

INTERPRETATION OF STATUTES



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INTRODUCTION

“the essence of law lies in the spirit, not its letter, for the letter is significant only as being the external manifestation of the intention that underlies it” - Salmond

Interpretation means the art of finding out the true sense of an enactment by giving the words of the enactment their natural and ordinary meaning. It is the process of ascertaining the true meaning of the words used in a statute. The Court is not expected to interpret arbitrarily and therefore there have been certain principles which have evolved out of the continuous exercise by the Courts. These principles are sometimes called 'rules of interpretation'.

The object of interpretation of statutes is to determine the intention of the legislature conveyed expressly or impliedly in the language used. As stated by SALMOND, "by interpretation or construction is meant, the process by which the courts seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed."

Interpretation is as old as language. Elaborate rules of interpretation were evolved even at a very early stage of the Hindu civilization and culture. The importance of avoiding literal interpretation was also stressed in various ancient text books - "Merely following the texts of the law, decisions are not to be rendered, for, if such decisions are wanting in equity, a gross failure of Dharma is caused."

Interpretation thus is a familiar process of considerable significance. In relation to statute law, interpretation is of importance because of the inherent nature of legislation as a source of law. The process of statute making and the process of interpretation of statutes are two distinct activities.

In the process of interpretation, several aids are used. They may be statutory or non-statutory. Statutory aids may be illustrated by the General Clauses Act, 1897 and by specific definitions contained in individual Acts whereas non-statutory aids is illustrated by common law rules of interpretation (including certain presumptions relating to interpretation) and also by case-laws relating to the interpretation of statutes.

Lord Denning in *Seaford Court Estates Ltd. Vs Asher*, "English Knowledge is not an instrument of mathematical precision... It would certainly save the judges from the trouble if the acts of parliament were drafted with divine precision and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold hand and blame the draftsman..."

It is not within the human powers to foresee the manifold permutations and combinations that may arise in the actual implementation of the act and also to provide for each one of them in terms free from all ambiguities. Hence interpretation of statutes becomes an ongoing exercise as newer facts and conditions continue to arise.

MEANING AND CLASSIFICATION OF STATUTES

A Statute is a formal written enactment of a legislative authority that governs a country, state, city, or county. Typically, statutes command or prohibit something, or declare policy. The word is often used to distinguish law made by legislative bodies from the judicial decisions of the common law and the regulations issued by Government agencies.

- [Black, Henry Campbell (1990). *Black's Law Dictionary, Sixth Edition*]

A statute is a will of legislature conveyed in the form of text. The Constitution of India does not use the term 'Statute' but it uses the term 'law'. 'Law' includes any ordinance, order, bye-law, rule, regulation, notification, custom or usage having the force of law. [Article 13 (3) (a) of the constitution].

Therefore, a Statute is the will of the legislature and Indian Statute is an Act of the Central or State Legislature. Statutes include Acts passed by the Imperial or Provincial Legislature in Pre-Independence days as well as Regulations. Statutes generally refer to the laws and regulations of every sort, every provision of law which permits or prohibit anything.

A Statute may generally be classified with reference to its duration, nature of operation, object and extent of application.

On the basis of duration, statutes are classified as either Perpetual or Temporary. It is a Perpetual Statute when no time is fixed for its duration and such statute remains in force until its repeal, which may be express or implied. It is perpetual in the sense that it is not obligated by efflux of time or by non-user. A Temporary statute is one where its duration is only for a specified time and it expires on the expiry of the specified time unless it is repealed earlier. The duration of temporary Statute may be extended by fresh Statute or by exercise of power conferred under the original statute. The expired statute may be revived by re-enacting it in similar terms or by enacting a statute expressly saying that the expired Act is herewith revived.

Types of classifications of Statutes may be elaborated as follows-

A. Classification with reference to basis of Duration

- (i) **Perpetual statutes** - It is perpetual when no time is fixed for its duration and such a statute remains in force until its repeal which may be express or implied.

- (ii) **Temporary statutes** - A statute is temporary when its duration is only for a specified time and it expires on the expiry of the specified time unless it is repealed earlier.

B. Classification with reference to Nature of Operation

- (i) **Prospective statutes** - A statute which operates upon acts and transactions which have not occurred when the statute takes effect, that is which regulates the future is a Prospective statute.
- (ii) **Retrospective statutes** - Every statute takes away or impairs vested rights acquired under the existing laws or creates a new obligation into a new duty or attaches a new disability in respect of transactions or considerations already passed are deemed retrospective or retroactive statute.
- (iii) **Directory statutes** - A directory statute is generally affirmative in its terms, recommends a certain act or omissions, but imposes no penalty on non-observance of its provisions.
- (iv) **Mandatory statutes** - A Mandatory statute is one which compels performance of certain acts and directs that a certain thing must be done in a certain manner or form. A type of Mandatory Statute is the Imperative Statute. Imperative Statutes are often negative or prohibitory in its terms and makes certain acts or omissions absolutely necessary and subjects a contravention of its provision to a penalty.

When the statute is passed for the purposes of enabling something to be done and prescribes the formalities which are to attend its performance, those prescribed formalities which are essential to the validity of the things which are done are called imperative or absolute, but those which are not essential and may be disregarded without invalidating the things to be done are called directory statutes. Imperative Statutes must be strictly observed. Directory Statute may be substantially complied with.

C. Classification with reference to Objective

- (i) **Enabling statutes** - These statutes are which enlarges the common law where it is too strict or narrow. It is a statute which makes it lawful to do something which would not otherwise be lawful.

- (ii) **Disabling statutes** - These statutes restrict or cut down rights existing at common law.
- (iii) **Permissive statute** - This type of statute allows certain acts to be done without commanding that they be performed.
- (iv) **Prohibitory statute** - This type of statute which forbids the doing of certain things.
- (v) **Codifying Statute** - It presents an orderly and authoritative statement of the leading rules of law on a given subject, whether those rules are to be found in statute law or common law.
- (vi) **Consolidating statute** - The purpose of a consolidating statute is to present the whole body of statutory law on a subject in complete form repeating the former statute.
- (vii) **Curative or validating Statute** - It is passed to cure defects in the prior law and to validate legal proceedings, instruments or acts of public and private administrative powers which in the absence of such statute would be void for want of conformity with existing legal requirements but which would have been valid if the statute had so provided at the time of enacting.
- (viii) **Repealing Statute** - A statute which either expressly or by necessary implication revokes or terminates another statute is a repealing statute.
- (ix) **Amending Statute** - It is a Statute which makes an addition to or operates to change the original law so as to effect an improvement or more effectively carry out the purpose for which the original law was passed.

LATIN LANGUAGE AND ITS IMPORTANCE IN STATUTORY CONSTRUCTION

Latin language (Lingua Latina) is an Italic language originally spoken in Latium (Rome). The Italic subfamily is a member of the Indo-European language family. The Indo-European languages are a family of several hundred related languages and dialects. This broad family includes most of the European languages spoken today. The Indo-European family includes several major branches: Latin and the modern Romance languages (French etc.); the Germanic languages (English,

German, Swedish etc.); the Indo-Iranian languages (Hindi, Urdu, Sanskrit etc.); the Slavic languages (Russian, Polish, Czech etc.); the Baltic languages of Latvian and Lithuanian; the Celtic languages (Welsh, Irish Gaelic etc.); and Greek.

