

PGDM / PGDM (IB) Batch 2012-14
Banking Laws and Operations
Course Code: (DM 511 / IB 415)

Trimester –IV, End –Term Examination: September 2013

Time allowed: 2.5 hours

Maximum Marks: 50

Instruction: Students are required to write Roll No. on every page of question paper. Writing anything except the Roll No will be treated as **Unfair Means**. In case of rough work please use answer sheet.

Section A :

15 marks

Attempt any 3 questions. Each question carries 5 marks . Word limit : around 150

1. Define a customer and determine the nature of banker- customer relationship in following situations with reasoning for your answer:

- a. P has a locker facility with the bank.
- b. Q has deposited Rs.20,000 with the bank on 18.09.2013, for issue of demand draft in favour of his friend payable at Ludhiana but draft could not be issued due to system shut down for whole day due to some technical fault.
- c. R has demand loan account against security of his Fixed deposit with the same branch.
- d. S handed over some securities for safe custody with the bank and later died.
- e. T has given cheques for Rs. 25,000 for collection and credit to his own account with the bank.

(1x5)

2. a) A customer has three fixed deposits of Rs.5000, Rs.10,000 and Rs.8,000 due on 26.09.13, 05.10.13, and 01.12.13, respectively. On 26.09.13, the due date for FDR for Rs.5000, (plus accrued interest of Rs.1,500) customer wants to get payment of this deposit with interest in cash. Will bank pay in cash? Give answer with justification.

b) Give reasons why each one of the following is correct or incorrect?

- i. a bill dated 30th Sept. 2013 payable 3 months after date will mature on 2nd January, 2013
- ii. a bill dated 1st August 2013 payable 30 days after date, matures on 3rd September 2013
- iii. a bill dated 1st August 2013 payable one month after date, matures on 1st September 2013
- iv. a bill dated 28th July, 2013 payable 30 days after sight is accepted on 4th August, 2013, will mature on 6th Sept 2013
- v. a bill matures on 25th December 2014 which is a public holiday, it will be due for payment on 26th December 2013.

(2.5+2.5)

3. a) What activities banks can and cannot undertake as per Banking Regulations Act?

b) Define a *Scheduled* Commercial Bank and elaborate qualifications required for that.

(2.5+2.5)

4. a) Giving reasons, elaborate if the following cheques are drawn correctly or not for a "certain person" as per requirement of NI Act:
- i. a cheque payable to X and Z
 - ii. a cheque payable to Cash
 - iii. a cheque payable to bearer without any name filled up
 - iv. a cheque payable to self or bearer

b) The word 'bearer' printed on a cheque form is struck off. Does it make the cheque non-transferable or non-negotiable, or does it render it payable only to the payee. Is it not negotiable as such? Discuss.

(2.5+2.5)

5. a) Briefly discuss two situations where protection is available to a **paying banker** under the *Negotiable Instruments Act* and one situation where no protection is available at all.

b) Discuss the liability of drawer for Dishonor of a cheque due to insufficiency of funds under section 138.

(2.5+2.5)

Section B:

20 marks

Attempt any 2 questions. Each question carries 10 marks. Word limit: around 500 for each full question with all parts

6. Giving suitable examples, bring out main differences between the following:

- a) 'Account Payee' crossing and 'Not Negotiable' crossing
- b) Equitable Mortgage and Registered Mortgage
- c) Trade bill and accommodation bill
- d) Negotiable instruments by statute and by usage or customs

(2.5x4)

7. Attempt any 4 of the following :

- a) Describe conditions for exercising a Right of set off by the banker
- b) Describe situations for extension of original limitation period available to a banker to file suit against a borrower
- c) Discuss the liabilities of a guarantor
- d) Bank has a lien on safe custody articles like shares or jewellery, documents deposited for special purpose like bills given for collection to pay for another bill liability, shares given for sale above a certain price and lying unsold, or money tendered for remittance to some other person or securities held in trust or securities left with bankers negligently. Discuss the statement in view of existing law.

- e) In the joint account of And B operated on Former or Survivor basis, on death of A , balance was paid by the branch manager to B. Legal heirs of A now claim full share in the joint account from the bank. Is their claim tenable in law?

(2.5 x 4)

8. a) Briefly describe recovery process under SERFAESI ACT -2002 to recover NPAs.
- b) What are the charges that require registration with *Registrar of Assurances* ? What are the objectives of such registration? What is the implication, if registerable charge is not registered?

(5+5)

Section C :

15 marks

c) Compulsory case (carries 15 marks) Word limit : around 750

Case :

Criminal Liability for dishonor of a cheque under section 138 of NI Act

A supplier of raw material AB Enterprises (AB) supplied material to X Co. Ltd. (XL) and got a cheque for Rs. 1,56,000 dated 15th Jan, 2013 from the company. The cheque was signed by Mr. Ramesh Ahluwalia, Director. The cheque was presented for payment to the drawee bank on 19th Jan., 2013 and was dishonoured with the reason "Not arranged for".

AB informed XL verbally the next day 20th Jan., 2013 about dishonour and demanded the amount be paid which XL director regretted and assured to find out the reason of dishonor and come back to them. On waiting and non response from XL, finally, on 28th Feb., 2013, AB served a written notice of dishonor by Regd. A.D with demand to pay the amount in 30 days, on Mr. Ramesh Ahluwalia, Director of XL who had signed the cheque, at the address on record of AB, that was received by his wife.

But XL approached AB to re-present the cheque on 15th April, 2013 and assured it will be paid. In view of past good relations, AB waited and presented the cheque on 15th April, 2013 and it was dishonored with reason "Payment stopped". Actually, there were insufficient funds in the account. AB again served a notice of dishonor and demand on 20th April, 2013 to pay in 30 days. XL did not pay in 30 days of notice and AB filed criminal liability suit in court under Sec 138 of NI Act on 15th June, 2013.

XL (Defendant) has replied in the court in response to court notice as under:

- a. The cheque has not been dishonoured due to the reason of "insufficiency of funds " but due to the reason 'Not arranged for' and second time due to the reason ' Payment stopped' which are not the reasons covered under section 138 of NI Act. Hence criminal suit is not maintainable.
- b. The limitation period has expired as the suit was not filed in 30 days from

20th Jan., 2013, the date of first verbal notice for demand. The limitation period will start only from 20th Jan, 2013 and no fresh cause of action can start from date of second dishonor on 15th April, 2013 as the cause of action is same being the same amount and same cheque dishonoured. Hence, suit is not maintainable at all and must be dismissed with costs to the defendant.

- c. The notice has been served on the director only and notice has not been served on the company. Hence company is not liable due to this lapse. Once company is not liable, the director is also not liable as he signed on behalf of the company.
- d. The notice was served but was not received by the person to whom it was addressed and cannot be treated a proper notice to the director which is must for prosecution under section 138 and suit must be rejected outright.
- e. Mr. Ramesh Ahluwalia is only one of the three directors of the company and all three take care of the affairs of the business together and it cannot be presumed that he alone is responsible even if he alone signed the cheque. As other two have not been charged, he is also acquitted for not making *other responsible persons a party in the suit*.
- f. On all above grounds, AB should file a civil suit and hence this criminal suit be dismissed forthwith.

Required:

You are required to file a point wise reply to the above statement of the defendant in view of correct legal position and court judgments. (You need not quote the judgment cases, if you don't remember)