

Interpretation of Statute

Interpretation - The art of finding out the true sense of any form of words.

Statute - A statute is an Act passed by the legislature.

Interpretation of statute - means, explanation, meaning, translation, exposition of statutes or enacted law or law passed by the legislature.

Types of statute (object)

1. Penal statute
2. Taxing statute
3. Repealing statute
4. Amending statute
5. Codifying statute
6. Consolidating statute
7. Declaratory statute
8. Explanatory statute
9. Enabling statute
10. Disabling statute
11. Remedial statute

11. Remedial Consumer protection Act, SRA

1. Penal - Indian penal code
2. Taxing - Income tax Act,
3. Repealing - TADA
4. Amending - Companies amendment Act 2017
5. Codifying - IPC, CPC, CRPC
6. Consolidating - CrST, IBC
7. Declaratory - FEMA
8. Explanatory - Royal mines Act 1963
9. Enabling - Partnership Act
10. Disabling - POTA, PMLA

AIDS of Interpretation

Internal AIDS

1. Title, Short title
2. Preamble
3. Heading, MN
4. Sections, Ss
5. Punctuation Mark
6. Illustration
7. Exceptions
8. Explanation
9. Proviso
10. Saving clause
11. Schedules
12. N-O-clause

External AIDS

1. Dictionaries
2. Translations
3. R-T Preparation
4. Statute in Para
5. contemporanea expositi.
6. Debates, ICR, LCR.

Rules of Interpretation

Primary Rule

1. Literal Rule
2. Golden Rule
3. Mischief Rule
4. Harmonious Rule

Secondary Rule

1. Noscitur a sociis Rule
2. Eiusdem Generis Rule
3. Reddendo singula
singulis Rule

1. Literal rule - The words of the statute must be first understood in their natural, ordinary and popular sense.

* Case - Ramavtar Vs AS Officer

2. Golden Rule- Golden Rule is called modifying method of interpretation, as it modifies the literal meaning of the words to some extent.

Case - Lee vs Lemapp

3. Mischief rule- Mischief rule is applicable when the language of the statute gives more than one construction. When two interpretations are possible, then Court should consider that interpretation which advances the remedy and suppresses the mischief as per the intention of the legislature. Mischief rule is laid down in Heydon's case.

Case - Smith vs Hughes

4. Harmonious rule- While construing two or more provisions contained in the same statute which are inconsistent or repugnant to each other, court must construe both the provisions in a manner, so as to give effect to both of them, by harmonizing them with each other.

Case - Keshavananda Bharati case

1. Noscitur sociis Rule - means to know from the association.

By applying the Rule Noscitur sociis ~~rule~~, the meaning of doubtful words can be ascertained by referring to the meaning of words associated with doubtful words.

(आपके संगति से आपके चरित्र का पता चलता है)

(Meaning of a word is to be judged by the company it keeps.)

Ex- एक Exam हॉल के बाहर लिखा है मोबाइल फोन, लैपटॉप बंद ले जाना मना है।

कुछ बच्चे Exam हॉल के अंदर वाँकी टॉकी पर प्रश्नों का जवाब एक दूसरे से साझा करते पाये जाते हैं। बच्चों का ~~ख~~ कहना था वाँकी टॉकी का निष्क्र बोर्ड में नहीं था। कोर्ट ने इंटरप्रेट किया और कहा फोन, लैपटॉप, मोबाइल ये सब कम्युनिकेशन के माध्यम हैं और वाँकी टॉकी भी कम्युनिकेशन का माध्यम है इसलिए फोन, मोबाइल, लैपटॉप बंद में वाँकी टॉकी भी शामिल।

Case - Devendra m surti vs state of Gujarat

2. Eiusdem generis - means of the same kind. when particular words belonging to particular class, category or genus, are followed by general words, then the general words are construed

to mean only those things of the same kind as those of particular words. This rule is known as *ejusdem generis*.

Ex- कोई लॉ मोटरसाइकिल, ट्रक, बस ऑटो और ~~कोई~~ कोई मोटर वाहन के बारे में बात करता है तो कोई उस लॉ में रील एन को इन्कलुड नहीं कर सकती क्योंकि लॉ में जमीन पर चलने वाली गाड़ियों का जिक्र है।

Case - A. G. Vs Brown

3. *Reddendo singula singulis* rule - means by referring each to each; referring each phrase or expressions to its corresponding object.

