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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ O.M.P.(MISC.)(COMM.) 292/2024, I.A. 8050/2024 & I.A. 8051/2024

TALWAR CARS PRIVATE LIMITED Petitioner

Through: Mr. Prashant Mehta and Mr. Abdullah Tanveer, Advocates.

versus

VOLVO AUTO INDIA PRIVATE LIMITED Respondent

Through: Mr. Dattatray Vyas and Ms. Aastha Trivedi, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.04.2024

1. The petitioner has filed this petition under Section 29A of the Arbitration and Conciliation Act, 1996 ["the Act"] for extension of the mandate of the Arbitral Tribunal, which is adjudicating disputes between the parties pursuant to several agreements ending with a Dealer Agreement dated 01.08.2018.

2. I have heard learned counsel for the parties. Factually, it appears that the parties have filed claims and counter-claims before the Arbitral Tribunal but the petitioner - company [which is the claimant in the arbitral proceedings] has thereafter been subjected to Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal ["NCLT"],



Hyderabad. A moratorium was imposed by an order of the NCLT dated 09.01.2023 and a Committee of Creditors has been constituted. A Resolution Professional [“RP”] is now in-charge of the management of the petitioner - company.

3. Before the Arbitral Tribunal, a question has been raised as to whether the claims filed by the petitioner herein, can be adjudicated even if the counter-claims filed by the respondent are subjected to a moratorium. Mr. Dattatray Vyas, learned counsel for the respondent, submits that by order of the Arbitral Tribunal dated 11.07.2023, the petitioner was granted liberty to file an application for this purpose, but has not done so. He submits that the conduct of the petitioner shows undue delay in proceeding with the arbitral proceedings.

4. The second contention of Mr. Vyas is that the mandate of the arbitral proceedings had expired in February 2023 and this petition under Section 29A of the Act has been filed only one year thereafter.

5. Mr. Prashant Mehta, learned counsel for the petitioner, states that although the mandate had expired in February 2023, the filing of the present petition has been delayed on account of the intervening proceedings before the NCLT, requirement of the approval of the Committee of Creditors and the Interim Resolution Professional/RP.

6. In the judgment of this Court dated 06.11.2023 in *ATC Telecom Infrastructure Private Limited vs Bharat Sanchar Nigam Limited*, [OMP (MISC)(COMM) 466/2023 and connected matters], this Court has held that filing of a petition under Section 29A of the Act is permissible even after mandate of the Tribunal had lapsed. Although some other High Courts have taken a different position, and the legal issue is pending



consideration of the Supreme Court, there is no suggestion that the binding judgment of this Court has been stayed by the Supreme Court.

7. On an overall conspectus of matter, therefore, I am of the view that the extension sought is liable to be granted. The arbitral proceedings are at the stage of evidence of the petitioner - claimant. The mandate of the Arbitral Tribunal is extended by a period of six months from today.

8. To alleviate the concerns expressed on behalf of the respondent, Mr. Mehta assures the Court that the petitioner will cooperate in the expeditious conduct of the arbitral proceedings, and will abide by the directions that the Arbitral Tribunal may give for this purpose.

9. The petition is disposed of in the above terms. All pending applications also stand disposed of.

10. It is made clear that this Court has not made any comment on the merits of the contentions raised by the parties before the Arbitral Tribunal with regard to the maintainability of the arbitral proceedings, as they stand today, or on the merits of the matter.

PRATEEK JALAN, J

APRIL 9, 2024

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