

23**INTERPRETATION OF STATUTES**

*Sushil K. Verma**

I INTRODUCTION

A PERUSAL of select pronouncements of the apex court during the year 2016 depicts a vivid picture. The court had the occasion to examine and apply *inter alia* rules relating to internal aids, eg preamble, proviso and external aids eg Constituent Assembly Debates, budget speech etc. Doctrine of *omissus omisus* and maxims are also considered. In order to protect the interests of citizens, welfare legislation and avoidance to interpretation leading to absurdity, observations were made by the court. Due consideration is also given in respect of the fair investigation and legitimate expectation.

The primary purpose of law is to establish a just legal order. For accomplishing this goal, the law must be made in clear terms, which could be understood by the public in general, and by the administrative authorities. In a democratic form of government the three separate wings are made responsible for its basic function. Framing of law is the task of legislature, executive to implement those laws and judiciary has to decide what the law is and as to how it should be executed. The Constitution of India clearly demarcates the scope, power and limitations of these three democratic institutions. The primary concern and the objective of each of these institutions is to fulfil the aspirations of the common public so as to make the country progressive and to uphold the high ideals and values enshrined in the preamble of the Constitution.

Present era is dominated by legislative explosion. The trend is to govern each and every aspect of social behavior through a variety of enacted laws. Real facts and circumstances confronted with the written laws raise several issues and conflicts. Solutions are to be found by the judiciary. The task of the judges is to decide the exact meaning of the laws and determine the scope and spirit behind the written words. Through the technique of interpretation they have to resolve the conflict. Thus, interpretation is both a science as well as a creative art.

* Former Professor, Law School, BHU, Varanasi.

With the emergence of the Constitution of India, the Supreme Court of India was set up as the apex court of India. The Supreme Court and the various high courts in India were made responsible for interpreting the constitution and other legislations. In their early pronouncements a trend is visible that they had to rely more and more on foreign decisions and also the scholastics' writing of British and American jurists. It was a natural phenomenon. However, gradually a change is visible as the decisions referred to earlier Supreme Court decisions as authoritative pronouncements.

Judicial crafting begins where legislative drafting ends. Rules of interpretation of statutes are the tools available to judicial craftsmen. Judicious selection and use of these tools is an arduous task full of great responsibility. It requires a combination of high degree of skill as well as deep sense of knowledge to arrive at convincing decisions. In the aforesaid scheme of the things the role of judiciary is significant. Judiciary is assigned the exclusive authority to decide the precise meaning of the legal provisions. In other words it has to declare what the law is? The language and the words used in the legislation might not be clear or comprehensive enough to convey the real intention of the legislature and, therefore, require an authentic interpretation by judiciary. This fact has been prominently visualized by Khehar J in a recent pronouncement:¹

The cause, effect and the width of a provision, which is the basis of a challenge, may sometimes not be apparent from a plain reading thereof. The interpretation placed by this Court on a particular provision, would most certainly depict a holistic understanding thereof, wherein the plain reading would have naturally been considered, but in addition thereto, the vital silences hidden therein, based on a harmonious construction of the provision, in conjunction with the surrounding provisions, would also have been taken into consideration.

Explaining the scope of article 141 of the Constitution of India, the court laid down that:²

The mandate of Article 141, obliges every court within the territory of India, to honour the interpretation, conclusion, or meaning assigned to a provision by this Court. It would, therefore be rightful, to interpret the provisions of the Constitution relied upon, by giving the concerned provisions, the meaning, understanding and exposition, assigned to them, on their interpretation by this Court.

In *Sunil Kumar Kori v. Gopal Das Kabra*,³ the court was concerned with the words 'resident' and 'inhabitant' in relation to the Cantonment Act, 2006. It held that

1 *SCORA v. Union of India* (2016) 5 SCC 1, *id.*, para 299 (better known as *Fourth Judges case*) dealing with the National Judicial Appointment Commission. The 99th Constitutional Amendment Act as well as NJAC Act has been declared unconstitutional.

2 *Ibid.*

3 (2016) 10 SCC 467.

