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BANKING LAW

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I INTRODUCTION

BANKING Law developments in 2024 included a significant growth in the form of the Banking Laws (Amendment) Act, 2024 ("Banking Amendment 2024")[1]. These amendments have been implemented to enhance governance, strengthen investor and depositor protection, standardise bank reporting to the RBI, improve audit quality in public sector banks, facilitate easier nomination processes for customers, and extend the tenure of directors in cooperative banks, reflecting the evolving needs of the banking sector.[2] The year-end report of the Ministry of Finance (Department of Financial Services)[3] emphasises the robust foundation established through initiatives like the EASE Reform Agenda[4], which further emphasises risk assessment, NPA management, financial inclusion, customer service, digital transformation, and more[5]. The report shows significant progress in the areas of reduction of NPAs, surge in digital payments, agricultural credit growth, bank profitability, etc.

This survey on banking law begins with discussing the Banking Amendment, 2024.Then it categorizes the cases related to banking into the following heads for ease of understanding: (i) Central Banking Functions[6] and Regulation of Scheduled

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1 Bill No. 110 of 2024, introduced in Lok Sabha on Aug 9, 2024 and passed on Dec 3, 2024.

2 *Id.* Statement of Objects and Reasons.

3 Ministry of Finance Year Ender 2024: Department of Financial Services, Dec 26, 2024 6:02PM by PIB Delhi, *available at:* https://pib.gov.in/PressReleasePage.aspx?PRID=2088182(last visited on May 24, 2024).

4 EASE stands for Enhanced Access and Service Excellence, which is now in its 7.0 version [EASE 7.0 - Economic development; Customer delight; Resilient banking - is being launched with an emphasis on enabling banks to drive national priorities, maintaining a strong customer service orientation, managing operational risks effectively and catalysing new-age capability build.] Report *available at* https://www.iba.org.in/reports/ease-7-0-agenda_1575.html. (last visited on may 24, 2024).

5 See AZB and Partners, *Banking and Finance 2024: India*, Chambers & Partners (Oct 10, 2024), *available at* https://practiceguides.chambers.com/practice-guides/banking-finance-2024/india. (last visited on May 24, 2024).

6 Reserve Bank of India Act, 1934 ('RBI Act').

Banks[7] (ii) Non-Performing Assets (NPAs) and its recovery[8] (iii) Supremacy of Recovery Laws over other Laws (iv) Banking Frauds (v) Consumer Protection[9](vi) Cheque Bounce Cases[10](vii) Non-Banking Financial Companies (NBFCs) and Cooperatives and (viii) International Banking. However, one case may be covered under more than one category during analysis, based on the points discussed in the law. The Banking Laws (Amendment) Bill, 2024, which was introduced in the Lok Sabha on August 9, 2024 and passed on December 3, 2024, proposed to modernise India's banking framework by amending five important statutes,[11] collectively referred to as 'Banking Laws'.

The 2024 Amendment Bill proposes to introduce key reforms in 'Banking Laws': it redefines "fortnight" for cash reserve calculations as 1–15 and 16–month-end periods for scheduled and non-scheduled banks; increases the tenure of directors in co-operative banks from 8 to 10 years; exempts directors of central co-operative banks from the prohibition on holding board positions in other co-operative banks where they are members; raises the threshold for "substantial interest" in a company from 5 lakh/10% of capital to two crore; allows up to four nominees for deposits, lockers, or items in custody with specified proportions or priority; expands the scope of funds transferable to the Investor Education and Protection Fund (IEPF), including unpaid dividends and bond proceeds after seven years; and empowers banks to decide the remuneration of their auditors independently of the RBI[12]. After the Rajya Sabha passes the 2024Bill, it will receive the President of India's assent and then be notified for enforcement.

II CENTRAL BANK AND ITS POWERS

One of the landmark cases was delivered by the Supreme Court of India on December 20, 2024, in the matter of *HSBC Bank.*[13] The case challenged the NCDRC's jurisdiction, arguing that charging 30-40% interest on credit card defaults constitutes an unfair trade practice. The Supreme Court underscored in this case that:

7 Banking Regulation Act, 1949 ('BR Act') and Payments and Settlement Systems Act, 2007.

8 Recovery of Debs and Bankruptcy Act, 1993 ('RDB Act'); Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 ('SARFAESI Act'); and Insolvency and Bankruptcy Code, 2016 ('IBC').

9 Consumer Protection Act, 2019 (CPA) and Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016.

10 Negotiable Instruments Act, 1881('NI Act').

11 (i) Reserve Bank of India Act, 1934 (the "RBI Act"); (ii) Banking Regulation Act, 1949 (the "Banking Act"); (iii) State Bank of India Act, 1955; (iv) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; and (v) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980

12 Summary of the Banking Laws (Amendment) Bill, 2024, *available at:* https://prsindia.org/billtrack/the-banking-laws-amendment-bill-2024 (last visited on June 30, 2024).

13 *Hongkong and Shanghai Banking Corporation Limited* v. *Awaz*., 2024 SCC OnLine SC 3847 decided on December 20, 2024 [Coram: Bela M. Trivedi and Satish Chandra Sharma, JJ] (against the order of NCDRC in Complaint Case No. 51 of 2007 before the National Consumer Disputes Redressal Commission, New Delhi).

> The Reserve Bank of India is the primary banking institution of the country and a statutory authority entrusted with supervisory roles over banking, as well as the authority to issue binding directions with statutory force. The legislature has conferred no other entity or banking institution with the power to formulate and enact new directives/guidelines in the public interest and for the growth of the Indian economy (para 48).
>
> The Reserve Bank of India has repeatedly fulfilled its salient duty and issued master directions/circulars, which provide clear, unambiguous, and specific instructions to banking institutions to conduct their operations transparently and fairly. As a result, banks nationwide are likely to follow these guidelines. It is the Reserve Bank of India alone which enacts the mandate for the banks. In this sphere, the only function of the Courts is to examine that the lawful authority is not abused, and not to appropriate to itself the task entrusted to that authority. However, the National Commission has done just that (para 49).

In this case, the National Commission was found to have exceeded its jurisdiction by prescribing a ceiling on credit card interest rates, undermining section 21A of the Banking Regulation Act, 1949, which bars courts or tribunals from reopening transactions on the ground of excessive interest. Although the Commission claimed it was only examining unfair trade practices under section 2(1)(r)(i) of the Consumer Protection Act, its decision to treat interest above 30% p.a. as usurious intruded on the RBI's exclusive regulatory domain and conflicted with legislative intent.

High Court of Karnataka, in the case of *Union Bank of India* v. *State of Karnataka,*[14] was posed with a question[15] "whether section 35A of the Banking Regulation Act would empower the RBI to seek a direction to refer the matter to the CBI?" The issue in the case arose from specific allegations of fund misappropriation.[16] In furtherance of this, two crimes were registered - one by the

14 WP 17274/2024 decided on Nov.13, 2024 [Coram: Justice M Nagaprasanna].

15 Another question raised in this case was whether the matter was fit to be placed before the Apex Court under article131 of the Constitution of India? This question was answered by the court in affirmative distinguishing the case of *Basanagouda R. Patil (Yatnal)* v. *State of Karnataka*, which relied upon the Apex Court decision in the *State of West Bengal* v. *Union of India*, 1963 AIR 1241.

