

VEER NARMAD SOUTH GUJARAT UNIVERSITY, SURAT
Bachelor of Commerce Bachelor of Law (Honours) [B.Com.LL.B.(Hons.)]

Semester - VII

BCL – 401 Civil Procedure Code & Limitation Act

1. Introduction :

1.1 Concepts

1.1.1 Affidavit, Order, Judgment decree, Plaint, restitution, execution, decree-holder
Judgment -debtor, mesne profits, Written Statement.

1.1.2 Distinction between decree and judgment and between decree and order.

2. Jurisdiction

2.1 Kinds

2.1.1 Hierarchy of courts

2.2 Suit of Civil nature-scope and limits

2.3 Res-subjudice and Resjudicata

2.4 Foreign judgment -enforcement

2.5 Place of suing

2.6 Institution of suit

2.6.1 Parties to suit: joinder, mis-joinder or non-joinder of parties: representative
suit.

2.6.1.1 Frame of suit: cause of action

2.6.2 Alternative disputes resolution (ADR)

2.6.3 Summons

3. Pleadings

3.1 Rules of pleading, signing and verification.

3.1.1. Alternative pleading

3.1.2. Construction of pleadings

3.2 Plaint: particulars

3.2.1 Admission, return and rejection

3.3 Written statement: particulars, rules of evidence

3.3.1 Set off and counter claim : distinction

3.4 Discovery, inspection and production of documents.

- 3.4.1 Interrogatories
- 3.4.2 Privileged documents
- 3.4.3 Affidavits

4. Appearance, examination and trial

- 4.1 Appearance
- 4.2 Ex-prate procedure
- 4.3 Summary and attendance of witnesses
- 4.4 Trial
- 4.5 Adjournments
- 4.6 Interim orders: commission, arrest or attachment before judgment, injunction and appointment of receiver
- 4.7 Interests and costs

5. Execution

- 5.1 The concept
- 5.2 general principles
- 5.3 Power for execution of decrees
- 5.4 Procedure for execution (Ss.52-54)
- 5.5 Enforcement, arrest and detection(Ss.55,59)
- 5.6 Attachment (Ss.60-64)
- 5.7 Sale (Ss.65-97)
- 5.8 Delivery of property
- 5.9 Stay of execution

6. Suit in particular cases

- 6.1 By or against government (Ss.79-82)
- 6.2 By aliens and by or against foreign rulers or ambassadors (Ss.83-87A)
- 6.3 Public nuisance (Ss.91-93)
- 6.4 Suits by or against firm
- 6.5 Suits in forma pauperis
- 6.6 Mortgages
- 6.7 Interpleaded suits
- 6.8 Suits relating to public charities

7. Appeals

- 7.1 Appeals from original decree
- 7.2 Appeals from appellate decree
- 7.3 Appeals from orders
- 7.4 General provisions relating to appeal

- 7.5 Appeal to the Supreme Court
- 8. Review, reference and revision**
- 9. Miscellaneous**
 - 9.1 Transfer of cases
 - 9.2 Restitution
 - 9.3 Caveat
 - 9.4 Inherent powers of courts
- 10. Law reform : Law Commission on Civil Procedure- amendments**
- 11. Law of Limitation**
 - 11.1 The concept-the law assists the vigilant and not those who sleep over the rights.
 - 11.2. Objet.
 - 11.3. Distinction with laches, acquiescence, prescription.
 - 11.4. Extension and suspension of limitation
 - 11.5. Sufficient causes for not filing the proceedings
 - 11.5.1 Illness
 - 11.5.2 Mistaken legal advise
 - 11.5.3 Mistaken view of law
 - 11.5.4 Poverty, minority and Purdha
 - 11.5.5 Imprisonment
 - 11.5.6 Defective vakalatnama
 - 11.6 Legal liabilities
 - 11.7 Foreign rule of limitation : contract entered into under a foreign law
 - 11.8 Acknowledgement - essential requisites
 - 11.9 Continuing tort and continuing breach of contract.

