

NAME OF SUBJECT: PRINCIPLES OF TAXATION LAW

PAPER CODE: Law- 1015

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS

TERM-END EXAMINATION: 70 MARKS

OBJECTIVE: In India the system of taxation and public finance has been existent since archaic times. Kautilya's Arthashastra (around 300 B.C.) is considered to be one of the most elaborate and systematic text on taxation and public finance. Revenue through taxation is a major source of revenue for the government. Ideally, a tax should be based on the persons' ability to pay and be neutral in its impact.

India being world's largest democracy has undergone a great transition from being a closed economy to becoming the second largest growing economy of the world. At this crucial stage, it is imperative to establish the momentum of growth and development by adapting apt fiscal prudence clubbed with social security, strengthening infrastructure thereby providing right kind of environment for banking and finance and corporate growth so that there is an overall inclusive growth of the economy and the nation as a whole.

The States in the new millennium have undergone a radical mutation from being merely a police State to a welfare State and in order to perform this social vision of a welfare state, every nation requires material resources. Moreover, for a country like ours which is largest democracy and second largest populated country, it is even more pertinent to mobilize the resources in judiciously and befittingly, of course, without hurting the larger interests. One of the most effective tools in this regard is the system of taxation.

There are broadly two classes of taxes, namely, Direct Taxes and Indirect Taxes. While the direct form of taxes are to be borne by the person concerned, hence these tend to affect the incentive to save, invest and work; indirect tax also known as commodity taxes can be shifted to another person usually the ultimate consumer. Excise Duty, Customs Duty, Service Tax, Sales Tax, Value Added Tax etc. are known indirect taxes in India which is the highest in the world. In addition to the Indirect Tax levied by the Central Government, States and local government levy taxes such as octroi and entry tax etc.

MODULE-I: Canons of Taxation

- a) **Theories of Taxation.**
- b) **Basic Concepts of Taxation.**

MODULE-II: Constitutional Provisions and Judicial Interpretation of Taxing Statutes

- a) **Source of Power to tax in Indian Constitution.**
- b) **Fundamental Rights and Taxing Statutes.**
- c) **Interpretation of Taxing Statutes.**
- d) **Scheme of Indian Income Tax Act.**
- e) **Direct Tax Code Bill.**

MODULE-III: Heads of Income

- a) **Salaries.**
- b) **Income from house property.**
- c) **Profits and gains of business or profession.**
- d) **Capital gains.**
- e) **Income from other sources.**
- f) **Deductions and Exemptions.**

MODULE-IV: Planning

- a) **Tax Avoidance.**
- b) **Tax Evasion.**
- c) **Tax Planning.**
- d) **Assessment.**
- e) **Income Tax Authorities- Appeal- Revision- Taxation of LLPs.**

MODULE-V: International Practices and Principles

- a) **International Taxation and Double Taxation Avoidance Agreements.**
- b) **Transfer Pricing.**
- c) **Treaty Shopping.**
- d) **Permanent Establishments**

MODULE-VI: Excise Act

- a) **Constitutional Mandate.**
- b) **Nature of Excise Duty-Taxable event- Types of excise duty.**
- c) **Excisable goods- manufacturing and production-manufacturer- Classification of goods.**
- d) **Excise Act- methods of calculation of duty payable – Excise duty and CENVAT.**

MODULE-VII: Customs Act.

- a) **Nature and types of Customs Duty- Taxable events- Territorial waters and customs water- Goods and their classification.**
- b) **Customs Act- valuation- methods of valuation- baggage- exemption in customs.**

MODULE-VIII: Service Tax

- a) **Nature of service tax- service tax provider and service receiver.**
- b) **Classification and exemption of services.**
- c) **Works contract and service tax.**
- d) **Value of taxable service- CENVAT and service tax.**

MODULE-IX: Central Sales Tax

- a) **Object and Scheme.**
- b) **Constitutional Mandate- Inter-state sale.**
- c) **Goods under CST- Sale under CST- Dealer under CST- Business under CST- Impact of VAT on CST.**

