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# CLASS NOTES

INTERPRETATION OF STATUTES

UNIT-IV - Restrictive & Beneficial Construction





# **AVADH LAW COLLEGE, BARABANKI**

**LL.B. - 3 yrs. II Sem. & B.A. LL.B. - 5 yrs. IV Sem.**

## **CLASS NOTES**

### **INTERPRETATION OF STATUTES**

#### **UNIT-IV**

#### **Restrictive & Beneficial Construction**

##### **Course Content:**

A. Restrictive and beneficial construction:

- (i) Taxing Statutes;
- (ii) Penal statutes;
- (iii) Welfare Legislation;

B. Interpretation of enabling statutes,

C. Interpretation of statutes concerning rights.



## INTRODUCTION

These class notes are aimed at providing students the working knowledge and understanding of Law being interpreted by the Courts where the language used in legislation is vague, doubtful and ambiguous. But every statute does not carry the same objective and each law has different purpose to serve. Keeping this in mind the courts have developed different approaches to statutory construction.

**Unit - IV** deals with the various approaches that the Law Courts take while interpreting different kinds of statutes and pieces of legislation. Some laws are focussed to give maximum benefit to the deprived, the poor, the downtrodden which are called Welfare Legislation. Some are meant to punish the miscreants and offenders for their wrongs. Some taxing laws are necessary to carry forward the economic wheel of the country. Therefore, it will be unjust to measure each law with the same yardstick. As a result, various approaches developed to construe the different kind of laws. These are mainly of two types:

- (a) Restrictive Construction, &
- (b) Beneficial Construction.



### A. Rule of Restrictive / Strict Interpretation:

As the social, economic and political conditions of the society keep on changing, interpretations of laws also require change. Legislature is not equipped to meet such changing conditions and legislature cannot anticipate every situation which might occur in real life. Thus, it is Courts which play the role and interpret the laws to adapt as per needs of the society.

Strict rule of interpretation is one of the principles used to interpret fiscal and penal statutes. According to this rule, plain, clear and direct meaning is given to words which are used in common parlance by the general public to which such law is applicable. There can be no presumption by court with respect to particular meaning. Court cannot give particular meaning to a word which is not clear by making a presumption that particular meaning is the intention of the legislature. Court cannot under the guise of possible or likely intention of the legislature, give meaning to the words which are not clear and where contextual meaning cannot be made out.

#### (i) Construction of Taxing Statutes:

Government of India is divided into three branches i.e. Legislature, Executive and Judiciary. It is the function of the legislature to make the laws and that of the executive, to enforce those laws. Legislature derives its power of imposing taxes from **Article 265 of the Constitution of India** which states that

*“No tax can be levied or collected unless it has the authority of law”.*

It is through this article that the legislature acquires the right to impose tax and prescribe various conditions under which such tax is applicable.

Interpretation means to give meaning to some words which are ambiguous or unclear by looking into the intention of the legislature, purpose which the law fulfils or the mischief it eliminates which existed prior to enactment of that law. It is a common rule that words are to be given their direct and grammatical meaning. But in case there are any ambiguities then the help of



interpretation is taken by understanding the context in which such words are used. Such meaning is given which solves the purpose of the law and which seems to be the intention of the legislature. Practical applicability of laws is different from drafting & enforcing the law. It is the role of judiciary to interpret the laws made by the legislature. It is the function of Judiciary to apply the law made by the legislature on case to case basis.

The Legislature also has power to delegate its law-making power to the Executive for proper implementation of the laws. Such delegation of power is exercised in form of rules, regulations, circular, clarifications and notifications. In India, such power to issue above subordinate legislation is with Central Board of Indirect Tax and Customs (CBEC) in case of indirect tax and Central Board of Direct Tax (CBDT) in case of direct tax. But all these subordinate legislations are limited to powers given to the subordinate authorities through the principal statute and these subordinate legislations has the same legal and binding authority as if they are part of the parent statute.

