REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL …… OF 2010
(@ SLP (C) NO. 16466 OF 2009)

Assistant Commissioner, Commercial Tax Department,
Works Contract & Leasing, Kota …Appellant

Versus

M/s Shukla & Brothers …Respondent

JUDGMENT

Swatanter Kumar, J.

1. Delay condoned.

2. Leave granted.

3. The present appeal under Article 136 of the Constitution of India is directed against the Judgment dated 29th February, 2008 passed by the High Court of Judicature for Rajasthan Bench at Jaipur in S.B. Sales Tax Revision Petition No.92 of 2007, and in exercise of its power under

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Section 86 of Rajasthan Sales Tax Act 1994 (for short 'the Act'). The impugned Order reads as under:-

> "After having carefully gone through the material on record, since after due consideration proper discretion has already been used by the Deputy Commissioner (Appeals) as also Rajasthan Tax Board, in the facts and circumstances, no further interference is called for by this Court.
>
> The revision petition is dismissed accordingly as having no merits."

4. The Learned Counsel appearing for the appellant, Assistant Commissioner of Income Tax has argued that Order passed by the High Court does not record any reasons for dismissing the Revision Petition preferred by the Department. According to the Learned Counsel, various contentions raised as grounds in the Revision Petition and two questions of law formulated by the Department for consideration in the High Court while impugning the judgment of the Rajasthan Tax Board, Ajmer have not been reverted to by the High Court, resulting in serious prejudice caused to the present petitioner. On merits as well, challenge has been raised to the Order of the Tax Board as well as that of the Order of the High Court.

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5. It may be necessary for that to refer to the basic facts giving rise to the present appeal. The respondent claimed to be a contractor who has obtained impartible contract of constructing 400 shops in JP Market, Chhota Talab, Kota. As per the contract the shops were to be handed over to Cloth Merchant Association, Kota. The respondent had received Rs.95,26,276.00 in the year 1997-98 and Rs.22,38,026.00 in the year 1998-99. The assessing authority formed an opinion and recorded a finding that the shutters and doors were not manufactured from tax paid raw material in impartible contract and as such shutter was excluded from labour charges in the above years, and levied tax, interest, penalty and surcharge upon the respondent. The order of the assessing authority dated 19th July, 2000 and 22nd February, 2001 respectively were challenged by the respondent before the Deputy Commissioner (Appeals), Kota and intended that if the shutters were not installed in the shops, then as per the contract the shops would not have deemed to be complete. Relying upon the judgments of the Supreme Court in Gannon Dunkerley & Co. (Madras) Ltd. - State of Madras [AIR 1958 SC 560] as well as State of Rajasthan Vs. Man Industrial Corporation [(2003) 7 SCC 522] it was contended that in an impartible work contract as per the terms of that contract, the material has been used in work contract and there was no contract for

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manufacturing shutters. Thus on account of execution of impartible work contract, the property was immovable and tax could not be levied thereon.

6. The appeal preferred by the respondent was accepted by the Deputy Commissioner vide his Order dated 23rd February, 2002. This Order was assailed in appeal by the Department before the Rajasthan Tax Board which also came to be rejected vide Order dated 18th October, 2003. The Board accepted the plea of the respondent that the shutters and doors were manufactured from tax paid raw material in a work contract, therefore, could not be the goods transferred for the purposes of levy of tax, holding the same not justifiable to set aside the levy of tax, penalty, interest or surcharge. Aggrieved from the Order of the Board dated 23rd February, 2002, the appellant filed Tax Revision before the High Court and *inter alia* and raised the following questions of law:-

> A. Whether the Rajasthan Tax Board Ajmer was justified in dismissing the appeal of the petitioner in the facts and as mentioned above?
>
> B. Whether the iron rolling shutters & doors were fixed by the assessee on the shops are taxable or not, when no tax was paid by the assessee on the construction of iron rolling shutters and doors?

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7. As is evident from the facts narrated in the Revision Petition and the grounds raised besides raising the question of law, a factual controversy was also raised going to the very root of the case, that the rolling shutters & doors fixed by the respondent on the shops were not manufactured of tax paid material. Thus, question of law, mixed questions of law and facts were not examined by the High Court in some detail, but as already noticed, by one line order the Revision Petition was dismissed. During the course of hearing, we were informed that arguments were also addressed with reference to judgments of this Court which were also cited before the Board. However we find no mention thereof in the impugned Order. It was also contended that similar questions do arise in number of other cases, thus it was expected of the High Court to deal with the contentions rather than pass a cryptic order.

