

Indian Regulatory Framework

1. Introduction

- 1.1) Why do we study as Chartered Accountant
- a) Every Chartered Accountant is the first point of contact for every legal matter in terms of Business
 - b) Chartered Accountant should have knowledge of law to advise management in case of Employment and to clients in case of practise
 - c) So, Chartered Accountant can provide consultancy only when he possess knowledge of all applicable rules and regulation in india.

1.2) Purpose of Law

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

1.3) Historical Aspects of Law

- a) Oldest law in writing is Code of Hammurabi
- b) This was made in time of Babylon during 1798 BC
to 1758 BC
- c) This law was carved on stones and such stones were placed on roads so that general public can read them for compliance.
- d) During this tenure judges were also appointed to award punishment
- e) Oldest law in detailed form is found in Rome.
- f) It is called "Twelve Tables"
- g) This was written on bronze tablets and they were 12 in number
- h) This law dates back to 450 BC

2. What is Law?

- a) Law is a set of obligations and rights
- b) Such obligations are imposed by Government.
- c) These are imposed on us to ensure social welfare and justice.
- d) These obligations and rights are put in the form of written rules which are collectively called Law.

3. Sources of Law

- a) source of Law means input sources
- b) In simple words, sources which provide inputs for making law are called sources of law

E.g. Constitution of India provides power to central government to make and present budget for the nation.

- c) In other words, sources which give birth to law are called sources of law.

d) Following are the main sources of law in India:

- (i) Constitution of India
- (ii) Statute made by Parliament and legislative assembly

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- (iii) Precedents / Judicial Decision
(iv) Custom and usage

a) Law 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.

b) Constitution of India provide 3 List of matters on which Central and State Government can make law:

(a) Union List: Powers of Central Govt

(b) State List: Powers of State Govt

(c) Concurrent List: Matter on which both Central and State Govt can make powers.

4A. Process of Making Law

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

Step I Proposed Law (Bill) is presented to and Passed by Lok Sabha

Step II Proposed Law (Bill) is presented to and Passed by Rajya Sabha

Step III After acceptance of Lok Sabha and Rajya Sabha, Honorable President of India provides his consent.

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

48. Types of law

Following are the 3 types of law:

a) Criminal Law means set of law to prescribe punishment and procedure to award such punishment.

Eg. [Indian penal Code] ↳ BNS Bhartiya Nyay Sanhita	[Code of Criminal Procedure] ↳ Bhartiya Nagrik Suraksha Sanhita BNSS
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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

c) Common Law refers to Judicial Precedent. In simple words, Judgement given by Courts become a common rule to be followed by ~~lower~~ 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.

4C. Principle of Natural Justice

- i) Principle of Natural Justice is also called - "Jus Naturae"
- ii) This says that no one can be Judge in himself.
(Nemo Judex in Causa Sua)
- iii) Both parties in any matter, Civil or Criminal must be given an opportunity of being heard before any judgement.
(Audi Alteram Partem)
- iv) To maintain natural Justice, Courts can override Common Law they cannot override law itself.

5A. 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
- 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 Minister who are called Minister of State.

ix) It is not necessary that every ministry has minister of state.

5B. 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

(b) Financial Legislation

(c) Financial Institution

(d) Capital Market

(e) Central or State Finances

(f) Union Budget

3. Finance Ministry is composed of officials from following categories:

(a) IRS - Indian Revenue Service

(b) IAAs - Indian Audit and Account Service

(c) IES - Indian Economic Service

(d) ICAS - Indian Civil Accounts Service

(e) ICMAT - Indian Cost and Management Account Service

4. Following are the departments working under finance Ministry

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| (BBA) | |
- (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 Partnership Act 2008
 - c) Insolvency and Bankruptcy Code 2016
2. This Ministry is run several civil servants including ICLS Qualified People.
 - ↳ Indian Corporate Law Service
3. Highest Post to be awarded after ICLS 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 under this ministry:
 - a) Department of Border Management
 - b) Department of Internal Security
 - c) Department of Jammu-Kashmir & Ladakh Affairs