Latin is the language of the ancient romans. In the 5th century BC, Latin was just one of many Italic languages spoken in central Italy. Latin was the language of the area known as Latium (modern Lazio), and Rome was one of the towns of Latium. The earliest known inscriptions in Latin date from the 6th century BC and were written using an alphabet adapted from the Etruscan alphabet.

Rome gradually expanded its influence over other parts of Italy and then over other parts of Europe. Eventually the Roman Empire stretched across a wide swathe of Europe, North Africa and the Middle East. Latin was used throughout the empire as the language of law, administration and increasingly as the language of everyday life. Literacy was common among Roman citizens and the works of great Latin authors were read by many. Meanwhile in the eastern Mediterranean, Greek remained the lingua franca and well-educated Romans were familiar with both languages.

The language used in much early Latin literature, classical Latin, differed in many ways from colloquial spoken Latin, known as vulgar Latin. Over the centuries the spoken varieties of Latin continued to move away from the literary standard and eventually evolved into the modern Italic/Romance languages (Italian, French, Spanish, Portuguese, Romanian, Catalan, etc).

Even after the collapse of the western Roman Empire in 476 AD, Latin continued to be used as a literary language throughout western and central Europe. An enormous quantity of medieval Latin literature was produced in a variety of different styles ranging from the scholarly works of Irish and Anglo-Saxon writers to simple tales and sermons for a wider audience.

During the 15th century, Latin began to lose its dominant position as the main language of scholarship and religion throughout Europe. It was largely replaced by written versions of the vernacular languages of Europe, many of which are descendants of Latin or have been heavily influenced by it.

Modern Latin was used by the Roman Catholic Church until the mid 20th century and is still used to some extent, particularly in the Vatican City, where it is one of the official languages. Latin terminology is still used extensively in Statutes.

Latin alphabet - The Romans used just 23 letters to write Latin: A B C D E F G H I K L M N O P Q R S T V X Y Z . There were no lower case letters, I and V could be used as both vowels and consonants, and K, X, Y and Z were used only for writing words of Greek origin. The letters J, U and W were added to the alphabet at a later stage to

write languages other than Latin. J is a variant of I. U is a variant of V. In Latin the /u/ sound was written with the letter v, e.g. IVLIVS (Julius). W was originally a doubled v (vv) and was first used by scribes writing Old English during the 7th century AD, however the Runic letter Wynn was more commonly used to write the /w/ sound. After the Norman Conquest the letter W became more popular and had replaced Wynn by 1300.

Some common Latin phrases used in statutory construction are:

1. **NOSCITUR A SOCIIS** - Words must be construed in conjunction with the other words and phrases used in the text. Legislative intent must be ascertained from a consideration of the statute as a whole. The particular words, clauses and phrases should not be studied as detached and isolated expressions,

but the whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. Where a particular word or phrase in a statement is ambiguous in itself or is equally susceptible of various meanings, its true meaning may be clear and specific by considering the company in which it is found or with which it is associated.

2. **EJUSDEMGENERIS** Where a statute describes things of particular class or kind accompanied by words of a generic character, the generic words will usually be limited to things of a kindred nature with those particularly enumerated, unless there be something in the context of the statute to repel such influence. Eiusdem generis could be expansive, however, because the list is not exclusive; it may be expanded if a juridical tie could be found with another item.

3. **EXPRESSIO UNIUS EST EXCLUSIO ALTERIUS** The express mention of one person, thing, or consequence implies the exclusion of all others.

Variation: **Expressum facit cessare tacitum**. What is expressed puts an end to what is implied. Where a statute is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters. Canon of restrictive interpretation. Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.

4. **DISSIMILUM DISSIMILISEST RATIO** The courts may distinguish when there are

facts and circumstances showing that the legislature intended a distinction or qualification.

5. CASUS OMISSUS Casus omissus pro omisso habendus est. A person, object, or thing omitted from an enumeration in a statute must be held to have been omitted intentionally. This needs two laws. In expressio unius, it is just the enumeration you are looking at, not another law.

6. UBI LEX NON DISTINGUIT NEC NOS DISTINGUERE DEBEMOS Where the law makes no distinctions, one does not distinguish. Where the law does not distinguish, courts should not distinguish.

7. REDEENDO SINGULAR SINGULIS Referring each to each; let each be put in its proper place, that is, the words should be taken distributively.

INTERPRETING THE STATUTES

Interpretation of something means ascertaining the meaning or significance of that thing or ascertaining an explanation of something that is not immediately obvious. Construction and Interpretation of a statute is an age-old process and as old as language.

Interpretation of statute is the process of ascertaining the true meaning of the words used in a statute. When the language of the statute is clear, there is no need for the rules of interpretation. But, in certain cases, more than one meaning may be derived from the same word or sentence. It is therefore necessary to interpret the statute to find out the real intention of the statute.

Interpretation of statutes has been an essential part of English law since Heydon's Case in 1564 and although it can seem complex, the main rules used in interpretation are easy to learn.

Elaborate rules of interpretation were evolved even at a very early stage of Hindu civilization and culture. The rules given by 'Jaimini', the author of Mimamsat Sutras, originally meant for srutis were employed for the interpretation of Smritis also. (Law Commission of India, 60th Report, Chapter 2, para 2.2).

The concept of interpretation of a Statute cannot be static one. Interpretation of statutes becomes an ongoing exercise as newer facts and conditions continue to arise.

We can say, interpretation of Statutes is required for two basic reasons viz. to ascertain:

- Legislative Language - Legislative language may be complicated for a layman, and hence may require interpretation; and
- Legislative Intent - The intention of legislature or Legislative intent assimilates two aspects:
 - i. the concept of 'meaning', i.e., what the word means; and
 - ii. the concept of 'purpose' and 'object' or the 'reason' or 'spirit' pervading through the statute.

Necessity of interpretation would arise only where the language of a statutory provision is ambiguous, not clear or where two views are possible or where the provision gives a different meaning defeating the object of the statute.

If the language is clear and unambiguous, no need of interpretation would arise. In this regard, a Constitution Bench of five Judges of the Supreme Court in *R.S. Nayak v A.R. Antulay*, AIR 1984 SC 684 has held:

“... If the words of the Statute are clear and unambiguous, it is the plainest duty of the Court to give effect to the natural meaning of the words used in the provision. The question of construction arises only in the event of an ambiguity or the plain meaning of the words used in the Statute would be self defeating.” (para 18)

Again Supreme Court in *Grasim Industries Ltd. v Collector of Customs, Bombay*, (2002)4 SCC 297 has followed the same principle and observed:

“Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for court to take upon itself the task of amending or altering the statutory provisions.” (para 10)

The purpose of Interpretation of Statutes is to help the Judge to ascertain the intention of the Legislature - not to control that intention or to confine it within the limits, which the Judge may deem reasonable or expedient.

Some Important points to remember in the context of interpreting Statutes:

- Statute must be read as a whole in Context
- Statute should be Construed so as to make it Effective and Workable - if statutory provision is ambiguous and capable of various constructions, then that construction must be adopted which will give meaning and effect to the other provisions of the enactment rather than that which will give none.

- The process of construction combines both the literal and purposive approaches. The purposive construction rule highlights that you should shift from literal construction when it leads to absurdity.

PRESUMPTIONS IN STATUTORY INTERPRETATION

Unless the statute contains express words to the contrary it is assumed that the following presumptions of statutory interpretation apply, each of which may be rebutted by contrary evidence.