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8. We do find that there is substance in the contention raised on behalf of the petitioner before us. It would have been desirable if the High Court would have recorded some reasons for rejecting the Revision Petition preferred by the Department.

9. The increasing institution of cases in all Courts in India and its resultant burden upon the Courts has invited attention of all concerned in

the justice administration system. Despite heavy quantum of cases in Courts, in our view, it would neither be permissible nor possible to state as a principle of law, that while exercising power of judicial review on administrative action and more particularly judgment of courts in appeal before the higher Court, providing of reasons can never be dispensed with. The doctrine of *audi alteram partem* has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the concerned authority should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order. This has been uniformly applied by courts in India and abroad.

10. The Supreme Court in the case of S.N. Mukherjee v. Union of India [(1990) 4 SCC 594], while referring to the practice adopted and insistence placed by the Courts in United States, emphasized the importance of recording of reasons for decisions by the administrative authorities and tribunals. It said "administrative process will best be vindicated by clarity in its exercise". To enable the Courts to exercise the power of review in consonance with settled principles, the authorities are advised of the

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considerations underlining the action under review. This Court with approval stated:-

> "the orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained."

11. In exercise of the power of judicial review, the concept of reasoned orders/actions has been enforced equally by the foreign courts as by the courts in India. The administrative authority and tribunals are obliged to give reasons, absence whereof could render the order liable to judicial chastise. Thus, it will not be far from absolute principle of law that the Courts should record reasons for its conclusions to enable the appellate or higher Courts to exercise their jurisdiction appropriately and in accordance with law. It is the reasoning alone, that can enable a higher or an appellate court to appreciate the controversy in issue in its correct perspective and to hold whether the reasoning recorded by the Court whose order is impugned, is sustainable in law and whether it has adopted the correct legal approach. To sub-serve the purpose of justice delivery system, therefore, it is essential that the Courts should record reasons for its conclusions, whether disposing of the case at admission stage or after regular hearing.

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12. At the cost of repetition, we may notice, that this Court has consistently taken the view that recording of reasons is an essential feature of dispensation of justice. A litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the Court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment. Now, we may refer to certain judgments of this Court as well as of the High Courts which have taken this view.

13. The principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the

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authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion showing proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself. Such rule being applicable to the administrative authorities certainly requires that the judgment of the Court should meet with this requirement with higher degree of satisfaction. The order of an administrative authority may not provide reasons like a judgment but the order must be supported by the reasons of rationality. The distinction between passing of an order by an administrative or quasi-judicial authority has practically extinguished and both are required to pass reasoned orders. In the case of Siemens Engineering and Manufacturing Co. of India Ltd. v. Union of India and Anr. [AIR 1976 SC 1785], the Supreme Court held as under:-

> **"6.** ……If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative Law, they may have to be so replaced, it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry

> credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. …"

14. In the case of Mc Dermott International Inc. v. Burn Standard Co. Ltd. and Ors. (2006) SLT 345, the Supreme Court clarified the rationality behind providing of reasons and stated the principle as follows:-

> ". . . Reason is a ground or motive for a belief or a course of action, a statement in justification or explanation of belief or action. It is in this sense that the award must state reasons for the amount awarded.
>
> The rationale of the requirement of reasons is that reasons assure that the arbitrator has not acted capriciously. Reasons reveal the grounds on which the Arbitrator reached the conclusion which adversely affects the interests of a party. The contractual stipulation of reasons means, as held in Poyser and Mills' Arbitration in Re, `proper adequate reasons'. Such reasons shall not only be intelligible but shall be a reason connected with the case which the Court can see is proper. Contradictory reasons are equal to lack of reasons. . . ."

