MAXIM OF INTERPRETATION

Rule of interpretation is a conclusion because of its greatest dignity, most certain authority and having universally approved character. It is said to be a proposition of all men confessed and granted without argument or discourse.

Every maxim, because of being based on experimentation, on probability cannot possibly comprehend all conceivable situations at any rate in one measure, in any event at one time – *STEWART DRY GOOD CO. Vs LEWIS 294 US 550; ADAR Vs STATE OF KERALA (1974) 34 STC 73 (*SC), [well settled norms or guiding principles] so, before applying it, social, economical and political purposes must always be taken into consideration – *S.P. GUPTA Vs PRESIDENT OF INDIA, AIR 1982 SC 149.*

Interpretation of a statute means introduction of elements which are necessarily extrinsic to the words in the statute. Since, a statute is an edict of the legislature – *VISHNU PRATAP SUGAR WORKS (PRIVATE) LTD. Vs CHIEF INSPECTOR OF STAMP, U.P., AIR 1968 SC 102,* so the term "interpretation" refers the process of discovery of ideas behind the same. SALMOND in "Jurisprudence" 11th edition at page 152 expressed that "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".

A word is employed with some object or situation assigned a technical name referent, but it is not a scientific symbol, so any word may refer different allusion in different context even at same point of time, so as to avoid a miscommunication or misunderstanding, and to find out the ideas is the essence for an interpretation.

Since the process of interpretation of a statute being an exercise in the ascertainment of meaning, everything which is logically relevant, should be admissible as Lord Reid has said in *BLACK-CLAWSON INTERNATIONAL LTD. Vs PAPIER WERKE WALDHOF ACHAFFENBURG AG (1975 AC 591):*

> "We often say that we are looking for the intention of parliament, but that is not quite accurate. We are seeking the meaning of the words which parliament used. We are seeking not what parliament meant but the true meaning of what they said."

[See also *CROSS STATUTORY INTERPRETATION – 2nd Edition* – Page 200-30]

The phrase "interpretation" means process of ascertaining the ideas of a given text to avoid any inconvenient and absurd construction. It is a heat so that the thing may rather stand then fall. It is a method by which the meaning of an expression is ascertained. The term "construction" includes not only to ascertain the sense and meaning (i.e. ideas) of the subject but also its effect and consequences.

A rule of construction is one which governs the effect of the ascertained intentions to point out what the court should do in the absence of express or implied intention, while a rule of interpretation is one which directs to ascertain the ideas of the given

text. In other words, a rule of interpretation points out the ideas, the term "construction" refers its effect and consequences.

Though the word "interpretation and construction" are used interchangable, in the very full sense of the word "construction", the judges has set themselves to frame the law as they would like to have it – CWT VS. SMT. HASHMATUNNISA BEGUM AIR 1989 SC 1024.

In conventional language the interpreter must put him in the arm chair of those who were passing the Act, i.e. the members of the parliament. It is the collective will of the parliament with which concerned, what the legislature has said.

A word on interpretation, vicissitudes of time and necessitudes of history contribute to charges of philosophical attitudes, concepts, ideas and ideals and, with them, the meaning of words and phrases and the language itself. The philosophy and the language of the law are no exception. Words and phrases take colour and character from the context and the time and speak differently in different contexts and times. And, it is worthwhile remembering that words and phrases have not only a meaning but also a content, a living content which breaths and so, expands and contracts – MUNICIPAL CORPORATION OF DELHI Vs. MOHD. YASIN 1983 AIR 617 (SC); 1983 (3) SCC 229.

The question of interpretation involves determining the meaning of a text contained in one or more documents. There are two units of enquiry in statutory interpretation- the statutory text and the intention of the Parliament and the judge must seek to harmonise the two [see Gross's Statutory Interpretation – 2nd Edn at page 21]. This, however is no correct. According to the tradition of the Indian law, primacy is to be given to the text in which the intention of the law given has been expressed. Cross refers to Blackstone's observations that the fairest and the most rational method to interpret the will of the law maker is by exploring his intentions at the time when the law was made, by signs the most natural and probable. And these signs are either the words, the context, the subject matter, the effect and the consequences, or the spirit and the reason of law- CCE Vs. PARLE EXPORTS (P) LTD (1989)/SCC 345. In India, contextual interpretation is normally adopted rather than a reference to dictionaries – GRAMOPHONE COMPANY OF INDIA LTD Vs. BIRENDRE BAHADUR PANDEY 1984 AIR (SC) 667, 1984 (2) SCC 534.