Presumptions represent the accepted judicial view of a range of circumstances that have been predetermined to be the way in which every manifestation of those circumstances will be viewed, until any evidence to the contrary is produced. These tend to arise from theoretical and practical principles of the law.

- A statute does not alter the existing common law. If a statute is capable of two interpretations, one involving alteration of the common law and the other one not, the latter interpretation is to be preferred.
- If a statute deprives a person of his property, say by nationalization, he is to be compensated for its value.
- A statute is not intended to deprive a person of his liberty. If it does so, clear words must be used. This is relevant in legislation covering, for example, mental health and immigration.
- A statute does not have retrospective effect to a date earlier than its becoming law.
- A statute generally has effect only in the country enacted. However a statute does not run counter to international law and should be interpreted so as to give effect to international obligations.
- A statute cannot impose criminal liability without proof of guilty intention. Many modern statutes rebut this presumption by imposing strict liability; for e.g. -dangerous driving.
- A statute does not repeal other statutes. Any point on which the statute leaves a gap or omission is outside the scope of the statute.

RULES AND AIDS OF INTERPRETATION

The interpretation of statutes is a complex area of law and also an essential one. In the complex area of Interpretation, recourse can be had to the Rules and Aids of Statutory Interpretation.

Rules of Interpretation

A Rule is a uniform or established course of things. It is that which is prescribed or laid down as a guide for conduct or action; a governing direction for a specific purpose; an authoritative enactment; a regulation; a prescription; a precept; as, the rules of various societies; the rules governing a school; a rule of etiquette or propriety etc.

It should be remembered that these Rules are Rules of Practice and not Rules of Law. Without these rules, it would soon become impossible to not only understand the law but even just to apply it, as new situations are always coming to light which Parliament and the courts could not have foreseen when the law was developed.

Do judges really use the rules of statutory interpretation? If yes, which rule do they use first? – Judges rarely if ever, volunteer the information that they are now applying a certain rule of interpretation. Often, judges look to see if there can be a literal meaning to the words used in the disputed statutory provision. However there is no rule that states that they must use the literal rule first.

No Legal Rules exist which state which rule of Interpretation can be used and the rules of interpretation that have been identified, are not themselves legal rules.

Aids of Interpretation

An Aid, on the other hand is a device that helps or assists. For the purpose of construction or interpretation, the court has to take recourse to various internal and external aids.

Internal aids mean those materials which are available in the statute itself, though they may not be part of enactment. These internal aids include, long title, preamble, headings, marginal notes, illustrations, punctuation, proviso, schedule, transitory provisions, etc. When internal aids are not adequate, court has to take recourse to External aids. External Aids may be parliamentary material, historical background, reports of a committee or a commission, official statement, dictionary meanings, foreign decisions, etc.

B. Prabhakar Rao and others v State of A.P. and others, AIR 1986 SC 120 O.Chennappa, Reddy J. has observed : “Where internal aids are not forthcoming, we can always have

recourse to external aids to discover the object of the legislation. External aids are not ruled out. This is now a well settled principle of modern statutory construction.” (para 7)

District Mining Officer and others v Tata Iron & Steel Co. and another, (2001) 7 SCC 358
Supreme Court has observed: “It is also a cardinal principle of construction that external aids are brought in by widening the concept of context as including not only other enacting provisions of the same statute, but its preamble, the existing state of law, other statutes in pari materia and the mischief which the statute was intended to remedy.” (para 18)

K.P. Varghese v Income Tax Officer Ernakulam, AIR 1981 SC 1922

The Supreme Court has stated that interpretation of statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible.

RULES OF INTERPRETATION

There are certain general principles of interpretation which have been applied by Courts from time to time. Over time, various methods of statutory construction have fallen in and out of favour. Some of the better known rules of interpretation also referred to as the Primary Rules of Interpretation are discussed hereunder.

1. Rule of Literal Interpretation

In construing Statutes the cardinal rule is to construe its provisions Literally and grammatically giving the words their ordinary and natural meaning. This rule is also known as the Plain meaning rule. The first and foremost step in the course of interpretation is to examine the language and the literal meaning of the statute. The words in an enactment have their own natural effect and the construction of an act depends on its wording. There should be no additions or substitution of words in the construction of statutes and in its interpretation. The primary rule is to interpret words as they are. It should be taken into note that the rule can be applied only when the meanings of the words are clear i.e. words should be simple so that the language is plain and only one meaning can be derived out of the statute.

In *Municipal board v State transport authority, Rajasthan*, the location of a bus stand was changed by the Regional Transport Authority. An application could be moved within 30 days of receipt of order of regional transport authority according to section 64 A of the Motor vehicles Act, 1939. The application was moved after 30 days on the contention that statute must be read as “30 days from the knowledge of the order”. The

Supreme Court held that literal interpretation must be made and hence rejected the application as invalid.

Lord Atkinson stated, 'In the construction of statutes their words must be interpreted in their ordinary grammatical sense unless there be something in the context or in the object of the statute in which they occur or in the circumstances in which they are used, to show that they were used in a special sense different from their ordinary grammatical sense.'

Meaning

To avoid ambiguity, legislatures often include "definitions" sections within a statute, which explicitly define the most important terms used in that statute. But some statutes omit a definitions section entirely, or (more commonly) fail to define a particular term. The plain meaning rule attempts to guide courts faced with litigation that turns on the meaning of a term *not* defined by the statute, or on that of a word found within a definition itself.

According to Viscount Haldane, L.C., if the language used has a natural meaning we cannot depart from that meaning unless, reading the statute as a whole, the context directs us to do so.

According to the plain meaning rule, absent a contrary definition within the statute, words must be given their plain, ordinary and literal meaning. If the words are clear, they must be applied, even though the intention of the legislator may have been different or the result is harsh or undesirable. The literal rule is what the law says instead of what the law means.

"Some laws are meant for all citizens (e.g., criminal statutes) and some are meant only for specialists (e.g., some sections of the tax code). A text that means one thing in a legal context might mean something else if it were in a technical manual or a novel. So the plain meaning of a legal text is something like the meaning that would be understood by competent speakers of the natural language in which the text was written who are within the intended readership of the text and who understand that the text is a legal text of a certain type." (Prof. Larry Solum's Legal Theory Lexicon)

A literal construction would not be denied only because the consequences to comply with the same may lead to a penalty. The courts should not be over zealous in searching for ambiguities or obscurities in words which are plain. (*Tata Consultancy Services V. State of A.P.* (2005) 1 SCC 308)

Understanding the literal rule

The literal rule may be understood subject to the following conditions –

- i. Statute may itself provide a special meaning for a term, which is usually to be found in the interpretation section.
- ii. Technical words are given ordinary technical meaning if the statute has not specified any other.
- iii. Words will not be inserted by implication.
- iv. Words undergo shifts in meaning in course of time.
- v. It should always be remembered that words acquire significance from their context.

When it is said that words are to be understood first in their natural ordinary and popular sense, it is meant that words must be ascribed that natural, ordinary or popular meaning which they have in relation to the subject matter with reference to which and the context in which they have been used in the Statute. In the statement of the rule, the epithets ‘natural, “ordinary”, “literal”, “grammatical” and “popular” are employed almost interchangeably to convey the same idea.

