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RAJASTHAN FINANCIAL CORPORATION
Udyog Bhawan, Tilak Marg, C-Scheme, Jaipur-302005

Ref.No.RFC/F.Law-3/LPM/62/ 677Dated: 17th August, 2016**CIRCULAR**(Lit. 234)

**Sub: Court's territorial jurisdiction for lodging of criminal
 Complaints for dishonour of cheque under the N.I. Act**

This is in supersession to earlier O&M Circular No. 741 dated 28.01.2015 (Lit. 216) on the subject cited above, which was issued to decide the territorial jurisdiction of court for lodging of criminal complaints for dishonour of cheques under the N.I. Act, 1881 in view of the Order dt. 01.08.2014 pronounced by the Hon'ble Supreme Court in Criminal Appeal No. 2287/2009 titled as "Dashrath Rupsing Rathore Vs. State of Maharashtra & Anr.

A new amendment Act i.e. **The Negotiable Instruments (Amendment) Act, 2015** has now been enacted which has come into force on the **15th day of June, 2015**. Vide this Amendment Act, some amendments as well as new sections have been inserted in the principal Act i.e. The Negotiable Instruments Act, 1881. According to the provision of its new Sec.142(2), the offence u/s 138 shall be inquired into and tried only by a court within whose local jurisdiction:-

- (a) the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or
- (b) the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation: For the purpose of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account.

The Ministry of Law And Justice (Legislative Department), GoI has published the said Amendment Act, 2015 in the Gazette of India (Extraordinary) in its issue of 29th December, 2015 Part-II, Section-1. A copy of the Gazette Notification is enclosed herewith for ready reference.

All concerned are advised to make a note of the new provisions of the Amendment Act, 2015 and act accordingly.

Man
 17/8/16
 (Maneesh Chauhan)
 Managing Director

Encl: a/a

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EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

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नई दिल्ली, मंगलवार, दिसम्बर 29, 2015/ पौष 8, 1937 (शक)

No. 41]

NEW DELHI, TUESDAY, DECEMBER 29, 2015/PAUSHA 8, 1937 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 29th December, 2015/Pausha 8, 1937 (Saka)

The following Act of Parliament received the assent of the President on the 26th December, 2015, and is hereby published for general information:—

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) ACT, 2015

No. 26 OF 2015

[26th December, 2015.]

An Act further to amend the Negotiable Instruments Act, 1881.

BE it enacted by Parliament in the Sixty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Negotiable Instruments (Amendment) Act, 2015.

Short title and commencement.

(2) It shall be deemed to have come into force on the 15th day of June, 2015.

26 of 1881.

2. In the Negotiable Instruments Act, 1881 (hereinafter referred to as the principal Act), in section 6,—

Amendment of section 6.

(i) in *Explanation 1*, for clause (a), the following clause shall be substituted, namely:—

(a) "a cheque in the electronic form" means a cheque drawn in electronic form by using any computer resource and signed in a secure system with digital signature (with or without biometrics signature) and asymmetric crypto system or with electronic signature, as the case may be;

(ii) after *Explanation II*, the following *Explanation* shall be inserted, namely:—

Explanation III.—For the purposes of this section, the expressions "asymmetric crypto system", "computer resource", "digital signature", "electronic form" and "electronic signature" shall have the same meanings respectively assigned to them in the Information Technology Act, 2000.

21 of 2000.

Amendment
of section
142.

3. In the principal Act, section 142 shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

"(2) The offence under section 138 shall be inquired into and tried only by a court within whose local jurisdiction,—

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated.

Explanation.— For the purposes of clause (a), where a cheque is delivered for collection at any branch of the bank of the payee or holder in due course, then, the cheque shall be deemed to have been delivered to the branch of the bank in which the payee or holder in due course, as the case may be, maintains the account."

Insertion of
new section
142A.

4. In the principal Act, after section 142, the following section shall be inserted, namely:—

"142A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any judgment, decree, order or direction of any court, all cases transferred to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times.

2 of 1974.

Validation for
transfer of
pending cases.

(2) Notwithstanding anything contained in sub-section (2) of section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of section 142 or the case has been transferred to that court under sub-section (1) and such complaint is pending in that court, all subsequent complaints arising out of section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Act, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015, before which the first case was filed and is pending, as if that sub-section had been in force at all material times.

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Ord. 7 of
2015.

5. (1) The Negotiable Instruments (Amendment) Second Ordinance, 2015, is hereby repealed.

Repeal and
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.