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

The assumption " a word has one meaning and one only" is not admitted in normal circumstances because of different senses even the etymological meaning of many words has become absolute and becoming a new colour and more modern meaning not only common but technical meaning also due to fast changing environment and civilization. The primary general sense of a word get after ramified into different senses, so it requires to search different uses and application of the word and the act of ascertaining what

intention the writer inferred to convey to the reader by it is called an interpretation of a document.

When in the statute, same words have been employed in different parts of the same section or statute, the presumption about the same sense throughout in such statute *[BHOGILAL CHUNNILAL PANDYA Vs STATE OF BOMBAY, AIR 1959 SC 356, RAGHUBANS NARAIN SINGH Vs UTTAR PRADESH GOVERNMENT, AIR 1967 SC 465]* ***is a weak one*** *–SHAMRAO VISHNU PARULEKAR VS DISTRICT MAGISTRATE, THANA, AIR 1957 SC 23, ASWINI KUMAR GHOSE Vs ARABINDA BOSE, AIR 1952 SC 369; PAYNE(INSPECTOR OF TAXES) Vs BARRATT DEVELOPMENTS (LUTON) LTD. (1985)1 ALL ER 257 (HL)* **which is readily displaced by the context .** In other words, the context must be similar– *FARRELL Vs ALEXANDER (1976)2 ALL ER 721 (HL).*

In other words, even when the same word is used at different places in the same clause of the same section, it is not a rule of thumb that it bears the same meaning at each place, the real meaning shall depend on the context of its use – *ANAND NIVAS (P) LTD. Vs ANANDJI KALYANJI'S PEDHI, AIR 1965 SC 414.*

It is well settled law that each word, phrase or sentence must be construed in the reference for which the same has been employed. In other words, the process of interpretation depends upon the text and context. No principle of interpretation requires a statutory provision to be broken down to the words which constitute it and then often defining each word individually weld them together to arrive at the meaning of a phrase. Words take their colour from the context in which they are used – *S.A. VENKATRAMAN Vs UOI, AIR 1954 SC 376.*

An understanding of the general sense of the words employed cannot prevail where the scheme of the statute of the instrument considered as a whole clearly conveys a somewhat different shade of meaning. It is not always a safe way to construe a statute or a contract by dividing it by process of etymological dissection and after separating words from their context to give each word some particular definition given by lexicographers and then to reconstruct the instrument upon the basis of those definition. What particular meaning should be attached to words and phrases in a given instrument is usually to be gathered from the context, the nature of the subject matter, the purpose of the intention of the author and the effect of giving to them one or the other permissible meaning on the object to be achieved. Words are after all used merely as a vehicle to convey the ideas of the speaker or the writer and the words have naturally, therefore, to be so construed as to fit in with the idea which emerges on a consideration of entire context. Each word is but a symbol which may stand for one or a number of objects. The context, in which a word conveying different shades of meanings is used, is of importance in determining the precise sense which fits in with the context as intended to be conveyed by the author ***– Dy. CHIEF CONTROLLER OF I & E. New Delhi Vs K.T. KOSALRAM 1999 (110) ELT 366 (SC).***

Interpretation must depend on the text and the context. They are the basis of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual representation match the contextual. A statute is best interpreted when

we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With those glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and every thing is in its place. RESERVE BANK OF INDIA Vs. PEERLESS GENERAL FINANCE AND INVESTMENT CO. LTD, AIR 1987 SC 1023. The observation of LORD RUSSEL of KILLOWEN in *ATTORNEY GENERAL Vs CARLTON BANK (1889) 2Q.B.158* is,

> "I see no reasons why special cannons of constructions should be applied to any Parliament and I know of no authority for saying that a taxing Act is to be construed differently from any other Act. The duty of the Court is in my opinion in all case the same. Whether the Act to be construed relates to taxation or to any other subject, namely, to give effect to the intention of the legislature, as that intention is to be gathered from the language employed having regard to the context in connection with which it is employed…… Courts have to give effect to what legislature has said".

