

THE LEGAL PERSPECTIVE ON E-COMMERCE IN INDIA

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ABSTRACT: *This research consists of the process of evolution of information technology and advancement of trade & commerce under the umbrella of internet world. In this context this research describes about the effects of e-commerce in the online market. It also describes about the requirement of new payment system for Indian online market that is "e-banking" "Which is now accepted by a majority of people in new India. This article discusses the e-commerce, its basic structure, its different types, classification, characteristics, its effect on Indian market and interest of consumers in online market. The aim of the study is to show a clear and descriptive picture of New concept of online shopping & e-banking and its effect on customer behavior. the another issue here is to give an overlook of development of commerce in India from "traditional commerce" to electronic-commerce "also this article paper will make people aware and suggests them solution and the safeguards . This research also has worked on the problems of the online shopping and e -banking of which the people are in fear. Specially the risk of the online transactions in the internet world*

Key Words :

What e-commerce is?

Electronic-commerce is commercial transaction of services through the internet .generally electronic commerce is a type of commerce that fulfils the needs of organizations, traders and consumers it decreases the costs and increases the quality of goods and services as well as enhanced speed of service. Electronic-commerce is not only transaction of data .it includes other commercial acts such as publicity, advertisement, negotiations, contracts and fund transfers¹. We can say electronic-commerce is all about commercial transactions, among private individuals or commercial entity, which is done through networks like internet. the only main thing in electronic commerce is that it is done with the help of electronic medium .electronic-commerce can be done through the devices like telephones, fax machines, automatic teller machines ATM, television and Internet. In short we can say that electronic-commerce has created a new digital market where rates are much transparent, markets are spreading in the world and trading is so efficient.

Advantages of electronic-commerce

The use of electronic commerce is increasing very fast &because of the advancement in technology as well as advancement of Networks, Protocols,etc. Electronic-commerce covers in it various other things like marketing, computer science, consumer behavior, consumer psychology, finance, economy, management information systems, accounting, auditing, management , Banking, business ,law and many other things² E-commerce gives seller the worldwide reach. It has removed the barrier of territory. Now the sellers and the consumers are free to meet in the virtual world of internet. It allows the buyers and sellers the higher amount of gains. It also gives the faster delivery of the goods and services with just a single click by customers. Customer complaints are also resolved easily. It also saves time, energy & efforts for buyers and the sellers. One another good advantage of electronic commerce is that A customer can shop anytime and from any place .as website works all the times through internet , it doesn't have special timings as of the real showrooms. E-commerce also promotes the connection of buyers and sellers with each other and also provides personal touch through the feedback and emails, without any mediators. It facilitates the quick selection of items and online payment transaction. It also gives a personal touch feel to consumer through the internet³.

¹ Kaur Gagandeep, *Jurisprudence of e-commerce*, satyam law international, delhi, 2015, p.17

² *Id* at p.38

³ Retrieved from <advantage of e-commerce, < <https://www.toppr.com/guides/business-environment/emerging-trends-in-business/electronic-commerce/>> visited on 09 march, 2019.

BENEFITS OF E-COMMERCE TO CONSUMERS⁴

1. Electronic-commerce is highly cheaper than old offline commerce, in electronic-commerce there is no such requirement of any physical storage, showrooms, insurances or infrastructure Investment etc. only requirement is just to make a web store which is accessible to the consumers easily
2. E-commerce had made consumer able to shop at any time from any place throughout the year just with the help of internet facility and electronic devices
3. E-commerce provides the customers a large variety of choices; and they can shop from many online sellers and at the cheaper rate by making comparisons.
4. E-commerce regularly provides the consumers cheaper and best goods and services, also allows them to buy from any place and also offers them to compare the goods or services with that of another.
5. E-commerce regulates better customer support and after sale services.
6. It enabled customers to interact with other customers in cyber world communities and exchange ideas and getting reviews by other customers
7. Ecommerce has increased competition among the traders which resulted in discounts to the consumer and then the things become more cheaper because of competition

