



Internal Aids to Construction Under of Interpretation of Statutes

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ABSTRACT-

An 'Aid' is a device that helps or assists. While performing the function of interpreting provision of a statute, the court can take help from within the statute or even outside the statute. The former is called 'internal aids' and the latter is called 'external aids'.

Aids: Meaning: - The expression 'Aids' means instruments or tools of assistance to carry out a particular thing done or an activity performed or obtained or explained. As for the construction or interpretation of statutes is concerned aid help or assist in explaining the meaning of a particular word, expression or a phrase.¹

The Aids or tools are classified into two heads namely,

1. Internal Aids and
2. External Aids or Extrinsic or Extraneous Sources of Aid

Keywords- Title, Preambles, Headings, Illustrations, Explanations or definition clauses, Schedules, Provision, Marginal Notes, Punctuations, Illustrations, Definition, Exception, Explanation.

INTRODUCTION –

An Aid, is a device that helps or assists. For the purpose of construction or interpretation, the court has to take recourse to various internal and external aids. Internal aids mean those materials which are available in the statute itself, though they may not be part of enactment. These internal aids include, long title, preamble, headings, marginal notes, illustrations, punctuation, proviso, schedule, transitory provisions, etc. When internal aids are not adequate, court has to take recourse to External aids. External Aids may be parliamentary material, historical background, reports of a committee or a commission, official statement, dictionary meanings, foreign decisions, etc. Internal aids to interpretation are those devices that are present within the statute. No external references are required to interpret the meaning. Various in texts (within the statute) are sufficient to interpret it.²

INTERNAL AIDS

The internal aids of a statute can be explained with reference to the following heads-

- i. Title
 - (a) Short Title and
 - (b) Long Title
- ii. Preamble
- iii. Headings
- iv. Marginal Notes
- v. Definition or Interpretation Clause
- vi. Punctuations

¹ Lectures on Interpretation of Statutes by Dr.Regu Surya Rao

² <https://blog.ipleaders.in/internal-aids-to-construction/>

- vii. Illustrations
- viii. Provisions
- ix. Exceptions and Saving clauses
- x. Explanation
- xi. Saving Clauses
- xii. Schedules
- xiii. Schedules Forms³

As mentioned earlier various parts of the same statute pressed into service by the courts for construing anyone of its provisions, are called "Internal aids to construction" Such aids can be invoked under the circumstances discussed and other parts of s statute can be effectively utilized for ascertaining the correct meaning of an ambiguous word. Thus, whenever difficulty arises as to meaning of a statutory provision due to ambiguity of words and the true intention of Legislature cannot be inferred from the language, in such an event it is necessary to read the statute as a whole in its context following the principle of *ex visceribus actus* and every part of the statute may be called in aid. In *Doyapack System Pvt Ltd v Union of India* it was held that noting in flies of various officials do not fall under the category of internal aids of construction Various parts of a statute which constitute Internal aid to construction and their usefulness are discussed hereunder⁴:

- i. **Title** – The very important part of a statute is, its title, without which there can be neither identity not existence of any statute. Almost, all modern statutes have two kinds of titles namely short title and long title as detailed below-

(a) **Short Title:** -

The short title of a modern statute is generally found in a section near the end of the Act. Short Title is a name given to a statute for the purpose of reference. It identifies the statute/Act, and ends with the year in which it is passed. E.g. the Indian Contract Act, 1872, the Indian Evidence Act, 1872, the Indian Penal Code, 1860 etc. According to Lord Moulton, the short title is "a stationary nickname to obviate the necessity of always referring to the Act under its full and descriptive title "Generally, in almost all modern Acts/Statutes Section, clause (1) of the chapter I contains the short title. For example, Section 1(1) of the Indian Evidence Act, 1872 provides that the short title starting "The Act may be called the Indian Evidence Act, 1872 (Act of 1872). The purpose of short title is to reduce the space required for writing long title of a statute, economy in expression and convenience.⁵

(b) **Long Title:** -

Long Title of a Statute appears at the head and it very often precedes (before) the preamble of the Act. It contains in brief, the general description relating to object of the Act The main object of the short title is to facilitate citation of Act in future enactments and other instruments.

