

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 6 | Issue 3

2023

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Legal Implication of Digital Payment

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ABSTRACT

The world is changing as new technology is coming into the market. The course of technology is changing in the market as there is huge competition between private industries. To increase the number of customers these industries are constantly adapting facilities to make things easy for customers. Digital payments are transactions made by a person easily in a paperless method. Some examples of this are credit cards, debit cards, E-cash, etc. This reduces the usage of cash. The Indian Bangalore recorded the highest number of digital transactions in 2022, about 29 million, followed by metropolitan cities Delhi with 19.6 million, and Mumbai with 18.7 million. A report named India Digital Payment Annual Report 2022 of Worldline it was pointed out that 74.05 billion transactions took place through UPI which was double the amount given in the 2021 report. In 2022, digital payment took a height of crossing over 149.5 trillion worth of digital transactions, which was expected to grow in 2023. With the rise of internet awareness throughout the country people are also wildly accepting the E-Payment system. This paper attempts to inform the reader about the subject matter and its legalities.

Keywords: E-Payment, smart card, digital, payment, cashless.

I. INTRODUCTION

Indian Economy is rapidly increasing, aiming that the world is accepting digital payment systems Indian government is also trying to adopt such systems. People in India are also trying to adopt such a system. The Internet is changing, the Internet has become a trade market. Platforms are selling from groceries to electronic parts. In a country like India, a massive trade market is being worked in which facilitation of payment methods for a long distance in a short period was needed. However, cash still plays a major role in the economic system. This mode properly fits the cashless model of India. In such cases, a person availing of such things must adopt an easier payment mode. The liability of the government lies differently for different targeted audiences. For example, in rural India, the availability of the Internet is an important aspect without the Internet a person cannot use the E-payment method at all, whereas, for an uneducated sect, the government must make awareness methods to teach their usage of the Internet. Currently, India has 1.2 billion users of mobile phones out of which 600 million are

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smartphone users². It is safe to say E-payment system can be adopted in India. There is a cause of bring digitalization in the payment sector it can bring a lot of positive changes in the economy as well. It facilitates safe inter-country payments. Hence the balanced growth of the economy lies in economic activity along with technological advancement.

(A) Research Methodology

This paper attempts to explain the implications of digital payment systems and legal tools provided for the same. The author has used a qualitative method of research with the help of various online sources for example journals, research papers, online websites, reports published by government websites, newspapers, etc. author also used a common data collection method in which the author read and analyze the document and analyzed records. The author used secondary data for interpretation by proper analysis of the data.

(B) Research Question

1. What is the digitalization of payment and how will it affect our country's economy?
2. What is the legal framework provided under the same?

(C) Research Objective

1. Letting people know about the modes digital of payment.
2. Creating awareness about the legal framework.
3. To understand the impact of such payments on the economy.
4. Challenges of digitalization of money.
5. Pros and cons of E-payment.

II. DIFFERENT MODES OF PAYMENTS

- 1) Banking cards** - Banking cards are provided by banking institutions, to their customers for their various uses. It is a method of payment by the customer using various modes. example Debit card, Credit card, etc. The Internet is used for making payments through this medium. Authentication is also provided for secure payment for example PIN and OTP. Visa, Master card, and Rupay are some examples of such systems. This card facilitates customers to buy products directly from a merchant through online sources.
- 2) UPI-** also known as unified payment interference (UPI) which facilitates multiple banks to

² Saurav Anand, India has over 1.2bn mobile phone users: I&B ministry, livemint.com, 16 Nov 2022, 08:33 PM IST, <https://www.livemint.com/technology/gadgets/india-has-over-1-2-bn-mobile-phone-users-i-b-ministry-11668610623295.html>

connect through the app which will facilitate the user to send money through his/her mobile phone to send money to different banks. Every bank has its UPI apps.

- 3) **Mobile Wallets-** A mobile wallet is a cashless way of carrying money by a person. Here through an app, a person can send money to others. The wallet must be linked to the person's account. No plastic card is used for its money can be sent directly online.
- 4) **Mobile Banking-** The facility the banks provide to customers. Here customers get the benefits of conducting all his/her financial work through their devices in his/her home. It includes National Electronic Fund Transfer (NEFT), Real Time Gross Settlement (RTGS), etc.
 - a) NEFT was started by the Reserve Bank of India which managed this system. This allowed the transfer of money.
 - b) RTGS- this facilitates interbank transaction which is managed by the Reserve Bank of India. This is different from NEFT.
- 5) **BANK TRANSFER-** this transfer is done with the help of the Internet which can be done by electronic mode.

III. ADVANTAGES OF DIGITAL PAYMENTS

- 1) **SPEED-** Earlier the process of timing was time-consuming, whereas this is a hassle-free process a person can do it whenever and wherever he/she wants to. It will save the time of the person.
- 2) **EFFICIENCY-** a digital form of payment helps the person by freeing the restriction of time. People can pay at their convenience as they want to.
- 3) **CASH FLOW VISIBILITY-** the history of the transaction will be kept as a record for the future. As the transaction takes place the amount directly reflects in the account.
- 4) **ACCESSIBILITY-** carrying hard cash is impossible everywhere but having money digitally is accessible.
- 5) **COST REDUCTION-** traditional methods included third parties which increase additional payment. The digital method removed the involvement of third parties resulting to reduce the additional cost.