“it is well settled principle of interpretation that different words will have different meanings, depending upon the context.” The court followed its earlier pronouncement in *Kailash Nath Agarwal v. Pradeshiya Industrial & Investment Corporation of UP Ltd*,⁴ where it was held that “[t]he general rule is that when two different words are used by the same statute, *prima facie* one has to construe these different words as carrying different meanings.”

II INTERPRETATION: GENERAL APPLICABILITY

Fair Trial the case of *Dharam Pal v. State of Haryana*,⁵ trial of a case under section 302, 363, 366-A, 376, 506, 365 and 34 of the Indian Penal Code 1860 and under section 3 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, has already been started. It was argued that investigation was not fair. Without fair investigation fair trial remains a distant dream. The issue was whether the investigation may be transferred to CBI at this advance stage of proceeding.

After reviewing various judgements⁶ of the Supreme Court it was held that fair investigation is condition precedent for fair trial to uphold the cause of justice. The Supreme Court took support from the law laid down in the constitution bench case of *State of West Bengal v. Committee for Protection of Democratic Rights*,⁷ where it was held that the constitutional court can exercise the power under article 226 and 32 in rare cases. The main question was whether this case was fit for the application of the constitutional power to ensure that the investigation is fair? The Supreme Court found the case, though at advance stage, as a fit case to be transferred to CBI. The reasoning of the decision was influenced by the fact that additional Chief Secretary had recommended “for handing over the investigation to the CBI; that departmental action was taken against the investigating authorities for negligent investigation; that the concerned ASI has been reverted to the post of Head Constable; and that apart, certain material witnesses have not been examined by the investigating agency without any rhyme or reason.”

Welfare legislation

In the case of *Pepsico India Holding P.Ltd v. Grocery Market & Shops Board*,⁸ the court was concerned with the interpretation of the provisions of the Maharashtra Mathadi, Hamal and Other Manual Workers (Regulation of Employment and Welfare) Act, 1969, read with the Grocery Markets or Shops Unprotected Workers (Regulation of Employment and Welfare) Scheme, 1970. The company was manufacturing petro-

4 (2003) 4 SCC 305.

5 (2016) 6 SCJ 347.

6 *Narmada Bai v. State of Gujarat* (2011) 5 SCC 79; *K.V. Rajendran v. Superintendent of Police, CBCID South Zone, Chennai*(2013) 12 SCC 480; *Vinay Tyagi v. Irshad Ali* (2013) 5 SCC 762; *Bhagwant Singh v. Commr. of Police* (1985) 2 SCC 537.

7 (2010) 3 SCC 571.

8 (2016) 13 SCC 301; 2016 SCC OnLine SC 133.

chemical products and claimed that the scheme does not apply in their case as their products were different from chemical products. Other issue involved was whether 'grocery' would include soft drinks and bottled water as well. The Pepsi company argued that 'grocery' does not include soft drinks etc. This interpretation by the Pepsi would deprive the manual labour in Maharashtra the benefit of 'provident fund contribution, paid holidays, house rent, workmen's compensation, bonus and other medical benefits.' Both the pleas were rejected by the Bombay high court and the Supreme Court agreed with the decision. The court observed that:⁹

[the Act in question is a] welfare legislation whose primary object is to provide adequate employment for and better terms and conditions for the employment of daily wagers, and to provide for their general welfare, which includes health and the safety measures, and to provide them with various other facilities including provident fund and gratuity. Arguments indulging in unnecessary hairsplitting have therefore necessarily to be dismissed out of hand.

The court also referred *Bhuwalka Steel Industries Limited v. Bombay Iron and Steel Labour Board*,¹⁰ where the court observed that the concerned legislation is addressed to those poor workmen, who were neither organized to be in a position to bargain with the employers nor did they have the compelling bargaining power. They were mostly dependent upon the Toliwalas and the Mukadams. They were not certain that they would get the work every day. They were also not certain that they would work only for one employer in a day. Every day was a challenge to these poor workmen. In these days when Noble Laureate Professor Mohd. Yunus of Bangladesh is advocating the theory of social business as against the business to earn maximum profits, it would be better if the employers could realize their social obligations, more particularly, to the have-nots of the society, the workers who are all contemplated to be the afflicted worker. This being a piece of social legislation, the well-known doctrine of construing such legislation in an expansive manner is established to further the object of welfare legislation. In this context it would be beneficial to refer another earlier decision of the apex court in *Workmen of Messrs Firestone Tyre v. Management*.¹¹ It was observed that:¹²

it is well settled that in construing the provisions of welfare legislation, courts should adopt, what is described as a beneficent rule of construction. If two constructions are reasonably possible to be, placed on the section, it follows that the construction which furthers the policy and object of the Act has to be preferred.