Select bibliography

- Mulla Code of Civil Procedure(1999), Universal, Delhi
- C.K. Thaker: Code of Civil Procedure(2000), Universal, Delhi
- M.R. Mallick: B.B. Mitra on Limitation Act(1998), Eastern, Lucknow
- Majumdar P.K. & Kataria R.P.: Commentary on the Code of Civil Procedure, 1908(1998), Universal, Delhi
- Saha A.N. : The Code of Civil Procedure(2000),Universal, Delhi
- Sarkar's: Law of Civil Procedure CodeVols(2000), Universal, Delhi.
- Universal's Code of Civil Procedure (2000)

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BCL – 402 Banking Law

Objectives of the course

A vitally important economic institution the banking system is deeply influenced by socio-political and economic changes. The emerging changes in India, particularly after the initiation of the planning process as an instrument of rapid economic development had moulded and affected the banking structure, policies, patterns and practices. A significant development in the banking system is diversification in banks financing. The commercial banks entered 'into the field of wide ranging financial assistance to industry, both large and small scale, requiring the need for social control of the banking system eventually leading to the nationalisation of banks.

The conventional banking system, found to be deficient for planned developmental purposes, paved the way for developmental banking. The fag end of the last millennium witnesses influx of foreign banking companies into India and a shift in the banking policy as part of the global phenomenon of liberalisation. The legal system is adopting itself into the new mores.

This course is designed to acquaint the students with the conceptual and operational parameters of banking law, the judicial interpretation and the new and emerging dimensions of the banking system.

The course will comprise of about 42 units of one-hour duration each spread over a period of one semester.

Syllabus

1. Introduction
 - 1.1. Nature and development of banking
 - 1.2. History of banking in India and elsewhere -indigenous banking-evolution of banking in India - different kinds of banks and their functions.
 - 1.3. Multi-functional banks - growth and legal issues.
2. Law Relating to Banking Companies in India
 - 2.1. Controls by government and its agencies.

- 2.1.1. On management
 - 2.1.2. On accounts and audit
 - 2.1.3. Lending
 - 2.1.4. Credit policy
 - 2.1.5. Reconstruction and reorganisation
 - 2.1.6. Suspension and winding up
 - 2.2. Contract between banker and customer: their rights and duties
3. Social Control over Banking
- 3.1. Nationalization
 - 3.2. Evaluation: private ownership, nationalisation and disinvestment
 - 3.3. Protection of depositors
 - 3.4. Priority lending
 - 3.5. Promotion of under privileged classes
4. Deposit Insurance
- 4.1 The Deposit Insurance Corporation Act 1961: objects and reasons
 - 4.1.2 Establishment of Capital of DIC
 - 4.1.3 Registration of banking companies insured banks, liability of DIC to depositors
 - 4.1.4 Relations between insured banks, DIC and Reserve Bank of India
5. The Central Bank
- 5.1. Evolution of Central Bank
 - 5.2. Characteristics and functions
 - 5.3. Economic and social objectives
 - 5.4. The Central Bank and the State - as bankers' bank
 - 5.5. The Reserve Bank of India as the Central Bank

- 5.5.1. Organisational structure
- 5.6. Functions of the RBI
 - 5.6.1. Regulation of monetary mechanism of the economy
 - 5.6.1.1. Credit control
 - 5.6.1.2. Exchange control
 - 5.6.1.3. Monopoly of currency issue
 - 5.6.1.4. Bank rate policy formulation
 - 5.7. Control of RBI over non-banking companies
 - 5.7.1. Financial companies
 - 5.7.2. Non-financial companies
- 6. Relationship of Banker and Customer
 - 6.1. Legal character
 - 6.2. Contract between banker and customer
 - 6.3. Banker's lien
 - 6.4. Protection of bankers
 - 6.5. Customers
 - 6.5.1. Nature and type of accounts
 - 6.5.2. Special classes of customers - lunatics, minor, partnership, corporations, local authorities
 - 6.6. Banking duty to customers
 - 6.7. Consumer protection: banking as service
- 7. Negotiable Instruments
 - 7.1. Meaning and kinds
 - 7.2. Transfer and negotiations
 - 7.3. Holder and holder in due course