16 Out of the funds of *Karnataka Maharshi Valmiki Scheduled Tribes Development Corporation Limited* (*supra* note 14). The court observed that:

> The corporation was formed to carry on the business of extending financial and technical assistance to the members belonging to Scheduled Tribe community in the State of Karnataka to create avenues for their economic development, to assist unemployed Scheduled Tribes and to support agricultural labourers belonging to Scheduled Tribes and so on and so forth. Therefore, funds belonging to the scheduled tribes ought to have been treated with great care. It shocks the conscience of the Court that funds of schedule tribe community also are subject matter of scam of misappropriation of funds belonging to a schedule tribe development corporation (para 16).

state government and the other by the CBI, at the instance of the Bank, in view of the circular issued by the RBI. The court held that section 35A of the Banking Regulation Act cannot be interpreted as authorising banks to seek transfer of investigations to the CBI. Section 35A only gives the RBI supervisory control over banks, not the power to demand a CBI probe. While the high court itself may, in an appropriate case, refer matters to an independent agency under article 226 of the Constitution or Section 482 Cr PC, that cannot be done merely by stretching section 35A. The fact that officers of the Union Bank of India are named in the FIR and that the bank approached the CBI does not justify such an interpretation. However, the CBI may, according to law, investigate any person involved, even if the State police drop them, and the petitioner remains free to take lawful steps.[17]

Law relating to broken-period interest– In the case of *Bank of Rajasthan* v. *Commissioner of Income Tax*[18], the central issue in a group of appeals concerned the tax treatment of broken period interest[19] and whether banks can claim it as a deduction under the Income Tax Act, 1961. Banks, being governed by the Banking Regulation Act, 1949, are mandated to maintain a Statutory Liquidity Ratio (SLR) by investing in government securities. These securities fall into three categories prescribed by the RBI: Held to Maturity (HTM), Available for Sale (AFS), and Held for Trading (HFT).

Earlier, sections 18 to 21 of the Income Tax Act specifically governed taxation of interest on securities and permissible deductions. However, these provisions were repealed by the Finance Act 1988, effective from April 1, 1989. The present controversy arises in the post-repeal period, where the statutory framework no longer explicitly addresses the deduction of interest on broken periods. The question before the court, therefore, was: *Can banks still claim such broken period interest as a deductible expenditure under the Act?*

The Supreme Court held that interest paid by banks on government securities during a broken period is deductible as revenue expenditure when the securities are treated as stock-in-trade, including AFS and HFT securities, as well as HTM securities held as trading assets. However, if HTM securities are genuinely held as investments until maturity, the deduction is not allowed. The court restored the tribunal's findings, allowing the deduction, and set aside the high court's contrary judgment. It clarified that treating broken period interest as capital expenditure would be unnecessary, as any capitalisation would adjust profits on eventual sale.

17 *Id.,* para 18.

18 2024 INSC 781 decided on Oct. 16, 2024 [Coram: Pankaj Mithal and Abhay S. Oka, JJ].

19 Government securities carry fixed coupon dates, usually half-yearly. When a bank acquires such securities between coupon dates, it pays the seller not only the purchase price but also the accrued interest from the last coupon date up to the date of purchase, this is termed "broken period interest." Subsequently, when the coupon falls due, the purchasing bank receives the entire interest for the full period, including the portion already compensated to the seller.

III NPAS AND ITS RECOVERY

The Government and the Reserve Bank of India (RBI) have undertaken several comprehensive measures to recover and reduce Non-Performing Assets (NPAs). The Insolvency and Bankruptcy Code, 2016 (IBC) has fundamentally altered the credit culture by transferring control of defaulting companies from promoters to creditors, debarring wilful defaulters from the resolution process, and bringing personal guarantors to corporate debtors under its ambit. To strengthen recovery mechanisms, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and the Recovery of Debt and Bankruptcy Act, 1993 have been amended, while the pecuniary jurisdiction of Debt Recovery Tribunals (DRTs) has been enhanced from 10 lakhs to 20 lakhs,[20] allowing them to focus on high-value cases for greater recovery.

The RBI has directed banks to report credit data to Credit Information Companies on a fortnightly basis, instead of monthly, thereby enhancing the speed and accuracy of credit information. Banks have also been asked to identify and flag other key gaps in the credit information framework to strengthen the system[21] further. The asset quality of the banking system has witnessed a significant turnaround in recent years. Gross NPAs of scheduled commercial banks have fallen sharply from their peak of 11.2% in March 2018 to 2.8% in March 2024. A substantial share of this improvement can be attributed to resolution mechanisms under the Insolvency and Bankruptcy Code (IBC). An overall assessment of the IBC reflects its growing effectiveness and traction as a credible framework for debt resolution.[22]

In the case of *Central Bank of India* v. *Shanmugavelu,*[23] the appellant bank had advanced credit facilities to *Best and Crompton Engineering Projects Ltd.,* secured by a mortgage on land in Chennai. On borrower default, the loan was classified as NPA in May 2013, and recovery proceedings were initiated under the SARFAESI Act. The secured asset was put to e-auction in December 2016, where the respondent emerged as the highest bidder at 12.27 crore, paying 25% upfront. However, the respondent failed to pay the balance within the stipulated 15 days and sought extensions. The bank granted time until March 2017, but upon continued default, cancelled the sale and forfeited the deposit of 3.06 crore.

20 Notification No. S.O 4312(E) dated Sep. 6,2018.

21 FICCI-IBA, *Survey of Bankers*, Issue 20, July-Dec. 2024, *available at* https://ficci.in/public/storage/SEDocument/20724/6XGBQuO5rdSbw0vYJy5m8vu02FoypoKkyHo9jkMy.pdf(last visited on May 24, 2025).

22 *Strengthening the Insolvency and Bankruptcy Code (IBC) Framework for Effective Resolution*, Inaugural address by Rajeshwar Rao, Deputy Governor of the Reserve Bank of India, at the International Conclave, jointly organised by the Insolvency and Bankruptcy Board of India (IBBI) and INSOL India, New Delhi, Dec. 7, 2024 *available at* https://www.bis.org/review/r241218g.htm. (last visited on May 24, 2025).

23 (2024) 6 SCC 641: 2024 INSC 80, decided on Feb. 2, 2024 [Coram: D.Y. Chandrachud, CJ and J.B. Pardiwala and Manoj Misra, JJ.].

The respondent challenged the forfeiture before the DRT, which directed a refund of the deposit after deducting 5 lakh in expenses, observing that no loss was caused since the asset was later sold for a higher price (14.76 crore in 2019). On appeal, the Debt Recovery Appellate Tribunal (DRAT) enhanced the forfeiture to 55 lakh. Both sides approached the High Court of Madras, which set aside the DRAT order and restored the DRT's decision, holding that forfeiture under Rule 9(5) of the SARFAESI Rules cannot exceed the actual loss suffered. The high court emphasised that Rule 9(5) must be read in conjunction with section 73 of the Indian Contract Act, 1872, which prevents the unjust enrichment of secured creditors. Aggrieved, the bank appealed to the Supreme Court.

The Supreme Court framed three key questions for determination: first, whether the principles underlying sections 73 and 74 of the Indian Contract Act, 1872, apply to forfeiture of earnest money deposits under Rule 9(5) of the SARFAESI Rules, thereby limiting forfeiture to the extent of actual loss suffered by the bank; second, whether forfeiture of the entire earnest money deposit would amount to unjust enrichment, implying that the quantum of forfeiture under the SARFAESI framework must be confined to the debt owed or proven loss; and third, whether the respondent had established exceptional circumstances justifying interference with the forfeiture order. To answer these, the court also examined the legislative history and scheme of the SARFAESI Act. The court held that sections 73 and 74 of the Contract Act will have no application whatsoever when it comes to forfeiture of the earnest-money deposit under Rule 9 sub-rule (5) of the SARFAESI Rules.

In *K.P. Khemka* v. *Haryana SIIDC*[24], the question which arose before the Supreme Court was whether the State Financial Corporations Act, 1951 and the Haryana Public Moneys (Recovery of Dues) Act, 1979, create a distinct right and provide an alternative mechanism of enforcement to recover the amount due, even if the amounts are otherwise time-barred. As the matter was complex[25] and involved reconciling statutory powers with principles of limitation and public purpose, the Division Bench[26] of the Supreme Court was of the view that a larger bench should consider the matter for authoritative interpretation. The court referred to *State of Kerala* v. *V.R. Kalliyanikutty,*[27] where it was held that a time-barred debt could not be recovered under the Kerala Revenue Recovery Act, 1968, as the Act did not create or enlarge any right of recovery. Conversely, in *K.C. Ninan* v. *Kerala State*

24 (2024) 8 SCC 391 [Coram: Surya Kant and KV Viswanathan, JJ].