When a provision can be interpreted in more than one way, the interpretation which validates rather than one which may invalidate, may prevail, but it may be decided by the intention of the legislature because the legislature is presumed not to have intended an excess of its own jurisdiction, but it applies only where two views are reasonably possible under the statutory language. However, at the time of proper construction, if the words used in a statute by the legislature are in a particular way, then it cannot be read in another way.

Unless there is any ambiguity, there is no need to look somewhere else to discover the ideas behind the language. In other words, it is **a literal rule** that the intentions of the legislature should be gathered from words, which are employed. However, where such literal interpretation leads to some absurdity or inconsistency with the rest of the statute, the word only to the extent of avoiding absurdity and inconsistency could be modified. The rule is known as **golden rule of interpretation.** However, where there is an ambiguity in the language itself, then by applying **mischief rule,** the ideas behind the same could be found through external and internal sources. It is only when the word used are ambiguous that they would stand to be examined and construed in the light of surrounding circumstances, constitutional principles and practices – *CIT Vs SODRA DEVI (1957) 32 ITR 615 (SC).*

Ordinarily and naturally meaning of words has to be given effect as legislature is deemed to intend and mean what it says – However, in case of ambiguity in language, reference may be made to legislative intent and object to resolve it- ITC.LTD Vs. CCE 2004 (171) ELT – 433 (SC). Words of clear and unambiguous statute have to be give effect and a meaning contrary to that could not be given barred on general principles of construction – GURAV DISTRIBUTORS (P) LTD

Vs. CCE 2004 (170) ELT 513 (SC). Merely on the basis of penal consequences, literal interpretation could not be denied – TATA CONSULTANCY SERVICE Vs. STATE OF AP, 2004 (178) ELT – 22 (SC).

It is well settled law that words in the statute must, prima facie, be given its ordinary meaning where the grammatical construction is clear and manifest and without doubt, that construction ought to prevail unless there are some strong and obvious reasons to the contrary – Nothing has been shown to warrant that literal construction should not be given effect to – *CHANDRA VARKAR S.R. RAO Vs ASHA LATA (1986) 4 SCC 447.*

It is well settled law that the court must ascertain the intention of the legislature by directing its attention not merely to the clauses to be construed but to the entire statute. It must compare the clause with the other parts of the law, and the setting in which the clause to be interpreted, occurs – *STATE OF W.B. Vs UOI, AIR 1963 SC 1241*.

It is well settled that in construing the provisions of statute the Court should be slow to adopt a construction which tends to make any parts of the statute meaningless or ineffective. Thus, an attempt must always be made to reconcile the relevant provisions so as to advance the remedy intended by the statute. *BOARD OF MUSLIM WAKFS, RAJASTHAN Vs. RADHA KISHAN,* AIR 1979 SC 289.

It is well settled law that any word employed in a statute is not superfluous or redundant – *GRASIM INDUSTRIES LTD. Vs CCE 2002 (141) ELT 593 (SC*). In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statue and no word in any section can be construed in isolation.. Any part or any word of a statute shall not be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place – *RESERVE BANK OF INDIA Vs PEERLESS GENERAL FINANCE AND INVESTMENT CO. LTD. AIR 1987 SC 1023*. Every word employed has its own relevance, so, the provision must be perused as a whole and than construed accordingly. A statute is trite hence must be read as a whole – ITW SIGNODE INDIA LTD Vs. CCE 2003 (158) ELT – 403 (SC). Each word, phrase or sentence is to be considered in the light of general purpose and object of the statute itself – *POPPATLAL SHAH Vs STATE OF MADRAS, AIR 1953 SC 274.* No principle of interpretation requires a statutory provision to be broken down to the words which constitute it and then after defining each word individually weld them together to arrive at the meaning of a phrase – *JASBIR SINGH Vs VIPIN KUMAR JAGGI 2001 (132) ELT 529 (SC*).The court cannot approach the enactment with a view to pick holes or to search defects of drafting which make it working impossible BRITISH AIRWAYS PLC Vs. UOI 2002 (139) ELT – 6(SC). Any addition or amendment of words is not permissible, it must be construed as they stand, if reasonable possible- ITC Vs. CCE 2004 (174) ELT – 433 (SC) court should not over zealously search for ambiguities or obscurities – TATA CONSULTANCY SERVICES Vs. STATE OF AP. 2004 (178) ELT – 22 (SC). An interpretation which imputes tautology to the legislature shall not be admitted – STATE OF BIHAR Vs. HIRA LAL KEJRIWAL 1960 AIR 47 (SC).

Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statue is an edict of the legislature. The elementary principle of interpreting any word while considering a statue is to gather the mens or sententia legis of the legislature. 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 the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statue as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words which results is rejection of words has to be avoided. As stated by the Privy Council in Crawford v. Spooner[(1846) 6 Moore PC 1] "we cannot aid the Legislature's defective phrasing of an Act, we cannot add or mend and, by construction make up deficiencies which are left there". In case of an ordinary word there should be no attempt to substitute or paraphrase of general application. Attention should be confined to what is necessary for deciding the particular case. This principle is too well settled and reference to few decisions of this Court would suffice. [See: Gwalior Rayons Silk Mfg. (Wvg.) Co. Ltd. V. custodian of vested Forests, Palghat and Anr. (AIR 1990 SC 1747), Union of India and Anr. V. Dekoi Nandon Aggarwal (AIR 1992 SC 96), Institute of Chartered Accountants of India v. Price Waterhouse and Anr. (1997 (6) SCC 312) and Harbhajan Singh v. Press Council of India and Ors. (JT 2002 (3) SC 21)]. However, where expressions employed in a part lucidly express a clear and unambiguous meaning, it is not required to introduce another part of the statute for the purpose of controlling or diminishing the efficacy of the previous part – *WARBURTON Vs LOVELAND, (1832) 2D & C 480*. But in case of conflict, to ascertain the legislative intentions, all the constitutional parts of a statute are to be taken together and each word, phrase or sentence is to be considered in the light of general purpose and object of the Act itself – *ASHWANI KUMAR GHOSH Vs ARVINDRA BOSE, AIR 1952 SC 369*. And in case of conflict or inconsistency, attempt shall be made to reconcile them [*STATE OF BIHAR Vs HIRA LAL KEJRIWAL AIR 1960 SC 47*], if reasonably possible to do so and to avoid repugnancy *MADANLAL FAKIRCHAND DUDHEDIYA Vs SHREE CHANGDEO SUGAR MILLS LTD., AIR 1962 SC 1543*. A head on clash must be avoided – *RAJ KRUSHNA BOSE Vs BINOD KANUNGO, AIR 1954 SC 202*. But if two parts are repugnant, the last must prevail – *K. M. NANAVATI Vs STATE OF BOMBAY, AIR 1961 SC 112*.

The principle – "EXVISCERIBUS ACTUS" indicates that a statute must be read as a whole but not in piecemeal, the intention of the legislature must be found by a reading of the statute as a whole and in its context [*DOY PACK SYSTEMS PVT LTD Vs UOI, AIR 1988 SC 782*], which is derived from the contextual scheme – *HINDUSTAN ALUMINIUM CORPN. LTD. Vs STATE OF U.P., AIR 1981 SC 1649.*

While interpreting the law, setting of the words placed is also relevant, but it does not mean that a word which conveys a clean meaning, still a different interpretation or meaning should be given merely because of the setting – BANK OF INDIA Vs VIJAY TRANSPORT 1988 AIR 151 (SC), 1988 SCC. SUPPL. 47.

It is well settled law that merely because a law causes hardship, it cannot be interpreted in a manner so as to defeat its object. It is also to be remembered that the courts are not

concerned with the legislative policy or with the result, whether injurious or otherwise, by giving effect to the language used nor it is the function of the court where the meaning is clear not to give effect to it merely because it would lead to some hardship. It is the duty imposed on the courts in interpreting a particular provision of law to ascertain the meaning and intendment of the legislature and in doing so, it should presume that the provision was designed to effectuate a particular object or to meet a particular requirement – *FIRM AMARNATH BASHESHAR DASS Vs TEK CHAND (1972) 1 SCC 893; EASLAND COMBINES Vs. CCE, 2003 (152) ELT 39 (SC).*

In taxation measure the legislature enjoys wider latitude and its dispensations are based on an interpretation of the diverse economic, social and policy considerations. The cardinal principle of statutory interpretation is that if the meaning of the statutory interpretation is plain, then the Court must apply it regardless of the results. It is well settled law that if the language of a statute is clear and unambiguous and if two interpretations are not reasonably possible, it would be wrong to discard the plain meaning of the words used in order to meet a possible injustice – *CIT Vs T.VS SUNDRAM IYENGAR & SONS (P) LTD (1975) 101 ITR 784 (SC).* Where the language is plain and unambiguous, it must be applied as they stand.

