IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION NO. 865 OF 2026

SAP India Private Limited ...Petitioner

Versus

Cox and Kings Limited ...Respondent

Mr. Yohaann Limathwalla, Mr. Farhad Sorabjee, Mr. Pratik Pawar, Ms. Shanaya Cyrus Irani, Mr. Siddhesh S. Pradhan i/b. J. Sagar Associates for the Petitioner.

Mr. Navdeep Dahiya, Mr. Hiroo Advani, Ms. Janhavi Sakalkar, Ms. Hitanshi Mehta i/b. Advani Law, Bharucha & Partners for Respondent.

CORAM : ARIF S. DOCTOR, J.

RESERVED ON : 3rd SEPTEMBER 2026

PRONOUNCED ON : 10th SEPTEMBER 2026

<u>JUDGMENT</u>

1. The present Petition seeks an extension of the mandate of the Arbitral Tribunal constituted by the Hon'ble Supreme Court by Order dated 2nd January 2019. The Arbitral Tribunal comprises of three retired Judges, one of Bombay High Court and two of the Hon'ble Supreme Court. The

Tribunal is presided over by Justice Madan Lokur and, hence, for ease of reference, the Tribunal shall be referred to as the "**Justice Lokur Tribunal**". The Petitioner is the Claimant in the arbitration before the Justice Lokur Tribunal.

2. The Respondent has filed an Affidavit in Reply opposing the captioned Petition, essentially on the ground that the Justice Lokur Tribunal is *functus officio* and that the Petitioner has not shown sufficient cause under the provisions of Section 29A(5) of the Arbitration and Conciliation Act, 1996 ("**Arbitration Act**") for seeking an extension of time.

Submissions on behalf of the Petitioner:

3. Mr. Limathwalla, learned counsel appearing on behalf of the Petitioner, at the outset submitted that the Petitioner and the Respondent had entered into a contract for the provision of business software and related implementation services. Clause 15.7 of the General Terms and Conditions ("**GTC**") provided for arbitration.

4. He then submitted that, on 29th October 2017, the Petitioner claimed that there were certain amounts outstanding from the Respondent under the GTC read with Order Form 1.

5. The Petitioner then filed an application under Section 11 of the Arbitration Act, in which, pursuant to an Order of the Hon'ble Supreme Court dated 2nd January 2019, the Justice Lokur Tribunal was appointed. The Petitioner filed its Statement of Claim before the Justice Lokur Tribunal on 22nd March 2019, *inter alia*, seeking an amount of INR 17,98,47,906/- as outstanding amounts due and payable by the Respondent, under the GTC read with Order Form 1.

6. On 4th July 2019, the parties consented to an extension of six months for completion of the arbitral proceedings before the Justice Lokur Tribunal, after which the Respondent filed its Statement of Defence and Counter-claim on 31st July 2019, claiming INR 45,99,71,098/- from the Petitioner.

7. On 22nd October 2019, after the completion of pleadings in the arbitration before the Justice Lokur Tribunal, the National Company Law Tribunal,

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Mumbai ("**NCLT**"), admitted the Respondent into the Corporate Insolvency Resolution Process ("**CIRP**"). Accordingly, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**"), came into force, resulting in an automatic stay of all legal proceedings against the Respondent. The Justice Lokur Tribunal, therefore, on 5th November 2019, informed the parties that the arbitral proceedings stood adjourned *sine die.*

8. He submitted that the Respondent then, on 7th November 2019, issued a fresh notice under Clause 15.7 of the GTC invoking arbitration against the Petitioner and SAP SE, the parent company of the Petitioner. On 6th October 2020, the Respondent filed an application under Section 11 of the Arbitration Act before the Hon'ble Supreme Court for the appointment of an arbitrator pursuant to the Respondent's invocation of arbitration.

9. On 16th December 2021, the NCLT directed the Respondent's liquidation since no resolution plan was forthcoming. The Petitioner accordingly lodged its claim with the Liquidator on 21st February 2022. The Liquidator then, on 16th March 2022, admitted the Petitioner's claim for a

nominal amount of Re. 1/- and specifically recorded that the liability could not be quantified owing to the ongoing arbitration proceedings with Cox and Kings. Mr. Limathwalla was at pains to point out that the only arbitration proceedings pending on that date between the Parties were the proceedings before the Justice Lokur Tribunal.