For determination of the meaning of any word or phrase in a statute, the first question is what is the natural and ordinary meaning of that word or phrase in its context in the statute but when that natural or ordinary meaning indicates such result which cannot be opposed to have been the intention of the legislature, then to look for other meaning of the word or phrase which may then convey the true intention of the legislature. In the case of *Suthendran V. Immigration Appeal Tribunal*, the question related to Section 14(1) of the Immigration Act, 1971, which provides that ‘a person who has a limited leave under this Act to enter or remain in the United Kingdom may appeal to an adjudication against any variation of the leave or against any refusal to vary it. The word ‘a person who has a limited leave’ were construed as person should not be included “who has had” such limited leave and it was held that the section applied only to a person who at the time of lodging of his complaint was lawfully in the United Kingdom, in whose case, leave had not expired at the time of lodgment of an appeal.

Another important point regarding the rule of literal construction is that exact meaning is preferred to loose meaning in an Act of Parliament. In the case of *Pritipal Singh V. Union of India* (AIR 1982 SC 1413, P. 1419(1982)), it was held that there is a presumption that the words are used in an Act of Parliament correctly and exactly and not loosely and inexactly.

Rationale for this Rule

Proponents of the plain meaning rule claim that it prevents courts from taking sides in legislative or political issues. They also point out that ordinary people and lawyers do not have extensive access to secondary sources. In probate law the rule is also favored because the testator is typically not around to indicate what interpretation of a will is appropriate. Therefore, it is argued, extrinsic evidence should not be allowed to vary the words used by the testator or their meaning. It can help to provide for consistency in interpretation.

Criticism of this rule

Opponents of the plain meaning rule claim that the rule rests on the erroneous assumption that words have a fixed meaning. In fact, words are imprecise, leading justices to impose their own prejudices to determine the meaning of a statute. However, since little else is offered as an alternative discretion-confining theory, plain meaning survives.

This is the oldest of the rules of construction and is still used today, primarily because judges may not legislate. As there is always the danger that a particular interpretation may be the equivalent of making law, some judges prefer to adhere to the law's literal wording.

2. Golden Rule of Interpretation

The Golden rule, or British rule, is a form of statutory interpretation that allows a judge to depart from a word's normal meaning in order to avoid an absurd result.

It is a compromise between the plain meaning (or literal) rule and the mischief rule. Like the plain meaning rule, it gives the words of a statute their plain, ordinary meaning. However, when this may lead to an irrational result that is unlikely to be the legislature's intention, the judge can depart from this meaning. In the case of homographs, where a word can have more than one meaning, the judge can choose the preferred meaning; if the word only has one meaning, but applying this would lead to a bad decision, the judge can apply a completely different meaning.

This rule may be used in two ways. It is applied most frequently in a narrow sense where there is some ambiguity or absurdity in the words themselves.

For example, imagine there may be a sign saying "Do not use lifts in case of fire." Under the literal interpretation of this sign, people must never use the lifts, in case there is a fire. However, this would be an absurd result, as the intention of the person who made

the sign is obviously to prevent people from using the lifts only if there is currently a fire nearby.

The second use of the golden rule is in a wider sense, to avoid a result that is obnoxious to principles of public policy, even where words have only one meaning. Example: The facts of a case are; a son murdered his mother and committed suicide. The courts were required to rule on who then inherited the estate, the mother's family, or the son's descendants. There was never a question of the son profiting from his crime, but as the outcome would have been binding on lower courts in the future, the court found in favour of the mother's family.

3. The Mischief Rule

The mischief rule is a rule of statutory interpretation that attempts to determine the legislator's intention. Originating from a 16th century case (Heydon's case) in the United Kingdom, its main aim is to determine the "mischief and defect" that the statute in question has set out to remedy, and what ruling would effectively implement this remedy. When the material words are capable of bearing two or more constructions the most firmly established rule or construction of such words "of all statutes in general be they penal or beneficial, restrictive or enlarging of the common law is the rule of Heydon's case. The rules laid down in this case are also known as Purposive Construction or Mischief Rule.

The mischief rule is a certain rule that judges can apply in statutory interpretation in order to discover Parliament's intention. It essentially asks the question: By creating an Act of Parliament what was the "mischief" that the previous law did not cover?

Heydon's case

This was set out in *Heydon's Case* [1584] 3 CO REP 7a. where it was stated that there were four points to be taken into consideration when interpreting a statute:

1. What was the common law before the making of the act?
2. What was the "mischief and defect" for which the common law did not provide?
3. What remedy the parliament hath resolved and appointed to cure the disease of the commonwealth?
4. What is the true reason of the remedy?

The office of all the judges is always to make such construction as shall suppress the mischief, and advance the remedy, and to suppress subtle inventions and evasions for continuance of the mischief, and pro privato commodo, and to add force and life to the

cure and remedy, according to the true intent of the makers of the Act, pro bono publico.

The application of this rule gives the judge more discretion than the literal and the golden rule as it allows him to effectively decide on Parliament's intent. It can be argued that this undermines Parliament's supremacy and is undemocratic as it takes law-making decisions away from the legislature.

Use of this Rule

This rule of construction is of narrower application than the golden rule or the plain meaning rule, in that it can only be used to interpret a statute and, strictly speaking, only when the statute was passed to remedy a defect in the common law. Legislative intent is determined by examining secondary sources, such as committee reports, treatises, law review articles and corresponding statutes. This rule has often been used to resolve ambiguities in cases in which the literal rule cannot be applied.

In the case of *Thomson vs. Lord Clan Morris*, Lord Lindley M.R. stated that in interpreting any statutory enactment regard must be had not only to the words used, but also to the history of the Act and the reasons which lead to its being passed.

In the case of *CIT vs. Sundaradevi* (1957) (32 ITR 615) (SC), it was held by the Apex Court that unless there is an ambiguity, it would not be open to the Court to depart from the normal rule of construction which is that the intention of the legislature should be primarily to gather from the words which are used. It is only when the words used are ambiguous that they would stand to be examined and considered on surrounding circumstances and constitutionally proposed practices.

The Supreme Court in *Bengal Immunity Co. V. State of Bihar*, (AIR 1995 SC 661) applied the mischief rule in construction of Article 286 of the Constitution of India. After referring to the state of law prevailing in the province prior to the constitution as also to the chaos and confusion that was brought about in inter-state trade and commerce by indiscriminate exercise of taxing powers by the different Provincial Legislatures founded on the theory of territorial nexus, Chief Justice S.R.Das, stated "It was to cure this mischief of multiple taxation and to preserve the free flow of interstate trade or commerce in the Union of India regarded as one economic unit without any provincial barrier that the constitution maker adopted Article 286 in the constitution".

In various Supreme Court cases it has been held that, 'legislation both statutory and constitutional is enacted, it is true, from experience of evils. But its general language should not, therefore, necessarily be confined to the form that evil had taken. Time works changes, brings into existence new conditions and purposes and new awareness

of limitations. A principle to be valued must be capable of wider application than the mischief which gave it existence. This is particularly true of the constitutional constructions which are not ephemeral enactments designed to meet passing occasions. These are designed to approach immortality as nearly as human institutions can approach it'. Mischief Rule is applicable where language is capable of more than one meaning. It is the duty of the Court to make such construction of a statute which shall suppress the mischief and advance the remedy.

Advantages -

- 1) The Law Commission sees it as a far more satisfactory way of interpreting acts as opposed to the Golden or Literal rules.
- 2) It usually avoids unjust or absurd results in sentencing.

