

# **CHANAKYA NATIONAL LAW UNIVERSITY PATNA**

## **SEMESTER – VIII**

### **Syllabus      Drafting Pleading and Conveyancing**

**Name of the Faculty: Dr. B.R.N. Sarma**

#### **Unit-I General Principles of Drafting**

- Meaning and Definition of Drafting
- Distinction between Drafting and Conveyancing
- General principles of Drafting all sorts of Deeds and conveyancing and other Writings
- Interpretation of Deeds and Documents

#### **Unit –II Conveyancing**

- Meaning of conveyancing
- Essence of drafting of conveyance
- Basic fundamentals of conveyancing
- Requirements/parts of conveyance
- Division of instruments of conveyancing

#### **Unit –III Deeds**

- Meaning of Deed
- Basic Components of Deeds
- Types of Deeds and inter-se Difference between various deeds
- Requisites of Deed

#### **Unit - IV Agreements and Notices**

- Agreements
- General principles of Valid Agreement
- Guiding principles for drafting of Agreement Deed
- Drafting of various Agreements – sale Agreements, Arbitration Agreements, Lease Agreement
- Notices
- Guiding principles for drafting of Notice
- Drafting of various model Notices

#### **Unit-V Drafting of Various Deeds**

- Sale Deed, Mortgage Deed, Lease Deed, Gift Deed, Promissory Note, Power of Attorney, Will, Partnership Deed

#### **Unit-VI Pleadings**

- Meaning and object of Pleadings in General
- General principles of Pleadings
- Functions of Pleadings

- Oral pleadings
- Particulars of pleadings
- Alternative and inconsistent pleadings
- Amendment of pleadings

## **Unit –VII Drafting of various forms of Civil Pleading**

- Complaint
- Written Statement
- Interlocutory Applications
- Affidavit
- Execution Petition
- Memorandum of Appeal
- Revision Application
- Writ Petitions

## **Unit – VIII Drafting of various forms Criminal Pleadings**

- Complaint (FIR, Informatory Petition, Protest)
- Criminal Miscellaneous Petitions
- Bail Applications
- Memorandum of Appeal
- Revision

## **Books Recommended**

1. Pleading & Drafting By N.S. Bindra
2. Desouza's Conveyancing – Eastern Law House
3. Mogha's Law of Pleading in India – Eastern Law House
4. Mogha's Indian Conveyance - Eastern Law House
5. Law & Practice of Conveyancing – Snow White
6. Drafting & Conveyancing – S.P. Agarwal – Butter Worth
7. Textbook on pleading, drafting and conveyancing - Kafaltiya, AB
8. Art of Conveyancing and pleading – Murli Manohar
9. Pleadings, Drafting and Conveyancing – R.N.Chaturvedi
10. Conveyancing precedents and Forms – Shiv Gopal

## **IPR LITIGATIONS, VIII SEM.**

**Name of the Faculty: Prof. Dr. S.C. Roy**

### **A. INTRODUCTION:**

1. Understanding IP Litigations.
2. Growth of IP Litigation.: TRIPS Agreement

### **B. IP DISPUTES IN INDIA:**

- i. The Copyright Act, 1957.
- ii. The Patent Act, 1970.
- iii. The Trademarks Act, 1999.
- iv. The Designs Act 2000 .
- v. The Semiconductor Integrated Circuits Layout Designs Act, 2000.
- vi. Geographical Indications of Goods (Registration and Protection) Act 1999.
- vii. Plant Varieties and Farmer's Rights Act 2001.

### **C. DISPUTE REDRESSAL:**

1. Civil Litigation
2. Criminal Litigation
3. Arbitration

### **D. FOREIGN CASES:**

1. Copyrights:
2. Patents
3. Trade Marks
4. Design
5. Semi-conductor
6. GI
7. PVFRA

### **E. Intellectual Property Appellate Board.**

### **F. The Commercial Courts Act 2015 and IP Disputes.**

### **G. IP DISPUTES in Information technology Regime.**

### **H. WTO disputes in IP.**

--Prof. Dr. S.C. Roy

# **LAW OF BANKING AND FINANCE**

**B.A. , LL.B. (Hons.) and B.B.A. , LL.B. (Hons.)**

**8<sup>th</sup> Semester Course**

**Faculty**

**Mr. Abhishek Kumar**



**Chanakya National Law University, Patna**

### **Module I: Introduction**

- Historical Aspects of Banking in India
- Essentials of Banking Company
- Different Kinds of Banks
- Functions of Banks
- Regulation of Banks

### **Module II: Social Control**

- Nationalization of Banking Companies
- Objectives of Nationalization
- R.C Cooper v. Union of India (Bank Nationalization Case)
- Protection of Depositors