10. Mr. Limathwalla then submitted that it was only on 9th September 2024 that the Hon'ble Supreme Court allowed the Respondent's Section 11 application and appointed Justice Mohit Shah, former Chief Justice of this Court, as the Sole Arbitrator ("**the Justice Shah Tribunal**") to adjudicate the Respondent's disputes against the Petitioner and SAP SE, leaving open all rights and contention of the Petitioner to raise all objections with regard to the joinder of SAP SE before the Justice Shah Tribunal.

11. He submitted that the Respondent thereafter filed its Statement of Claim before the Justice Shah Tribunal on 11th October 2024, in which the Respondent had initially claimed an amount of INR 45.99 crores. The Petitioner then filed an application under Section 16 of the Arbitration

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Act challenging the jurisdiction of the Justice Shah Tribunal, *inter alia*, on the ground that the subject matter of the arbitration was already pending before the Justice Lokur Tribunal. This Application was, however, rejected.

12. The Respondent thereafter filed an amended Statement of Claim before the Justice Shah Tribunal in which the Respondent's claim was enhanced to INR 45,99,71,097/-. Mr. Limathwalla pointed out that this amount was virtually identical to that claimed by the Respondent in its Counter-claim before the Justice Lokur Tribunal. The Petitioner, therefore, on 24th July 2025, filed a second application under Section 16 of the Arbitration Act, once again challenging the jurisdiction of the Justice Shah Tribunal. This Application was also, however, rejected on 10th November 2025.

13. Learned Counsel then pointed out that the Petitioner challenged the Order dated 10th November 2025 by filing a Writ Petition before this Court. The Writ Petition was, however, dismissed on 23rd December 2025, and the Special Leave Petition filed by the Petitioner impugning

the order dated 23rd December 2025 was also dismissed by the Hon'ble Supreme Court on 23rd January 2026.

14. Mr. Limathwalla submitted that in the aforesaid circumstances, the Petitioner approached the Justice Lokur Tribunal on 2nd February 2026 seeking resumption and continuation of the arbitral proceedings, principally for adjudication of the Petitioner's pending claim. He submitted that the Respondent opposed the request on the ground that the Justice Lokur Tribunal had become *functus officio* and lacked jurisdiction to revive or continue the proceedings and also that the Respondent's Counter-claim was pending before the Justice Shah Tribunal and that the Petitioner's claim had been lodged with the Liquidator.

15. Mr. Limathwalla submitted that, on 24th March 2026, the Justice Shah Tribunal recorded that the Respondent would not press its Counter-claim before the Justice Lokur Tribunal and that the Petitioner and SAP SE would file their Statement of Defence before the Justice Shah Tribunal without prejudice to their rights and contentions before the Justice Lokur Tribunal. He submitted that, despite this position having been recorded by

the Justice Shah Tribunal, the Respondent, reiterated before the Justice Lokur Tribunal on 3rd April 2026 that the Justice Lokur Tribunal was *functus officio* and lacked jurisdiction to revive the proceedings.

16. He submitted that the Petitioner, then on 20th April 2026, appeared before the Justice Lokur Tribunal and made detailed submissions seeking revival and continuation of the proceedings for adjudication of its pending claims, at which time he submitted that the Respondent chose not to appear. Upon conclusion of the Petitioner's submissions, the Justice Lokur Tribunal directed the Petitioner to approach this Court and seek an extension of time, and thus the present Petition was filed.

17. Mr. Limathwalla submitted that, pursuant to the order of the Hon'ble Supreme Court in ***Re:Cognizance for Extension of Limitation***,[1] the period from 15th March 2020 to 28th February 2022 stood excluded for the purpose of computation of limitation. On that basis, he submitted that 469 days remained available to the Justice Lokur Tribunal and that its mandate would consequently expire on 13th June 2023.

[1] (2022) 3 SCC 117.

18. Mr. Limathwalla submitted that the Petitioner had diligently pursued its claims throughout and that the inability of the Justice Lokur Tribunal to proceed resulted from circumstances beyond the Petitioner's control, including the commencement of CIRP against the Respondent, the consequent statutory moratorium, the COVID-19 exclusion period, and the Respondent's subsequent decision to pursue the same subject matter before a separately constituted arbitral tribunal.