BENEFITS OF E-COMMERCE TO SOCIETY

1. Electronic-commerce enhanced the promotion and distribution of governmental services such as healthcare, education, distribution of other social services at very lesser cost and with much better quality
2. Electronic-commerce allows the people to get those products and services which are not generally available to them. It includes the online education learning programs available through the medium of internet
3. It makes clothing's & apparels available at cheaper prices because of such cheaper prices the middle class peoples are also able to increase their standard of living
4. It enables a large of peoples to work from their houses and reduces traveling for purchasing, which indirectly reduces the traffic and the pollution which is beneficial for our environment

Disadvantages and risk involved in e-commerce**1. Frauds in e-banking**

Before growth of e-commerce within the earlier offline banking industry the frauds were just like the Misappropriation of funds and criminal breach of trust, manipulation of account books, illegal loans and frauds in foreign currency exchange etc.

Even now frauds are done on customers in markets, but modes of these dishonest acts have now become very refined and sophisticated. as technological advancements have given a lots of facilities to consumers in Cyber World, but it has also evolve the new types of crimes in the world of internet such as: cyber money laundry or E money laundering, credit card fraud's, phishing, pharming, ATM frauds, unwanted programs like: adware, spyware, browser parasites, cyber vandalism and viruses⁵

2. Defective delivery of goods

As the advancement of the technology and the e-commerce the consumer are getting benefitted through the e-commerce as the consumers can now order their products online and can get it to their home directly without approaching to any physical shop and just through the courier facilities by the seller all they need is just to click a button from their devices and the things are provided them to their door by the sellers. But sometime there are problems like delay in the service of the couriers due to which sometimes the consumers have to suffer and their money are stucked to the seller until they get the product delivered, sometimes in the transit the product which is to be deliver gets physically effected in the transportation and also gets some scratches or gets damaged and in case of the clothing's and apparel sometimes the sizes of the clothing's do not get fit to the consumer and the replacement of which takes a very long time as compared to the physical world of shopping. so this is one of the disadvantage in e-commerce as the customers sometimes prefer to go on physical shop and try and check themselves the things they want to buy. even the concept of e-shopping fails in cases where the subject matter of shopping is the perishable goods or jewelleries or fabrics raw vegetables, which the customer prefers to touch, feel and then buy. So we can say there are some disadvantages of e-commerce over the physical and ancient commerce

⁴ T.N.Chhabra, R.K.Suri and Sanjiv Verma, *cybercrime*, 2008, PP.1.17-1.18

⁵ *Supra* note 9, p.58

STATEMENT OF THE PROBLEM

THERE ARE PROBLEMS IN THE E-COMMERCE WHICH CREATES A SENSE OF FEAR IN THE MIND OF THE CONSUMER WHILE USING THE E-COMMERCE AND IT DEMORALISES THE CONSUMER AND STOPS THE PROMOTION OF E-COMMERCE AS THE CONSUMER IS IN FEAR OF THE LOSS OF HIS HARD EARNED MONEY AND ALSO THE OTHER BAD EFFECTS OF THE E-COMMERCE ACTIVITIES WHICH DIRECTLY OR INDIRECTLY EFFECTS THE CONSUMER AND DEMOTIVATES THEIR EFFORTS FOR USING THE ONLINE OPTION INSTEAD OF THE OFFLINE METHODS OF THE COMMERCE SO THE RESEARCHER HAS SELECTED THIS TOPIC OF E-COMMERCE (with reference to "THE INFORMATION TECHNOLOGY ACT 2000 Act")

The specific object of the study are as follows:

- 1 To study the concept of e-banking in online shopping including Frauds and legal control mechanism in India
- 2.to study the Indian law on e-commerce i.e. Information Technology Act 2000(2008)
- 3.to study and find out the loop holes present in the laws of India

