

# Perception of Law

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## < EXECUTIVE SUMMARY >

◆ To express the law in such terms as shall be free from all ambiguity is a degree of precision, which is perhaps next to impossible. The rules of interpretation are drawn to identify the intentions, scope of the provisions and the nature of type rights and duties. These rules are construed heat that the thing may rather stand than fall.

It is required to find out the sense, which is intended to convey by the legislature by which the meaning of the language is ascertained, where the language is plan and lucidly convey meaning, resort of interpretation is never called. The article below discusses the rules for the interpretation of the law.



To express the law in such terms as shall be free from all ambiguity is a degree of precision which is perhaps next to impossible. Though some inaccuracy must also inevitably prevail because of the defect of language while framing the law even private deeds also, still rules of interpretation are required in order to ensure just and uniform meaning instead of construing the law without reaching on the height to see all the corners of the law.

The rules of interpretation are drawn to identify the intentions, scope of the provisions and the nature of the rights and duties. These rules are construed heat that the thing may rather stand than fall. It is required to find out the sense which is intended to convey by the Legislature by which the meaning of the language is ascertained, where the language is plain and lucidly convey the meaning, resort of interpretation is never called. So far as the interpretation of a deed or document is concerned, it is meant to ascertain what intentions the writer intended

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to convey to the reader by it, or to use other words, what intentions are expressed in it. In other words, the process of ascertaining the meaning of a given text to find out the perception is an interpretation.

Interpretation of a statute means introduction of elements which are necessarily extrinsic to the words in the statute. Quoting Max Radin-

“A statute is neither a literary text nor a divine revelation. Its effect is therefore neither an expression laid on immutable emotional overtones nor a permanent creation of infallible wisdom. It is a statement of situation or rather a group of possible events within a situation and as such, it is essentially ambiguous”.

The task of interpretation of an enactment is not a mechanical task. It is more than a mere reading of a mathematical formula, because few words possess the precision of mathematical symbols. It is an attempt to discover the intentions of the legislature from the language used by it and it must always be remembered that the language is at best an imperfect medium to express human thought.

Lord Russel of killowen in ATTORNEY GENERAL Vs. CARLTEN BANK (1889) 2 Q.B.158 observed as follows:-

“.....whether the Act to be construed relates to taxation or to any other subject, namely, to give effect to the

intention of the legislature, as that intention is to be gathered from the language employed having regard to the context in connection with which it is employed. ....courts have to give effect to what legislature has said”.

The object of the interpretation of a statute is to discover the intentions of the legislature as expressed in the Act. The dominant purpose of construction is to ascertain the intention as expressed in the statute, considering it as a whole and in its context. That intention and therefore the meaning of the statute are primarily to be sought in the words used in the statute itself which must, if they are plain and unambiguous, be applied as they stand.

Unless there is any ambiguity, it would not be open to courts to depart from the normal rule of construction, that is the intentions of the legislature should be primarily gathered from words which are used. It is only when the words used are ambiguous that they would stand to be examined and construed in the light of surrounding circumstances and constitutional principle and practice- CIT Vs. SODRA DEVI (1957)32 ITR 615 (SC).

If the language of a statute is clear and unambiguous and if two interpretations are not reasonably possible, it would be wrong to discard the plain meaning of the words used in order to meet a possible injustice- CIT Vs. T.V. SUNDRAM IYENGAR & SONS (P) LTD (1975) 101 ITR 784 (SC). It is to be construed reasonably, rationally and not in-workable manner- SHRI RAM VINYL & CHEMICAL INDUSTRIES Vs. CC 2001 (129) ELT 278 (SC) having regard to the language employed therein- HMM Ltd Vs. CCE 1996 (87) ELT 593 (SC). It cannot be unduly stretched to produce unintended results in derogation of the plain language employed therein -- CCE VS MODI RUBBER LTD. 2001 (133) ELT 515 (SC) -Express language has to be given its due effect. Supposed object and purpose has to be culled out from the said language- GUJARAT STATE FERTILIZERS CO. Vs. CCE 1997 (91) ELT 3 (SC).

It is well settled law that while construing the conditions, all the conditions must not be construed on equal footing. The mere fact that it is statutory does not matter one way or the other. Some may be substantive, mandatory and based on considerations of policy and some other may merely belong to the area of procedure. It is erroneous to attach equal importance irrespective of the purposes they are intended to serve- MANGLORE CHEMICALS & FERTILIZERS LTD VS. DY. COMMISSIONER 1991 (55) ELT 437 (SC). Any benefit being an exception, is interpretable strictly and if there is any doubt or ambiguity, it is to be resolved in favour of the Revenue- UOI Vs. WOOD PAPERS LTD 1990 (47) ELT 500 (SC); LIBERTY OIL

MILLS (P) Ltd (1995) 49 ECC 44 (SC) and if there is no doubt or ambiguity, instead of employing strict construction, full play must be given- S.G. GLASS WORKS PVT. LTD Vs. CCE 1994 (74) ELT 775 (SC).

It is well settled law that having ascertained the intentions of the legislature, actual or imputed, the court must then strive to so interpret the statute as to promote or advance the object and the purpose of the enactment. For this purpose, where necessary, the courts may even depart from the rule that plain words should be interpreted according to their plain meaning. There need be no meek submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of law, the courts would be well justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of enactment by supplementing the written words, if necessary- GIRDHARLAL & SONS VS. BALBIR NATH MATHUR- AIR 1986 SC 1499. A construction which defeats the very object sought to be achieved by the legislature, must if possible, be avoided – CIT Vs. S. TEJA SINGH (1959) 35 ITR 408 (SC), and accordingly, the court may modify the language used by the legislature or even do so some violence to it, so as to achieve the obvious intention of the legislature and produce a rational construction- K.P. VARGHESE Vs. ITO (1981) 131 ITR 597 (SC).