For example - Doctor, Engineer and chef in a restaurant.

Here "In a restaurant" only applies to chef and not to doctor or engineer.

Case - Koteswar vithal Kamath vs Rangappa beliga & co.

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Maxims of Statutory Interpretation

1. Delegatus non-potest delegare
2. Expressio Unius, Exclusio Alterius
3. In pari delecto potior est conditio possidentis
4. Expressum facit ussure tacitum
5. Generalis specialibus non derogant
6. Bonam partem

1. Delegatus non-potest delegare - means no delegated power can be further delegated

एक व्यक्ति जिसे पावर दिया गया था को ई ड्यूटी उसे दिया गया हो वी उस पावर और ड्यूटी की किसी और नहीं सौंप सकता ।

Case law- Marishankar Basra vs State of M.P

2. Expressio unius, Exclusio Alterius - means if one or more things which belongs to a particular class is mentioned in the Act expressly, then, the other things belonging to that same particular class which are not expressly mentioned, are excluded from the purview of that Act.

अगर कोई स्पेसिफिक वस्तु का नाम लिखा है तो आप Assume मत करो कि ये भी हो सकता है जो expressly

mention है वो valid hai आपके सन के
 सारे Option exclude रहेंगे।

Case - Bennett Coleman & Co. vs UOI

3. In Pari delecto potior est conditio possidentis
 means - when both parties are equally
 at fault or guilty then the position of
 the possessor is better.

Case - tribe vs tribe

→ In this case father transfer
~~some~~ some share to his son for the
 purpose of defeating his creditors.

The father wanted his share back but
 son refused to give share.

The court held that although both the
 parties are in fault but father was
 allowed to recover the shares transferred
 to his son.

4. Expressum facit ussue tacitum

→ यह मैक्सिम 2nd मैक्सिम का ही दुसरा
 फॉर्म है। दोनों का मतलब same hai

5. *generalia specialibus non derogant* means when contradiction arise between general law and special law then special law always prevail.

general law की कोई provision special law के किसी provision से contradict करता है तो special law की मान्यता दी जायेगी।

Case - Suresh Nanda vs C.B.I 2008

→ There are two act that provides for impounding of passport. (पासपोर्ट जफती)

(i) Crpc - S-104 (general law)

(ii) Passport Act S-10 (special law)

In this case court held that special law deals with particularly with passport and this case also related to passport issue that's why Crpc not applicable passport act is applicable.

6. *Bonam partem* means lawful sense (as per law).

जब कोई statute लैजिस्लेचर बनाता है तो ये माना जाता है है statute as per law ही बना करेगा।

Ex - किसी statute में लिखा है -

Seizure of debtors goods

सहोबि माला के do sieze must be lawfully

Ex- Arrest the person

के ते भी Arrest नहीं किया जा सकता

Arrest the person माला Arrest must be lawful manner.

Case- R vs Hulme

Principles of constitutional interpretation

- ① Harmonious construction
- ② Doctrine of pith & substance
- ③ colourable Legislation
- ④ Ancillary Powers
- ⑤ occupied field
- ⑥ Residuary powers
- ⑦ Doctrine of Prospective overruling
- ⑧ Doctrine of Repugnancy
- ⑨ Doctrine of Eclipse
- ⑩ Doctrine of severability

Three list of constitution

Article - 246

VII schedule of the constitution has got 3 lists:-

The Union list - only union

The State list - only state

The Concurrent list - Both

- ① Harmonious - create harmony
- ② Pith & substance - one list touches another list then which legislature have power to enact such law
- ③ colourable - कभी-कभी लेजिस्लेचर इस काम करते हैं जो इसके प्राव में नहीं लेकिन बाहर से लगता है इसी का अधिकार है बनाने के।
- ④ Ancillary - In addition to - जैसे स्टेट लिस्ट में है मंत्र इंटीग्रिटी के रेड लिक्विड - then state can manufacture, sale, purchase all.