19. Mr. Limathwalla submitted that the Petitioner had established the necessary grounds under Section 29A of the Arbitration Act for the extension of the mandate of the Justice Lokur Tribunal, since the Petitioner had not in any manner delayed or sought to frustrate the arbitration that was pending before the Justice Lokur Tribunal.

20. He submitted that the interests of justice would require this Court to extend the mandate of the Justice Lokur Tribunal to complete the arbitration proceedings and adjudicate on the merits of the Petitioner's claim, which remained pending before the Tribunal originally constituted for that very purpose. He reiterated that the proceedings before the Justice

Lokur Tribunal was stayed not on account of any fault, much less default on the part of the Petitioner. He therefore submitted that the mandate of the Justice Lokur Tribunal ought to be extended to enable the Petitioner's claim to be adjudicated on merits. This, he submitted, would best serve the substantive interest of justice and would aid the very object of arbitration and the purpose for which the Justice Lokur Tribunal was appointed in the first instance.

<u>Submissions on behalf of the Respondent:</u>

21. Mr. Dahiya, learned counsel for the Respondent, submitted that the principal question before the Court was whether the Petitioner had demonstrated "sufficient cause" within the meaning of Section 29A(5) of the Arbitration Act. He submitted that the Petitioner had not.

22. He then pointed out that the Petitioner had sought an extension of the mandate until 30th April 2027, although the Justice Lokur Tribunal had not presided since 5th November 2019. Mr. Dahiya submitted that the mandate of the Justice Lokur Tribunal had expired on 17th June 2022 and not on 13th June 2023, as contended by the Petitioner. He submitted that

Section 29A(5) permits an extension of time only upon sufficient cause being established, and the Court cannot extend time under Section 29A of the Arbitration Act mechanically or as a matter of course. In support of his contention, he placed reliance upon the decision of the Hon'ble Supreme Court in ***Rohan Builders (India) Private Limited v. Berger Paints India Limited***.[2]

23. Mr. Dahiya then also placed reliance upon the decision of the Hon'ble Supreme Court in ***Ajay Protech Pvt. Ltd. v. General Manager & Anr.***,[3] to submit that the expression 'sufficient cause' must be understood in the context of the underlying purpose of arbitration, namely, effective resolution of disputes through the agreed mechanism and not permitting procedural delay to defeat substantive adjudication. He also placed reliance upon the decision of the Hon'ble Supreme Court in the case of ***C. Velusamy v. K. Indhera***[4] to point out that the Hon'ble Supreme Court reiterated that an arbitral tribunal's mandate is not automatically extended

[2] 2023 SCC OnLine Del 2990.
[3] (2026) 7 SCC 452
[4] (2026) 5 SCC 340

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and that the Court must exercise its discretion after close scrutiny of the facts, while considering the rights of all stakeholders.

24. Mr. Dahiya submitted that in the facts of the present case the Petitioner had failed to plead or establish sufficient cause for the delay. The Petition and Rejoinder, according to him, contained only general assertions that the Petitioner had no alternative forum and that the delay was caused by "extraordinary circumstances". He pointed out that the Petitioner had not offered any specific explanation for the period between 16th December 2021, when the Respondent was ordered to be liquidated, upto 23rd April 2026, when the present Petition was filed. He also pointed out that the Petitioner had not produced any correspondence, document or other material explaining why the Petitioner had not sought an extension of the mandate during this period. He pointed out that the Respondent had specifically pleaded in its Affidavit in Reply that this four-year period remained unexplained.

25. Mr. Dahiya then placed reliance upon the decision of this Court in the case of ***Bilkish Mohammed Umar Khatri v. Sarabjit Singh Arora***[5] to

[5] 2020 SCC OnLine Bom 2451.

point out that this Court had refused an extension under Section 29A in circumstances where the intervening period had not been explained. He also placed reliance upon the decision in the case of ***NeoGrowth Credit Private Limited v. Prestige Home Textiles Co.***[6] and ***Skylark Cagers India Private Limited v. Institute of Liver and Biliary Sciences***,[7] which he submitted recognised that an unexplained delay is inconsistent with the expeditious nature of arbitration.

26. Mr. Dahiya submitted that the Petitioner knew, at least by 16th March 2022, that the Liquidator had admitted its claim only notionally at Re. 1/-. He submitted that if the Liquidator's reference to "ongoing arbitration proceedings" related to the Respondent's Section 11 proceedings before the Hon'ble Supreme Court, the Petitioner's remedy lay under the IBC, including the statutory mechanism for challenging the quantification of its claim, which it admittedly did not pursue.