If a language used is capable of bearing more than one construction, in selecting the true meaning, regard must be had to the consequences, resulting from adopting the alternative constructions. A construction that results in hardship, serious inconvenience, injustice, absurdity or anomaly or which leads to inconsistency or uncertainty and friction in the system which the statute purports to regulate has to be rejected and preference should be given to that construction which avoids such results. (see *Johson v. Moreton* (1978) 3 ALL ER 37 and *Stock v. Frank Jones (Tripton) Ltd.* [1978] 1 ALL ER 984). In selection out of different interpretations, the court will adopt that which is just reasonable and sensible rather than that what is none of those things, as it may be presumed that the Legislature should have used the word in the interpretation which least offends our sense of justice. In *Shanon Realites Ltd v. Sant Michael* (1924) AC p. 185 at pp. 192-193 Lord Shaw stated:

“Where words of a statute are clear, they must, of course, be followed, but in their Lordship’s opinion where alternative constructions are equally open that alternative is to be chosen which will be consistent with the smooth working of the system which the statute purports to be regulating and that alternative is to be rejected which will introduce uncertainly, friction or confusion

into the working of the system.”

However, where the Legislature clearly declares its intent in the scheme and language of a statute, it is the duty of the court to give full effect to the same without scanning its wisdom or policy, and without engrafting, adding or implying anything which is congenial to or consistent with such expressed intent of the law-giver, more so, if the statute is a taxing statute.

The conventional way of interpreting a statute is to seek the intention of its makers. If a statutory provision is open to more than one interpretation then the court has to choose that interpretation which represents the true intention of the Legislature. This task often is not an easy one and several difficulties arise on account of a variety of reasons, but at the same time, it must be borne in mind that it is impossible even for the most imaginative Legislature to forestall exhaustively situations and circumstances that may emerge after enacting a statute where its application may be called for. It is in such a situation that the courts' duty to expound arises with a caution that the court should not try to legislate. While examining a particular provision of a statute to find out whether the jurisdiction of a court is ousted or not, the principle of universal application is that ordinarily the jurisdiction may not be ousted unless the very statutory provision explicitly indicates or even by inferential conclusion the court arrives at the same when such a conclusion is the only conclusion. Notwithstanding the conventional principle that the duty of judges is to be expound and not to legislate, the courts have taken the view that the judicial art of interpretation and appraisal is imbued with creativity and realism and since interpretation always implied a degree of discretion and choice, the court would adopt particularly in areas such as constitutional adjudication dealing with social and ..... rights.

Lord Denning in SEAFORD COURTS ESTATES LTD VS. ASHER (1949) 2 ALL ER 155

“.....when a defeat appears, a judge cannot simply fold his hands and blame the draftsmen. He must set to work on the constructive tasks of finding the intention of Parliament, and he must do this, not only from the language of the statute, but also from a consideration of the social conditions which give rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give force and life to the intention of the legislature.

In other words, it is the duty of the court to further parliaments aim of providing of a remedy for the mischief against which enactment is directed and the court should prefer construction which will suppress the mis-

chief and advance remedy and avoid evasions for the consequence of mischief.

And where the language of the enactment is not clear there is a requirement to resort to aids to construction from the statute itself, its setting, purpose and context. Such internal aids are preamble, definitions, exception, explanations, fictions, deeming provisions, provisos, punctuations, saving clauses, non-obstante clause, rules of language, the scheme of the statute, marginal notes and headings. However, still there is doubt or ambiguity, it could be sought out by external evidences (i.e. aids) such as dictionaries, earlier statutes, history of the legislation, legislative proceedings, reference to an analogous; *pari material* or other statutes.

## CONCLUSION

Thus, in sum-up. while deciding the true scope and effect of the relevant provisions i.e. the intention of a statute, regard must be paid to the context in which they occur. If the language is plain and admits only one meaning, the task of interpretation is not required. And, to ascertain the legislative intent, all the constituent parts of a statute are to be taken together and each words, phrase or sentence is to be considered in the light of the general purpose and object of the Act, itself.

In case of inconsistency or conflict between two provisions of a statute, attempt should be made to reconcile them to avoid repugnancy but it is not reasonably possible, the last must prevail. And in case of any inconsistency or absurd results etc. i.e. only for limited purposes, the Courts have a power to add to, alter or ignore statutory words with considering the context. In other words, where the legislature lucidly expresses its intention in the scheme and language of a statute, it is the duty of the court to give full effect to the same without scanning its wisdom or policy and without engrafting, adding or implying anything which is congenial to or consistent with such expressed intent of the law-giver; more so, if the statute is a taxing statute. A construction that results in hardship, serious inconvenience, justice, absurdity or anomaly or which leads to inconsistency or uncertainty and friction in the system which the statute purports to regulate has to be rejected and preference should be given to that construction which avoids such results. The principle to grant the benefit of any ambiguity to the assessee is also not applicable while determining the scope of an exemption or benefit granted by any notification or rule to the assessee. It calls strict construction and in case of any doubt it resolves in favour of the revenue. But once, any doubt or ambiguity is left, it requires liberal interpretation and its full play must be given. ■