

## Chapter 4 INTERPRETATION OF STATUTES

### BASICS

- ✚ Statute means the written will of the legislature.
- ✚ The terms 'law' is defined as including any order, bye-law, rule, regulation, notification etc.
- ✚ 'Statute' signifies written law
- ✚ Instrument is a formal writing of any kind, such as an agreement or record, drawn up and executed in a technical form
- ✚ Interpretation is the process by which the real meaning of an Act and the intention of the legislature in enacting it is ascertained
- ✚ Interpretation is of two kinds - 'literal' and 'functional'.

### TYPES OF INTERPRETATION

- There are basically four types of Interpretation rules i.e.
- ✚ Literal Rule of Interpretation
  - ✚ Rule of Beneficial construction
  - ✚ Rule of harmonious construction
  - ✚ Rule of reasonable construction

### LITERAL CONSTRUCTION

- ✚ This is the initial rule of interpretation
- ✚ This rule is used:-
  - If the words in a statute is plain;
  - Language used in a Statute is plain;
  - Literal meaning is clear and unambiguous; and
  - There is nothing to imply that the words or the language has been used in a special sense different from their ordinary grammatical sense.
- ✚ Where the words or the language used in the statute is clear, the statute should be interpreted on the face of the language itself, without adding, subtracting or omitting words therefrom.
- ✚ Words, sentences and phrases of a statute should be read in their ordinary, natural and grammatical meaning.
- ✚ If the statute dealing with the matter would attribute a technical meaning to a word, then such word must be given a technical meaning.  
*If a word relates to a particular trade, such word shall be given the meaning which is understood by everybody conservant with trade, even though such meaning is different from ordinary or popular meaning.*
- ✚ Sometimes a choice has to be made between two interpretations, one narrower and the other wider. In such a situation, if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one

JAISA LIKHA HAI WAISA SAMJHO  
"NO LOGICAL INTERPRETATION"

**REASONABLE CONSTRUCTION**

- ✚ Rule of reasonable construction applies where ordinary meaning is absurd and where literal interpretation fails to achieve the purpose.
- ✚ This rule applies:-
  - Where ordinary meaning is **absurd**.
  - Where literal interpretation fails to achieve the purpose.
- ✚ In reasonable construction, the interpretation must be according to the purpose, policy, object and spirit of law. The words of a statute must be construed so as to lead to a sensible meaning.
- ✚ The rule of reasonable construction states that exclusive reliance on dictionary meaning or literal meaning may not indicate proper intention of legislature.
- ✚ The intention of the statute would be given proper weight than the mere words. Legislature would legislate only for the purpose of bringing about an effective result and so it is the duty of the Court to give effect to such purpose.

**Judicial Decision****Whiteley v Chappell**

The defendant had impersonated a dead person and voted in an election in his name. the relevant statute provided that it was an offence to impersonate 'any person entitled to vote' in an election. Since the person impersonated was dead, he was not entitled to vote and thus Whiteley could not be convicted. Here application of literal rule is against parliament's intention.

**HARMONIOUS CONSTRUCTION**

- ✚ Harmonious construction is applied if there is a conflict between two or more provisions. The conflict may be
  - Within a section; or
  - Between two or more sections of a statute; or
  - Between two or more sections of different statutes.
- ✚ As per Harmonious interpretation, one section shall not be allowed to defeat the other provisions of the Act.
- ✚ In harmonious construction, when there is doubt about the meaning of the words of a statute, these should be understood in the sense in which they harmonize with the subject of the enactment and the object.
- ✚ If it becomes impossible, to give effect to all the conflicting provisions, then one provision shall prevail over another provision, explained as follows:
  - If one provision 'overrides' another provision, it shall prevail over the latter provision.
  - If a provision is made 'subject to' another provision, the latter provision shall prevail.
  - If no provision is made subject to another provision, and no provision has an over-riding effect, then
    - ✓ The provision enacted or amended later in point of time shall prevail.
    - ✓ The provision appearing later in the Act shall prevail, if all the provisions were enacted or amended at same point of time.

**SARE PROVISIONS KI RESPECT KARO  
"REMOVE THE CONFLICT"**

**BENEFICIAL CONSTRUCTION**

- ❖ Rule of Beneficial construction is also known as rule of purposive construction or Heydon's rule or mischief rule.
- ❖ Heydon's rule must be applied in those cases where the word of statute is ambiguous and out of that more than two meanings can be emerged.
- ❖ The rule which is also known as 'purposive construction' enables consideration of four matters in construing an Act:
  - What was the law before the making of the Act?
  - What was the mischief or defect for which the law did not provide?
  - What is the remedy that the Act has provided? and
  - What is the reason for the remedy?
- ❖ The rule of beneficial construction directs that the courts must adopt that construction which 'shall suppress the mischief and advance the remedy' according to the true intentions of makers of statute.