15. In Gurdial Singh Fijji v. State of Punjab [(1979) 2 SCC 368], while dealing with the matter of selection of candidates who could be under review, if not found suitable otherwise, the Court explained the reasons

being a link between the materials on which certain conclusions are based and the actual conclusions and held, that where providing reasons for proposed supersession were essential, then it could not be held to be a valid reason that the concerned officer's record was not such as to justify his selection was not contemplated and thus was not legal. In this context, the Court held –

> "… "Reasons" are the links between the materials on which certain conclusions are based and the actual conclusions. The Court accordingly held that the mandatory provisions of Regulation 5(5) were not complied with by the Selection Committee. That an officer was "not found suitable" is the conclusion and not a reason in support of the decision to supersede him. True, that it is not expected that the Selection Committee should give anything approaching the judgment of a Court, but it must at least state, as briefly as it may, why it came to the conclusion that the officer concerned was found to be not suitable for inclusion in the Select List."

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16. This principle has been extended to administrative actions on the premise that it applies with greater rigor to the judgments of the Courts. In State of Maharashtra v. Vithal Rao Pritirao Chawan [(1981) 4 SCC 129], while remanding the matter to the High Court for examination of certain issues raised, this Court observed:

> ". . . It would be for the benefit of this Court that a speaking judgment is given".

17. In the cases where the Courts have not recorded reasons in the judgment, legality, propriety and correctness of the orders by the Court of competent jurisdiction are challenged in absence of proper discussion. The requirement of recording reasons is applicable with greater rigor to the judicial proceedings. The orders of the Court must reflect what weighed with the Court in granting or declining the relief claimed by the applicant. In this regard we may refer to certain judgments of this Court.

18. A Bench of Bombay High Court in the case of M/s. Pipe Arts India Pvt. Ltd. V. Gangadhar Nathuji Golamare [2008 (6) Maharashtra Law Journal 280], wherein the Bench was concerned with an appeal against an order, where prayer for an interim relief was rejected without stating any reasons in a writ petition challenging the order of the Labour Court noticed, that legality, propriety and correctness of the order was challenged on the ground that no reason was recorded by the learned Single Judge while rejecting the prayer and this has seriously prejudiced the interest of justice. After a detailed discussion on the subject, the Court held:-

> "The Supreme Court and different High Courts have taken the view that it is always desirable to record

reasons in support of the Government actions whether administrative or quasi judicial. Even if the statutory rules do not impose an obligation upon the authorities still it is expected of the authorities concerned to act fairly and in consonance with basic rule of law. These concepts would require that any order, particularly, the order which can be subject matter of judicial review, is reasoned one. Even in the case of Chabungbambohal Singh v. Union of India and Ors. 1995 (Suppl) 2 SCC 83, the Court held as under:

> "His assessment was, however, recorded as "very good" whereas qua the appellant it had been stated unfit. As the appellant was being superseded by one of his juniors, we do not think if it was enough on the part of the Selection Committee to have merely stated unfit, and then to recommend the name of one of his juniors. No reason for unfitness, is reflected in the proceedings, as against what earlier Selection Committees had done to which reference has already been made."

In the case of Jawahar Lal Singh v. Naresh Singh and Ors. (1987) 2 SCC 222, accepting the plea that absence of examination of reasons by the High Court on the basis of which the trial Court discarded prosecution evidence and recorded the finding of an acquittal in favour of all the accused was not appropriate, the Supreme Court held that the order should record reasons. Recording of proper reasons would be essential, so that the Appellate Court would have advantage of considering the considered opinion of the High Court on the reasons which had weighed with the trial Court.

In the case of State of Punjab and Ors. v. Surinder Kumar and Ors. [(1992) 1 SCC 489], while noticing the

jurisdictional distinction between Article 142 and Article 226 of the Constitution of India, the Supreme Court stated that powers of the Supreme Court under Article 142 are much wider and the Supreme Court would pass orders to do complete justice. The Supreme Court further reiterated the principle with approval that the High Court has the jurisdiction to dismiss petitions or criminal revisions in limini or grant leave asked for by the petitioner but for adequate reasons which should be recorded in the order. The High Court may not pass cryptic order in relation to regularisation of service of the respondents in view of certain directions passed by the Supreme Court under Article 142 of the Constitution of India. Absence of reasoning did not find favour with the Supreme Court. The Supreme Court also stated the principle that powers of the High Court were circumscribed by limitations discussed and declared by judicial decision and it cannot transgress the limits on the basis of whims or subjective opinion varying from Judge to Judge.

