BLOGS

Is Preamble a Part of The Indian Constitution?

Aparna Shukla · 20 Feb 2021

.docxpressoPlugin { font-size: 83.35%; } .h5p_layout { box-sizing: content-box !important; } .h5p_layout *{ float: none; text-align: initial; box-sizing: border-box; } /*to make sure that floating elements are always inside the document bounds*/ .h5p_layout:after { content: " "; display: block; height: 0; clear: both; visibility: hidden; } /* a default layout for documents without maste styles */ .h5p_default_layout { margin-top: 3.6rem; margin-left: 8.50464rem; margin-bottom: 3.6rem; margin-right: 8.50464rem; writing-mode: lr-tb; } /*hack for IE */ wbr:after { content: "\00200B"; } /*hack to get some extra top margin for anchors if needed*/ .h5p_layout span[id^="_Toc"]{ padding-top: 10px; margin-top: -10px; } /* Remove unwanted numbering styles */ .h5p_layout .removeNumbering:before{ content: initial !important; display: none; all: initial !important; } /* give zero default top and bottom paddings for paragraphs*/ .h5p_layout p { color: #000000; line-height: 1; margin-top: 0; margin-bottom: 0; } .h5p_layout span { color: #000000; font-weight: normal; } .h5p_layout span.dropcap { color: inherit; font-family: inherit !important; } .h5p_layout h1, .h5p_layout h2, .h5p_layout h3, .h5p_layout h4, .h5p_layout h5, .h5p_layout h6 { margin-top: 0; margin-bottom: 0; font-family: inherit; font-weight: 500; line-height: 1; color: inherit; } /* give zero default top and bottom paddings for paragraphs in tables*/ .h5p_layout table p { margin-top: 0; margin-bottom: 0; } .h5p_layout ul, .h5p_layout ol { list-style-type: none; margin-top: 0; margin-bottom: 0.5em; padding-left: 0; } .h5p_layout ul li, .h5p_layout ol li { list-style-type: none; margin-top: 0; margin-bottom: 0.5em; } .h5p_layout li p { margin-top: 0; margin-bottom: 0; } .h5p_layout table { border: none; } .h5p_layout td { vertical-align: top; border: none; } .h5p_layout th { vertical-align: top; border: none; } .h5p_layout div { margin-bottom: 10pt; } .h5p_layout img { margin: 0; padding: 0; } .h5p_layout ul ul { margin-top: 0; margin-bottom: 0; } .h5p_layout li { margin-top: 0; margin-bottom: 0; list-style-type: none !important; } .h5p_layout ul, .h5p_layout ol { list-style-type: none !important; } .h5p_layout td[data-sorting] p:before, .h5p_layout th[data-sorting] p:before { content: ' '; padding-right: 16px; background: url(background-position: left center; background-repeat: no-repeat; } .sortDecorator { border-bottom: 3px solid #b70000 !important; } /* This is a spacial class designed to remove unwanted bullets when a li has ul as its first child*/ .h5p_layout .removeBullet:before { content: none !important; }

/*responsive tables*/ .h5p_layout div.dxoResponsiveTable{ margin: 0 !important; padding: 0 !important; overflow-x: auto !important; overflow-y: hidden; } /* chart tooltips */ .c3-tooltip-container td.name { white-space: nowrap; } /* External services*/ .h5p_layout iframe { resize: vertical; border: 1px solid #fff; } .h5p_layout div.youtube { position:relative; padding-bottom:56.25%; height:0; overflow:hidden; background-color: transparent; } .h5p_layout div.youtube iframe { resize: none; position:absolute; top:0; left:0; width:100%; height:100%; } div#h5p_6a7bf4b972925 p.P1 {vertical-align: baseline !important;line-height: 1.05 !important;break-before: page !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P1 span {font-family: Calibri;hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;language: en;country: US;} div#h5p_6a7bf4b972925 p.P2 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P2 span {font-family: Calibri;hyphenate: false;font-family: Times New Roman;font-size: 12pt;language: en;country: US;} div#h5p_6a7bf4b972925 p.P3 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 span.T4 {font-family: Times New Roman !important;font-size: 12pt !important;language: en !important;country: US !important;} div#h5p_6a7bf4b972925 p.P5 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P5 span {font-family: Calibri;hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;language: en;country: US;} div#h5p_6a7bf4b972925 p.P6 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P6 span {font-family: Calibri;hyphenate: false;font-family: Times New Roman;font-size: 12pt;language: en;country: US;} div#h5p_6a7bf4b972925 p.P7 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P7 span {font-family: Calibri;hyphenate: false;font-family: Times New Roman;font-size: 12pt;language: en;country: US;} div#h5p_6a7bf4b972925 p.P8 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 span.T9 {font-family: Times New Roman !important;font-size: 12pt !important;language: en !important;country: US !important;} div#h5p_6a7bf4b972925 p.P10 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-

