application of a party interested, or, on its own initiative provided that no application shall lie to the High Court for transferring a case from one criminal Court to another criminal Court in the same session division, unless an application for such transfer has been made to the Sessions Judge and rejected by him.

7. So, it is clear that the power to transfer criminal cases by the Supreme Court is governed by the provision contained in Section 406 of Cr.P.C. in the above cited decision, Supreme Court ordered for a fictional transfer of a criminal case from the file of one J.F.C.M to another, whether or not both the Courts are within the territorial jurisdiction of the same Session Judge; such a power of transfer of criminal cases from the file of one J.F.C.M to the file of another J.F.C.M is not at all within the powers or jurisdiction of the Supreme Court even within the longest range of vision or imagination of the provisions contained in Section 406 of Cr.P.C. The earlier decision of the Supreme Court reported in 2002 (6) ALT 55.2 (DNSC) consisting a Bench of three Judge, as in the above decision, clearly held that the Supreme Court can not pass any order contrary to law, even exercising its power under Article 142(1) of Constitution of India. So, according to my understanding the decision of the Supreme Court reported in 2014 (3) ALT (Crl.) 129 (S.C) must be held to be *sub-silentio* and hence not laying the law, on sound principles and accordance with law, so far as the directions given by it in Para 20 at Pages 144 and 145 in the said decision are concerned and require review.

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THE CHANGING ROLE OF BANKING SECTOR IN INDIA - THE IMPACT OF GLOBALISATION AND TECHNOLOGY

By

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Introduction

In olden days banks worked as depositories of money. They were institutions where a person went to deposit his money so that he can go and withdraw it when he needed. This was the basic idea with which the concept of banking germinated. In India, banking as an institution originated in late 18th century. Post-independence, the nationalisation of major banks came as an important milestone in Indian Banking System. The economic liberalisation in the early 1990s ushered in an era of privatisation wherein many new banks - the 'new generation tech - savvy banks' were launched. A few foreign banks commenced their operations in India as well. Today, we have a reasonably well developed banking system. We are witnessing an amalgamation of nationalised banks, public sector banks, private banks, foreign banks, regional rural banks and co-operative banks with the Reserve Bank at the top to guide and direct them. All these banks employ latest emerging technology, are competitive in wooing customers and winning them over by providing professional services.

The implementation of new technology has made the banking sector undergo a transformation. It has been modernised to make maximum profits at minimal costs and streamlined to ensure increased accessibility and impeccable customer service. This article highlights the growing trends in banking and traces the contribution of information technology to it.

The spurt of consumerism in India and an upsurge in disposable income at the hands of youth has contributed to increased transactions by way of Credit and debit cards, ATMs, net banking and mobile banking. This has ushered the need to increase banking network by way of branches, ATMs and concepts like 24/7 customer service. Indian banking industry has the potential of becoming the third largest banking industry in the world by 2025. Over the next decade, the banking sector will have the potential of creating about two million new jobs. To make this a reality come true the Reserve Bank of India and the Central Government are taking steps to increase customer base in rural areas. Banks on their part have realised the need to invest in technology to dominate the highly competitive global market.

IT and Banking

"Technology changed the way of life…Technology changed the social life… Technology changed the way we do banking," said ICICI Bank Managing Director and CEO *Chanda Kochhar* recently while launching the first digital bank in the country, 'Pockets', on a mobile phone on 10th February 2015.

The advancement in technology has been both due to regulations imposed by the Government and cut-throat competition among banks to get ahead of each other and capture greater market cap. The changes that new technology has brought to the banking marketplace has benefited banks customers, the bank itself and it's employees in numerous ways.

