

AIDS TO INTERPRETATION

An Aid, is a device that helps or assists. For the purpose of construction or interpretation, the court has to take recourse to various internal and external aids.

Internal aids mean those materials which are available in the statute itself, though they may not be part of enactment. These internal aids include, long title, preamble, headings, marginal notes, illustrations, punctuation, proviso, schedule, transitory provisions, etc. When internal aids are not adequate, court has to take recourse to External aids. External Aids may be parliamentary material, historical background, reports of a committee or a commission, official statement, dictionary meanings, foreign decisions, etc.

B. Prabhakar Rao and others v State of A.P. and others , AIR 1986 SC 120 O.Chennappa, Reddy J. has observed : “Where internal aids are not forthcoming, we can always have recourse to external aids to discover the object of the legislation. External aids are not ruled out. This is now a well settled principle of modern statutory construction.”

District Mining Officer and others v Tata Iron & Steel Co. and another , (2001) 7 SCC 358 Supreme Court has observed: “It is also a cardinal principle of construction that external aids are brought in by widening the concept of context as including not only other enacting provisions of the same statute, but its preamble, the existing state of law, other statutes in pari materia and the mischief which the statute was intended to remedy.”

K.P. Varghese v Income Tax Officer Ernakulam, AIR 1981 SC 1922 The Supreme Court has stated that interpretation of statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible.

INTERNAL AIDS TO INTERPRETATION

“Internal aids” mean those aids which are available in the statute itself. Each and every part of an enactment helps in interpretation. However, it is important to decipher as to whether these parts can be of any help in the interpretation of the statute .

The Internal aids to interpretation may be as follows:

a. Title

Long title – The Long Title of a Statute is an internal part of the statute and is admissible as an aid to its construction. Statute is headed by a long title and it gives the description about the object of an Act. It begins with the words- “An Act to” For e.g. The long title of the Criminal Procedure Code, 1973 is – “An Act to consolidate and amend the law relating to criminal procedure”. In recent times, long title has been used by the courts to interpret certain provision of the statutes. However, its useful only to the extent of removing the ambiguity and confusions and is not a conclusive aid to interpret the provision of the statute.

In Re Kerala Education bill, the Supreme Court held that the policy and purpose may be deduced from the long title and the preamble. In Manohar Lal v State of Punjab, Long title of the Act is relied as a guide to decide the scope of the Act.

Although the title is a part of the Act, it is in itself not an enacting provision and though useful in case of ambiguity of the enacting provisions, is ineffective to control their clear meaning.

Short Title - The short title of an Act is for the purpose of reference & for its identification. It ends with the year of passing of the Act. E.g. “The Indian Penal Code, 1860”; “The Indian Evidence Act, 1872”. The Short Title is generally given at the beginning with the words- “This Act may be called.....” For e.g Section 1 of The Indian Evidence Act, 1872, says – “This Act may be called, The Indian Evidence Act, 1872”. Even though short title is the part of the statute, it does not have any role in the interpretation of the provisions of an Act.

b. Preamble

The main objective and purpose of the Act are found in the Preamble of the Statute. Preamble is the Act in a nutshell. It is a preparatory statement. It contains the recitals showing the reason for enactment of the Act. If the language of the Act is clear the preamble must be ignored. The preamble is an intrinsic aid in the interpretation of an ambiguous act.

If any doubts arise from the terms employed by the Legislature, it has always been held a safe means of collecting the intention to call in aid the ground and cause of making the statute and to have recourse to the preamble. In Kashi Prasad v State, the court held that even though the preamble cannot be used to defeat the enacting clauses of a statute, it can be treated as a key for the interpretation of the statute.

c. Headings and Title of a Chapter

Headings are of two kinds – one prefixed to a section and other prefixed to a group or set of sections. Heading is to be regarded as giving the key to the interpretation and the heading may be treated as preambles to the provisions following them. In Krishnaih V. State of (A.P. AIR 2005 AP 10) it was held that headings prefixed to sections cannot control the plain words of the

provisions. Only in the case of ambiguity or doubt, heading or sub-heading may be referred to as an aid in construing provision.

In *Durga Thathera v Narain Thathera*, the court held that the headings are like a preamble which helps as a key to the mind of the legislature but do not control the substantive section of the enactment.

d. Marginal Notes

Marginal notes are the notes which are inserted at the side of the sections in an Act and express the effect of the sections stated. Marginal notes appended to the Articles of the Constitution have been held to constitute part of the constitution as passed by the constituent assembly and therefore they have been made use of in construing the articles.

