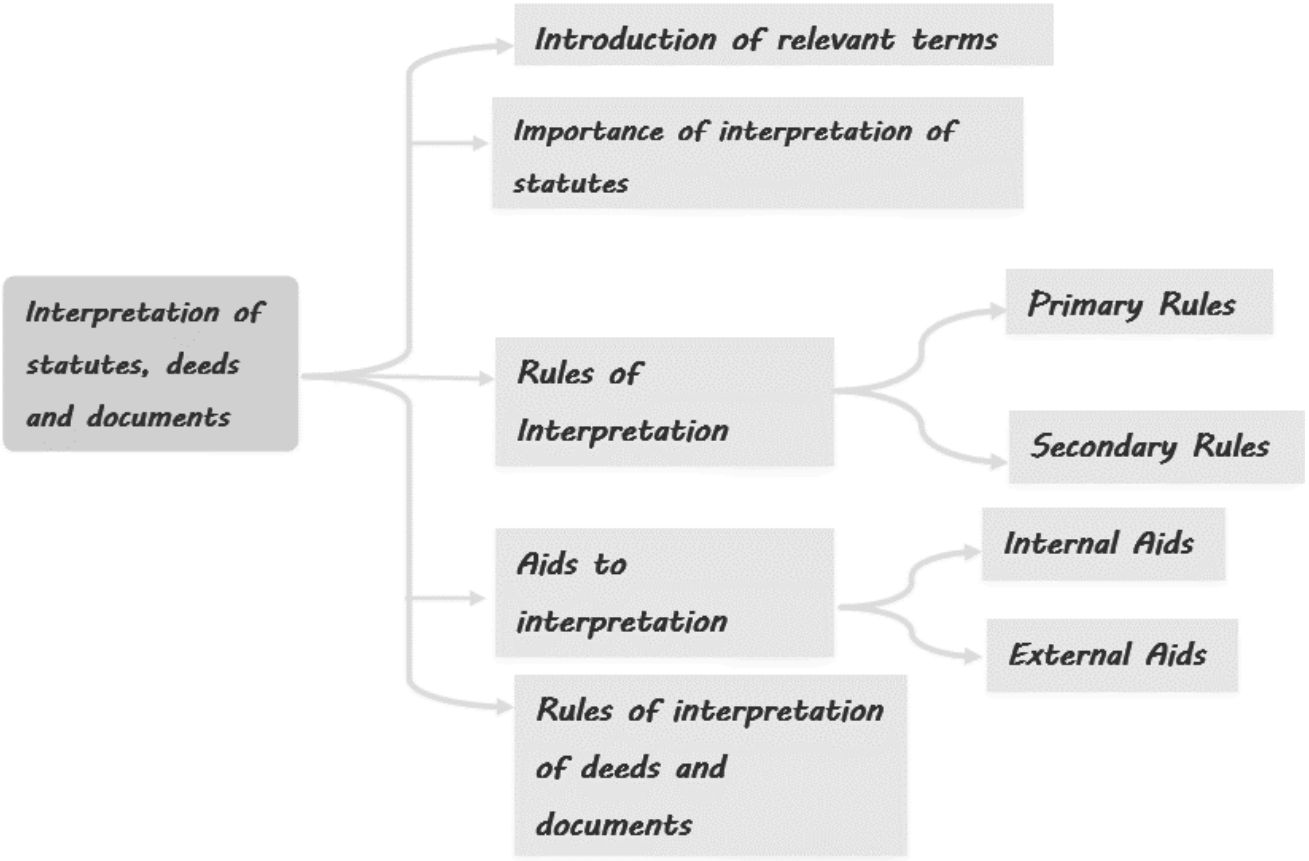
Chapter 2: Interpretation of Statutes

Chapter Overview



Introduction

As a Chartered Accountant in practice or in service, you will be required to read various laws and statutes. Often these enactments may be capable of more than one interpretation. It is in this context that awareness of interpretation as a skill becomes relevant. This chapter will enable you to understand certain rules of interpretation as well as the various internal and external aids to interpretation. We shall also discuss the art of interpreting deeds and documents.

This study relates to 'Interpretation of Statutes, Deeds and Documents'. So, it is necessary that we understand what these words and certain other terms denote.

'Statute': To the common man the term 'Statute' generally means laws and regulations of various kinds irrespective of the source from which they emanate.

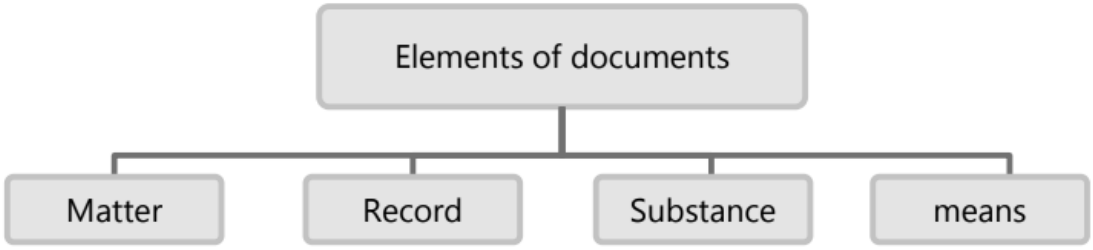
The word "statute" is now synonymous with an Act of Parliament. Broadly speaking it is the written law that the legislature establishes directly. Maxwell defines

"statute" as the will of the legislature. In India 'statute' means an enacted law i.e., the law either enacted by the Parliament or by the state legislature.

In India the constitution provides for the passing of a bill in Lok Sabha and Rajya Sabha and finally after obtaining the assent of the President of India to it, it becomes an Act of Parliament or Statute.
Thus, that which originates through legislation is called "enacted law" or statute as against "unenacted" or "unwritten law".
However, the Constitution does not use the terms 'statute' though one finds the terms 'law' used in many places. The term 'law' is defined as including any ordinance, order, bye-law, rule, regulation, notification, and the like.
In short 'statute' signifies written law as against unwritten law.

'Document': Generally understood, a document is a paper or other material thing giving information, proof or evidence of anything. The Law defines 'document' in a more technical form. Section 3 of the Indian Evidence Act, 1872 states that 'document' **means** any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.
Example: A writing is a document, any words printed, photographed are documents.

Section 3(18) of the General Clauses Act, 1897 states that the term 'document' shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means which is intended to be used, or which may be used, for the purpose of recording this matter.
Generally, documents comprise of following four elements:



(i) Matter-This is the first element. Its usage with the word "any" shows that the definition of document is comprehensive.
(ii) Record-This second element must be certain mutual or mechanical device employed on the substance. It must be by writing, expression or description.
(iii) Substance-This is the third element on which a mental or intellectual elements comes to find a permanent form.
(iv) Means-This represents forth element by which such permanent form is

acquired and those can be letters, any figures, marks, symbols which can be used to communicate between two persons.

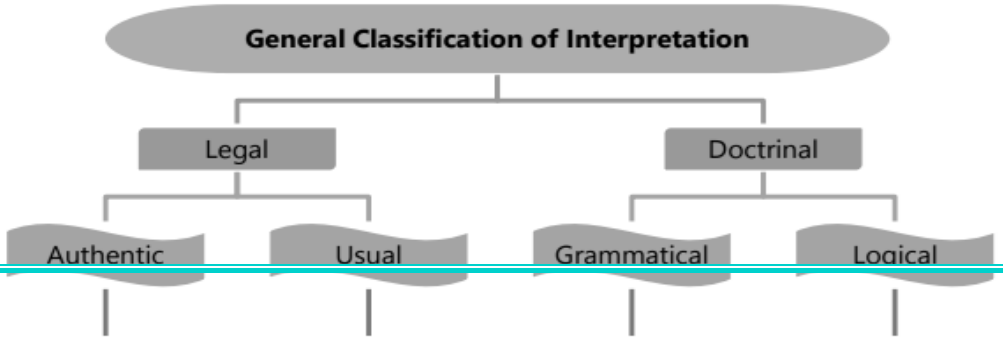
'Instrument': In common parlance, 'instrument' means a formal legal document which creates or confirms a right or records a fact. It is a formal writing of any kind, such as an agreement, deed, charter or record, drawn up and executed in a technical form. It also means a formal legal document having legal effect, either as creating a right or liability or as affording evidence of it.
Section 2(14) of the Indian Stamp Act, 1899 states that 'instrument' includes every document by which any right or liability is or purports to be created, transferred, extended, extinguished or recorded.