Banks are aware of the importance of customers. They do not want to leave any stone unturned in luring the customers. The bank which will use apt technology and supply prompt services and information to customers will surge ahead of others. In wake of this the banks have adopted innovative services in recent times:

E Cheques - Electronic payment of cheques

Traditionally, when a customer deposited a cheque of another bank in his bank it would have to be moved to the bank on which it was drawn and the movement of money would happen in the opposite direction resulting in a credit of account at the bank of deposit and an equivalent debit to the account of the bank on which it was drawn. This process is called clearing cycle and would take many days. The Negotiable Instruments (Amendment and Miscellaneous Provisions) Act, 2002 inserted new provisions in the Negotiable Instruments Act, 1881 *viz.* (a) "*a cheque in an electronic form*" which means a cheque which contains the exact mirror image of a paper cheque, and is generated, written and signed in a secure system ensuring the minimum safety standards with the use of digital signature and asymmetric crypto system. (b) "*a truncated cheque*" means a cheque which is truncated during the course of a clearing cycle, either by the clearing house or by the bank whether paying or receiving payment, immediately on generation of an electronic image for transmission, substituting the further physical movement of the cheque in writing.

This concept of substitution of electronic image of a truncated cheque, e cheque instead of the traditional physical form has made the cheque clearing easy and fast. This has brought speedy fund transfer for customers and an improved banking system which can now easily meet the needs of it's vast number of customers.

Electronic Clearing Service (ECS) and National Electronic Clearing Service (NECS)

ECS is an electronic mode of fund transfer from one bank account to another.

It can be used by institutions for making payments such as distribution of dividend interest, salary, pension, *etc.* There are two types of ECS, one is called ECS credit and the other is called ECS debit. ECS credit is when an institution makes a credit to your savings account. *e.g.* your dividends and your salary. ECS debit is when you choose to make recurring payments, as EMI payments to your loans or SIP payments to your mutual fund and the like. However, ECS needs to be taken very seriously because an ECS debit mandate is just like a cheque issued by you. This means that you need to ensure that there is enough fund in the account, so that your ECS gets cleared.

Reserve Bank of India has recently launched the National Electronic Clearing Service (NECS) in 2008 which is an improvement over the ECS earlier operational. The service aims to centralise the electronic clearing service (ECS) operation and bring in uniformity and efficiency to the system.

Electronic Fund Transfer (EFT)

Electronic fund transfer is a nation - wide fund transfer system, supporting the transfer of funds whereby one can transfer his money from his bank account to some other bank account electronically. The ETF system was operationalised in 1995 covering 15 centres where the Reserve bank managed the clearing houses. Today, NEFT, RTGS and IMPS enable us to exchange funds between friends, family members and employees swiftly through internet. Let us elaborate these terms:

NEFT - National Electronic Fund Transfer

NEFT is a variant of ETF which was implemented in 2005 so as to broad base the facilities of ETF. The NEFT uses SFMS (Structured Financial Messaging Solution) for ETF message creation and transmission from the branch to the bank's gateway and to the NEFT Centre. This ensures greater security when you transfer funds and make credit card payments to any bank across India. With this service your transactions are easier and with fewer restrictions they reach further than before easily by using his banking account.

RTGS - Real Time Gross Settlement System

RTGS can be defined as the continuous (real-time) settlement of funds individually on an order by order basis (without netting). 'Real Time' means the processing of instructions at the time they are received rather than at some later time. 'Gross Settlement' means the settlement of funds transfer instructions occurs individually (on an instruction by instruction basis). This ensures speedy transfer of funds. Under normal circumstances, the beneficiary banks are expected to credit the beneficiary's account within 30 minutes of receiving the funds transfer message. The introduction of RTGS in 2004 was instrumental in the development of infrastructure for Systemically Important Payment Systems (SIPS)

Categories under Sips

- The Interbank Clearing System
- The High Value Clearing System
- The Equities Clearing and Settlement Systems of Stock Exchanges
- The MICR Clearing System
- The Government securities Clearing System
- The Foreign Exchange Clearing System
- The Real Time Gross Settlement System

Automatic Teller Machine (ATM)

