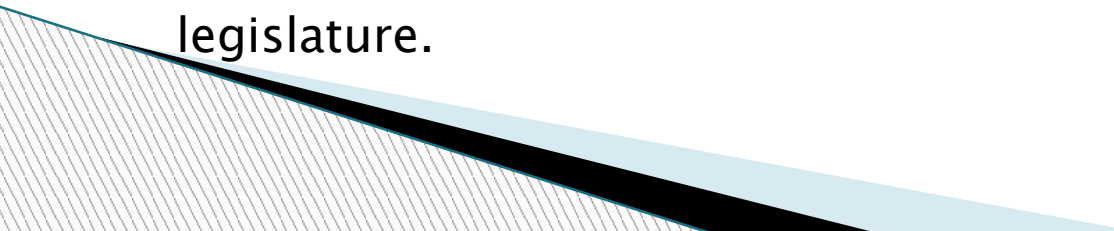


# **PRINCIPLES OF STATUTORY INTERPRETATION RELEVANT TO GST**

**Bharat Raichandani  
Advocate**

**Partner  
UBR Legal  
Advocates**

# INTRODUCTION

- **Salmond:** Interpretation or construction is a process by which the Court seeks to ascertain the meaning of the legislature through the medium of authoritative forms in which it is expressed.
  - **Gray:** Interpretation is a process by which a judge constructs from the words of a Statute Book, a meaning which he either believes it to be that of the legislature, or which he proposes to attribute to it.
  - The purpose of interpretation is to discover the intention of the author. Interpretation is a tool for simplifying the words of the legislature.
- 

- ▶ **Strict/Literal Interpretation:** One of the cardinal rules of interpretation of tax

statutes based on the phrase *there is no equity in tax*.

# PRINCIPLES OF INTERPRETATION

- ▶ **Intention of Legislature**

1.1 Addition/substitution/rejection of words

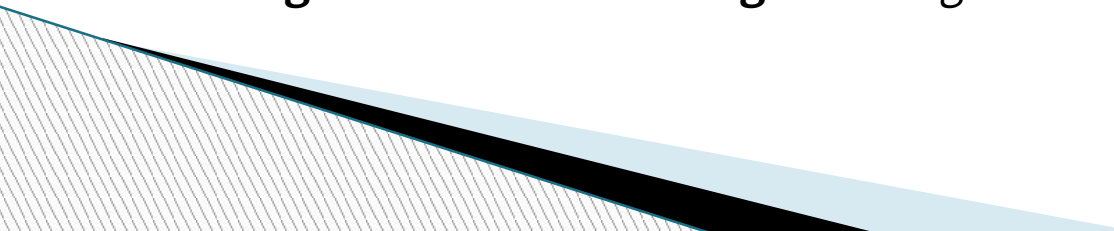
1.2 Casus Omissus

- ▶ **Purposive Construction**

- ▶ **Harmonious Construction**

**UBR Legal  
Advocates**

# LEGAL MAXIMS

- ▶ **Ejusdem Generis-** *Of the same kind*
  - ▶ **Noscitur a Sociis-** *Words to be interpreted by the company it keeps*
  - ▶ **Ut Res Magis Valeam Quam Pereat-** *Two constructions possible, give effect to one which does not destruct a statute*
  - ▶ **Contemporanea Exposito Est Fortissima in Lege-** *Construction as per contemporary opinion*
  - ▶ **Expressio Unius Est Exclusio Alterius-** *Express mention of a thing exclude all others*
  - ▶ **Generalia Specialibus Non-Derogant-** *General provisions of a statute should yield to a specific one*
  - ▶ **Delegatus Non Potest Delegare-** *Delegatee cannot further delegate*
- 

- ▶ **Res Judicata**- Once a matter is decided by a competent court, no party is permitted to reopen the matter in subsequent litigation
- ▶ **Judicis Est Dicere Non Dare**- Judge to administer the law, not to make it
- ▶ **Incumbit Probatio Qui Dicit Non Qui Negat**- *Presumption of innocence*
- ▶ **Actus Non Facit Nisi Mens Sit Rea**- *Intention for proving guilt along with physical act*
- ▶ **Audi Alterem Partem**- *No one can be condemned unheard*
- ▶ **Nova Constitutio Futuris Formam Imponere Debet, Non Praeteritis**-  
*New law to be prospective and retrospective*

# APPLICABILITY UNDER GST

- ▶ **Jayachandran Alloys (P) Ltd Vs. Superintendent of GST & C.Ex, Salem-** Holistic approach towards principles of interpretation
- ▶ **NVK Mohammed Sultan Rawther & Sons Vs. UOI-** Charging sections to be construed strictly, other provisions to be construed like any other provisions.
- ▶ **Kirloskar Electric Co. v. State of Karnataka-** Credit provisions cannot be interpreted so as to defeat the intention of the legislature.
- ▶ **Builder's Association of Navi Mumbai Vs. Union of India-** Purposive Construction.
- ▶ **Safari Retreats Pvt. Ltd Vs. Chief Commissioner of Central Goods & Service Tax & Ors-** Credit provisions are beneficial provisions

- ▶ **M/s Jalaram Feeds (AAR, Maharashtra)**- Incorrect application of principle of harmonious construction
- ▶ **Bajaj Finance Limited (AAR, Kolkata)**- Literal interpretation in classification dispute
- ▶ **M/s Famous Studios (AAR, Maharashtra)**- Application of retrospective alteration of provisions
- ▶ **State of West Bengal & Ors. Vs. Calcutta Club Limited**- Applicability of principle of mutuality in GST
- ▶ **Columbia Asia Hospitals Private Limited**- Intention of Legislature
- ▶ **Shrimad Rajendra Adhyatmik Satsang Sadhana Kendra**-

**Thank You!**

**Bharat Raichandani  
Advocate**

Partner  
**UBR Legal  
Advocates**

**Mumbai \* Vapi \* New Delhi**

**Mumbai:**

Chambers: 806, 1st Floor "D" Square Opp Goklibai