Unit II

METHODS OF INTERPRETATION.

1) Primary Rule.
2) Golden Rule.
3) Mischief Rule.

Primary Rule

The judges have devised various methods of interpretation amongst which the literal interpretation has been accepted as the Primary rule . This rule was evolved in England. According to this rule if the language of the statute is expressly clear, it shuts the possibility of further speculation .

In Abley v. Dale (1851)11 CB 378,it was laid down:

If the precise words are plain and unambiguous, in our judgement, we are bound to construe them in their ordinary sense, even though it do lead, in our view of the case, to an absurdity or manifest injustice.

Firm L. Hazari Mal v .ITO Ambala AIR 1957 Punj.5,the Division Bench of Punjab HC observed:

The first and foremost rule to which all others are subordinate is where the language of the statute is plain and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory construction. If a statute speaks for itself clearly, any attempt by court to make it clearer by imposing another meaning would not be construing statute but enacting one. The second rule is that the words appearing in a statute must be presumed to have been used in their sense and should be given their ordinary, natural and familiar meaning.

In Nelson Motis v. UI AIR 1992 SC 1981,

The Apex Court laid down that when the words of a statute are plain ,clear and unambiguous i.e; they are reasonably susceptible to only one meaning, the courts are bound to give effect to that meaning irrespective of consequences.

Again in Rohitash Kumar v. Om Prakash Sharma AIR 2013 SC 30, the court laid down that there may be a statute which causes great hardships or inconvenience, the court has no choice but to enforce it in full rigour. Hardships can't be used as a basis to alter the meaning of the language, if such meaning is clear.

For the proper application of the rule it is, therefore, necessary to determine whether the language is plain or ambiguous?

In Ormond Investment Co. v. Betts (1928) AC 143 (HL), it was laid down that by ambiguity is meant any phrase fairly and equally open to diverse meaning.

There is inherent weakness in the plain meaning rule that it is not always easy to say whether a word is plain or not? According to Paton, judges frequently disagree as to whether a section is plain or not, where it is agreed that the meaning is plain each may differ from the other as to what that plain meaning is ?

There are certain weaknesses in the literal interpretation or plain meaning rule:-

1. It is not always easy to say whether a word is plain or not?
2. It is ill suited to modern social legislations.
3. It can't be applied to the changing needs of a developing society.

GOLEDN RULE

According to Maxwell, Golden Rule is the modification of the literal rule. Literal interpretation has its limitations. It can proceed up to a certain point. When literal int. results in absurdity and repugnance them Golden Rule is to be applied in order to avoid absurdity,

"Golden rule" contradicts "literal rule" according to which, the plain meaning has to be adhered to even to the point of absurdity

DIFFERENT VERSIONS OF GOLDEN RULE

Lord Wensleydale's Golden Rule

Grey v. Pearson (1857) 6 HL 61.

In construing Wills and indeed Statutes and all written instruments, the grammatical and ordinary sense of the word is adhered to, unless that word lead to some absurdity or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical and ordinary sense of the word may be modified, so as to avoid that absurdity or inconsistency but no further.

Jervis, C.J., in Mattison v. Hart (1854) 14 CB 357, observed :

We must take recourse to what is called the Golden Rule as applied to the Acts of parliament, viz; to give to the words used by the Legilature their plain and natural meaning unless it is clear from the general scope and intention of the statute, injustice and absurdity would result from so construing them.

Lord Reid in Luke v.IRC (1963) 557, observed :

To apply the words literally is to defeat the obvious intention of the legislature and to produce wholly an unreasonable result. To achieve the obvious intention and to produce a reasonable result we must do some violence to the words…The general principle is well settled. It is only when the words are absolutely incapable of a construction which will accord with the apparent intention of the provision and will avoid a wholly unreasonable result that the words of the enactment must prevail.

The purpose of invoking the Golden Rule is to avoid the rigour of literal rule when its application results in absurdity or inconsistency. Although the Golden Rule permits the Plain meaning rule to be departed from if a strict adherence to it would result in an absurdity but the later part of the Golden Rule must be applied with much caution. The Apex Court in Jugal Kishore v. Raw cotton co. Ltd. AIR 1955 SC 376, laid down that the cardinal rule of interpretation is to read the statute literally. If however such a reading leads to absurdity and the words are susceptible of another meaning the court may adopt the same. If no such alternative construction is possible the court may adopt the ordinary rule of interpretation.

