

Assistant Commissioner, Income Tax, Rajkot v. Saurashtra Kutch Stock Exchange Ltd.

Civil Appeal No. 1171 of 2004

[2008] 13 SCR 421 | 2008-09-15

Whether the Tribunal could rectify its appeal order for overlooking binding jurisdictional precedent, and whether the Supreme Court should itself decide the underlying section 11 exemption.

254(2) | 11 | 12A | 154

Two-judge bench | C.K. Thakker, J. | Lokeshwar Singh Panta, J.

Assessment years: 1996-97

Rectification upheld; exemption not decided

The assessee succeeded only in preserving recall and a fresh Tribunal hearing. Section 11 exemption was expressly left open. The actual omitted precedent predated the Tribunal decision; the wider discussion of later judicial declarations does not authorise general merits review or bypass limitation/finality. The reported registration chronology is internally inconsistent. The four-year period is historical, and current law and comprehensive later treatment remain unverified.

01 FACTS OF THE CASE

The registered company operating a recognised stock exchange claimed section 11 exemption for AY 1996-97. The Assessing Officer and CIT(A) rejected the claim, and the Tribunal dismissed the assessee's appeal on 27 October 2000. On the assessee's application of 13 November 2000, the Tribunal recalled that decision on 5 September 2001 after the previously unconsidered Gujarat High Court decision in Hiralal Bhagwati was brought to its attention. The Gujarat High Court upheld the recall; Revenue challenged that order in the Supreme Court (paragraphs 1–8).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Court separated the procedural issue from exemption entitlement. The Tribunal had only recalled the earlier order and directed a rehearing; deciding the substantive section 11 claim in this Revenue appeal would be inappropriate (paragraphs 17–18).

Review is not an inherent power of a statutory tribunal. Section 254(2), however, permits rectification of an apparent mistake, and requires correction when such a mistake is brought to the Tribunal's notice. Drawing on the cited authorities, the Court distinguished a patent, manifest error from a debatable conclusion requiring lengthy reasoning or reappreciation. It did not decide whether the section's phrase is wider than the wording of Order 47 rule 1 CPC (paragraphs 19–38).

Failure to consider a binding decision of the jurisdictional High Court or the Supreme Court could constitute the necessary apparent mistake. The Court explained the ordinarily retrospective character of judicial declarations, while recognising prospective overruling as an exception. That discussion included the Gujarat precedent concerning subsequently rendered decisions; the actual Hiralal Bhagwati decision here had already been delivered months before the Tribunal's October 2000 order and was simply not brought to its attention (paragraphs 39–47).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

Revenue's appeal was dismissed and the Tribunal's rectification/recall, as upheld by the High Court, was left intact. The Tribunal was to rehear the appeal on its own merits, uninfluenced by observations in the recalled/impugned proceedings, the High Court order or this judgment. The Supreme Court expressly decided neither way on the assessee's exemption. Each party was to bear its own costs (paragraphs 48–50).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee on validity of rectification and rehearing only

Revenue appeal dismissed; existing Tribunal recall/rehearing order upheld; parties bear their own costs

Final on the rectification jurisdiction issue; section 11 exemption remains open for Tribunal adjudication

Not a substantive exemption grant, automatic tax refund or unrestricted power to review merits. The operative overlooked precedent predated the Tribunal order. General discussion of later judicial declarations does not dispense with the applicable limitation, finality rules or apparent-error threshold.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Identify the exact binding decision, why it governs the point, and the omission that produces an apparent error. Keep an overlooked controlling precedent distinct from a request to reconsider evidence or choose a different arguable view. An order recalling an appeal for rehearing does not itself allow the underlying exemption. The four-year period quoted in this historical judgment must not be used as a current filing deadline.

A separately checked comparison, CIT v. Reliance Telecom Ltd. (3 December 2021), paragraphs 3.2–9, rejects a section 254(2) exercise that effectively reheard the entire appeal on merits. The Court restored the original orders and preserved an opportunity for ordinary High Court appeals. That later case is used here only to reinforce the correction-versus-review distinction; it does not cite or expressly overrule Saurashtra Kutch in the reviewed text.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and proceedings

Source url: [Open cited source](#)

Pdf pages: 1; 7; 8; 9

Paragraphs: Cover; 1–8

Source role: reported metadata and judicial text

2.