25 The present cases arise from recovery proceedings initiated by State Financial Corporations (SFCs) against industrial borrowers and their guarantors for defaulted loans. In one case, Khemka Ispat Limited had availed a term loan from HSIDC Ltd., guaranteed by the appellants, and defaulted on repayment. Recovery notices and certificates were issued years after the default, raising the question of limitation. In another case, the appellant, a former director of Cosmo Flex Pvt. Ltd., challenged recovery decades after the loan was granted and the mortgaged property sold. The appellants contended that the recovery of amounts due was barred by the Limitation Act, as the ordinary civil remedy for debt recovery had lapsed.

26 Coram: Surya Kant and KV Vishwanathan, JJ.

27 *State of Kerala* v. *V. R.Kalliyanikutty*, (1999) 3 SCC 657.

Electricity Board,[28] the court observed that the statute of limitations only barred the remedy. In contrast, the right to recover through any alternative statutory mechanism remained unaffected. In light of these conflicting decisions, the Supreme Court referred the matter to a larger bench for authoritative consideration.

In *DBS Bank Limited Singapore* v. *Ruchi Soya Industries,*[29] the issue before the Supreme Court was "whether section 30(2)(b)(ii) of the Insolvency and Bankruptcy Code, 2016, as amended in 2019, entitles the dissenting financial creditor to be paid the minimum value of its security interest?" In view of the differing opinions in two cases[30] on a similar point, the Court referred the matter to the Chief Justice of India for appropriate orders.

IV SUPREMACY OF RECOVERY LAWS OVER OTHER LAWS

In *CELIR LLP* v. *Sumati Prasad Bafna,*[31] the Supreme Court was dealing with a contempt petition.[32] One of the issues discussed by the court was "circumstances when a sale of property by auction or other means under the SARFAESI Act may be set aside after its confirmation." After analysing some precedents[33], the court was of the view that:

> Any sale by auction or other public procurement methods once already confirmed or concluded ought not to be set aside or interfered with lightly except on grounds that go to the core of such sale process, such as being collusive, fraudulent or vitiated by inadequate pricing or underbidding. Mere irregularity or deviation from a rule which does not have any fundamental procedural error does not take away the foundation of authority for such a proceeding. In such cases, courts in particular should be mindful to refrain from entertaining any ground for challenging an auction which either could have been taken earlier before the sale was conducted and confirmed or where no substantial injury has been caused on account of such irregularity (para 218).

In this case, the borrower did not allege that the 9thauction was tainted by collusion or fraud on the part of either the bank or the successful bidder. Other than the absence of a 15-day gap between the sale notice and auction notice, neither illegality was claimed, nor had the Borrower shown that this procedural lapse caused any prejudice or hindered its rights. Across eight earlier auctions (April 2022–June 2023), the borrower never indicated an intention to redeem the mortgage. Even after the auction notice on June 12, 2023, when the borrower and the subsequent transferee were already considering redemption, the borrower did

28 2023 INSC 560.

29 2024 INSC 14 [Sanjiv Khanna and SVN Bhatti, JJ].

30 *Jaypee Kensington Boulevard Apartments Welfare Association* v. *NBCC (India) Limited* (2022) 1 SCC 401 and *India Resurgence ARC Private Limited* v. *Amit Metaliks Limited* 2021 SCC Online SC 409 [court in this case was partially convinced with the view taken in *India Resurgence*).

31 2024 INSC 978 [Coram: JB Pardiwala and Manoj Misra, JJ].

not request a postponement. Hence, on these facts, the bank's 9thauction cannot be faulted.

The principle of 'reading down' – In the case of *Central Bank of India* v. *Shanmugavelu*[34]*,*the Supreme Court extensively examined the principle of "reading down," which allows a court to give a narrowed or restricted interpretation to a statutory provision to preserve its constitutionality, emphasizing that it is a tool for making a provision workable without supplanting the legislature's intent.[35] However, the court clarified that the high court erred in reading down Rule 9(5) of the SARFAESI Rules merely to mitigate its harsh consequences, as the provision's plain meaning, allowing forfeiture of the entire earnest-money deposit upon default, is valid and essential to uphold the objectives of timely debt recovery and auction finality under the SARFAESI Act. Regarding unjust enrichment, the Supreme Court held that forfeiture of the deposit under Rule 9(5) does not constitute unjust enrichment, as equity cannot override explicit statutory provisions; subsequent recovery of the debt or a higher sale price does not alter the statutory consequence. Finally, the court addressed exceptional circumstances, reaffirming that judicial interference in forfeiture orders is permissible only in rare cases of genuine inability to pay due to factors beyond the bidder's control, such as the COVID-19 pandemic; however, the respondent's claims of demonetization and delayed documents did not qualify as exceptional circumstances, particularly since extensions were granted and he participated being fully aware of the consequences. Consequently, the forfeiture of the entire earnest-money deposit stood valid.

In the case of *Anil Bhavarlal Jain* v. *State of Maharashtra,*[36] the moot question which arose for consideration of the court was "whether the criminal proceedings can be quashed based upon a settlement arrived at between the parties as per the consent terms drawn and submitted before the DRT." In this case, the High Court of Bombay declined to quash the FIR filed against the appellants/petitioners (the directors of Sun Infrastructure Pvt. Ltd. and the employees of the State Bank of India) for offences punishable under the Indian Penal Code (IPC) and the Prevention of Corruption Act, 1988. The Supreme Court upheld the high court's decision not to exercise its jurisdiction under section 482

32 Final judgment and order dated Sep 21, 2023 passed by Supreme Court in Civil Appeal Nos. 5542-5543 of 2023 respectively captioned as '*CELIR LLP* v. *Bafna Motors (Mumbai)*'.

33 *B. Arvind Kumar* v. *Govt of India* (2007) 5 SCC 745, *LICA (P) Ltd.* v. *Official Liquidator*, (1996) 85 Comp Cas 788 (SC), *Ram Kishun* v. *State of Uttar Pradesh* (2012) 11 SCC 511, *PHR Invent Educational Society* v. *UCO Bank,* (2024) 6 SCC 579, V.*S. Palanivel* v. *P. Sriram,* 2024 INSC 659, and *Valji Khimji and Company* v. *Official Liquidator of Hindustan Nitro Product (Gujarat) Ltd.* (2008) 9 SCC 299.

34 (2024) 6 SCC 641: 2024 INSC 80, decided on Feb.2, 2024 [Coram: D.Y. Chandrachud, CJ and J.B. Pardiwala and Manoj Misra, JJ.].

35 *Id.* "Harshness of a provision is no reason to read down the same, if its plain meaning is unambiguous and perfectly valid. A law/rule should be beneficial in the sense that it should suppress the mischief and advance the remedy [para 101]."

36 2024 INSC 1039 [Coram: Vikram Nath and Prasanna B. Varale, JJ].

of the Code of Criminal Procedure (Cr PC) to quash the FIR. The court referred to the cases of *Parbatbhai Aahir* v. *State of Gujarat* and *State* v. *R Vasanthi Stanley* to justify its stand in this case, rejecting reliance on the *Gian Singh* case.

The High Court of Gujarat, in the case of *Central Bank of India* v. *State of Gujarat,*[37] was posed with the question of determining the priority of secured creditors *vis-à-vis* the dues of the state government under the Value Added Tax Act.[38] The petitioner bank, as a secured creditor, had granted credit facilities to respondent no.3, which were secured by a mortgage on the property located at Shastri Nagar, Gondal. After respondent no.3 defaulted, the bank classified the account as an NPA on March 30, 2018, issued a notice under section 13(2) of the SARFAESI Act, 2002, and took possession of the property on June 14, 2018. The property was subsequently auctioned on May 25, 2023, with a sale certificate issued to the auction purchasers. Upon verification, it was found that the property had an encumbrance of Rs. 29,30,527, recorded by the state tax officer, which had not been removed despite the bank's request, thereby preventing the registration of the conveyance deed. The bank, therefore, approached the court, seeking a writ of *mandamus* or other appropriate directions to quash the attachment and remove the encumbrance so that the conveyance could be registered.