Long title of a statute is a part of the Act and admissible as an aid to the construction (*R. vs. Secretary of State for Foreign and Commonwealth Affairs*, 1994 All ER 457). In *R. V Batesand Russel*, (19522 All ER 842, 844) *Donovan J*, opined that "long title is a legitimate aid to the construction". In *Kedarnath vs. State of West Bengal*, the significance and connotation of the title of the as was taken into consideration, while determining the validity of section 4 of the West Bengal Criminal Law Amendment (Special Courts) Act, 1949. The Supreme Court in *Union of India vs. Elphinstone Spg. And Wvg. Co. Ltd.*, (AIR 2001 S.C. 724) held that the long title along with the preamble is a good guide to know the object purpose and scope of the Act.⁶

- ii. **Preamble-** The preamble of an Act serves as an internal aid to interpretation as it outlines the main objectives and reasons behind the legislation. When the language of a provision within an Act is clear and unambiguous, the preamble generally does not play a significant role. However, if multiple interpretations are possible, the preamble can assist in ascertaining the true meaning of the provision. The preamble is typically located on the first page of the Act, although it is worth noting that modern acts are often drafted without a preamble, diminishing its importance⁷.

In *Maharashtra Land Development Corporation v. State of Maharashtra*, it was held that Preamble of the Act is a guiding Light to its interpretation. wherein the apex court strongly relied on the Preamble to the Constitution of India in reaching a conclusion that the power of the Parliament to amend the constitution under Article 368 was not unlimited and did not enable the Parliament to alter the Basic Structure of the Constitution⁸.

Limitations of Preamble as Internal aids to construction-

- Preamble can be resorted to only when the language of a provision is reasonably capable of alternative construction.

³ Lectures on Interpretation of Statutes by Dr. Rega Surya Rao

⁴ Interpretation of Statute by D.N. Mathur

⁵ Lectures on Interpretation of Statute by Dr. Rega Surya Rao

⁶ Ibid

⁷ <https://lawbhoomi.com/internal-aids-to-interpretation-of-statutes/>

⁸ <https://blog.ipleaders.in/internal-aids-to-construction/>

- Preamble cannot either restrict or extend the meaning and scope of the words used in the enacting part.
- In case of conflict between Preamble and a section, the preamble would succumb and section shall prevail.
- Preamble cannot be regarded as source of any substantive power or of any prohibition or limitation.⁹

iii. **Headings:** - In all modern statutes, generally headings are attached to almost each section, just preceding the provisions. For example, the heading of Section 437 of the Code of Criminal Procedure, 1973 is “When bail may be taken in case of non- bailable offence”.

Headings are not passed by the Legislature but they are subsequently inserted after the Bill has become law.

Headings are of two kinds- one which are prefixed to a section and the other which are prefixed to a group or set of sections. These headings have been treated by courts as preambles to those sections or set of sections.

A heading to one set of sections cannot act as an aid to interpret another set of sections– Shelly v. London County Council, 1949 AC 56¹⁰.

Limitations of Heading as internal aid to construction

- Headings can neither cut down nor extend the plain meaning and scope of the words used in the enacting part.
- Headings cannot control the clear and plain meaning of the words of an enactment.¹¹

iv. Marginal Notes-

Marginal notes are those notes which are inserted at the side of the sections in the Act and express the effect of the sections. These are also known as side notes. In the olden times help used to be taken sometimes from the marginal notes when the clear meaning of enactment was in doubt. But the modern view of the courts is that marginal notes should have no role to play while interpreting a statute. The basis of this view is that the marginal notes are not parts of a statute because they are not inserted by the legislators nor are they printed in margin under the instructions or authority of the legislature. These notes are inserted by the drafters and many times they may be inaccurate too.

