

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
COMMERCIAL ARBITRATION PETITION NO. 93 OF 2025

Swan Defence & Heavy Industries Ltd.

...Petitioner

Versus

Oil & Natural Gas Corporation Ltd.

...Respondent

Mr. Rohaan Cama, a/w Kyrus Modi, Abhileen Chaturvedi, Mohit Prabhu, Sayyed Saqib Ali, Sparsh Khosla, i/b Cyril Amarchand, for the Petitioner.

Mr. Kevic Setalvad, Senior Advocate, a/w Nishit Dhruva, Khushbu Chhajed & Pulkit Awasthi, i/b MDP Legal, for Respondent.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 10, 2025

PC :

1. This is a Petition under Section 29-A of the Arbitration and Conciliation Act, 1996 (“***the Act***”). The Petitioner was admitted to a Corporate Insolvency Resolution Process (“***CIRP***”) under the Insolvency Bankruptcy Code, 2016 (“***IBC***”) on January 15, 2020.

2. Learned Counsel for the Petitioner submits that based on the date on which pleadings were completed, 40 days out of the period of twelve months referred to in Section 29-A of the Act, had already run by

the time the CIRP commenced. In view of there being a counter-claim by the Respondent against the Petitioner, naturally, the matter could not progress comprehensively during the pendency of the CIRP due to imposition of moratorium.

3. On January 27, 2020 the parties had given their consent for a further extension of six months and technically one could add these six months to the period of 343 days since the arbitration agreement had been suspended. Consequently, it can be said that the mandate of the arbitrator tribunal expired on July 26, 2023.

4. The Resolution Plan resolving the Petitioner came to be approved by the Adjudicating Authority under the IBC on December 23, 2022, thereby lifting the moratorium that the Petitioner enjoyed under Section 14 of the IBC. Learned Counsel would submit that the residual period out of the twelve month window provided in Section 29-A of the Act, when computed from this date, would expire on December 2, 2023.

5. Learned Counsel for the Petitioner submits that despite the approval of the Resolution Plan, the Resolution Applicants did not have exclusive control over the Petitioner, since there was a Monitoring

Committee overseeing the affairs of the company. According to him, the Resolution Applicant got control only a couple of months later i.e. on January 4, 2024.

6. The Petitioner, under the new ownership, took a decision to pursue the arbitration proceedings, and this Petition was affirmed on December 30, 2024. Admittedly, therefore, there has been a delay of eleven months in filing of this Petition, which Learned Counsel for the Petitioner attributes to without prejudice discussions and meetings held between the parties.

7. Learned Counsel for the parties have addressed me at length. Having regard to the submission made by them, in my opinion, it would be appropriate to extend the mandate of the arbitral tribunal considering the stage at which the proceedings are, by a period of twelve months from today i.e. *until February 9, 2026*.

8. However, one of the conditions being imposed in allowing this Petition, and granting such extension, is that the Respondent shall be entitled to examine the documents that the Respondent called upon the Petitioner to share, in an email dated February 7, 2025 at 22:09

hours from the Advocates for the Respondent to the Advocates for the Petitioner. It is seen that 12 documents are listed in that email which concern, essentially, the information relating to the conduct of the CIRP. It is made clear that minutes of forums, be it the Committee of Creditors, or the Monitoring Committee after resolution, listed in the aforesaid email, shall be read as minutes concerning the contracts between these two parties that form subject matter of the arbitration, and not minutes of the entire affairs of the Petitioner. It is made clear that such information sought in the aforesaid email shall be shared by the Petitioner with the Respondent within a period of one week from the date on which the order is uploaded on the website of this Court.

9. With the aforesaid directions and conditions, the Petition is ***finally disposed of*** extending the mandate for the aforesaid period.

10. Needless to say, nothing in this order is an expression of an opinion on the merits of the parties' claims against each other. Further, the parties would be at liberty to take out such Applications before the Learned Arbitral Tribunal, as they deem fit to have access to appropriate information so as to assist in adjudication the disputes and differences that the Arbitral Tribunal is seized of.

11. Learned Senior Counsel for the Respondent submits that the extension of mandate of the arbitral tribunal must not have any implications for other proceedings between them, which I have been informed, are pending before the Adjudicating Authority under the IBC. Needless to say, the remit of the Arbitral Tribunal is defined by the scope of the agreement that is subject matter of the disputes and differences between the parties before the Arbitral Tribunal.

12. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]