#### **Reasons for Applicability of Restrictive / Strict Rule of Interpretation on Taxation Statute:**

Tax is a forceful extraction of money from the assessee (taxpayer) by the sovereign authority in which the taxpayer is not entitled to any assured benefit. So, taxes place a monetary burden on the taxpayer and thus to some extent it is considered as penalty on the taxpayer which is imposed under the authority of law. Thus, unless the imposition of tax is clearly backed by law, no tax can be imposed. Taxation statute is a fiscal statute which is enacted on the basis of trial and error method or on experimentation basis. It is not practicable for legislature to anticipate all the possible situations or conditions which may arise after the law is enacted. It is possible that the assessee might use some shortcomings in the law as a loophole and take advantage of it. As



tax results in pecuniary burden so the **benefit of doubt is given to assessee in case of any contradictions.**

Strict rule is applicable to taxation statutes, so courts are bound to give clear and plain meaning to the words without delving into the consequences it can result in. There is no presumption of tax or intendment of the legislature to impose tax unless clearly and specifically provided. Thus, it is the legislature or subordinate authority to come forward and bring amendments and clarifications to rectify the loopholes.

Thus, direct meaning is given to words used in the statute and in case of two interpretations coming out then in that case that such interpretation is given, which is in favour of the taxpayer. Until and unless, clear words are used in the statute which imposes the liability on the taxpayer, there can be no burden to pay tax.

Any taxation statute involves three stages, viz. -

- (a) First, the subject on which tax is levied or imposed,
- (b) Secondly, the assessment of the liability of assessee and
- (c) Lastly, the recovery once the assessment is made.

The first stage is where charging provisions of the act are involved. These charging provisions must be clearly provided in the statute. These charging provisions provide the extent and coverage of the subjects as to whom the tax is applicable. It also provides the outline in form of subjects which the legislature wants to cover under the law. **Charging provisions are to be interpreted strictly as it results in financial burden.** There cannot be any ambiguity and meaning which is clear, obvious, direct is given. Nothing can be inferred to substantiate the intention of the legislature or purpose for which the law was made. Once the revenue shows that particular subject is covered by law then tax is applicable for all those subjects. But if it fails to prove then no tax can be imposed by extending the meaning.



Principal of equity has no role to play in case of taxation law. It is because there is lot of deeming legal fiction involved in tax laws. Thus, whatever is written must be strictly followed without considering its justness. If the words are clear, then court has to give that meaning irrespective of consequences it resulted into or in other words even if such construction is inequitable, then also the Court is bound due to legal fiction. Court cannot meet the deficiency by extending the provisions of the statute. It is duty of the legislature to rectify it through amendments.

In a Taxation statute, if a word has a clear meaning, then in that case, the court is bound to follow the clear meaning even if such meaning results in absurd results. It is in legislature's domain to rectify such absurdity. In case of taxation statutes, Courts cannot extend the scope of law by giving meanings to word which are unclear or uncertain. This is based on the reason that if legislature had thought of such situation then it would have covered it by using appropriate description and words under the principal act or taxation authority would have issued some notification clarifying the same.

The case of ***State of Uttar Pradesh v. Kores India Ltd. (AIR 1977 SC 132)*** is relevant. In this case, the issue was pertaining to inclusion of "carbon paper" in the definition of the word "paper".

*It was held by the Hon'ble Supreme Court that in common parlance word paper is one which is used for writing, packaging and printing whereas carbon paper is used entirely for different purpose. Moreover, manufacturing process of carbon paper is entirely different and complicated from that of normal paper. So, Court held carbon paper will not be included in normal paper so as to make it subject to taxation. It was held that meaning of paper is quiet clear and there is no need to interpret it so as to extend its meaning to include carbon paper. Thus, Courts are not required to extend the meaning to cover the subjects which on the face cannot be included in common parlance. It is only*



*when specifically provided by statute then only it becomes subject to tax. The words used in the taxation law should be given meaning which is understood by general public in daily routine and one which is popular. Such meaning should be given to words which people to whom law is applicable are familiar with.*

**The second and third stage** involved in any tax laws are assessment of the liability and recovery of dues respectively. These provisions are machinery **provisions which provides for technicalities and procedure to be followed** under the act to make it functional. These provisions are to be interpreted fairly and liberally to promote the intention of the legislature. In case of contradiction whereby two meaning are coming out then one which is reasonable, which will assist in fulfilling the intention of the legislature and solving the purpose for which law was enacted is preferred. They are to be interpreted in such a way so as to enforce and apply charging provisions smoothly.

