

CLASS- B.A.LL.B VIIth SEMESTER
SUBJECT- INTERPRETATION OF STATUTES
PAPER CODE- BL 7003

INTERNAL AIDS OF INTERPRETATION

Interpretation is the mechanism used by the courts to assess or determine the purpose of the legislation or rule of law. It is essentially a process by which the courts attempt to determine the true meaning and true intention of the term, word or phrase in question in any statute before the court. A judicial interpretation process can be done through various tools or principles of statutory interpretation, including the request of assistance from internal or external interpretative aids, and the application, by the court over a period of time, of primary or secondary rule of interpretation.

What is interpretation?

In day to day life, if someone says something that you do not understand, you ask him to explain himself more fully. This is impossible with the interpretation of statutes, because when parliament has passed an Act the words of Act are authoritative as words¹. The function of the court is to interpret the document according to the intent of them that made it. From that function the court may not resile , however ambiguous or difficult of application he words of Act of Parliament may be, the court is bound o endeavour to place some meaning upon them².

According to Salmond:

Interpretation is the process by which the court seek to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed³.

¹ Williams Glanville, Learning the law, Universal law Publishing Co., Eleventh Edition, Reprint 2010,P. 97.

² Langan P. St. J., Maxwell on the interpretation of statutes, LexisNexis Butterworths, Twelfth edition 2002, P.1.

³ <http://www.legalserviceindia.com/legal/article-2713-interpretation-of-statutes-a-complete-study-to-an-aids-to-interpretation.html> visit on 21/10/2020,time- 1:12pm

Internal aids meaning:

Internal aids are those that derive meaning from the internal structure of the text and common dictionary meaning. Internal aids would include interpretation sections of the Act, which state the meaning of words used in the Act⁴.

Following are the internal aids of interpretation:

- 1. Long title** – Every Statute is headed by a long title at the head of the statutes and it gives the description about the object of an Act. For e.g. the long title of the Code of Civil Procedure, 1908, is – “An Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature”.

In recent times, long title has been used by the courts to interpret certain provision of the statutes. However, it is 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 olden days the long title was not considered a part of the statutes and was , therefore , not considered an aid while interpreting it . therefore has been a change in the thinking of the courts in recent times and there are numerous occasion when help has been taken from the long titles to interpret certain provision⁵.

In *Re Kerala Education bill*⁶, 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*⁷, Long title of the Act is relied as a guide to decide the scope of the Act. The Supreme Court, in *M.P.V. Sundararamier & Co. v. State of A.P.*⁸, considered whether the impugned enactment was in the true sense a Validation Act. This Court held that while the short title as well as the marginal note described the Act as a Validation Act, that description was not answered by the substance of the legislation.

⁴ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1766556 visit on 21/10/2020,time- 1:18pm

⁵ Bhattacharyya Prf. T., the interpretation of statutes, Central Law Agency, Tenth edition, 2017, P.-196

⁶ 1959 1 SCR 995

⁷ 1961 SCR (2) 343

⁸ AIR 1958 SC 468

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.

- 2. 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. For e.g. Section 1 of the Code of Civil Procedure, 1908, says – “*This Act may be cited as the Code of Civil Procedure, 1908. It shall come into force on the first day of January, 1909.*”

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. Neither can it extend nor can it delimit the clear meaning of particular provisions⁹.

- 3. Preamble:** Many old statutes have preambles in which the main objects of the Act are set out, and there are legitimate aids in construing the enacting parts¹⁰. The main objective and purpose of the Act are found in the Preamble of the Statute. It is a preparatory statement and contains the recitals showing the reason for enactment of the Act. For e.g. the Preamble of the Indian Penal Code, 1860, is “*Whereas it is expedient to provide a general Penal Code for India; it is enacted as follows*”. The preamble is an intrinsic aid in the interpretation of an ambiguous act.

In *Kashi Prasad v. State*¹¹ 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.

4. Headings and Title of a Chapter

Headings give the key to the interpretation and may be treated as preambles to the provisions following them. According to one view, “a Heading” is to be interpreted as giving the key to the interpretation of the clauses under it, unless the language is inconsistent with such interpretation and the headings may be viewed “as preambles to the provisions which follow.”

The Supreme Court recently stated as follows: ‘It is well known that headings prefixed to sections or entries (of a tariff schedule) cannot govern the plain words of the provisions; they

⁹ Bhattacharyya Prf. T., the interpretation of statutes, Central Law Agency, Tenth edition, 2017, P.-196

¹⁰ Langan P. St. J., Maxwell on the interpretation of statutes, LexisNexis Butterworths, Twelfth edition 2002, P.6-7.

¹¹ AIR 1950 All 732

cannot also be referred to for the purpose of making provision where the words used in the provision are explicit and unambiguous; nor can they be used to diminish the plain meaning of the provision.

