

Indian Regulatory Framework

Q. Why do we study Law as CA :-

- i) Every chartered accountant is the first point of contact for every legal matter in terms of business.
- ii) C.A should have knowledge of law -
To advise management in case of employment and to clients in case of practice.
- iii) So, C.A can provide consultancy only when he possess knowledge of all applicable rules and regulations in India.

Purpose of Law

- Law provides a set of uniform rules.
- These rules & regulations shall be followed by every person.
- These rules are to followed in dealings with other persons.
- These dealings which needs law shall be both personal and business dealings.

Historical Aspects of Law

- 1, oldest law in writing is Code of Hammurabi
- 2, This was made in time of babylon during 1798 BC to 1758 BC
- 3, This law was carved on stones and such stones were placed on roads so that general public can read them for compliance.

4) During this tenure, Judges were also appointed to award punishment.

5) oldest law in detailed form is found in Rome.

6) It is called "Twelve tables"

7) This was written on Bronze tablets and they were 12 in number.

8) This law dates back to 450 BC.

What is Law

- 1) Law is a set of obligations and rights.
- 2) Such obligations are imposed by government.
- 3) These are imposed on such us to ensure social welfare and justice.
- 4) These obligations and rights are put in the form of written rules which are collectively called law.

Sources of Law

- 1) Source of law means input sources.
- 2) In simple words, sources which provide inputs for making law are called sources of law.

Fg - Constitution of India provides power to C.G. to make and present budget for the nation.

Source → Law

3, In other words sources which give birth to law are called sources of law.

4, Following are the main sources of law in India :-

a, Constitution of India

b, Statute made by parliament and legislative assembly

c, Precedents / Judicial decisions.

d, Custom and Usage.

5, Laws made by parliament shall extend to whole of India and laws made by legislative assembly of the state will apply only in that particular state.

6, Constitution of India provides 3 lists of matters on which C.G and S.G can make law :-

a, Union list - Power of C.G

b, State list - Power of S.G

c, Concurrent list - Both

Process of making law

Following are the steps, in general, which are followed in the process of making law :-

Step-1 :- Proposed law (Bill) is presented to and passed by Lok Sabha.

Step-2 :- Proposed law (Bill) is presented to and passed by Rajya Sabha.

Step-3 :- After acceptance of Lok Sabha and Rajya Sabha, Honorable president of India provides his Consent.

Step-4 :- The bill becomes act immediately after the assent of president and then it is published in the official Gazette.

Types of Law

Following are the three types of law -

a) Criminal law -

Means set of law to prescribe punishment and procedure to award punishment.

Eg - [India Penal Code]

[Bhartiya Nyay
Sangita, BNS]

[Code of Criminal Procedure]

[Bhartiya Nagsik Suraksha
Sanhita, BNSS]

b) Civil law -

These law talk about dispute resolution.

They are referred when parties accuse each other for not fulfilling their obligations.

eg- Contract law, Negotiable instrument etc.

C, Common law —

It refers to judicial precedent. In simple words judgments ~~been~~ given by courts become a common rule to be followed by all.

- Common law follow a principle of "Doctrine of Stare Decisis" which means we need to stand by what has been once decided by the courts.

Principle of Natural Justice

1, Principle of Natural Justice is also called :-

"Jus Natural"

2, This says that no one can be a judge in himself.

"NEMO JUDGES IN CAUSA SUA"

3, Both parties in any matter, civil or criminal must be given an opportunity of being heard before any judgment.

"Audire Alteram Partem"

4, To maintain Natural Justice, Courts can over ride common law but they can not over ride law itself.

Enforcing the Law

- i) Government is the enforcement agency for law.
- ii) Indian government structure is federal in nature.
- iii) It means powers to govern people are distributed among Centre and States.
- iv) Government acts through its various ministries.
- v) Every ministry has several departments.
- vi) Every department has several officials → civil servants.
- vii) Every ministry is headed by a Cabinet minister.
(Cabinet minister is one who sits in the Council of Ministers)
- viii) Cabinet minister is supported by junior ministers who are called ministers of State.
- ix) It is not necessary that every ministry has ministers of State.

Major Ministries, Departments, Organisations

Ministry of Finance -

- 1) It works as treasury of Indian government.
- 2) Major areas of concern for this ministry are as follows :-

- | | |
|--------------------------|----------------------------|
| a) Taxation | e) Centre & State Finances |
| b) Finance legislation | f) Union budget |
| c) Financial Institution | |
| d) Capital Market | |

3) Finance Ministry is composed of officials from following categories :-

- a) IRS - Indian Revenue Services
- b) IAAS - Indian Audit & Accounts Service
- c) AFS - Indian Economics Service
- d) ACAS - Indian civil Accounts Service
- e) ACMAS - Indian cost & Management Account Service

4) Following are the departments working under Finance Ministry :-

- a) Department of economic affairs
- b) Department of expenditure
- c) Department of Revenue
- d) Department of Financial Services
- e) Department of Investment and public asset management
- f) Department of public Enterprises

Ministry of Corporate Affairs -

1) Following are the major concerns of this Ministry :-

- a) Companies Act, 2013
- b) Limited liability Act partnership Act, 2008
- c) Insolvency and bankruptcy code, 2016
- d)

2) This Ministry is run by several civil servants including

IRIS Qualified people

↳ Indian Corporate law Service

3.) Highest post to be awarded after IAS exam is
Director General - Corporate Affairs.