Automatic Teller Machine is the most popular devise in India, which enables the customers to withdraw their money 24/7 *i.e.* 24 hours a day, 7 days a week. If you are short of cash, you walk over to the

ATM, insert your debit cum ATM card into the card reader, respond to the prompts on the screen, and within a minute you can walk away with your money and a receipt. These machines can now be found everywhere, in supermarkets, banks, trade centres, *etc.* In addition to cash withdrawal, ATMs can be used for payment of utility bills, funds transfer between accounts, deposit of cheques and cheques into accounts, balance enquiry, *etc.*

Point of Sale Terminal

Point of Sale terminal is a computer terminal that is linked online to the computerised customer information files in a bank and magnetically encoded plastic transaction card that identifies the customer to the computer. During a transaction, the customer's account is debited and the retailer's account is credited by the computer for the amount of purchase.

Tele Banking

Tele Banking gives the freedom to a customer to do all non-cash related banking on telephone. Under this device Automatic Voice Recorder is used for simpler queries and transactions. For complicated queries and transactions, the call is usually connected to a customer service representative who helps you in making the transaction.

Net Banking

Net banking service is a state of the art facility, which allows you to do virtually all your banking activities. With Net banking you can access all your depository and banking accounts with your bank 24 hours a day, 365 days a year from anywhere in the world. A host of features like booking fixed deposits, transferring funds, paying your utility bills and ordering for draft/cash delivery at your doorstep, among others will definitely make Net banking the most convenient way for the world to bank. This concept has gained immense success and most of the transactions are being made online. It is a healthy reflection on the society.

Electronic Data Interchange (EDI)

Electronic Data Interchange is the computer to computer exchange of business documents in a standard electronic format between business partners. By moving from a paper-based exchange of business document to one that is electronic, businesses enjoy major benefits such as reduced cost, increased processing speed, reduced errors and improved relationships with business partners.

COMPUTER-TO-COMPUTER means that EDI replaces postal mail, fax and email. While email is also an electronic approach, the documents exchanged must still be handled by people rather than computers. Having people involved slows down the processing of documents and in case of EDI the interchange is through computers involving no persons. Over 85% of all electronic business transactions take place using EDI. It has proved to be the best way to exchange business documents quickly and securely with any organisation anywhere in the world.

Credit Card and Debit Card

The introduction of credit and debit card has been well adopted by the Indian Population. We are slowly getting into the mood of substituting plastic money with paper currency. Credit card is a facility wherein you can spend an amount up to the permissible limit in your card and pay later. The debit Card makes you swipe your card and pay from your account, thus you don't need to carry cash or go to the ATM to draw money. So, by enabling cashless transactions these cards have unleashed a cashless revolution in the banking sector.

Significant Milestones

It is pertinent to note that by directing banking transactions through different electronic modes and by providing customers convenience of usage with concepts like anytime banking and anywhere banking, banks now offer quick service, customer satisfaction and transparency as well. Today almost 50% of the retail transactions in urban areas are being carried out on the mobile and internet platforms.

The growing use of smartphones by the Indian population has created a revolution in the banking world. As the number of mobile phone users increases banks are exploring the possibility of using it as a full-fledged device for delivering banking services.

A significant step in this direction is the introduction of e-wallet called 'POCKETS' by ICICI bank. Anyone, including those who are not ICICI bank customers can download the e-wallet from Google playstore, fund it from any bank account, and start transacting immediately. The wallet allows users to instantly send money to any e-mail id, mobile number, friends on Facebook and Bank account. The users can pay bills, recharge mobiles, book movie tickets order food, send physical and e-gifts, split and share expenses with friends by using this e-wallet.

Indian Banking sector will achieve real milestone when every citizen will have a bank account. For this purpose a drive for financial inclusion has been started.