IV. DISADVANTAGES OF DIGITAL PAYMENTS

- 1) **SECURITY-** because such payment systems are encrypted making it safe to a certain level but not completely safe. To tackle issues high security is to be provided to make it

safe from hacking. Even though the payment system is fine there is a higher concern about phishing techniques.

- 2) **DEPENDENCY**- this system completely relies on internet availability. If the internet goes down, the whole system goes down with it. Hence it can be uncertain if the internet connection has a defect.
- 3) **FLUCTUATION**- even if the world accepts digital payment systems, the hard cash system is still prevailing and trustable. Hence there is still no complete dependency on digital payment systems. Although the government is making various efforts to make this happen. Still, this mode of payment is not yet completely accepted.

V. PAYMENT AND SETTLEMENT SYSTEMS REGULATION, 2007

Payment and settlement act 2007³ is a parent act designed by the Reserve Bank of India for regulating the payment system in India. It was legislated in December 2007. In the act, the power to regulate the system was given to Reserve Bank India. This act was brought to govern the whole payment system including cash payments and other payment systems.

(A) Objective of act

- To regulate the payment system in India.
- To give Reserve Bank India full access to control of the system as an apex institution.
- To give the system a legal frame.

VI. BOARD FOR REGULATION AND SUPERVISION OF PAYMENT AND SETTLEMENT SYSTEMS REGULATION, 2008

Under PPS Act 2007 there are other acts:

1. Supervision of Payment and Settlement Systems Regulations 2008⁴
2. The Payment and Settlement Systems Regulations, 2008⁵

These two acts are under the PPS Act 2007 and provide backing to RBI to carry out control over the system. Section 2 (i) of the PSS Act 2007 defines the payment system. A payment system that includes payment or settlement of services but does not involve stock exchanges. It includes smart card applications, money transfers, debit, or credit card applications, etc.

Since the beginning India had always been using a paper-based payment system but now

³ Payment and settlement act, 2007, No. 51, Act of Parliament, 2007 (India)

⁴ Payment and settlement act, 2007, § 38, No. 51, Act of Parliament, 2007 (India)

⁵ Payment and settlement act, 2008, No. 51, Act of Parliament, 2007 (India)

Reserve Bank India is trying to adopt E-Payment facilities for which it has brought some methods such as NEFT (National Electronic Funds Transfer), transactions through Real Time Gross Settlement (RTGS), etc.

(A) Objective of act

1. To deal with BPSS.
2. To regulate the composition, power, and, functions.
3. To form the committee.

VII. THE PAYMENT AND SETTLEMENT SYSTEMS REGULATIONS, 2008

(A) Objective

1. It deals with balance sheets and system provider
2. It looks after the documentation process
3. It looks after the application on a payment system.

(B) Authorization

Section 4 of the PPS Act 2007 only RBI can operate the system. Only exceptions can be given to the authorities to operate the system that is permitted by Reserve Bank India. Whereas section 5 states that anyone desiring to operate a payment system shall apply for the Reserve Bank of India. The application must be filed under this act along with a prescribed fee (Rs 10,000/-). Any other authorization by the unauthorized authority will be subjected to a penalty.

There is also a permit given for foreign institutions to commence their payment system business in India provided that they are abiding by the law of the country and guidelines provided by the Reserve Bank of India. Section 4 in the PPS Act talked about “No Person” which itself clarifies that foreign entities are inclusive along with domestic. To commence such business, they must obtain a license and permit from the apex bank (this applied to both foreign and domestic entities). There is no hard restriction provided to foreign companies by the Reserve Bank of India. They are allowed to run payment systems or businesses relating to it in India, abiding by the rule of sovereignty. There are some famous foreign payment systems such as Mastercard, Visa Worldwide Pvt. Ltd., PayPal, etc⁶.

VIII. POWER OF RESERVE BANK OF INDIA

Reserve Bank of India is the apex bank of India having a lot of powers some of which are listed

⁶ Shreya Pandey, All About the Payment and Settlement System Act, 2007, Ipleader, (7 June 2023, 1:12), <https://blog.ipleaders.in/payment-settlement-system-act-2007/>

below:

- Section 7 of PPS Act 2007⁷- that the Reserve Bank of India has the power to authorize the grant of application. Stating the reason for refusal of application as written notice.
- Section 7 of the same act gives the power to take registration fees also security deposit for the functioning of the system.
- Section 8 of the act⁸ Gives the power to the Reserve Bank of India to revoke the authorization in case of non-compliance with rules by the entity.
- Section 10 of the PPS Act 2007⁹ gives the power to the Reserve Bank to determine the standard of the payment system. Reserve Bank will decide the format, manner of transfer, criteria of membership, and, other standards.
- Sections 12 & 13¹⁰ give the power to order to present the documents relating to the payment system. Such companies must present the document asked by the Reserve Bank.
- Section 14¹¹ of the act gives the power to the Reserve Bank to depute an officer to provide him/her the full power to enter the premise of the entity building, inspection of system or equipment, interrogate staff, etc.
- Section 15(3)¹² states the reserve bank has the full authority to disclose the documents provided by the company upon demand in the interest of banking and monetary policy.
- Sections 17 & 18¹³ give the power to Reserve Bank to issue direction upon commission or omission of work.
- Reserve Bank of India can also perform on-site inspections.

