



Rule of Strict Interpretation (Penal and Tax Statutes)

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What is Strict Interpretation/Construction?

- Strict construction occurs when ambiguous language is given its exact and technical meaning, and no other equitable considerations or reasonable implications are made.
- It involves narrow interpretation of a statute, clause or other legal writing. This methodology uses the plain meaning of the words themselves, what is stated literally or what the meaning was at the time and place when originally written. Also referred to as original intent or strict interpretation. The interpretation of a legal statute strictly on what is written and not looking at the intent of the makers or spirit of the law. The plain meaning or letter of the law. [Black's Law Dictionary]
- It refers to a particular legal philosophy of judicial interpretation that limits or restricts judicial interpretation. Judges in this view should avoid drawing inferences from a statute or constitution and focus only on the text itself.

- Critics of strict construction contend that this approach does not always produce a just or reasonable result.
- The effect of rule of strict construction might be summed up as: “where an equivocal word or an ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the benefit of the doubt should be given to the subject and against the legislature which has failed to explain itself”. [*Maxwell on Interpretation of Statutes* (11th edn.)]

Difference between Strict Interpretation and Liberal Interpretation

- Strict Construction/Interpretation means each of the words in Statute should be interpreted by letter and no regard should be had to the spirit beyond the statute. Liberal or beneficial construction/interpretation means the interpretation should be made liberally with intention to advance the purpose or object of the statute. Thus, in case of strict interpretation Courts may prefer the literal rule while for liberal construction courts may prefer golden rule or mischief rule.
- Strict construction is the opposite of liberal construction, which permits a term to be reasonably and fairly evaluated so as to implement the object and purpose of the document.
- Generally, taxing and penal statutes are to be strictly construed while beneficial legislation like ESI (Employees State Insurance) Act, Contract Labour Act or EPF (Employees Provident Fund) Act should be liberally construed. Even in case of taxing statutes, beneficial provisions should be liberally construed.

- “In *State of Jharkhand v. Ambay Cements* (2005) 1 SCC 368, it was held as follows:
 - (a) Provision of exemption should be strictly construed. It is not open to Court to ignore the conditions prescribed in the exemption notification;
 - (b) Mandatory rule must be strictly followed, while substantial compliance might suffice in a directory rule;
 - (c) Whenever the statute prescribed that a particular act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement is mandatory;
 - (d) It is the cardinal rule of the interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way; and
 - (e) Where a statute is penal in character, it must be strictly construed and followed.”

Interpretation of Penal Statutes

- Penal statute is a statute that defines a criminal offense and prescribes its corresponding penalty (fine, or imprisonment).
- As a general rule, strict construction must be applied to criminal statutes. This means that a criminal statute may not be enlarged by implication or intent beyond the fair meaning of the language used or the meaning that is reasonably justified by its terms.
- Criminal statutes, therefore, will not be held to encompass offences and individuals other than those clearly described and provided for in their language. The strict construction of criminal statutes complements the rule of lenity, which holds that ambiguity in a criminal statute should be resolved in favor of the defendant.

- Rule of Lenity is a judicial doctrine requiring that those ambiguities in a criminal statute relating to prohibition and penalties be resolved in favor of the defendant if it is not contrary to legislative intent. [Merriam-Webster Dictionary]
- “The penal statute which tends to deprive a person of right to life and liberty has to be given strict interpretation or else many innocent might become victims of discretionary decision making.” [*Commissioner of Customs (Import), Mumbai v. M/s Dilip Kumar and Company & Ors.*, 2018 (361) E.L.T. 577 (SC)]
- In a modern welfare State there are many statutes prohibiting certain acts. If legislature merely provides that the act is invalid and provides for compensation as redress to the aggrieved person it will be classed as a remedial statute. If the statute also provides for penalties for disobedience of law, such as imprisonment or fine, it will be classed as penal statute.

