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

% **Date of decision: 08.01.2026**

+ O.M.P.(MISC.)(COMM.) 761/2025

M/S SHIVA ENGINEERING COMPANYPetitioner

Through: Mr. Vijay Joshi & Mr. Kuldeep
Singh, Advs.

versus

M/S RELIANCE COMMUNICATION LTD.
& ANR.

....Respondents

Through: Ms. Charu Bansal & Mr.
Gaurav Arora, Advs. for R1.
Mr. Aditya Ganju, Mr. Hasan
Murtaza, Mr. Sameer Sharma,
Mr. Samanyu Sethi, Mr. Ankit
Sinha, Mr. Vatsal Agrwal &
Mr. Sahil Safdar, Advs. for R2.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN

AVNEESH JHINGAN, J. (ORAL)

1. This petition is filed under Section 29A(5) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') seeking extension of the mandate of the Arbitral Tribunal for a period of one year.
2. The brief facts are that the petitioner is a unit registered under the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'MSMED Act'). There was dispute amongst the parties and the petitioner in March 2020 approached the Micro and Small



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Enterprises Facilitation Council (for short 'MSME Council') and the matter was referred on 14.07.2021 to Delhi International Arbitration Centre (for short 'DIAC'). The first date before the Arbitrator was 12.11.2021. Respondent no.1 put in first appearance on 09.09.2022 before the Arbitrator and respondent no.2 appeared on 01.12.2022 and sought time. On 23.03.2023, a statement of defence was filed by respondent no.2 alongwith an application under Section 16 of the Act. The order was reserved on 11.01.2024. On 29.06.2024, the petitioner was informed that the mandate of the Arbitral Tribunal had expired.

3. On 11.11.2024, the petitioner attempted to approach the MSME Council for getting the expiry of the mandate redressed but was not successful. On 29.01.2025, the petitioner approached the learned District Judge (Commercial Court), Patiala House Courts, New Delhi, for extension of the mandate but the petition was rejected on 07.08.2025 as not maintainable. Thereafter, on 26.08.2025, the present petition was filed.

4. Learned counsel for the petitioner submits that considerable time was consumed in securing appearance of the respondents. The application filed by respondent no.2 under Section 16 of the Act was argued, the order was reserved and in the meantime the mandate of the Arbitral Tribunal expired. The contention is that there was no delay on part of the petitioner. Decision of the Supreme Court in **M/s Ajay Protech Pvt. Ltd. v. General Manager & Anr. 2024 INSC 889** is relied upon to fortify the contention that the mandate can be extended even after the expiry of the period.

5. *Per contra*, there was a delay of four hundred days in



approaching this court and no sufficient cause is pleaded. It is argued that even the Commercial Court was approached after a period of two hundred thirty-nine days. The application is belated and should be rejected on this ground alone.

5.1 Reliance is placed upon the decision in **Madanlal v. Shyamlal (2002) 1 SCC 535** to buttress the argument that ‘sufficient cause’ requires a higher degree of proof than ‘reasonable cause’. **Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Ltd. 2024 SCC OnLine SC 2494** is relied to contend that extension is not to be granted mechanically but only in cases where sufficient cause is shown. The decisions in **Balwant Singh v. Jagdish Singh & Ors. (2010) 8 SCC 685**, **Skylark Cagers India Pvt. Ltd. v. Institute of Liver and Biliary Sciences 2023 SCC OnLine Del 1276**, and **H. P. Singh v. G. M. Northern Railways & Ors. 2023 SCC OnLine J&K 1255** are also relied upon to oppose the extension.

6. Heard the learned counsel for the parties. No contentions other than those noted above have been pressed.

7. On a reading of Sections 29A(4) and 29A(5) of the Act it emerges that the period can be extended by this court upon sufficient cause being shown and extension can be either prior to or after the expiry of the period.