In Tara Prasad Singh v. Union of India, it was held that marginal notes to a section of the statute cannot take away the effect of the provisions¹².

Limitations of Marginal Notes as Internal Aid to construction

- Marginal notes are very rarely used for interpretation as they are not considered to be a good aid to construction.
- Only those marginal notes can be used for construing a provision which have been inserted with assent of the legislature.
- Marginal notes can be called in aid only when language suffers from ambiguity and more than one construction is possible.
- Marginal notes cannot frustrate the effect of a clear provision.¹³

v. Definition or Interpretations Clause

Definition or understanding statements are by and large remembered for a rule fully intent on expanding the normal significance of certain words according to the definition given or to decipher such words, the implications of which are not satisfactory, by relegating them the importance given in the definition proviso.

In M/s. Hamdard (Wakf) Research facilities v. Delegate Work Chief, the High Court saw that when an understanding statement utilizes the word 'incorporates', it is by all appearances broad. At the point when it utilizes the words 'signifies and incorporates', it will manage the cost of a thorough clarification to the significance which for the reasons for the Demonstration should perpetually be appended to the word or articulation.¹⁴

vi. Punctuations –

According to Oxford Essential Dictionary, the word, ‘Punctuations’ means “System of arrangement of marks used to punctual a written passage”. Punctuation is minor element in a statute and hence punctuations and brackets are given little importance/ weight in construction of a statute. Before 1850, there was no punctuations in the manuscript of any Act/Statute, which received Royal Assent.

In Aswini Kumar v. Arabinda Bose, the Supreme Court held that a punctuation cannot be regarded as a controlling element and cannot be allowed to control the plain meaning of a text¹⁵.

⁹ Ibid

¹⁰ <https://blog.ipleaders.in/internal-aids-to-construction/>

¹¹ Ibid

¹² <https://blog.ipleaders.in/internal-aids-to-construction/>

¹³ Ibid

¹⁴ Lectures on Interpretation of Statutes by Dr. Rega Surya Rao

¹⁵ Ibid

Limitations of Punctuation Marks as Internal Aid to Construction

Some jurists have opined that punctuation marks are of no use as internal aids to construction and it is an error to rely on punctuation marks in construing the Acts of Legislature. Presence of comma or absence of comma must be disregarded if it is contrary to plain intention of the statute¹⁶.

vii. Illustrations-

Illustrations aid to explain the latent content of a given section. An illustration neither exists independently nor stand opposite to the section. Illustrations are appended to a particular section for the purpose of explaining a provision of law in a statute. For instance, 16 illustrations (a) to (p) have been appended to section 378 of the Indian Penal Code, 1860, which illustrate various aspects of the offence of theft. Therefore, it is said that sections and illustrations move hand in glove with each other.

Sopher vs. Administrator General of west Bengal, (AIR 1944 PC 67): In the instant case, the Supreme Court relied on illustration (i) to the section 115 of the Succession Act, 1925, while determining the scope of section 115.¹⁷

viii. Provisions-

In certain segments of a resolution, after the primary arrangement is illuminated, a condition is added, with the initial words "gave that... ". The piece of the part starting with the words "Gave that... " is called Proviso/Stipulation. A stipulation is a provision which is added to the rule to acknowledge something from sanctioning condition or to restrict its pertinence. In that capacity, the capability of a stipulation is to qualify something or to prohibit, something based on what is given in the establishment which, yet for stipulation, would be inside the domain of sanctioning. The basic principle about the translation of a stipulation is that stipulation isn't to be taken totally in its severe exacting sense yet is of need restricted to the desire of the segment which it qualifies. The court isn't qualified for add words to a stipulation so as to develop its degree. The genuine nature and capability of a stipulation has been successfully set down in keeping case regulations:

In *Union of India v. Sanjay Kumar Jain*, the capability of stipulation was proclaimed that it qualifies or cuts out an exemption for the primary arrangement¹⁸.