'Deed': The Legal Glossary defines 'deed' as an instrument in writing (or other legible representation or words on parchment or paper) purporting to affect some legal disposition. Simply stated deeds are instruments though all instruments may not be deeds. However, in India no distinction seems to be made between instruments and deeds.

'Interpretation': By interpretation is meant the process by which the Courts seek to ascertain the meaning of the legislature through the medium of the words in which it is expressed. Simply stated, 'interpretation' is the process by which the real meaning of an Act (or a document) and the intention of the legislature in enacting it (or of the parties executing the document) is ascertained.
Interpretation is resorted to in order to resolve any ambiguity in the statute. It is the art of finding out the true sense of words that is to say the sense in which their author intended to convey the subject matter.

Importance of Interpretation: Interpretation, thus, process of considerable significance. In relation to statute law, interpretation is of importance because of the inherent nature of legislation as a source of law. The process of statute making and the process of interpretation of statutes take place separately from each other, and two different agencies are concerned. Interpretation serves as the bridge of understanding between the two.

Classification of Interpretation:



Jolowicz, in his Lectures on **Jurisprudence (1963 ed., p. 280)** speaks of interpretation thus:
Interpretation is usually said to be either 'legal' or 'doctrinal'. It is 'legal' when there is an actual rule of law which binds the Judge to place a certain interpretation of the statute. It is 'doctrinal' when its purpose is to discover 'real' and 'true' meaning of the statute.
'Legal' interpretation is sub-divided into 'authentic' and 'usual'. It is 'authentic' when rule of interpretation is derived from the legislator himself; it is 'usual' when it comes from some other source such as custom or case law. Thus, when Justinian ordered that all the difficulties arising out of his legislation should be referred to him for decision, he was providing for 'authentic' interpretation, and so also was the Prussian Code, 1794, when it was laid down that Judges should report any doubt as to its meaning to a Statute Commission and abide by their ruling.

'Doctrinal' interpretation may again be divided into two categories: 'grammatical' and 'logical'. It is 'grammatical' when the court applies only the ordinary rules of speech for finding out the meaning of the words used in the statute. On the other hand, when the court goes beyond the words and tries to discover the intention of the statute in some other way, then it is said resort to what is called a 'logical' interpretation.
According to Fitzerald, interpretation is of two kinds - 'literal' and 'functional'. The literal interpretation is that which regards conclusively the verbal expression of the law. It does not look beyond the 'literaligis'. The duty of the Court is to ascertain the intention of the legislature and seek for that intent in every legitimate way, but first of all in the words and the language employed.

'Functional' interpretation, on the other hand, is that which departs from the letter of the law and seeks elsewhere for some other and more satisfactory evidence of the true intention of the legislature. In other words, it is necessary to determine the relative claims of the letters and the spirit of the enacted law. In all ordinary cases, the Courts must be content to accept the letter of the law as the exclusive and conclusive evidence of the spirit of the law **(Salmon: Jurisprudence, 12th ed., pp. 131-132)**. It is essential to determine with accuracy the relations which subsist between the two methods.

'Construction' as applied to a written statute or document means to determine from its known elements its true meaning or the intention of its framers. Construction involves drawing conclusions beyond the actual expressions used in the text. This is done by referring to other parts of the enactment and the context in which the law was made. Thus, when you construe a statute, you are attempting to ascertain the intention of the legislature.

Difference between Interpretation and Construction:

It would also be worthwhile to note, at this stage itself, the difference between the terms 'Interpretation' and Construction. While more often the two terms are used interchangeably to denote a process adopted by the courts to ascertain the meaning of the legislature from the words with which it is expressed, these two terms have different connotations.

Interpretation is the art of ascertaining the meaning of words and the true sense in which the author intended that they should be understood.

It is the drawing of conclusions from a statute that lie beyond the direct expression of the words used therein. **[Bhagwati Prasad Kedia v. C.I.T, (2001)]**

It is the duty of the courts to give effect to the meaning of an Act when the meaning can be equitably gathered from the words used. Words of legal import occurring in a statute which have acquired a definite and precise sense, must be understood in that sense. **(State of Madras v. Gannon Dunkerly Co. AIR 1958)**

Thus, where the Court adheres to the plain meaning of the language used by the legislature, it would be 'interpretation' of the words, but where the meaning is not plain, the court has to decide whether the wording was meant to cover the situation before the court. Here, the court would be resorting to 'construction'. Conclusions drawn by means of construction are within the spirit though not necessarily within the letter of the law.

In practice construction includes interpretation and the terms are frequently used synonymously.

Why do we Need Interpretation/ Construction?

While every care is taken to ensure that laws framed for passing by the legislature are free from ambiguity and absurdity, it is scarcely possible to express them in such terms as shall be free from all ambiguity. Such a degree of precision is perhaps unattainable. Similarly, the legislators cannot foresee all contingencies at the time of the passing of the law. This is further compounded by the want of views sufficiently comprehensive as to the "intention of the legislation". It is quite possible that the words of a statute are vague, ambiguous or reasonably capable of more than one meaning. It is then that a need for interpretation or construction arises.
Hence rules of interpretation are required in order to ensure just and uniform decisions.

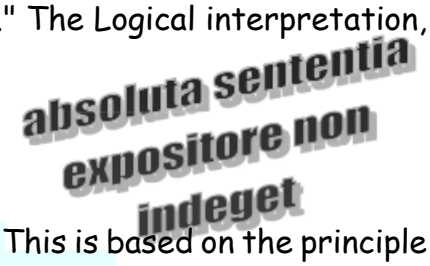
No better explanation can be given for the need for interpretation than that provided by Denning L.J., that ultimate repository of legal erudition:
"It is not within human powers to foresee the manifold sets of facts which may arise; and that, even if it were, it is not possible to provide for them in terms free from all ambiguity. The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticized. A judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity.
It would certainly save the judges' trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears, a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this, not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it, and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give 'force and life' to the intention of the legislature".

It has been rightly said that a statute is the will of the legislature. The fundamental rule of interpretation of a statute is that it should be expounded according to the intent of those that made it. In the event of the words of the statute being precise and unambiguous in themselves it is only just necessary to expound those words in their natural and ordinary sense. Thus far and no further. This is because these words distinctly indicate the intention of the legislature.

The purpose of interpretation is to discern the intention which is conveyed either expressly or impliedly by the language used. If the intention is express, then the task becomes one of 'verbal construction' alone. But in the absence of any intention being expressed by the statute on the question to which it gives rise

and yet some intention has to be, of necessity, imputed to the legislature regarding it, then the interpreter has to determine it by inference based on certain legal principles. In such a case, the interpretation has to be one which is commensurate with the public benefit.

Consequently, if a statute levies a penalty without expressly mentioning the recipient of the penalty, then, by implication, it goes to the coffers of the State. As we have noted earlier, 'interpretation' may be either 'grammatical' or 'logical'. Grammatical or literal interpretation concerns itself with the words and expressions used in a statute and only that. In other words, the emphasis in grammatical interpretation is on "what the law says." The Logical interpretation, on the other hand, seeks to ascertain "what the law means".



Normally, grammatical interpretation is the only approach to be adopted. The court cannot add to or modify a single word or phrase used in an enactment. This is based on the principle of absoluta sententia expositore non indiget meaning "clear words need no explanation."