- **If two possible constructions can be put upon a penal provision, the court must lean towards that construction which exempts the subject from the penalty rather than the one which imposes penalty. [Lord Esher]**
- Those not covered by express language of the penal statute should not be roped in by stretching the language of the law.
- Provisions of a penal statute cannot be presumed to have retrospective operation.
- Legislation which deals with jurisdiction and procedure in relation to imposition of penalties will be strictly construed. Where certain procedural requirements have been laid down by a statute to be completed (in a statute dealing with punishments), the court is duty bound to see that all these requirements have been complied with before sentencing the accused.

- As long as the presumption of innocence of the accused prevails in this country, the benefit of any lacuna or casus omissus must be given to the accused. The job of plugging the loopholes must strictly be left to the legislature and not assumed by the court.

Some Important Points (Exceptions to the general rule)

- Principal that penal statute is to be strictly construed is not of universal application. Penal statute should be construed in a manner which will suppress mischief and advance the object which the Legislature had in view. [Lalita Jalan v. Bombay Gas Co. Ltd. (2003) 6 SCC 107].
- Even in relation to penal statute any narrow and pedantic, literal and lexical construction may not always be given effect to. The law would have to be interpreted having regard to the subject matter of the offence and the object of the law it seeks to achieve. The purpose of the law is not to allow the offender to sneak out of meshes of law. Criminal Jurisprudence does not say so. [*Indian Handicrafts Emporium v. UOI*, AIR 2003 SC 3240].

- In *State of Madhya Pradesh v. Shri Ram Singh*, AIR 2000 SC 575, it was observed that Prevention of Corruption Act is a social legislation defined to curb illegal activities of public servants and is designed to be liberally construed so as to advance its object. Procedural delays and technicalities of law should not be permitted to defeat the object sought to be achieved by the Act.
- Supreme Court of India has given wide interpretations to provisions of Food Adulteration Act 1954, in interpreting section 498A of IPC, section 60(3) of NDPS Act 1985, etc.

Interpretation of Tax Statutes

- “Article 265 of the Constitution (265. Taxes not to be imposed save by authority of law No tax shall be levied or collected except by authority of law) prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because State cannot at their whims and fancies burden the citizens without authority of law. In other words, when competent Legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the Legislature.”
[*Commissioner of Customs (Import), Mumbai v. M/s Dilip Kumar and Company & Ors.*, 2018 (361) E.L.T. 577 (SC)]

- In a taxing statute, one has to look at what is clearly said. There is no equity about a tax. There is no intendment. There is no presumption as to tax. Nothing is to be read in, nothing to be implied.
- Basic principle for a charge under Tax Statutes is that :
“No tax can be imposed on the subject without words in the Act clearly showing an intention to lay a burden upon him”.
- Burden of Proof to bring someone under a charge is on the revenue and that of bringing assessee under exemption/deduction on assessee.

- If interpretation of a fiscal enactment is open to doubt and two views are reasonably possible then the one more beneficial or favourable to the assessee should be adopted.
- If income is falling in two exempting sections, assessee can choose to fall in both unless they are made mutually exclusive by express provisions or necessary implication.
- Provisions related to machinery of assessment or collection should be construed to make it workable and effectuate the levy and advance the object of provisions.

- Construction of machinery provisions that disables the taxing machinery, and enables the person to escape taxation be avoided.
- Penal provisions in case of taxing statutes to be strictly construed. In case of any legislative ambiguity, the assessee should get the benefit of doubt.
- **Liberal Construction** is required for provision of appeal and provisions giving refund to the assessee and in favour of the assessee.
- In case of provisions creating rights, courts must lean in favour of construction that saves the right instead of the one defeating it.

- In a recent Constitutional Bench decision of SC titled *Commissioner of Customs (Import), Mumbai v. M/s Dilip Kumar and Company & Ors.*, 2018 (361) E.L.T. 577 (SC), in relation to ambiguity in tax exemption notification, it was held:
 - (1) Exemption notification should be interpreted strictly; the burden of proving applicability would be on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.
 - (2) When there is ambiguity in exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.

THANK YOU!