MODULE-X: Value Added Tax

- a) **Background.**
- b) **Recommendation of Task Force.**

c) **Working impact of VAT.**

RECOMMENDED READINGS

1. **Systematic Approach to Income Tax--- Dinesh Ahuja and Ravi Gupta.**
2. **Student Guide to Income Tax--- Singhania. Taxmann.**
3. **Income Tax Act (Two volumes)--- N.A. Palkiwalah.**
4. **Income Tax Act--- Iyer.**
5. **Direct Tax Act (Three Volumes)--- Chaturvedi.**
6. **Taxation Laws--- Kailash Rai.**
7. **The Law and Practice of Income Tax--- Kanga and Palkiwals.**
8. **Income Tax Act, 1961--- Bare Act.**
9. **Income Tax Rules, 1962.**
10. **Treatise on Service Tax--- Sunil B. Gabawala.**
11. **VAT- Malhotra.**
12. **Wealth Tax--- Bare Act.**
13. **Direct Taxes and Practice--- Girish Ahuja**

ESSENTIAL CASE LAWS

1. **Federation of Hotel and Restaurant Hotel Owners Association v. UOI 1989(178)ITR97SC**
2. **Secunderabad Hyderabad Hotel Owners Association v. Hyderabad Municipal Corporation AIR 1999 SC 635**
3. **Vijayalashmi Rice Mill and Ors. v. The Commercial Tax Officers**
4. **AIR 2006 SC 2897**
5. **Karmachari Union, Agra v. Union of India & Ors.**
6. **AIR 2000 SC 1226**
7. **Jindal Thermal Power Ltd. V. Deputy Commissioner of Income Tax**
8. **The Hertz Corporation v. Melinda Friend in The Supreme Court of United States**
9. **CIT v. Hajee Moosa and Company ,153 ITR422.**
10. **Union of India v. Azadi Bachao Andolan, 2003 I SCW 5766 SC.**

NAME OF SUBJECT: INTERPRETATION OF STATUTES AND PRINCIPLES OF LEGISLATION

PAPER CODE: Law- 1020
MAXIMUM MARKS: 30+70=100
TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS
TERM-END EXAMINATION: 70 MARKS

Legislation is the major source of law of the modern era. Legislatures enact laws after much deliberation. No doubt in this process they have to take into account the present and future needs of the people. What are the matters to be reckoned with by legislature while enacting laws? With the emergence of legislation, interpretation of statutes became a method by which judiciary explores the intention behind the statutes. Judicial interpretation involves construction of words, phrases and expressions. In their attempt to make the old and existing statutes contextually relevant, courts used to develop certain rules, doctrines and principles of interpretation. Judiciary plays a highly creative role in this respect. What are the techniques adopted by courts in construing statutes? How far are they successful in their strategy?

MODULE-I: Principles of Interpretation

- a) **Meaning and Need of Interpretation.**
- b) **Law making- the legislature, executive and the judiciary.**
- c) **Principles of Utility.**
- d) **Relevance of John Rawls and Robert Nozick- Individual Interest to Community Interest.**
- e) **Operation of these principles upon Legislation.**
- f) **Distinction between Morals and Legislation.**

MODULE-II: Interpretation of Statutes

- a) **Meaning of the term 'statutes'.**
- b) **Different parts of a Statute.**
- c) **Commencement, operation and repeal of statutes.**
- d) **Purpose of interpretation of statutes.**

MODULE-III: Aids to Interpretation

- a) **Internal aids.**
- b) **Title.**
- c) **Preamble.**
- d) **Headings and Marginal notes.**
- e) **Sections and sub-sections.**
- f) **Punctuation marks.**
- g) **Illustrations, exceptions, provisions and saving clauses.**
- h) **Schedules.**
- i) **Non-obstacle clause.**

- j) External aid.
- k) Dictionaries.
- l) Translations.
- m) Travaux Preparatoires.
- n) Statutes in pari material.
- o) Contemporanea Exposito.
- p) Debates, inquiry commission reports and Law Commission reports.

MODULE-IV: Rules of Statutory Interpretation

- a) Primary Rules.
- b) Literal Rule.
- c) Golden Rule.
- d) Mischief Rule (Rule in the Heydon's case).
- e) Rule of Harmonious Construction.
- f) Secondary Rules.
- g) Noscitur a sociis.
- h) Ejusdem generis.
- i) Reddendo singula singulis.
- j) *Ul Res Magis Valent Quam Pereat*.
- k) *Expresso Unis Est exclusion alterius*. Etc.

MODULE-V: Presumption in Statutory Interpretation

- a) Statutes are valid.
- b) Statutes are territorial in operation.
- c) Presumption as to jurisdiction.
- d) Presumption against what is inconvenient or absurd.
- e) Presumption against intending injustice.
- f) Presumption against impairing obligations or permitting advantage from one's own wrong.
- g) Prospective operation of statute.

