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## Application of Strict Rule to Tax Statute

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### Abstract

The principle of strict interpretation is applied to interpret these statutes as there is a mere chance of interpreting it in another way. There is no presumption as to tax statutes. The words written in the statutes are strictly considered. The language used in the statutes are given priority while interpreting it. The meaning that we find out just by the plain reading of the provision is given importance and the intention of the legislature is figured out by following the rule of strict interpretation. Rowlatt J., in a very landmark case stated that while interpreting a taxing statute one has to look at what is clearly stated and written in the provision as there is no scope for any other objective. The provision of tax statutes which clearly specifies about the taxpayer and who are exempted from taxes etc. these all aspects related to taxation law are to be strictly interpreted. This article covers the aspect of the rule of strict interpretation and deals with the application of the rule of strict interpretation to the Tax statutes.

### Introduction

There are three organs of the government that is Legislature, Executive, and Judiciary. The law-making power is in the hands of the legislature and the executive has the power to enforce it and to ensure its effective working. The Judiciary has an important role in doing so. Article 265 of the Indian Constitution<sup>2</sup> states that no tax shall be levied or collected unless it has been authorized by law to do so. This article empowers the legislature to make law with respect to tax and prescribes the condition and criteria for collecting tax, imposing it and its applicability.

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<sup>2</sup> Indian Constitution, Art. 265

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Interpretation means to give meaning to the words written in the statutes and are ambiguous, inconsistent or unclear by finding out the legislature's intention, the purpose of that particular law or the elimination of the defects or mischief which existed even prior to the passing of the law. It is a common rule that words should be interpreted by their plain and grammatical meaning first. In case any ambiguity evolves the words should be interpreted then with the help of any other construction. Such construction is adopted when the words are very unclear and by plain reading intention of the legislature and purpose of the act could not be figured out. Such meaning is obtained in order to fulfil the purpose of the act and identify the intention of the legislature.

The legislature can also delegate its law-making power to the executives for its better enforcement and proper implementation. Such delegation is exercised in forms of rules, regulations and notification etc. In India, the case of taxation delegation is done by Central Board of Indirect Taxes (CBEC) in case of indirect taxes and Central Board of Direct Taxes (CBDT) in case of direct taxes. These are the subordinate authorities given the subordinate legislation through the principal statute and these subordinate authorities exercise the same power and they are binding as the principal or the parent statute.

## **Objective of Interpretation**

It is a dynamic society where things keep on changing socially, politically and economically and hence interpretation of laws also needs alterations. The legislature is not designed to deal with everyday changes and cannot predict the changes that could take place in the future. Therefore, it is the duty of the court to interpret the laws according to the changes that are taking place in the society and adopt a reasonable construction which would help to uphold the intention of the legislature behind making a particular law.

## **Principle of Strict Interpretation**

Tax Statutes are interpreted by following the principle of strict interpretation. As per this rule the plain meaning of the word stated in the statute is considered. Court need not interfere or

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presume any other meaning by their own. Even if there is ambiguity or the words are unclear the court cannot give a particular meaning to that word in order to or make an assumption with respect to the intention of the legislature. Court cannot put forward the possibility or the likely intention of the legislature to the words by their own if those words are unclear and where the meaning could not be found in case of strict interpretation. The very objective of Strict Interpretation is to give the words their plain and grammatical meaning hence it serves its purpose well and leaves no room for any other liberal construction.

## **Strict Rule of Interpretation on Tax Statutes**

Tax is an authoritative form of obtaining money from the person liable to pay tax by the designated authority and with the clear intent of no assured benefit in return of this tax payment. The tax puts the burden on the taxpayer to pay taxes regularly and in case of any default it also make the assessee liable for the same. The taxes are collected and levied only by those who are authorised for doing this by our Indian Constitution. The taxation Act is a monetary statute which has been formed on the basis of various experiments and trials. It is not possible for the legislatures to predict the future situation which may arise after the law is enacted. The taxpayers sometimes take advantage of the loopholes of the tax provision to free themselves or to lessen their tax burden. In case of any conflict most of the time, the benefit of doubt is given to the taxpayer as their interest is given priority.

The strict rule is applied while interpreting the taxing statutes so courts are bound by this rule to stick with the plain and grammatical meaning of the words and phrases without thinking about its impact and consequences which can result from it. There is no scope for any presumption by the court to provide a different meaning to those words unless it is specifically and stated in the statute. It is only the legislature or the authority which has been empowered by the legislatures to take up the decisions with respect to any amendments or clarifications which is required to be done in order to rectify the defects or the loopholes. The direct and plain meaning of the words given in the statute are considered for interpreting any tax provision and if there are more than one construction arising then in that situation the construction which

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is favourable for the taxpayer is upheld. The burden of paying tax implies only when it is specifically stated in the statute, if no explicit mentioning of any tax burden is there then no levying or collecting of taxes is to be done.