8. One and a half years in arbitration was consumed in completing service and in filing of the statement of defence. It would be appropriate to note that insolvency proceedings under the IBC qua respondent no.1 are pending and the proceedings qua respondent no.1 were adjourned sine die by the Arbitrator.



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9. The application filed on 23.03.2023 under Section 16 of the Act by respondent no.2 was heard on 11.01.2024, the order was reserved and the mandate expired in June 2024.

10. The contention of the learned counsel for respondent no.2 that there is delay in filing the petition before this court under Section 29A(5) deserves rejection. The expiry of the mandate was communicated to the petitioner on 29.06.2024. The petitioner initially approach the MSME Council and then to the Commercial Court. Upon rejection of the petition by the commercial court on 07.08.2025, the present petition under Section 29A(5) was filed within nineteen days. The petitioner was pursuing remedies though before the wrong forums.

11. Vis-a-vis the existence of sufficient cause for extension of time, it would be relevant to note that the proceedings qua one of the respondents were adjourned sine die by the Arbitrator in view of the moratorium consequent to the IBC proceedings. The completion of service and filing of the statement of defence consumed more than one and a half years. No delay is attributed to the petitioner. The alternative dispute resolution mechanism of arbitration meant for expeditious redressal of disputes cannot be permitted to be defeated by creating technical hitches for deciding the claim of the petitioner, more so when no fault is attributed to the petitioner.

12. There cannot be any cavil with the proposition for which the decision in **Madanlal v. Shyamlal (supra)** is cited that sufficient cause has a higher degree but it cannot be lost sight of that sufficient cause is to be decided on the facts and circumstances of each case and



there cannot be a straight-jacket formula.

13. Reliance of the learned counsel for the respondents on the decision in **Rohan Builders (India) Pvt. Ltd. (supra)** does not enhance the objections of the respondents and is not applicable to the facts of the present case. The petitioner was pursuing the remedies and there is no allegation of intentional delay being caused by the petitioner for completion of the arbitration. Paragraph no.15 of the judgement is quoted as follows:

“Rohan Builders (*India*) Pvt. Ltd. (*supra*) highlights that an interpretation allowing an extension application post the expiry period would encourage rogue litigants and render the timeline for making the award inconsequential. However, it is apposite to note that under Section 29A(5), the power of the court to extend the time is to be exercised only in cases where there is sufficient cause for such extension. Such extension is not granted mechanically on filing of the application. The judicial discretion of the court in terms of the enactment acts as a deterrent against any party abusing the process of law or espousing a frivolous or vexatious application. Further, the court can impose terms and conditions while granting an extension. Delay, even on the part of the arbitral tribunal, is not countenanced. The first proviso to Section 29A(4) permits delay attributable to the arbitral tribunal.”

14. In **Balwant Singh v. Jagdish Singh (supra)** it was held that the party should show that besides acting bona fide it had taken possible steps and approached the forums without unnecessary delay. At the cost of repetition after communication of the expiry of the mandate the petitioner consistently availed remedies, albeit before the wrong forums. It is not a case where the petitioner had intentionally delayed the filing of the petition under Section 29A(5) before this court.



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15. The decision in **Skylark Cagers India Pvt. Ltd. (supra)** was a case where the application for extension of period was dismissed on the facts of that case and is not applicable in the case in hand.

16. In **H. P. Singh v. G. M. Northern Railways (supra)** it was held that the extension cannot be on the mere asking of the applicant and the court has to satisfy itself of the genuineness and the sufficiency of the cause of extension of the period.

17. In the case in hand a considerable amount of time was consumed in the service of the respondents and in deciding the application filed under Section 16 of the Act. Complication was created by the moratorium operating in IBC proceedings against respondent no.1. The period spent by the petitioner in availing remedies before forums not having jurisdiction explains the delay in approaching this court. There is no intentional delay on part of the petitioner.

18. The petition is allowed and the period is extended for one year from today.

AVNEESH JHINGAN, J

JANUARY 8, 2026

Ch

Reportable:- **Yes**