IX. OFFENCE & PENALTIES

Section 27 of the PSS Act¹⁴ talks about contravention by a person of the act, any provisions or direction as a company, and every person in charge of a company or its business shall be liable for punishment. The punishment is fine of up to 10 lakhs and continuance of the default may add up to twenty-five thousand rupees extra per day under section 26(6). But in case the default

⁷ Payment and settlement act, 2007, § 7, No. 51, Act of Parliament, 2007 (India)

⁸ Payment and settlement act, 2007, § 8, No. 51, Act of Parliament, 2007 (India)

⁹ Payment and settlement act, 2007, § 10, No. 51, Act of Parliament, 2007 (India)

¹⁰ Payment and settlement act, 2007, § 12 & 13, No. 51, Act of Parliament, 2007 (India)

¹¹ Payment and settlement act, 2007, § 14, No. 51, Act of Parliament, 2007 (India)

¹² Payment and settlement act, 2007, § 15, No. 51, Act of Parliament, 2007 (India)

¹³ Payment and settlement act, 2007, § 17 & 18, No. 51, Act of Parliament, 2007 (India)

¹⁴ Payment and settlement act, 2007, § 27, No. 51, Act of Parliament, 2007 (India)

is made by the director, manager, or secretary he/she shall be subjected to punishment. Punishment of that person shall not be less than one month which may extend to 10 years with a fine up to crores or both cases of the continuance of the default for 1 lakh rupees per day.

Section 26(2)¹⁵ of the PSS Act states that a person of the company who makes a willfully false statement or omits a material statement should be penalized for a fine not less than 10 lakhs up to 50 lakhs.

Section 26(3)¹⁶ states if a person fails to present documents, statements, or information as complied under Sections 12 & 13 shall be subjected to a punishment fine of rupees 10 lakhs which may add up to twenty-five thus, and an extra per day continuance of the offense.

Section 22¹⁷ provides the statues for non-disclosure of the document or its content, in case any person violates this code then he/she shall be subjected to the punishment of Imprisonment of up to 6 months or a fine which may extend up to 5 lakhs or an amount equal to twice the amount of the damages incurred by the act of such disclosure or both.

Under Section 30 Reserve Bank of India also has the power to impose a penalty upon the defaulter not exceeding rupees 5 lakhs or twice the amount of money in default whichever is more of twenty-five thousand rupees per day. It serves a period of 30 days from the day of notice. In case the complaint of default has been filed under Section 26 then action against the defaulter cannot be taken under this section.

X. RECENT DEVELOPMENTS

Worldwide popularity and acceptance of digital payment systems are also getting the opportunity for phishing, fraud, etc. The government is coming up with different ideas to control such fraud. Reserve Bank of India issued new guidelines for digital systems such as Vision Statement on Payment and Settlement System in India 2019-2021. The main objective of this vision was to bring new and competent guidelines to control the digital payment systems in India. Reserve Bank welcomed public suggestions on the guild line system after which Reserve Bank issued a “Guideline on Payment Aggregator and Gateways.”¹⁸

(A) New Guidelines

The non-bank person must take prior permission from the Reserve Bank of India. There was a

¹⁵ Payment and settlement act, 2007, § 26, No. 51, Act of Parliament, 2007 (India)

¹⁶ Payment and settlement act, 2007, § 26, No. 51, Act of Parliament, 2007 (India)

¹⁷ Payment and settlement act, 2007, § 22, No. 51, Act of Parliament, 2007 (India)

¹⁸ Chandana Pradeep, Legalities relating to Indian electronic payment systems, Ipleaders, 9 June 2023, 11:29 PM IST, <https://blog.ipleaders.in/legalities-relating-to-indian-electronic-payment-systems/>

capital fixed by the apex bank of 15 crores which will eventually increase to 25 crores. In case of changes in ownership or any kind of policy, it will be supervised by Reserve Bank. The Bank will run a background check on the payment aggregator's history and evaluate the intention of not causing any fraud in the business. The board is to be set up to look after the payment aggregators whether they are following the guidelines or not.

XI. CONCLUSION

Digital payment is the new future of the world. This system of technology makes the process effective easier and more transparent. The digital payment system is widely popular in India. The most popular use of such transactions by the common man is UPI, Wallet, etc. There is an appropriate guideline given for the regulation of the system but it is not enough. As there is no appropriate statute formed currently that can comply with present technology hence legislation should make proper statutes particularly looking after this system and also addressing the threat. Even though Indian authorities are trying hard for people to accept such a system, India still lags in digital literacy. India must work on the literacy of the people and also remove social barriers.