### **Module III: Banks and Customers Relation**

- Who is a banker?
- Who is a Customer?
- Banking Services
- Relationship between Banker and Customer

### **Module IV: Computer Banking**

- Core Banking Solutions
- Essential Requirement of CBS
- Banking Services through Information
- Real Time Gross Settlement System (RTGS)

### **Module V: Reserve Bank of India**

- Evolution of R.B.I
- Power and Functions of R.B.I
- Control over Financial and Non-financial companies

### **Module VI: Legal Scenario**

- Banking Regulation Act, 1949
- Information Technology Act, 2000
- The Consumer Protection Act, 1986
- The Reserve Bank of India Act, 1934
- The Negotiable Instruments Act, 1882

○ **Reading Materials:**

1. Basu, A. *Review of Current Banking Theory and Practice* (1998) Mac millan.
2. M.L. Tannan, *Tannan's Banking Law and Practice in India* (1997) India Law House, New Delhi, 2 volumes.
3. K. Subrahmanyam, *Banking Reforms in India* (1997) Tata Maigraw Hill, New Delhi.
4. R.S. Narayana, *The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (51 of 1993)*, Asia Law House, Hyderabad.
5. Mitra, *The Law Relating to Bankers' Letters of Credit and Allied Laws* (1998) University Book Agency, Allahabad.
6. Narasimham Committee *Report on the Financial System* (1991)- Second Report (1999).

# **CHANAKYA NATIONAL LAW UNIVERSITY**

## **Syllabus for the LAW OF INSURANCE**

### **Semester VIII**

**Academic Session- January –April, 2022**

**Course Teacher: Nidhi Kumari**

### **Objectives:**

Insurance Law is a subject that has traditionally played a very important role in the development of commerce across the world. A thorough understanding of this subject requires the students to have a good grasp of the basics of the law of contracts. This subject is mainly about allocation of risks. And to understand which party to the contract can bear what kinds of risks better, it would also require a good knowledge of the way incentives work. This brings us to the relationship between insurance law and economics. Thus, this course has been framed, and would be delivered, in a way that is more interdisciplinary and practical.

This course is designed to acquaint the students, pursuing B.A., LL.B. (Hons.) or B.B.A., LL.B. (Hons.) five year programme, with the conceptual and operational parameters, of insurance law.

### **MODULE- I**

#### **INTRODUCTION:**

- a) Definition, nature and history of insurance
- b) Concept, nature and theories of Insurance
- c) Role of Insurance in globalized economy

### **MODULE- II**

#### **GENERAL PRINCIPLES OF LAW OF INSURANCE:**

- a) Essential elements of insurance contracts.
- b) Formation of insurance contracts.
- c) Nature of insurance contracts
  - Contract of Aleatory
  - Contract of *Uberrima fides*
  - Contract of Indemnity
  - Contract of Wager
- d) Insurable interest
- e) Assignment of Insurance policies
- f) Warranties & disclosures
- g) Double insurance & re-insurance
- h) Doctrine of Contribution and Subrogation

**Total Number of Lectures: 20**

## **MODULE- III**

### **LIFE INSURANCE:**

- a) Nature & scope of life insurance
- b) Kinds of life insurance contracts
- c) Life Insurance Products and Documents
- d) Underwriting, Pricing and Servicing
- e) Events insured against in life insurance
- f) Factors affecting risk in life insurance
- g) Persons entitled to payment under life insurance
- h) Settlement of claims

**Total Number of Lectures: 10**

## **MODULE- IV**

### **FIRE INSURANCE**

- a) Origin and Object of Fire Insurance
- b) Basic principles of Fire Insurance contracts.
- c) Nature, Meaning, significance of fire insurance.

## **MODULE- V**

### **MARINE INSURANCE:**

- a) Nature and scope
- b) Classification of marine policies
- c) The Marine Insurance Act 1963
- d) Insurable interest, insurable value
- e) Marine insurance policy- condition- express warranties- construction of terms policy
- f) Voyage – deviation
- g) Perils of the sea
- h) Partial loss of ship and of freight, salvage, general average, particular charges

**Total Number of Lectures: 20**

## **MODULE- VI**

### **INSURANCE AGAINST THIRD PARTY RISKS:**

- a) The Motor Vehicles Act, 1988 (Chapter XI) and Recent Amendments
  - Necessity for insurance against third party risk
  - Duty to give information as to insurance
  - limitations on third party's rights

