
(2020) 01 DEL CK 0309

In the Delhi High Court

Case No : Original Miscellaneous Petition (MISC.)(COMM.) No. 22 Of 2020

Samsung India Electronics Private Ltd

APPELLANT

Vs

Kings Electronics Pvt Ltd

RESPONDENT

Date of Decision : 20-01-2020

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 29A(1), 29A(4)

Citation : (2020) 01 DEL CK 0309

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Rajeev Kumar

Final Decision : Allowed

Judgement

Jyoti Singh, J

I.A. 692/2020

Exemption allowed subject to all just exceptions.

Application stands disposed of.

O.M.P.(MISC.)(COMM.) 22/2020

1. This is a petition filed under Section 29A(4) of the Arbitration and Conciliation Act, 1996 ('Act') seeking extension of time for completion of the arbitral proceedings and passing of the Award.

2. The Arbitrator was appointed on 02.11.2018. The applicant filed its Statement of Claim on 23.01.2019 and a copy of the same was sent to the respondent by email. It is the case of the petitioner that on 20.02.2019, the learned Arbitrator received a call from the lawyer Mr. Prathamesh Soman stating that he had been appointed as a counsel for the respondent and sought an adjournment on personal grounds. The matter was adjourned to 07.03.2019. On 07.03.2019, no one appeared on behalf of the respondent. The Arbitrator granted another

opportunity to the respondent to file its Statement of Defence and the matter was adjourned to 21.03.2019. The said day being a holiday, proceedings were adjourned to 25.03.2019. Even on 25.03.2019, no one appeared on behalf of the respondent and the matter was re-notified to 10.04.2019. The petitioner herein then filed an application for substituted service which was allowed on 29.04.2019. Publication was made in the newspaper on 03.06.2019. On 03.07.2019, a new counsel, Mr. Ravi Lomod, appeared on behalf of the respondent and a copy of the statement of claim was provided to him. The matter was re-notified for 28.08.2019. Even on 28.08.2019, no one appeared on behalf of the respondent. The Arbitrator called Mr. Ravi Lomod, who had appeared on 03.07.2019. Mr. Lomod informed the Arbitrator that he had no further instructions in the matter from his client. Since there was no appearance on behalf of the respondent, despite publication, the Arbitrator proceeded ex-parte against the respondent and adjourned the matter.

3. On 09.11.2019, the petitioner herein filed an application for bringing certain documents on record, which was allowed on 15.11.2019.

4. The statutory period of twelve months under Section 29A(1) of the Act expired on 01.11.2019. On 04.12.2019, when the matter was taken up by the Arbitrator, it was pointed out that the statutory period of twelve months had expired. Since the respondent had been proceeded ex-parte, consent for extending the period by a further period of six months could not be granted. In these circumstances petitioner has approached this Court.

5. Since the respondent had not cared to appear before the Arbitrator and has been proceeded ex-parte, this Court does not deem it fit to issue notice to the respondent. Issuance of notice is hereby waived.

6. Learned counsel for the petitioner submits that the proceedings are at the stage of ex-parte evidence and seeks a period of six months for completion of proceedings and passing of the Award.

7. Having heard learned counsel for the petitioner, I am satisfied that a case for extension of time is made out. Time for completion of the proceedings and passing of the Award is hereby extended by a period of six months from 20.01.2020. The period between 02.11.2019 till 19.01.2020 is hereby regularised.

8. The petition is allowed in the aforesaid terms.