E-Banking in online shopping: the information technology has really changed the system of banking in Indian financial system as with the help of internet ,intranets and other networks as the banking system after the development of the internet technology the banks are now interconnected with each other and now there is no limitations on the consumer to transact from any bank and one can withdraw or deposit money from any bank to any bank immaterial of the home branch of the consumer .as now all the banks are connected to each other t has become really easy for the customer to transact from any part of the country and also the new concept of internet banking or e-banking has now also reduced the burden from the bank employees as now one can pay from their just directly by a single click also now one can transfer the money directly from one account to another which indirectly reduces the crowd from the banks and there is no need to stand in the queue of the banks even now the banks has started the disbursal of loans directly to the account of the consumers and also one can apply for it through the internet also. there are many more things which are offered by the e-banking to the online shopping's. like EMI options and many other discount offers in e-commerce websites

Modes of payments in e-banking

- I. **Electronic fund transfer:** it is the transfer of funds without involvement of any paper currency or other physical instruments.EFT is done directly from one account to another and requires the facility of internet and electronic devices like computers
- II. **Direct deposits:** direct deposit means electronic funds are deposited directly into bank account rather than cash or paper cheque
- III. **Net banking:** it enables consumers to handle many banking transactions through the personal computers. As consumer may use their computers to view their account balance ,request transfers of money and pay various bills.
- IV. **Debit card purchase or payment transactions:** it allow consumers to make purchases and payments with a debit card, which is also used in the ATM to withdraw money⁶ etc

Types of frauds in online payment mechanism of e-commerce**cyber money laundering aur E money laundering :**

Cyber money laundering is a multi stage process that may consist of many single Transactions. it is a common variety of financial crime. It means a fraudulent way of accessing the credit card numbers of several persons when their monetary transactions are taking place and then transferring the currency to their own account or using it for own benefit.

Credit & Debit card fraud's

Credit /Debit card holds a very important place in today's life. Credit cards payments are the most common form of payment in online payment system in various websites. People use them every day without thinking about the risks. Credit Debit cards Offer a lot of attractive benefits To consumers Allowing them to shop without involving cash and to buy expensive items⁷.There are two very famous methods for committing fraud with credit cards. Firstly When the card holder generally Loses is his or her card or when consumer forgets to collect it from cashier after payment of goods or when he or she loses his wallet with his or her card.

⁶ <https://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre311.shtm>

⁷ Retrieved from <www.ehow.com/about_5384915_advantages-credit-cards.html>

Hacking and Cyber vandalism

A hacker is a person who intends to achieve unauthorized access to computer devices systems. within the hacking community. the term hacker is often used to define a hacker with criminal intent's however each terms are used interchangeably .hackers and crackers gain unauthorized access by finding weakness in security procedure of internet sites and pc systems, usually taking benefits of various options of the net that makes it an open system that is easy to use .sometimes hackers and crackers are satisfied merely by breaking into the files of e-commerce websites. Others have a lot of malicious intentions and commit Cyber vandalism. cyber vandalism means that purposely disrupting, defacing or even destroying sites.

LEGAL CONTROL MECHANISM AND SAFEGUARDS TO THE E-BANKING AND E-COMMERCE IN INDIA**The Information Technology Act 2000&ammendment act 2008**

On eleven Apr 2011, the Indian ministry of communications and technology printed the principles for implementing some provisions of the information technology amendment at 2008 dealing with:(a)Protection of sensitive personal data security practices and procedures that has got to be followed by organizations handling sensitive personal data (data privacy rules); (b)Due diligence to be discovered by Intermediaries (c) tips for cybercafés. falls in info tech technology amendment act 2008some of information protection provisions are as follows: below section 43- A ,body company that possesses, deals or handles sensitive knowledge in a pc resource is responsible to pay damages if it's negligent in maintaining recommended security practices and procedures, and such negligence leads to illegal loss or illegal gain to any individual. Section 43-A fixes Liability on a body cooperate that's negligent in implementing security measures for the protection of sensitive information and if such negligence leads to illegal damage or illegal benefit to any individual. The central government has not prescribed the term sensitive personal information, whether it includes extremely personal data regarding banking accounts like: account number, Pin number, address, mobile number, security code and other such information.