**In case of exemptions, strict rule does not apply rather liberal rule is applied.** All the conditions under which exemptions are given must be clearly specified. Once the assessee has shown that all the conditions precedent required to claim exemptions are fulfilled then he is entitled to claim exemptions. Once the assessee falls within the category of exemptions, then such exemption should be allowed. It cannot be denied on the basis of assumed or likely intention of the authority making the law.

**The doctrine of Substantial Compliance:**

It is based on the principle of equity which is also applicable to taxation laws. According to this doctrine, if the conditions for claiming exemptions are met substantially or only a few minor procedural requirements are not fulfilled which does not hamper the purpose for which such law was made then in that case substantial compliance can also entitles one to claim exemptions. Applicability of such doctrine is based on case to case basis as it results are





different depending on facts of each case, extent of compliance, whether partial compliance fulfils the essence, object and purpose of the law.

The Courts have remained of the view that imposition of tax is burden on the assessee so it should be interpreted strictly and no such construction should be made on the basis of presumptions and assumptions as to the intention of the legislature. No addition or subtraction should be allowed in case of charging provisions in furtherance of fulfilling the purpose of the Act or to meet intention of the legislature. Tax laws should be interpreted in manner so as to maintain a balance between interest of both revenue department and the assessee.

Also, the role of Courts is not to apply the tax laws blindly and strictly but it should check whether the transactions of assessee amounts to evasion of tax, avoidance of tax or its just tax planning. If assessee deliberately makes the complex transactions so as to avoid taxes and thereby intends to game the system, then the Courts should adopt for reasonable and equitable construction in favour of revenue and to set examples for future jurisprudence of interpretation of taxation laws.

#### **Indian Scenario:**

In India tax law provides a useful set of cases for exploring the interpretative approaches of the judiciary in India. Some general observations made by the courts are first mentioned before analyzing the cases on different approaches. Interpretation of statute means that the court has to ascertain the facts and then interpret the law to apply to such facts. It is the function of the legislature to say what shall be the law and it is for the court to say that what the law is. Where the language is plain and unambiguous and admits of only one meaning no question of construction of statute arises for the statute speaks for itself. The maxim "A Verbis legis non est recedendum" means that you must not vary the words of the statute while interpreting it.



The manner in which the Income-Tax Act has been drafted leaves great scope for litigation. For this purpose, principles of interpretation have to be applied. These principles themselves are not infallible and would depend on the facts of each case. The two well-settled principles of interpretation, as applicable in taxing statutes, are:

- (1) **There is no equity in tax**, and the principle of strict or literal construction applies in interpreting tax statutes. Hence, on the plain language of the statute, **if the assessee is entitled to two benefits, he has to be granted both these benefits**; and
- (2) **If there are two reasonable interpretations of taxing statutes, the one that favours the assessee has to be accepted.**

The principle of strict interpretation of taxing statutes was best enunciated by Rowlatt J. in his classic statement in ***Cape Brandy Syndicate v. I.R.C. (1 KB 64, 71)***:

*"In a taxing statute one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can look fairly at the language used."*

If the revenue satisfied the court that the case falls strictly within the provisions of the law, the subject can be taxed. If, on the other hand, the case is covered within the four corners of the provision of the taxing statute, no tax can be imposed by inference or by analogy or by trying to probe into the intention of the legislature and by considering what was the substance of the matter. Tax relief application is a mandatory requirement for refund purpose. It is well settled principle that tax exemptions are strictly against taxpayers. Tax refunds in the nature of tax exemption, are resolved strictly against the claimant. Recently, in the case of ***Manila North Tollways Corporation vs. Commissioner of Internal Revenue***, The Court of Tax Appeals (CTA) had an occasion to apply again this principle of strict construction of tax exemption



and reiterated its position that an application for tax treaty relief must be filed prior to any availing of tax treaty provision. It is a strict principle of interpretation that a statute should be read in its ordinary, natural and grammatical sense.