However, where the grammatical interpretation leads to a manifest absurdity or is logically flawed, the courts can adopt the logical interpretation that will advance the true purpose or intention of the legislation rather than reduce it to a futility. Where there are two constructions reasonably applicable to a provision, one of which is mechanical and based on the rules of grammar, while the other is vibrant and more in tune with the basic intention of the Act of Parliament, the latter shall be preferred to the former. **(Arora v. State of UP)**

But where the law is clear and unambiguous the court shall construe it based on the strict grammatical meaning. The law when clear shall be strictly applied, however harsh or burdensome it may be. The court shall administer the law as it stands and shall not attempt an alternative interpretation based on logic that is ostensibly just or reasonable.

Rules of Interpretation/ Construction

Over a period, certain rules of interpretation/construction have come to be well recognized. However, these rules are considered as guides only and are not inflexible. These rules can be broadly classified as follows:

Primary Rules

- Rule of Literal Construction
- Rule of Reasonable Construction
- Rule of Harmonious Construction
- The Rule in Heydon's Case or Mischief Rule
- Rule of Beneficial Construction
- Rule of Exceptional Construction
- Rule of *Ejusdem Generis*

(A) Primary Rules

(1) Rule of Literal Construction:

The first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature itself. Thus, if the words of a statute are capable of one construction only, then it would not be open to the courts to adopt any hypothetical construction on the ground that such hypothetical construction is more consistent with the alleged object and policy of the Act.

It is a cardinal rule of construction that a statute must be construed literally and grammatically giving the words their ordinary and natural meaning. Therefore, the language used in the statute must be construed in its grammatical sense. The correct course is to take the words themselves and arrive, if possible, at their meaning without reference to cases, in the first instance.

If the phraseology of a statute is clear and unambiguous and capable of one and only one interpretation, then it would not be correct to extrapolate these words out of their natural and ordinary sense. When the language of a statute is plain and unambiguous it is not open to the courts to adopt any other hypothetical construction simply with a view to carrying out the supposed intention of the legislature.
Thus, it is the primary duty of the court to interpret the words used in legislation according to their ordinary grammatical meaning in the absence of any ambiguity or doubt.

Normally, where the words of a statute are in themselves clear and unambiguous, then these words should be construed in their natural and ordinary sense and it is not open to the court to adopt any other hypothetical construction. This is called the rule of literal construction.
This principle is contained in the Latin maxim ***"absoluta sententia expositore non indiget"*** which literally means "an absolute sentence or preposition needs not an expositor". In other words, plain words require no explanation.

Sometimes, occasions may arise when a choice has to be made between two interpretations - one narrower and the other wider or bolder. In such a situation, if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one.

When we talk of disclosure of 'the nature of concern or interest, financial or otherwise' of a director or the manager of a company in the subject-matter of a proposed motion (as referred to in section 102 of the Companies Act, 2013), we have to interpret in its broader sense of referring to any concern or interest containing any information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decisions thereon.

What is required is a full and frank disclosure without reservation or suppression, as, for instance where a son or daughter or father or mother or brother or sister is concerned in any contract or matter, the shareholders ought fairly to be informed of it and the material facts disclosed to them. Here a restricted narrow interpretation would defeat the very purpose of the disclosure.

Similarly, when a matter which should have been, but has not been, provided for in a statute cannot be supplied by courts as to do so would amount to legislation and would not be construction.

This Rule of literal interpretation can be read and understood under the following headings:

Natural and grammatical meaning: Statutes are to be first understood in them natural, ordinary, or popular sense and must be construed according to them plain, literal and grammatical meaning. If there is an inconsistency with any express intention or declared purpose of the statute, or it involves any absurdity, repugnancy, inconsistency, the grammatical sense must then be modified, extended or abridged only to avoid such an inconvenience, but no further. **[(State of HP v. Pawan Kumar (2005)]**

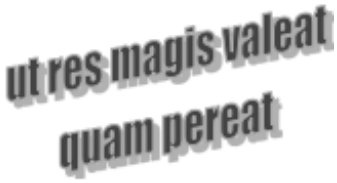
Example: In a question before the court whether the sale of betel leaves was subject to sales tax. The Supreme Court held that betel leaves could not be given the dictionary, technical or botanical meaning when the ordinary and natural meaning is clear and unambiguous. Being the word of everyday use, it must be understood in its popular sense by which people are conversant with it as also the meaning which the statute dealing with the matter would attribute to it. Therefore, the sale of betel leaves was liable to sale tax. **(Ramavtar v. Assistant Sales Tax Officer, AIR 1961 SC 1325)**

Technical words are to be understood in technical sense: This point of literal construction is that technical words are understood in the technical sense only. In construing the word 'practice' in the Supreme Court Advocates Act, 1951, it was observed that practice of law generally involves the exercise of both the

functions of acting and pleading on behalf of a litigant party. When legislature confers upon an advocate the right to practice in a court, it is legitimate to understand that expression as authorizing him to appear and plead as well as to act on behalf of suitors in that court. **(Ashwini Kumar Ghose v. Arabinda Bose AIR 1952 SC 369)**

(2) Rule of Reasonable Construction:

According to this Rule, the words of a statute must be construed ***'ut res magis valeat quam pereat'*** meaning thereby that words of statute must be construed so as to lead to a sensible meaning. Generally, the words or phrases of a statute are to be given them ordinary meaning. It is only when the words of an enactment are capable of two constructions that there is scope for interpretation or construction. Then, that interpretation, which furthers the object, can be preferred to that which is likely to defeat or impair the policy or object.



Similarly, when the grammatical interpretation leads to a manifest absurdity then the courts shall interpret the statute so as to resolve the inconsistency and make the enactment a consistent whole.

This principle is based on the rule that the words of a statute must be construed reasonably so as to give effect to the enactment rather than reduce it to a futility. This principle is contained in the Latin maxim, ***Interpretatio fienda est ut res magis valeat quam pereat***. In short, Statutes should be construed grammatically.

Thus, when grammatical interpretation leads to certain absurdity, it is permissible to depart there from and to interpret the provision of the statutes in a manner so as to avoid that absurdity. This departure from the grammatical construction is permissible only to the extent it avoids such absurdity and no further. This is also called the Golden Rule of Interpretation.

Thus, if the Court finds that giving a plain meaning to the words will not be a fair or reasonable construction, it becomes the duty of the court to depart from the dictionary meaning and adopt the construction which will advance the remedy and suppress the mischief provided the Court does not have to resort to conjecture or surmise. A reasonable construction will be adopted in accordance with the policy and object of the statute.

(3) Rule of Harmonious Construction:

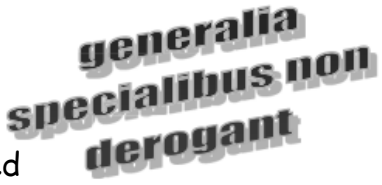
It is a recognized rule of interpretation of statutes and deeds that the expressions used therein should ordinarily be understood in a sense in which they

best harmonize with the object of the statute. The opposite of "harmony" is conflict. Thus, this rule is applied when there is a conflict between two provisions of a statute. Similarly, this Rule comes to our aid when there is conflict between the provisions of a statute and the object, which the legislature had in view.

Thus, where an expression is susceptible of a narrow or technical meaning, as well as a popular meaning, the court would be justified in assuming that the legislature used the expression in the sense, which would carry out its objects and reject that which renders it invalid. **(New India Sugar Mills Ltd., v. Commissioner, Sales Tax)**

It is a basic rule of interpretation that if it is possible to avoid a conflict between two provisions on a proper construction thereof, then it is the duty of the court to so construe them that they are in harmony with each other.