## **MODULE- VII**

### **INSURANCE REGULATION AUTHORITY (IRDAI) – ROLE AND FUNCTIONS**

## **Number of Lectures: 20**

**\*Note: Questions will be asked from all the modules in the End Semester Examination**

### **Suggested Books:**

1. Murthy & K V S Sarma, Modern Law of Insurance, (Butterworth's Wadhwa Publications, Nagpur).
2. SV Joga Rao, MN Srinivasan's Principles of Insurance Law, Lexis Nexis Butterworths Wadhwa, Nagpur
3. Robert Merkin, COLINVAUX'S Law of Insurance, Sweet & Maxwell, South Asian Edition.
4. M. N. Sreenivasan, Law and the Life Insurance Contract, (Butterworth's Wadhwa Nagpur)
5. Mishra, M.N., Law of Insurance Principles and Practice, Radhakrishnan Prakashan
6. Birds, John, Modern Insurance Law, Universal Publishing Co. (Latest Edition)
7. B.C. Mitra, Law Relating to Marine Insurance. Asia Law House, Hyderabad.

### **Suggested Bare Acts:**

1. The Insurance Act, 1938
2. The Insurance Laws (Amendment) Act 2015
3. The Insurance Regulatory Authority Act, 1999
4. The Life Insurance Corporation Act, 1956
5. The Marine Insurance Act, 1963
6. The Motor Vehicles Act, 1988 (Chapter XI)
7. The Consumer Protection Act, 1986
8. The Motor Vehicles (Amendment) Act, 2019.

# **Syllabus**

## **Taxation Laws**

Name of the Faculty: Dr. G.P. Pandey

### **Introduction**

Taxation laws is important part of curriculum and need to be studied thoroughly as to understand the nuances. With tax laws integrally connected with Constitutional Law and Corporate Law, it becomes all the more important to have an idea about the taxation laws so as to excel in corporate law practice. Independently too, litigation as well as corporate side of the subject is very wide and gives students a solid grounding so as to choose tax as a career option when they pass out of law school.

The syllabus has been designed keeping in mind the requirement of students and to make them familiar with important principles, the foundation on which a broader base can be built in future. The syllabus takes care of familiarising students with basic constitutional principles applicable in context of taxation laws, the principles related to income and its application, theory of residence in case of companies and individuals, the principle of place of effective management, agricultural income and its exemption from taxation, basic principles relating to taxable income and international taxation. The topics have been covered in such a way so as to give the students a fairly basic idea about taxation.

### **Objective of the Course:**

1. To understand the basic principles of taxation.
2. To enhance the knowledge of tax jurisprudence.
3. To learn the latest development in tax jurisprudence, nationally and internationally.
4. To build logical reasoning for resolving the tax problems.

## **Module I.**

### **Basic principles of Constitutional Law in context of taxation.**

This module covers the basic constitutional principles as applicable to taxation laws like the various lists in the Seventh Schedule, Difference between taxation entries and general entries, distribution of taxation powers between the Union and the States etc. This is primary designed to make students aware of the Constitutional basis of taxation.

## **Module II.**

### **Principles related to application and diversion of income.**

This module covers the basic principle of taxation that only the real income accruing to a tax payer is to be taxed. If the income is diverted and does not accrue to the tax payer, then such income cannot form part of taxable income. Therefore, the distinction between application and diversion of income becomes important for determining the taxable income of the assessee.

## **Module III.**

### **Agricultural Income and its exemption from taxation.**

This module covers in detail the agricultural income and its exemption from taxation. Since agriculture income is exempt for taxation then determination of issues like what constitutes agricultural income, under what circumstances it may be exempted etc. become important.

## **Module IV.**

### **Scope of Total Income.**

The tax liability of a resident and non resident is evaluated on the basis of principles incorporated in Section 5 of the Income Tax Act. This section basically deals with the scope of total income and how this is applied to arrive at the income tax liability of various entities.

## **Module V**

### **Principles of Residence and its implication on tax liability.**

Determination of residence of a tax payer is important because it changes the tax liability of tax payer varies on his status of being a resident or a non residents. In this context it becomes important to have knowledge about the principles which generally applied to determine the residence of a tax payer.

### **Module VI.**

#### **Place of Effective Management and its implication on tax liability.**

Place of Effective Management is a new concept which has been added to Section 6 of the Income Tax Act to overcome the difficulties in determining the residence of corporations. Since the earlier provision related to artificial persons like Companies, firms, Associations of Persons etc was being taken advantage of by Multi National Corporations to evade or avoid tax in India, therefore the principles related to Place of Effective Management was incorporated in tax laws to tackle the issue of evasion and avoidance of tax by Companies.