It is a settled proposition of laws that the provisions of a taxation statute have to be construed strictly. Statutory rules should be construed in such a manner as to further the object or scheme of which they are the part and not to hamper. The primary and foremost task of a court in interpreting a statute is to ascertain the intention of the legislature, actual or imputed. Having ascertained the intention, the court must then strive to so interpret the statute as to promote or advance the object and the purpose of the enactment. For this purpose, where necessary, the court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need be no meek submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of law, the court would be well justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment by supplementing the written word, if necessary – *GIRDHARLAL AND SONS Vs BALBIR NATH MATHUR, A.I.R. 1986 S.C. 1099.*

If the intention of the legislature is clear and beyond doubt, than the fact that the provision could have been more artistically drafted, cannot be a ground to treat any part of the provision as otiose – *CWT Vs KRIPA SHANKAR DAYASHANKAR WORAH (1971) 81 ITR 763 (SC).* The Supreme Court has held that a construction which defeats the very object sought to be achieved by the legislature, must, if possible, be avoided – *CIT Vs TEJA SINGH (1959) 35 ITR 408 (SC).* **Where the plain literal interpretation of a statutory provision produces manifestly absurd and unjust results which could never have been intended by the legislature, the Court may modify the language used by the legislature or even do some violence to it,** so as to achieve the obvious intention of the legislature and produce a rational construction – *K.P. VARGHESE Vs ITO (1981) 131 ITR 597 (SC).*

An enactment being the will of the legislature, the permanent rule of interpretation is that a statute should be interpreted according to the intention of the persons who made it. If the legislature willfully omit to incorporate something of an analogous law in a

subsequent statute or even if there is a case of omission in a statute, the language of which is otherwise plain and unambiguous, the court is not competent to supply the omission by engrafting on it or introducing in it, under the guise of interpretation by analogy or implication, something that it thinks by analogy or implication, something that it thinks to be a general principle of justice and equity.

It is well settled rule of interpretation, hallowed by time and sanctified by authority that the meaning of an ordinary word is to be found not so much in strict etymological propriety of the language, nor even in popular use, as in the subject or occasion on which it is use and the object which is intended to be attained. *SANTA SINGH Vs. STATE OF PUNJAB.* AIR 1976 SC 2386.

It is well settled law that where the legislature clearly declares its intent in the scheme and language of a statute, it is the duty of the court to give full effect of the same without scanning its wisdom or policy, and without engrafting, adding or implying anything which is congenial to or consistent with such expressed intent of the law giver, more so, if the statute is a taxing statute – CST *Vs PARSON TOOLS & PLANTS (1975) 35 STC 413 (SC).* A casus omissues could not be supplied by the court, except in the case of clear necessity and when reason for it is found in the four corners of the statute itself – *CIT Vs NATIONAL TAJ TRADERS (1980) 121 ITR 535 (SC).* For example, in the case of *CIT Vs JAMES ANDERSON (1964) 54 ITR 345 (SC),* it was held that if the legislature has failed to set up a procedure to assess an income, courts cannot supply it. It should not be readily inferred, but supplied only in the case of clear necessity and when reason for it is found in the Act itself – *CIT Vs NATIONAL TAJ TRADERS (1980) 121 ITR 535 (SC).*

A statute must be construed according to its plain language and neither should anything be added nor subtracted unless there are adequate grounds to justify the inference that the legislature clearly so intended ASSESSING AUTHORITY-CUM-EXCISE AND TAXATION OFFICER, GURGAON VS. EAST INDAI COTTON MFG. CO. LTD., FARIDABAD, AIR 1981 SC 1610.

It is well settled that reading down tax provision in a way affecting adversely parties by imposing levy whereas statute never applied to them is impermissible especially as those parties not before the court – PUNJAB DAIRY DEVELOPMENT BOARD Vs. CEPHAMMLK SPECIALITIES LTD.- 2004 (175) ELT – 3 (SC).