The statute must be read as a whole and every provision in the statute must be construed with reference to the context and other clauses in the statute so as to make the statute a consistent enactment and not reduce it to a futility. But where it is not possible to give effect to both the provisions harmoniously, collision may be avoided by holding that one section which is in conflict with another merely provides for an exception or a specific rule different from the general rule contained in the other. ***A specific rule will override a general rule***. This principle is usually expressed by the maxim, ***"generalia specialibus non derogant".***



But remember that this rule can be adopted only when there is a real and not merely apparent conflict between provisions, where the words of a statute, on a reasonable construction thereof, admit of one meaning only then such natural meaning will prevail. The court shall not attempt an interpretation based on equity and harmonious construction.

In some cases, the statute may give a clear indication as to which provision is subservient and which overrides. This is done by the use of the terms "subject to", "notwithstanding" and "without prejudice".

Subject to

The impact of the words "subject to" when used in a provision is that when the same subject matter is covered by that provision and by another provision or enactment subject to which it operates and there is a conflict between them, then the latter will prevail over the former. This limitation cannot operate, when the subject matter of the two provisions is not the same. Thus, a clause that uses the words "subject to" is subservient to another.

Example: Section 13(2) of the Companies Act, 2013, "Any change in the name of a company shall be subject to the provisions of sub-sections (2) and (3) of section 4 and shall not have effect except with the approval of the Central Government in writing."
This implies that the any change in the name of the company has to in accordance with the provisions of the section 4(2) and section 4(3) of the Companies Act, 2013.

Notwithstanding

A clause that begins with the words "notwithstanding anything contained" is called a non-obstante clause. Unlike the "subject to" clause, the notwithstanding clause has the effect of making the provision prevail over others. When this term is used then the clause will prevail over the other provision(s) mentioned therein. **(K. Parasurammaiah v. Pakari Lakshman AIR 1965 AP 220)**

Example: A notwithstanding clause can operate at four levels.

Clause	Effect	Example
Notwithstanding any thing contained in another section or sub-section of that statute.	The clause will override such other section(s)/ sub-section(s)	Section 42(11) of the Companies Act, 2013 "(11) Notwithstanding anything contained in sub- section (9) and sub-section (10), any private placement issue not made in compliance of the provisions of sub- section (2) shall be deemed to be a public offer and all the provisions of this Act and the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992 shall be applicable."
Notwithstanding anything contained in a statute.	The clause will override the entire enactment	Section 8(8) of the Companies Act,2013 "(8) amalgamated with another company registered under this section and having similar objects, then, notwithstanding anything to the contrary contained in this Act, the Central Government may, by order, provide for such

		amalgamation to form a single company with such constitution....."
Notwithstanding anything contained in specific section(s) or sub-section(s) or all the provisions contained in another statute.	The clause will prevail over the other enactment.	(i) Section 7A of the Securities Contracts (Regulation) Act, 1956 "...and on such publication, the rules as approved by the Central Government shall be deemed to have been validly notwithstanding anything contained in the Companies Act, 1956." made (ii) Section 183 of the Companies Act, 2013 "183(1) The Board of Directors of any company or any person company in general or authority exercising the powers of the Board of Directors of a company, or of the meeting, may, notwithstanding anything contained in sections 180, 181 and section 182 or any other provision of this Act or in the memorandum, articles or any other instrument relating to the company, contribute such amount as it thinks fit to the National Defence Fund or any other Fund approved by the Central Government for the purpose of national defence."
Notwithstanding anything contained in any other law for the time being in force.	The clause will override all other laws.	(i) Section 8 of the Securities (Regulation) Contracts Act, 1956 "... the rules so made are amended shall, notwithstanding anything to the contrary contained in the Companies Act

		1956, or in any other law for the time being in force, have effect...". (ii) Section 243(1B) of the Companies Act, 2013 "Notwithstanding anything contained in any other provisions of this Act, or any other law for the time being in force, or any contract, memorandum or articles, on the removal of a person from the officer of a director or any other officer connected with the conduct and management of the affairs of the company, that person shall not be entitled to, or be paid, any compensation for the loss or termination of officer."

Without prejudice

When certain particular provisions follow general provisions and when it is stated that the particular provisions are without prejudice to those general provisions the particular provisions would not restrict or circumscribe the operation and generality of the preceding general provisions. In other words, the particular provisions shall operate in addition to and not in derogation of the general provisions.

Example: Section 4(3) of the Companies Act, 2013, "Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains....."

This implies that while registering (and deciding) the name of the company [as per section 4(3)], provisions of section 4(2) shall also be operative.

(4) The Rule in Heydon's Case or Mischief Rule:

Where the language used in a statute is capable of more than one interpretation, the most firmly established rule for construction is the principle laid down in Heydon's case.

The intention of this rule is always to make such construction as shall suppress the mischief and advance the remedy according to the true intention of the legislation.

In **Heydon's case (1584 3 Co Rep 79 P. 637),** it was laid down by the Barons of the Exchequer that "for the true and sure interpretation of all Statutes in general, *four things are to be discerned and considered.*

1. What was the law before the making of the act?
2. What was the defect, mischief, hardship caused by the earlier law?
3. How does the act of Parliament seek to resolve or cure the mischief or deficiency?
4. What are the true reasons for the remedy?

And then the courts shall make such construction as will suppress the mischief and advance the remedy and suppress the subtle inventions and evasions for the continuance of the mischief."

Thus, applying Heydon's case courts will be bound to look at the state of the law at the time of the passing of the enactment and not only as it then stood, but under previous Statutes too.

In India, **in Kanai Lal Paramnidhi, 1957 S.C.A 1033**, the Hon'ble Supreme Court held that the observations made by the **Chief Baron and Barons of the Exchequer in Heydon's Case 1584 3 Co Rep. 79**, have been so frequently cited with approval by the courts administering provisions of welfare enactments that they have now attained the status of a classic on the subject and their validity cannot be challenged.

But the mischief rule can be applied only if there is any ambiguity in the present law. **(CIT Vs. Sodra Devi, 1957 SC 823 at 832 - 835).**

Example: Application of this mischief rule is also well-found in the construction of section 2(d) of the Prize Competition Act, 1955. This section defines 'prize competition' as "any competition in which prizes are offered for the solution of any puzzle based upon the building up arrangement, combination or permutation of letters, words or figures". The issue was whether the Act applies to competitions which involve substantial skill and are not in the nature of gambling.

Supreme Court, after referring to the previous state of law, to the mischief that continued under that law and to the resolutions of various states under Article 252(1) authorizing Parliament to pass the Act has stated as follows: "having regard to the history of the legislation, the declared object thereof and the wording of the statute, we are of opinion that the competitions which are sought to be controlled and regulated by the Act are only those competitions in which success does not depend on any substantial degree of skill." **(RMD Chamarbaugwalla V. Union of India, AIR 1957 SC 628).**

(5) Rule of Beneficial Construction:

This is strictly speaking not a rule but a method of interpreting a provision liberally so as to give effect to the declared intention of the legislation. Beneficial construction will be given to a statute, which brings into effect provisions for improving the conditions of certain classes of people who are under privileged or who have not been treated fairly in the past. In such cases it is permissible to give an extended meaning to words or clauses in enactments. But this can only be done when two constructions are reasonably possible and not when the words in a statute are quite unequivocal.

(6) Rule of Exceptional Construction:

We have already seen that the words of a statute must be construed so as to give a sensible meaning to them if possible. They ought to be construed ***ut res magis valeat quam pereat.***

In fact, Maxwell goes to the extent of stating, "notwithstanding the general rule that full effect must be given to every word, yet if no sensible meaning can be given to a word or phrase, or if it would defeat the real object of the enactment, it may, or rather it should, be eliminated."

"And" and "Or"

"And" is a particle joining words and sentences and expressing the relation of connection or addition. The word "and" is normally conjunctive. In its conjunctive sense the word is used to conjoin words, clauses or sentences, signifying that something is to follow in addition to that, which precedes.