Limitations of Proviso as Internal Aid to Construction-

- Proviso is constructed in relation to the section to which it is appended.
- The ambition and scope of enacting sections cannot be widened or curtailed by the proviso¹⁹.

ix. Exceptions and saving Clauses-

Exceptions are generally added to an enactment with the purpose of exempting something, which would otherwise fall within the ambit of the main provision. An exception may be referred to for the purpose of constructing the enacting portion. Construed strictly and strongly against the party trying to take the benefit. If an exception is repugnant to the operative part of the section, it must be ignored. If an exception is given an enactment, it is supposed that the provisions of the enactment will apply to all other cases, which are not covered by the exception.

Farmers' Bank of Fayetteville vs. Hale, (59 NY 53): It was held in this case that, an exception in a statute, which is inconsistent (repugnant) with the main body of the act is void.

Saving clauses are generally inserted, when a statute is repealed and reenacted. A saving clause exempts a particular thing from the general things enumerated. A Saving clause, which is repugnant to the body of the Act is void²⁰.

x. Explanation-

The expression to explain' means "to make it clear or to make known in detail". The word Explanation' in common parlance and in general English is understood as "making clear or intelligible to make a statutory expression more intelligible" The explanations help the court in interpreting the true intendment of the enactment. For example, five explanations are attached to section 108 of the Indian Penal Code, 1860 to explain clearly, the meaning, of the term 'abettor'. When an explanation added towards the end of the section starts with the words - "for the purpose of this section or nothing in this section". It applies to all clauses in the section (*Commissioner of Agriculture Income Tax, Kerala vs. Plantation Corporation of Kerala Ltd.*, AIR 2000 SC p.317)²¹

In *Bengal Immunity Co. v. State of Bihar*, it was held that the explanation is a part of the section to which it is appended and the whole lot should be read together to know the true meaning of a provision.²²

¹⁶ <https://blog.iplayers.in/internal-aids-to-construction/>

¹⁷ Lectures on Interpretation of Statutes by Dr. Rega Surya Rao

¹⁸ <https://blog.iplayers.in/internal-aids-to-construction/>

¹⁹ Ibid

²⁰ Lectures on Interpretation of Statute by Dr. Rega Surya Rao

²¹ Ibid

²² Interpretation of Statute by D. N. Mathur

xi. Schedules-

In many statutes, the Schedules are added in end of the enactment. For example, Schedules are appended to the Code of Criminal Procedure, 1973. The Schedules are also appended to the Code of Civil Procedure, 1908²³.

Schedules attached to an Act generally deals with as to how claims or rights under the Act are to be asserted or as to how powers conferred under the Act are to be exercised. The Schedules are appended towards the end of the enactment. Sometimes, a schedule may contain some subjects in the form of a list as is the case with the Constitution of India to enable the Union and the states to legislate in their respective fields. Schedules are parts of the Statute itself and may be looked into by the courts for the purpose of interpreting the main body of the statute.

In *M/s. Aphali Pharmaceuticals Limited v. State of Maharashtra*, the Supreme Court held that in case of a clash between the schedule and the main body of an Act, the main body prevails and the schedule has to be rejected²⁴.

in case of doubtful Lords in the enactment a scheduled form may be utilised "for the purpose throwing light" on their meaning. At times the prescribed form may contain some imperative requirements and may be mandatory, eg a form of return of agricultural income, incorporated in rules to the Bengal Agricultural Income- tax Act, 1944 which contained a footnote requiring that the declaration of the return of income shall be signed in the case of an individual by the individual himself was constructed as mandatory.²⁵

Conclusion-

Internal aids to interpretation of statutes include examining titles, preambles, headings, illustrations, explanations or definition clauses; internal aids offer insights into the context, scope and application of statutory provisions.

Bibilography –**Books –**

1. Principles of Statutory Interpretation
2. Lectures on Interpretation of Statutes
3. Interpretation of Statutes

²³ Ibid

²⁴ Lectures on Interpretation of Statute by DR. Rega Surya Rao

²⁵ Principles of Statutory Interpretation by Justice G.P. Singh (wadhawa)