And to ascertain the meaning of doubtful terms, there are two rules – one is NOSCITUR A SOCIIS which stipulates that the interpretation should be ascertained by reference to word associated with it, while another is EJUSDEM GENERIS which lays down that where there is a category, class or genus, words of a general nature shall be construed according to such class, category or genus. In case of AJAY GANDHI Vs. B.SINGH, 2004 (167) ELT – 257 (SC), it was held that for constructing statutory provision scheme of the Act, and actual practice may be take in to consideration . Factors to be taken into consideration are length for which it was followed, nature of rights and property affected by it, the injustice resulting from its departure and approval it has received in judicial decision or in legislations.

In a taxing statue, one has to book at what is clearly said. There is no room for any amendment. 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 only look fairly at the language used.

One must have regard to the letter of the law and not to the spirit of the law, that the subject cannot be taxed by inference or analogy, that in a taxing statue there is no governing principle to look at and one has simply to go on the Act itself to see whether the claimed is that which the statue imposes that while construing taxing Acts it is not the function of the court to give to the words used a strained and unnatural meaning and that the subject can be taxed only if the revenue satisfies the court that the case falls strictly within the provision of the law.

If the statute contains the lacuna or a loophole, it is not the function of the Court to plug it by a strained construction in reference to the supposed intention of the legislature. The legislature must then step in to resolve the ambiguity and so long as it does not do so, the tax prayer will get the benefit of that ambiguity. But, equally courts ought not to be astute to hunt out ambiguities by an unnatural construction of a taxing section. Whether the statute, even a taxing statute, contains an ambiguity has to be determined by applying normal rules of construction for interpretation of statutes. As observed by Lord Cairns in Pryce v. Mommonthshire Canal and Rly. Cos., (1879) 4 AC 197 cases which have decided that Taxing Acts are to be construed with strictness and that no payment is to be exacted from the subject which is not clearly and unequivocally required by Act of Parliament to be made, probable meant little more than this, that, inasmuch as there was not any a priori liability in a subject to pay any particular tax, nor any antecedent relationship between the tax payer and the taxing authority, no reasoning founded upon any supposed relationship of the tax payer and taxing authority could be brought to bear upon the construction of the Act and therefore, the tax payer had a right to stand upon a literal construction of the words used, whatever might be the consequences.
- MURARILAL MAHABIR PRASAD Vs. B. R. VAD 1976 AIR – 313 (SC); 1975 (2) SCC 736.

Though the benefit of an ambiguity in a taxing provision must go to the subject and the taxing provision must receive a strict construction, “that is not the same thing as saying that a taxing provision should not receive a reasonable construction” – CWT Vs KRIPASHANKAR – A 971 AIR 2463 SC. If the subject falls separately within the letter of the law he must be taxed, howsoever inequitable the consequences may appear to the judicial mind. If the Revenue seeking to tax cannot bring the subject within the letter of law, the subject is free no matter that such a construction may cause serious prejudice to the Revenue. In other words, though what is called equitable construction may be admissible in relation to other statutes or other provisions of a taxing statute, such a construction is not admissible in he interpretation of a charging or taxing provision of a taxing statute. Speaking for the Court in C.I.T. Madras v. Ajax Products Ltd., (1965) 1 SCR 700 at page 706= (AIR) 1965 SC1358 at page 1362) Subba Rao J., after citing then passage from the judgment of Rowlatt J. in the Cape Brandy case said: “To put it in other words, the subject is not to be taxed unless the charging provision clearly imposes the obligation”.

So far as the taxability is concerned, the subject is not to be taxed without clear words for that purpose, according to the natural construction of its words – *ST. AUBYN Vs A.G. (1951) 2 ALL ER 473 (HL),* there is no room for any intendment, there is no equity about a tax, there is no presumption as to tax, nothing is to be read in, nothing is to be implied – *CANADIAN EAGLE OIL CO. LTD. Vs R (1945) 2 ALL ER 499 (HL); TARULATA Vs CIT, AIR 1977 SC 1802 [1977- (108) ITR 345 (SC)*]. Fiscal matters are not built upon any theory of taxation-*CC Vs TOP TEN PROMOTIONS (1969) 3 ALL ER 39 (HL).* To interact charging section, if law is certain, strange meaning should not be given to it – TATA CONSULTANCY SERVICE Vs. STATE OF AP 2004 (178) ELT – 22(SC).