In *Wilkes v Goodwin*, the Court held that the side notes are not part of the Act and hence marginal notes cannot be referred.

e. Definitional Sections/ Clauses

The object of a definition is to avoid the necessity of frequent repetitions in describing the subject matter to which the word or expression defined is intended to apply.

A definition contained in the definition clause of a particular statute should be used for the purpose of that Act. Definition from any other statute cannot be borrowed and used ignoring the definition contained in the statute itself.

f. Illustrations

Illustrations in enactment provided by the legislature are valuable aids in the understanding the real scope. In *Mahesh Chandra Sharma V. Raj Kumari Sharma*, (AIR 1996 SC 869), it was held that illustrations are parts of the Section and help to elucidate the principles of the section.

g. Proviso

The normal function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to that case. There may be cases in which the language of the statute may be so clear that a proviso may be construed as a substantive clause. But whether a proviso is construed as restricting the main provision or as a substantive clause, it cannot be divorced from the provision to which it stands as a proviso. It must be construed harmoniously with the main enactment.” [CIT vs. Ajax Products Ltd. (1964) 55 ITR 741 (SC)]

h. Explanations

An Explanation is added to a section to elaborate upon and explain the meaning of the words appearing in the section. An Explanation to a statutory provision has to be read with the main provision to which it is added as an Explanation. An Explanation appended to a section or a sub-section becomes an integral part of it and has no independent existence apart from it.

The purpose of an Explanation is not to limit the scope of the main section. An Explanation is quite different in nature from a proviso; the latter excludes, excepts and restricts while the former explains, clarifies or subtracts or includes something by introducing a legal fiction.

i. Schedules

Schedules form part of a statute. They are at the end and contain minute details for working out the provisions of the express enactment. The expression in the schedule cannot override the provisions of the express enactment.

j. Punctuation

Punctuation is a minor element in the construction of a statute. Only when a statute is carefully punctuated and there is no doubt about its meaning can weight be given to punctuation. It cannot, however, be regarded as a controlling element for determining the meaning of a statute.”

EXTERNAL AIDS TO INTERPRETATION

When internal aids are not adequate, court has to take recourse to external aids.

The external aids are very useful tools for the interpretation or construction of statutory provisions. As opposed to internal aids to construction there are certain aids which are external to the statute. Such aids will include parliamentary history of the legislation, historical facts and surrounding circumstances in which the statute came to be enacted, reference to other statutes, use of dictionaries, use of foreign decisions, etc.

Some of the external aids used in the interpretation of statutes are as follows:

a. Parliamentary History, Historical Facts and Surrounding Circumstances

Historical setting cannot be used as an aid if the words are plain and clear. If the wordings are ambiguous, the historical setting may be considered in order to arrive at the proper construction. Historical setting covers parliamentary history, historical facts, statement of objects and reasons, report of expert committees. Parliamentary history means the process by which an act is enacted. This includes conception of an idea, drafting of the bill, the debates made, the amendments proposed etc. Speech made in mover of the bill, amendments considered during the progress of the bill are considered in parliamentary history where as the papers placed before the cabinet which took the decision for the introduction of the bill are not relevant since these papers are not placed before the parliament. The historical facts of the statute that is the external circumstances in which it was enacted in should also be taken into note so that it can be understood that the

statute in question was intended to alter the law or leave it where it stood. Statement of objective and reasons as to why the statute is being brought to enactment can also be a very helpful fact in the research for historical facts, but the same if done after extensive amendments in statute it may be unsafe to attach these with the statute in the end. It is better to use the report of a committee before presenting it in front of the legislature as they guide us with a legislative intent and place their recommendations which come in handy while enactment of the bill.

The Supreme Court in a numbers of cases referred to debates in the Constituent Assembly for interpretation of Constitutional provisions. Recently, the Supreme Court in *S.R. Chaudhuri v State of Punjab and others*, (2001) 7 SCC 126 has stated that it is a settled position that debates in the Constituent Assembly may be relied upon as an aid to interpret a Constitutional provision because it is the function of the Court to find out the intention of the framers of the Constitution. (Para 33)

But as far as speeches in Parliament are concerned, a distinction is made between speeches of the mover of the Bill and speeches of other Members. Regarding speeches made by the Members of the Parliament at the time of consideration of a Bill, it has been held that they are not admissible as extrinsic aids to the interpretation of the statutory provision. However, speeches made by the mover of the Bill or Minister may be

referred to for the purpose of finding out the object intended to be achieved by the Bill. (*K.S. Paripoornan v State of Kerala and others*, AIR 1995 SC 1012)

So far as Statement of Objects and Reasons, accompanying a legislative bill is concerned, it is permissible to refer to it for understanding the background, the antecedent state of affairs, the surrounding circumstances in relation to the statute and the evil which the statute sought to remedy. But, it cannot be used to ascertain the true meaning and effect of the substantive provision of the statute. (*Devadoss (dead) by L. Rs, v. Veera Makali Amman Koil Athalur*, AIR 1998 SC 750.)