In the case of Hindustan Times Ltd. v. Union of India and Ors. [(1998) 2 SCC 242], the Supreme Court while dealing with the cases under the Labour Laws and Employees' Provident Funds and Miscellaneous Provisions Act, 1952 observed that even when the petition under Article 226 is dismissed in limini, it is expected of the High Court to pass a speaking order, may be briefly.

Consistent with the view expressed by the Supreme Court in the afore-referred cases, in the case of State of U.P. v. Battan and Ors. [(2001) 10 SCC 607], the Supreme Court held as under:

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> "The High Court has not given any reasons for refusing to grant leave to file appeal against acquittal. The manner in which appeal against acquittal has been dealt with by the High Court leaves much to be desired. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order. The absence of reasons has rendered the High Court order not sustainable."

Similar view was also taken by the Supreme Court in the case of Raj Kishore Jha v. State of Bihar and Ors. JT 2003 (Supp.2) SC 354.

In a very recent judgment, the Supreme Court in the case of State of Orissa v. Dhaniram Luhar (2004) 5 SCC 568 while dealing with the criminal appeal, insisted that the reasons in support of the decision was a cardinal principle and the High Court should record its reasons while disposing of the matter. The Court held as under:

> "8. Even in respect of administrative orders Lord Denning, M.R. In Breen v. Amalgamated Engg. Union observed:
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> "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree it was observed: "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute

> subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

Following this very view, the Supreme Court in another very recent judgment delivered on 22nd February, 2008, in the case of State of Rajasthan v. Rajendra Prasad Jain Criminal Appeal No. 360/2008 (Arising out of SLP (Crl.) No. 904/2007) stated that "reason is the heartbeat of every conclusion, and without the same it becomes lifeless."

Providing of reasons in orders is of essence in judicial proceedings. Every litigant who approaches the Court with a prayer is entitled to know the reasons for acceptance or rejection of such request. Either of the parties to the lis has a right of appeal and, therefore, it is essential for them to know the considered opinion of the Court to make the remedy of appeal meaningful. It is the reasoning which ultimately culminates into final decision which may be subject to examination of the appellate or other higher Courts. It is not only desirable but, in view of the consistent position of law,

mandatory for the Court to pass orders while recording reasons in support thereof, however, brief they may be. Brevity in reasoning cannot be understood in legal parlance as absence of reasons. While no reasoning in support of judicial orders is impermissible, the brief reasoning would suffice to meet the ends of justice at least at the interlocutory stages and would render the remedy of appeal purposeful and meaningful. It is a settled canon of legal jurisprudence that the Courts are vested with discretionary powers but such powers are to be exercised judiciously, equitably and in consonance with the settled principles of law. Whether or not, such judicial discretion has been exercised in accordance with the accepted norms, can only be reflected by the reasons recorded in the order impugned before the higher Court. Often it is said that absence of reasoning may ipso facto indicate whimsical exercise of judicial discretion. Patricia Wald, Chief Justice of the D.C. Circuit Court of Appeals in the Article, Blackrobed Bureaucracy Or Collegiality Under Challenge, (42 MD.L. REV. 766, 782 (1983), observed as under:-

"My own guiding principle is that virtually every appellate decision requires some statement of reasons. The discipline of writing even a few sentences or paragraphs explaining the basis for the judgment insures a level of thought and scrutiny by the Court that a bare signal of affirmance, dismissal, or reversal does not."

The Court cannot lose sight of the fact that a losing litigant has a cause to plead and a right to challenge the order if it is adverse to him. Opinion of the Court alone can explain the cause which led to passing of the final order. Whether an argument was rejected validly or otherwise, reasoning of the order alone can show. To evaluate the submissions is obligation of the Court and to know the reasons for rejection of its contention is a legitimate expectation on the part of the litigant.

Another facet of providing reasoning is to give it a value of precedent which can help in reduction of frivolous litigation. Paul D. Carrington, Daniel J Meador and Maurice Rosenburg, Justice on Appeal 10 (West 1976), observed as under:-

"When reasons are announced and can be weighed, the public can have assurance that the correcting process is working. Announcing reasons can also provide public understanding of how the numerous decisions of the system are integrated. In a busy Court, the reasons are an essential demonstration that the Court did in fact fix its mind on the case at hand. An unreasoned decision has very little claim to acceptance by the defeated party, and is difficult or impossible to accept as an act reflecting systematic application of legal principles. Moreover, the necessity of stating reasons not infrequently changes the results by forcing the judges to come to grips with nettlesome facts or issues which their normal instincts would otherwise cause them to avoid."