In other words, the maxim is that in construing fiscal statutes to determine tax liability or penal consequences, one must have regard to the strict letter of the law and not merely to the spirit of the law – *A.VS FERNANDEZ Vs STATE OF KERALA, AIR 1957 SC 657, MURARILAL Vs B.R.VAD, AIR 1976 SC 313*. A subject cannot be charged even if it falls with the spirit of law. A subject can not be charged unless the language of statute clearly imposes the obligation and if once the person ought to be taxed comes within the letters of law, he must be taxed, however, great the hardship may appear to the judicial mind – *RUSSEL Vs SCOTT (1948) AC 422; D. MIGATOR GOLDSMITH Vs IRC (1953) AC 347.*

It is well settled law that while construing the law reasonably, if there are two views i.e. there is a doubt, it must be interpreted strictly, but the results are different, depends upon the nature of the provision and the context. For example, where there are two views i.e. doubt about the imposition or measurement of the levy, the benefit shall be given to the assessee – *CIT Vs NAGA HILLS TEA CO. LTD., AIR 1973 SC 2524; CIT Vs SHAHZADA NANDA & SONS (1966) 60 ITR 392 (SC).* The rule is similar in case of imposition of penal consequences – CIT Vs VEGETABLE PRODUCTS LTD. (1973) 88 ITR 192 (SC); CCE Vs. ORIENT FABRICS PVT LTD 2003 (158) ELT – 545(SC).

It is well known assumption that if the interpretation of a fiscal statute is open to doubt, the construction beneficial to the assessee shall prevail, which is not a rule of thumb. In other words, for example, exemption being a freedom from liability, tax or duty, unlike charging provision, has to be tested at different touchstone.

In fact an exemption provision is like an exception and on normal principle of construction or interpretation of statutes, it is construed strictly either because of legislative intention or on economic justification of inequitable burden or progressive approach of fiscal provisions intended to augment state revenue. But once exception or exemption becomes applicable, no rule or principle requires it to be construed strictly. Truly speaking, liberal and strict construction of an exemption provision is to be invoked at different stages of interpreting it. When the question is whether a subject falls in the notification or in the exemption clause then it being in nature of exception is to be construed strictly and against the subject but once ambiguity or doubt about applicability is lifted and the subject falls in the notification then full play should be given to it and then it calls for a wider and liberal construction – *UOI Vs WOOD PAPERS LTD. 1990 (47) ELT 500 (SC).*

It is reiterated that procedural part of the exemption notification shall not be construed strictly. There are conditions and conditions. Some may be substantive, mandatory and based on considerations of policy and some others may merely belong to the area of

procedure. It will be erroneous to attach equal importance to the non-observance of all conditions irrespective of the purposes they were intended to serve. A distinction between the provisions of statute which are of substantive character and were built-in with certain specific objectives of policy on the one hand and those, which are merely procedural and technical in their nature on the other, must be kept clearly distinguished – *MANGALORE CHEMICALS & FERTILIZERS LTD. Vs DY. COMMISSIONER 1991 (55) ELT 437 (SC*).

The rules are meant to promote the cause of justice and not vice versa, so the same should be construed reasonably having regard to the language employed therein – *H.M.M. LTD. Vs CCE 1996 (87) ELT 593 (SC).* If there is no doubt or ambiguity it need not be construed strictly – *S.G. GLASS WORKS PVT. LTD. Vs.CCE 1994 (74) ELT 775 (SC).* However, purpose and policy decision behind the notification should not be defeated by giving it some meaning other than what is clearly and plainly flowing from it – *CCE Vs HIMALAYAN CO-OP. MILK PRODUCT UNION LTD 2000 (122) ELT 327 (SC).* Similarly, where liberal interpretation about a procedural condition is likely to facilitate commission of fraud and introduce administrative inconvenience [*INDIAN ALUMINIUM CO. LTD. Vs THANE MUNICIPAL CORPORATION 1991 (55) ELT 454 (SC)]* or procedural condition is being a substantive one, the same could not be construed liberally.