The court held that the bank has priority over the mortgaged property under section 26E of the SARFAESI Act, and this priority cannot be displaced by the state government's attachment under section 48 of the VAT Act. Referring to the earlier decision in *Bank of Baroda* v. *State of Gujarat*[39], the court observed that section 48 only applies after the determination of tax, interest, or penalty and cannot override the bank's secured interest. Consequently, the writ application was allowed, and the impugned attachment notice and communication issued by the State were quashed and set aside, declaring that the bank has a first charge on the mortgaged properties.

One-time settlement scheme and criminal liability – In *K. Bharthi Devi* v. *State of Telangana*[40], the case arose from a group loan facility extended by Indian Bank, Osmanganj Branch, Hyderabad, to K. Suresh Kumar (accused no. 1) and others, secured by collateral executed by the accused. Upon default and NPA declaration in March 2010, the Bank filed recovery proceedings before the Debt Recovery Tribunal (DRT). During the DRT proceedings, the Bank discovered that certain mortgage documents were forged and fabricated, prompting the registration of an FIR. A charge-sheet was filed alleging offences under sections 120-B, 409, 420, 467, 468, 471 IPC and sections 13(1)(d) and 13(2) PC Act. Subsequently, the accused settled the dues through a One Time Settlement (OTS) of Rs. 3.8 crores,

37 C/SCA/13768/2023 decided on Sep. 24, 2024.

38 S. 26E of the SARFAESI Act, 2002. Also see sections 31B and 34 of the Recovery of Debts and Bankruptcy Act, 1993 on priority of secured creditors.

39 Special Civil Application No.12995 of 2018, decided on Sep16, 2019. Also referred *Dena Bank* v. *Bhikhabhai Prabhudas Parekh and Company*, reported in 2000 (5) SCC 694.

40 (2024) 10 SCC 384 [Coram: B.R. Gavai and KV Viswanathan, JJ].

and the DRT disposed of the OA in satisfaction. The high court, however, held that the OTS was a private settlement and did not extinguish criminal liability for the use of fraudulent documents, emphasising public interest in prosecuting such offences[41]. Aggrieved, the present appellants challenge this order.

The Supreme Court held that while heinous offences and those under special statutes, such as the Prevention of Corruption Act, are generally not quashable, criminal cases arising from predominantly civil disputes, such as commercial transactions or family matters, may be quashed if the parties have fully settled[42] their disputes. In the present case, the dispute arose from a loan transaction between the Bank and the accused, which was fully resolved through a one-time settlement of Rs. 3.8 crores, and the DRT had disposed of the matter. Considering the appellants' limited role, the remote possibility of conviction, and the oppressive impact of continuing the proceedings, the court held that the high court ought to have exercised its powers under section 482 Cr PC. Accordingly, the appeal was allowed.[43]

However, in another case before the High Court of Kerala[44], the State Bank of India challenged directions issued by the learned Single Judge, which allowed respondents to avail OTS benefits under the "*Rinn Samadhan 2021-22 Scheme*," despite defaults in repayment. The Bank contended that such directions violated the terms of the OTS schemes and Supreme Court precedents, emphasising that borrowers who fail to comply with scheme conditions cannot compel banks to extend benefits. The Division Bench of the High Court of Kerala held that the courts cannot modify or compel banks to grant OTS benefits where the borrower fails to comply with the scheme terms, as doing so would amount to rewriting contracts and interfere with the commercial wisdom of banks. The court emphasised that loans involve public funds, and the sanctity of contractual terms must be respected. In light of these principles, the writ appeals were allowed, and the impugned judgments and interim orders granting relief to the borrowers were set aside, dismissing the petitions.[45]

Restraint in exercising writ jurisdiction – In *PHR Invent Educational Society* v. *UCO Bank*[46], the Supreme Court held that a confirmed auction sale can

41 The High Court of Judicature at Hyderabad's judgment dated Sep. 1, 2017, dismissed Criminal Petition No. 5778 of 2016 filed under section 482 Cr PC by accused nos. 3 and 4 seeking quashing of the charge-sheet in C.C. No. 16 of 2014 filed by the CBI.

42 Relying upon the precedents - *Central Bureau of Investigation* v. *Sadhu Ram Singla*, AIR 2017 Supreme Court 1312 and *Gold Quest International Private Limited* v. *State of Tamil Nadu*, (2014) 15 SCC 235.

43 The high court's judgment dated Sep. 1, 2017 was quashed, and the criminal proceedings in c.c. no. 16 of 2014 before the Principal Special Judge for CBI Cases, Nampally, Hyderabad, were set aside.

44 *The State Bank of India* v. *Sham P.S*, 2024: KER:92019 decided on Dec 5, 2024.

45 Relying upon *Bijnor Urban Co-operative Bank Ltd.* v. *Meenal Agarwal* (2023) 2 SCC 805, *State Bank of India* v. *Arvindra Electronics Pvt. Ltd.* (2023) 1 SCC 540, and *Union Bank of India* v. *Panchanan Subudhi* (2010) 15 SCC 552.

46 2024 INSC 297 [Coram: B.R. Gavai, Rajesh Bindal and Sandeep Mehta, JJ].

be interfered with only in cases of fraud or collusion, which was absent in the present case. Reopening such settled issues would disturb finality. It reiterated that writ petitions under article 226 should only be entertained in limited situations, such as violation of statutory provisions, defiance of judicial procedure, reliance on repealed laws, or breach of natural justice. Citing *Satyawati Tondon,*[47] the court cautioned high courts against bypassing effective remedies under the DRT and SARFAESI Act, emphasising the need for restraint to protect banks' recovery rights.

V BANKING FRAUDS

The rapid growth of online transactions has heightened the risk of banking fraud. In response, the Ministry of Finance and the Reserve Bank of India have been consistently working to mitigate these risks by issuing policy guidelines to banks, strengthening monitoring systems, and enhancing grievance-redressal mechanisms. The amount involved in frauds based on the date of occurrence has declined from Rs. 33,757 crores in FY 2019-20 to Rs. 4,224 crores in FY 2023-24, and further to Rs. 837 crores in FY 2024-25 (as of December 2024).[48] The RBI has further updated its Master Directions on Fraud Risk Management in Commercial Banks.[49] It is worth noting that the earlier Master Circular by the RBI (2016) was scrutinised at the Supreme Court in the case of *SBI* v. *Rajesh Agarwal*, wherein the Supreme Court ruled that the principles of natural justice must be followed before an account can be declared fraudulent under the master circular.

The High Court of Delhi has applied the principles laid down in the *Rajesh Agarwal* case in several cases, including Ashish *Gupta* v. *State Bank of India.*[50] The 2024 Master Circular of the RBI makes suitable amendments to guide banks in having a Board-approved policy on fraud risk management, incorporating

47 *United Bank of India* v. *Satyawati Tondon* (2010) 8 SCC 110: 2010 INSC 428

55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the SARFAESI Act and exercise jurisdiction under article226 for passing orders which have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection.

48 Lok Sabha, *Answer to Starred Question No. 4 – Fraud Cases in Banks*, Feb.3, 2025. *Available at* https://sansad.in/getFile/loksabhaquestions/annex/184/AS4_AAPrOk.pdf?source=pqals.(last visited on May 24, 2024).

49 RBI, *Master Directions on Fraud Risk Management in Commercial Banks (including Regional Rural Banks) and All India Financial Institutions* (July 15, 2024), *available at* https://www.rbi.org.in/Scripts/BS_ViewMasDirections.aspx?id=12702#I. (last visited on May 24, 2024).

50 W.P.(C) 4340/2024, decided on March 21, 2024 [Coram: Justice Mini Pushkarna].

measures to ensure compliance with the principles of natural justice in a time-bound manner.[51]

In the *Electoral Bonds Scheme Case*[52], the Supreme Court examined the rationale of the scheme, particularly the argument that it promotes political funding through banking channels rather than non-banking channels, and that protecting the identity of donors was crucial to prevent victimisation, among other considerations. The court, however, held that:

"The rational connection test fails since the purpose of curtailing black or unaccounted-for money in the electoral process has no connection or relationship with the concealment of the identity of the donor. Payment through banking channels is easy and an existing antidote. On the other hand, the obfuscation of details may lead to unaccounted and laundered money being legitimised (para 44).