MODULE-VI: Maxims of Statutory Interpretation

- a) Construction of Penal Statutes.
- b) Mens rea in Statutory Offences.
- c) Interpretation of Fixing of Statutes.
- d) Strict Construction of Taxing Statutes and its limitations.
- e) *Delegatus non potest delegare*.
- f) *Expressio unius exclusion alterius*.
- g) *Generalia specialibus non derogant*.
- h) *In pari delicto potior est condition possidentis*.
- i) *Utres valet potior quam pareat*.
- j) *Expressum facit cessare tacitum*.
- k) *In bonam partem*.

MODULE-VII: Interpretation with reference to the subject matter and purpose

- a) Restrictive and beneficial construction.
- b) Taxing statutes.
- c) Penal statutes.
- d) Welfare legislation.
- e) Interpretation of substantive and adjunctival statutes.
- f) Interpretation of directory and mandatory provisions.
- g) Interpretation of enabling statutes.
- h) Interpretation of codifying and consolidating statutes.
- i) Interpretation of statutes conferring rights.
- j) Interpretation of statutes conferring powers.

MODULE-VIII: Principles of Constitutional Interpretation

- a) Harmonious construction.
- b) Doctrine of pith and substance.
- c) Colourable Legislation.
- d) Ancillary powers.
- e) "Occupied field".
- f) Residuary Power.
- g) Doctrine of Repugnancy.

SUGGESTED READINGS

1. Interpretation of Statutes--- Maxwell.
2. Interpretation of Statutes--- G.P. Singh.
3. Interpretation of Statutes--- Craies.
4. Interpretation of Statutes--- Crawford.
5. Interpretation of Statutes--- Bindra.
6. Interpretation of Statutes--- V.P. Sarathi.
7. Interpretation of Statutes--- I. Sarup
8. Principles of Statutory Interpretation--- G.P. Singh. 7th Edition. 1999. Wadhwa, Nagpur.
9. M.P. Singh , (ed.) V.N. Shukla's --- Constitution of India. 1994. Eastern, Lucknow.
10. Upendra Baxi, Introduction to Justice K.K. Mathew's--- Democracy Equality and Freedom. 1978. Eastern Lucknow.
11. M.P. Jain--- Constitutional Law of India. 1994. Wadhawa & Co.
12. Interpretation of Statutes--- V. Sarathi. 1984, Eastern Lucknow.
13. K. Shanmukham & N.S. Bindra--- Interpretaion of Statutes. 1997. The Law Book Co. Allahabad.
14. P. St. Langan (ed.) Maxwell on the Interpretation of Statutes. 1976. N.M. Tripathi, Bombay.

NAME OF SUBJECT: INSURANCE LAW

PAPER CODE: Law- 1025

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS

TERM-END EXAMINATION: 70 MARKS

Objective: This paper intends to impart the law students basic knowledge regarding the jurisprudence of insurance with insights of Motor Vehicle Act, 1988 and Public Liability Insurance Act, 1991.

MODULE-I: Introduction

- a) **Concepts of Insurance Law: Evolution of Insurance Laws; History, Scope and Development of Insurance Law- From Insurance Act, 1938 to IRD Act, 1999; Terminology; Economics of Insurance.**

MODULE-II: Contracts of Insurance

- a) **Parties to the Contract- Classification of the contracts of Insurance based on nature of event, nature of interest affected and nature of insurance. Nature of Contract of Insurance, Subject matter of insurance, description of subject matter.**
- b) **Insurable Interest: General Principles, Requirements- Statutory interest. Nature of Time-Consequence of lack of interests. Insurance covering other interests, Illegal Contracts of Insurance, Loss following a criminal act, Suicide, Criminal Negligence. Insurable Interest- Life Insurance, Property Insurance, Insurance of Third Parties interests.**
- c) **Nature of Risk: Definition of Risk & Risk Management.**
- d) **Consideration for Contract: Premium.**
- e) **Formulation and Formalities of Insurance Contract: Forming; Formalities; Forming at Lloyds, Temporary Cover- Duration and Renewal of Policies 2 Periods.**
- f) **Assignment of Insurance Policies.**
- g) **Warranties and Representations.**