In ***Innamuri Gopalam and Maddala Nagendrudu v State of A. P.***, the exemption was denied to the assessee on the ground that the intention of the notification was to avoid double taxation, and as this was not a case of double taxation no exemption could be granted. The Supreme Court held that on the plain language of the notification, the assessee was entitled to exemption, and since the intention was not reflected in plain words, it could not be taken into consideration. As observed by the apex court:

*"In construing a statutory provision the first and foremost rule of construction is the literary construction. All that the court has to see at the very outset is what does the provision say. If the provision is unambiguous and if from the provision the legislative intent is clear, the court need not call into aid the other rules of construction of statutes. The other rules of construction are called into aid only when the legislative intent is not clear."*

In case of ***Steel Authority of India Ltd. v C.C.E.***

*The question was whether raw naphtha intended for use in the manufacture of fertilisers was exempted although it was not actually used. It was held that the exemption notification only required proof that the raw naphtha was intended for use in the manufacture of fertilisers, and there was no further requirement that it was actually so used. Hence, if it was purchased with the intention to be used for the manufacture of fertilizers, it was exempt, even though it could not be used for some reason subsequently.*

**Exemption Clause - Strict Construction:**

The law is well settled that a person who claims exemption or concession has to establish that he is entitled to that exemption or concession. A provision providing for an exemption, concession or exception, as the case may be, has to be construed strictly with certain exceptions depending upon the settings on which the provision has been placed in the Statute and the object and purpose to be achieved. If exemption is available on complying with certain conditions, the conditions have to be complied with. The mandatory requirements of those conditions must be obeyed or fulfilled exactly, though at times, some latitude can be shown, if there is a failure to comply with some requirements which are directory in nature, the non-compliance of which would not affect the essence or substance of the notification granting exemption.

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**(ii) Construction of Penal Statutes:**

In a penal law if there appears to be a reasonable dubiety or ambiguity, it **shall be decided in favour of the person who would be liable to the penalisation.**

If a penal provision fairly be so construed as to avoid the punishment, it must be so interpreted. If there can be two reasonable interpretations of a penal provision, the more lenient should be made applicable.

Punishment can be meted to one, only if, for the plain words, an extension of the meaning of the word is allowable. A penalty cannot be imposed on the basis that the object of the statute so desired. According to Maxwell, "the prerequisite of express language for the creation of an offence, in interpreting strictly words setting out the elements of an offence in requiring the fulfilment to the letter of statutory conditions precedent to the infliction of punishment; and in insisting on the strict observance of technical provisions concerning criminal procedure and jurisdiction."

Unless the words of a statute clearly made an act criminal, it shall not be construed as criminal. If there is any ambiguity in the words which set out the elements of an act or omission declared to be an offence, so that it is doubtful whether the act or omission falls within the statutory words, the ambiguity will be resolved in favour of the person charged. The court will inflict punishment on a person only when the circumstances of the case fall unambiguously fall under the letter of the law. Legislation which deals with the jurisdiction and the procedure relation to imposition of the penalties will be strictly construed. Where certain procedural requirements have been laid down by a statute to be completed in a statute dealing with punishments, the court is duty bound to see that all these requirements have been complied with before sentencing the accused. In case of any doubt the benefit has to go to the accused even up to the extent of acquitting him on some technical grounds. Penal provision cannot be extended by implication to a particular case or circumstances. The rule exhibits a preference for the liberty of the



subject and in a case of ambiguity enables the court to resolve the doubt in favour of the subject and against the Legislature which has failed to express itself clearly, but this rule is now-a-days of limited application. The rule was originally evolved to mitigate the rigours of monstrous sentences of trivial offences and although the necessity and that strictness have now vanished, the difference in approach made to penal statute as against any other statute still persists.