The RBI had objected to the Scheme since the Bonds could change hands after they had been issued. There is no verification for this, as the purchaser who has completed the KYC, whose identity is subsequently completely concealed, may not be the actual contributor/donor. In fact, the Scheme may enable the actual contributor/donor not to leave any traceability or money trail (para 45)."

In this case, the Supreme Court directed that the details of the donors be made public, justifying it on the grounds of the voters' right to know about the contributions received by political parties and by whom.

The High Court of Madras in the case of *Palaniappan*[53] was of the view that:

51 Master Circular, supra note 52, para *2.1 Governance Structure in banks for Fraud Risk Management*

2.1.1 There shall be a Board approved Policy on fraud risk management delineating roles and responsibilities of Board / Board Committees and Senior Management of the bank. The Policy shall also incorporate measures for ensuring compliance with principles of natural justice in a time-bound manner which at a minimum shall include:

2.1.1.1 Issuance of a detailed Show Cause Notice (SCN) to the Persons, Entities and its Promoters / Whole-time and Executive Directors against whom allegation of fraud is being examined. The SCN shall provide complete details of transactions / actions / events basis which declaration and reporting of a fraud is being contemplated under these Directions.

2.1.1.2 A reasonable time of not less than 21 days shall be provided to the Persons / Entities on whom the SCN was served to respond to the said SCN.

2.1.1.3. Banks shall have a well laid out system for issuance of SCN and examination of the responses / submissions made by the Persons / Entities prior to declaring such Persons / Entities as fraudulent.

2.1.1.4 A reasoned Order shall be served on the Persons / Entities conveying the decision of the bank regarding declaration / classification of the account as fraud or otherwise. Such Order(s) must contain relevant facts / circumstances relied upon, the submission made against the SCN and the reasons for classification as fraud or otherwise.

2.1.2 The Fraud Risk Management Policy shall be reviewed by the Board at least once in three years, or more frequently, as may be prescribed by the Board.

52 *Association for Democratics Reforms* v. *Union of India* (2024) 5 SCC 1.

53 *The Managing Director, State Bank of India, Central Office* v. *Palaniappan*, W.A.No.2541 of 2021 pronounced on Sep 27, 2024.

> The respondent being an employee of the public Bank, where the money of customers and the public at large is dealt with, a high standard of integrity and honesty is expected from the respondent. When the respondent had acted prejudicial to the interest of the customer, which will erode the public trust and confidence in the Bank by which the prospects of the Bank would be adversely affected, we are of the considered view that the punishment imposed is not disproportionate, shocking our conscience, but rather proportionate to the charges levelled against the respondent (para 39).

After examining several cases of the apex court[54], the court reiterated that when a finding has been arrived at by a competent authority based on evidence, the conclusion shall not be disturbed. Further, "in a departmental enquiry, the disciplinary authority is expected to prove the charges on "preponderance of probability' and not on 'proof beyond a reasonable doubt."[55]

VI CONSUMER PROTECTION

In *Awaz,*[56] the NCDRC proceeded on the *prima facie* view that charging interest at rates ranging from 36% to 49% per annum on credit cards pending payment is exorbitant and amounts to the exploitation of borrowers/debtors, which is usurious. The Supreme Court in this case observed that the credit card holders (consumers in the present case) are well-informed and educated & had agreed to be bound by the express stipulations in the terms issued by the respective banks.[57] The court did not find any element of 'Unfair Trade Practice (UTP) established.[58] The court emphasised that:

> It is a well-settled principle that the terms of a contract executed between two parties are not open to judicial scrutiny unless they are arbitrary, discriminatory, mala fide, or actuated by bias. The courts cannot strike down the terms of a contract because they believe that some other terms would have been fair, wiser, or more logical (para 62).

In *Hare Ram Singh* v. *Reserve Bank of India,* the petitioner, an academician, was targeted in a vishing attack, resulting in malware installation on his device and unauthorised transfers totalling Rs. 2.60 lakhs, with Rs. 1 lakh to IDFC Bank and Rs. 1.60 lakhs to Paytm. Despite immediately reporting to SBI, the Cyber Crime

54 *State Bank of India* v. *Narendra Kumar Pandey* (2013) 2 SCC 740. Also see, *Union of India* v. *Sardar Bahadur* (1972) 4 SCC 618, *R.S. Saini* v. *State of Punjab* (1999) 8 SCC 90, *State Bank of India* v. *R. Periyasamy,* (2015) 3 SCC 101, *Union of India* v. *Dilip Paul*, 2023 SCC OnLine SC 1423 and *State Bank of India* v. *Ajay Kumar Srivatsava*, (2021) 2 SCC 612.

55 *State Bank of India* v. *Ajay Kumar Srivatsava* (2021) 2 SCC 612.

56 *Awaz* v. *Reserve Bank of India*, Complaint Case No. 51 of 2007 before the National Consumer Disputes Redressal Commission, New Delhi.

57 See *Hongkong and Shanghai Banking Corporation Limited* v. *Awaz* (2025) 3 SCC 52: 2024 INSC 1044.

58 *Id*., para 69.

Portal, and the police, the bank denied liability, citing the petitioner's negligence with OTP-based two-factor authentication (2FA). The Banking Ombudsman acknowledged the vishing attack but limited SBI's liability to Rs. 33,334 for the first transaction, excluding the Paytm transfer. Dissatisfied, the petitioner filed a writ petition in the High Court of Delhi under article 226, seeking a full refund with interest and costs.

The High Court of Delhi ruled that the petitioner was not negligent, emphasising that the petitioner had never shared OTPs or payment credentials. The fraudulent transactions occurred because the petitioner's mobile device was hacked via malware embedded in the malicious link, leading to the automatic transmission of OTPs to the fraudsters. It was further held that the breach of 2FA, a critical security protocol, indicated a failure of SBI's security systems, constituting a 'deficiency in service' under section 2(11) of the CPA. The court found SBI's response patently deficient, noting that despite the petitioner's immediate reporting, SBI failed to initiate a chargeback, recover the funds, or freeze the recipient accounts at IDFC Bank and Paytm. SBI's argument that Paytm was outside its regulatory scope was rejected, citing the RBI Circular on prepaid payment instruments (PPI), which mandated banks to act promptly in cases of fraudulent PPI transactions. The court also criticised SBI for failing to follow its obligations under the RBI's Master Direction on Digital Payment Security Controls.[59]

The court thereafter ruled that the petitioner was entitled to 'zero liability' protection, citing Clause 6 of the RBI Circular,[60] as the transaction resulted from a 'third-party breach' (malware attack) and not due to the petitioner's negligence. The petitioner reported the fraud immediately (within the mandated three working days). Under the RBI framework, the burden of proving customer negligence lies on the bank, which SBI failed to discharge. Consequently, the High Court set aside the Banking Ombudsman's (BO) order, observing that: (i) the BO failed to address SBI's violations of the RBI Master Directions (ii) the BO misinterpreted the RBI Customer Protection Circular, limiting liability contrary to the 'zero liability' principle, (iii) the exclusion of the second transaction (Rs.1.60 lakhs to Paytm) from the order on technical grounds was legally unsustainable, as the 2021 Master Directions cover transactions *via* PPIs (*e.g.*, Paytm).

However, in another case,[61]the National Consumer Dispute Redressal Commission (NCDRC) did not provide any relief to a customer whose email account was hacked and on an instruction through his email, Vijaya Bank transferred an amount of USD 80,000. A separate criminal case was filed with the Cyber Crimes Branch under the Information Technology Act, 2000. NCDRC held that "*Liability*

59 2021 – Requires banks to implement systems to detect unusual login activities, facilitate immediate customer reporting of fraudulent transactions, establish an inter-bank fraud reporting mechanism for seamless coordination with other regulated entities ('REs').

60 RBI, "Customer Protection – Limiting Liability of Customers in Unauthorised Electronic Banking Transactions" dated July 06, 2017.

