



05<sup>th</sup> March 2024 (Tuesday) Business Law (Recorded)

## Chapter-1 Indian Regulatory Framework.

### \* Introduction

#### 1.1 → Why do we study law as a C.A.

1. Every chartered Accountant is the first point of contact for every legal matters in term of Business.
2. Chartered should have knowledge of law to advise management in case of employment & to all clients in case of practice.
3. So, chartered Accountant provide consultancy only when he possess knowledge of all applicable rules regulation India.

#### 1.2 → Purpose of law

- Law provide a set of Uniform rules.
- These rules and regulation shall be followed by every person.
- These rules are to be followed in dealing with other person.
- These dealing which need law shall be both personal & Business dealing.

### 1.3 - Historical Aspects of Law

- \* Oldest law in writing is code of Hammurabi
- \* This was made in time of Babylon during 1798 BC to 1758 BC
- \* This law was carved on stones & such stones were placed on roads so that general public can read from compliance - (follow)
- \* During this tenure, judges were also appointed to award punishment. (to give punishment)
- \* Oldest law in detailed form is found in Rome.
- \* It is called "Twelve tables".
- \* This was written on bronze tablets & they were 12 in number
- \* This law dated back in 450 BC.

### # What is law - ?

- 1- law is a set of obligations & Rights
- 2- Such obligation are imposed by Government.
- 3- These are imposed on us to ~~insure~~ ensure social welfare & justice
- 4- these obligation & Right are put in form of written rules which are collectively called Law.

### # Source of law

- Source of law means input sources.
- In simple words, sources which provide inputs for

making law are called sources of law.

Example → Constitution of Indian provides power to Central Government to make & present Budget for the Nation.

3- In other words - sources which give Birth to law are called sources of law.

# following are the Main sources of India -

- 1- Constitution of Indian
- 2- Statue made by parliament & legislative Assembly
- 3- Precedents / Indian Decision.
- 4- Custom & Usage.
- 5- Law made by parliament shall extend to whole of India & laws made up legislative Assembly of the State will apply in that particular State.
- 6- Constitution of India provide three list of Matter on which Central and State Government can make law -

- (i) Union list - Power of Central Government
- (ii) State list - Power's of State Government
- (iii) Con-current list - Matters on which both Central & State Government can make powers.

#### 4-A → Process of Making Law

→ following are steps, in general which are followed in the process of Making Law:-

Step-1 → Proposed Law (Bill) is presented to & pass by Lok-sabha.

Step-2 → Proposed Law (Bill) is presented & pass by Rajya-sabha.

Step-3 → After acceptance of Lok-sabha & Rajya Sabha, Homour president of India provides consult.

Step-4 → The Bills becomes Act Immediate after the assent of president & then it is published in the official gazette.

#### B → Types of Law -

Criminal law	Civil law	Common law	Principle of Natural Justice
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#### CRIMINAL LAW

- Mean's set of law to prescribe punishment & procedure to Award punishment.
- Example - Indian Penal Code  
BNS - Bharthiyag Nyay Sanhita
- Code of Criminal Procedure  
Bharthiya Nagrik Suraksha Sanhita - BNSS.

5A - ~~Enforcing~~ the law

2- Civil-law →

→ These law talk About dispute resolution. They are invoked when parties accuse each other for not fulfilling their obligation.

→ Example - Contract law  
Negotiable Instrument.

→ \* Example - Civil offence are Breach  
Breach of Contract, Non-Payment

3- Common law →

→ Common Law refers to judicial precedent  
In simple words, judgement given by  
courts become a common Rule to be followed  
by all. It follows the principle of:  
"Doctrines of stare Decisis" which means  
we need to stand by what has been  
Once decided by the Courts.

4-C → 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 Jure  
In Causa Sua"

3. Both parties in any matter, civil or criminal must be given  
an opportunities of being heard before any judgement  
"Audit Alteram partem"

4. To maintain natural justice, Courts can override common  
law but they can override law itself

## 1. Ministry of Finance

- (i) It works as treasury of Indian Government
- (ii) Major Area of concern for this ministry are as follows -
  - (a) taxation
  - (b) Finance legislation
  - (c) Financial Institution
  - (d) Capital Market
  - (e) Centre & State finance
  - (f) Union Budget.