**Judicial Decision**

**Corkery v Carpenter**

Section 12 of the Licensing Act, 1872 provided that a person drunk in charge of a 'carriage' on the highway could be arrested without a warrant. The defendant was found drunk in charge of bicycle. Although it could be argued that a bicycle is not a carriage for the purpose of Act; mischief here was prevention of drunken persons on the highway in charge of some form of transportation for the purpose of public order and safety.

**INTENTION DEKHO SARKAR KA, BADMAASHI PAKDO INTERPRETERS KI!!  
"COURT SHALL INTERPRET AS PER DEMAND OF LAWMAKERS"**

**RULE OF EXCEPTIONAL CONSTRUCTION**

- ✚ Rule of exceptional construction states that the words of a statute must be so construed as to give a sensible meaning to them, if at all possible.
- ✚ The word 'or' is normally disjunctive and 'and' is normally conjunctive. However, at times they are read as vice versa to give effect to the manifest intention of the legislature as disclosed from the context.
- ✚ The word 'may' is normally directory and 'shall' is normally mandatory. However, at times they are read as vice versa to give effect to the manifest intention of the legislature as disclosed from the context.
- ✚ A provision containing the word 'notwithstanding' is generally termed as 'non-obstante clause'. The provision containing the word 'notwithstanding' has an over-riding effect on the other provision. In other words, if there is any inconsistency or departure between the non obstante clause and another provision, it is the non-obstante clause which shall prevail. Accordingly, a non obstante clause restricts the operation and effect of other contrary provisions
- ✚ A provision containing the word 'subject to' gives an overriding effect to the other provision, i.e. other provision shall prevail over such provision in case of any inconsistency.



- An expression containing the words 'without prejudice to the generality of...' indicates that anything contained in the provision following such words is **not intended to cut down the generality of the meaning of the preceding provision.**

#### SECONDARY RULES OF INTERPRETATIONS

##### RULE OF EJUDEM GENERIS

- Collecting ban The term 'ejusdem generis' means **'of the same kind or species'**.
- This rule applies when the statute contains list of specific words **which are of same category** and does not exhaust the whole category.
- In Rule of 'ejusdem generis', where any Act enumerates different subjects, general words following specific words are **to be construed and understood with reference to the words that precede them.**

For Example:- Where "cars, motor bikes, motor powered vehicles" are mentioned, the word "vehicles" would be interpreted in a limited sense. Thus, vehicles cannot be interpret in such sense as to include airplane

**BAAD WALE GENERAL WORDS KA INTERPRETATION PEHLE WALE SPECIFIC WORDS KO DHYAN ME RAKHKAR KARE**

**"LATTER WORDS SHALL BE INTERPRETED IN CONTEXT OF PREVIOUS WORDS"**

##### RULE OF NOSCITUR A SOCIIS

- Paying bakers will not be liable if payment has been made in du The concept of '*Noscitur A Sociis*' means that a word is known by its associates, that is to say 'the **meaning of a word is to be judged by the company it keeps.**
- The concept of '*Noscitur A Sociis*' states that When two or more words which are capable of **analogous (similar or parallel) meaning are coupled together, they are to be understood in their cognate sense** i.e. one derives colour from other and the general word is restricted to the less general word.

For example:- The word "plant" used in 'plant and machinery' and same word used in 'plant ad flower' has obviously different meaning.

**WORDS INTERPRET KARTE USKE SATH WALE WORDS KI MEANING DEKHE. KISI PERSON KA CHARACTER CHECK KARNE KE LIYE USKE FRIENDS DEKHE, JAISE FRIENDS, WAISA WOHI!**

**"WORDS SHALL BE INTERPRETED IN CONTEXT OF ASSOCIATED WORDS"**

#### CONTEMPORANIA EXPOSITIO

- Contemporanea Expositio rule applies **if the statute is an old statute** and the language of the statute is ambiguous.
- Contemporanea Expositio states that the best way to interpret a document **is to read it as it would have been read when made.**

**PURANE ACT KO INTERPRET KARTE WAQT US HISAB SE SOCHNA PADEGA JAB ACT BANA THA "USE TIME MACHINE AND GO BACK TO THE TIME OF ENACTMENT OF ACT FOR INTERPRETING IT"**

#### INTERNAL AIDS TO INTERPRETATION

- The 'Short Title' **merely identifies the enactment** and is chosen merely for convenience.
- 'Long Title' on the other hand, **describes the enactment** and does not merely identify it. It is now settled that the Long Title of an Act is a part of the Act.
- Preamble provides **the scope, object and purpose of the Act** more comprehensively than the Long Title. It is a part of the enactment and can legitimately be used for construing it. Where the words or phrases have more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, the Preamble can be used for a proper construction

✚ Marginal notes means titles to the section.