MISCHIEF RULE

A completely different approach to statutory interpretation is embodied in the Mischief Rule. This rule has its origin in Heydon's Case which was decided in 1584.This rule is also known as Purposive Construction.

Heydon's Case (1584) 76 ER 637. In this case it was sated that four things are to be discussed and considered:

1. What was the common law before the making of the Act,
2. What was the mischief and defect for which the common law did not provide for,
3. What remedy the parliament hath resolve and appointed to cure the disease of the commonwealth, and
4. The true reason of the remedy.

The rule further lays down what the judges are to do-

To make such constructions as shall suppose the mischief and advance the remedy.The approach here laid down contemplates a wide enquiring into the policy and purpose behind the statute.

The Apex court in Bengal Immunity Co. V State of Bihar AIR 1955 SC 661 applied this rule.

While applying rule the court highlighted the significance by saying that the method of interpretation found in mischief rule is as necessary now as it was when Lord Coke reported Heydon case .Expressed in modern times it only means that the purpose and significance of an enactment is to be found after exploring the defect or the shortcoming which are sought to be removed by means of it by parliament which does not legislate in vain or without some reason or need for it.

The court applied the rule in costuming A-286 of the Constitution.

The court referred to the previous state of Law (Pre-Constitution law) in the Provinces which was in the state of chaos and confusion because of the indiscriminate exercise of taxing power .The court observed that it was to cure this mischief of multiple taxation and to preserve free flow of inter-state trade a commence.

This rule was again applied by the SC in similar context in Goodyear India Ltd. V. State of Haryana AIR 1990 781 while construing the change brought about by Constitution 46th Amendment Act.

The SC applied this rule in 2005 in construing penal statute in Iqbal Singh Marwah v. Meenakshi Marwah AIR 2005 SC 2119.The Court said that the strict interpretation of penal statute is not of universal applicability. Penal statute should be construed in a manner as shall suppress the mischief and advance the remedy.

Some Guiding Principles

Regard to Subject and object

When two interpretations are open, the one which is in harmony with the object is to be followed.

U.P. Bhoodan Yagna Samiti v. Braj Kishore AIR 1988 SC 2239.

While interpreting section 14 of U.P.Bhoodan Yagna Act 1953,it was held that the expression ‘landless persons’ which made provision for grant of land to landless persons, was limited to landless labourers and did not include landless businessman residing in a city.

The object of the Act was to implement the Bhoodan Movement, which aimed at distribution of land to landless labourers who were well versed in agriculture and who had no other means of subsistence.

Legal Sense of words

When words are used in legal sense they are to be interpreted accordingly. In State of Punjab v. Inder Singh AIR 1998 SC 7, it was laid down that the word 'deputation' has a different connotation in service law and dictionary meaning is of no help.

Exact meaning preferred to loose meaning

In an Act of Parliament the words are used in exact sense and therefore they are to be interpreted in exact sense. There is a presumption says SC(in Prithipal Singh v.Union of India AIR 1982 SC 1413) that the words are used in an Act of Parliament correctly and exactly and not loosely and inexactly.

Mayor, Councillors and Burgesses v.Taranaki Electric Power Board, AIR 1933 PC 216.The question in this case before the PC was what is the true meaning of the word 'adjoining'. It was pointed out that the exact meaning of the word was 'conterminous' as distinguished from its loose meaning of 'near' or 'neighbouring',; accordingly the former meaning was preferred.

Technical words in technical sense

Words relating to business, profession, art or science have a special meaning and this special meaning is called technical meaning .Technical words in a statute are to be interpreted in technical sense.

Cemento Corporation Ltd. v. Collector Central Excise AIR 2002 SC 3680.The question in this case before the court was regarding the meaning the of the word 'cement'. It was laid down that the meaning of 'cement' as known in trade connotes 'cement' and not as used in dictionary . Accordingly 'Lympo' used as a substitute for cement was not held to be cement.

