**Evolving Jurisprudence - Tax Statutes**

– VINAY SHRAFF, LLB, FCA, ACMA, ACS, Adv. Dip. in Mgmt Acct-CIMA (London), Advocate │High Courts│Supreme Court│Tribunals

A tax practitioner needs to deal with the baffling question which comes up so often in the interpretation of statutes as to how far be it proper to read the words out of their literal meaning in order to realize their overriding purpose. Resolving conflicts between statutory language and statutory purpose is one of the toughest challenges which we are faced with in interpreting statutory provisions. A look at the tax jurisprudence reveals that Hon’ble Supreme Court of India and High courts have regularly attempted to elaborate the meaning of words and legislative purposes in interpreting tax statutes.

This article attempts to gaze through the evolving jurisprudence on tax statutes by exploring the various principles which have evolved over a period of time.

The Supreme Court in Appeal (civil) 10202-04 of 1995 of *M/s Vikrant Tyres Ltd v. The First Income Tax Officer*, on 9 February, 2001observed that “It is a settled principle in law that the courts while construing Revenue Acts have to give a fair and reasonable construction to language of a statute without leaning to one side or the other, meaning thereby that no levy can be imposed on a subject by an Act of Parliament without the words of the statute clearly showing an intention to lay the burden on the subject.”

The principle of strict interpretation of taxing statues was best enunciated by Rowlatt, J in his classic statement in the case of *Cape Brandy Syndicate v. IRC (1921) 1 KB 64:*

“In taxing statute one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One has to look fairly at the language used.”

Supreme Court observed in the case of *Diwan Brothers v. Central Bank of India; AIR 1976 SC 1503* that “it is well settled that in case of a fiscal statute the provisions must be strictly interpreted giving every benefit of doubt to the subject”.

The literal rule involves two subsidiary rules. The first is *noscitur a sociis* rule, which simply implies that the meaning of a word must be determined by its context. The second rule is the *Ejusdem generis* rule, which literally means of the same kind or nature. Where two or more words which are susceptible of analogous meaning are coupled together, the meaning of the more general word is restricted to specific words which precede it.

The statute has to be read as a whole to find out the real intention of the legislature.

In *State of Maharastra v. B.E. Billimoria-(2003 7 SCC 336,* the Supreme Court observed that “It is well settled that the provisions of the statute are to be read in the text and context in which they have been enacted.” The text gives the texture and the context gives the colour to a statute.

The taxing authorities cannot ignore the legal character of the transaction and tax it on the basis of what may be called ‘substance of the matter’. One must find the true nature of the transaction. [*Union of India and Others* v. *Play World Electronics Pvt. Ltd. and Another,* (1989) 3 SCC 181]. A subject is not liable to tax on supposed “spirit of the law” or “by inference or by analogy”.

While construing a taxing statute, the existing market practice may also be taken into consideration.

Furthermore, for the purpose of interpretation of a taxing statute, the fiscal philosophy, a feel of which is necessary to gather the intent and effect of its different clauses should be applied. [*K.P. Verghese* v. *Income Tax Officer, Ernakulam and Another*, (1981) 4 SCC 173].

A consideration of public policy may also be relevant in interpreting and applying a taxing Act. [*Maddi Venkatraman & Co. (P) Ltd.* v. *Commissioner of Income Tax*, (1998) 2 SCC 95].

A provision enacted for the benefit of an assessee should be so construed which enables the assessee to get its benefit. [*Mysore Minerals Ltd., M.G. Road, Bangalore* v. *The Commissioner of Income Tax, Karnataka, Bangalore* (1999) 7 SCC 106].

However, principle of purposive construction will be adhered to when a literal meaning may result in absurdity. [Commissioner of Central Excise, Pondicherry Versus Acer India Ltd. - 2004 (172) E.L.T. 289 (S.C.)]

Supreme Court quoted in the case of *Associated Cement Co. Ltd vs Commercial Tax Officer, Kota & Ors ; 1981 AIR 1887, 1982 SCR (1) 563* that“it is settled law that a distinction has to be made by court while interpreting the provisions of a taxing statute between charging provisions which impose the charge to tax and machinery provisions which provide the machinery for the quantification of the tax and the levying and collection of the tax so imposed. While charging provisions are construed strictly, machinery sections are not generally subject to a rigorous construction. The courts are expected to construe the machinery sections in such a manner that a charge to tax is not defeated.”