27. Alternatively, he submitted that if the Liquidator was referring to the arbitration before the Justice Lokur Tribunal, the Petitioner knew on 16th March 2022 that its claim depended upon proceedings that had been

[6] 2019 SCC OnLine Bom 10743.
[7] 2023 SCC OnLine Del 1276.

adjourned sine die since 5th November 2019. He submitted that even as per the Respondent's computation of time, the mandate of the Justice Lokur Tribunal remained alive until 17th June 2022, which gave the Petitioner ample opportunity to seek an extension under Section 29A. Despite this, he submitted that the Petitioner did not seek an extension.

28. Mr. Dahiya submitted that the Petitioner's own actions therefore demonstrated the absence of sufficient cause. He submitted that, even assuming the mandate of the Tribunal had expired only in June 2023 and that the Petitioner's claim could only be quantified before the Justice Lokur Tribunal, there was no explanation for the Petitioner's failure to approach the Justice Lokur Tribunal until February 2026 and thereafter this Court only in April 2026. He was at pains to point out that the Petitioner was not inactive during this period, since the Petitioner had actively participated in the proceedings before the Justice Shah Tribunal by filing two applications under Section 16 of the Arbitration Act, followed by a Writ Petition before this Court and an SLP before the Hon'ble Supreme Court.

29. Mr. Dahiya submitted that the Petitioner's conduct amounted to "fence-sitting". According to him, the Petitioner sought revival of the arbitration proceeding before the Justice Lokur Tribunal only after the Petitioner's attempts to resist the arbitration before the Justice Shah Tribunal had failed. He placed reliance on the decision in ***Desire Infrabuild Private Limited v. Oyo Apartments Investments LLP***[8] to point out that permitting the petitioner would lead to not only enjoying the fruits of being a fence sitter but also putting a premium on its inaction.

30. He then also placed reliance upon the decision in ***Surinder Singh v. Arrow Engineering Limited***,[9] in which he pointed out that this Court had declined to revive stale arbitral proceedings in view of prolonged inactivity and the applicant's failure to seek an extension even after the Tribunal's mandate had expired.

31. In the alternative and without prejudice to the above, Mr. Dahiya submitted that any extension of time would serve no useful purpose because the Respondent was in liquidation. He therefore submitted that even if any award was passed in favour of the Petitioner, the same would

[8] 2025 SCC OnLine Del 5929.
[9] 2025 SCC OnLine Bom 1761.

be incapable of being enforced under the provisions of Sections 33(5) and 33(1)(b)(iv) of the IBC.

32. Mr. Dahiya submitted that the Petitioner's claim had already been admitted in the liquidation and that the statutory mechanism under the IBC remained available for determination of its quantum. He further pointed out that the Justice Shah Tribunal had recorded on 24th March 2026 that the Respondent would not press its Counter-claim before the Justice Lokur Tribunal. He therefore submitted that if the mandate of the Justice Lokur Tribunal were to be extended, the only surviving claim would be the Petitioner's claim, which had already been lodged and admitted in the liquidation.

33. Mr. Dahiya further submitted that the disputes had, in any event, been placed before the Justice Shah Tribunal pursuant to the Hon'ble Supreme Court's order dated 9th September 2024. He pointed out that the Petitioner had resisted the Section 11 application on the ground that the Respondent's claims were already pending before the Justice Lokur Tribunal and that parallel proceedings could result in conflicting

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decisions. He submitted that the Hon'ble Supreme Court, however, did not adjudicate those objections at the Section 11 stage and instead left it open for the Petitioner to raise all objections before the Justice Shah Tribunal. He submitted that these objections were then raised by the Petitioner before the Justice Shah Tribunal and were rejected by the order dated 31st March 2025.

34. Mr Dahiya therefore submitted that continuation of two arbitrations arising from the same contractual framework would create a real risk of inconsistent findings and conflicting decisions. He pointed out that the Respondent's claim before the Justice Shah Tribunal was for a refund of the licence fee paid for the SAP Hybris Solution and the amounts paid towards its implementation, on the allegation that the software was not delivered as contracted, whereas the Petitioner's claim before the Justice Lokur Tribunal was for unpaid invoices for the same software under the same contractual framework. The two claims, he submitted, were therefore substantially mirror images of each other.