Disadvantages -

- 1) It is considered to be out of date as it has been in use since the 16th century, when common law was the primary source of law and parliamentary supremacy was not established.
- 2) It gives too much power to the unelected judiciary which is argued to be undemocratic.
- 3) In the 16th century, the judiciary would often draft acts on behalf of the king and were therefore well qualified in what mischief the act was meant to remedy.
- 4) It can make the law uncertain.

4. Rule of Reasonable Construction

Every statute has a purpose, an objective. If the literal meaning collides with the reason of enactment of the statute then the intention of the law should be taken up so that the actual meaning of the statute can be properly understood.

This rule mainly stresses upon the intention of the legislature to bring up the statute and the sensible and not the *prima facie* meaning of the statute. This helps us clear the errors caused due to faulty draftsmanship. However this rule also has its own limitations. The intent of the statute is in itself a surmise and the rule is usually avoided to complete the quest for interpretation unless the intent in itself can be interpreted properly.

5. Rule of Harmonious Construction

When there is a conflict between two or more statutes or two or more parts of a statute then the rule of harmonious construction needs to be adopted. The rule follows a very simple premise that every statute has a purpose and intent as per law and should be read as a whole. The interpretation consistent of all the provisions of the statute should be adopted. In the case in which it shall be impossible to harmonize both the provisions, the court's decision regarding the provision shall prevail.

The rule of harmonious construction is the thumb rule to interpretation of any statute. An interpretation which makes the enactment a consistent whole, should be the aim of the Courts and a construction which avoids inconsistency or repugnancy between the various sections or parts of the statute should be adopted. The Courts should avoid "a head on clash", in the words of the Apex Court, between the different parts of an enactment and conflict between the various provisions should be sought to be harmonized. The normal presumption should be consistency and it should not be assumed that what is given with one hand by the legislature is sought to be taken away by the other. The rule of harmonious construction has been tersely explained by the Supreme Court thus, "When there are, in an enactment two provisions which cannot be reconciled with each other, they should be so interpreted, that if possible, effect should be given to both". A construction which makes one portion of the enactment a dead letter should be avoided since harmonization is not equivalent to destruction.

It is a settled rule that an interpretation which results in hardship, injustice, inconvenience or anomaly should be avoided and that which supports the sense of justice should be adopted. The Court leans in favour of an interpretation which conforms to justice and fair play and prevents injustice (*Union of India vs. B.S. Aggarwal*) (AIR 1998 S.C. 1537).

When there are two provisions in a statute, which are in apparent conflict with each other, they should be interpreted such that effect can be given to both and that construction which renders either of them inoperative and useless should not be adopted except in the last resort.

This principle is illustrated in the case of *Raj Krishna vs Binod* AIR 1954. In this case, two provisions of Representation of People Act, 1951, which were in apparent conflict, were brought forth. Section 33 (2) says that a Government Servant can nominate or second a person in election but section 123(8) says that a Government Servant cannot assist any candidate in election except by casting his vote. The Supreme Court observed that both these provisions should be harmoniously interpreted and held that a Government Servant was entitled to nominate or second a candidate seeking election in State Legislative assembly. This harmony can only be achieved if Section 123(8) is interpreted

as giving the govt. servant the right to vote as well as to nominate or second a candidate and forbidding him to assist the candidate in any other manner.

The important aspects of this principle are -

1. The courts must avoid a head on clash of seemingly contradicting provisions and they must construe the contradictory provisions so as to harmonize them.
2. The provision of one section cannot be used to defeat the provision contained in another unless the court, despite all its effort, is unable to find a way to reconcile their differences.
3. When it is impossible to completely reconcile the differences in contradictory provisions, the courts must interpret them in such a way so that effect is given to both the provisions as much as possible.
4. Courts must also keep in mind that interpretation that reduces one provision to a useless number or a dead letter, is not harmonious construction.
5. To harmonize is not to destroy any statutory provision or to render it loose.

6. Rule of Beneficial Construction

When the literal meaning of the statute defeats the objective of the legislature, the court may depart from the dictionary and instead give it a meaning which will advance the remedy and suppress the mischief. This supports the initial and modern approach that is to effectuate the object and purpose of the act. The main objective by extending the meaning of the statute is to ensure that its initial purpose (public safety, maintenance of law and order) is justified. This rule looks into the reasons as per why the statute was initially enacted and promotes the remedial effects by suppressing the mischief. Though the rule almost covers the main grounds of the statute but cannot be applied to Fiscal statutes.

When a word is ambiguous i.e. if it has multiple meanings, which meaning should be understood by that word? This is the predicament that is resolved by the principle of Beneficial Construction. When a statute is meant for the benefit of a particular class, and if a word in the statute is capable of two meanings, one which would preserve the benefits and one which would not, then the meaning that preserves the benefit must be adopted. Omissions will not be supplied by the court, only when multiple meanings are possible, can the court pick the beneficial one. Thus, where the court has to choose between a wider meaning that carries out the objective of the legislature better and a narrow meaning, then it usually chooses the former. Similarly, when the language used by the legislature fails to achieve the objective of a statute, an extended meaning could be given to it to achieve that objective, if the language is fairly susceptible to the extended meaning. This is evident in the case of *B Shah vs. Presiding Officer, AIR 1978,*

where Section 5 of Maternity Benefits Act, 1961 was in question, where an expectant mother could take 12 weeks of maternity leave on full salary. In this case, a woman who used to work 6 days a week was paid for only $6 \times 12 = 72$ days instead of $7 \times 12 = 84$ days. SC held that the words 12 weeks were capable of two meanings and one meaning was beneficial to the woman. Since it is a beneficial legislation, the meaning that gives more benefit to the woman must be used.

Beneficial Construction is a tendency and not a rule. The reason is that this principle is based on human tendency to be fair, accommodating, and just. Instead of restricting the people from getting the benefit of the statute, Court tends to include as many classes as it can while remaining faithful to the wordings of the statute.

For example, in the case of *Alembic Chemical Works vs. Workmen AIR 1961*, an industrial tribunal awarded more number of paid leaves to the workers than what Section 79(1) of Factories Act recommended. This was challenged by the appellant. The Supreme Court held that the enactment being a welfare legislation for the workers, had to be beneficially constructed in the favour of worker and thus, if the words are capable of two meanings, the one that gives benefit to the workers must be used.

Similarly, in *U. Unichoyi vs. State of Kerala, 1963*, the question was whether setting of a minimum wage through Minimum Wages Act, 1948 is violative of Article 19(1)(g) of the Constitution because the Act did not define what is minimum wage and did not take into account the capacity of the employer to pay. It was held that the Act is a beneficial legislation and it must be construed in favour of the worker. In an under developed country where unemployment is rampant, it is possible that workers may become ready to work for extremely low wages but that should not happen.

7. Rule of Exceptional Construction

The rule of exceptional construction stands for the elimination of statutes and words in a statute which defeat the real objective of the statute or make no sense. It also stands for construction of words 'and', 'or', 'may', 'shall' & 'must'. While 'and' is normally considered conjunctive so that both provisions of a statute can be satisfied, 'or' is used of satisfying the clauses or either of the provisions in a statute. The word 'may' generally has a directory force but is also has a mandatory force where subject involves discretion coupled with obligation, where the word 'may' has been used in the statute as a matter of pure conventional courtesy and also where the word 'may' may defeat the objective of the statute. Similarly 'shall' is considered to have a mandatory force and is used in cases of statutes providing specific penalty. 'Must' on the other hand had a directory force and is used for statutes against the government or using a mandatory force may result in absurd results. While this rule seems simple, the draftsmanship lies in deciding whether the statute should use a mandatory force or a directory force.

