

Interpreting Taxing Statute # 66 - Statutory definitions

A term used in the legislation must be construed in accordance with any statutory definition that applies to it.¹

SYNOPSIS

Meaning of definition

Statutory definitions

- Meaning of definition
- Types of definition
- Location of definitions
- Working out the purpose for which a definition applies
- Substantive provision

Precedents

Meaning of definition

A symbol (term, word or phrases) is defined to give meaning to it. Through definition a deliberate and precise meaning is assigned to a symbol by the use of other commonly used symbols. Deliberation gives the freedom to the author to stipulate whatever meaning he cares for, whereas precision ensures elimination of ambiguity and vagueness.

In a definition, definiendum is the symbol being defined, whereas definiens is the symbol (or group of symbols) used to explain the meaning of the definiendum eg

Assessment means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;² (Here, ‘assessment’ is definiendum and rest of the words deliberating ‘assessment’ are definiens.)

¹ Bennion 2020 s 18.1

² CGST Sec 2(11)

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A definition may be **denotative** if it identifies the extension (instance or example) of the symbol by listing the members of the class of objects to which that symbol refers, whereas the **connotative** definition identifies the intension (attribute or characteristic) by setting the criterion for deciding.

### Statutory definitions

Statutory definitions are a common feature in legislation and are typically used for one or more of the following purposes:

- to clarify or avoid potential doubt as to the meaning of a terms;
- to enlarge or narrow the natural meaning of a term;
- to create an abbreviation or a short label so as to avoid tedious repetition or simplify the drafting.<sup>^3</sup>

**Types of definition:** From the viewpoint of the interpreter the main distinction that needs to be drawn is between **exhaustive** definitions, which **displace** the nature meaning of the defined term, and **inclusive / exclusive** definitions which **modify** the natural meaning of the defined term.<sup>^4</sup>

**Location of definitions:** Decisions about where to put definitions are ultimately taken by the drafter on the basis of what is likely to work best for the reader. A definition of a concept that is central to understanding an Act will often be placed up front, either where it is first used or in introductory material.

“Definition sections should, as a rule, be placed towards the end of a Bill. But this rule only applies to what may be called subsidiary definitions. A substantial definition, which defines the

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<sup>3</sup> Bennion 2020 p 573

<sup>4</sup> Bennion 2020 p 574

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scope and subject-matter of a measure should, as a rule, come at
the beginning. ^5

On the other hand, definitions that are merely clarificatory will often be relegated to the end so that the reader can get to grips with the main propositions before having to consider detailed questions.^6

In a large Act, the definitions may appear in several places; for example, there may be a set of definitions applying for the purposes of the Act, a set applying for the purposes of a Part, and a further set applying for the purposes of a Chapter.^7

Working out the purpose for which a definition applies: It is possible for a term to have different meaning in different Acts or in different provisions of the same Act so care needs to be taken in working out the purpose for which any statutory definition applies. This does not present any difficulties where a statutory definition is prefaced by wording that spells out the purposes for which it applies (for example, ‘In this Act / Part / Chapter / section ...’ or ‘In subsection (3) ...’). Where a definition is expressed to apply to a Chapter or Part, that includes any Schedules introduced by sections in the Chapter or Part.^8

In some cases, however, a term is defined without any express limitation or the purposes for which it applies. This may give rise to questions about the purposes for which the term is defined, for example, if the term is used more than once in the Act or there is a significant gap between the use of the term and the definition. In cases of doubt it will be necessary to draw on the context and

⁵ Ilbert Legislative Methods and Forms p 281 cited in Bennion 2020 p 574

⁶ Bennion 2020 p 574

⁷ Bennion 2020 p 574

⁸ Bennion 2020 p 575

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other principles of interpretation to determine the purposes for which the definition applies.<sup>9</sup>

**Substantive provision:** As a general rule substantive provision will not be incorporated in a definition. This is for the simple reason that the reader approaching a definition would not normally expect it to be more than a definition. Where there is doubt in relation to a provision framed as a definition the courts will tend to construe it restrictively and confine it to the proper function of a definition.

For example, in *Wakefield Local Board of Health v West Riding and Grimsby Rly Co* (1865) LR 1 QB 84 the court considered the Railways Clauses Consolidation Act 1845, s 3:

“The word “justice” shall mean justice of the peace acting for the county ... or place where the matter requiring the cognizance of any such justice shall arise, and who **shall not be interested in the matter** ...”.