The court may even prefer popular meaning .The SC in Commissioner of Sales Tax, M.P.,Indore v. Jaswant Singh Charan Singh,AIR 1967 SC 1454 while, construing the word 'coal' in a Sales Tax Act, ruled in favour of popular meaning by applying the test: "what would be the meaning which persons dealing with coal and consumers purchasing it as fuel would give to that word". On this test coal was held to include charcoal and not restricted to coal obtained as a mineral. In contrast, it was said that in the Colliery Control Order, the word 'coal' will be understood in its technical or scientific sense and will be interpreted as a mineral product and will, therefore, not include charcoal.

Ramavatar Budhaiprasad v. Assistant Sales Tax Officer AIR 1961 SC 1325.

The question before the court was whether the word 'vegetables' included betel leaves or not under C.P. and Berar Sales Tax Act, 1947. Being a word of everyday use it must be construed in its popular sense, meaning that sense which people conversant with the subject matter with which the statute is dealing would attribute to it. The word was construed to denote

those classes of vegetable matter which were grown in kitchen garden. Betel leaves were excluded.

Avoiding Addition or Substitution or Rejection of words

As a general rule it is not allowed to add or substitute or reject the words of the statute. Any interpretation which requires for its support addition or substitution or which results in rejection of words as meaningless has to be avoided. This has been observed by the SC in.

Shyam Kishore Devi v. Patna Municipal Corporation, AIR 1966 SC 1678.

The PC in Crawford v. Spooner (1846) 6 Moore PC 1, laid down that we can't aid the Legislature's defective phrasing of an Act, we can't add or mend and, make up deficiencies which are left out there.

In State of Kerala v.M.Verghese AIR 1987 SC 33 and UI v. D.N.Aggarwal AIR 1992 SC 96, the SC observed that the court can't reframe the legislation for very good reason that it has no power to legislate.

On the one hand it is not permissible to add words or to fill up gap or lacuna, on the other hand effort should be made to give meaning to each and every word used by the legislature.

In Quebec Railway, Light, Heat and Power Co. v. Vandry AIR 1920 PC 181, it was laid down that the legislature is deemed not to waste its words or to say anything in vain.

To this general rule there is an exception. In Inco Europe Ltd. v.First Choice Distribution (2000) 2 All ER 109, it was stated that the court will 'add words' or 'omit words' or 'substitute words'. But before interpreting a statute in this way the court must be abundantly sure of three matters:

The intended purpose of the statute or provision in question,

That by inadvertence the draftsman and parliament failed to give effect to that purpose in the provision in question and

The substance of the provision parliament would have made, although not necessarily the precise words parliament would have used, had the error in the Bill been noticed.

The SC in S. K. Devi v. Municipal Corpn. AIR 1966 SC 1678, laid down that the power to add words should not be exercised unless there is almost a necessity in order to give the section a workable meaning.

Casus omissus (a point not provided for by a statute)

As a general rule it is not permissible to supply omissions in a statute. There is a strong presumption that the legislature does not make mistakes and no court is competent to proceed

upon the assumption that the legislature has made a mistake. The courts can't say to themselves that through oversight the legislature has failed to provide for a particular situation and, therefore, what was not done by the legislature may be done by the court. This is not within the competence of court's jurisdiction.

In Dunpont v. Mills 1967 All ER 168, the court stated the general rule –

> "While the court may interpret doubtful or obscure phrases and obscure language in a statute so as to give effect to the presumed intention of the legislature and to carry out what appears to be general policy of the law, it can't by construction, cure a casus omissus……"

The PC in K. Roy v. Secretary of State AIR 1938 PC 281 and the SC in Hiradevi v. District Boardboard, Shahjahanpur AIR 1952 SC 362 have observed that a matter which should have been ,but has not been provided for in a statute can't be supplied by the courts, as to do so will be legislation and not construction.

To this general rule there is an exception. In Padmasundra Rao v. State of T.N. AIR 2002 SC 1334, it was laid down that the two principles of construction one relating to casus omissus and the other in regard to reading statute as a whole appear to be well settled. Casus omissus can't be supplied by the court except in case of clear necessity and when the reason for it is found in the four corners of statute itself.