Topic: Registration chronology discrepancy

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: 2

Source role: judicial text

3.

Topic: Competing submissions and express reservation of exemption merits

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12

Paragraphs: 10–18

Source role: judicial text

4.

Topic: Historical section and review distinction

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15; 16

Paragraphs: 19–30

Source role: judicial text

5.

Topic: Apparent-error test and reserved CPC comparison

Source url: [Open cited source](#)

Pdf pages: 16; 17; 18; 19; 20; 21

Paragraphs: 30–38

Source role: judicial text

6.

Topic: Binding authority and temporal discussion

Source url: [Open cited source](#)

Pdf pages: 21; 22; 23

Paragraphs: 39–47

Source role: judicial text

7.

Topic: Dismissal, rehearing and merits reservation

Source url: [Open cited source](#)

Pdf pages: 23; 24

Paragraphs: 48–50

Source role: judicial text

8.

Topic: Limited later comparison: correction versus full merits rehearing

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: 3.2–9

Source role: bounded later judicial comparison

ADDITIONAL STATUTORY CONTEXT, NOT SEPARATE HOLDINGS

254(2): Controlling rectification jurisdiction and distinction from review under the historical text

11 / 12a: Underlying exemption and registration dispute expressly left undecided on merits

154: Background rectification proceedings and analogous expression; not the operative statutory power exercised by the Tribunal

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

C.K. Thakker, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SPECIFIED LATER COMPARISONS AND THEIR LIMITS

1.

Kind: bounded later judicial comparison

Source url: [Open cited source](#)

Pdf pages: 4; 5; 6

Paragraphs: 3.2–9

Finding: Reliance Telecom (2021) disallowed merits rehearing through section 254(2), restored original Tribunal orders and addressed renewed High Court appeals.

Limit: Editorial scope comparison, not a claim that the later judgment expressly considered or overruled Saurashtra Kutch. Full bounded Reliance judicial text was read for context; broader later-treatment audit unperformed.

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 24 PDF pages; SHA-256

73c6639f27d084e49d9cc8f7cc0f489d24294de640c5c15d4df312fba94fa56. Original bytes preserved.

Judicial paragraphs 1–50 on physical pages 7–24 (SCR 427–444). Pages 1–6 and upper page 7 are reporter/editorial material. Party submissions in 10–16 distinguished from reasoning; lengthy embedded authorities in 27, 32, 34–36, 43 and 46 read as quotations. No adjacent judgment.

[Open cited source rendition](#)

Paragraph 2 reports registration on 8 July 1996, then says the October 1996 return claimed exemption although not registered, and later mentions conditional registration on 20 February 1998. This internal registration chronology is unresolved; no corrected chronology or automatic exemption is inferred.; The early factual description of the institution as entitled to exemption cannot override paragraphs 18 and 49 expressly leaving that merits question undecided.; Statements about Delhi Stock Exchange and Surat City Gymkhana in paragraphs 11 and 16 are competing counsel submissions; their merits were not resolved here.; The long certiorari and review quotations explain the apparent-error boundary; they do not turn the Tribunal into a court with general inherent review powers.; The general retrospective-declaration discussion is distinct from the actual prior-but-overlooked Hiralal Bhagwati precedent and the historical rectification time limit.

STATUTORY SCOPE

Current statutory equivalence and 2025 Act applicability have not been verified.

LATER TREATMENT

Source checked 2026-10-04. No comprehensive subsequent judicial or statutory audit. The independently checked comparisons below are bounded and separate from the original holding; no current-law or 2025-Act certification.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 24](#)

SHA-256: 73c6639f27d084e49d9cc8f7cc0f489d24294de640c5c15d4df312fba94fa56

[bounded comparison judgment - PDF pages: 6](#)

SHA-256: 62af697677b962e1f4fea69adccc5b47fa53e436e824add0011441b1fa0869ca

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AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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