61 *Niel E. Lobo* v. *Bank of Baroda*, First Appeal No. 1662 OF 2018 decided by NCDRC on Sep. 2, 2024.

under the CPA would arise once deficiency on the part of the bank in making the transfers was established", which has not happened in this case.[62]

Interestingly, in the case of *DCB Bank Limited* v. *Ajoy Kumar Mehta,*[63] the question again involved reference to hacking of email and instructions to transfer funds from the overdraft (OD) facility. The first question that the NCDRC addressed was whether the respondent was a consumer under the CPA, as it was alleged that one of the transactions from the OD facility was ofa commercial nature. Distinguishing the ratio in *Shrikant Ji. Mantri* case,[64] the NCDRC held that:

> Merely because one of the transactions was in respect of purchasing a shop will not convert the entire nature of the services availed as an overdraft facility for commercial investments. The stand therefore taken by the Bank on this account deserves rejection, and the finding recorded by the State Commission therefore has to be affirmed.

NCDRC held that the Bank failed to properly handle the instructions for operating the overdraft account as authorised by the Complainant. It was also established that the Complainant's email account had been compromised. If the Bank had exercised due care by verifying and confirming the instructions, the hacking could have been prevented[65].

The Supreme Court delivered a landmark decision in *Leelawati Devi* v. *District Cooperative Bank Ltd*.[66], ruling on vicarious liability in the banking sector, underscoring banks' duty as custodians of public funds and the impact of employee misconduct on depositors. The case arose from a dispute over withheld fixed deposits, .in which the District Consumer Forum ruled in favour of the appellants.However, later orders by higher *fora*, including the NCDRC, cast doubt on the genuineness of the receipts. The Supreme Court criticised this approach, reaffirmed the bank's responsibility for its employees' actions, quashed the NCDRC's order, and restored the district forum's verdict. The judgment strengthens consumer protection, deters staff malfeasance, and reinforces the obligation of banks to exercise vigilance and ethical standards in safeguarding depositors' interests.

Dark patterns – Recognising the risks to consumers, the Central Consumer Protection Authority (CCPA) issued the Dark Patterns Guidelines.[67] The Reserve

62 Relying upon the Supreme Court decision in *Chairman & Managing Director, City Union Bank Ltd.* v. *R. Chandramohan*, (2023) 7 SCC 775.

63 First Appeal No. 694 of 2023 A/W 1 other, order dated Nov. 20, 24.

64 *Shrikant G. Mantri* v. *Punjab National Bank*, Civil Appeal No. 11397 of 2016 decided on 22.02.2022, 2022 LiveLaw (SC) 197.

65 The court referred to the apex court decisions on the issue of vicarious liability of a bank for the acts of its employees in the case of *Canara Bank* v. *Canara Sales Corporation*, (1987) 2 SCC 666, *Pradeep Kumar* v. *Post Master General* (2022) 6 SCC 351.

66 *Leelawati Devi* v. *District Cooperative Bank Ltd.,* 2024 LiveLaw (SC) 346.

67 Guidelines for Prevention and Regulation of Dark Patterns, 2023 was released on Nov. 30, 2023, under s. 18 of the Consumer Protection Act, 2019, following a public consultation on draft guidelines released in Sep. 2023.

Bank of India has also begun examining the prevalence of dark patterns among regulated entities and is considering policy measures to curb such practices[68]. Surveys, such as one conducted by Local Circles[69], indicate that 63% of online banking users have experienced hidden charges or drip pricing, highlighting the widespread nature of these deceptive practices in digital banking. Dark patterns in the banking industry refer to user interface designs and tactics intentionally crafted to manipulate customers into making decisions that benefit the service provider, often without the user's full awareness or consent. These practices have emerged as a new form of mis-selling, including tactics such as hidden fees, drip pricing, pre-selected add-ons, or misleading opt-in/opt-out mechanisms.

VII CHEQUE BOUNCE CASES

As of December 18, 2024, the number of pending cases under the Negotiable Instruments Act was 4,305,932, with the top five states having the highest number of pending cases: Rajasthan, Maharashtra, Gujarat, Delhi, and Uttar Pradesh. Some critical cases dealt with under the Negotiable Instruments Act in 2024 have been discussed below.

In the case of *Bijoy Kumar Moni* v. *Paresh Manna*[70]*, w*hile dealing with the question of whether an authorised signatory of a company falls within the ambit of the expression "drawer", the Supreme Court relied upon its own recent decision[71].It reiterated that "it is only the drawer of the cheque who could be held to be liable for the payment of interim compensation under section 143A of the NI Act and the authorised signatory of a company cannot be said to be the drawer of the cheque."

The court in this case further held that prosecution under section 138 of the Negotiable Instruments Act can succeed only if the dishonoured cheque was drawn on an account maintained by the accused. In this case, the cheque, though signed by the accused, was issued from the account of Shilabati Hospital Pvt.

68 See *FinTech Innovations for India @100: Shaping the Future of India's Financial Landscape* - Address by Shri Shaktikanta Das, Governor, Reserve Bank of India - August 28, 2024 - at the Global Fintech Fest, Mumbai, *available at* https://youtu.be/pWvbZZcnHXs.(last visited on May 20, 2024).

69 Consumers Report Multiple Dark Pattern (Mar. 19, 2024) *available at* https://www.localcircles.com/a/press/page/dark-patterns-ecommerce (Based on responses from over 44,000 online banking users across 363 districts in India, the survey identified multiple deceptive UX/design practices ("dark patterns") used by banking platforms.)

70 2024 INSC 1024, decided on Dec. 20, 2024 [Coram: J.B. Pardiwala and R. Mahadevan JJ].

71 *Shri Gurudatta Sugars Marketing (P) Ltd.* v. *Prithviraj Sayajirao Deshmukh* 2024 SCC OnLine SC 1800.

Para 30. The distinction between legal entities and individuals acting as authorized signatories is crucial. Authorised signatories act on behalf of the company but do not assume the company's legal identity. This principle, fundamental to corporate law, ensures that while authorised signatories can bind the company through their actions, they do not merge their legal status with that of the company. This distinction supports the High Court's interpretation that the drawer under section 143A refers specifically to the issuer of the cheque, not the authorised signatories

Ltd..In contrast, the accused was prosecuted in his personal capacity, not as the hospital's director. Since the company,the principal offender,was not made an accused, and the account did not belong to the individual, the statutory requirements of section 138 were not met. The High Court rightly concluded that, without arraigning the company, criminal liability could not be fastened on the accused.

Interim Compensation: The Supreme Court of India issued Guidelines in *Rakesh Ranjan Shrivastava* v.*State of Jharkhand*[72], with reference to the power to grant Interim Compensation in Cheque Bounce Cases under section 143A of N.I Act[73]. The Supreme Court ruled that granting interim compensation under section 143A(1) of the Negotiable Instruments Act in cheque-bounce cases is discretionary, not mandatory. In a case where the trial court and Jharkhand High Court had awarded such compensation, the Court held that the word "may" in section 143A cannot be read as "shall." Before directing payment, courts must record brief reasons after considering the complainant's prima facie case, the accused's defence, and factors like financial distress, nature of the transaction, and the relationship between the parties. If the defence appears plausible, interim compensation can be refused, and even when granted, its quantum must be carefully assessed. The parameters were held to be illustrative, not exhaustive. section 143A operates prospectively, enabling courts to grant interim compensation during the pendency of proceedings.[74]

High Court of Allahabad in the case of *Rajendra* v. *State of UP*[75] held that "Notice sent through 'email or WhatsApp', if it fulfils the requirement ofsection 13of I.T. Act, will also be a valid notice undersection 138 N.I. Act to the drawer of the cheque, and the same will be deemed to be served on the date of dispatch itself. The Court relied upon the observations made by the Supreme Court in the case of *K. Bhaskaran* v. *Sankaran Vaidhyan Balan*,[76] "it must be born in mind that the court should not adopt an interpretation, which helps a dishonest evader and clips an honest payee, as that would defeat the very legislative measure" and also the case of *C. C. Alavi Haji* v. *Palapetty Muhammed*,[77] wherein the Apex Court said "while interpreting thesection 138 N.I. Act regarding service of notice, it must be borne in mind that the court should not adopt an interpretation that helps the dishonest drawer of the cheque to evade and trap the honest payee, and it should be incorporated liberally in favour of the honest payee.