If a statute laid a mandatory duty but provided no mode for enforcing it, the presumption in ancient days was that the person in breach of the duty could be made liable for the offence of contempt of the statute. This rule of construction is obsolete and now has no application to a modern statute. Clear language is now needed to create a crime. "A penal provision must be definite". It is a basic rule of legal jurisprudence that an enactment is void for vagueness if its prohibitions are not clearly defined. Pollock, CB said: "whether there be any difference left between a criminal statute and any other statute not creating offence, I should say that in criminal statute you must be quite sure that the offence charged is within the letter of the law."

In the case of *Feroze N. Dotivalaz v. P.M Wadhvani and co.*, this court stated: "Generally, ordinary meaning is to be assigned to any word or phrase used or defined in a statute. Therefore, unless there is any vagueness or ambiguity, no occasion will arise to interpret the term in a manner which may add something to the meaning of the word which ordinarily does not so mean by the definition itself, more particularly, where it is a restrictive definition. Unless there are compelling reasons to do so, meaning of a restrictive and exhaustive definition would not be expanded or made extensive to embrace things which are strictly not within the meaning of the word as defined."

In *Anup Bhushan Vohra v. Registrar General, High Court of Judicature at Calcutta* on (16 September, 2011) the Apex Court held that the contempt



proceedings being quasi-criminal in nature, burden and standard of proof is the same as required in criminal cases. The charges have to be framed as per the statutory rules framed for the purpose and proved beyond reasonable doubt keeping in mind that the alleged contemnor is entitled to the benefit of doubt. Law does not permit imposing any punishment in contempt proceedings on mere probabilities; equally, the court cannot punish the alleged contemnor without any foundation merely on conjectures and surmises. As observed above, the contempt proceeding being quasi-criminal in nature require strict adherence to the procedure prescribed under the rules applicable in such proceedings.

A man should not be goaled on ambiguity. Lord Esher, MR in formulating “the settled rule of construction of penal sections” observed “if there is a reasonable interpretation which will avoid the penalty in any particular case we must adopt that construction. If there are two reasonable constructions then we must give the lenient one. The rule has been stated by Mahajan, CJI in similar words: “If two possible and reasonable constructions can be put upon a penal provision, the court must lean towards the construction which exempts the subject from penalty rather than the one which imposes penalty. It is not competent to the court to stretch the meaning of an expression used by the legislature in order to carry out the intention of the legislature.”

A Three-Judge Bench of this Court in the case of *The Assistant Commissioner, Assessment-II, Bangalore and Ors. v. Valliappa Textiles Ltd. and Ors.*, laid down:- “...Though *Javali* (supra) also refers to the general principles of interpretation of statute the rule of interpretation of criminal statutes is altogether a different cup of tea. It is not open to the court to add something to or read something in the statute on the basis of some supposed intendment of the statute. It is not the function of this Court to supply the casus omissus, if there be one. As long as the presumption of innocence of the accused prevails in this country, the benefit of any lacuna or casus omissus



must be given to the accused. The job of plugging the loopholes must strictly be left to the legislature and not assumed by the court.

So when a statute dealing with criminal offence impinging upon the liberty of citizens, a loophole is found, it is not for judges to cure it, for it is dangerous to derogate from the principle that a citizen has a right to claim that howsoever his conduct may seem to deserve punishment, he should not be convicted unless that conduct falls fairly within definition of crime of which he is charged. The fact that an enactment is a penal provision is in itself a reason for hesitating before ascribing to phrases used in the meaning broader than that they would ordinarily bear. There is all the more reason to construe strictly a drastic penal statute which deals with crimes of aggravated nature which could not be effectively controlled under the ordinary criminal law.

While interpreting penal statutes, it is clear that any reasoning which is based on the substance of the transaction has to be discarded. It is the duty of the courts to apply the purpose enshrined in the unambiguous language used by the Legislature irrespective of the fact that the statute to be interpreted is a penal law. The courts are not allowed to give a wider meaning when the legislature has already provided a comprehensive provision in the statute itself.

