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Law

BANKING SYSTEM AND LAW

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ABSTRACT Money in the Society like Blood in Human Body. Recently without money we cannot imagine the society. The details of Money are given in many religious books, so we can say that The Money system is colonial. But we have to accept that the forms of Money may be different at different time. The theories for store / save of Money are change at chronologically. Now the word Money is directly connected with the Bank, and viz-a-viz. the functions of related to Money are mostly performed by the Banks i.e. all the types of Banks. In India there are various types of Banks are working right now. In 21st centaury Bank plays very important role in developing the nation. Particularly in India the Role of Bank is always very important to ahead the nation. Recently there are many functions of Bank are performing. The Constitution of India also plays its role regarding the Banks in India. The article clears the some important facts / provisions regarding Banks in India.

KEYWORDS : Banks – Society - Defination – Act related to Bank

INTRODUCTION

Banking in India is mainly governed by Reserve Bank of India Act, 1934 and Banking Regulation Act, 1949 and additionally Government of India exercise control over the Banking system. Banking system occupies an important place in a Nation's economic. A banking institution is indispensable in a modern society. It plays a pivotal role in the economic development of a country and forms the core of the money market in an advanced country India, the nation of multi culture, religious, tradition, languages etc. World's biggest Democracy i.e. India, India is the fastest economical growing country that's why in India some financial institutions may be strong, safe and independence.

In ancient India, The Vedas (2000–1400 BCE) are the earliest Indian texts to mention the concept of usury, with the word kusidin translated as "usurer". The Sutras (700–100 BCE) and the Jatakas (600–400 BCE) also mention usury. Texts of this period also condemned usury: Vasishtha forbade Brahmin and Kshatriya varnas from participating in usury. By the 2nd century CE, usury became more acceptable. The Manusmriti considered usury an acceptable means of acquiring wealth or leading a livelihood. It also considered money lending above a certain rate and different ceiling rates for different castes a grave sin.

Later during the Mauryan period (321–185 BCE), an instrument called adesha was in use, which was an order on a banker directing him to pay the sum on the note to a third person, which corresponds to the definition of a modern bill of exchange. The considerable use of these instruments has been recorded. In large towns, merchants also gave letters of credit to one another.[1]

After that, the system of Banking were change in new arena and that time was “British Rule”, when British rule was implied in India and that time the Business was start systematically from India, i.e. India was going to connect with the whole world with Business / economically, and that was Sone Ki Chidiya INDIA. Some Banking institutions in India like, *Money Economy, Epic age, Smriti period, Buddhist Period, Muslim Period, Mughal Period, Advent of East India Company, Establishment of joint stock banks.*

MEANING & SCOPE OF BANK

The word 'bank' means “organization where people and businesses can invest or borrow money, change it to foreign currency, etc.” As against this word 'bankrupt' in relation to individual or a corporate entity signifies a status of being “unable to pay what is owed as declared by a court of law”.9 A bank is an institution which deals in money and credit. It receives deposits from the public and lends money to those who need for investment in business. These days banks also grant consumption loans for the purchase of durables such as T.V., Moter Cycle, Car, Refrigerater, etc. They also facilitate remittance of money through demand draft, mail transfer, telegraphic transfers, etc.ip Another Word Bank on meaning “depend on happening” is derived from the intrinsic quality of a bank, viz. dependability. Therefore, in ordinary parlance, the financial soundness, inherent ability to meet one's financial obligations honouring one's commitments or. dependability, are distinguishing features of a bank.[2]

DEFINITIONS UNDER INDIAN LAW

In India law “banking” has been defined by a statute , viz ; the Banking Regulation Act, 1949 under sec. *5b,&c* as follows: *Sec.5(b)* : "Banking means accepting for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawal by cheque, draft and order or otherwise." *Sec.5(c)* “A banking company is a company which transacts the business of banking in India”

According to *Hilton Young Commission 1926*, “the Bank or Banker should be interpreted as meaning every person, firm or company using in its description or title 'Bank' or 'Banking' and every company accepting deposits of money subject to withdrawal by cheque, draft or order.”

Indian Companies Act,1936, lays down that “Banking Company is a company which carries on as its principal business the accepting of the deposits of money on current account or otherwise, subject to withdrawal by cheque, draft or otherwise.”

As per the above definitions the following are the core functions of a bank;

1. Acceptance of deposits from the public (customers or members of the society);
2. Making deposits of customers withdrawable by cheque or otherwise (withdrawalslip, letters, voucher)on demand, or payable on maturity to the customers;
3. Lending or investing funds collected from the customers, subject to obligation to repay the deposits to the customers on demand or otherwise as per the terms of the deposits.

Sayers has defined a bank as “an institution, whose debt are widely accepted in settlement or other people's debts to each other.”
Crowther says, “ a banker is a dealer in debts - his own and other peoples.”

According to *Walter leaf*, “a bank is a person or corporation which holds itself out to receive from the public, deposits payable on demand by cheque.”

Horace White has defined “a bank, as a manufacture of credit and a machine for facilitating exchange,” is so but precise.

According to *Prof. Kinley*, “ a bank is an establishment which makes to individuals such advances of money as may be required and safely made, and to which individuals, entrust money which not required by them for use.”

Thus, we can say that a bank is a financial institution which deals in debts and credits.

It accepts deposits, lands money and also create money. It bridges the gap between the savers and borrowers. Banks are not merely traders in money but they also in an important sense manufactures of money.