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35. Mr. Dahiya submitted that the statutory scheme of the IBC also reinforced the need for finality. In support of his contention, he placed reliance upon the Insolvency Law Committee's February 2020 Report and submitted that Parliament had subsequently enacted Section 33(1)(b)(iv), extending the effect of the moratorium under Section 14(1)(a) to liquidation.

36. Mr. Dahiya therefore submitted that, when viewed cumulatively, the Petition sought an extension of the mandate of the Justice Lokur Tribunal nearly four years after the mandate had expired in respect of a company which was now in liquidation. He reiterated that the Petitioner had neither explained the intervening period nor demonstrated any circumstance beyond its control that prevented it from seeking an extension within the prescribed period.

37. Mr. Dahiya accordingly prayed that the Petition be dismissed with exemplary costs.

<u>Submissions on behalf of the Petitioner in Rejoinder:</u>

38. In rejoinder, Mr. Limathwalla submitted that the Respondent's objections could broadly be grouped under five heads: (i) absence of sufficient cause; (ii) the Justice Lokur Tribunal being *functus officio*; (iii) the effect of the constitution of the Justice Shah Tribunal; (iv) the effect of the Respondent's liquidation and the amendments to the IBC; and (v) the alleged futility of proceeding with the Petitioner's claim before the Justice Lokur Tribunal.

39. He submitted that, although these objections were framed as objections to "sufficient cause", they did not address the central question under Section 29A(5), i.e., whether, having regard to the peculiar facts of the case and the circumstances that interrupted the proceedings before the Justice Lokur Tribunal, sufficient cause existed to extend its mandate.

40. Also placing reliance upon the decision in the case of ***Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Ltd.***, he submitted that an application under Section 29A(4) is maintainable, whether it is filed before or after the expiry of the prescribed period. He therefore submitted

that the mere fact that the present Petition was filed after the expiry of the mandate did not render it non-maintainable.

41. Mr. Limathwalla then submitted that the Petitioner had established sufficient cause within the meaning of Section 29A(5) of the Arbitration Act. He reiterated that the interruption of the proceedings before the Justice Lokur Tribunal was not attributable to any lack of diligence on the Petitioner's part but resulted from circumstances beyond the Petitioner's control, namely (i) the Respondent's admission into CIRP, (ii) the resulting statutory moratorium, (iii) the Respondent's subsequent invocation of a fresh arbitration concerning the same subject matter, and (iv) the Petitioner's bona fide pursuit of its jurisdictional objections before the Justice Shah Tribunal, this Court and the Hon'ble Supreme Court.

42. He then submitted that it was wholly inequitable for the Respondent to rely upon consequences arising from its own conduct to oppose the extension of the mandate of the Justice Lokur Tribunal. He submitted that the Respondent, having already filed its Counter-claim before the Justice

Lokur Tribunal had consciously chosen to invoke a fresh arbitration in respect of the same subject matter. He submitted that the Petitioner was therefore entitled to oppose the subsequent proceedings because the same disputes were already sub judice before the Justice Lokur Tribunal.

43. Mr. Limathwalla submitted that the Petitioner's position was not that of a fence sitter since the Petitioner had consistently maintained that the Justice Lokur Tribunal was the appropriate forum for adjudication of disputes arising from the parties' contractual relationship. He submitted that the Petitioner was granted liberty by the Hon'ble Supreme Court to raise all contentions with regard to the jurisdiction of the Justice Shah Tribunal and the joinder of SAP SE before the Justice Shah Tribunal, which is precisely what the Petitioner had done. He therefore submitted that, in these facts, it was wholly untenable for the Respondent to contend that the Petitioner had abandoned its own claims.

44. Mr. Limathwala then placed reliance upon the Liquidator's email dated 16th March 2022, which recorded that the Petitioner's claim was admitted notionally at Re. 1/- because the liability could not then be quantified

owing to the "ongoing arbitration proceedings with Cox & Kings Ltd." He also reiterated that the Respondent's subsequent Statement of Claim before the Justice Shah Tribunal substantially mirrored its Counter-claim before the Justice Lokur Tribunal. He therefore submitted that the parallel proceedings were a consequence of the Respondent's own actions, for which the Petitioner could not be faulted.