- 7.4. Presentment and payment
- 7.5. Liabilities of parties
- 8. Lending by Banks
 - 8.1. Good lending principles
 - 8.1.1. Lending to poor masses
 - 8.2. Securities for advances
 - 8.2.1. Kinds and their merits and demerits
 - 8.3. Repayment of loans : rate of interest, protection against penalty
 - 8.4. Default and recovery
 - 8.4.1. Debt recovery tribunal
- 9. Recent Trends of Banking System in India
 - 9.1. New technology
 - 9.2. Information technology
 - 9.3. Automation and legal aspects
 - 9.4. Automatic teller machine and use of internet
 - 9.5. Smart card
 - 9.6. Use of expert system
 - 9.7. Credit cards
- 10. Reforms in Indian Banking Law
 - 10.1. Recommendations of committees: a review

Select bibliography

Basu, A. Review of Current Banking Theory and Practise (1998) Mac millan

M. Hapgood (ed.), Pagets' Law of Banking (1989) Butterworths, London

R. Goode, Commercial Law, (1995) Penguin, London.

Ross Cranston, Principles of Banking Law (1997) Oxford.

L.C. Goyle, The Law of Banking and Bankers (1995) Eastern

M.L. Tannan, Tannan's Banking Law and Practice in India (1997) India Law House, New Delhi, 2 volumes

K.C. Shekhar, Banking Theory and Practice (1998) UBS Publisher Distributors Ltd. New Delhi.

M. Dassel, S. Isaacs and G. Pen, E.C. Banking Law, (1994) Lloyds of London Press, London

V. Conti and Hamaui (eds.), Financial Markets' Liberalization and the Role of Banks', Cambridge University Press, Cambridge, (1993).

J. Dermine (ed.), European Banking in the 1990s' (1993) Blackwell, Oxford.

C. Goodhart, The Central Bank and the Financial System (1995), Macmillan, London

S. Chapman, The Rise of Merchant Banking (1984) Allen Unwin, London

K. Subrahmanyam, Banking Reforms in India (1997) Tata McGraw Hill, New Delhi.

Subodh Markandeya and Chitra Markandeya, Law Relating to Foreign Trade in India: Being a Commentary on the Foreign Trade, (Development and Regulation) Act 1992, Universal Law Publishing Co. Pvt. Ltd. Delhi.

R.S. Narayana, The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993), Asia Law House, Hyderabad.

M.A. Mir, The Law Relating to Bank Guarantee in India (1992), Metropolitan Book, New Delhi.

Anthony Pierce, Demand Guarantees in International Trade (1993) Sweet & Maxwell,

Ross Cranston (ed.) European Banking Law: The Banker-Customer Relationship (1999) LLP, London

Mitra, The Law Relating to Bankers' Letters of Credit and Allied Laws, (1998) University Book Agency, Allahabad.

R.K. Talwar, Report of Working Group on Customer Service in Banks

Janakiraman Committee Report on Securities Operation of Banks and Financial Institution (1993)

Narasimham Committee report on the Financial System (1991)- Second Report (1999)

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BCL – 403 Direct Taxation Law

Unit I: Basic Concepts & Definitions:

Assesses, previous year, Assessment year, Sources of income, Heads of income, Gross total income, Total income,

Residential Status and Incidence of Tax: Residential status of all persons except company, Incomes which do not form part of Total Income.

Unit II: Income from Salary

Income from Salaries, Standard deduction, Valuation of perquisites, Calculation of tax, Tax deductible at source.

Unit III: Income from House property & Business and Profession.

