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Resolving the Hamletian Dilemma: Can Non-consideration of an Argument in Appeal Trigger Rectificatory Jurisdiction in Indian Tax Law?

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ABSTRACT

Recently, some courts and tax tribunals in India have taken a view that non-adjudication of a sub-ground or an argument is a mistake or an error apparent from the record, which can be rectified within the rectificatory mandate of law. This view appears palpably problematic from the word go, as it is prone to mischief and may, at times, entail grave abuse of the process of law. This research paper aims at examining this judicial view in the light of the evolved jurisprudence on the subject. This paper seeks to argue that the non-consideration of an argument or any fact makes the appellate order erroneous, amenable only to the statutory remedies of appeal and any contrary construction will be in the teeth of the law laid down by the Supreme Court of India, including the judgement of its Constitution Bench.

Keywords: *Hamletian Dilemma; Plea; Sub-ground; Non-consideration; Rectificatory jurisdiction.*

1.0 Introduction

1. The rectificatory jurisdiction of the courts is grounded in the maxim '*actus curiae neminem gravabit'* which means that an act of the court shall prejudice none. Nobody should be allowed to suffer for the fault of the court and it is, in fact, duty of the court to ensure that its act prejudices none. Underscoring this legal philosophy, the Supreme Court had once observed that to perpetuate an error was no heroism and to rectify it was the compulsion of judicial conscience.[1] This jurisprudential principle was reiterated by a three-judge Bench of the Supreme Court in *S. Nagraj v State of Karnataka*, thus:[2]

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> An act of Court should prejudice none. 'Of all these things respecting which learned men dispute', said Cicero, 'there is none more important than clearly to understand that we are born for justice and that right is founded not in opinion but in nature.' This very idea was echoed by James Madison (The Federalist No. 51 page 352), He said: 'Justice is the end of government. It is the end of the Civil Society. It ever has been and ever will be pursued, until it be obtained or until liberty be lost in the pursuit.'[3]

2.0 Normative Restrictions

2. In tax law, as in other laws, this principle, however, is saddled with certain normative limitations inasmuch as it is restricted only to the corrections of certain mistakes apparent from the record and it does not purport to confer jurisdiction upon the courts to review or revisit their erroneous decisions, judgements or views.[4] What constitutes a mistake apparent from the record is too well-settled to require a detailed exposition here, and that is also not the object of this article. Suffice it to say that an error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions, can hardly be said to be an error apparent on the face of the record.[5] Further, when the error alleged was far from self-evident and could be established, only by lengthy and complicated arguments, such an error cannot be regarded as an error apparent on the face of the record.[6] Reference to documents outside the record is impermissible when ascertaining a mistake apparent from the record and invoking the powers to rectify the same.[7] However, recently, the Calcutta High Court[8] and some tax tribunals[9] in India have taken a view that non-adjudication of a sub-ground or an argument is a mistake or an error apparent from the record, which can be rectified within the rectificatory mandate of law. This research paper aims at examining this judicial view in the light of the evolved jurisprudence on the subject.

3.0 Public Policy Consideration

3. At the outset, one may note the trite law that the non-adjudication of an independent ground of appeal altogether does constitute a mistake apparent from the record, as it is the duty of the court to address all the grounds of the litigants and if any ground is inadvertently missed by the court, the latter must rectify the error by deciding the ground. But to aver that if the court, while deciding a ground of appeal, omits to consider an argument, sub-ground, plea or fact, the same will also be a mistake apparent from the record, is not a sound proposition, being deleterious to public policy and prone

to mischief and abuse, *firstly*, by encouraging unnecessary nit-picking by a litigant in an order or a decision of the court and filing of rectification application on the facetious plea that some argument, plea or fact has not been considered by the adjudicating authority; and *secondly*, at the hands of the adjudicating authority itself, which may elect to ignore some argument or fact in the first round of adjudication and accept the same in the second round and revisit its order in the garb of rectification. This will be an arbitrary exercise of power and can never be the object of law. Cautioning against such approach, the Supreme Court of India, speaking through Kania J, underscored these public policy considerations in *Karam Chand Thapar*[10] in the following words:

> *It is equally well settled that the decision of the Tribunal has not to be scrutinized sentence by sentence merely to find out whether all facts have been set out in detail by the Tribunal or whether some incidental fact which appears on the record has not been noticed by the Tribunal in its judgment*. If the court, on a fair reading of the judgment of the Tribunal, finds that it has taken into account all relevant material and has not taken into account any irrelevant material in basing its conclusions, the decision of the Tribunal is not liable to be interfered with, unless, of course, the conclusions arrived at by the Tribunal are perverse.
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> *It is not necessary for the Tribunal to state in its judgment specifically or in express words that it has taken into account the cumulative effect of the circumstances or has considered the totality of the facts, as if that were a magic formula; if the judgment of the Tribunal shows that it has, in fact, done so, there is no reason to interfere with the decision of the Tribunal.*
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> [Emphasis supplied]

4.0 Concept of Implied Decision on the Subject Matter of the Appeal

4. What follows from the above is that the decision of an appellate court is on the subject-matter of the appeal and not on various arguments relating thereto, and once a decision is rendered on the subject-matter of the appeal, all the arguments relating thereto are deemed to have been decided, whether expressly or impliedly. The Gujarat High Court in *Steel Cast Corpn*[11] elucidated this legal concept in the following terms:

> First, it must be found out what is the subject-matter of the appeal and that can be determined only by finding out what the Appellant Assistant Commissioner expressly or impliedly decided. *By implied decision, one mean that though a point might have been raised before the* Appellant Assistant Commissioner, *in his final order the* Appellant Assistant Commissioner *might not have dealt with that point*

> *and thereby impliedly rejected it.* That is an implied decision of the Appellant Assistant Commissioner and a party may be aggrieved by an express decision of the Appellant Assistant Commissioner or by an implied decision of the Appellant Assistant Commissioner.
>
> [Emphasis supplied]

4.1. An implied decision, therefore, cannot give rise to another round of proceeding before the same authority in the guise of rectification. A Full Bench of the Gujarat High Court reiterated this legal position in *Cellulose Products of India Ltd*,[12] thus:

> *It is not necessary that a question should be specifically raised before the AAC as a ground, but not dealt with in order to imply a decision on that point. The decision is on the subject-matter of the appeal (sic). The subject-matter of the appeal may be capable of challenge on various grounds, some of which might have been raised and some might not have been raised. Those raised might have been dealt with or some of them might not have been dealt with, but a decision on the subject-matter is an implied decision on all matters which are raised and which could have been raised, whether dealt with or not.* Merely because a ground has not been raised, though could be raised in support of the relief sought in the appeal, it cannot be said that it cannot be raised before the Tribunal. In fact that purpose of the decisions of the Supreme Court and the *Steel Cast Corpn*'s case (supra) of this Court is that such questions could be raised provided they fall within the contours of the subject-matter of the appeal before the AAC. Merely because in *Steel Cast Corpn*'s case (supra) reference was made to decision on questions which are raised but not decided, it does not mean that questions which are not raised are not impliedly decided. The decision in *Steel Cast Corpn*'s case (supra) could not be understood in that way and to do so would be going contrary to the law laid down by the Supreme Court. To that extent, the conclusion reached merely on the basis that the question, though could have been raised was not raised, cannot be permitted to be raised, is not a proper conclusion reached in law.
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> [Emphasis supplied]

5.0 Erroneous Decision versus Mistake Apparent

5. An appellate decision, thus, is a decision on all arguments and facts pleaded by the appellant, either in express terms or impliedly, and if an argument or fact is not specifically dealt with by the court, it can well be termed as a decisional error and it is not open to the court to rehear or revisit that decision in the garb of rectification. The only

recourse available to the appellant against the decision is to seek statutory remedies of appeal in the higher appellate fora.

5.1. This aspect of law came to be illustrated by the Bombay High Court in *Ramesh Electric & Trading Co*,[13] where, after the dismissal of its appeal by the tax tribunal, the appellant moved a miscellaneous application seeking rectification of the order of the tribunal, which had earlier declared that the payment of commission was not genuine. The tribunal subsequently purported to 'rectify' its order on the ground that it overlooked two arguments of the appellant relating to the wrong calculation of the percentage of profit of the appellant-firm by the Revenue and to the alleged double taxation of the commission paid by it-, being taxed both in the hands of the appellant (the payer) and the payee. Disapproving the exercise of the rectificatory jurisdiction of the tribunal, the High Court observed thus:

> Mr. Inamdar, learned advocate for the assessee, drew our attention to a judgment of the Madhya Pradesh High Court in the case of *CIT* v. *Mithalal Ashok Kumar* [1986] *158 ITR 755*. The Madhya Pradesh High Court said that the Tribunal can correct its mistake by rectifying the same in case it is brought to its notice that the material which was already on record before deciding the appeal on merits was not considered by it. It, however, said that this will depend on the facts of each case. And whether it amounts to a review or rectification will depend on the facts of each case. In our view, these wide observations do not accord with the decision of the Supreme Court on this point in *T.S. Balaram's* case (*supra*). Similarly, the decision of the Allahabad High Court in the case of *Laxmi Electronic Corporation Ltd v CIT [1991] 188 ITR 398* to the effect that if the Tribunal fails or omits to deal with an important contention affecting the maintainability/merits of an appeal, it must be deemed to be a mistake apparent from the record which can be rectified by the Tribunal by its subsequent order, is also, in our view, in the teeth of the Supreme Court judgment in the case of *T.S. Balaram's* (*supra*). In fact, we find that the decision in the case of *T.S. Balaram's* (*supra*), was not brought to the attention of the learned Judges who decided the above case. In our view, the power of rectification under section 254(2) of the Income-tax Act can be exercised only when the mistake which is sought to be rectified is an obvious and patent mistake which is apparent from the record, and not a mistake which requires to be established by arguments and a long drawn process of reasoning on points on which there may conceivably be two opinions, as has been shown in the present case. *Failure by the Tribunal to consider an argument advanced by either party for arriving at a conclusion is not an error apparent on the record, although it may*

> *be an error of judgment. In the present case, the alleged failure, at least on one count, is attributed by the assessee to the Income-tax Officer and not the Tribunal. In our view, the Tribunal had no jurisdiction under section 254(2) to pass the second order.*
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> [Emphasis supplied]

6.0 A Wrong Conclusion - Not a Mistake Apparent: The *Ras Bihari Bansal* Case

6. In Ras Bihari Bansal[14], the appellant unsuccessfully moved a rectification application before the tribunal, contending that an error has crept in the order of the tribunal whereby his cross-objections relating to addition made on account of gross profit ratio at the rate of 5 per cent was disposed of and the tribunal did not give attention to the evidence submitted by him. On an appeal, the Delhi High Court ratified the order of the tribunal and exposited the law in following words:

> This section enables the concerned authorities to rectify any "mistake apparent from the record". It is well settled that an oversight of a fact cannot constitute an apparent mistake rectifiable under this Section. Similarly, failure of the Tribunal to consider an argument advanced by either party for arriving at a conclusion, is not an error apparent on the record, although it may be an error of judgment. The mere fact that the Tribunal has not allowed a deduction, even if the conclusion is wrong, that will be no ground for moving an application under Section 254(2) of the Act. Further, in garb of application for rectification, the assessed cannot be allowed to be permitted to reopen and re-argue the whole matter, which is beyond the scope of this Section.
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> [Emphasis supplied]

7.0 Judicial Silence on a Plea: Deemed Concurrence

7. Judicial silence on a plea or an argument of the appellant only means and connotes that the plea or the argument in question has not found favour or weighed with the court or the appellate authority and that the latter has concurred with the views and the findings of the lower court or authority. In Pothina Venkateshwara Swamy,[15] the Andhra Pradesh High Court had an occasion to deal with this issue. In this case, the appellant moved a rectification application under section 254(2) of the Income Tax Act, contending that the tribunal did not address the question pertaining to the very basis for reopening the assessment. The application came to be rejected by the tribunal. On an appeal, the High Court affirmed the tribunal's view and explained the law in the following terms:

> The precedents can be multiplied on this issue. Reverting to the facts of the case, the appellants are not able to point out as to what exactly the error in the orders passed by the Tribunal in the appeals, which is apparent from the record. The thrust of their argument is that the Tribunal did not address the question pertaining to the very basis for reopening the assessment. It is too well known that the Court or a Tribunal is deemed to have taken every aspect that is placed before it, into account and granted the relief which it felt appropriate and gave a disposal to the matter before it, in a manner which it felt appropriate. It is not necessary that every aspect must be addressed in greater detail. This is particularly so with the appellate fora. If on any aspect, the appellate forum is silent, it can be deemed to have concurred with the view expressed by the forum from which the order under appeal has arisen. At any rate, we do not find any basis to interfere with the orders under appeals.
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> [Emphasis supplied]

8.0 Harmonising Discordant Notes

8.1 The Saurashtra Kutch Stock Exchange Ltd Case

Against this legal backdrop, it is useful here to refer to the two decisions of the Supreme Court of India. The first is the decision in Saurashtra Kutch Stock Exchange Ltd,[16] which related to the question whether a judgment of the jurisdictional High Court delivered subsequent to the tribunal's order would constitute a mistake apparent from the record of the tribunal. Answering in affirmative in this case, the apex court merely proceeded on the basis of a trite principle of law that courts do not make any new law, but only interpret the extant law. It, accordingly, held that rectificatory proceedings would be triggered even on the basis of a subsequent judgment of the jurisdictional High Court on a question of law. The following observations of the High Court are to be noted in this regard:

> In other words, the Judges do not make law; they only discover or find the correct law. The law has always been the same. If a subsequent decision alters the earlier one, it (the later decision) does not make a new law. It only discovers the correct principle of law which has to be applied retrospectively. To put it differently, even where an earlier decision of the Court operated for quite some time, the decision rendered later on would have retrospective effect, clarifying the legal position which was earlier not correctly understood.[17]
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> [Emphasis supplied]

The decision in this case, therefore, rests on its own facts and it cannot be taken as an authority for the universal proposition that a non-consideration of an argument, sub-ground or plea is a mistake apparent from the record.

8.2 It is further important to note the import of the words 'apparent from the record' appearing on the statute. The subsequent order of the jurisdictional High Court in this case did not form part of the record of the tribunal and, therefore, by taking recourse to it, it cannot be said to be a mistake apparent from the record. It was at the most a case of a decision rendered erroneous in view of the subsequent judgement of High Court, which could not have been addressed under rectificatory jurisdiction. The Supreme Court has already settled this legal question in *Keshri Metal (P) Ltd*[18] wherein any reference to documents outside the records was held to be impermissible in a rectification proceeding. The decision in *Keshri Metal (P) Ltd,* however, was not pointed out to the Supreme Court in Saurashtra Kutch Stock Exchange Ltd.[19] Saurashtra Kutch Stock Exchange Ltd, therefore, was not correctly decided.

8.2 The Honda Siel Power Products Ltd Case

The second case is the Supreme Court decision in *Honda Siel Power Products Ltd*,[20] where the tribunal had not considered the judgment of a coordinate bench, which was a binding precedent for it and it was in this context that the Supreme Court upheld the rectification of its mistake by the tribunal in the following words:

> 12…….As stated above, the expression 'rectification of mistake from the record' occurs in section 154. It also finds place in section 254(2). The purpose behind enactment of section 254(2) is based on the fundamental principle that no party appearing before the Tribunal, be it an assessee or the Department, should suffer on account of any mistake committed by the Tribunal. This fundamental principle has nothing to do with the inherent powers of the Tribunal. In the present case, the Tribunal in its Order dated 10-9-2003 allowing the Rectification Application has given a finding *that Samtel Color Ltd.'s* case (supra) was cited before it by the assessee but through oversight it had missed out the said judgment while dismissing the appeal filed by the assessee on the question of admissibility/allowability of the claim of the assessee for enhanced depreciation under section 43A. One of the important reasons for giving the power of rectification to the Tribunal is to see that no prejudice is caused to either of the parties appearing before it by its decision based on a mistake apparent from the record.
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> 13. *"Rule of precedent" is an important aspect of legal certainty in rule of law. That principle is not obliterated by section 254(2) of the Income-tax Act, 1961.*

> *When prejudice results from an order attributable to the Tribunal's mistake, error or omission, then it is the duty of the Tribunal to set it right. Atonement to the wronged party by the Court or Tribunal for the wrong committed by it has nothing to do with the concept of inherent power to review. In the present case, the Tribunal was justified in exercising its powers under section 254(2) when it was pointed out to the Tribunal that the judgment of the co-ordinate Bench was placed before the Tribunal when the original order came to be passed but it had committed a mistake in not considering the material, which was already on record. The Tribunal has acknowledged its mistake; it has accordingly rectified its order. In our view, the High Court was not justified in interfering with the said order.* We are not going by the doctrine or concept of inherent power. We are simply proceeding on the basis that if prejudice had resulted to the party, which prejudice is attributable to the Tribunal's mistake, error or omission and which error is a manifest error then the Tribunal would be justified in rectifying its mistake, which had been done in the present case.
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> [Emphasis supplied]

8.4 *Honda Siel Power Products Ltd,*[21] therefore, does not lay down the legal proposition that non-consideration of an argument, sub-ground or plea is a mistake apparent from the record as both, the facts of the case and the ratio laid down, are clearly distinguishable and this judgment operates in a restricted sphere to the extent that where there is an omission to consider the decision of a co-ordinate Bench of the tribunal, which is a binding precedent on the question of law for another Bench, the powers to rectify could be validly exercised by the tribunal, especially when the decision of the co-ordinate Bench was pressed in service and was already on the records of the tribunal. The *Honda Siel Power Products Ltd* case is, therefore, decided on its peculiar facts and its ambit cannot be extended to operate beyond its narrow compass.