Ut res magis valeat quam pereat (statute to be construed to make it effective and workable)

The provision of a statute must be so construed so as to make it effective and operative. A statute can't be declared void for being merely vague .It is the duty of the court to find out the meaning of the statute even if its language appears vague. It is no doubt true that if a statute is absolutely vague and its language wholly intractable and absolutely meaningless, the statute could be declared void for vagueness.

Manchester Ship Canal Co. v. Manchester Racecourse Co., (1900) 2 Ch 352, Farwell J., said:

> ''Unless the words were so absolutely senseless that I could do nothing at all with them, I should be bound to find some meaning and not to declare them void for uncertainty".

Ejusdem generis (of the same kind)

The rule of ejusdem generis is that where the particular words are followed by general words, the general words are not to be construed in their widest sense but should be construed

ejusdem generis i.e., are held to be intended to describe only other things of the same kind as enumerated by particular words.

According to Crawford the rule of ejusdem generis is founded upon the idea that if the legislature intended the general words to be used in an unrestricted sense, the particular classes would have not be mentioned.

The SC in Amar Chandra v. Collector of Excise,Tripura AIR 1972SC 1863, laid down certain conditions for the application of the rule:

the statute contains an enumeration of specific words,

the subjects of enumeration constitute a class or category,

that class or category is not exhausted by the enumeration,

the general terms follow the enumeration and

there is no indication of a different legislative intent.

Powel v. Kempton Park Racecourse Co. (1889) AC 143, the question before the House of Lords was the connotation of the words – "other places". Section 1 of the Betting Act prohibited betting in a "house, office, room or other places". The HL following the rule, restricted the words 'other places' to 'covered enclosures'. Betting in an uncovered place was held not to be prohibited.

Jiyajirao Cotton Mills Ltd. v. M. P. Electricity Board AIR 1989 SC 788.

Section 49(3) of the Electricity Supply Act, 1948 empowers the Electricity Board to fix different tariffs for the supply of electricity to any person having regard to the geographical position of any area, the nature of supply and the purpose for which the supply is required and any other relevant factors. The SC refused to apply the rule of ejusdem generis for limiting the ambit of other relevant factors on the ground that there was no genus of the other relevant factors .The enumerated factors viz., geographical position of the area and the nature and purpose of the supply couldn't be related to a common genus to enable the application of ejusdem generis rule.

Noscitur A Sociis (doubtful words are interpreted according to context)

According to Maxwell when two or more words which are susceptible of analogous meaning are coupled together they are understood to be used in their cognate sense they take colour from each other and more general is restricted to a sense analogous to less general.

In order to ascertain the meaning of any word or phrase that is ambiguous or susceptible of more than one meaning the court may, says Crawford, properly resort to other words with which the ambiguous word is associated in the statute.

Rainbow Steels Ltd. v. Commissioner of Sales Tax AIR 1981 SC 2101.

In interpreting Entry 15 of the Schedule to the UP Sales Tax Act,1948 which reads 'old, discarded, unserviceable or obsolete machinery stores or vehicles including waste products', the word old was construed to refer old machinery which had become 'non functional' or 'non usable'.

Some judges do not distinguish between the rule of ejusdem generis and the rule of noscitur a sociis. Noscitur a sociis is wider than ejusdem generis .Rather ejusdem generis is only an illustration or specific application of noscitur a sociis.

Reddendo Singula Singulis

The phrase 'reddendo singular singulis' indicates that different words in one part of the statute are to be applied respectively to the other portions or sentence to which they respectively relate, even if strict grammatical construction should demand otherwise.

The SC applied the rule in K.V. Kamath v.Rangappa Baliga & Co. AIR 1969 SC 504.

Proviso to article 304 of the Constitution reads:

'Provided that no Bill or amendment for the purpose of clause (b) shall be introduced or moved in the Legislature of a State without the previous of the president. It was held by the SC that the word 'introduced' referred to 'Bill' and the word 'moved' to 'Amendment'.