9 *Id.*, para14.

10 (2010) 2 SCC 273.

11 (1973) 1 SCC 813.

12 *Id.* at para 35.

Interest of citizen

In the case of *Andhra Pradesh State Council of Higher Education v. Union of India*,¹³ the issue was whether the State of Telangana can claim ownership over the entire funds and assets of the (erstwhile) Andhra Pradesh State Council of Higher Education? This argument of Telangana was rejected on the ground that Heavy reliance section 75 of the Reorganisation Act, 2014, renders other provision of the Act, useless and nugatory. The court observed that:¹⁴

The issue of bifurcation of states is both sensitive as well as tricky. Adequate care has to be taken by the legislature while drafting legislations such as the Reorganisation Act, 2014 to ensure a smooth division of all assets, liabilities and funds between the states to make sure that the interests of the citizens living in these states are protected adequately. Therefore, care must be taken to ensure that no discrimination is done against either of the successor state. Thus while interpreting statutes of such nature, the courts must ensure that all parts of the statute are given effect to.

The court referred the decision of eleven judge bench in the case of *Madhav Rao Jivaji Scindia v. Union of India*¹⁵ which has held as under:¹⁶

The Court will interpret a statute as far as possible, agreeably to justice and reason and that in case of two or more interpretations, one which is more reasonable and just will be adopted, for there is always a presumption against the law maker intending injustice and unreason. The court will avoid imputing to the Legislature an intention to enact a provision which flouts notions of justice and norms of airplay, unless a contrary intention is manifest from words plain and unambiguous. A provision in a statute will not be construed to defeat its manifest purpose and general values which animate its structure. In an avowedly democratic polity, statutory provisions ensuring the security of fundamental human rights including the right to property will, unless the contrary mandate be precise and unqualified, be construed liberally so as to uphold the right. These rules apply to the interpretation of Constitutional and statutory provisions alike.

The court also refereed *Prakash Kumar@Prakash Bhutto v. State of Gujarat*,¹⁷ which observed as under:¹⁸

13 (2016) 6 SCC 635.

14 *Id.* at para 32.

15 (1971) 1 SCC 85.

16 *Id.* at para 134.

17 (2005) 2 SCC 409.

18 *Id.* at para 30.

By now it is well settled Principle of Law that no part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place. It is also trite that the statute or rules made thereunder should be read as a whole and one provision should be construed with reference to the other provision to make the provision consistent with the object sought to be achieved.

Another case which provided support to the Supreme Court was *Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd.*¹⁹ where the court observed:²⁰

Interpretation must depend on the text and the context. They are the basis of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with the glasses of the statute- maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place.

Applying these precedents, the court in the case of *Andhra Pradesh State Council of Higher Education* held that:²¹

It is natural that when an existing State is bifurcated to form two new States, there must be an equitable bifurcation of the assets and liabilities of the statutory bodies among the two successor States as well, to ensure *welfare of the public at large* residing within these territories. In the instant case, the State of Telangana has claimed ownership over the entire funds and assets of the (erstwhile) APSC. This could surely not have been the intention of the legislature while enacting the Reorganisation Act, 2014. [Emphasis Added]

19 (1987) 1 SCC 424.

20 *Id.* at para 33.

21 (2016) 6 SCC 635, at para 34-35.