Pradhan Mantri Jan Dhan Yojana (PMJDY)

Pradhan Mantri Jan Dhan Yojna is the biggest financial inclusion initiative in the world and was announced on 15th August 2014. The scheme aims at opening 7.5 crore bank accounts and bring freedom from financial untouchability. Both rural and urban areas are covered under the mission. A mission office comprising of bankers, IT professionals and data analytics has been set up for coordination, collaboration and follow up with various state governments, Banks and other stakeholders. Banks organise account opening camps on every Saturday with a mega camp on last Saturday of the month from 8.00 a.m. to 8.00 p.m., in coordination with district authorities for opening bank accounts.

This is a scheme to ensure access to financial services namely, Banking/Savings & Deposit accounts, Remittance, Credit, Insurance, Pension in an affordable manner. Account can be opened in any bank branch or business Correspondent outlet. PMJDY accounts are being opened with zero balance. However, if the account holder wishes to get cheque book, he/she will have to fufill minimum balance criteria. The scheme has been started with a target to provide 'universal access to banking facilities' starting with "Basic Banking Accounts" with overdraft facility of Rs.5000/- after six months and Debit Card with inbuilt accident insurance cover of Rs.1 lakh.

Against an estimated target of opening bank accounts for 7.5 crore uncovered households in the country, banks have already opened 12.58 crore accounts. Rupay cards have been issued to more than 10 crore beneficiaries. Use of Rupay cards at other access points will help in reduction in cash transactions making them digital, which will move the economy towards a less cash society.

Future Outlook

There is no doubt about the fact that technology will hold the key to future of banking. The achievements in the banking world today would not have been made possible without IT revolution. However, we must remember that the Markets are very dynamic and customer needs ever changing, banks need to invest in advanced analytical tools for timely introduction of new products, which will give them early mover advantage. With the customer base fast expanding, banks will have to device new strategy to serve their needs effectively and efficiently.

Conclusion

Banking today has set a new benchmark for itself. It has been renovated, redefined and restructured with the use of information technology and it is sure that the future of Banking will offer more sophisticated services to the customers.

A major challenge is to keep pace with a increased customer base in wake of sudden spurt in Bank accounts both in urban and rural sector due to the financial inclusion drive. Another one is to meet the ever increasing demands of high-end customers and NRIs. Introduction of Multi-currency cards for the global traveller in a positive step in this direction but a lot more needs to be done to lower the charges on international transactions. Then only can we venture towards a forward looking global society. We are sure that there will be increase in the number of banks and a multifold increase in the number of bank branches in the near future to cater to the needs of rural, urban and global Indians.

COMPANIES ACT, 2013 - A STEP TOWARDS AN EFFECTIVE CORPORATE SECTOR IN INDIA

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Introduction

Companies Act, 2013, is being seen as a landmark in Corporate sector. It is a renewed enactment which is expected to take out the old Companies Act of 1956 from the clutches of darkness and uncertainty and throw a new light on certain areas which had become a cause of concern in the changed scenario. This article is an attempt to define the fine lines in Companies Act, 2013. There are many areas where the new act sounds promising but here I have attempted to bring to fore a few key areas which need to be applauded for their incorporation in the new act especially because they deserved attention since many years.

There have been many changes in corporate governance since 1956 and the act posed hurdles in treating a number of matters which play an important role in modern management. Companies Act, 1956 had undergone many amendments, moreover there have been changes in SEBI guidelines due to which the old act lost it's lustre and compatibility. This paved way for a complete overhaul. It however, needs to be seen whether the new act of 2013 comes upto the expectations of the corporate world or not.

There is scepticism about it's success and people are calling it 'an old wine in a new bottle' but I would say that it depends on us the way we look at it, 'whether the glass is half full or half empty'. I feel that we need to apply a more optimistic approach and not be judgmental about it.

Companies Act, 2013 renews and reshapes the old act to make way for new thinking and dimensions in company law. It incorporates within it's fold many areas of progressive approach and tries to tie many loose ends of the sector. Let us pin-point five fields in which the new act will be called an achiever.