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

Date of decision: 13th December, 2018

+ **O.M.P. 349/2008 & I.A. 4764/2018**

AIR FORCE NAVAL HOUSING BOARD Petitioner
Through: Mr. Vivekanand, Advocate.
(M:9810149231)

versus

M/S CREATIVE CONSORTIUM & ANOTHER Respondents
Through: Ms. Gurkamal Arora and Mr.
Sanyogita Jain, Advocates.
(M:9999845020)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present petition has been filed under Section 34 of the Arbitration & Conciliation Act, 1996 challenging the award dated 27th March, 2008 passed by the learned Sole Arbitrator.
2. The Petitioner- Air Force Naval Housing Board (*hereinafter 'Board'*) had entered into an agreement and engaged the Respondent-M/s Creative Consortium through its Director, Ms. Madhu Garg for consultancy, architectural and supervision work for AFNHB Mohali Project on 22nd December, 2000. Disputes had arisen between the parties out of the said work which was awarded and several claims were raised by the Respondents against the Petitioner. The Ld. Sole Arbitrator passed the impugned award, a perusal of which shows that in respect of all the claims, the Arbitrator has

not given any reasons. Sums were awarded under various claims and the Arbitrator has simply followed a template and not given specific reasons and findings in respect of any of the awarded claims. Such an approach is contrary to the statute as also the settled law inasmuch as every arbitral award has to consist of reasons. This is the settled position as laid down in various judgements including *State of Kerala v Som Dutt Builders (2009) 10 SCC 259*. In the said decision, the Court held as under:

“25. The requirement of reasons in support of the award under Section 31(3) is not an empty formality. It guarantees fair and legitimate consideration of the controversy by the Arbitral Tribunal. It is true that the Arbitral Tribunal is not expected to write a judgment like a court nor is it expected to give elaborate and detailed reasons in support of its finding(s) but mere noticing the submissions of the parties or reference to documents is no substitute for reasons which the Arbitral Tribunal is obliged to give. Howsoever brief these may be, reasons must be indicated in the award as that would reflect the thought process leading to a particular conclusion. To satisfy the requirement of Section 31(3), the reasons, must be stated by the Arbitral Tribunal upon which the award is based; want of reasons would make such award legally flawed.”

The fact that the award is unreasoned is seriously not disputed by either party. In fact the Respondent had filed an application praying that the Ld. Arbitrator be permitted to give reasons in support of the Award.

3. The impugned award is not sustainable and is liable to be set aside. The same is accordingly set aside. The parties have no objection if a retired ADJ is appointed to adjudicate the disputes. Considering the nature of the claims, **Mr. Pradeep Chadha, Retd. District Judge (M:9910384665)** is

appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

4. The arbitration shall be conducted under the aegis of Delhi International Arbitration Centre (DIAC). The proceedings shall, however, be concluded within a period of 6 months on the basis of the records, pleadings and documents/evidences as is already available. The records be transmitted to the DIAC.

5. Parties to appear before the Ld. Arbitrator in the DIAC on 30th January, 2019.

DECEMBER 13, 2018

Rekha

**PRATHIBA M. SINGH
JUDGE**



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