MODULE-III: Classification of Insurance

- a) **Marine Insurance: History and Development of Marine Insurance; Object of Fundamental Principles, Insurance for Ships and Cargo. Loss- Total Loss (Actual total loss, constructive total loss), Partial Loss (General Average and Particular Average, abandonment). Marine insurance as a model for other insurance. Marine insurance in India. Perils on the Sea, Voyage and deviation. Marine insurance Act, 1963.**
- b) **Fire Insurance: Meaning of Fire, Loss by fire. Kinds of Marine Insurance Policies, Fundamental Principles, Contracts of- Procedure, Assessment of fire policy. Kinds of Fire Policies. Settlement of Claims, Forfeiture, Retention and Re-insurance. Doctrines: Subrogation, Contribution, Contribution Reinstatement. Double Insurance and Re-insurance.**
- c) **Life Insurance: Importance; Elements of Protection; Contract; Fundamental Principles; Kinds--- Life Insurance Corporation of India Act, 1956. Management, Functions and Powers of LIC. Control by Government. Life Policies. Persons entitled to buy. Selection of Lives. Salient features and scheme of settlement of claims. Classification of pension plan.**

- d) **Accident and Motor Insurance. Miscellaneous Insurance.**

MODULE-IV: Insurance Regulation in India

- a) **State Regulation of Insurance and Liability. Purpose of State Regulation. History of State Regulation- Pre-Independence and Post-Independence Regulations.**
- b) **Statutes: Insurance Act, 1938; Insurance Corporation Act, 1956. General Insurance Business (Nationalization) Act, 1972. Personal Injuries Compensation Insurance Act, 1963. Motor Vehicle Act, 1988. Marine Insurance Act, 1963. Public Liabilities Insurance Act, 1991.**

MODULE-V: Insurance and Consumer Protection.

MODULE-VI: De-regulation of Insurance

- a) **Liberalization & Privatization of Insurance in India: Deregulation of Insurance Sector. Recommendations for Private Entrants. Guidelines for Entry of Banks into Insurance. Malhotra Committee's Recommendations. Privatization of Insurance Industry in India- Pros and Cons.**
- b) **Insurance Regulatory and Development Authority Act, 1999: Purpose and salient features of accountability of Financial Institutions. Global Insurance Penetration. Protection of Insurance Consumers. Establishment of Regulatory Body. Role of Regulatory Body. Regulation of Insurance Industry in India. Jurisdiction of IRDA. Functions of IRDA. Investment in Insurance Sector. Registration of Insurance Company. Ombudsman- Scheme for Settlement of Disputes. Obligation of Insurers to Rural and Social Sectors.**

RELEVANT CASE LAWS

1. **Brahma Datt v LIC AIR 1966 All 474(Wagering)**
2. **Northern India General Insurance Co Ltd v Kanvarjit Singh Sobti AIR 1973 All 357 (Third party's interest, Wagering)**
3. **General Assurance Society Ltd. V Chandumull Jaina and another**
4. **Mithoolal Nayak v LIC AIR 1962 SC 814 (Forfeiture of Premium)**
5. **Lakshmi Insurance co v Bibi Padmawathi AIR 1961 Punjab 253 (non-disclosure need not be fraud)**
6. **LIC v Shakuntala Bai AIR 1975AP 68(No repudiation of policy On inaccuracy)**
7. **Bhagwan Bai v LIC of India AIR 1984 MP 126 (non-disclosure of immaterial facts cannot vitiate contract)**
8. **The Gaya Muzaffurpur Roadways & Co. and ors., vs. Fort Gloster Industries Ltd. and anr.,**
9. **Kashmir Motor Drivers Association and anr. vs. Union of India (UOI) and ors.**
10. **United India Insurance Co., Shimla v Tilak Singh & others 2006 Case (No liability to gratuitous passenger)**
11. **National Insurance Co Ltd v. Kusum Rai & others 2006 case (Driving Licence where irrelevant)**
12. **National Assurance Co, Shimla v Kamla & Others AIR 2001 SC 1419 (Invalid Driving Licence, Insurer has to pay and recover from insured)**
13. **LIC v Prasanna Devaraj (1995) 82 Comp Cas 611**