Reports of Commissions including Law Commission or Committees including Parliamentary Committees preceding the introduction of a Bill can also be referred to in the Court as evidence of historical facts or of surrounding circumstances or of mischief or evil intended to be remedied. Law Commission's Reports can also be referred to where a particular enactment or amendment is the result of recommendations of Law Commission Report. The Supreme Court in *Rosy and another v State of Kerala and others*, (2000) 2 SCC 230 considered Law Commission of India, 41st Report for interpretation of section 200 (2) of the Code of Criminal Procedure, 1898.

b. Social, Political and Economic Developments and Scientific Inventions

A Statute must be interpreted to include circumstances or situations which were unknown or did not exist at the time of enactment of the statute. Any relevant changes in the social conditions

and technology should be given due weightage. Courts should take into account all these developments while construing statutory provisions.

In *S.P. Gupta v Union of India*, AIR 1982 SC 149, it was stated - “The interpretation of every statutory provision must keep pace with changing concepts and values and it must, to the extent to which its language permits or rather does not prohibit, suffer adjustments through judicial interpretation so as to accord with the requirement of the fast changing society which is undergoing rapid social and economic transformation ... It is elementary that law does not operate in a vacuum. It is, therefore, intended to serve a social purpose and it cannot be interpreted without taking into account the social, economic and political setting in which it is intended to operate. It is here that the Judge is called upon to perform a creative function. He has to inject flesh and blood in the dry skeleton provided by the legislature and by a process of dynamic interpretation, invest it with a meaning which will harmonise the law with the prevailing concepts and values and make it an effective instrument for delivery of justice.” (Para 62)

Therefore, court has to take into account social, political and economic developments and scientific inventions which take place after enactment of a statute for proper construction of its provision.

c. Reference to Other Statutes:

In case where two Acts have to be read together, then each part of every act has to be construed as if contained in one composite Act. However, if there is some clear discrepancy then the latter Act would modify the earlier. Where a single provision of one Act has to be read or added in another, then it has to be read in the sense in which it was originally construed in the first Act. In this way the whole of the first Act can be mentioned or referred in the second Act even though only a provision of the first one was adopted. In case where an old Act has been repealed, it loses its operative force. Nevertheless, such a repealed part may still be taken into account for construing the unrepealed part.

For the purpose of interpretation or construction of a statutory provision, courts can refer to or can take help of other statutes. It is also known as statutory aids. The General Clauses Act, 1897 is an example of statutory aid.

The application of this rule of construction has the merit of avoiding any contradiction between a series of statutes dealing with the same subject, it allows the use of an earlier statute to throw light on the meaning of a phrase used in a later statute in the same context. On the same logic when words in an earlier statute have received an authoritative exposition by a superior court, use of same words in similar context in a later statute will give rise to a presumption that the legislature intends that the same interpretation should be followed for construction of those words in the later statute.

d. Dictionaries:

When a word is not defined in the statute itself, it is permissible to refer to dictionaries to find out the general sense in which that word is understood in common parlance. However, in the selection of one out of the various meanings of a word, regard must always be had to the scheme, context and legislative history.

e. Judicial Decisions:

When judicial pronouncements are been taken as reference it should be taken into note that the decisions referred are Indian, if they are foreign it should be ensured that such a foreign country follows the same system of jurisprudence as ours and that these decisions have been taken in the ground of the same law as ours. These foreign decisions have persuasive value only and are not binding on Indian courts and where guidance is available from binding Indian decisions; reference to foreign decisions is of no use.

f. Other materials

Similarly, Supreme Court used information available on internet for the purpose of interpretation of statutory provision in *Ramlal v State of Rajasthan*, (2001) 1 SCC 175. Courts also refer passages and materials from text books and articles and papers published in the journals. These external aids are very useful tools not only for the

proper and correct interpretation or construction of statutory provision, but also for understanding the object of the statute, the mischief sought to be remedied by it, circumstances in which it was enacted and many other relevant matters. In the absence of the admissibility of these external aids, sometimes court may not be in a position to do justice in a case.