9.0 Tax Tribunal's Power to Recall Its Order

9. What emerges from the above discussion is that the tribunal cannot recall its earlier order and review its decision on the ground that certain argument, sub-ground or plea of the appellant has either not been considered or, has been considered wrongly. In a recent decision in *Reliance Telecom Ltd,*[22] the Supreme Court cleared the mist altogether in this regard in the following terms.

> 3.2 Having gone through both the orders passed by the ITAT, we are of the opinion that the order passed by the ITAT dated 18-11-2016 recalling its earlier order dated

6-9-2013 is beyond the scope and ambit of the powers under section 254(2) of the Act. While allowing the application under section 254(2) of the Act and recalling its earlier order dated 6-9-2013, it appears that the ITAT has re-heard the entire appeal on merits as if the ITAT was deciding the appeal against the order passed by the C.I.T. *In exercise of powers under section 254(2) of the Act, the Appellate Tribunal may amend any order passed by it under sub-section (1) of section 254 of the Act with a view to rectifying any mistake apparent from the record only. Therefore, the powers under section 254(2) of the Act are akin to Order XLVII Rule 1 CPC. While considering the application under section 254(2) of the Act, the Appellate Tribunal is not required to re-visit its earlier order and to go into detail on merits. The powers under section 254(2) of the Act are only to rectify/correct any mistake apparent from the record.*

4. In the present case, a detailed order was passed by the ITAT when it passed an order on 6-9-2013, by which the ITAT held in favour of the Revenue. Therefore, the said order could not have been recalled by the Appellate Tribunal in exercise of powers under section 254(2) of the Act. *If the Assessee was of the opinion that the order passed by the ITAT was erroneous, either on facts or in law, in that case, the only remedy available to the Assessee was to prefer the appeal before the High Court, which as such was already filed by the Assessee before the High Court, which the Assessee withdrew after the order passed by the ITAT dated 18-11-2016 recalling its earlier order dated 6-9-2013. Therefore, as such, the order passed by the ITAT recalling its earlier order dated 6-9-2013 which has been passed in exercise of powers under section 254(2) of the Act is beyond the scope and ambit of the powers of the Appellate Tribunal conferred under section 254(2) of the Act. Therefore, the order passed by the ITAT dated 18-11-2016 recalling its earlier order dated 6-9-2013 is unsustainable, which ought to have been set aside by the High Court.*

5. *From the impugned judgment and order passed by the High Court, it appears that the High Court has dismissed the writ petitions by observing that (i) the Revenue itself had in detail gone into merits of the case before the ITAT and the parties filed detailed submissions based on which the ITAT passed its order recalling its earlier order; (ii) the Revenue had not contended that the ITAT had become functus officio after delivering its original order and that if it had to relook/revisit the order, it must be for limited purpose as permitted by section 254(2) of the Act; and (iii) that the merits might have been decided erroneously but ITAT had the jurisdiction and within its powers it may pass an erroneous order and that such objections had not been raised before ITAT.*

6. None of the aforesaid grounds are tenable in law. Merely because the Revenue might have in detail gone into the merits of the case before the ITAT and merely because the parties might have filed detailed submissions, it does not confer jurisdiction upon the ITAT to pass the order de hors section 254(2) of the Act. As observed hereinabove, the powers under section 254(2) of the Act are only to correct and/or rectify the mistake apparent from the record and not beyond that. Even the observations that the merits might have been decided erroneously and the ITAT had jurisdiction and within its powers it may pass an order recalling its earlier order which is an erroneous order, cannot be accepted. As observed hereinabove, if the order passed by the ITAT was erroneous on merits, in that case, the remedy available to the Assessee was to prefer an appeal before the High Court, which in fact was filed by the Assessee before the High Court, but later on the Assessee withdrew the same in the instant case.

7. In view of the above and for the reasons stated above, the impugned common judgment and order passed by the High Court as well as the common order passed by the ITAT dated 18-11-2016 recalling its earlier order dated 6-9-2013 deserve to be quashed and set aside and are accordingly quashed and set aside. The original orders passed by the ITAT dated 6-9-2013 passed in the respective appeals preferred by the Revenue are hereby restored.