Ministry of Home Affairs -

1.) Major function of this ministry is to maintain internal security and domestic policy.

2.) Following are the departments of under this ministry :-

- a) Department of Border Management
- b) Department of Internal Security
- c) Department of J&K and Laddakh Affairs
- d) Department of Home
- e) Department of official language.
- f) Department of States

Central
Translation
Bureau

Central
Hindi training
Institute

Directorate of
Census
operations

Ministry of law and justice -

1, It deals with following three matters :-

- a) Management of legal Affairs.
- b) legislative Activities
- c) Administration of Justice

2, Following are the 3 Departments under this Ministry :-

- a, legal Affairs
- b, legislative Department
- c, Justice

SEBI - Securities and Exchange Board of India

- 1, SEBI is regulator of Securities market and Commodity market in India.
- 2, SEBI works independently but falls in the category of under the ministry of Finance.
- 3, SEBI was established as an Executive Body on 12.4.1988
- 4, However, it was given Statutory powers on 30.1.1992

RBI - Reserve Bank of India

- 1, It is the Central Bank of India.
- 2, It independently regulates Banks and money market but it falls under Ministry of Finance.
- 3, Following are the major activities performed by RBI :-
 - a, Responsible for issuing ^{*} and maintaining the flow of Indian currency.

b) Managers payment System of India through
NPCI - National Payment Corporation of India.

c) Promotes economic development of the country.

d) RBI has established DICGC - Deposit Insurance and Credit Guarantee Corporation for the Safety of Bank Deposit.

★ = Press Name :-

Bhartiya Reserve Bank Mudran

→ Nasik

→ Dewas

ABBA - Insolvency and Bankruptcy Board of India

1, ABBA is the regulator of Insolvency proceedings under insolvency & Bankruptcy code 2016.

2, ABBA governs all persons, organisation and procedures involved in insolvency.

3, particularly ABBA regulates following people :-

a) Insolvency professionals

b) Insolvency professionals agency

c) Information utilities.

- 4, IBB1 was established on 1.10.2016 but it was given Statutory powers already on 5.5.2016
- 5, Main Focus of IBB1 is to Simplify insolvency proceeding.
- 6, IBB1 handles all insolvency cases through 2 Tribunals :-
 - a, National Company Law Tribunal (NCLT)
 - b, Debt Recovery Tribunal. (DRT)

Structure of Indian Judicial System

- 1, Indian Judiciary System consists of several layers of Courts and Judges.
- 2, The Different levels in the Hierarchy of Indian judicial System are as follows :-
 - a) Metropolitan Courts
 - b) District Courts & Session Courts
 - c) High Courts
 - d) Supreme Courts
- 3, Following are the functions of Judicial System :-
 - a, Regulation of interpretation of law.
 - b, Dispute Resolution
 - c, Promote Fairness among citizens.

4. Following are some pointers on Supreme Court -

- a) Established on 26.1.1950
- b) As per article 126, chief justice of India is the highest authority of Indian judiciary system.
- c) principal Bench of SC initially had only 7 members including CJI, which has now increased to 34
- d) writ petition to Supreme Court can be filed by any citizen as per article 32.

Chief Justice
of India

5. Following are some pointers about High Court :-

- 1) High Court is the top court for a state or union territory.
- 2) High Courts are established under the provisions of Article 214.
- 3) We have total 25 High Courts.
- 4) There are six states which share the same high court.
- 5) Oldest high court in India is Calcutta high court, established on 2nd July, 1862.
- 6) A writ petition can be filed in the high court as per provisions of ~~226~~ Article 226.
- 7) Powers of high court can be classified into 3 categories :-
 - a) Appellant (appeal)
 - b) Original (First hearing)
 - c) Supervisory (Management & Administration)

8, Supervisory power of high court are limited in nature as per the provisions of Article 227.

6. Following are some pointers about District Court :-

→ District Court have 2 kind of Judges -

a, District Judge - For matters of civil law

b, Session Judge - For matters of criminal law

→ Powers are allotted to Judges as per territorial limits.

→ Jurisdiction is decided based on the place of residence and place of business.

→ Power of a civil judge is to take up matters of maximum ₹ 2 crore.

7. Following are some pointers about Metropolitan Courts :-

→ These Courts are established in metropolitan cities.

→ These are established in Consultation with chief Justice of high Court.

→ These Courts are appointed only in those places where population is 10 lakh or more.

→ There are two level of judges in metropolitan Courts :-

a, MM :- Metropolitan Magistrate

b, CMM :- chief Metropolitan Magistrate.