⑤ Occupied - हर लिस्ट में हर Authority को पावर दिया है जैसे Parliament को Union list में power दिया है विसि particular subject matter को, so wo parliament को occupied field हो गया. isme state legislature को power nahi hai • uss subject matter par law bana le.

⑥ Residuary - तीन लिस्ट हैं तोना में काम के • पावर का जिक्र है। Union में Union को पावर है, state में state को aur concurrent list में dono को. लेकिन kuchh kuchh matter ~~state~~ Two list में nahi hai state में bhi nahi aur concurrent में bhi nahi. Uss stithi में Union के पास Residuary power hai ki wo law bana sakta hai.

⑦ Prospective - कोई एक जजमेंट सुप्रीम

कोई ने दिया था बाद में सेम फैक्ट पर सुप्रीम कोर्ट का जजमेंट आया जो उस फैसले के विपरीत था उस फैसले को ओवर रूल कर ~~रद्द~~ दिया गया वही जजमेंट effect में रहेगा। इसका Prospective overruling कहते हैं।

⑧ Repugnancy - मतलब Inconsistent concurrent list में dono को power hai लेकिन dono विसि same subject par law banana chah Rahe hain jab state ka law vote

लेकिन अगर प्रेसिडेंट स्टेट के
Inconsistent part को असent देदे तो
State का लागू होगा.

⑨ Doctrine of eclipse :-

Constitution Article 13(2)
provides State shall not make
any law that takes away fundamental
Right and if, any act is made
in contravention of Article 13(2)
then that act shall be void to the
extent of contravention.

The doctrine of eclipse is applicable
only to the pre-constitutional laws
which are governed by Article 13(1)
It does not apply to the laws made
after the commencement of the
Constitution, which are governed
by Article 13(2)

lekin agar president state ke inconsistent part ko assent dede to State ka lagu hoga.

⑨ Doctrine of eclipse :-

Constitution Article 13(2) provides State shall not make any law that takes away fundamental Right and if any act is made in contravention of Article 13(2) then that act shall be void to the extent of contravention.

The doctrine of eclipse is applicable only to the pre-constitutional laws which are governed by Article 13(1). It does not apply to the laws made after the commencement of the Constitution, which are governed by Article 13(2).

① Presumption that statutes are valid

हर ~~क~~ लॉ वैलिड मान के चलेंगे जब तक वो संविधानिक दायरे के अंदर ही

constitutional limits के अंदर सारे statute valid hain ye man ke challenge

आधार किसी को लगता है कि कोई लॉ इन वैलिड है तो उसे चुन करना होगा कि ये संविधानिक दायरे के बाहर के लॉ है।

Case law - Sunil batra vs Delhi admin^{stration}

प्रिजन स्थल के एक सेक्शन 56 को चैलेंज किया गया था जिसमें लिखा गया था कि ~~किसी~~ जो कि बात करता था कि जिसे डेथ पेनाल्टी मिला है उसे सांख्यिक कन्फाईमेंट ~~के~~ अकेला रखा जाएगा।

इसको चैलेंज किया गया कि ये P.R. - 14, 19, 21 को वाइलैट करता है।

SC ने कहा नहीं ये संविधान के अंदर ही है संविधान के बाहर नहीं है।

② Presumption that statute are territorial in operation -

The laws passed by state legislature are for that state only. ~~such laws~~

Case law - U.K. Kochari vs State of Madras
The SC held, the laws made by the state legislature apply within the boundaries of the concerned state. It can be challenged on the ground of extra ~~territorial~~ territorial

CHAPTER - IV

"PRESUMPTIONS IN STATUTORY INTERPRETATION"

Presumption in Statutory Interpretation:

- 1) Statutes are valid.
- 2) Statutes are territorial in operation.
- 3) Presumption as to jurisdiction.
- 4) Presumption as to what is inconvenient or absurd.
- 5) Presumption against intending injustice.
- 6) Presumption against impairing obligation or permitting advantage from one's own wrong.
- 7) Prospective operation of Statutes.

1) Presumption that Statutes are valid :

Q. 17 : Explain the presumption that the Statutes are valid (Apr.2005).

OR

Analyze the presumption as regards the validity of Statutes. (Nov 2010)