## **Taxation Statutes and its Interpretation**

Taxation Statute is a monetary or fiscal statute which puts the burden on the eligible taxpayer and these statutes are interpreted strictly. Plain, unambiguous, consistent meaning is given. In case there are more than one possible construction, the one in favour of the assessee is given preference.<sup>3</sup> Taxation Statute comprises of three steps firstly the subject matter on which tax can be levied, secondly it determines the tax liability the eligible taxpayer and assessment of the same and thirdly the extraction of tax once the above two steps are done. The first step talks about the charging provision and it should be clearly stated in the act. This charging section specifies the scope and the extent of the application of this act and to whom tax should be levied. It also provides a brief idea of the subject which the legislature intended to cover under this law. The charging section is mandatorily interpreted in a strict manner as it leads to tax burden. There is no room for ambiguity as the meaning should be plain, clear and unequivocal. No inference should be made to explain or justify the intention of the legislature or the purpose for which the law is enacted. Once it is declared by the statute the subject matter on which the tax should be levied must be covered under the particular statutes. If there is no proof or explicit mentioning of any subject matter in the statute for the imposition of the tax, then no tax can be imposed even by modifying or extending the meaning of the statute. There is no role of the principle of equity in the case of Taxation law as lots of legal fiction are engaged in tax laws. So, the words written in the provisions of the tax statutes are strictly relied upon without emphasizing whether it is just or not. The words are clear and plain, then the court is bound to uphold such meaning irrespective of its future effect, even if the interpretation is not equitable still the court cannot deviate from the path of strict interpretation to give it a liberal meaning.

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<sup>3</sup> Dr. Chaturvedi, K.N., " Interpreting of Taxing Statutes", Taxmann Allied Services Pvt.Ltd

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The court cannot remedy the defect by modifying the provisions of the act. The power to rectify the defects lies only with the legislature and they can do so through amendments. The words in the taxation statute if has clear meaning then court are bound to follow such meaning even if there is any chance of inconsistency. It is within the purview of legislatures to amend or rectify the law. Court cannot give different meaning to those words on their discretion. It is basically based on the explanation that if the legislature had intended of such different construction then it would have definitely inserted in by proper explanation under the parent act and the appropriate authority would have also notified it to the government by giving proper clarification.

The case of *State of Uttar Pradesh v. Kores India Ltd.*<sup>4</sup> is very relevant on this aspect. In this case it was suggested that the definition of the word paper should include carbon paper also. The Supreme Court stated that the word paper in common is used for writing, packing and printing rather the carbon paper is used for very different cause and it is more complex than a normal paper. So it was opined by the court that carbon paper would not be included in the definition of word paper and hence not be subjected to taxation under this word paper. The court declared that the meaning of word paper is very clear and plain and there is no requirement to interpret it in different way or extend its scope in order to include carbon paper. Hence, courts are not needed to extend the meaning to include words if at the very first face it is clear that those words cannot be covered under the purview of the words in question. Only if it is specifically mentioned in the act in that case only tax could be imposed or levied. The words written in the taxation act should be given meaning in such a way that it is understandable by the general public and one which is common to general population. Such meaning should be interpreted for the words which can easily be acknowledged by the people who are subjected to tax. The second and third steps in any tax statute are about the liability and recovery of debts. These provisions state about the procedure which is to be followed in order to make these provisions valid and functional. These should be interpreted liberally to

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<sup>4</sup> AIR 1977 SCR (1) 837

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enhance the intent of the legislature. In case there any conflict arises and there is possibility of two meanings then one which is just or which assist in fulfilling the purpose of the act or determining the intention of the legislature must be preferred. They are interpreted to apply the charging section liberally. This is the case of exemption where liberal construction can be done rather than strict interpretation. All the condition stated for exemption should be clearly be enumerated in the act. Once the taxpayer shows that he is eligible for exemptions and fulfil the specified conditions he will be entitled to claim exemptions and then such exemptions should be provided. It can never be denied on the basis of assumption of any law making authority. There is doctrine based on the principle of equity known as substantial compliance applicable to taxation laws. As per this doctrine if the conditions that are mentioned for exemptions are met to a great extent and only few procedural requirements are not relied upon and it does not affect the purpose of the law then this doctrine can also make one eligible for claiming exemptions. The application of such doctrine depends on the types of cases and situation and it can give different outcome for different cases depending upon its fact, its extent of reliance, whether such kind of compliance fulfils the object and purpose of the act.

## **Conclusion**

As the taxation statute is strictly interpreted, it should be assured by the legislature that the words used in the act are clear and large enough to cover all aspects which is required to be taxed. Words and phrases should be used in such a manner that there is no scope for any ambiguity. While drafting the laws experts should be approached who are familiar with such laws and deal them on a daily basis to lessen the possibility of any further complexities. If the statute carries any loopholes with it the purpose and object of the act is affected and it fails to fulfil its aim and whole law has to suffer from complications. The assessee has to tackle the burden of tax which is imposed on them so it should be interpreted strictly and not on the basis of any presumption in order to show the intention of legislature. No alterations should be done in the provisions in order to justify the intention of the legislature or fulfilling the purpose of

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the act. It should be interpreted in such a way so that it results in mutual balance between both the taxpayer and tax collector.

The courts obligation is not only to apply the strict rule blindly and interpreting it accordingly but also to check the malpractices related to it. The courts should keep an eye on the activities of the assessee to avoid tax evasion and determining that whether these transactions result in tax avoidance or it is just tax planning. If it is found out by the court that there is something fishy and the assessee is trying to avoid tax by doing complex transactions then the court should go for liberal and reasonable construction in order to avoid these kinds of activities involving tax evasion and tax avoidance and should set an example for future so that no one else ever think of taking advantage of the loopholes and hamper the very purpose of the act.