email dated 02.09.2022 requested the respondent to extend the timeline for the submission of Form G. Vide email dated 22.09.2022 applicant once again requested the respondent no 1 to accept the expression of interest and allow the applicant to submit resolution plan.
 - f.** The respondent no 1 vide email dated 22.09.2022 informed the applicant that the CoC of the Corporate Debtor has unanimously resolved to not extend the Expression of Interest beyond the due date of 22.08.2022.
 - g.** It is submitted that the last date of submission of Resolution plan as prescribed in Form G is 16.10.2022 and therefore the applicant still had the opportunity to put forward its resolution plan before the CoC of the Corporate Debtor.
- 3.** The Respondent no 1 has filed the reply for the application vide Diary No. 1783 dated 28.03.2023 *inter alia* contending as follows:
- i.** It is stated that the first respondent, however, in discharge of its duties, uploaded the same on the portal of the IBBI website but due to some technical reason, the same was not published. Further it is stated that, the first respondent uploaded the original paper publication of Form G document once again, subsequently it appears that upload was not completed.
 - ii.** It is submitted that the First Respondent has satisfied the intent behind Regulation 36A by taking out paper publications.
- 4.** The petitioner filed memo of compliance vide diary no 1749 dated 27.03.2023, is taken on record.
- 5.** Heard learned Counsel for the applicant and the respondent. We have carefully perused the pleadings of the party and extant provisions of the Code and Rules made there under.



6. This Tribunal vide order dated 2.06.2023 in IA No.339 of 2022 has held that the Respondents mentioned in that particular IA were all related parties which were disqualified from becoming the members of the CoC under the First Proviso to Section 21(2) of the IBC, 2016. Hence, it has been held that the constitution of the CoC is erroneous in the eyes of Law and the direction for reconstitution of the CoC has been issued accordingly after exclusion of these related parties.
7. Accordingly **IA 54 of 2023** is hereby **disposed of** as **infructuous**.

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(MANOJ KUMAR DUBEY)
MEMBER (TECHNICAL)

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(T.KRISHNAVALLI)
MEMBER (JUDICIAL)