\* Finance ministry is composed of official from following categories -

- a) IRS - Indian Revenue Service
- b) IAAS - Indian Audit & Accounts Service
- c) IES - Indian Economic Service
- d) ICAS - Indian Civil Accounts Service
- e) ICMAA - Indian Cost & Management Account Service

## ~~2. Ministry of Home Affairs~~

\* Department of Economic Affairs

- i) Department of Expenditure
- ii) Department of Revenue
- iii) Department of Financial Services
- iv) Department of Invest & Public Asset Management
- v) Department of Public Enterprises.

## 2.) Ministry of Corporate Affairs

↳ following are the major concerns of this ministry -

- Companies Act 2013
- limited liability partnership Act 2008
- Insolvency & Bankruptcy Code 2016.

1- Ministry is run by several civil servant including ICLS  
Qualified people.

Indian Corporate Law Service

2- Highest Post to be awarded after ICLS exam is director  
General Corporate Affairs.

## 2. Ministry of Home Affairs

• Major function of this is to maintain internal security & domestic policy.

• following are the department under this ministry:

- Department of Border Management
- Department of Internal Security
- Department of Jammu & Kashmir And Ladakh Affairs
- Department of ~~Home~~ official languages.

# 3

↓  
Central Translation  
Bureau

↓  
Central Hindi  
Training Institute

↓  
Directorate  
Census operation



- e) Department of Home
- f) Department of States.

#### 4- Ministry of Law & Justice

- It deals with following three matters -
  - \* Management of legal Affairs
  - \* Legislative Activities
  - \* Administration of Justice
- Following are three department under this ministry
  - \* legal Affairs
  - \* Legislative Activities
  - \* Justice

#### ■ SEBI → Securities & Exchange Board of India

- SEBI is regulator of securities Market & Commodity Market in India
- SEBI works independently but fall under the Ministry of Finance
- SEBI established as executive on 12<sup>th</sup> April 1988.
- However, it was given statutory powers to 30 January 1992

#### ■ RBI → Reserve Bank of India

- It is the central Bank of India
  - It independently regulates Bank & Money Market but it falls under ministry of finance.
- ♥ Following are the major activities performed by RBI
- (a) Responsible for issuing & Maintaining the flow of Indian currency.

b) Manages payment system of India through

• NPCI - National payment Corporation of India,

• Promotes economic development of the country.

• RBI has established DICGC → Deposit Insurance & Credit Guarantee Corporation for the safety of Bank Deposit.

\* Press name - Bhattiya Reserve Bank Mudran.

• Nasik

• Dewas

→ IBBI → Insolvency & Bankruptcy Board of India.

\*1. IBBI is the regulator of Insolvency proceeding under Insolvency & Bankruptcy Code - 2016.

\*2. IBBI governs all person, organisation & procedures involved in Insolvency.

\*3. Particular IBBI regulates following people

a) Insolvency professionals

b) Insolvency professionals Agency.

c) Information Utilities.

\*4. IBBI was established on 1.10.2016 but it was given statutory power already on 5.5.2016.

5. Main focus of IBB1 is to simplify insolvency percentage proceeding

6. IBB1 handles all in insolvency cases through two tribunals.

- a) NCLT - National Company Law Tribunal.
- b) DRT - Debt Recovery Tribunal

## 6- Structure of Indian Judicial System

▶ Indian judiciary system consists of several layers of courts & judges.

▶ The different levels in the hierarchy of Indian judicial system are as follows.

- Metropolitan Courts
- District Courts & Session Courts
- High Courts
- Supreme Courts

▶ Following are the functions of judicial system

- Regulation of Interpretation of law
- Dispute resolution
- Promote fair among citizen.

▶ Following are some points on supreme court.

- Established on 26.1.1950

• As per article 126, Chief Justice of India is the highest Authority of Indian judiciary system.

- Principle of Bench of S.C. Supreme Court initially had only 7 members including chief justice of India C.J., which has now increased to 34.

- write Petition to Supreme Court can be filed Any citizen by any citizen as per article 32.
- ▶ following are some points About High Court.
- High Court is the top.