It was held that the emphasized words were mere merely descriptive and did not have the substantive effect of preventing an interested justice from acting in a case where the parties agreed. The words were inserted out of an abundance of caution:

‘... in the apprehension that justices, if not warned of what the law is, might act although interested. Had it been intended to render an interested justice absolutely incompetent, notwithstanding that both parties might waive the objection, a positive enactment to this effect would have been inserted’.<sup>10</sup>

## Precedents

The object of such a definition is to avoid the necessity of frequent repetitions in describing all the subject-matter to which

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<sup>9</sup> Bennion 2020 p 575

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the word or expression so defined is intended to apply.¹¹ For instance, the Supreme Court held that when the word “securities” has been defined under the Securities Contracts (Regulation) Act, 1956, its meaning would not vary when the same word is used at more than one place in the same statute, as otherwise it will defeat the very object of the definitive section.¹²

A definitions section may borrow definitions from an earlier Act and the definitions so borrowed may not necessarily be in the definitions section but may be in some other provision of the earlier Act.¹³ A definition borrowed by incorporation or reference may be sometimes found in the rules made under the referred statute. For example, Article 366(1) of the Constitution defines “agricultural income” to mean “agricultural income as defined for the purpose of enactments relating to Indian Income-tax”. In construing this definition the Supreme Court has consistently take the view that its meaning has to be considered not merely by looking to the Income-tax Act, 1922 or the Income-tax Act, 1961 but also with reference to the rules made under these Acts for computation of income when the same is derived in part from agriculture and in part from business and so only 60% of the income on sale of tea grown and manufactured by an assessee as provided in the rules can be held to be agricultural income which the States can tax.¹⁴

But in the absence of incorporation or reference it is hazardous to interpret a word in accordance with its definition in statute and

¹⁰ Cited in Bennion 2020 p 575-576

¹¹ Nahalchand Laloochand Pvt Ltd v Pancholi Co-op Housing Society Ltd (2010) 9 SCC 536

¹² Bhagwati Developers Pvt Ltd v Peerless General Finance Investment Co Ltd, (2013) 9 SCC 584

¹³ Life Insurance Corp of India v Crown Life Insurance Co, AIR 1965 SC 1985

¹⁴ Tata Tea Ltd v State of Bombay, AIR 1988 Supp SCC 316

more so when such statute is not dealing with any cognate subject or the statutes are not in pari material.¹⁵ On this principle the meaning given to the word “industry” in the Industrial Disputes Act was not used for construing that word in an exemption under section 25 of the Customs Act, 1962¹⁶ and the definition of “currency note” in the Indian Paper Currency Act, 1822 was not applied for interpreting that expression in section 489A of the Indian Penal Code, 1860.¹⁷

While it has been the practice of the legislative bodies, following British Parliamentary practice, to define certain words employed in any given Statute for a proper appreciation of the understanding of the scheme and purport of the Act, in the event a statute does not contain the definition of a particular expression employed in it, it becomes the duty of the courts to expound the meaning of the undefined expressions in accordance with the well-established rules of statutory interpretation.¹⁸

The Legislature has power to define a word even artificially.¹⁹ So the definition of a word in the definitions section may either be restrictive of its ordinary meaning or it may be extensive of the same. When a word is defined to “mean” such and such, the definition is prima facie restrictive and exhaustive.²⁰ Whereas, where the word defined is declared to “include” such and such the definition is prima facie extensive.²¹ When by an amending Act, the word “includes” was substituted for the word “means” in a definitions section, it was held that the intention was to make it

¹⁵ Jagatram Ahuja v Commissioner of Gift-tax, (2000) 8 SCC 249

¹⁶ MSCO Pvt Ltd v UOI, AIR (1985) 1 SCC 51

¹⁷ State of Kerala v Mathai Vergese, (1986) 4 SCC 746

¹⁸ Keshavlal Khemchand and Sons Pvt Ltd v UOI, (2015) 4 SCC 770

¹⁹ Kishanlal v State of Rajasthan, (1990) Supp SCC 742

²⁰ Vanguard Fire & General Insurance Co Ltd, Madras v Fraser & Ross, AIR 1960 SC 971

²¹ Dilworth v Commissioner of Stamps, (1899) AC 99

more extensive.²² Further, a definition may be in the form of “means and includes”, where again the definition is exhaustive.²³ On the other hand, if a word is defined “to apply to and include”, the definition is understood as extensive.²⁴ These meanings of the expressions “means”, “includes” and “means and includes” have been reiterated in **Delhi Development Authority v Bhola Nath Sharma**. Wherever the expression “means” is followed by the expression “and includes” whether with or without additional words separating “means” from “includes”, these expressions indicate that the definition provision is exhaustive, as a matter of statutory interpretation.²⁵

The use of word “any”, eg, any building also connotes extension for “any” is a word of very wide meaning and prima facie the use of it excludes limitation.²⁶

Further, the natural meaning of the “means” part of the definition is not narrowed down by the “includes” part.²⁷ Thus the word “include” may in certain contexts be a word of limitation.²⁸

The word “income”, which is of broadest connotation, is not restricted by the several clauses in section 2(24) of the Income-tax Act, 1961 and even a receipt not falling in any of the clauses may yet constitute income for to say otherwise would mean reading the several clauses as exhaustive.²⁹ It was, therefore, held that prize money received by a participant in a motor rally

²² Gollaleshwar Dev Gangavwa Kom Shantayya Math, (1985) 4 SCC 393

²³ Jagir Singh v State of Bihar, (1976) 2 SCC 942

²⁴ Nutter v Accrington Local Board, (1897) 4 QBD 375

²⁵ State of West Bengal v Associated Contractors, (2015) 1 SCC 32

²⁶ Associated Indian Mechanical Pvt Ltd v West Begal Small Industries Development Corp Ltd, (2007) 3 SCC 607

²⁷ Black Diamond Beverages v Commercial Tax Officer, (1998) 1 SCC 458

²⁸ Godfray Phillips India Ltd v State of Uttar Pradesh, (2005) 2 SCC 515

²⁹ CIT, Madras v GR Karthikeyan, 1993 Supp (3) SCC 222

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 was “income” and taxable even if did not fall in any of the clauses in section 2(24).

