



Case Laws- Implications, Understanding and Memorizing

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Meaning of Interpretation

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**The Keshav Mills Co. Ltd vs Commissioner Of Income-Tax,
1965 AIR 1636, 1965 SCR (2) 908**

It is general judicial experience that in matters of law involving questions of construing statutory or constitutional provisions, two views are often reasonably possible and when judicial approach has to make a choice between the two reasonably possible views, the process of decision-making is often very difficult and delicate.

**Commissioner Of Income Tax, ... vs Distributors (Baroda) (P) Ltd
1972 AIR 288, 1972 SCR (1) 726**

The Act contains many mind-twisting formulae but s. 23A along with some other sections takes the place of pride amongst them.

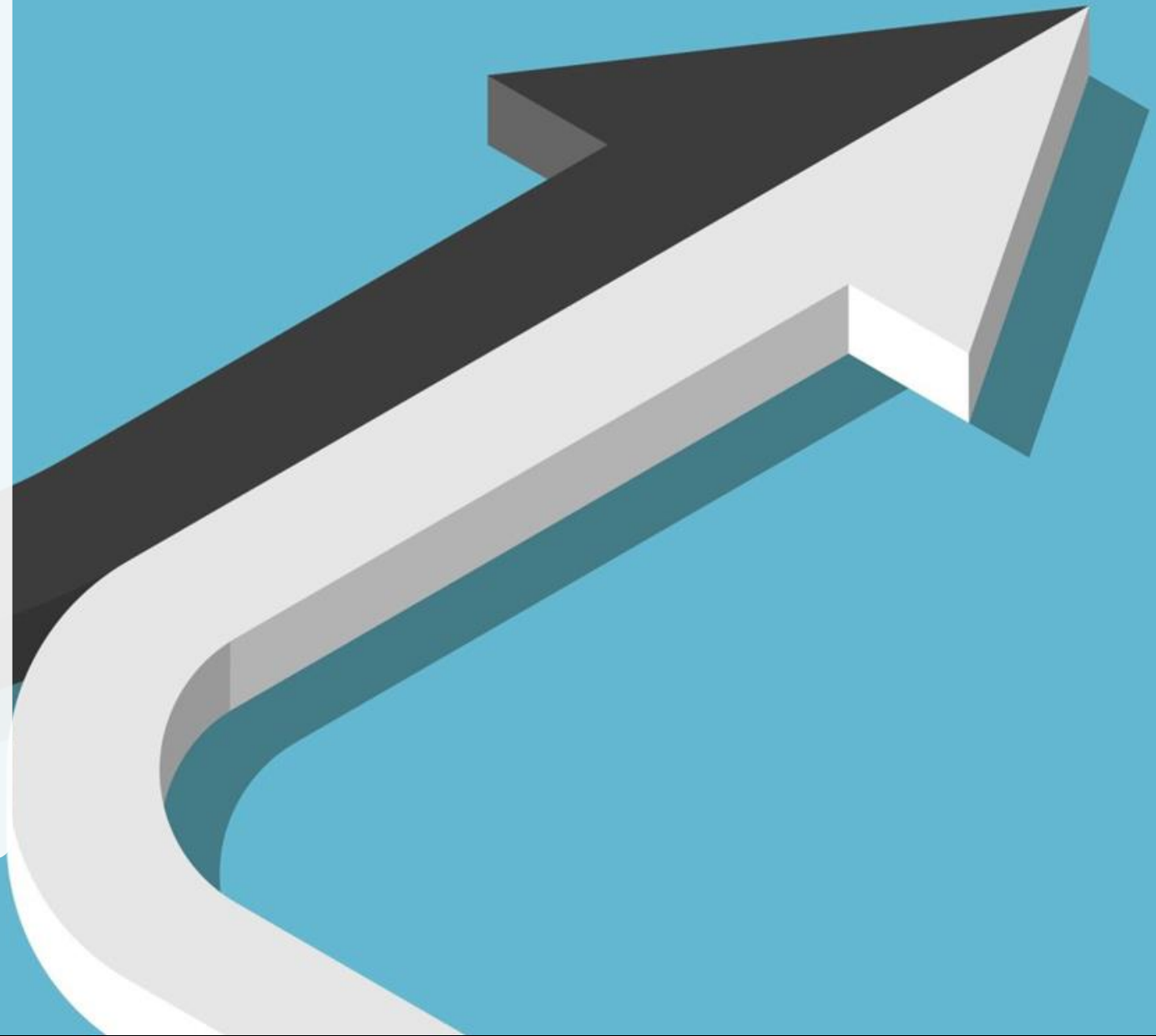
SALMOND, Jurisprudence, 11th Edition, Page 152. In the Words of Gray

