

OCD-15

ORDER SHEET

AP/624/2023

IN THE HIGH COURT AT CALCUTTA  
Ordinary Original Civil Jurisdiction  
ORIGINAL SIDE  
(Commercial Division)

INTERNATIONAL COMMERCE LIMITED  
VS  
EASTERN COALFIELDS LTD.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 12<sup>th</sup> September, 2023.

Appearance:

*Mr. Jishnu Saha, Sr. Adv.*

*Mr. Sourajit Dasgupta, Adv.*

*Mr. Victor Dutta, Adv.*

*...for the petitioner*

The Court: This is an application for extension of the Arbitrator's mandate under Section 29-A of the 1996 Act.

The affidavit-of-service placed before the Court shows that the respondent received the application on 1<sup>st</sup> September, 2023. No one, however, appears for the respondent.

Learned counsel appearing for the petitioner submits that the one-year under Section 29-A(1) expired on 28<sup>th</sup> February, 2023 taking into account the end of the period designated by the Supreme Court in its *suo motu* orders in the wake of the pandemic.

Counsel submits that even although the respondent did not formally communicate its consent under Section 29-A(3) for the additional window of six months, the respondent continued to participate in the arbitration which would

hence imply that the petitioner received the consent of six months. Counsel submits that the six months ended on 31<sup>st</sup> August, 2023.

Apart from the submissions made on behalf of the petitioner, an earlier order passed by this Court on 31<sup>st</sup> July, 2023 on an application made by the petitioner (claimant in the arbitration) for issue of summons to two persons of the respondent for adducing oral/ documentary evidence shows that the respondent was participating in the arbitration at the relevant point of time. The application filed by the petitioner was also heard and disposed of on contest. The respondent had been represented before the Court and the Court had allowed the application by permitting one of the persons named by the petitioner to adduce oral/ documentary evidence before the Arbitral Tribunal.

It, however, appears that no steps were thereafter taken pursuant to the order. The next date has been fixed on 25<sup>th</sup> September, 2023.

Counsel submits that the evidence of the witnesses of both parties has been concluded and only the evidence of the summoned witnesses remains.

Considering the fact that the arbitration commenced in 2020, and has continued for more than three years, AP/624/2023 is allowed and disposed of by extending the mandate of the Tribunal for a period of five months from 31<sup>st</sup> August, 2023.

(MOUSHUMI BHATTACHARYA, J.)

sg.