The reasoning in the opinion of the Court, thus, can effectively be analysed or scrutinized by the Appellate Court. The reasons indicated by the Court could be accepted by the Appellate Court without presuming what weighed with the Court while coming to the impugned decision. The cause of expeditious and effective disposal would be furthered by such an approach. A right of appeal could be created by a special statute or under the provisions of the Code governing the procedure. In either of them, absence of reasoning may have the effect of negating the purpose or right of appeal and, thus, may not achieve the ends of justice.

It will be useful to refer words of Justice Roslyn Atkinson, Supreme Court of Queensland, at AIJA Conference at Brisbane on September 13, 2002 in

relation to Judgment Writing. Describing that some judgment could be complex, in distinction to routine judgments, where one requires deeper thoughts, and the other could be disposed of easily but in either cases, reasons they must have. While speaking about purpose of the judgment, he said,

"The first matter to consider is the purpose of the judgment. To my mind there are four purposes for any judgment that is written: -

(1) to clarify your own thoughts;
(2) to explain your decision to the parties;
(3) to communicate the reasons for the decision to the public; and
(4) to provide reasons for an appeal Court to consider."

Clarity of thought leads to proper reasoning and proper reasoning is the foundation of a just and fair decision. In Alexander Machinery (Dudley) Ltd. v. Crabtree 1974 ICR 120, the Court went to the extent of observing that "Failure to give reasons amounts to denial of justice". Reasons are really linchpin to administration of justice. They are link between the mind of the decision taker and the controversy in question. To justify our conclusion, reasons are essential. Absence of reasoning would render the judicial order liable to interference by the higher Court. Reasons are the soul of the decision and its absence would render the order open to judicial chastism. The consistent judicial opinion is that every order determining rights of the parties in a Court of law ought not to be recorded without supportive reasons. Issuing reasoned order is not only beneficial to the higher Courts but is even of great utility for providing public understanding of law and imposing self-discipline in the Judge as their discretion is controlled by well established norms. The contention raised before us that absence of reasoning in the impugned order would render the order liable to be set aside,

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particularly, in face of the fact that the learned Judge found merit in the writ petition and issued rule, therefore, needs to be accepted. We have already noticed that orders even at interlocutory stages may not be as detailed as judgments but should be supported by reason howsoever briefly stated. Absence of reasoning is impermissible in judicial pronouncement. It cannot be disputed that the order in question substantially affect the rights of the parties. There is an award in favour of the workmen and the management had prayed for stay of the operation of the award.

The Court has to consider such a plea keeping in view the provisions of Section 17-B of the Industrial Disputes Act, where such a prayer is neither impermissible nor improper. The contentions raised by the parties in support of their respective claims are expected to be dealt with by reasoned orders. We are not intentionally expressing any opinion on the merits of the contentions alleged to have been raised by respective parties before the learned single Judge. Suffice it to note that the impugned order is silent in this regard. According to the learned Counsel appearing for the appellant, various contentions were raised in support of the reliefs claimed but all apparently, have found no favour with the learned Judge and that too for no reasons, as is demonstrated from the order impugned in the present appeals."

19. The principles stated by this Court, as noticed supra, have been reiterated with approval by a Bench of this Court in a very recent judgment, in State of Uttaranchal v. Sunil Kumar Singh Negi [(2008) 11 SCC 205], where the Court noticed the order of the High Court which is reproduced hereunder:-

"I have perused the order dated 27.5.2005 passed by Respondent 2 and I do not find any illegality in the order so as to interfere under Article 226/227 of the Constitution of India. The writ petition lacks merit and is liable to be dismissed."

and the Court concluded as under:-

"In view of the specific stand taken by the Department in the affidavit which we have referred to above, the cryptic order passed by the High Court cannot be sustained. The absence of reasons has rendered the High Court order not sustainable. Similar view was expressed in State of U.P. v. Battan[1]. About two decades back in State of Maharashtra v. Vithal Rao Pritirao Chawan[2] the desirability of a speaking order was highlighted. The requirement of indicating reasons has been judicially recognised as imperative. The view was reiterated in Jawahar Lal Singh v. Naresh Singh[3].