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- (a) Department of Home
 - e) Department of Official Languages
 - b) Department of States

↓
Central Translation
Bureau

↓
Central Hindi
Training
Institute

↓
Directorate
of Central
Operation

Ministry of Law & Justice

1. It deals with following 3 matters:

- a) Management of Legal Affairs
- b) Legislative Activity
- c) Administration of Justice

2. Following are the 3 Departments under this Ministry:

- a) Legal Affairs
- b) Legislative Departments
- (c) Justice

SEBI: Securities and Exchange Boards of India

1. Sebi is Regulator of Security market and commodity market in India
2. SEBI work independently but falls in the category of Under the Ministry of finance.
3. SEBI was established as an executive Body on 12th April 1988

4. However, it was given statutory power on 30th Jan 1992

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) Manages Payment System of India through NPCI National Payment Corporation of India.
 - c) Promotes economic development of Country
 - d) RBI has established DTGIC- Deposit Insurance and Credit Guarantee Corporation for the safety of Bank deposit

★ = Press Name :

Bhartiya Reserve Bank Mudran

→ Nasik

→ Devas

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Insolvency Bankruptcy Board of India

1. IBBI is the regulator of insolvency proceeding under Insolvency & Bankruptcy Code 2016.
2. IBBI governs all person, organisation and procedures involved in insolvency process.
3. Particularly IBBI regulates following people:
 - a) Insolvency Professionals
 - b) Insolvency Professionals Agency
 - c) Information Utility.
4. IBBI was established on 1st Oct 2016 but it was given statutory powers already on 5th May 2016.
5. Main focus of IBBI is to simplify insolvency proceedings.
6. IBBI handles all insolvency cases through 2 tribunals:
 - a) National Company Law Tribunal (NCLT)
 - b) Debt Recovery Tribunal (DRT)

6. Structure Of Indian Judicial System

1. Indian Judiciary System consist of several layers of Courts and Judges.
2. The different levels in Hierarchy of Indian Judicial System are as follows:
 - 1) Metropolitan Courts
 - 2) District Courts & Session Courts
 - 3) High Courts
 - 4) Supreme Courts
3. Following are the functions of Judicial system:
 - a) Regulation of interpretation of law
 - b) Dispute Resolution
 - c) Promote fearness among Citizen
4. Following are some pointers on Supreme Courts
 - a) Established on 26th Jan 1950
 - b) As per article 126, Chief Justice of India is the highest authority of Indian Judiciary System
 - c) Principal Bench of SC initially only 7 members including CJI - Chief Justice of India which has now increased to 34.
 - d) writ Petition to Supreme Court can be filed by any citizen as per article 32

5. Following are some pointers about high courts

- a) High court is the top court for state or union territory
- b) High courts are established under the provision of Article 214
- c) We have total 25 high courts
- d) There are 6 states which share the same high court
- e) Oldest high court in India is Calcutta High Court, established on 2nd July 1862
- f) A writ petition can be filed in HC as per the provisions of Article 226.
- g) Powers of High Court can be classified into 3 categories:
 - (i) Appellate (Appeal)
 - (ii) Original (First Hearing)
 - (iii) Supervisory (Management & Administration)
- h) Supervisory powers of HC are limited in nature as per provision of Article 227

6. Following are some pointers about district courts:

- a) District courts have 2 kind of judges
 - (i) District Judge - for matters of civil law
 - (ii) 'Session Judge - for matters of criminal law
- b) Powers are allotted to judges as per territorial limits
- c) Jurisdiction is decided placed on the place of residence and place of business.
- d) Power of a civil judge is to take up matters of maximum ₹ 2 crore

Following are the some point about Metropolitan Courts:

- a) These Courts are established in metropolitan cities
- b) These are established in consultation with CJH
- c) These Courts are appointed only in those places where population is 10 lakhs or more
- d) There are 2 level of Judges in Metropolitan Courts
 - (i) MM - Metropolitan Magistrate
 - (ii) CMM - Chief Metropolitan Magistrate