14. LIC v Raja Vasireddy Komala Valle Kamba AIR 1984 SC 1014
15. Snow White Food Products (P) Ltd v Sohanlal Bagia, AIR 1964 Cal 209
16. National Insurance v Sky Gems (2002) 2 SCC 273
 - (a) State Instrumentalities
17. LIC v Consumer Education Research Center (1995)5 SCC 482
18. Asha Goel v LIC AIR 1986 Bom412
 - (a) Subrogation:
19. Oberai Forwarding Agency v New India Assurance Co Ltd (2000) 2 SCC 407
 - (a) Tariff Advisory Committee

RECOMMENDED READINGS

1. M.N. Mishra--- Law of Insurance.
2. C. Rangarajan--- Handbook of Insurance and Allied Laws.
3. M.N. Srinivasan--- Law and the Life Insurance Contract.
4. B.N. Bannerjee--- The Law of Insurance.
5. Bhattacharya Jee--- The Life Insurance Corporation Act.

NAME OF SUBJECT: PUBLIC INTERNATIONAL LAW

PAPER CODE: Law- 1024

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT: 30 MARKS

TERM-END EXAMINATION: 70 MARKS

Objective: This paper intends to make the students of law understand the basics of Public International Law and practice. The students shall at the end of the course students shall be able to know of the development of international law and its jurisprudence at international and national level.

MODULE-I: Introduction

- a) Nature and Definition of International Law.
- b) Subjects of International Law.
- c) Relationship between International Law and Municipal Law.

MODULE-II: Sources of International Law

- a) Custom.
- b) Treaties.
- c) General Assembly Resolutions.
- d) General Principles.
- e) Justice Works.
- f) Other Sources.

MODLE-III: Recognition, Extradition and Law of the Sea

- a) Recognition
 - i. Theories of Recognition.
 - ii. Recognition of States.
 - iii. State Territory- Modes of Acquiring and Loosing.
 - iv. De facto; De jure Recognition.
 - v. Implied Recognition.
 - vi. Withdrawal of Recognition.
 - vii. Retroactive Effects of Recognition.
- b) Extradition
 - i. State Jurisdiction.
 - ii. Customary Law Basis.
 - iii. Treaty Law.
 - iv. The Nature of Obligation.
- c) Law of the Sea
 - i. Territorial Sea.
 - ii. Contiguous Zone.
 - iii. Exclusive Economic Zone.
 - iv. Continental Shelf.
 - v. High Sea.

MODULE-IV: International Organizations

- a) UN
 - i. Purposes, Principles and Membership.
 - ii. General Assembly- Composition, Function and Powers.
 - iii. Security Council- Composition, Functions, Powers, Veto and Double Veto Powers.
- b) ICJ
- c) IMF & IBRD
- d) WTO
- e) ICAO
- f) IAEA
- g) UNEP

RECOMMENDED READINGS

1. Brownlie--- Principles of International Law.
2. Shaw--- International Law.
3. Starke--- Introduction to International Law.
4. Oppenheim--- International Law.
5. Grieg--- International Law.
6. R.C. Hingorani--- Modern Hingorani.
7. H.O. Agarwal--- International Law.
8. Bowett--- The Law of International Bodies.
9. S.K. Verma--- An Introduction to Public International Law.

NAME OF SUBJECT: MOOTCOURT EXERCISES AND INTERNSHIP

PAPER CODE: Law- 1031

MAXIMUM MARKS: 30+70=100

TIME ALLOWED: 3 HRS.

INTERNAL ASSESSMENT : 30 MARKS

TERM-END EXAMINATION: 70 MARKS

Objective: This shall be a simulation course and the students shall be prepared in a case either in a moot court or in a mock trial on a given problem. This paper shall have three components of 30 marks each and a viva for 10 marks.

MODULE-I: Moot Court (30Marks)

Every student may be required to do at least three moot courts in a year with 10 marks for each. The moot court work will be on assigned problem and it will be evaluated for 5 marks for written submissions and 5 marks for oral advocacy.

MODULE-II: Observance of Trial in two cases, one Civil and one Criminal (30 Marks)

Students may be required to attend two trials in the course of last two or three years of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment. This scheme will carry 30 marks.

MODULE-III: Interviewing Techniques and Pre-Trial preparations and Internship Diary (30 Marks)

Each student will observe two interviewing sessions of clients at the Lawyer's Office/ Legal Aid Office and record the proceedings in a diary which will carry 15 marks. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit / petition. This will be recorded in the diary which will carry 15 marks.

MODUEL-IV: Viva

The fourth component of this paper will be Viva voice examination on all the above three aspects. This will carry 10 marks.