In a very recent matter of State of Rajasthan v. Vinod Kumar, the Apex Court has observed: - "awarding punishment lesser than the minimum prescribed under Section 376 IPC, is an exception to the general rule. Exception clause is to be invoked only in exceptional circumstances where the conditions incorporated in the exception clause itself exist. It is a settled legal proposition that exception clause is always required to be strictly interpreted even if there is a hardship to any individual. Exception is provided with the object of taking it out of the scope of the basic law and what is included in it and what legislature desired to be excluded. The natural presumption in law is that but for the proviso, the enacting part of the Section would have included the





subject matter of the proviso, the enacting part should be generally given such a construction which would make the exceptions carved out by the proviso necessary and a construction which would make the exceptions unnecessary and redundant should be avoided. Proviso is used to remove special cases from the general enactment and provide for them separately. Proviso may change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable.”

In this matter the sentence of the respondents was reduced by the Hon'ble Rajasthan High Court to a lesser punishment than that prescribed under Section 376 as mandatory unless the exception is strictly complied with. The Apex Court observed that awarding punishment lesser than the minimum sentence of 7 years was permissible only for adequate and special reasons. However, no such reasons have been recorded by the court for doing so, and thus, the court failed to ensure compliance of such mandatory requirement but awarded the punishment lesser than the minimum prescribed under the IPC. Such an order is violative of the mandatory requirement of law and has defeated the legislative mandate. Deciding the case in such a casual manner reduces the criminal justice delivery system to mockery.

#### PURPOSIVE INTERPRETATION APPROACH

It is not necessary that courts must always favour the interpretation which is favourable to the accused and not the prosecution but it may also chose to go for the interpretation which is consistent with the object provided in the law. In ***State of Maharashtra v. Tapas D. Neogy***, the expression 'any property' in Section - 102 of Cr.P.C. was interpreted to be inclusive of a 'bank account' and hence a police officer who was investigating the matter was justified in seizing the same. This principle was first explained by James, L.J. who stated: “No doubt all penal statutes are to be construed strictly, that is to say that the



court must see that the thing charged as an offence is within the plain meaning of the word used, and must not strain the words on any notion that there has been a slip; that there has been a casus omissus; that the thing is so clearly within the mischief that it must have been included if thought of.

In the case of ***Union of India v. Harsoli Devi***, a Constitution Bench of this court laid down: - “Before we embark upon an inquiry as to what would be the correct interpretation of Section 28- A, we think it appropriate to bear in mind certain basic principles of interpretation of statute. The rule stated by Tindal, CJ in ***Sussex Peerage case, (1844) 11 Cl & p.85***, still holds the field. The aforesaid rule is to the effect: “If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver.””

It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act.

In ***Kirkness v. John Hudson & Co. Ltd.***, Lord Reid pointed out as to what is the meaning of ‘ambiguous’ and held that – “a provision is not ambiguous merely because it contains a word which in different context is capable of different meanings and it would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning.” It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the court may look into the purpose for which the statute has been brought and would try to give a meaning, which would adhere to the purpose of the statute.



Although, the person charged has a right to say that the thing charged although within the words, is not within the spirit of enactment. But where the thing is brought within the words, and within the spirit, there a penal enactment is to be construed, like any other instrument, according to the fair commonsense meaning of the language used, and the court is not to find or make any doubt or ambiguity in the language of the penal statute, where such a doubt or ambiguity would clearly not be found or made in the same language in any other enactment." Subbarao, J., has observed: "the Act (Prevention of Corruption Act, 1947) was brought in to purify public administration.

When the legislature used the comprehensive terminology- to achieve the said purpose, it would be appropriate not to limit the content by construction when particularly the spirit of the statute is in accord with the words used there." On the same lines Hon'ble Supreme Court had widely interpreted the Food Adulteration Act, 1954, while expressing the strong disapproval of the narrow approach of construction to ensure that the adulterators do not exploit the loopholes in the Act. Similarly, such pedantic interpretation has not been given in the cases relating to section 498A of Indian Penal Code, Section 12(2) of Foreign Exchange Regulation Act, 1947 etc. The laws which have been framed for supporting the cause of offences against women have to be sternly implemented to set an example before the others which may deter the prospective criminals.