Legitimate expectation

In the case of *Union of India v Lt Col P.K. Choudhary*,²² the plea of legitimate expectation raised on behalf of an army officer for promotion as it was found not tenable in law especially when the policy change was in public interest. The court expressed the meaning, scope and limitation of legitimate expectation as under:²³

the concept arises out of what may be described as a reasonable expectation of being treated in a certain way by an administrative authority even though the person who has such an expectation has no right in law to receive the benefit expected by him. Any such expectation can arise from an “express promise” or a “consistent course of practice or procedure” which the person claiming the benefit may reasonably expect to continue. The question of redress which the person in whom the legitimate expectation arises can seek and the approach to be adopted while resolving a conflict between any such expectation, on the one hand, and a public policy in general public interest on the other, present distinct dimensions every time the plea of legitimate expectation is raised in a case.

After referring various cases the court acknowledged the constitutional dimension of legitimate expectation as under:²⁴

if denial of legitimate expectation in a given case amounts to denial of a right that is guaranteed or is arbitrary, discriminatory, unfair or biased, gross abuse of power or in violation of principles of natural justice the same can be questioned on the well-known grounds attracting Article 14 of the Constitution but a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.

Presumption against implied repeal

In the case of *Lal Shah Baba Dargah Trust v. Magnum Developers*,²⁵ while dealing with repeal by implications the court observed that “it is well settled that the implied repeal is not readily inferred and the mere provision of an additional remedy by a new Act does not take away an existing remedy. While applying the principle of implied repeal, one has to see whether apparently inconsistent provisions have been repealed and reenacted.” Implied repeal is possible if ‘there is enactment of a later law which had the power to override the earlier law and is totally inconsistent with the earlier law and the two laws cannot stand together.’ If the effect of later law is that

22 (2016) 4 SCC 236.

23 *Id.*, para 52.

24 *Id.*, para 56.

25 (2015) 17 SCC 65.

cannot replace the former law or the new law 'cannot be implemented, the earlier law would continue to operate' because such 'implied repeal may result in a vacuum which goes against intention of legislature. The court further observed that:²⁶

There is a presumption against repeal by implication. The reason for the presumption is that the legislature while enacting a law has complete knowledge of the existing laws on the subject matter and, therefore, when it is not providing a repealing provision, it gives out an intention not to repeal the existing legislation. If by any fair interpretation, both the statutes can stand together, there will be no implied repeal and the court should lean against the implied repeal. Hence, if the two statutes by any fair course of reason are capable of being reconciled, that may not be done and both the statutes be allowed to stand.

Ambiguity in election rules

In the case of *Smita Subhash Sawant v. Jagdeeshwari Jagdish Amin*,²⁷ it was held that if the State Election Commissioner has failed to frame the Rules which led to some kind of ambiguity, such provision should be interpreted as far as possible in a manner which may benefit the elected candidate rather than the election petitioner. The court points out that its observations are in line keeping in view the principle laid down in an earlier decision of *Anandilal v. Ram Narain*,²⁸ where the court had the occasion to construe Section 15 of the Limitation Act. While construing the said section, the learned Judge A.P. Sen J. speaking for the Bench observed that 'in construing statutes of limitation considerations of hardship and anomaly are out of place. Nevertheless, it is, we think, permissible to adopt a beneficent construction of a rule of limitation if alternative constructions are possible.' In this case the court also reiterated the well settled principle that 'the Court cannot read any words which are not mentioned in the Section nor can substitute any words in place of those mentioned in the section and at the same time cannot ignore the words mentioned in the section. Equally well settled rule of interpretation is that if the language of statute is plain, simple, clear and unambiguous then the words of statute have to be interpreted by giving them their natural meaning.'

III INTERNAL AID

In the case of *M/S. Gujarat Ambuja Exports Ltd v. State of Uttarakhand*,²⁹ the validity of section 27(c) (iii) and 27(c) (iv) of the Uttarakhand Agricultural Produce Marketing (Development and Regulation) Act, 2011 was challenged on the ground of legislative competence. Section 27(c)(iii) of the Act was struck down while validity

²⁶ *Id.*, para 32.

²⁷ AIR 2016 SC 1409.

²⁸ 1984 SCR (3) 806.

²⁹ (2016) 3 SCC 601.

of section 27(c)(iv) is upheld. Preamble as an internal aid has been used by the Supreme Court as under:³⁰

A perusal of the Preamble of the Act shows that the Act has been enacted to regulate the marketing of agricultural produce, and for the effective superintendence and control of the markets in the State of Uttarakhand. At this stage, it is imperative to examine the role of the preamble as an aid of statutory interpretation.