“the process by which a judge (or indeed any person, lawyer or layman, who has occasion to search for the meaning of a statute) constructs from words of a statute book, a meaning which he either believes to be that of the legislature, or which he proposes to attribute to it, is called interpretation”.



Certain Instances of Interpretation

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Instances for Implementation of Legal Provisions

Certain Examples on how Interpretation helps in arriving at the meaning

products of millets (like rice, flour, brokens and bran of cholam, cumbu, ragi, thinai, varagu, samai, kudiraivali, milo and maize)-Old Entry

products of millets (rice, flour, brokens and bran of cholam, cumbu, ragi, thinai, varagu, samai, kudiraivali, milo and maize)-New Entry

Instances for Implementation of Legal Provisions

Certain Examples on how Interpretation helps in arriving at the meaning

Manufactures for sale, sells, stocks or exhibits for sale or distributes' a drug without a licence, is liable for punishment. (Use of comma)

Instances for Implementation of Legal Provisions

Certain Examples on how Interpretation helps in arriving at the meaning

c) by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax (Section 74 of CGST Act 2017)

"by reason of fraud, collusion or any wilful misstatement or suppression of facts or contravention of any of the provisions of this Act or of the rules with intent to evade payment of duty..(Section 11A of Central Excise ACT. 1944)

Instances for Implementation of Legal Provisions

Certain Examples on how Interpretation helps in arriving at the meaning

e) Explanation .- For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

(i) land, building or any other civil structures;

Certain Examples on how Interpretation helps in arriving at the meaning

Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, *inter alia*, in the following situations:

Circular No. 64/38/2018-GST Dated 14-09-2018

Instances for Implementation of Legal Provisions

Section 16(2)(aa) of CGST Act, 2017- Inserted (w.e.f. 1st January, 2022 vide Notification No. 39/2021-C.T., dated 21st December, 2021) by s. 109 of The Finance Act, 2021 (No. 13 of 2021).

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,-

(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37

Instances for Implementation of Legal Provisions-Imposes a Fresh Liability

Section 7(1)(aa) of CGST Act, 2017-Inserted w.e.f. 01st July, 2017 by s. 108 of The Finance Act, 2021 (No. 13 of 2021) - Brought into force on 01st January, 2022 vide Notification No. 39/2021-C.T., dated 21st December, 2021.

(1) For the purposes of this Act, the expression - "supply" includes-

(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation .-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another

Instances for Implementation of Legal Provisions-Corrects an anomaly

Section 7(1)(d) of CGST Act, 2017-w.e.f. 01st July, 2017 by Section 3 of The Central Goods and Services Tax (Amendment) Act, 2018 (No. 31 of 2018) - Brought into force on 01st February, 2019.

Omitted -(d) activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Section 50(3) of CGST Act, 2017-Substituted (w.e.f. 1st July, 2017) by s. 111 of The Finance Act 2022 (No. 06 of 2022) - brought into force w.e.f 05-07-2022 vide Notification No. 9/2022-C.T, dated 05-07-2022 .