[Emphasis Supplied]

9.1 Thus, recalling of the order by the tribunal is not permissible under its rectificatory jurisdiction because recalling of an order, per se, requires rehearing and re-adjudication of the entire subject-matter of appeal, which is tantamount to review of an earlier decision. The dispute, therefore, no longer remains confined to any mistake sought to be rectified. Even otherwise, the tribunal's power to recall an order, which is prescribed in terms of Rule 24 of the ITAT Rules, 1963, can be exercised only in case where the tax payer shows that it had a reasonable cause for being absent at a time when the appeal was taken up and was decided ex parte. It cannot, therefore, be stated that the power to recall can be used on the ground that an argument, sub-ground or plea of the appellant has not been considered in the earlier order.

10.0 Conclusion

10. Jurisprudence evolved on the subject, therefore, makes it unambiguously clear that once a decision has been rendered by the court or the appellate authority, the same

cannot be reheard and revisited on the pretext of rectification on the ground that certain plea or argument of the appellant has not been adjudicated or dealt with in the order. The rationale for this jurisprudential formulation can usefully be traced to the Constitution Bench judgment of the Supreme Court in S.N. Mukherjee,[23] which, while explaining the concept of a 'reasoned order', laid down that if the appellate or revisional authority affirms the action of the lower authority, no separate reasons are required to be given. This was a case of the dismissal of a captain of the army and a question arose whether it was incumbent for the Chief of the Army Staff, while confirming the findings and sentence of the General Court Martial and for the Central Government while rejecting the post-confirmation petition of the appellant to record their reasons for the orders passed by them. Agarwal J, speaking for the Constitution Bench, elucidated the law in the following words:

> In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a Court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.[24]
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> [Emphasis Supplied]

The recording of specific reasons in respect of each plea or argument of the appellant is not, therefore, necessary for an appellate court and the same cannot form a basis for invoking rectificatory jurisdiction on the ground of there being a mistake apparent from the record.

Endnotes

1. Distributors (Baroda) (P) Ltd v UOI [1985] 22 Taxman 49 (SC), para 2.
2. [1993] Supp 4 SCC 595.
3. ibid, para 12.
4. ACIT v Saurashtra Kutch Stock Exchange Ltd, [2008] 173 Taxman 322 (SC), para 25; CIT v Hindustan Coca Cola Beverages (P) Ltd [2007] 293 ITR 163/159 Taxman 122 (Delhi).

5. Satyanarayan L Hegde and Others v. Mallikarjun B Tirumale (AIR 1960 SC 137); also TS Balaram, ITO v Volkart Bros (1971) 82 ITR 40 (SC).
6. ibid.
7. CIT v Keshri Metal (P) Ltd [1999] 104 Taxman 360 (SC)/[1999] 237 ITR 165 (SC).
8. Chetna Jain v CIT [2022] 143 taxmann.com 65 (Calcutta).
9. MMTC Ltd v DCIT in ITA No 4122/Del/2015 AY 1997-98 dated 20-09-2018 & ACIT v M/s Tower Watson India Pvt Ltd in ITA No 5182/Del/2016 AY 2009-10 dated 02-09-2019
10. CIT v Karam Chand Thapar & Bros (P) Ltd [1989] 43 Taxman 45/176 ITR 535, para 7.
11. CIT v Steel Cast Corpn [1977] 107 ITR 683 (Gujarat).
12. CIT v Cellulose Products of India Ltd [1984] 19 Taxman 278 (Guj) (FB), para 20.
13. CIT v Ramesh Electric & Trading Co [1994] 77 Taxman 43 (Bombay), para 7.
14. Ras Bihari Bansal v CIT [2008] 170 Taxman 31 (Delhi), para 10.
15. Pothina Venkateshwara Swamy v ACIT [2015] 53 taxmann.com 36 (T& AP), para 13.
16. ACIT v Saurashtra Kutch Stock Exchange Ltd [2008] 173 Taxman 322 (SC)/[2008] 305 ITR 227 (SC).
17. ibid, para 42.
18. CIT v Keshri Metal (P) Ltd (n 7).
19. ACIT v Saurashtra Kutch Stock Exchange Ltd (n 16).
20. Honda Siel Power Products Ltd v CIT 2007 165 Taxmann 307 SC/ [2007] 295 ITR 466.
21. ibid.
22. CIT v Reliance Telecom Ltd [2021] 133 taxmann.com 41 (SC)/[2022] 284 Taxman 517 (SC)
23. SN Mukherjee v Union of India, 1990 AIR 1984/ 1990 SCR Supl (1) 44.
24. ibid.