In Raj Kishore Jha v. State of Bihar[4] this Court has held that reason is the heartbeat of every conclusion and without the same, it becomes lifeless.

"8. … Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made;…."*

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1. (2001) 10 SCC 607
2. (1981) 4 SCC 129
3. (1987) 2 SCC 222
4. (2003) 11 SCC 519

* As observed in State of Orissa vs. Dhaniram Lunar (2004) 5 SCC 568

> In the light of the factual details particularly with reference to the stand taken by the Horticulture Department at length in the writ petition and in the light of the principles enunciated by this Court, namely, right to reason is an indispensable part of sound judicial system and reflect the application of mind on the part of the court, we are satisfied that the impugned order of the High Court cannot be sustained."

19. Besides referring to the above well-established principles, it will also be useful to refer to some text on the subject. H.W.R. Wade in the book "Administrative Law, 7th Edition, stated that the flavour of said reasons is violative of a statutory duty to waive reasons which are normally mandatory. Supporting a view that reasons for decision are essential, it was stated:-

> "…..A right to reasons is, therefore, an indispensable part of a sound system of judicial review. Natural justice may provide the best rubric for it, since the giving of reasons is required by the ordinary man's sense of justice…
>
> …..Reasoned decisions are not only vital for the purposes of showing the citizen that he is receiving justice: they are also a valuable discipline for the tribunal itself….."

20. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to

record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of knowing reasons for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and foundation for conclusions or exercise of judicial discretion by the courts. Reason is the very life of law. When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dis-satisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever precise they may be.

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21. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process of correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very correct in law to say, that there is a qualified duty imposed upon the Courts to record reasons. Our procedural law and the established practice, in fact, imposes unqualified obligation upon the Courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more *res integra* and stands unequivocally settled by different judgments of this Court holding that, the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order XIV Rule 2 read with Order XX Rule 1 of the Code of Civil Procedure requires that, the Court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn would be the basis for writing a decree of the Court.

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22. By practice adopted in all Courts and by virtue of judge made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In the case of Alexander Machinery (Dudley) Ltd. (supra), there are apt observations in this regard to say "failure to give reasons amounts to denial of justice". Reasons are the real live links to the administration of justice. With respect we will contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and ensure that such reasons can be appropriately considered by the appellate/higher Court. Absence of reasons thus would lead to frustrate the very object stated hereinabove. The order in the present case is as cryptic as it was in the case of Sunil Kumar Singh Negi (supra). Being a cryptic order and for the reasons recorded in that case by this Court which we also adopt, the impugned order in the present appeal should meet the same fate.

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23. In light of the above principles, now we will revert back to the facts of the present appeal. It cannot be doubted that challenge was raised to the order of the Board before the High Court on alleged questions of law as well as mixed question of law and fact. The contention that the respondent had not manufactured the shutters from the tax paid raw material and also that the contract in question was not impartible but a consequential item for completion of the contract required examination by the High Court. In light of the judgments referred to and relied upon by the parties including the judgment of this Court, it is true that requirement of stating reasons for judicial orders necessarily does not mean a very detailed or lengthy order, but there should be some reasoning recorded by the Court for declining or granting relief to the petitioner. The purpose, as already noticed, is to make the litigant aware of the reasons for which the relief is declined as well as to help the higher Court in assessing the correctness of the view taken by the High Court while disposing off a matter. May be, while dealing with the matter at the admission stage even recording of short listening dealing with the merit of the contentions raised before the High Court may suffice, in contrast, a detailed judgment while matter is being disposed off after final hearing, but in both events, in our view, it is

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imperative for the High Court to record its own reasoning however short it might be.

24. We are unable to find any infirmity in the arguments advanced on behalf of the Department, that no reasons have been recorded for rejecting the contentions raised, this legal infirmity has, in fact, prejudicially affected the case of the appellant before us. The judgment of the High Court must speak for itself to enable the higher Court to do complete and effective justice between the parties.

25. For the reasons afore-recorded we set aside the order dated 29th February, 2008 and remit the case to the High Court with a request to hear the case de novo and pass appropriate order in accordance with law. To that extent the appeal is allowed.

26. There shall be no order as to costs.

.....J.
[S.H. KAPADIA]

.....J.
[SWATANTER KUMAR]

New Delhi
April 15, 2010

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