The principal that a fiscal statue has to be strictly construed, is also subject to an exception that the rule of strict construction does not apply to a provision which merely lays down the machinery provision for the calculation or procedure for the collection of the tax which requires the construction which makes the machinery workable – GURSAHAI SAIGAL Vs. CIT 1963 (3) SCR 893. Another exception is if two construction are possible and a strict construction would lead to an absurd result than the construction which is keeping with the object of the statutory provision or in keeping with equity could be accepted – CIT Vs. J. H. GOTLA, 1985 (4) SCC 343. The Supreme Court has expressed as follows:-

> …….. if strict literal construction tends to an absurd result i.e. result not intended to be subserved by the object of the legislation found in the manner indicated before, and if another construction is possible apart from strict literal construction then that construction should be preferred to the construction should be preferred to the strict literal construction. Though equity and taxation are often strangers, attempts should be made that these do not mean always so and if a construction results in equity rather than in injustice, then such construction should be preferred to the literal construction.

While the levy in our country has the status of a constitutional concept, the point of collection is located where the statute declares it will be. The measure adopted cannot be identified with the nature of the tax. The measure employed for assessing tax must not be confused with the nature of the tax. While the levy of a tax is defined by its nature, the measure of the tax may be assessed by its own standard. While the nature of levy may indicate the nature of the tax, it does not necessarily determine it. Hence, the legislature, while enacting a measure to serve as a standard for assessing the levy need not contour it along the lines while spell out the character of the levy itself.

So far as the machinery provisions are concerned, a declaration of the levy is the starting point. If there is a taxability imposed under the terms of the taxing statue, then follows the provisions in regard to the assessment of such liability. If there is no taxability to tax, there cannot be any assessment either – A. V. FERNANDEZ Vs. STATE OF KERELA 1957 AIR 657 SC.

In case of amendment, meaning prior to amendment can not be given as that would negate statutory provisions. Pre-amendment position, when not changed by carving out any specific exclusions has to be given effect to – STATE OF UP Vs. UOI 2004 (170) ELT- 385 (SC). Section of an Act substituted by new section and thus, the legislature wants to depart from the earlier position, they would have to do so in express words would have had to do so in express words – GAURAV DISTRIBUTORS (P) LTD. VS. CCE 2004 (170) ELT – 513 (SC), when not disturbed while amending a statute indicates that legislature did not want to depart from that construction. Rewriting of statute is the function of legislature and court cannot do so while interpreting statutes – TATA CONSULTANCY SERVICE Vs. STATE OF AP – 2004 (178) ELT – 22 (SC).

The principle – "EXVISCERIBUS ACTUS" indicates that a statute must be read as a whole but not in piecemeal, the intention of the legislature must be found by a reading of the statute as a whole and in its context [*DOY PACK SYSTEMS PVT LTD Vs UOI, AIR 1988 SC 782*], which is derived from the contextual scheme – *HINDUSTAN ALUMINIUM CORPN. LTD. Vs STATE OF U.P., AIR 1981 SC 1649.*

It is well settled that the words employed in a statute shall be perused in the context of such enactment, and in case of any ambiguity, the attempt should be to resolve by construing the statute as a whole. For this, the sources such as preamble, definitions, exceptions, explanations, fictions, deeming provisions, provisos, punctuation, saving clauses, **non obstante** clause, rules of language, scheme of the statute, etc. are known as **internal aids.**

However, where the statute is not exhaustive or its language is ambiguous, uncertain, doubtful, clouded or susceptible one by having of several meanings or shades of meaning, the **external source** prevails to ascertain the ideas and to resolve out the ambiguity, service of so such external aids are dictionaries, earlier legislation's, history of the legislation, parliamentary proceedings, foreign decisions, etc. However, such external sources may be employed rarely for limited purposes only. The priority would always be for the internal sources.

And at last, it must always be kept in mind that manifestly absurd, unjust results could never be intended by the legislature even if the language is plain. Since language is at best an imperfect medium to express human thought, so, the attempt would always be to discover the ideas behind the language; so, it is not a mechanical task. Every statute shall be construed fairly and reasonably. Since a statute is neither a literary text nor a divine revelation, its effect is therefore neither an expression laid on immutable overtones nor a permanent creation of infallible wisdom. It is a statement of situation or rather a group of possible events within a situation and as such it is essentially "ambiguous", the ideas behind the same are revolutionary because of fast changing social, economic and political

environment i.e. evolution of civilization. There shall be no rigidity as regards to its propositions and principles which may not be relevant now because of fast movement of ideologies, values and systems. What is relevant is that the interpretation and its effect must be suited to the needs of the society in the given circumstances. It is an essence for construction.