(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed

Instances for Implementation of Legal Provisions

Rule 89(5) of CGST Rules, 2017- **Notification No. 14/2022- CT, dated 05.07.2022.**

(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

*Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC Adjusted Total Turnover} - {tax payable on such inverted rated supply of goods and services x (Net ITC ÷ **ITC availed on inputs and input services**) }*

*Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 05.07.2022. The refund applications filed before 05.07.2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 14/2022-Central Tax dated 05.07.2022-**Circular No. 181/13/2022-GST Dated 10th November 2022***

Instances for Implementation of Legal Provisions

Explanation to Section 54 of CGST Act, 2017

For the purposes of this section,-

(2) "relevant date" means-

*(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), **the due date for furnishing of return under section 39 for the period in which such claim for refund arises;***

Substituted for "(e) in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;" by s. 23 of The Central Goods and Services Tax (Amendment) Act, 2018 (No. 31 of 2018) - Brought into force w.e.f. 01st February, 2019.

Instances for Implementation of Legal Provisions

Section 171(3A) of CGST Act, 2017- Inserted by s.112 of The Finance (No. 2) Act, 2019 (No. 23 of 2019) - Brought into force w.e.f. 01st January, 2020 vide Notification No. 1/2020-C.T., dated 1-1-2020.

(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Instances for Implementation of Legal Provisions

Services by way of grant of mineral exploration and mining rights attracted GST- Circular No. 164 /20 /2021-GST Dated 6-10-2021

9.3.2 As regards the applicable rate for the period from 1.7.2017 to 31.12.2018, the council took note of the following facts, namely,-

- (i) GST Council in its 4th meeting held on 3rd & 4th November, 2016 had decided that supply of services shall be generally taxed at the rate of 18%.*
- (ii) More importantly, the GST Council in its 14th meeting held on 18th & 19th May, 2019, while recommending the rate schedules of services (5%, 12%, 18% and 28%), specifically recommended that all the residuary services would attract GST at the rate of 18%.*
- (iii) The rate applicable on the service of grant of mineral exploration license and mining lease under Service Tax was also the standard rate of 15.5%. Services under this category have been standard rated in GST at 18%.*
- (iv) Therefore, the intention has always been to tax this activity / supply at standard rate of 18%.*

9.3.3 Accordingly, as recommended by the Council, it is clarified that even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period 1.7.2017 to 31.12.2018, it was taxable at 18% in view of principle laid down in the 14th meeting of the Council for residuary GST rate. Post, 1st January, 2019 no dispute remains as stated above.



**Some of the
Issues and
Principles
Interpreting the
Law**

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Instances for Implementation of Legal Provisions

Some of the issues in interpreting the Law

- Delegated Legislation***
- General Clauses Act***
- Other Laws***
- Constitution of India***
- Contrary decisions by High Court***

Instances for Implementation of Legal Provisions

Some of the issues in interpreting the Law

- Statute in Pari Materia***
- If the Statute is followed by another statute***
- If the statute is preceded by another statute***

- Penal Statutes and Intent to evade or Men-Rea***

- Use of “satisfied”, “is of the opinion”, “reason to believe”***

- Literal V/s Harmonious Interpretation***

Instances for Implementation of Legal Provisions

Some of the issues in interpreting the Law

-Use of Punctuations

-Retrospective Amendment-Procedural and Substantive Rights

-Use of “a”, “an”, “the”, “may”, “shall”