The word "or" is a disjunctive particle that marks an alternative, generally corresponding to "either", as "either this or that".

Can "and" be read as "or" and vice versa?

The word "and" is normally conjunctive, while "or" is disjunctive. But sometimes "and" is read as "or" and vice versa to give effect to the manifest intention of the legislature as disclosed from the context. **(Municipal Council v. Bishandas Nathumal AIR 1969 MP 147).**

"And" may legitimately be construed as "or" when the intention of the legislature is clear and when any other construction would tend to defeat such intention. **(Amulya Chandra Roy v. Pashupathi Nath AIR 1951 Cal 48).**

Not only in Statutes but also in documents the two words "and" and "or" are sometimes used synonymously and in the same sense. That would depend on the context and meaning of other provisions in the same statute or document. Similarly, where statements or stipulations are coupled by "and/or" they are to read either disjunctively or conjunctively.

"May", "Must" and "Shall"

Let us first appreciate the distinction between mandatory and directory provisions. Where the enactment or provision prescribes that the contemplated action be taken without any option or discretion, then such statute or provision or enactment will be called mandatory. Where, the acting authority is vested with discretion, choice or judgment, the statute or provision will be called directory. In deciding whether the statute is directory or mandatory, the question is whether there is anything that makes it the duty of the person on whom the power is conferred to exercise that power. If it is so then the Statute is a mandatory one; otherwise, it is directory.

The words 'may', 'shall', and 'must' should initially be deemed to have been used in their natural and ordinary sense.

'May' signifies permission and implies that the authority has been allowed discretion. "Shall" in the normal sense imports a command. 'Must' is doubtlessly a word of command. In all cases, however, the intention of the legislature will guide the interpreter in his search of meaning.
The question as to whether a statute is mandatory depends upon the intent of the legislature and not upon the language in which the intent is clothed.
In cases where the normal significance of imperative and permissive terms leads to absurd, inconvenient or unreasonable results, they should be discarded.

"May" though permissive sometimes has compulsory force and is to be read as shall. Although it is well – settled that ordinarily the word 'may' be always used in a permissive sense, there may be circumstances where this word will have to be construed as having been used in a mandatory or compulsory sense.
Where the word 'may' have been used as implying a requisite condition to be fulfilled, the court will and ought to exercise the powers which it should and in such a case the word 'may' will have a compulsory force.

"May," observed Cotton, L.J., "can never mean 'must' so long as the English language retains its meaning; but it gives a power and then it may be a question, in what case, when any authority or body has a power given to it by the word 'may' it becomes its duty to exercise that power." **[In re Baker Nichols v. Baker (1890) 44 Ch. D. 262].**
"Shall" though mandatory is to be read as may.

It is well - settled that the use of the word 'shall' does not always mean that the enactment is obligatory or mandatory; it depends upon the context in which the word 'shall' occurs and the other circumstances.
The employment of the auxiliary verb 'shall' be inconclusive and similarly the mere absence of the imperative is not conclusive either.

The question whether any requirement is mandatory or directory has to be decided not merely on the basis of any specific provision which, for instance, sets out the consequences of the omission to observe the requirement, but on the purpose for which the requirement has been enacted, particularly in the context of the other provisions of the Act and the general scheme thereof. It would, inter alia, depend on whether the requirement is insisted on as a protection, for the safeguarding of the right of liberty of person or of property that the action might involve.

(7) Rule of Ejusdem Generis:

The term 'ejusdem generis' means 'of the same kind or species'. Simply stated, the rule is as follows:

Where specific words pertaining to a class or category or genus are followed by general words, the general words shall be construed as limited to the things of the same kind as those specified.

This rule applies when:

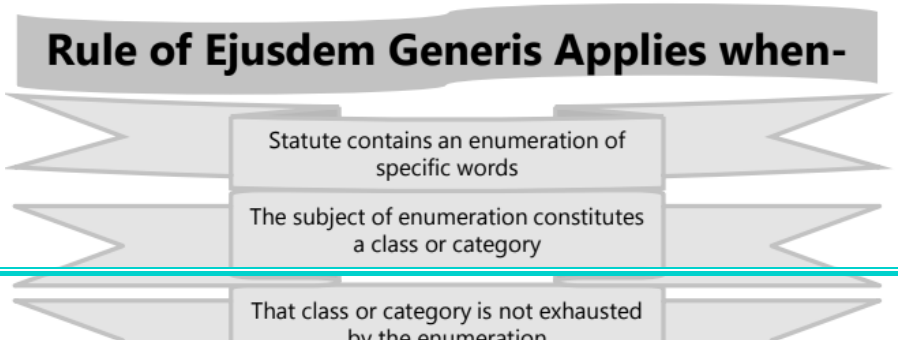
1. The statute contains an enumeration of specific words
2. The subject of enumeration constitutes a class or category;
3. That class or category is not exhausted by the enumeration
4. General terms follow the enumeration; and
5. There is no indication of a different legislative intent.

The rule of ejusdem generis is not an absolute rule of law but only a part of a wider principle of construction and therefore this rule has no application where the intention of the legislature is clear.

Exceptions:

1. If the preceding term is general, as well as that which follows this rule cannot be applied.
2. Where the particular words exhaust the whole genus.
3. Where the specific objects enumerated are essentially diverse in character.
4. Where there is an express intention of legislature that the general term shall not be read ejusdem generis the specific terms.

- This rule has to be applied judiciously. This rule may be understood as an attempt to settle a conflict between specific and general words.
- The fifth ground contained in Section 271 (e) of the Companies Act, 2013 shall not be read ejusdem generis the earlier five although it is a general phrase following specific phrases.
- This is because the earlier grounds are essentially diverse in character.



(B) Other (Secondary) Rules of Interpretation

(1) Doctrine of Noscitur a Sociis

Noscitur a Sociis means that when two or more words that are susceptible of analogous meaning, are coupled together they are understood to be used in their cognate sense. They take, as it were, them colour from each other, that is the meaning of the more general word being restricted to a sense analogous to that of the less general. Examples of the principal of Noscitur a Sociis are as follows:

Fresh orange juice is not a fruit juice.

While dealing with a Purchase Tax Act, which used the expression "manufactured beverages including fruit-juices and bottled waters and syrups".

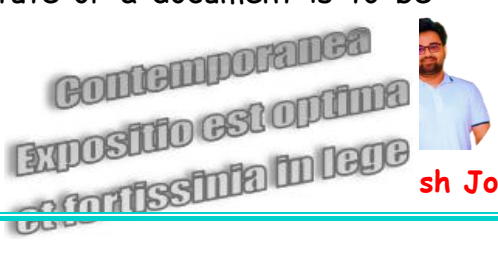
It was held that the description 'fruit juices' as occurring therein should be construed in the context of the preceding words and that orange-juice unsweetened and freshly pressed was not within the description. **(Commissioners. v. Savoy Hotel, (1966) 2 All. E.R. 299)**

Private Dispensary of a doctor is not a commercial establishment

In dealing with the definition of commercial establishment in Section 2 (4) of the Bombay Shops and Establishments Act, 1948, which reads, "commercial establishment means an establishment which carries on any business, trade or profession", the word 'profession' was construed with the associated words 'business' and 'trade' and it was held that a private dispensary of a doctor was not within the definition. (Dr. Devendra M. Surti v. State of Gujrat, A.I.R. 1969 SC 63)