In *Krishnaiah v. State of A.P. and Ors*¹² 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 and Anr*¹³ 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.

5. Marginal Notes

Marginal notes are those notes that are inserted in the Act alongside the sections and reflect the effect of the parts. These are also regarded as side notes. Support was often taken from the marginal notes in the olden days when the simple sense of the acting was in question. But the court's modern view is that marginal notes do not play any part when reading a statute. The basis of this view is that the marginal notes are not part of a statute since they are not added by the legislators, nor are they written in margin according to the legislature's directives or authority¹⁴.

In *P. Gupta v. President of India*¹⁵, the High Court held that the marginal note was necessary if the specific provisions of the body of a law clearly showed that the building would be inconsistent with the marginal note. If the provisions in the body of the law are vague, the marginal note can be interpreted as construction assistance.

¹² AIR 2005 AP 10

¹³ AIR 1931 All 597

¹⁴ <https://www.clawlegal.org/editorial/internal-aids-to-interpretation-of-statutes-detailed-analysis/> visit on 21/10/2020, time- 3:34 pm.

¹⁵ 1982 2 SCR 365

6. Definitional Sections/ Interpretation Clauses

It is a common practice to provide an interpretation or definition clause in every statutes and the normal canon of interpretation of statutes lays down that while interpreting a particular word in a statute the best guide is the definition of that word in the concerned statute itself¹⁶.

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.

In *Gian Chand v. Bahadur Singh*¹⁷ it was held that where a particular word is defined in the Act , which narrow and restricts its ordinary meaning , the meaning given in the definition must be applied to the word wherever it appears in the Act, unless the contrary is clearly indicated.

7. Illustrations

Illustrations are examples provided by the legislature for better understanding of the statute. Illustration to a section are valuable guides in ascertaining the meaning of a section. If the meaning of enactment itself is doubtful, reference to the illustration in order to clear the meaning would be justified. But an illustration cannot have the effect of modifying the language of the section which alone forms the enactment¹⁸.

In *Mahesh Chandra Sharma v. Raj Kumari Sharma*¹⁹ it was held that illustrations are parts of the Section and help to elucidate the principles of the section.

8. Proviso

A proviso has the proper purpose of accepting and dealing with a case which would otherwise fall within the general language of the main statute and its consequence is limited to that case. It is an example of the previous act that is too commonly articulated to be specific. As a general rule, a proviso to qualify or establish an exception to the provisions in the decree is inserted and a proviso is not generally perceived as stating a general rule. A proviso would not usually go beyond what is proviso.

¹⁶ Bindra N.S., Interpretation of statutes, the law book company (P) Ltd., Eighth edition, 1997, P. 39.

¹⁷ AIR 1961 Punjab 164

¹⁸ Bindra N.S., Interpretation of statutes, the law book company (P) Ltd., Eighth edition, 1997, P.74

¹⁹ AIR 1996 SC 869

In CIT vs. Ajax Products Ltd.²⁰ it was held that 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.

9. Explanations

An Explanation is added to a section to elaborate upon and explain the meaning of the words appearing in the section. The purpose is not to limit the scope of the main section but to explain, clarify, subtract or include something by elaboration.

Explanations are keys to the sections to which they appended. They explain the heart of the matter with a purpose. An explanation does not enlarge the scope of the original section that it is supposed to explain²¹.

10. Schedules

Schedule is as much a part of the statutes and is as much an enactment as any other part and may be used in construing provision in the body of the Act²².

Schedules at the end contain minute details for working out the provisions of the express enactment. The expression in the schedule however cannot override the provisions of the express enactment.

In M/s. Aphali Pharmaceuticals Limited v. State of Maharashtra²³, the Supreme Court held that in case of a clash between the schedule and the main body of an Act, the main body prevails and the schedule has to be rejected.

In Jagdish Prasad v. State of Rajasthan and others²⁴ the Supreme Court ruled that the purpose of a schedule is to advance the object of the main provision and deletion of schedule cannot wipe out provisions of an Act in effect and spirit.

²⁰ 1965 SCR (1) 700

²¹ Bindra N.S., Interpretation of statutes, the law book company (P) Ltd., Ninth edition, 2002, P.134-135

²² Bindra N.S., Interpretation of statutes, the law book company (P) Ltd., Ninth edition, 2002, P.138

²³ 1989 AIR 2227

²⁴ LQ 2010 HC 2728

11. Punctuation

Punctuation is a minor element and weight be given to it only when a statute is carefully punctuated and there is no doubt about its meaning.

The importance of use of these aids is manifest. In any case, where difficulty arises as to finding out the true intention of the legislature, the use of these materials could be made by the Courts. Of course, in India, there is no consistent and uniform approach to the use of extrinsic materials in the sense of determining as an aid for the purpose of interpretation of a given statute.

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