height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P10 span {font-family: Calibri;hyphenate: false;font-family: Times New Roman;font-weight: bold;font-style: italic;font-size: 12pt;language: en;country: US;} div#h5p_6a7bf4b972925 p.P11 {vertical-align: baseline !important;line-height: 1.05 !important;text-align: justify !important;line-height: 1.5 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 span.T12 {font-family: Times New Roman !important;font-size: 12pt !important;language: en !important;country: US !important;} div#h5p_6a7bf4b972925 span.T13 {font-family: Times New Roman !important;vertical-align: super; font-size: 66.6% !important;font-size: 12pt !important;language: en !important;country: US !important;} div#h5p_6a7bf4b972925 span.T14 {font-family: Times New Roman !important;font-size: 12pt !important;language: en !important;country: US !important;} div#h5p_6a7bf4b972925 div.a0 {border: 0.01042in none !important;background-color: transparent !important;font-size: 11pt;} div#h5p_6a7bf4b972925 div.a1 {border: 0.01042in none !important;background-color: transparent !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.Normal {vertical-align: baseline !important;line-height: 1.05 !important;font-size: 11pt;} div#h5p_6a7bf4b972925 p.Normal span {font-family: Calibri;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf4b972925 span.DefaultParagraphFont {font-size: 11pt;} div#h5p_6a7bf4b972925 div {font-size: 11pt;} div#h5p_6a7bf4b972925 div.Graphics {font-size: 11pt;} div#h5p_6a7bf4b972925 p.P3 span {font-family: Calibri;hyphenate: false;font-family: Calibri;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P8 span {font-family: Calibri;hyphenate: false;font-family: Calibri;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf4b972925 p.P11 span {font-family: Calibri;hyphenate: false;font-family: Calibri;hyphenate: false;font-size: 11pt;} div#h5p_6a7bf4b972925 table {margin-left: 0in;border-collapse: collapse;writing-mode: lr-tb;font-size: 11pt;} div#h5p_6a7bf4b972925 table tr {height: 0in;keep-together: auto;font-size: 11pt;} div#h5p_6a7bf4b972925 table td, table th {background-color: transparent;vertical-align: top;wrap-option: wrap;font-size: 11pt;} div#h5p_6a7bf4b972925 p {keep-with-next: auto;keep-together: auto;widows: 2;orphans: 2;break-before: auto;border: none;text-align: left;writing-mode: lr-tb;margin-bottom: 0.1111in;line-height: 1.07;background-color: transparent;font-size: 11pt;} div#h5p_6a7bf4b972925 p span {font-family: Calibri;font-weight: normal;font-style: normal;text-transform: none;font-variant: normal;letter-spacing: normal;font-size: 11pt;background-color: transparent;text-decoration: none;text-decoration-color: font-color;language: en;country: IN;hyphenate: true;}

In re Berubari Union Case (1960) (SC)It was a 9 judges bench decision and the judgment was delivered by Hon’ble Justice Gajendra Gadkar. It was held that Preamble is not a part of the

