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

+ **O.M.P.(MISC.)(COMM.) 991/2024**

LARSEN AND TOURBO

.....Petitioner

Through: Mr. Subhash Gulati with Ms. Revati Gulati and Ms. Diksha Narula
Advocates

versus

ELENA POWER AND INFRASTRUCTURE LIMITED & ANR.

.....Respondents

Through: Mr. Aadil Khan, Mr. Abhishek Periwal, Advocates for Liquidator of R1
Mr. Vijay K. Singh, Mr. Himanshu Dubey, Advs for Respondent No.2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

20.01.2025

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1. This is a petition under Section 29A(5) of the Arbitration & Conciliation Act, 1996 seeking extension of mandate of the Arbitral Tribunal for making the arbitral award.
2. Material on record discloses that the Arbitral Tribunal consisted of three Judges (one Supreme Court Judge and two Judges of this Court) was constituted on 22.05.2020. It is stated that CIRP proceedings were initiated against Respondent No.1 *vide* proceedings dated 06.05.2022 and the Respondent No.1 is protected and moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 came into effect.



3. Material on record further discloses that *vide* proceedings dated 20.02.2023, Petitioner and Respondent No.2 decided to continue with the arbitration and mutually extended the mandate of the Arbitral Tribunal for further period of six months. It is stated that six months period came to an end in the month of August, 2023. It is stated that Petitioner thereafter approached this Court under Section 29A (5) of the Arbitration and Conciliation Act, 1996. This Court, *vide* Order dated 02.02.2024 passed in OMP (Misc.) (Comm.) No.637/2023 has extended the mandate of the Arbitral Tribunal up to 31.12.2024. It is stated that Respondent No.1 who is the IRP of Respondent No.1 states that since the proceedings are only between the Petitioner and Respondent No.2 he has no objection, if the mandate be extended by mutual consent. The Petitioner has, therefore, approached this Court for extension of time for making the award.

4. The Apex Court in Rohan Builders (India) Private Limited v. Berger Paints India Limited, **2024 SCC OnLine SC 2494**, has held that an application for extension of the time period for passing an arbitral award under Section 29A(4) read with Section 29A(5) is maintainable even after the expiry of the twelve-month or the extended six-month period, as the case may be.

5. In view of the fact that moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 came into effect against Respondent No.1 and the Petitioner and Respondent No.2 have agreed to extend the mandate of the Arbitral Tribunal, this Court is inclined to extend the mandate of the Arbitral Tribunal.

6. Material on record indicates that analogous proceedings have been pending before the parties wherein some evidence would be appreciated by



the Tribunal and therefore, the Award is awaiting the conclusion of the arguments in the analogous proceedings.

7. In view of the fact that the matter is at the advance stage and arguments were over and Award is reserved for pronouncement, this Court is inclined to extend the mandate of the Arbitral Tribunal for one year from today till 31.12.2025 so that the Award can be pronounced and no further extension of time would be required by the Tribunal.

8. The petition is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JANUARY 20, 2025

RJ