72 2024 INSC 205 decided on March 15, 2024 [Coram: Abhay S. Oka and Ujjal Bhuyan, JJ]

73 Clause (b) of sub-section (1) of s. 143A will apply only when the case is being tried as a warrant case. In the case of a summary or summons trial, the power under sub-section (1) of s. 143A can be exercised after the plea of the accused is recorded.

74 *G. J Raja* v. *Tejraj Surana*, (2019) 19 SCC 469

75 2024: AHC:14247

76 (1999) 2 SCC 510.

77 2007 (6) SCC 555.

Supreme Court in *Dattatraya* v. *Sharanappa*,[78] dealt with the question of presumption of liability in cheque bounce cases and reiterated the three essential conditions that ought to be fulfilled before the provisions of NI Act can be invoked:Firstly, the cheque ought to have been presented within the period of its validity, secondly, a demand of payment ought to have been made by the presenter of the cheque to the issuer, and lastly, the drawer ought to have had failed to pay the amount within a period of 15 days of the receipt of the demand[79]. The court further discussed the facts of the case and, in view of concurrent findings by the supporters, held that a detailed appraisal of the evidence and facts is not warranted in this case.

In the case of *Rajesh Viren Shah* v. *Redington (India) Limited*,[80] the Supreme Court noted that the appellants had resigned from the respondent company on 9 December 2013 and March 12, 2014, while the disputed cheques were issued later, on 22 March 2014. Since they were no longer connected with the company at the time of issuance, they could not be held liable for its business conduct. The court therefore set aside the High Court of Madras's judgments and quashed all criminal proceedings against the appellants.

Compounding in Cheque Bounce Cases - The Supreme Court in *Raj Reddy Kallem* v. *The State of Haryana*[81] reiterated that while parties in cheque-bounce cases should ideally seek compounding at an early stage, there is no legal bar to compounding even after conviction. However, compounding under section 138 of the NI Act requires the complainant's consent, as clarified in *JIK Industries* v. *Amarlal Jamuni*;[82] section 147 does not override this fundamental requirement. Although the case of*Meters and Instruments* v. *Kanchan Mehta*[83] allowed courts to close proceedings if the complainant was duly compensated, that view (based on section 258 CrPC) was later held not to be good law by a Constitution Bench in

78 2024 SCC OnLine SC 1899, Aug. 7, 2024 [Coram: B.V.Nagarathna and Augustine George Masih, JJ]

79 *Id.* Para 14.The Supreme Court clarified that an accused may rebut the presumption under section 139 of the NI Act by relying on the complainant's own pleadings, evidence, or statements, without needing to produce independent evidence. Applying this, the Court noted contradictions in the complainant's case: though he claimed the cheque was given as security when the loan was advanced, his cross-examination showed it was presented only six months later upon demand. He failed to prove when or how the loan was given, did not show financial capacity or disclose it in tax returns, and could not explain how a cheque allegedly issued to another reached him. While the respondent admitted his signature, the complainant's inconsistencies and lack of proof prevented the presumption under s. 139 from operating. Both the trial and High Courts rightly found no credible evidence of a legally enforceable debt, and the respondent successfully rebutted the statutory presumption on a preponderance of probabilities.

80 (2024) 4 SCC 305: 2024 INSC 111 decided on February 14, 2024 [Coram: B.R. Gavai and Sanjay Karol, JJ]

81 [2024 INSC 347] decided on April 8, 2024 [Coram: A.S. Bopanna and Sudhanshu Dhulia JJ]. Also see a similar case *A.S. Pharma Pvt. Ltd.* v. *Nayati Medical Pvt. Ltd.*, 2024 INSC 690, again invoking art.142 of the Constitution of India to do complete justice between the parties.

82 (2012) 3 SCC 255.

Expeditious Trial of Cases under Section 138 NI Act (2021).[84] Thus, even if the complainant has received full payment, as in this case, courts cannot compel consent for compounding, nor does repayment by itself absolve an accused of criminal liability under section 138. However, the court exercised its jurisdiction under Article 142 of the Constitution of India to quash the proceedings (distinguishing quashing from compounding).

In *New Win Export & Anr.* v. *A. Subramaniam*,[85] the Supreme Court again reiterated that:

It is to be remembered that dishonour of cheques is a regulatory offence which was made an offence only in view of publicinterest so that the reliability of these instruments can be ensured. A large number of cases involving dishonour of cheques are pending before courts, which is a serious concern for our judicial system. Keeping in mind that the 'compensatory aspect' of remedy shall have priority over the 'punitive aspect', courts should encourage compounding of offences under the NI Act if parties are willing to do so.

VIII NBFCS AND COOPERATIVES

The Co-operative banks play a vital role in India's financial ecosystem, particularly in promoting financial inclusion and supporting rural development. Karnataka High Court upheld the right of a cooperative bank to enforce its security on a mortgage.[86] The law, while generally prohibiting the alienation of allotted property for 25 years, creates an exception that allows an allottee to mortgage the site with a cooperative bank to obtain funds for construction. The Court held that because the law permits such a mortgage, it does not bar the mortgagee from enforcing the security, including selling the property to recover the loan, even within the 25-year restriction period.[87]

In the case of *Pro Knits* v. *The Board of Directors of Canara Bank*,[88] the Supreme Court held that the High Court erred in concluding that banks were not obligated to adopt the restructuring process under the Micro, Small, and Medium Enterprises (MSME) framework. It clarified that the Framework notified on 29 May 2015, along with subsequent revisions, is not merely a directory but mandatory in nature. The Instructions and Directions issued by the Central Government under section 9 of the MSMED Act, 2006, and by the RBI under sections 21 and 35A carry statutory force and are binding on all banking companies.

83 (2018) 1 SCC 560.

84 (2021) 16 SCC 1162.

85 [2024] 5 S.C.R. 203: 2024 INSC 535.

86 *South Canara District Central Cooperative Bank Ltd* v. *State of Karnataka & Others*, 2024 LiveLaw (Kar) 477.

87 In this case, Poornima was allotted a free site under Karnataka's *Ashraya Scheme* governed by the Karnataka Land Grant Rules, 1969. To finance construction, she obtained a bank loan and mortgaged the allotted property as security. After defaulting on repayment, the bank sought to enforce the mortgage by selling the property, raising the question of whether the general 25-year prohibition on alienation of allotted sites prevents the mortgagee from exercising its lawful right to recover the loan.

88 2024 INSC 565 [Coram: Bela M. Trivedi and R. Mahadevan, JJ].

The legal position is that a borrower cannot belatedly claim the status of a Micro, Small or Medium Enterprise (MSME) to obstruct proceedings under the SARFAESI Act if it had failed to disclose such status at the stage of classification of its loan account as a Non-Performing Asset (NPA). The Framework for Revival and Rehabilitation of MSMEs, notified by the Ministry of MSME on 29th May, 2015, under section 9 of the MSMED Act, and the RBI Directions of 2016 on lending to the MSME sector, contemplate safeguards at the stage of identification of incipient stress and categorisation of the account as a Special Mention Account. It is therefore incumbent on the borrower to produce authenticated and verifiable documents to establish their MSME status before the account becomes an NPA.

Banks and NBFCs are not obliged to adopt restructuring measures *suo motu* without any application from the borrower. Where the borrower has not invoked the benefit of the 2015 notification at the relevant time and the bank has already initiated or concluded SARFAESI proceedings after following due process of law, such actions cannot be declared illegal or void ab initio. While the law provides safeguards for genuine MSMEs to secure restructuring and repayment opportunities, it equally prevents misuse by borrowers who attempt to belatedly raise MSME status as a defence to stall recovery actions.