✚ When a word or phrase is defined as having a particular meaning in the Act, it is that meaning alone which must be given to it in interpreting a Section of the Act. The statutory definition cannot be ignored by the Court. The definition can be either restrictive or extensive.

When a word is defined to 'mean' something, the definition is prima facie restrictive and exhaustive and the meaning of such word must be restricted to the meaning given in the definitional clause.

Where an expression is defined to 'include' something, the definition is prima facie extensive and its meaning can also include something else in addition to the meaning assigned to it in the definition clause.

✚ Proviso can be used in interpretation whether or not the words used in a statute are ambiguous. A Proviso covers only such subject-matter as is covered by the main provision. As such, the scope of proviso is limited to the matter covered by the main section. The Objective of proviso is

- Proviso is inserted to qualify something stated in the enactment.
- Proviso is inserted to impose conditions in addition to something which is stated in the enactment.
- A proviso is added to an enactment to create **an exception** to what is there in the enactment.
- A proviso is inserted to give an **explanation or clarification**

✚ The illustrations form a part of the statute and are considered to be of value in construing the text of the sections. Illustrations are used to clarify the application of the provisions of a Statute.

Illustrations can neither curtail nor expand the ambit of the section. Illustrations cannot modify the language of the section, If there is a conflict between the section and an illustration, the section will prevail.

✚ Explanation is inserted so as to remove any ambiguity in the main section. It is used to clarify and explain the meaning of the section or legislative intent. Explanation is inserted so as to remove any ambiguity in the main section. It is used to clarify and explain the meaning of the section or legislative intent.

#### RULES OF INTERPRETATION OF DEEDS AND DOCUMENTS

✚ Usage is an important aid in interpretation. Where the meaning of the language in a statute is doubtful, then how that language has been interpreted and acted upon over a long period of time may determine its true meaning.

✚ If a word is not specially defined in the Act, then dictionaries may be referred to find out the general sense in which that word is commonly understood.

#### EXTERNAL AIDS TO INTERPRETATION

##### Historical Setting

The external circumstances which led to the enactment may prove to be significant in construing any enactment. All the historical facts necessary in understanding the subject matter and scope can be considered. History in general and Parliamentary History all are relevant in interpreting and construing an Act.

##### Usage

Usage is an important aid in interpretation. The acts done under a statute may provide the key to the statute itself. Where the meaning of the language in a statute is doubtful, then how that language has been interpreted and acted upon over a long period of time may determine its true meaning.

**Consolidating statutes and previous law**

In many Acts, the preamble contains the expressions such as "*An Act to consolidate the previous law*". The previous laws may solve doubtful points in the statute.

**Earlier and Later Acts and Analogous Acts**

The general principle is that where there are different statutes in '*pari materia*' (*relating to the same thing*), though made at different times, they shall be taken and construed together as one system and as explanatory of each other.

If two Acts are to be read together, then every part of each Act has to be construed as if contained in one composite Act. But if there is some clear discrepancy then it is necessary to hold that later Act (in point of time) had modified the earlier one.

Where a part of an Act has been repealed, it loses its operative force. Nevertheless, such a repealed part of the Act may still be taken into account for construing the unrepealed part. This is so because it is part of the history of the new Act.

**Dictionary Definitions**

If a word is not specially defined in the Act, then dictionaries may be referred to find out the general sense in which that word is commonly understood. Even technical dictionaries may be used for technical terms.

**Use of Foreign Decisions**

The use of foreign decisions of countries following the same system of jurisprudence as ours and rendered on statutes similar to ours can be used for construing our Acts. The assistance of such decisions is subject to the qualification that prime importance is always to be given to the language of the relevant Indian statute.

**RULES OF INTERPRETATION OF DEEDS AND DOCUMENTS****Golden Rule**

- Ascertain the intention of the parties after considering all the words in the document in their ordinary sense.
- Read the document as a whole.
- Consider the circumstances in which particular words have been used.
- Consider the status and training of the parties. A word may be used by an ordinary person in one sense and by a trained person or a specialist in a special sense.

Deed is defined as an instrument in writing purporting to effect some legal disposition

Words bear same meaning throughout the document. A word appearing at two or more places may be given different meaning if context so requires.

One invalid clause does not make the whole document void, but if that illegal part is inseparable from the legal part, the whole document is void.

In case of conflict:- Resolve the conflict between two clauses in the document. If it is not possible to resolve the conflict, the earlier clause will over-ride the latter one.