#### **Suppression of the Mischief:**

The language of the penal statute can also be interpreted in a manner which suppresses the lacuna therein and to sabotage the mischief in consonance with the Heydon's Case. For instance in Ganga Hire Purchase Pvt. Ltd. Vs. State of Punjab, while interpreting the section 60(3) of Narcotic Drugs and Psychotropic Substances Act, 1985, the word 'owner' was given a wider



meaning for the purpose of confiscation of the vehicle used in furtherance of the offence mentioned therein i.e. inclusive of the registered owner where the vehicle was purchased under a hire purchase agreement when all the instalments were not paid by him.

In the matter of **Manjit Singh @ Mange vs C.B.I.**, Hon'ble Supreme Court discussed the interpretation of Terrorist and Disruptive Activities (Prevention) Act, 1987 in light of the aforesaid principle. It was argued by Senior Advocate Mr. K.T.S. Tulsi, that prior approval was required to be taken from the Superintendent of Police of the District, as required under Section 20-A of the TADA Act, to try the accused for the offences under the TADA Act and the Superintendent of Police, CBI was not the competent authority to give such permission. Learned senior counsel submitted that the confessional statement of the co-accused because no prior approval from the prescribed authority, as required under Section 20A of the TADA Act, had been obtained. He also submitted that the penal provisions require to be strictly construed. Shri P.P. Malhotra, learned Additional Solicitor General, submitted that when the investigation is transferred to the CBI, with the consent of the State, the CBI takes over further investigation of the case. Therefore, Superintendent of Police, CBI, was competent to record the confession made by a person and the same is admissible in the trial of such person for an offence under the TADA Act. He further submitted that the confessional statement of co-accused recorded before S.P., C.B.I., was admissible in evidence vide Section 15 of the TADA Act, which provides for the recording of the confessional statements before the police officer, not lower in the rank than Superintendent of Police, and it is made admissible even against co-accused, abettor or conspirator and the bar under the Evidence Act and Criminal Procedure Code will not come into play.

The Hon'ble Court observed that confessional statement is a substantive piece of evidence and can be used against the co-accused by following the



interpretation provided in *S.N. Dube vs. N.B. Bhoir*, where the Apex Court observed that “Section 15 of the TADA Act is an important departure from the ordinary law and must receive that interpretation which would achieve the object of that provision and not frustrate or truncate it and that correct legal position is that a confession recorded under Section 15 of the TADA Act is a substantive piece of evidence and can be used against a co-accused also, if held to be admissible, voluntary and believable.”

Mr. Tulsi used various judgments of the Apex Court including *Dadi Jagganadhan v. Jammulu Ramulu and Ors.*, where a Constitution Bench of this court observed: - “...The settled principles of interpretation are that the Court must proceed on the assumption that the legislature did not make a mistake and that it did what it intended to do. The Court must, as far as possible, adopt a construction which will carry out the obvious intention of the legislature. Undoubtedly if there is a defect or an omission in the words used by the legislature, the Court would not go to its aid to correct or make up the deficiency. The Court could not add words to a statute or read words into it which are not there, especially when the literal reading produces an intelligible result. The Court cannot aid the legislature's defective phrasing of an Act, or add and mend, and, by construction, make up deficiencies which are there. The learned counsel contended that under Section 20A of the TADA, the sanction of the District Superintendent of Police is required to be obtained before the police record any information about the commission of an offence under the TADA. Since the same has not been obtained, the conviction of the accused cannot be sustained. In the instant case, according to the learned counsel, the sanction was obtained from the S.P., C.B.I.

But the Hon'ble Court held that the phrase “District SP” has been used in order to take the sanction of a senior officer of the said district, when the prosecution wants to record any commission of an offence under the Act, the reason appears to be that the Superintendent of Police of the District is fully



aware of necessity to initiate the proceedings under the stringent criminal law like the TADA Act. In the instant case, the State Government, in exercise of the power conferred by Section 3 of the Delhi Police Special Establishment Act, 1946, has handed over the investigation to CBI. The Hon'ble Court was inclined to hold that in matters concerning national security, as is the case of terrorist acts, the Centre and an autonomous body functioning under it would be better equipped to handle such cases. Therefore, 'prior approval' by the SP of CBI would adequately satisfy the requirements under Section 20A (1).