The court referred a constitution bench case of *Kavalappara Kottarathil and Kochummi alias Moopil Nayar v. States of Madras and Kerala*,³¹ as under:³²

The preamble of a statute is “a key to the understanding of it” and it is well established that “it may legitimately be consulted to solve any ambiguity, or to fix the meaning of words which may have more than one, or to keep the effect of the Act within its real scope, whenever the enacting part is in any of these respects open to doubt

In another constitution bench the apex court has dealt with the same in the case of *Union of India v. Elphinstone Spinning and Weaving Co. Ltd.*,³³ wherein it was held, *inter alia*, as under:³⁴

The preamble of an Act, can also be read along with other provisions of the Act to find out the meaning of the words in enacting provisions to decide whether they are clear or ambiguous but the preamble in itself not being an enacting provision is not of the same weight as an aid to construction of a Section of the Act as are other relevant enacting words to be found elsewhere in the Act. The utility of the preamble diminishes on a conclusion as to clarity of enacting provisions. It is therefore said that the preamble is not to influence the meaning otherwise ascribable to the enacting parts unless there is a compelling reason for it.

The court after considering the abovementioned case law, observed that the preamble cannot control the enacting part. The preamble read with the provisions of a statute, however, makes the legislative scheme clear and can be used to determine the true meaning of the enacting provision and whether given the other provisions of the Act, the enacting provision can be given effect to without defeating the scheme of the entire Act.

30 *Id.*, para 28.

31 AIR 1960 SC 1080.

32 *Id.*, para 37.

33 (2001) 4 SCC 139.

34 *Id.*, para 17.

Proviso

In the case of *M/s. CASIO India Co. Pvt. Ltd. v. State of Haryana*,³⁵ the issue was regarding the exemption under Haryana General Sales Tax Act, 1973, Haryana General Sales Tax Rules, 1975 and the Central Sales Tax Act, 1956. The exemption notification refers to the sale of goods manufactured by a dealer holding a valid exemption certificate. The emphasis is on the goods manufactured. It is absolutely necessary to understand the language employed in the proviso to the notification. If there was no proviso to the notification there would have been no difficulty whatsoever in holding that the exemption is qua the goods manufactured and was not curtailed or restricted to the sales made by the manufacturer dealer and would not apply to the second or subsequent sales made by a trader, who buys the goods from the manufacturer-dealer and sells the same in the course of inter-state trade or commerce.

The court acknowledged that a proviso serves various purposes. The normal function is to qualify something enacted therein but for the said proviso would fall within the purview of the enactment. It is in the nature of exception.³⁶ The court also found the observation of Hidayatullah, J. in *Shah Bhojraj Kuverji Oil Mills and Ginning Factory v. Subhash Chandra Yograaj Sinhai*,³⁷ useful where it was held that a proviso is generally added to an enactment to qualify or create an exception to what is in the enactment, and the proviso is not interpreted as stating a general rule. Further, except for instances dealt with in the proviso, the same should not be used for interpreting the main provision/enactment, so as to exclude something by implication. It is by nature of an addendum or dealing with a subject matter which is foreign to the main enactment. Proviso should not be normally construed as nullifying the enactment or as taking away completely a right conferred.

The court held that the proviso should not be given a greater or more significant role in interpretation of the main part of the notification, except as carving out an exception. It means and implies that the requirement of the proviso should be satisfied i.e. manufacturing dealer should not have charged the tax. The proviso would not scuttle or negate the main provision by holding that the first transaction by the eligible manufacturing dealer in the course by way of inter-state sale would be exempt but if the inter-state sale is made by trader/purchaser, the same would not be exempt. That will not be the correct understanding of the proviso. Giving over due and extended implied interpretation to the proviso in the notification will nullify and unreasonably restrict the general and plain words of the main notification. Such construction is not warranted.

35 AIR 2016 SC 1690.

36 *Kedarnath Jute Manufacturing Co. Ltd v. Commercial Tax Officer*, AIR 1966 SC 12.

