

## Analysis

### **NO SUPPLEMENTING OF REASONS BY SEPARATE NOTING ALLOWED WHEN SAME ARE REQUIRED TO BE PART OF A SINGLE ORDER**

**“The argument of the learned counsel (REVENUE) that the reasons have been recorded in a separate order dated 13.8.2008 would not satisfy the requirement of Section 127 of the Act because the reasons have to be part of the order and recording of separate reasons on file without communicating the same to the assessee has been considered to be unfair and unwarranted. In support of the aforesaid proposition reliance may be placed on the observations made by a**

**Constitution Bench of the Hon'ble Supreme Court in the case of Mohinder Singh Gill v. Chief Election Commissioner, AIR 1978 SC 851. In para 8 of the judgment it has been observed as under:**

**“The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out.”**

**In view of the aforesaid principle, the recording of separate reasons which are not part of the impugned order and its non communication to the petitioners would not be sustainable in the eyes of law. Therefore, we find no hesitation to reject the aforesaid argument.”**