Similarly in the leading matter of **Reema Aggarwal v. Anupam Aggarwal**, a broader meaning was attributed to the application of sections 304B and 498A of the Indian Penal Code, in light of the broader purpose which was sought to be achieved through these provisions and the mischief which was required to be cured. It was also made applicable to the case where the legitimacy of the marriage itself was in question to bring the accused within the purview of the word 'husband' as used in the said provisions.

In **Abhay Singh Chautala vs C.B.I.**, the learned Senior Counsel Shri Mukul Rohtagi as well as Shri U.U. Lalit arguing for the appellants, urged that on the day when the charges were framed or on any date when the cognizance was taken, both the appellants were admittedly public servants and, therefore, under the plain language of Section 19 (1) of The Prevention of Corruption Act, the Court could not have taken cognizance unless there was a sanction from the appropriate government. The learned senior counsel analyzed the whole Section closely and urged that in the absence of a sanction, the cognizance of the offences under the Prevention of Corruption Act could not have been taken. It was also urged that a literal interpretation is a must, particularly, to sub- Section (1) of Section 19. But the Apex Court observed- :  
“...we, therefore, reject the theory of *litera regis* while interpreting Section 19(1)... However, as per the interpretation, it excludes a person who has abused some other office than the one which he is holding on the date of



taking cognizance, by necessary implication. Once that is clear, the necessity of the literal interpretation would not be there in the present case we specifically hold that giving the literal interpretation to the Section would lead to absurdity and some unwanted results ... hold that the appellants in both the appeals had abused entirely different office or offices than the one which they were holding on the date on which cognizance was taken and, therefore, there was no necessity of sanction under Section 19."

After the detailed analysis of various methods of interpreting a penal statute in the paper we can broadly categorize the method of interpretation by concluding that firstly the basic rule of interpreting such laws is to strictly adhere to the language of the statute since it is the will of the legislature and the court should restrain itself from stretching the meaning of the words causing unnecessary hardships to the subjects. Secondly it must be always kept in mind that what is the purpose for which the enactment seeks to achieve and if a strict adherence is done will it be able to achieve that purpose or object. Thirdly and lastly whether by such an interpretation the mischief which was sought to be suppressed by the penal law was suppressed and if not then it is the duty of the court to ensure that it is done and just because of the Legislature's omission, the injustice to the society should not be administered.



### Interpretation of statutes concerning rights:

A beneficial statute confers benefit on individuals if any provision is ambiguous so that is capable of two meanings, one of which would preserve the benefit and another which would take it away, the meaning which preserves it should be adopted. The basis of this rule is that the courts should be generous towards the persons on whom benefits has been conferred by the statute. It involves giving widest meaning to statute. The different kinds of legislations which receive beneficial construction are

- The Factories Act,
- Industrial Disputes Act,
- Consumer Protection Act,
- Juvenile Justice Act and various socio economic legislations.

The following cases illustrate the use of beneficial construction of statutes concerning rights:-

In case of ***Hindustan Level Ltd v Ashok Vishnu Kate***, the court held that in a case related to prevention of unfair labour practice, during interpreting social welfare legislation, a construction should be placed on the relevant provisions which further the purpose for which such legislation was enacted.

The Supreme Court held in the case of ***Spring Meadows Hospital v. H. Ahluwalia***, that if the parents have hired the services of a hospital for the benefit of their child they and the child can maintain independent actions against the hospital for deficient services.

In ***Noor Saba Khatoon v. Mohammad Quasium***, the Supreme Court held that the rights of maintenance of children below two years of age and the mother under Section 125 of the Code of Criminal procedure, 1973 are independent of each other and any subsequent legislation like the Muslim Women (Protection of rights on Divorce) Act, 1986 could not affect the same in absence of clear provision to the effect.