IX INTERNATIONAL BANKING

In 2024, the global economy rebounded from post-pandemic supply chain disruptions and a bout of multi-decadal high inflation.International growth has stabilised, and inflation is nearing target levels in major economies.Still, the outlook remains weighed down by geopolitical tensions, geoeconomic fragmentation, high public debt, stretched asset valuations, cyber risks, rapid technological change, and climate-related challenges[89].In 2024, the Basel Committee on Banking Supervision updated the Basel Core Principles (BCP) for the first time since 2012, reflecting changes in the financial landscape. Developed through broad consultation with stakeholders, including the International Monetary Fund (IMF) and the World Bank, the revised BCP sets globally applicable minimum standards for prudent bank regulation and supervision, reinforcing efforts to strengthen financial oversight.[90] The revision strengthens supervisory requirements while introducing proportionality, allowing standards and expectations to be tailored to the risk profile and systemic importance of banks without diluting rigour.[91]

89 *Ibid.*

90 IMF, 2024 Revised Basel Core Principles for Effective Banking Supervision, *available at* https://www.imf.org/-/media/Files/Publications/PP/2024/English/PPEA2024037.ashx. Several thematic topics informed the revisions to the Core Principles, including evolving risk considerations related to: (i) financial risks; (ii) operational resilience, including cyber security risks; (iii) systemic risk and macroprudential supervision; (iv) risks from structural transformations driven by climate change and the digitalization of finance; (v) the sustained growth of nonbank financial intermediation; and (vi) evolving risk management practices.

91 Fabiana Melo, Katharine Seal and Valeria Salomao, *Revised Basel Core Principles for Effective Banking Supervision*, (02 Aug 2024) *available at* https://www.elibrary.imf.org/view/journals/007/2024/037/article-A001-en.xml2024.

In 2024, the International Financial Services Centres Authority (IFSCA) implemented various banking-related changes[92], including the IFSCA (Listing) Regulations, 2024, to facilitate business and protect investors, and issued the IFSCA (Payment Services) Regulations, 2024.Regulators and central banks are enhancing supervisory frameworks to curb systemic risks from growing interconnectedness. The rise of digital banking and FinTech highlights the need to modernise traditional banking models and address emerging regulatory challenges.[93]

Climate Change Risks – Climate change poses systemic risks to the global financial system by disrupting asset valuations, market functioning, and institutional stability. As climate impacts becomeincreasingly severe, regulators across jurisdictions are transitioning from voluntary disclosures to mandatory reporting to safeguard financial stability and resilience. In India, this shift is evident in the initiatives of the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI)[94], both of which have introduced frameworks that embed climate-related financial risks into their supervisory and disclosure requirements.

The Reserve Bank of India (RBI), acknowledging the systemic implications of climate-related risks, has issued the Draft Disclosure Framework on Climate-related Financial Risks, 2024 for Regulated Entities (REs).[95] Designed in alignment with leading global standards, such as the European Union's Corporate Sustainability Reporting Directive (CSRD) and the United States Securities and Exchange Commission's climate disclosure rules, the framework aims to integrate climate risk considerations into India's financial sector, thereby enhancing both competitiveness and resilience. It requires REs to disclose material information on climate-related risks and opportunities, thereby facilitating early identification, measurement, and management of such risks. By ensuring consistent and comparable disclosures, the framework aims to reduce mispricing of assets and misallocation of capital, while simultaneously fostering greater transparency, accountability, and market discipline within the Indian banking ecosystem.

As per the draft disclosure framework, it would apply to the following Regulated Entities (RE):

(i) All Scheduled Commercial Banks (excluding Local Area Banks, Payments Banks and Regional Rural Banks);

92 IFSCA Bulletin (Apr-June 2024), *available at* https://www.indembassybern.gov.in/docs/2.pdf.

93 RBI, *supra* note 98.

94 Under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, SEBI implemented the BRSR guidelines in 2021.

95 *Available at* https://www.rbi.org.in/Scripts/bs_viewcontent.aspx?Id=4393 [The Reserve Bank, being satisfied that it is necessary and expedient in the public interest so to do, has issued these guidelines in exercise of the powers conferred by sections 21 and 35A of the Banking Regulation Act, 1949 read with section 56 of the Banking Regulation Act, 1949; Chapter IIIB of the Reserve Bank of India Act, 1934; and sections 30A, 32 and 33 of the National Housing Bank Act, 1987].

(ii) All Tier-IV Primary (Urban) Co-operative Banks;

(iii) All All-India Financial Institutions (viz. EXIM Bank, NABARD, NaBFID, NHB and SIDBI); and

(iv) All Top and Upper Layer Non-Banking Financial Companies.

The glide path for detailed disclosures by the REs on the areas of Governance,[96] Strategy,[97] Risk Management,[98] Metrics and Targets[99] is as follows:

Category of RE	**Governance, Strategy, and Risk Management**	**Metrics and Targets**
SCBs, AIFIs, Top and Upper layer NBFCs	FY 2025-26 onwards	FY 2027-28 onwards
Tier IV UCBs	FY 2026-27 onwards	FY 2028-29 onwards
Disclosure requirements for the other REs shall be announced in due course		

X CONCLUSION

As the decade's midpoint approaches, banks face growing pressure to navigate disruptive technologies, geopolitical uncertainty, and regulators with often conflicting priorities.[100] In a survey, about 90% of responding banks believe cyber risks have increased over the last 12 months and 'digital & emerging technology' was by far the most important topic on bank agendas, highlighted by 46% of respondents.[101] The banks and NBFCs remain the backbone of India's financial sector, providing support to its growth aspirations (*Viksit Bharat 2047*) by meeting the credit requirements of the productive sectors of the economy.[102]

Financial inclusion, recognised as a key enabler of the United Nations' Sustainable Development Goals (SDGs), drives sustainable growth, reduces inequality, and supports poverty alleviation. In India, digitalisation through initiatives like UPI, Aadhaar, DigiLocker, and Account Aggregators has accelerated digital financial inclusion, making services more transparent, scalable, and accessible to underserved citizens.[103] However, the Economic Survey of 2024-25

96 Details the governance processes, controls and procedures used to manage climate-related financial risks and opportunities.

97 Describes the RE's strategy for managing climate-related financial risks and opportunities, including identification of risks and opportunities over different time horizons.

98 Outlines the processes to identify, assess, prioritize, and monitor climate-related financial risks and opportunities and their integration into the overall risk management framework.

99 Details performance metrics related to climate-related financial risks and opportunities, including progress towards climate-related targets.

100 Herbert Smith Freehills Kramer, Global Bank Review 2024, *available at* https://www.hsfkramer.com/insights/reports/global-bank-review-2024

101 *Ibid.*

102 RBI Trends,*supra* note 98.

103 Economic Survey, 2023-24, Chapter 2: Monetary Management and the Financial Intermediation: Stability is the Watchword, *available at* https://www.indiabudget.gov.in/budget2024-25/economicsurvey/doc/eschapter/echap02.pdf.

cautions that "apart from active monitoring of the banking system, there is a need to be cautious regarding developments in the Indian and global stock markets. While the Indian financial sector shows resilience, international market conditions may have some influence on India."

The Digital Personal Data Protection Act, 2023 (DPDP Act), is currentlybeing implemented, with Draft rules now open for consultation. This development has important implications for the banking sector, particularly in curbing the use of dark patterns. Since banks and financial service providers increasingly rely on digital platforms for customer onboarding, consent management, and service delivery, the Act's requirement for clear, specific, and unambiguous consent directly impacts how banks design their digital interfaces. This will be an important area to watch for in the coming years.

RBI Governor, *Shaktikanta Das*, while concluding his speech in one of the functions[104], emphasised:

> … that banks and financial institutions have a critical role in taking India to the next phase of economic growth. Regulated Entities of the Reserve Bank, such as banks and NBFCs, are well-positioned in terms of capital, asset quality, and profitability to contribute to economic acceleration. Embracing technology and innovation, while remaining focused on governance and risk management, can ensure the sustained capacity and resilience of the financial sector,enabling it to meet the needs of our growing economy. While much has been accomplished, there is still more to be done.

104 Inaugural address by *Shaktikanta Das*, Governor of the Reserve Bank of India, at the Financial Express Modern Banking, Financial Sector and Insurance (BFSI) Summit, Mumbai, July 19, 2024, *available at* https://www.bis.org/review/r240722g.htm.