(2) Doctrine of *Contemporanea Expositio*

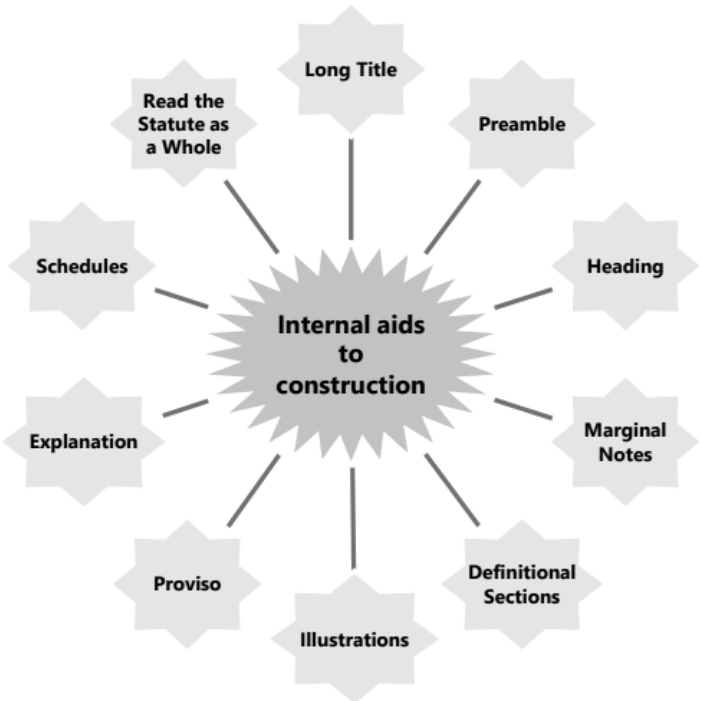
This doctrine is based on the concept that a statute or a document is to be interpreted by referring to the exposition it has



received from contemporary authority. The maxim ***"Contemporanea Expositio est optima et fortissinia in lege"*** means "contemporaneous exposition is the best and strongest in the law."
This means a law should be understood in the sense in which it was understood at the time when it was passed.
The maxim ***"optima legum interpres est consuetude"*** simply means, "Custom is the best interpreter of law". Thus, the court was influenced in its construction of a statute of Anne by the fact that it was that which had been generally considered as the true one for one hundred and sixty years. **(Cox Vs. Leigh 43 LJQB 123).** But remember that this maxim is to be applied for construing ancient statutes, but not to Acts that are comparatively modern.

Internal Aids to Interpretation/ Construction

The various parts of an enactment enumerated below may be referred to while interpreting or construing an enactment. They are referred to as internal aids to interpretation and can be of immense help in interpreting / construing the enactment or any of its parts.



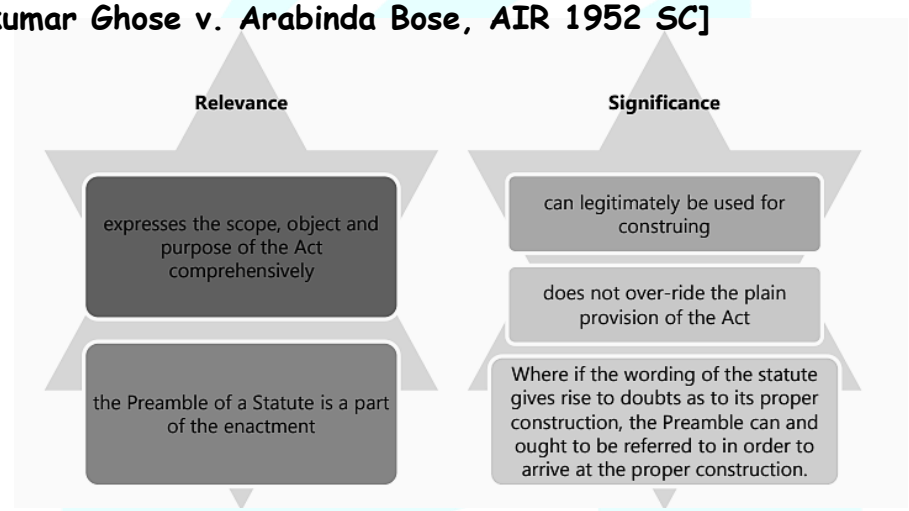
(a) Long Title:

An enactment would have what is known as a **'Short Title' and also a 'Long Title'**. The 'Short Title' merely identifies the enactment and is chosen merely for convenience, the 'Long Title' on the other hand, describes the enactment and does not merely identify it.

It is now settled that the Long Title of an Act is a part of the Act. We can, therefore, refer to it to ascertain the object, scope and purpose of the Act and so is admissible as an aid to its construction.

Example: Full title of the Supreme Court Advocates (Practice in High Courts) Act, 1951 specify that this is an Act to authorize Advocates of the Supreme Court to practice as of right in any High Court.

So, the title of a statute is an important part of the Act and may be referred to for the purpose of ascertaining its general scope and of throwing light on its construction, although it cannot override the clear meaning of the enactment. **[Aswini kumar Ghose v. Arabinda Bose, AIR 1952 SC]**



(b) Preamble:

The Preamble expresses the scope, object and purpose of the Act more comprehensively than the Long Title. The Preamble may recite the ground and the cause of making a statute and the evil which is sought to be remedied by it.

Like the Long Tile, the Preamble of a Statute is a part of the enactment and can legitimately be used for construing it. However, the Preamble does not over-ride the plain provision of the Act but if the wording of the statute gives rise to doubts as to its proper construction, for example, where the words or phrase have more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, the Preamble can and ought to be referred to in order to arrive at the proper construction.

In short, the Preamble to an Act discloses the primary intention of the legislature but can only be brought in as an aid to construction if the language of the statute is not clear. However, it cannot override the provisions of the enactment.

Example: Use of the word 'may' in section 5 of the Hindu Marriage Act, 1955 provides that "a marriage may be solemnized between two Hindus...." has been construed to be mandatory in the sense that both parties to the marriage must be Hindus as defined in section 2 of the Act. It was held that a marriage between a Christian male and a Hindu female solemnized under the Hindu Marriage Act was void. This result was reached also having regard to the preamble of the Act which reads: 'An Act to amend and codify the law relating to marriage among Hindus' **[Gullipoli Sowria Raj v. Bandaru Pavani, (2009)1 SCC714]**

(3) Heading and Title of a Chapter:

If we glance through any Act, we would generally find that a number of its sections referring to a particular subject are grouped together, sometimes in the form of chapters, prefixed by headings and/or Titles. These Heading and Titles prefixed to sections or groups of sections can legitimately be referred to for the purpose of construing the enactment or its parts.

The headings of different portions of a Statute can be referred to determine the sense of any doubtful expression in a section ranged under any particular heading.

They cannot control the plain meaning of the words of the enactment though, they may, in some cases be looked at in the light of preamble if there is any ambiguity in the meaning of the sections on which they can throw light.

It may be noted that headings may sometimes be referred to know the scope of a section in the same way as the preamble.

But a heading cannot control or override a section. **(Official assignee v. chuni ram AIR 1933 BOM 51)**

(d) Marginal Notes:

Marginal notes are summaries and side notes often found at the side of a section or group of sections in an Act, purporting to sum up the effect of that section or sections.

They are not a part of the enactment, for they were not present when the Act was passed in Parliament but inserted after the Act has been so passed.

Hence, they are not an aid to construction.

In **C.I.T. v. Ahmedbhai Umarbhai & Co. (AIR 1950 SC 134 at 141), Patanjali Shastri, J.,** had declared: "Marginal notes in an Indian statute, as in an Act, of Parliament cannot be referred to for the purpose of construing the statute", and the same view has been taken in many other cases. Many cases show that reference to marginal notes may be permissible in exceptional cases for

construing a section in a statute. **[Deewan Singh v. Rajendra Pd. Ardevi, (2007)10 SCC, Sarabjit Rick Singh v. Union of India, (2008) 2 SCC]**
However, marginal notes appended to Articles of the Constitution have been held to be part of the Constitution as passed by the Constituent Assembly and therefore have been used in construing the Articles.