- **LIST OF ACTS WHICH ARE RELATED WITH BANKS IN INDIA**[3]

Sr. No	Name of the Act	Year
1.	Societies Registration Act	1860
2.	Negotiable Instrument Act	1881
3.	Indian Trusts Act	1882
4.	The Bankers' Books Evidence Act	1891
5.	Indian Stamp Act	1899
6.	Co-operative Societies Act	1912
7.	Provident Funds Act	1925
8.	Indian Partnership Act	1934
9.	The Reserve Bank of India Act	1934
10.	Insurance Act	1938
11.	Central Excise Act	1944
12.	Public Debt Act	1944
13.	International Monetary Fund and Bank Act	1945
14.	Employees' State Insurance Act	1948
15.	The Industrial Finance Corporation of India Act	1948
16.	The Banking Companies (Legal Practitioner Clients' Accounts) Act	1949
17.	The Industrial Disputes (Banking and Insurance Companies) Act	1949
18.	The Banking Regulation(Companies) Rules	1949
19.	The Banking Regulation Act	1949
20.	Chartered Accountants Act	1949
21.	Contingency Fund of India Act	1950
22.	The State Financial Corporations Act	1951
23.	Employees Provident Fund and Miscellaneous Provisions Act	1952
24.	The Reserve Bank of India (Amendment and Misc. Provisions) Act	1953
25.	The Industrial Disputes (Banking Companies) Decision Act	1955
26.	The State Bank of India Act	1955
27.	Life Insurance Corporation Act	1956
28.	Companies Act	1956
29.	Central Sales Tax Act	1956
30.	The State Bank of India (Subsidiary Banks) Act	1959
31.	The Subsidiary Banks General Regulation	1959
32.	The Deposit Insurance and Credit Guarantee Corporation Act	1961
33.	Customs Act	1962
34.	Unit Trust of India Act	1963
35.	Limitation Act	1963
36.	Nationalization of Banks Act (However, the government decided to nationalize 14 major commercial banks on 19th July 1969)	1964
37.	Banking Laws (Application to Co-operative Societies) Act	1965
38.	Banking Companies (Acquisition and Transfer of Undertaking) Act	1969
39.	The Nationalized Banks (Management and Miscellaneous Provisions) Scheme	1970
40.	The Banking Companies (Acquisition and Transfer of Undertakings) Act	1970
41.	The Regional Rural Banks Act	1976
42.	Foreign Contribution (Regulation) Act	1976
43.	The Banking Companies (Acquisition and Transfer of Undertakings) Act	1980
44.	The Export-Import Bank of India Act	1981
45.	The National Bank for Agriculture and Rural Development Act	1981
46.	Chit Fund Act	1982
47.	Sick Industrial Companies (Special Provisions)Act	1985
48.	Shipping Development Fund Committee (Abolition) Act	1985
49.	Banking Companies (Regulation)Rules	1985
50.	The National Housing Bank Act	1987
51.	SIDBI Act	1989
52.	SIDBI General Regulations	1990
53.	Securities and Exchange Board of India Act	1992
54.	The Special Court (trial of Offences relating to Transactions in Securities) Act	1992
55.	The Industrial Finance Corporation (Transfer of Undertakings and Repeal) Act	1993
56.	Recovery of Debts due to Banks and Financial Institutions Act	1993
57.	Debts Recovery Appellate Tribunal (Procedure) Rules	1994
58.	Industrial Reconstruction Bank (Transfer of Undertaking & Appeal) Act	1997
59.	Foreign Exchange Management Act	1999
60.	Insurance Regulatory and Development Authority Act	1999
61.	Prevention of Money Laundering Act	2002
62.	Fiscal Responsibility and Budget Management Act	2002
63.	The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act	2002
64.	Industrial Development Bank (Transfer of Undertaking & Repeal) Act	2003
65.	Credit Information Companies (Rules & Regulation) Act	2005
66.	Government Securities Act	2006
67.	The Banking Ombudsman Scheme	2006
68.	Factoring Act Rules	2011
69.	SARFAESI (Central registry) Rules	2011
70.	Securities Law (Amendment) Act	2014
71.	The Regional Rural Banks (Amendment) Act – Diluted the sharing pattern by limiting the composite share of Central Government and sponsor bank to 51%	2014
72.	The Insurance Laws (Amendment) Act- pushed FDI limit to 49%	2015
73.	The Companies Act (Amended) (legislated in 1956)	2015

- **CONCLUSION :-**

A sound banking system is the sine qua non of accelerated economic growth. Banks perform two functions., viz., they encourage the habit of thrift in the community by providing facilities for safe-keeping of savings into productive spheres in accordance with predetermined plan priorities. The need for both short term and long term capital increases with economic growth and both these types of capital resources have been supplied by the banking system in developed as well as in underdeveloped countries. Though shortage of capital is one of the causes of underdevelopment it is not always necessarily the case and underdevelopment may be due to inadequate resource mobilization effort. It is true that a sound banking system becomes a categorical imperative. Banks are not merely organizations to collect and disburse funds; legal codes and practices governing their conduct and operations are essential. Savers and investors require certain safeguards, which include sound banking practices and protective regulations.[4]

An effective banking system is, therefore, required to provide financial opportunities for a rising level of income. In Great Britain at the time of the Industrial Revolution an effective banking system existed which provided the working capital require for a rising level of economic activity.[5]

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