### **Module VII.**

#### **Heads of Income.**

This module covers the sources of income and its taxability. The heads from which the income can be derived is divided into five heads. These heads are mutually exclusive and the source from which the income is computed for taxation has unique methods of computation. Though the tax is levied on total income accruing to an assessee, but the income is computed strictly according to the particular method of computation falling under that particular head and relevant sections. The principles which are generally applicable to compute income under various heads are subject matter of discussion.

### **Module IX.**

#### **Salary Income and Income from House Property.**

This module covers the basic principles applicable to computation of salary income and income from house property. When a salary income may be treated as business income and vice versa, when a tax on house property may be levied in context of ownership or possession of the property.

### **Module X.**

#### **Income from Business, Capital gains etc.**

Personal Expenditure v. Business Expenditure; Income from distinct and separate business; Perquisites and Fringe Benefit Tax; Transfer under Capital Gain; Full value consideration.

This module covers the various principles which may be applied for computing income from Business Income and capital gains. This module also covers the basic principles applicable to taxation of such incomes and exemptions granted to tax payer.

## **Module XI.**

### **International Taxation.**

With cross border transactions increasing due to liberalisation, the issue of taxing international transactions has come to the forefront. Earlier with lax attitude towards cross border transactions, various devices were used by companies and individuals to evade tax which was due in India. This often resulted in formation of overseas trusts, creating branches or subsidiaries of Indian Companies in overseas tax heavens to avoid legitimately due taxation in India. However, with various norms coming into existence, these practices are now increasingly under scanner of tax authorities.

The aim of this module is to make students aware of various principles which may be applied to tax these transactions which were hitherto untaxable. The topics covered under the module include understanding the principles related to Permanent Establishments, Transfer Pricing etc.

### **Suggested Readings.**

Income Tax. Kanga and Palkivala.

Principles of Income Tax. Singhania and Singhania. Taxmann Publications. Income Tax Law- Chaturvedi & Pithsaria's

Laws of income tax- Sampath Tyengar's Concise Commentary on Income Tax- Girish Ahuja & Dr Ravi Gupta

The Law & Practice of Income Tax – Dinesh Vyas

### **Suggested Cases for Study.**

#### **Cases for Direct Taxation**

1. CIT v/s G.R.Karthikeyam [(1993)201 ITR 866 (S.C.)]
2. CIT v/s British India Corporation Ltd [(1987)165 ITR 57 (S.C)]
3. ITO v/s Barendra Prasad Roy [(1981)129 ITR 295 (S.C.)]
4. CIT v/s Navnit Lal Sakar Lal [(2000)113 Taxman 692 (S.C)]
5. Mukherjee Estate (p)Ltd v/s CIT [(2000)244 ITR 1]
6. Sakney Steel & Press work Ltd v/s. CIT [(1997)228 ITR 253 (S.C)]
7. Mysore Minerals Ltd v/s CIT [(1999)239 ITR 775 (S.C)]
8. Shakti Trading company v/s CIT [(2001)250 ITR 775 (S.C)]
9. Travancore Rubber & Tea Co. Ltd v/s CIT [(2001)109 Taxman 250 (S.C)]
10. Gowli Buddanna v/s CIT [(1966)60 ITR 293 (S.C)]
11. CIT v/s Dr.V.Gopinathan [(2001)248 ITR 449 (S.C)]

12. Synco Industries Ltd v/s Assessing officer, Income Tax, Mumbai [(2008) 168 Taxman 224 (S.C)]
13. Kerala Road Lines v/s Commissioner of Income Tax, Cochin [(2008) 168 Taxman 308 (S.C)]
14. Commissioner of Income Tax, Chennai v/s Bilahari Investments [(2008) 215 CTR (Mad) 208]
15. Deputy Commissioner of Income Tax, Ahmedabad v/s Core Health Care Ltd. [(2008) 298 ITR 194 (S.C)]
16. K.C.C. Software Ltd & Ors v/s Director of Income Tax [MANU/SC/0821/2008]
17. Commissioner of Income Tax, Bangalore v/s Infosys Technologies Ltd [MANU/SC/0495/2008]
18. Honda Seil Power product Ltd v/s Commissioner of Income Tax, Delhi [(2007) 12 SCC 596].
19. U.P. Forest corporation v/s Dy. Commissioner of Income Tax, Lucknow [(2007) 14 SCC 610].
20. CIT v/s Gujrat Maritime Board [MANU/SC/8188/2007].
21. CIT v/s Williamson Financial Services [(2007) 165 Taxman 638 (S.C)].
22. Union of India v. Azadi Bachao Andolan [(2003) 263 ITR 706 (S.C)].
23. McDowell & Co. Ltd v. CTO [(1985) 154 ITR 148]

Apart from the cases mentioned, other case laws will be discussed in the class and will be supplied for reading.