37 AIR 1961 SC 1596.

IV EXTERNAL AID

In the case of *Subramanian Swamy v. Union of India*,³⁸ which is also known as *Defamation* judgement, the constitutional validity of section 499 IPC was in question. The debate of the Constituent Assembly can be taken aid of for the purpose of understanding the intention of the framers of the Constitution. In *S.R. Chaudhuri v. State of Punjab*,³⁹ a three-Judge Bench has observed that:⁴⁰

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. It was also highlighted that the Constitution is not just a document in solemn form, but a living framework for the Government of the people exhibiting a sufficient degree of cohesion and its successful working depends upon the democratic spirit underlying it being respected in letter and in spirit.

The court also referred *Manoj Narula v. Union of India*,⁴¹ where the constituent assembly debate was used to interpret constitutional provision.

Speech of Minister

In the case of *CIT v. M/S Meghalaya Steels Ltd*,⁴² sections 80-IB and 80-IC of the Income Tax Act, 1961 was in issue. The court used the speech of a Minister. The court observed that it was relevant insofar it gives the background for the introduction of a particular provision in the Income Tax Act. It is not determinative of the construction of the said provision, but gives the reader an idea as to what was in the Ministers mind when he sought to introduce the said provision as an external aid to construction. The court referred its earlier pronouncement in *K.P. Varghese v. Income Tax Officer, Ernakulam*⁴³ referring to a Minister speech piloting a Finance Bill stated as under:⁴⁴

Now it is true that the speeches made by the Members of the Legislature on the floor of the House when a Bill for enacting a statutory provision is being debated are inadmissible for the purpose of interpreting the statutory provision but the speech made by the Mover of the Bill explaining the reason for the introduction of the Bill can certainly be

38 AIR 2016 SC 2728.

39 (2001) 7 SCC 126.

40 *Id.*, para 33.

41 (2014) 9 SCC 1.

42 (2016) 6 SCC 747.

43 (1981) 4 SCC 173. .

44 *Id.*, para 8.

referred to for the purpose of ascertaining the mischief sought to be remedied by the legislation and the object and purpose for which the legislation is enacted. This is in accord with the recent trend in juristic thought not only in Western countries but also in India that interpretation of a statute being an exercise in the ascertainment of meaning, everything which is logically relevant should be admissible.

The court also referred three judicial precedents where the speech of finance minister was used.⁴⁵

V MAXIMS

Noscitur a sociis-

In the case of *Subramanian Swamy*,⁴⁶ the core issue was whether the said doctrine of *noscitur a sociis* should be applied to the expression “incitement of an offence” used in article 19(2) of the Constitution so that it gets associated with the term “defamation”. *Noscitur a sociis* leads to narrow interpretation. The court declined to accept this argument as under:⁴⁷

The term “defamation” as used in Article 19(2) should not be narrowly construed. The conferment of a narrow meaning on the word would defeat the very purpose that the founding fathers intended to convey and further we do not find any justifiable reason to constrict the application. The word “defamation” as used in Article 19(2) has to be conferred an independent meaning, for it is incomprehensible to reason that it should be read with the other words and expressions, namely, “security of the State”, “friendly relations with foreign States”, “public order, decency or morality.”

Contemporanea exposition

In the case of *Pepsico India Holding P.Ltd v. Grocery Market & Shops Board*,⁴⁸ it was argued that the meaning of the expression should be construed on the date ‘on which the Act was’ made applicable because of the principle of *contemporanea exposition* ie the meaning of words in a document are to be understood in the sense which they bore at the time of the document. The Supreme Court held this argument as ‘fallacious in law.’ The court held that took support from an earlier precedent of *Senior Electric Inspector and others v. Laxmi Narayan Chopra*⁴⁹ that the fundamental

45 *Loka Shikshana Trust v. Commissioner of Income-Tax* [1975] 101 ITR 234(SC); *Indian Chamber of Commerce v. Commissioner of Income-tax* [1975] 101 ITR 796(SC) ; *Additional Commissioner of Income-tax v. Surat Art Silk ClothManufacturers Association* [1980] 121 ITR 1(SC).

46 (2016)7 SCC 2728.

47 *Id.*, para 80.

