

38. In absence of any finding on Point 1, as pleaded by the respondent and further, it is their case that relevant material produced before the arbitrator to prove “accord and satisfaction” between the parties, is not considered, and the same amounts to patent illegality, such aspects are to be considered by the Court itself. It cannot be said that it is a case where additional reasons are to be given or gaps in the reasoning, in absence of a finding on Point 1 viz. “whether the [contract](#) was illegally and abruptly terminated by the respondent?”.

40.

Merely because an application is filed under Section 34(4) of the Act by a party, it is not always obligatory on the part of the Court to remit the matter to Arbitral Tribunal. **The discretionary power conferred under Section 34(4) of the Act, is to be exercised where there is inadequate reasoning or to fill up the gaps in the reasoning, in support of the findings which are already recorded in the award.**

41. Under the guise of additional reasons and filling up the gaps in the reasoning, no award can be remitted to the arbitrator, where there are no findings on the contentious issues in the award. If there are no findings on the contentious issues in the award or if any findings are recorded ignoring the material evidence on record, the same are acceptable grounds for setting aside the award itself. Under the guise of either additional reasons or filling up the gaps in the reasoning, the power conferred on the Court cannot be relegated to the arbitrator. In absence of any finding on contentious issue, no amount of reasons can cure the defect in the award.

42. A harmonious reading of Sections 31, 34(1), 34(2-A) and 34(4) of the Arbitration and Conciliation Act, 1996, make it clear that in appropriate cases, on the request made by a party, **Court can give an opportunity to the arbitrator to resume the arbitral proceedings for giving reasons or to fill up the gaps in the reasoning in support of a finding, which is already rendered in the award. But at the same time, when it prima facie appears that there is a patent illegality in the award itself, by not recording a finding on a contentious issue, in such cases, Court may not accede to the request of a party for giving an**

opportunity to the Arbitral Tribunal to resume the arbitral proceedings.

I-Pay Clearing Services (P) Ltd. v. ICICI Bank Ltd., (2022) 3 SCC 121