(e) Definitional Sections/ Interpretation Clauses:

The legislature has the power to embody in a statute itself the definitions of its language and it is quite common to find in the Statutes 'definitions' of certain words and expressions used in the body of the statute.
When a word or phrase is defined as having a particular meaning in the enactment, it is that meaning alone which must be given to it in interpreting a Section of the Act unless there be anything repugnant in the context. This is called an exhaustive definition. The Court cannot ignore an exhaustive statutory definition and try and extract what it considers to be the true meaning of the expression independently of it.
The purpose of a definition clause is two-fold: (i) to provide a key to the proper interpretation of the enactment, and (ii) to shorten the language of the enacting part by avoiding repetition of the same words contained in the definition part every time the legislature wants to refer to the expressions contained in the definition.

Construction of definitions may be understood under the following headings:
(i) Restrictive and extensive definitions
(ii) Ambiguous definitions
(iii) Definitions subject to a contrary context
(i) Restrictive and extensive definitions: The definition of a word or expression in the definition section may either be restricting of its ordinary meaning or may be extensive of the same.
When a word is defined to 'mean' such and such, the definition is 'prima facie' restrictive and exhaustive we must restrict the meaning of the word to that given in the definition section.
But where the word is defined to 'include' such and such, the definition is 'prima facie' extensive: here the word defined is not restricted to the meaning assigned to it but has extensive meaning which also includes the meaning assigned to it in the definition section.
We may also find a word being defined as 'means and includes' such and such. In this case, the definition would be exhaustive.
On the other hand, if the word is defined 'to apply to and include', the definition is understood as extensive.

Example: The usage of word 'any' in the definition connotes extension for 'any' is a word of every wide meaning and prima facie the use of it excludes limitation.

It has been a universally accepted principle that where an expression is defined in an Act, it must be taken to have, throughout the Act, the meaning assigned to it by the definition, unless by doing so any repugnancy is created in the subject or context.

Example: Inclusive definition of lease given under section 2(16)(c) of the Stamp Act, 1899 has been widely construed to cover transaction for the purpose of Stamp Act which may not amount to a lease under section 105 of the Transfer of property Act, 1882. **[State of Uttarakhand v. Harpal Singh Rawat, (2011) 4 SCC 575]**

Section 2(m) of the Consumer Protection Act, 1986 contains an inclusive definition of 'person'. It has been held to include a 'company' although it is not specifically named therein **[Karnataka Power Transmission Corporation v. Ashok Iron Works Pvt. Ltd., (2009)3 SCC 240]**

A definition section may also be worded as 'is deemed to include' which again is an inclusive or extensive definition as such words are used to bring in by a legal fiction something within the word defined which according to its ordinary meaning is not included within it.

Example: If A is deemed to be B, compliance with A is in law compliance with B and contravention of A is in law contravention of B.

(ii) Ambiguous definitions: Sometime, we may find that the definition section may itself be ambiguous, and so it may have to be interpreted in the light of the other provisions of the Act and having regard to the ordinary meaning of the word defined. Such type of definition is not to be read in isolation. It must be read in the context of the phrase which it defines, realising that the function of a definition is to give accuracy and certainty to a word or phrase which would otherwise be vague and uncertain but not to contradict it or depose it altogether.

Example: Termination of service of a seasonal worker after the work was over does not amount to retrenchment as per the Industrial Disputes Act, 1947. [Anil Bapurao Karase v. Krishna Sahkari Sakhar Karkhana, AIR 1997 SC 2698]. But the termination of employment of a daily wager who is engaged in a project, on completion of the project will amount to retrenchment if the worker had not been told when employed that his employment will end on completion of the project. **[S.M. Nilajkarv Telecom District Manager Karnataka, (2003)4 SCC]**.

(iii) Definitions subject to a contrary context: When a word is defined to bear a number of inclusive meanings, the sense in which the word is used in a particular

provision must be ascertained from the context of the scheme of the Act, the language of the provision and the object intended to be served thereby.

(f) Illustrations:

We would find that many, though not all, sections have illustrations appended to them. These illustrations follow the text of the Sections and, therefore, do not form a part of the Sections. However, illustrations do form a part of the statute and are considered to be of relevance and value in construing the text of the sections. However, illustrations cannot have the effect of modifying the language of the section and can neither curtail nor expand the ambit of the section.

Example: In holding that section 73 of the Indian Contract Act, 1872 does not permit the award of interest as damages for mere detention of debt, the privy Council rejected the argument that illustration given in the Act can be used for arriving at a contrary result. It was observed that nor can an illustration have the effect of modifying the language of the section which alone forms the enactment.

(g) Proviso:

The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview if the proviso were not there. Usually, a proviso is embedded in the main body of the section and becomes an integral part of it. Provisos that are so included begin with the words, "provided that". The effect of the proviso is to qualify the preceding enactment which is expressed in terms which are too general. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment. Ordinarily a proviso is not interpreted as stating a general rule.

- Exception clauses are intended to restrain the enacting clause to particular cases.
- Savings clause is used to preserve from destruction certain rights, remedies, or privileges already existing.

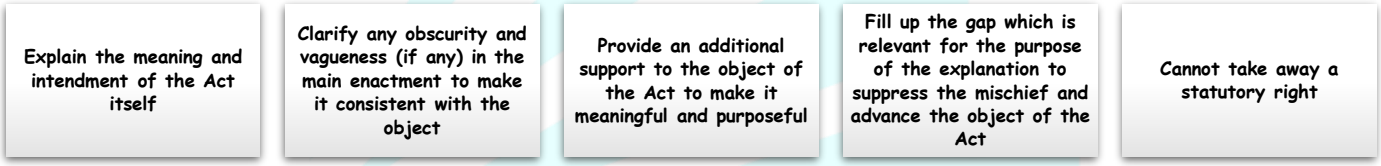
It is a cardinal rule of interpretation that a proviso or exception to a particular provision of a statute only embraces the field which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other. **(Ram Narain Sons Ltd. vs. Assistant Commissioner of Sales Tax, AIR 1955 SC 765)**.

Distinction between Proviso, exception and saving Clause		
'Exception' is intended to restrain the enacting clause to particular cases	'Proviso' is used to remove special cases from general enactment and provide for them specially	'Saving clause' is used to preserve from destruction certain rights, remedies or privileges already existing

(h) Explanation:

An Explanation is at times appended to a section to explain the meaning of certain words or phrases used in the section or of the purport of the section. An Explanation may be added to include something within the section or to exclude something from it. An Explanation should normally be so read as to harmonise with and clear up any ambiguity in the main section. It should not be so construed as to widen the ambit of the section.

In **Sundaram Pillai v. Pattabiraman, Fazal Ali, J.** gathered the following objects of an explanation to a statutory provision:



However, it would be wrong to always construe an explanation as limited to the aforesaid objects. The meaning to be given to an explanation will really depend upon its terms and not on any theory of its purpose.

(i) Schedules:

The Schedules form part of an Act. Therefore, they must be read together with the Act for all purposes of construction. However, the expressions in the Schedule cannot control or prevail over the expression in the enactment. If there appears to be any inconsistency between the schedule and the enactment, the enactment shall always prevail. They often contain details and forms for working out the policy underlying the sections of the statute for example schedules appended to the Companies Act, 2013, to the Constitution of India.

(ii) 'Read the Statute as a Whole':

It is the elementary principle that construction of a statute is to be made of all its parts taken together and not of one part only. The deed must be read as a whole in order to ascertain the true meaning of its several clauses, and the words of each clause should be so interpreted as to bring them into harmony with other provisions - if that interpretation does no violence to the meaning of which they

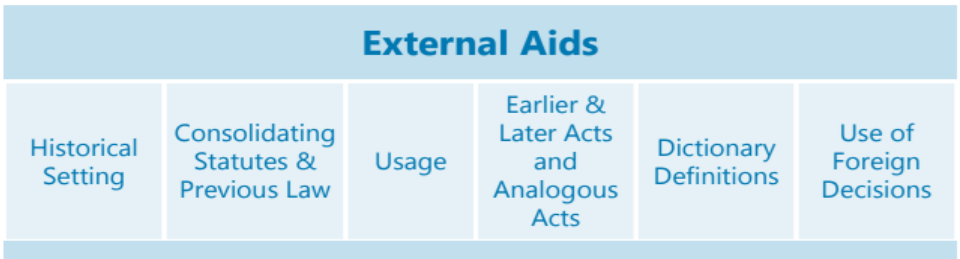
are naturally susceptible. And the same approach would apply with equal force with regard to Acts and Rules passed by the legislature.