48 AIR 2016 SC 841.

49 1962 (3) SCR 146.

rule of construction is the same when to construe a provision, be it an ancient statute or that of a modern one *ie* 'what is the expressed intention of the Legislature.' It was observed that:⁵⁰

It is perhaps difficult to attribute to a legislative body functioning in a static society that its intention was couched in terms of considerable breadth so as to take within its sweep the future developments comprehended by the phraseology used. It is more reasonable to confine its intention only to the circumstances obtaining at the time the law was made. But in a modern progressive society it would be unreasonable to confine the intention of a Legislature to the meaning attributable to the word used at the time the law was made, for a modern Legislature making laws to govern a society which is fast moving must be presumed to be aware of an enlarged meaning the same concept might attract with the march of time and with the revolutionary changes brought about in social, economic, political and scientific and other fields of human activity. Indeed, unless a contrary intention appears, an interpretation should be given to the words used to take in new facts and situations, if the words are capable of comprehending them.

The court refused to give the words 'grocery' the same meaning which was fit at the time of enactment and held that soft drinks, bottled water can also be covered under this word.

VIMISCELLANEOUS

In the case of *Central Bureau of Investigation, Bank Securities & Fraud Cell v. Ramesh Gelli*⁵¹ the issue was whether the officers of a private banks are public servant or not for the purpose of Prevention of Corruption Act, 1988.⁵²

the legislative intent behind the enactment of the PC Act was, inter alia, to expand the definition of "public servant", the omission to incorporate the relevant provisions of the PC Act in Section 46A of the BR Act after deletion of Sections 161 to 165A of the I.P.C. from Chapter IX can be construed to be a wholly unintended legislative omission which the Court can fill up by a process of interpretation. Though the rule of *casus omissus* i.e. "what has not been provided for in the statute cannot be supplied by the Courts" is a strict rule of interpretation there are certain well known exceptions thereto.

50 *Id* at 156-57.

51 2016(3) SCC 788.

52 *Id.*, para 39.

The court referred to the opinion of Lord Denning in the case of *Seaford Court Estates Ltd. v. Asher*⁵³ where he observed:⁵⁴

The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were....He (The Judge) must set to work in 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....A judge should ask himself the question, how, if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases.

Magor and St. Mellons Rural District Council v. Newport Corporation,⁵⁵ also deserves mention where Lord Denning observed:⁵⁶

We sit here to find out the intention of Parliament and of ministers and carry it out, and we do this better by filling in the gaps and making sense of the enactment than by opening it up to destructive analysis.

The observation of Lord Denning has received implicit approval in *Bangalore Water Supply and Sewerage Board v. A Rajappa*.⁵⁷ In another case of *M. Pentiah v. Muddala Veeramallappa*,⁵⁸ Sarkar, J., approved of the reasoning of Lord Denning.

VII CONCLUSION

The survey of the select Supreme Court pronouncements during 2016 on the topic of interpretation of statutes exhibits a trend to avoid the traditional pattern of reiterating the rules of interpretation. However, in almost all the pronouncements of the higher judiciary they are consciously or unconsciously aware about the various rules of interpretation.

The decision of *Pepsico* is remarkable as it clearly refers to concern for the welfare of the employees. *Andhra State council* refers to the cause of interest of the citizens. The courts are showing a tendency towards taking the help of each source of

53 (1949) 2 All ER 155.

54 *Id.*, para 164.

55 (1950) 2 All ER 1226.

56 *Id.*, para 1236A.

57 (1978) 2 SCC 213.

58 (1961) 2 SCR 295.

external or internal aids to arrive at just and proper meaning of the relevant legislative prescriptions. Constituent Assembly Debates, Budget speeches, preamble or proviso are found to throw light on the particular issues involved. *Gujarat Ambuja Exports Ltd* indicates the limit of preamble in interpretation. On the plea for legitimate expectation or application of the limits and the inapplicability of the maxims are pointed out. The landmark decision in *Dharampal* stands as a solid contribution to lay down a strong base for a new trend in the field of interpretation of penal law. The observations of Deepak Mishra J (as he then was) that there cannot exist a fair trial without fair investigation is highly appreciable.