8. Rule of Eiusdem Generis

Eiusdem Generis means "of the same kind and nature".

When a list of two or more specific descriptors are followed by more general descriptors, the otherwise wide meaning of the general descriptors must be restricted to the same class, if any, of the specific words that precede them. In this rule a specific word, class or species needs to be mentioned so that the whole statute revolves around it and the statute will be only meant for these specific words. However the specific words should not have a wide approach as they would exhaust the whole statute.

This rule provides that where words of specific meaning are followed by general words, the general words will be construed as being limited to persons or things of the same general kind or class as those enumerated by the specific words.

To invoke the application of *eiusdem generis* rule, there has to be a distinct genus or category. The specific words must apply not to the different objects of a widely differing character, but, to something, which can be called a class or kind of objects. Where this is lacking, the rule will not be applicable. For the invocation of the rule, there must be one distinct genus or category. The specific words must apply not to different objects of a widely varying character but to words, which convey things or object of one class or kind, where this generic unity is absent, the rule cannot apply.

The rule can be illustrated by a reference to the decision of the Kerala High Court in the case of *Kerala Cooperative Consumers' Federation Ltd v CIT (1988) 170 ITR 455 (Ker)*. In this decision, the court was required to interpret the meaning of the phrase 'Body of Individuals'. It has said that in construing the words 'Body of Individuals' occurring in section 2(31) of the Income Tax Act along-side the words 'Association of Persons', the words 'Body of Individuals' would have to be understood in the same background, context and meaning given to the words "Association of Persons".

The Supreme Court in *Siddeshwari Cotton Mills (P) Ltd v UOI, AIR 1989 SC 1019*, while interpreting the expression 'any other process' appearing along-with the words 'bleaching, mercerizing, dyeing, printing, water-proofing, rubberizing, shrink-proofing, organic processing in section 2(f) of the Central Excise & Salt Act, 1944 (as it stood prior to its substitution by Central Excise Tariff Act, 1985) read with Notification No 230 and 231 dated 15th July, 1977 with the aid of the principle of *Eiusdem Generis* has said that the foregoing words, which precede the expression 'or any other process' contemplate process, which import a change of a lasting nature must share one or the other of these incidents.

The rule of Eiusdem Generis applies as mentioned by the Supreme Court in *Amarchandra Chakraborty v Collector of Excise, AIR 1972 SC 1863* when:

- The statute contains an enumeration of specific words.
- The subjects of enumeration constitute a class or category.
- That class or category is not exhausted by the enumeration.
- The general item follows the enumeration.
- There is no indication of a different legislative intent.

9. Noscitur a Sociis

Noscitur a Sociis literally means "It is known from its associates". The rule of language is used by the courts to help interpret legislation. Under the doctrine of "noscitur a sociis" the questionable meaning of a word or doubtful words can be derived from its association with other words within the context of the phrase. This means that words in a list within a statute have meanings that are related to each other.

In *Foster v Diphwys Casson* ((1887) 18 QBD 428), the case involved a statute which stated that explosives taken into a mine must be in a "case or canister". Here the defendant used a cloth bag. The courts had to consider whether a cloth bag was within the definition. Under *noscitur a sociis*, it was held that the bag could not have been within the statutory definition, because parliament's intention in using 'case or container' was referring to something of the same strength as a canister.

10. Expressio Unius Est Exclusio Alterius

The Expression literally means "the express mention of one thing excludes all others". Where one or more things are specifically included in some list and others have been excluded it automatically means that all others have been excluded. However, sometimes a list in a statute is illustrative, not exclusionary. This is usually indicated by a word such as "includes" or "such as".

Thus a statute granting certain rights to "police, fire, and sanitation employees" would be interpreted to exclude other public employees not enumerated from the legislation. This is based on presumed legislative intent and where for some reason this intent cannot be reasonably inferred the court is free to draw a different conclusion.

The maxim has wide application and has been used by courts to interpret constitutions, treaties, wills, and contracts as well as statutes. Nevertheless, Expressio Unius Est

Exclusio Alterius does have its limitations. Courts have held that the maxim should be disregarded where an expanded interpretation of a statute will lead to beneficial results or will serve the purpose for which the statute was enacted. The general meaning of “Expression of one thing is the exclusion of another” is also known as The Negative Implication Rule. This rule assumes that the legislature intentionally specified one set of criteria as opposed to the other. Therefore, if the issue to be decided addresses an item not specifically named in the statute, it must be assumed the statute does not apply.

11. Contemporanea Expositio

Contemporanea expositio est optima et fortissima in lege: meaning Contemporaneous exposition is the best and strongest in law. It is said that the best exposition of a statute or any other document is that which it has received from contemporary authority. This maxim has been confirmed by the Apex Court in *Desh Bandhu Gupta vs. Delhi Stock Exchange Assn. Ltd.* AIR 1979 SC 1049, 1054

The maxim Contemporanea expositio as laid down by Lord Coke was applied to construing ancient statutes, but usually not applied to interpreting Acts or statutes which are comparatively modern. The meaning publicly given by contemporary or long professional usage is presumed to be true one, even where the language has etymologically or popularly a different meaning. It is obvious that the language of a statute must be understood in the sense in which it was understood when it was passed, and those who lived at or near that time when it was passed may reasonably be supposed to be better acquainted than their descendants with the circumstances to which it had relation, as well as with the sense then attached to legislative expressions.

Usages and practice developed under a statute is indicative of the meaning ascribed to its words by contemporary opinion and in case of an ancient statute, such reference to usage and practice is admissible. This principle of ‘contemporanea exposito’ was applied by the Supreme Court in *National and Grindlays Bank v Municipal Corporation for Greater Bombay*, AIR 1969 SC 1048 while construing Bombay Municipal Corporation Act, 1888. The apex court also referred to the actual practice in the matter of appointment of judges of Supreme Court and High Court in the context of interpreting Articles 74 and 124 of the Constitution and observed that the practice being in conformity with the constitutional scheme should be accorded legal sanction by permissible constitutional interpretation. (*Supreme Court Advocates on Record Association v Union of India*, AIR 1994 SC 268.)

INTERNAL AIDS TO INTERPRETATION

“Internal aids” mean those aids which are available in the statute itself. Each and every part of an enactment helps in interpretation. However, it is important to decipher as to whether these parts can be of any help in the interpretation of the statute .

The Internal aids to interpretation may be as follows:

a. Title

Long title - The Long Title of a Statute is an internal part of the statute and is admissible as an aid to its construction. Statute is headed by a long title and it gives the description about the object of an Act. It begins with the words- “An Act to” For e.g. The long title of the Criminal Procedure Code, 1973 is - “An Act to consolidate and amend the law relating to criminal procedure”. In recent times, long title has been used by the courts to interpret certain provision of the statutes. However, its useful only to the extent of removing the ambiguity and confusions and is not a conclusive aid to interpret the provision of the statute.

In Re Kerala Education bill, the Supreme Court held that the policy and purpose may be deduced from the long title and the preamble. *In Manohar Lal v State of Punjab*, Long title of the Act is relied as a guide to decide the scope of the Act.

Although the title is a part of the Act, it is in itself not an enacting provision and though useful in case of ambiguity of the enacting provisions, is ineffective to control their clear meaning.