Constitution. However, it is a key to the mind of framers of the Constitution and it reveals their intentions. Preamble is in itself neither a source of any powers, nor a source of any restrictions. The preamble is an important tool for interpretation of the Constitution.Kesavananda Bharti v State of Kerala (1973) (SC)It was a 13 judges bench decision and the judgment was delivered by Hon'ble Chief Justice S M Sikri. It was held that the preamble of the Constitution cannot be seen in the same sense as Preamble to the statute. Preamble is certainly a part of the Constitution but not an operative part and cannot be considered a provision.In practical circumstances, Article will apply and not the Preamble. A law cannot be declared to be void on the basis of Preamble alone. The Preamble is an important tool of interpretation of the Constitution. Preamble is not a source of basic structure but the manifestation of the basic structure.Minerva Mills V Union of India (1980) (SC)It was a 5 judges bench decision and the judgement was delivered by Hon'ble Justice Y V Chandrachud. It is held that any positive amendment in the Preamble can certainly be made. The edifice of the Constitution has been built upon the concepts crystallized in the Preamble. The 42nd amendment adds vitality to the philosophy of the Constitution. It makes explicit what was implicit in the Constitution i.e., Positive Amendment. It was held that the Preamble can be amended by procedure held in Article 368 of the Constitution. (function($) { //footnotes $('.defaultNote').children(":first").css('cursor', 'pointer'); $('.defaultNote').children(":first").click(function(){ var gotoID = '#' + $(this).parent().attr('id'); $('html, body').animate({ scrollTop: $('a[href="' + gotoID + '"]').offset().top - 60, }, 250, 'linear') }); }(jQuery)); var numFormat = ",."; (function($) { "use strict"; //do some cleaning on load var sortCells = $('td[data-sorting], th[data-sorting]'); sortCells.each(function(){ var first = $(this).text().trim().charAt(0); if (first == '@'){ var oldHTML = $(this).html(); var newHTML = oldHTML.replace('@', ''); $(this).html(newHTML); } }); function sortingTable(node, pos, ordBy){ var rows = node.children('tbody').children('tr').get(); rows.sort(function(a, b) { var X = $(a).children('td').eq(pos).text().toUpperCase(); var Y = $(b).children('td').eq(pos).text().toUpperCase(); if (numFormat != '.,'){ //we are dealing with a different locale and we need to do some //transformation in numbers X = convert2number(X); Y = convert2number(Y); } else { X = X.replace(/,/g, '').replace(/ /g, ''); Y = Y.replace(/,/g, '').replace(/ /g, ''); } var currencies = ['$', '¥', '£', '€']; var arrayLength = currencies.length; var XX = X; var YY = Y; for (var i = 0; i < arrayLength; i++) { XX = XX.replace(currencies[i], ''); YY = YY.replace(currencies[i], ''); } if (!isNaN(XX) && !isNaN(YY)){ var floatXX = parseFloat(XX); var floatYY = parseFloat(YY); return -(floatYY-floatXX) * ordBy; } else if (!isNaN(XX) && isNaN(YY)){ return -1 * ordBy; } else if (isNaN(XX) && !isNaN(YY)){ return ordBy; } else { if(X < Y) { return -

1 * ordBy; } if(X > Y) { return 1 * ordBy; } return 0; } }); $.each(rows, function(index, row) { node.children('tbody').append(row); }); } function removeTableCellDecoration() { $("td[data-sorting], th[data-sorting]").removeClass('sortDecorator'); } //unbind the click event just in case we are loading more than one document $("td[data-sorting], th[data-sorting]").off('click'); $("td[data-sorting], th[data-sorting]").click(function(){ removeTableCellDecoration(); $(this).addClass('sortDecorator'); //get desired ordering var ordering = $(this).attr('data-sortOrdering'); if (ordering == 'ASC'){ var ordBy = -1; $(this).attr('data-sortOrdering', 'DESC'); } else { var ordBy = 1; $(this).attr('data-sortOrdering', 'ASC'); } var cellPosition = $(this).prevAll().length; var table = $(this).parents('table:first'); sortingTable(table, cellPosition, ordBy); }); function convert2number(str) { str = str.trim(); if (str.match(/^\d+/)) { //we have to take special care when the thousand separators are '.' var result_0 = str.replace(/\./g, '_@_'); var result_1 = result_0.replace(window.numFormat[0], '.'); var result = result_1.replace(/_@_/g, ''); result .replace(/ /g, ''); return result; } else { return str; } } }(jQuery));