

Doctrine of Eiusdem Generis

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Introduction

Meaning and definition of “*ejusdem generis*”

“*Ejusdem generis*” is a Latin term and the meaning of it is “*of the same kind and nature*”.

What does Doctrine of Ejusdem Generis envisage?

The Doctrine of Ejusdem Generis provides that when a list of specific words are being followed by the general words in a section, sub-section, proviso or a clause of a statute then the general words are interpreted in a way so as to restrict them to include the items or things which will be of same type as those of the specific words.

Applicability of Doctrine of Eiusdem Generis

- The provision must consist of specific words and general words

And

- The specific words should be followed by general words

And

- The specific words should constitute a distinct genus/class/category

Then

The meaning of the general words will be restricted to same class/category of the specific words.

Example

- “Car, trucks, tractors, bikes and *other motor-powered vehicles*”.
- Specific words - “car, trucks, tractors and bikes”
- General words - “other motor-powered vehicles”.
- By applying this doctrine, the meaning of “other motor powered vehicles” will be restricted to the same class or category of land transport vehicles constituted by the specific words i.e car, trucks, tractors and bikes.
- The “other motor-powered vehicles” will not include any air plane or ship because the specific words preceding the aforesaid general words are constituting distinct class of land transport vehicles.

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671 **(Allahabad High Court)**

- Eiusdem generis rule is the rule of generic words following more specific ones.
- The rule is that when general words follow specific words of the same nature, the general words must be confined to the things of the same kind as those specified.
- The specified words must form a distinct genus or category.
- The rule reflects an attempt to reconcile incompatibility between specific and general words.

Specific words must constitute distinct genus/class

Specific words should not apply to different objects of a widely different character.

In the case B. Rudragouda v. ACIT [IT Appeal Nos. 314 & 315 of 2020 dated 15.04.2021, Bangalore Bench of ITAT held that “Ejusdem Generis rule being one of the rules of interpretation, only serves, like all such rules, as an aid to discover the legislative intent; it is neither final nor conclusive and *is attracted only when the specific words enumerated, constitute a class, which is not exhausted and are followed by general words and when there is no manifestation of intent to give broader meaning to the general words.*” [Para No. 16]

Intention of the statute to restrict the meaning of the general words

- There must be an intention of the statute to restrict the meaning of the general words to the genus/class of the specific words it follows.
- This intention can be found out when the statute deliberately uses the words of specific class/category which are followed by the general words.
- In the case of Lilawati Bai v. Bombay State, the Supreme Court observed that *“where the context and the object and mischief of enactment do not require restricted meaning to be attached to words of general import, the Court must give those words their plain and ordinary meaning.”*

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
(Allahabad High Court)

- Assessee was manufacturer and exporter of gold jewellery and was also manufacturing jewellery for others on job work basis.
- Assessee was claiming deduction in respect of profit earned from the export of jewellery under section 80HHC of the Income-tax Act, 1961.

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
(Allahabad High Court)

- The formula for computing export profit eligible for deduction was derived in sub-section (3) of section 80HHC which is as follows:

$$\text{Export Profit} = \frac{\text{Profits of business} * \text{Export Turnover}}{\text{Total Turnover}}$$

- For the purpose of computation of deduction under section 80HHC, the assessee included job work charges in the profits of the business which is the numerator of the above formula.

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
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“Explanation. - For the purpose of this section,— . . .

(baa) 'profits of the business' means the profits of the business as computed under the head 'Profits and gains of business or profession' as reduced by—

(1) ninety per cent. of any sum referred to in clauses (iiia), (iiib) and (iiic) of section 28 or of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits; and

(2) the profits of any branch, office, warehouse or any other establishment of the assessee situate outside India ;”

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
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- The Department by invoking clause (1) of explanation (baa) of section 80HHC(3) excluded job work charges earned by the assessee from the profits of business on the context that receipts by way of charges are required to be specifically excluded from the profits of business for the purpose of computation of export profit.
- However, it was found that receipt by way of job work charges were integral part of core business activity as there was no difference between manufacture and export of jewellery and manufacture of jewellery for others on job work basis.

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
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“(1) ninety per cent. of any sum referred to in clauses (iiia), (iiib) and (iiic) of section 28 or of any receipts by way of brokerage, commission, interest, rent, charges or any other receipt of a similar nature included in such profits;and”

- Here the High Court observed that the word "charges" used in sub-clause (1) of clause (baa) is found in the company of expressions like "brokerage", "commission", "interest", "rent".

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
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- By applying the rule of ejusdem generis, it was concluded that in sub-clause (1) of clause (baa), the word "charges" are preceded by the words of specific nature, such as brokerage, commission, interest, rent, etc. These specific words formed a distinct genus or category inasmuch as all those items relate to receipts earned by an assessee from non-core business activity. In such circumstances, the meaning of the word "charges" should be restricted to the distinct category formed by the specific words i.e. brokerage, commission, interest, rent, etc. If so, the word "charges" should be confined to those charges which do not form integral part of the core business activity of the assessee.
- In the present case, the job work charges included by the assessee in the profit of business for the purpose of computation of deduction under section 80HHC were forming an integral part of its principal business.

CIT v. Divya Jewellers (P.) Ltd. [2014] 368 ITR 671
(Allahabad High Court)

Decision

- Therefore, it was held that the job work charges received by the assessee-company for the job works undertaken as in the nature understood in this case could not be held as similar to the word "charges" provided in sub-clause (1) of clause (baa) of the Explanation given under section 80HHC.
- Accordingly, it was held that job work charges would form part of operational income and had to be included in profits of business for computation of deduction under section 80HHC

Thank You

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