45. Mr. Limathwalla submitted that the existence of "sufficient cause" must be assessed on the facts and circumstances of each case and cannot be determined by an inflexible test based solely on the passage of time. He then placed reliance upon the decision in ***Ajay Protech*** to point out that "sufficient cause" must be understood in light of the underlying purpose of arbitration, namely, effective resolution of disputes. He submitted that the facts of the present case fell squarely within that principle because the arbitration proceedings before the Justice Lokur Tribunal were interrupted because the Respondent was admitted to the CIRP process and not on account of any wilful default on the Petitioner's part.

46. Mr. Limathwalla submitted that the authorities relied upon by the Respondent were distinguishable on their facts. He pointed out the decision in the case of ***Rajendra Kumar v. National Highways Authority of India***[10] concerned an application that was unsupported by particulars or documentary material, whereas the present Petition sets out the complete procedural history and the circumstances that prevented the continuation of the arbitration before the Justice Lokur Tribunal. ***Bilkish Mohammed v. National Highways Authority of India*** was likewise distinguishable, as the intervening period in that case was wholly unexplained. Similarly, ***Desire Infrabuild Private Limited v. Oyo Apartments Investments LLP*** was distinguishable because, in that case, the Petitioner sought an extension only after an award had been rendered and a stay had been obtained against it.

47. On the question of whether the Justice Lokur Tribunal was *functus officio*, he submitted that the Respondent could not unilaterally terminate the arbitral proceedings by asserting that the Tribunal had become *functus officio*. He pointed out that Section 32 of the Arbitration Act provides for

[10] Order dated 20th May 2026 passed by Himachal Pradesh High Court in Arbitration Case No. 216 of 2025.

the manner in which arbitral proceedings can be terminated. In the present case, he submitted that it was not even the Respondent's case that the proceedings before the Justice Lokur Tribunal had been terminated under Section 32.

48. Mr. Limathwalla submitted that a party cannot terminate arbitral proceedings merely by declining to participate and thereafter contend that the proceedings had ceased to exist. Similarly, he pointed out that the Respondent’s decision to pursue its claim before the Justice Shah Tribunal could not extinguish the Petitioner’s independent claims before the Justice Lokur Tribunal. While the Respondent might elect the forum in which to pursue its own claim, that election could not deprive the Petitioner of a forum for the adjudication of its pending claims.

49. Mr. Limathwalla also disputed the contention that adjudication of the Petitioner’s claim would be futile because the Respondent was in liquidation. He pointed out that Regulation 29 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, recognises mutual credits and set-offs between the corporate debtor and a

creditor. He therefore submitted that, even if the Petitioner were to succeed in its claim before the Justice Lokur Tribunal, it would have the benefit of claiming a set-off against the Respondent. He therefore submitted that the Respondent's contention that the Petitioner's claim was incapable of being given effect to could not, at this stage, justify denying the Petitioner an opportunity to have its claim adjudicated on merits.

50. Mr. Limathwalla further pointed out that, once the Respondent made clear that it would not press its Counter-claim before the Justice Lokur Tribunal, the Petitioner immediately sought resumption of the proceedings for adjudication of its own claims. He submitted that this conduct demonstrated diligence rather than abandonment. He accordingly submitted that sufficient cause within the meaning of Section 29A(5) had been established and the objections taken by the Respondent would not justify depriving the Petitioner of adjudication of its pending claims.

51. Mr. Limathwalla therefore submitted that the Petition be allowed in terms of prayer clause '(a)'.

52. Having heard Learned Counsel for the parties and considering the peculiar facts of the present case, I find as follows, viz.

A. It is now well settled that the time to complete arbitration proceedings can be extended after the expiry of the initial twelve-month period or the extended six-month period, as held by the Hon'ble Supreme Court in ***Rohan Builders (India) Pvt. Ltd. v. Berger Paints India Ltd.*** The question, which therefore arises for consideration in the present case, is whether the Petitioner has made out sufficient cause for extending the mandate of the Justice Lokur Tribunal under the provisions of Section 29A(5) of the Arbitration Act.

B. The legislative intent underlying Section 29A is to ensure that arbitral proceedings proceed expeditiously and that an arbitral award is rendered within the prescribed timelines. The Hon'ble Supreme Court, in ***C. Velusamy v. K. Indhera***, has held that the Court must exercise its discretion under Section 29A after carefully examining the facts and circumstances of each case and not as a matter of routine. Similarly, as held in ***M/s Ajay Protech Pvt. Ltd. v. General Manager & Anr.***, the expression "sufficient cause" must be understood in the context of the underlying purpose of arbitration, namely, the resolution of disputes through the mechanism agreed upon by the parties. Therefore, where arbitration proceedings do not conclude within the prescribed timelines for reasons beyond the parties' or tribunal's control, or where the delay is not due to any wilful default or deliberate attempt to delay by the party applying for an extension, it would be manifestly unjust not to condone the delay if sufficient cause is shown. This would really defeat the very purpose of arbitration.