One of the safest guides to the construction of sweeping general words is to examine other words of like import in the same enactment or instrument to see what limitations must be imposed on them. If we find that a number of such expressions have to be subjected to limitations and qualifications and that such limitations and qualifications are of the same nature,that circumstance forms a strong argument for subjecting the expression in dispute to a similar limitation and qualification.

Example: If one section of an Act requires 'notice' should be given, then a verbal notice would generally be sufficient. But, if another section provides that 'notice' should be 'served' on the person or 'left' with him, or in a particular manner or place, then it would obviously indicate that a written notice was intended.

External Aids to Interpretation/ Construction

Society does not function in a void. Everything done has its reasons, its background, the particular circumstances prevailing at the time, and so on. These factors apply to enactments as well. These factors are of great help in interpreting/construing an Act and have been given the convenient nomenclature of 'External Aids to Interpretation'. Apart from the statute itself there are many matters which may be taken into account when the statute is ambiguous. These matters are called external aids. Some of these factors are enumerated below:



(a) His

The his question
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object of the enactment. History in general and Parliamentary History in particular, ancient statutes, contemporary or other authentic works and writings all are relevant in interpreting and construing an Act. We have also to consider whether the statute in question was intended to alter the law or leave it where it stood before.

(b) Consolidating Statutes & Previous Law:

The Preambles to many Statutes contain expressions such as "An Act to consolidate" the previous law, etc. In such a case, the Courts may stick to the presumption that it is not intended to alter the law. They may solve doubtful points in the statute with the aid of such presumption in intention, rejecting the literal construction.

(c) Usage:

Usage is also sometimes taken into consideration in construing an Act. The acts done under a statute provide quite often the key to the statute itself. It is well known that where the meaning of the language in a statute is doubtful, usage - how that language has been interpreted and acted upon over a long period - may determine its true meaning. It has been emphasized that when a legislative measure of doubtful meaning has, for several years, received an interpretation which has generally been acted upon by the public, the Courts should be very unwilling to change that interpretation, unless they see cogent reasons for doing so.

(d) Earlier & Later Acts and Analogous Acts:

- **Exposition of One Act by Language of Another:**

The general principle is that where there are different Statutes in ***'pari materia'*** (i.e. in an analogous case), though made at different times, or even expired and not referring to each other, they shall be taken and construed together as one system and as explanatory of each other.

If two Acts are to be read together then every part of each Act has to be construed as if contained in one composite Act. But if there is some clear discrepancy then such a discrepancy may render it necessary to hold the later Act (in point of time) had modified the earlier one. However, this does not mean that every word in the later Act is to be interpreted in the same way as in the earlier Act.

Where the later of the two Acts provides that the earlier Act should, so far as consistent, be construed as one with it then an enactment in the later statute that nothing therein should include debentures was held to exclude debentures from the earlier statute as well.

Where a single section of one Act (say, Act 'A') is incorporated into another statute (say Act 'B'), it must be read in the sense which it bore in the original Act from which it is taken consequently, it would be legitimate to refer to all th

rest of Act 'A' to ascertain what that Section means, though one Section alone is incorporated in the new Act (Act 'B').

Suppose the earlier bye-law limited the appointment of the chairman of an organisation to a person possessed of certain qualifications and the later bye-law authorises the election of any person to be the chairman of the organisation. In such a case, the later bye-law would be so construed as to harmonise and not to conflict with the earlier bye-law: the expression 'any person' used in the later bye-law would be understood to mean only any eligible person who has the requisite qualifications as provided in the earlier bye-law.

- **Earlier Act Explained by the Later Act:** Not only may the later Act be construed in the light of the earlier Act but it (the later Act) sometimes furnishes a legislative interpretation of the earlier one, if it is 'pari materia' and if, but only if, the provisions of the earlier Act are ambiguous. Where the earlier statute contained a negative provision but the later one merely omits that negative provision. This cannot by itself have the result of substantive affirmation. In such a situation, it would be necessary to see how the law would have stood without the original provision and the terms in which the repealed sections are re-enacted.

- **Reference to Repealed Act:** Where a part of an Act has been repealed, it loses its operative force. Nevertheless, such a repealed part of the Act may still be taken into account for construing the un-repealed part. This is so because it is part of the history of the new Act.

(e) Dictionary Definitions:

First, we have to refer to the Act in question to find out if any particular word or expression is defined in it. Where we find that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood. However, in selecting one out of the several meanings of a word, we must always take into consideration the context in which it is used in the Act. It is the fundamental rule that the meanings of words and expressions used in an Act must take their colour from the context in which they appear. Further, judicial decisions laying down the meaning of words in construing Statutes in 'pari materia' will have greater weight than the meaning furnished by dictionaries. However, for technical terms reference may be made to technical dictionaries.

(f) Use of Foreign Decisions:

Foreign decisions of countries following the same system of jurisprudence as ours and given on laws similar to ours can be legitimately used for construing our own Acts. However, prime importance is always to be given to the language of the Indian statute. Further, where guidance can be obtained from Indian decisions, reference to foreign decisions may become unnecessary.

Rules of Interpretation/ Construction of Deeds and Documents

The first and foremost point that has to be borne in mind is that one has to find out what a reasonable man, who has taken care to inform himself of the surrounding circumstances of a deed or a document, and of its scope and intendments, would understand by the words used in that deed or document. The principle of construction in case of a document and a deed, as of statute, does not differ so much except in some minor details. A deed must be read as a whole in order to ascertain the true meaning of its several clauses and the words of each clause should be so interpreted as to bring them in harmony with other provisions if that interpretation does no violence to the meaning of which they are naturally susceptible. - Lord Watson. In all cases endeavour shall be made to find out how a reasonable and well-informed person would understand by the words used in the deed or document.

The golden rule of construction is to ascertain the intention of the parties to the instrument after considering all the words in their ordinary, natural sense. To ascertain this intention the Court has to consider the relevant portion of the document as a whole and also to take into account the circumstances under which the particular words were used. Very often the status and the training of the parties using the words have to be taken into consideration.

It has to be borne in mind that very many words are used in more than one sense and that sense differs in different circumstances. Again, even where a particular word has to a trained conveyancer a clear and definite significance and one can be sure about the sense in which such conveyancer would use it, it may not be reasonable and proper to give the same strict interpretation of the word when used by one who is not so equally skilled in the art of conveyancing. **(Ramkishorelal v. Kamalnarayan, 1963 (Sup.) 2 S.C. R. 417).**

It is inexpedient to construe the terms of one deed by reference to the terms of another. **(Nirmala Bala Ghose v. Balai Chand Ghose (1965) 2 S.C. W.R. 988).** It is an elementary rule of construction that the same word cannot have two different meanings in the same document, unless the context compels the adoption of such a course. **(Kultar Singh v. Mukhtiar Singh, 1964, 7 S.C.R. 790).** The document must be read as a whole and the intention deduced therefrom as to what the actual term the parties intended to agree.

It may also happen that there is a conflict between two or more clauses of the same document. An effort must be made to resolve the conflict by interpreting the clauses so that all the clauses are given effect to. If, however, it is not possible to give effect to all of them, then it is the earlier clause that will over-ride the latter one.

Similarly, if one part of the document is in conflict with another part, an attempt should always be made to read the two parts of the document harmoniously, if possible. If that is not possible, then the earlier part will prevail over the latter one which should, therefore, be disregarded.