Income from House property, Profits and Gains from Business and Profession.

Unit IV: Income from Capital Gains and other sources

Capital Gains, Income from Other sources, Clubbing of incomes and aggregation of incomes, Set off and Carry forward of losses, Deductions to be made in computing total income.

Unit V: Tax Management

Tax planning, Tax Evasion, Tax avoidance, Recovery and Refund of Tax, Appeals and Revision, Penalties, Offences and Prosecutions.

Suggested Readings:

1. Palkhiwala, N., *Income Tax*, Tripathi Publication.
2. Prasad, B., *Income Tax Law & Practice*, Vishwa Prakashan.
3. Santaram, R., *Tax Planning by Reports*, Taxman, New Delhi.
4. Singhanian, V.K., *Direct Taxes, Law & Practice*, Taxman, New Delhi.
5. Mehrotra, H.C. & Goyal, S.P., *Direct Taxes law & Practice* Sahitya Bhawan, Agra.
6. Prasad, Bhagwati, *Direct Taxes law & Practice* Vishwa Prakashan, New Delhi.
7. Ahuja, Girish & Gupta, Ravi, *Simplified Approach to Income Tax*, Sahitya Bhawan, Agra.

Semester - VII

BCL – 404 Law on Corporate Finance

Course Objectives: The underlying objective of this course is to provide the student with an insight into the intricacies of share and stock markets, prevention of money laundering activities and role semi in tackling such problems.

Unit -1: Shares and Debentures

1. Shares, debentures, money market instruments
2. Commodities

Unit -2: Prevention of Money Laundering Act, 2002

Preliminary

1. Definitions
2. Offence of money laundering
3. Punishment
4. Attachment, adjudication, confiscation
5. Obligation of banking companies, financial institutions, intermediaries

Unit -3: Summons and Appeals

1. Summons, search ,and seizures
2. Appellate tribunal
3. Special courts
4. Authorities under the act

Unit -4: Securities and Exchange Board of India Act, 1992

Constitution and Powers

1. Definitions
2. Constitution of SEBI board
3. Powers and functions of board

Unit -5: Penalties

1. Penalties
2. Adjudication
3. Appellate tribunal
4. Powers of central government

Suggested Readings:

1. *Bare Act of Money laundering Act,2002*
2. *Bare Act of SEBI Act, 1992.*
3. *Dr. E. Gordon & Prof. K. Natarajan, Financial Markets & Services, 2nd edition 2011 Himalaya publication.*
4. *Bhole L.M, Financial Institution and Market, Tata Mc-Graw Hill Publishing Company.*

Semester - VII

BCL – 405 Competition Law

Course Objectives: The objective of the course is to provide know how to a student about competitive agreements during business dealings and the mechanism to control them.

Unit -1: Competition Act, 2002

Preliminary

1. Definitions, anti-competitive agreements, prohibition of abuse of dominant position, regulation of combinations
2. Competition commission of India, establishment ,constitution, terms of office of chair person and members

Unit -2: Duties and functions

1. Duties, functions powers
2. Duties of director general

Unit -3: Penalties and Procedure

1. Penalties and procedures
2. Competition advocacy

Unit -4: Appellate Bodies

1. Competition appellate tribunal
2. Constitution, functions, powers

Unit -5: Miscellaneous Powers (Section 54 to 65)

Suggested readings:

1. *Bare Act of competition Act, 2002*
2. *K.S. Anantharaman, "Company Law and Competition Act", Jain Book Agency New Delhi.*
3. *D.P. Mittal, Taxmann's Coompetition Law & Practice, Taxmann Publication, New Delhi, 3rd Edition, 2011.*
4. *T. Ramappa, Competition Law in India: Policy, Issues, and Developments, Oxford University Press, New Delhi, 2006.*
5. *Abir Roy and Jayant Kumar, Competition Law in India, Eastern Law House, Kolkata, 2008.*