C. The decisions in ***Rajendra Kumar v. National Highways Authority of India*** and ***Bilkish Mohammed Umar Khatri v. Sarabjit Singh Arora***, upon which reliance was placed by the Respondent, do not, in my view, assist the Respondent. Neither decision lays down any absolute proposition of law that an application seeking extension of the mandate must necessarily fail merely because it is made after a considerable lapse of time. In both cases, the Court declined to extend the mandate because the delay had not been satisfactorily explained. The determinative consideration in those cases, therefore, was the absence of sufficient cause and not merely the length of the delay.

D. In the present case, it is not in dispute that, after completion of the pleadings before the Justice Lokur Tribunal, the Respondent was admitted into CIRP, resulting in a stay of legal proceedings against it under Section 14 of the IBC. It was in these circumstances that the Justice Lokur Tribunal adjourned the proceedings *sine die*. The Respondent thereafter invoked a fresh arbitration against the Petitioner and SAP SE in which the Respondent has made the virtually identical claim against the Petitioner as that made by the Respondent in its counter-claim filed in the proceedings before the Justice Lokur Tribunal. What is crucial to note is that when the Hon’ble Supreme Court allowed the Section 11 Petition filed by the Respondent, the Hon’ble Supreme Court specifically kept open all rights and contentions of the Petitioner to raise all objections before the Shah Tribunal. The Petitioner was, therefore, fully justified in contesting the jurisdiction of the Justice Shah Tribunal.

E. The Hon'ble Supreme Court dismissed the Petitioner's SLP on 23rd January 2026. The Petitioner approached the Justice Lokur Tribunal on 2nd February 2026, within a short period thereafter, seeking the resumption of the original arbitration. Thus, immediately after the jurisdictional challenge was finally exhausted, the Petitioner acted promptly to seek resumption of the proceedings before the Justice Lokur Tribunal. This conduct is inconsistent with any suggestion that the Petitioner had abandoned the arbitration before that Tribunal. In the context of these facts, Respondent's contention that the Petitioner was a "fence sitter" is ill-founded. Hence, the decisions in the case of ***Desire Infrabuild Pvt. Ltd. v. Oyo Apartments Investments LLP***, upon which reliance was placed by the Respondent, would not apply.

F. On conduct, and crucially, the Respondent has withdrawn its counter-claim before the Justice Lokur Tribunal and opposed the continuation of proceedings on the ground that the Petitioner's claim has already been adjudicated by the Liquidator. Thus, the Petitioner is placed in a position where its claim may effectively be prevented from being adjudicated through no fault of the Petitioner. The Respondent’s contention that the Petitioner’s claim has already been adjudicated by the Official Liquidator also does not, at this stage, take the matter any further, particularly having regard to Regulation 29 of the IBC, which recognises the right to claim mutual credits and set-off. In any event, this is not something that the Court has to consider when deciding whether the Petitioner has made out a case for extension of time under Section 29A(5) of the Arbitration Act. It is always open to the Respondent to raise all such objections before the Tribunal.

G. Hence, for the reasons set out in (**A**) to (**F**) above, I am satisfied that the Petitioner has made out a case for the extension of the mandate of the Justice Lokur Tribunal. The delay in completion of the arbitral proceedings before the Justice Lokur Tribunal cannot, in the facts of

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the present case, be attributed to any deliberate, wilful or negligent default on the part of the Petitioner, much less of the Tribunal. In these circumstances, to permit the mandate to lapse without affording the Petitioner an opportunity to have its pending claim adjudicated would, in my view, defeat rather than advance the underlying object of the arbitral process.

53. For the reasons mentioned hereinabove, I pass the following Order:

ORDER

i. The captioned Petition is allowed, and the time limit for the arbitral tribunal to make an award is extended by a period of one year.

ii. The extended time shall commence from the date on which a copy of this Order is uploaded.

iii. There shall be no orders as to costs.

[ARIF S. DOCTOR, J.]

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