Short Title - The short title of an Act is for the purpose of reference & for its identification. It ends with the year of passing of the Act. E.g. “The Indian Penal Code, 1860”; “The Indian Evidence Act, 1872”. The Short Title is generally given at the beginning with the words- “This Act may be called.....” For e.g Section 1 of The Indian Evidence Act, 1872, says -“This Act may be called, The Indian Evidence Act, 1872”. Even though short title is the part of the statute, it does not have any role in the interpretation of the provisions of an Act.

b. Preamble

The main objective and purpose of the Act are found in the Preamble of the Statute. Preamble is the Act in a nutshell. It is a preparatory statement. It contains the recitals showing the reason for enactment of the Act. If the language of the Act is clear the preamble must be ignored. The preamble is an intrinsic aid in the interpretation of an ambiguous act.

If any doubts arise from the terms employed by the Legislature, it has always been held a safe means of collecting the intention to call in aid the ground and cause of making the statute and to have recourse to the preamble.

In Kashi Prasad v State, the court held that even though the preamble cannot be used to defeat the enacting clauses of a statute, it can be treated as a key for the interpretation of the statute.

c. Headings and Title of a Chapter

Headings are of two kinds - one prefixed to a section and other prefixed to a group or set of sections. Heading is to be regarded as giving the key to the interpretation and the heading may be treated as preambles to the provisions following them. In *Krishnaih V. State of (A.P. AIR 2005 AP 10)* it was held that headings prefixed to sections cannot control the plain words of the provisions. Only in the case of ambiguity or doubt, heading or sub-heading may be referred to as an aid in construing provision.

In *Durga Thathera v Narain Thathera*, the court held that the headings are like a preamble which helps as a key to the mind of the legislature but do not control the substantive section of the enactment.

d. Marginal Notes

Marginal notes are the notes which are inserted at the side of the sections in an Act and express the effect of the sections stated. Marginal notes appended to the Articles of the Constitution have been held to constitute part of the constitution as passed by the constituent assembly and therefore they have been made use of in construing the articles.

In *Wilkes v Goodwin*, the Court held that the side notes are not part of the Act and hence marginal notes cannot be referred.

e. Definitional Sections/ Clauses

The object of a definition is to avoid the necessity of frequent repetitions in describing the subject matter to which the word or expression defined is intended to apply.

A definition contained in the definition clause of a particular statute should be used for the purpose of that Act. Definition from any other statute cannot be borrowed and used ignoring the definition contained in the statute itself.

f. Illustrations

Illustrations in enactment provided by the legislature are valuable aids in the understanding the real scope. In *Mahesh Chandra Sharma V. Raj Kumari Sharma*, (AIR 1996

SC 869), it was held that illustrations are parts of the Section and help to elucidate the principles of the section.

g. Proviso

The normal function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to that case. There may be cases in which the language of the statute may be so clear that a proviso may be construed as a substantive clause. But whether a proviso is construed as restricting the main provision or as a substantive clause, it cannot be divorced from the provision to which it stands as a proviso. It must be construed harmoniously with the main enactment." [*CIT vs. Ajax Products Ltd. (1964) 55 ITR 741 (SC)*]

h. Explanations

An Explanation is added to a section to elaborate upon and explain the meaning of the words appearing in the section. An Explanation to a statutory provision has to be read with the main provision to which it is added as an Explanation. An Explanation appended to a section or a sub-section becomes an integral part of it and has no independent existence apart from it.

The purpose of an Explanation is not to limit the scope of the main section. An Explanation is quite different in nature from a proviso; the latter excludes, excepts and restricts while the former explains, clarifies or subtracts or includes something by introducing a legal fiction.

i. Schedules

Schedules form part of a statute. They are at the end and contain minute details for working out the provisions of the express enactment. The expression in the schedule cannot override the provisions of the express enactment.

j. Punctuation

Punctuation is a minor element in the construction of a statute. Only when a statute is carefully punctuated and there is no doubt about its meaning can weight be given to punctuation. It cannot, however, be regarded as a controlling element for determining the meaning of a statute."

EXTERNAL AIDS TO INTERPRETATION

When internal aids are not adequate, court has to take recourse to external aids.

The external aids are very useful tools for the interpretation or construction of statutory provisions. As opposed to internal aids to construction there are certain aids which are external to the statute. Such aids will include parliamentary history of the legislation, historical facts and surrounding circumstances in which the statute came to be enacted, reference to other statutes, use of dictionaries, use of foreign decisions, etc.

Some of the external aids used in the interpretation of statutes are as follows:

a. Parliamentary History, Historical Facts and Surrounding Circumstances

Historical setting cannot be used as an aid if the words are plain and clear. If the wordings are ambiguous, the historical setting may be considered in order to arrive at the proper construction. Historical setting covers parliamentary history, historical facts, statement of objects and reasons, report of expert committees. Parliamentary history means the process by which an act is enacted. This includes conception of an idea, drafting of the bill, the debates made, the amendments proposed etc. Speech made in mover of the bill, amendments considered during the progress of the bill are considered in parliamentary history whereas the papers placed before the cabinet which took the decision for the introduction of the bill are not relevant since these papers are not placed before the parliament. The historical facts of the statute that is the external circumstances in which it was enacted in should also be taken into note so that it can be understood that the statute in question was intended to alter the law or leave it where it stood. Statement of objective and reasons as to why the statute is being brought to enactment can also be a very helpful fact in the research for historical facts, but the same if done after extensive amendments in statute it may be unsafe to attach these with the statute in the end. It is better to use the report of a committee before presenting it in front of the legislature as they guide us with a legislative intent and place their recommendations which come in handy while enactment of the bill.

The Supreme Court in a numbers of cases referred to **debates** in the Constituent Assembly for interpretation of Constitutional provisions. Recently, the Supreme Court in *S.R. Chaudhuri v State of Punjab and others*, (2001) 7 SCC 126 has stated that it is a settled position that debates in the Constituent Assembly may be relied upon as an aid to interpret a Constitutional provision because it is the function of the Court to find out the intention of the framers of the Constitution. (Para 33)

But as far as **speeches** in Parliament are concerned, a distinction is made between speeches of the mover of the Bill and speeches of other Members. Regarding speeches made by the Members of the Parliament at the time of consideration of a Bill, it has been held that they are not admissible as extrinsic aids to the interpretation of the statutory provision. However, speeches made by the mover of the Bill or Minister may be

referred to for the purpose of finding out the object intended to be achieved by the Bill. (*K.S. Paripoornan v State of Kerala and others*, AIR 1995 SC 1012)

So far as **Statement of Objects and Reasons**, accompanying a legislative bill is concerned, it is permissible to refer to it for understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statute and the evil which the statute sought to remedy. But, it cannot be used to ascertain the true meaning and effect of the substantive provision of the statute. (*Devadoss (dead) by L. Rs, v. Veera Makali Amman Koil Athalur*, AIR 1998 SC 750.)

Reports of Commissions including Law Commission or Committees including Parliamentary Committees preceding the introduction of a Bill can also be referred to in the Court as evidence of historical facts or of surrounding circumstances or of mischief or evil intended to be remedied. Law Commission's Reports can also be referred to where a particular enactment or amendment is the result of recommendations of Law Commission Report. The Supreme Court in *Rosy and another v State of Kerala and others*, (2000) 2 SCC 230 considered Law Commission of India, 41st Report for interpretation of section 200 (2) of the Code of Criminal Procedure, 1898.

b. Social, Political and Economic Developments and Scientific Inventions

A Statute must be interpreted to include circumstances or situations which were unknown or did not exist at the time of enactment of the statute. Any relevant changes in the social conditions and technology should be given due weightage. Courts should take into account all these developments while construing statutory provisions.