-Same Word Same Meaning and Use of Different Words

-Use of Dictionary Meaning



How to Keep Track of Case Laws

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	A	B	C	D	E	F	K	N	O	P	Q
	S. No.	Name of the Authority	Name of the Case	Citaitaion	Heading of The Case	Subject-I	Relevant Section/ Rule/ Circular/ Notification	Issue Involved	Decision	Type of Order	Comments
1	1	High Court of Punjab and Haryana	Mahinder Kaur v. State of Haryana	[2021] 124 taxmann.com 279	Anticipatory Bail not allowed to the petitioner merely because he had deposited the tax in advance - Sec. 132 of CGST Act - Offences - Anticipatory Act	Offences u/s 132 of CGST Act	Sec. 132 of CGST Act & HGST Act	Competent Authority had lodged an FIR against assessee on basis that a fake e-way bill dated 04.01.2020 was generated by such	Since, the petitioner was unable to explain as to why fake e-way bill was generated, then depositing of tax on such fake e-way bill does not save the petitioner. Therefore, he hon'ble	Final	
2	2	High Court of Telangana	KMC Constructions Ltd. v. Principal Commissioner of Central Tax	[2021] 124 taxmann.com 276	Attachment of Bank Account cannot continue for more than one year - Sec. 83 of CGST Act - Provisional Attachment	Demand and Recovery	Sec. 83 of CGST Act & TGST Act	Whether the bank account of the petitioner can be attached for more than mandatory period of one year as prescribed under section 83(2) of CGST Act. Further, it was contended by the petitioner that such attachment of Bank account is	The hon'ble court held that the issue relates to the provisional attachment and such attachment of account cannot continue for more than one year in view of the provision of section 83(2) of CGST Act. Continuation of attachment of bank account for more than the given time is violative of	Final	Petitioners placed Reliance on: AP Steels & Sanjay Kumar Mishra v. Additi Director General, DGCI [WP No. 8586 of 2 dated 20.07.2020 Namaskar Enterprise v. CGST [2020] 118 taxmann.com 470
3	3	High Court of Allahabad	R.J. Exim Vs. Principal Commissioner Central Goods and Service Tax	[2021] 124 taxmann.com 275	Provisional Attachment is goods in law when the assessee has not filed any objection to such attachment - Sec. 83 of CGST Act - Provisional Attachment	Demand and Recovery	Sec. 83 and 74(5) of CGST Act read with Rule 159(5) of CGST Rules	The bank account of the petitioner was attached pursuant of pre-show cause consultation and the order was issued to the petitioner under section 74(5) of CGST Act. The petitioner prays for the release of bank account attached irrespective of he did not objected the attachment in	The hon'ble Court has held that order for provisional attachment of bank account has been passed by the competent authority under section 83 for the purpose of protecting interest of the government revenue. Since the petitioner had accepted the fact that they did not file any objection towards attachment of bank account. Therefore the provisional attachment	Final	
4	4	High Court of Kerala	J. Sivapriya vs. State Tax Officer, Palakkad	[2021] 124 taxmann.com 274	Goods and conveyance to be released on payment of tax, penalty and fine in case and not on furnishing of security - Sec. 130 of CGST Act - Confiscation of goods or conveyance	Confiscation of Goods or Conveyance	Sec. 130 of CGST Act	The petitioner is the registered owner of goods carriage vehicle, whereby his vehicle has been confiscated under section 130 and proceedings have been completed therein. Original owner of goods was	The hon'ble court disposed of the petition by directing that the vehicle shall be released if the amount is paid by the petitioner and not on furnishing of security.	Final	
5	5	High Court of Gujarat	Vinodkumar Murlidhar Chechani vs. State of Gujarat	[2021] 124 taxmann.com 272	If purchases made by the petitioner are not genuine, Provisional attachment cannot be the recourse when provision for Adjudication proceedings exist in the law. Instruction was issued to CBIC to issue guidelines for exercising the powers of provisional attachment - Sec.	Provisional Attachment	Sec. 67 and 83 of CGST Act	Flying Squad on their spot visit at the place of petitioner opined for the Bank attachment on the foundation that the purchases made by the petitioner were not genuine. The Bank account of the petitioner had hardly balance of INR 22,065/- in two bank accounts	It was observed by hon'ble court that having regard to the fact that the purchases made by the petitioner were not genuine, it is always open for them to initiate proceedings in terms of section 73/ 74 of CGST Act. An order of provisional attachment cannot be as a matter of course. It was also directed to Union of India as well as CBDT to issue appropriate	Final	



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