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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 22/2023 & CM APPL. 3371/2023**
MR. SANJAY SONI

.....Appellant

Through: Mr Manoj Singh and Mr Abhay
Singh, Advocates.

versus

M/S. PREXMA LTD.

.....Respondent

Through: Mr S S Ray, Sr Advocate with Mr
Vaibhav Gulia and Mr Nalin Tripathi,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **19.09.2024**

1. The appellant has filed the present appeal, *inter alia*, impugning an order dated 24.12.2022 passed by the learned Commercial Court in OMP (COMM) No.80/2021 captioned *Mr. Sanjay Soni v. M/s.Prexma Limited & Another*.
2. The appellant filed the said application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereafter *the A&C Act*) seeking to set aside the arbitral award dated 16.04.2021 (hereafter *the impugned award*) passed by the Arbitral Tribunal comprising of the Sole Arbitrator.
3. The Arbitral Tribunal had awarded an amount of ₹28,14,260/- along with an interest at the rate of 9% per annum with effect from 01.10.2016 till the payment thereof along with cost quantified at ₹11,00,000/- in favour of the respondent – Prexma Limited.
4. One of the questions that arises for consideration is whether the respondent company is a company incorporated in India. We noticed that the



pleadings are deficient in describing the respondent. On conducting a brief search on internet, it appears that the respondent was a company incorporated in United Kingdom and was dissolved on 05.01.2021. The learned counsel for the respondent confirms the same. He, however, states that the impugned award will still hold good.

5. We are not inclined to examine other issues in the present appeal as it is apparent that the arbitration between the appellant and the respondent was an international commercial arbitration within the meaning of Section 2(1)(f) of the A&C Act.

6. In terms of Section 2(1)(ii) of the A&C Act, the learned Commercial Court would not be a Court for the purpose of entertaining the application for setting aside an arbitral award rendered in an international commercial arbitration. Thus, the impugned order has been passed without jurisdiction.

7. In view of the above, we set aside the impugned order.

8. It is clarified that we have not examined any of the other rival contentions regarding the challenge to the impugned award.

9. The appeal is disposed of in the aforesaid terms. Pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 19, 2024

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Click here to check corrigendum, if any