In *S.P. Gupta v Union of India*, AIR 1982 SC 149, it was stated - "The interpretation of every statutory provision must keep pace with changing concepts and values and it must, to the extent to which its language permits or rather does not prohibit, suffer adjustments through judicial interpretation so as to accord with the requirement of the fast changing society which is undergoing rapid social and economic transformation ... It is elementary that law does not operate in a vacuum. It is, therefore, intended to serve a social purpose and it cannot be interpreted without taking into account the social, economic and political setting in which it is intended to operate. It is here that the Judge is called upon to perform a creative function. He has to inject flesh and blood in the dry skeleton provided by the legislature and by a process of dynamic interpretation, invest it with a meaning which will harmonise the law with the prevailing concepts and values and make it an effective instrument for delivery of justice." (Para 62)

Therefore, court has to take into account social, political and economic developments and scientific inventions which take place after enactment of a statute for proper construction of its provision.

c. Reference to Other Statutes:

In case where two Acts have to be read together, then each part of every act has to be construed as if contained in one composite Act. However, if there is some clear discrepancy then the latter Act would modify the earlier. Where a single provision of one Act has to be read or added in another, then it has to be read in the sense in which it was originally construed in the first Act. In this way the whole of the first Act can be mentioned or referred in the second Act even though only a provision of the first one was adopted. In case where an old Act has been repealed, it loses its operative force. Nevertheless, such a repealed part may still be taken into account for construing the unrepealed part.

For the purpose of interpretation or construction of a statutory provision, courts can refer to or can take help of other statutes. It is also known as statutory aids. The General Clauses Act, 1897 is an example of statutory aid.

The application of this rule of construction has the merit of avoiding any contradiction between a series of statutes dealing with the same subject, it allows the use of an earlier statute to throw light on the meaning of a phrase used in a later statute in the same context. On the same logic when words in an earlier statute have received an authoritative exposition by a superior court, use of same words in similar context in a later statute will give rise to a presumption that the legislature intends that the same interpretation should be followed for construction of those words in the later statute.

d. **Dictionaries:**

When a word is not defined in the statute itself, it is permissible to refer to dictionaries to find out the general sense in which that word is understood in common parlance. However, in the selection of one out of the various meanings of a word, regard must always be had to the scheme, context and legislative history.

e. **Judicial Decisions:**

When judicial pronouncements are been taken as reference it should be taken into note that the decisions referred are Indian, if they are foreign it should be ensured that such a foreign country follows the same system of jurisprudence as ours and that these decisions have been taken in the ground of the same law as ours. These foreign decisions have persuasive value only and are not binding on Indian courts and where guidance is available from binding Indian decisions; reference to foreign decisions is of no use.

f. **Other materials**

Similarly, Supreme Court used information available on internet for the purpose of interpretation of statutory provision in *Ramlal v State of Rajasthan, (2001) 1 SCC 175*. Courts also refer passages and materials from text books and articles and papers published in the journals. These external aids are very useful tools not only for the

proper and correct interpretation or construction of statutory provision, but also for understanding the object of the statute, the mischief sought to be remedied by it, circumstances in which it was enacted and many other relevant matters. In the absence of the admissibility of these external aids, sometimes court may not be in a position to do justice in a case.

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In addition to being a Chartered Accountant, Company Secretary, Cost Accountant, MBA, Dip IFR (UK), Mr. Adukia also holds a Degree in Law and Diploma in Labor Laws. He has been involved in the activities of the Institute of Chartered Accountants of India (ICAI) since 1984 as a convenor of Kalbadevi CPE study circle. He was the Chairman of the Western Region of Institute of Chartered Accountants of India in 1997 and has been actively involved in various committees of ICAI. He became a member of the Central Council in 1998 and ever since he has worked tirelessly towards knowledge sharing, professional development and enhancing professional opportunities for members. He is a regular contributor to the various committees of the ICAI. He is currently the Chairman of Committee for Members in Industry and Internal Audit Standard Board of ICAI.

Mr. Adukia is a rank holder from Bombay University. He did his graduation from Sydenham College of

Commerce & Economics. He received a Gold Medal for highest marks in Accountancy & Auditing in the Examination. He passed the Chartered Accountancy with 1st Rank in Inter CA & 6th Rank in Final CA, and 3rd Rank in Final Cost Accountancy Course in 1983. He started his practice as a Chartered Accountant on 1st July 1983, in the three decades following which he left no stone unturned, be it academic expertise or professional development. His level of knowledge, source of information, professional expertise spread across a wide range of subjects has made him a strong and sought after professional in every form of professional assignment.

He has been coordinating with various professional institutions, associations' universities, University Grants Commission and other educational institutions. Besides he has actively participated with accountability and standards-setting organizations in India and at the international level. He was a member of J.J. Irani committee which drafted Companies Bill 2008. He is also member of Secretarial Standards Board of ICSI. He represented ASSOCHAM as member of Cost Accounting Standards Board of ICWAI. He was a member of working group of Competition Commission of India, National Housing Bank, NABARD, RBI, CBI etc.

He has served on the Board of Directors in the capacity of independent director at BOI Asset management Co. Ltd, Bharat Sanchar Nigam Limited and SBI Mutual Funds Management Pot Ltd. He was also a member of the London Fraud Investigation Team.

Mr. Rajkumar Adukia specializes in IFRS, Enterprise Risk Management, Internal Audit, Business Advisory and Planning, Commercial Law Compliance, XBRL, Labor Laws, Real Estate, Foreign Exchange Management, Insurance, Project Work, Carbon Credit, Taxation and Trusts. His clientele include large corporations, owner-managed companies, small manufacturers, service businesses, property management and construction, exporters and importers, and professionals. He has undertaken specific assignments on fraud investigation and reporting in the corporate sector and has developed background material on the same.

Based on his rich experience, he has written numerous articles on critical aspects of finance-accounting, auditing, taxation, valuation, public finance. His authoritative articles appear regularly in financial papers like Business India, Financial Express, Economic Times and other professional / business magazines. He has authored several accounting and auditing manuals. He has authored books on vast range of topics including IFRS, Internal Audit, Bank Audit, Green Audit, SEZ, CARO, PMLA, Antidumping, Income Tax Search, Survey and Seizure, Real Estate etc. His books are known for their practicality and for their proactive approaches to meeting practice needs.

Mr. Rajkumar is a frequent speaker on trade and finance at seminars and conferences organized by the Institute of Chartered Accountants of India, various Chambers of Commerce, Income Tax Offices and other Professional Associations. He has also lectured at the S.P. Jain Institute of Management, Intensive Coaching Classes for Inter & Final CA students and Direct Taxes Regional Training Institute of CBDT. He also develops and delivers short courses, seminars and workshops on changes and opportunities in trade and finance. He has extensive experience as a speaker, moderator and panelist at workshops and conferences held for both students and professionals both nationally and internationally.. Mr. Adukia has

delivered lectures abroad at forums of International Federation of Accountants and has travelled across countries for professional work.

Professional Association: *Mr. Rajkumar S Adukia with his well chartered approach towards professional assignments has explored every possible opportunity in the fields of business and profession. Interested professionals are welcome to share their thoughts in this regard.*