The word “includes” in a particular context may only mean “comprises” or “consists of”.<sup>30</sup>

A definitions section may also be worded in the form “is deemed to include” which again is a inclusive or extensive definition and such a form is used to bring in by a legal fiction something within the word defined which according to its ordinary meaning is not included within it.

A definition may be both inclusive and exclusive i.e. it may include certain things and exclude others. Limited exclusion of a thing may suggest that other categories of that thing which are not excluded fall within apparently wide or inclusive definition. But the exclusion clause may have to be given a liberal construction if the purpose behind it so requires.<sup>31</sup>

Although it is normally presumed that the Legislature will be specially precise and careful in its choice of language in a definitions section, at times the language used in such a section itself requires interpretation.<sup>32</sup>

A phrase having been introduced and then defined the definition ‘prima facie’ must entirely determine the application of the phrase; but the definition must itself be interpreted before it is applied, and interpreted, in case of doubt in a sense appropriate to the phrase defined and to the general purpose of the enactment.<sup>33</sup>

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<sup>30</sup> NDP Namboodripad v UOI, (2007) 4 SCC 502

<sup>31</sup> Pioneer Rubber Plantation Nilambur v State of Kerala, (1992) 4 SCC 175

<sup>32</sup> Re, Wyke’s Will Trust, (1961) 1 All ER 470

<sup>33</sup> ILM Cadija Umma v S Don Manis Appu, AIR 1939 PC 63



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If literal reading of a “prima facie” vide definition leads to absurdity, a restricted meaning may have to be given to it to avoid the absurdity.³⁴

The definitions section may itself be ambiguous and may have to be interpreted in the light of the other provisions of the Act and having regard to the ordinary connotation of the word defined. A definition is not to be read in isolation. It must be read in the context to the phrase which it defines, realizing that the function of a definition is to give precision and certainty to a word or phrase which would otherwise be vague and uncertain but not to contradict it or supplant it altogether.³⁵

It is true that an artificial definition may include a meaning different from or in excess of the ordinary acceptance of the word which is the subject of definition; but there must then be compelling words to show that such a meaning different from or in excess of the ordinary meaning is intended. Where within the frame-work of the ordinary acceptance of the word, every single requirement of the definition clause is fulfilled, it would be wrong to take the definition as destroying the essential meaning of the word defined.³⁶

Regulations framed under an Act i.e. subordinate legislation could only be used as an aid to the interpretation of the Act if they were contemporaneously prepared, otherwise the same could not be used to construe the provision of an Act.³⁷

An interpretation clause is not meant to prevent the word receiving its ordinary, popular and natural sense whenever that

³⁴ SR Batra v Smt Taruna Batra, (2007) 3 SCC 169

³⁵ Hotel and Catering Board v Automobile Proprietary Ltd, (1968) 3 All ER 399

³⁶ Hariprasad Shivshanker Shukla v AD Divekar, AIR 1957 SC 121

³⁷ Legal Services Commission v Loomba, Legal Services Commission v Ulasi, Legal Services Commission v Carter, 2012 2 All ER 977

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 would be properly applicable but to enable the word as used in the Act when there is nothing in the context or the subject-matter to the contrary to be applied to some things to which it would not ordinarily be applicable.<sup>38</sup>

Wide words used in an interpretation clause may thus be given a limited meaning having regard to the context as a whole for a word in a statute whether it be in the body of the statute or in the interpretation clause is not to be construed without reference to the context in which it appears. However, it will not be correct to say that a wide word in an inclusive definition should be given a limited scope by reference merely to the ordinary meaning of the word defined.<sup>39</sup>

Sometime the ambiguity in the definition arises because of its bad drafting and the court may have to recast it to bring out its clear meaning.<sup>40</sup>

When a word has been defined in the interpretation clause, prima facie that definition governs whenever that word is used in the body of the statute.<sup>200</sup> 200. Indian Immigration Trust Board of Natal v Govindaswamy, AIR 1920 PC 114

But where the context makes the definition given in the interpretation clause inapplicable, a defined word when used in the body of the statute may have to be given a meaning different from that contained in the interpretation clause; all definitions given in an interpretation clause are therefore normally enacted subject to the qualification—“unless there is anything repugnant

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<sup>38</sup> Commr of Gift-tax, Madras v NS Getty Chettiar, AIR (1971) 2 SCC 741

<sup>39</sup> Hood Barrs v IRC, (1946) 2 All ER 768

<sup>40</sup> State of West Bengal v Swapan Kumar Guha, (1982) 1 SCC 561

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in the subject or context”, or “unless the context otherwise requires”.⁴¹

⁴¹ Knightsbridge Estates Trust Ltd v Byrne, (1940) AC 613