Apart from affording protection to personal data (sensitive personal data or information under section 43A(iii) , The information technology act 2000 Also provides civil and criminal liability (section 43 and section 66 of the information technology act 2000 respectively) to any person who without the knowledge of the owner or any person who is in charge of a computer, computer system etc., downloads, copies or extracts any data or damages or causes to be damaged any computer data base systems etc. Under section 66 if any individual does any act referred to in section 43 with dishonest and fraudulent intention, he shall be punished with the imprisonment for a term Which may extend to three years or with fine which may extend to 5 lakh rupees or with both Section 66c has been added with the information technology amendment act,2008 To penalize the offense of identity theft. Section 66D has been added with the information technology amendment act 2008 to penalize cheating by personating by using computer resource. In this context section 72 and section 72A of the amendment IT act 2000 are also of Relevance. Section 72 of the act prescribed a punishment if any person who, in pursuance of the powers Conferred under the IT act 2000, has secured access to any electronic record, Book, register, correspondence, information, document or any other material etc. and without the consent of the person concerned disclose such information to any other person then he shall be punished with imprisonment up to two years or with fine up to one Lakh or with both . Section 72A on the other hand provides the punishment for disclosure of personal confidential data by any person, including an intermediary, in breach of lawful contract. The purview of section 72A Is wider than section 72And extends to disclosure of personal data of any individual (Without consent) while providing services under a lawful contract by virtue of Powers granted under IT act 2000. Under section 72A Of the IT Act (Introduced by IT amendment act 2008) ,A person who is providing services under lawful contract, maybe liable to imprisonment for a term of up to three years or a fine up to rupees five lacs for disclosure of personal information of an individual call him (a) with intent to cause, or knowing that he's likely to cause, wrongful loss or wrongfully gain ; And (b)Without the consent of such individual, or in breach of law full contract. The IT act does not define personal information. It is however defined in the context of sensitive data under section 43A of the IT act

In India, till recently, there is no specific Provision to address the issue of data protection. However, the information technology amendment act has improved the problems which were there earlier before the amendment act2008. The provisions are however, not up to the requirement to meet the demand of the data protection in the country. It is seen that the constitution of cyber law is the information technology at 2000(2008) . Whenever any wrong act occurs in cyberspace, everyone seeks to the information technology act 2000 (2008) for the remedy After a deep analysis of this act , It is observed that most of the sections are

based on disclosing the personal data and it's punishment either by any artificial person or living person.. No effective remedy is available against crimes like cyber money laundering, phishing ,pharming,'ATM fraud's and other financial crimes where the innocent clients are made suffer of losses .Guidelines provided by RESERVE BANK OF INDIA are just advisory measures. & make the E-banking and e-commerce safe and reliable, It is necessary to add more punishment sections in the information technology act 2000 (2008) Guidelines issued by the reserve bank of India for general public

RBI has issued advisory tips for the public at large

- 1.RBI doesn't hold any accounts for people
2. beware of fake names of RBI officers
- 3.No person from rbi calls for lottery winnings received from other country ;
- 4.RBI doesn't sends any information's about award Of any lottery amount.
- 5.RBI doesn't send any message ,letter or email to give any Fictitious offers or lottery winnings or funds received from abroad;
6. the only official and real web site of rbi reserve bank of Republic of India is (www.rbi.org.in) and also the public must take care and not get misled by fake web site with similar address starting with reserve bank of India Or rbi etc.along with fake logos; and
- 7.Inform local police or cybercrime authority regarding such Frauds. The Reserve Bank of Republic of India has, On many occasions earlier has warned The public not to pay attention to fictitious offers/lottery winnings/remittance of chit fund in any currency from mind and satisfy to transact through their e-banking services and can trust the online world of commerce and as the safe guard It has been seen that the Bible of cyber law is the information technology at 2000(2008) . Whenever any illegal act occurs in cyberspace, all eyes look up on the information technology act 2000 (2008)for solution After a minute analysis of this act , It is seen that most of the provisions are focused on disclosing all personal information and it's punishment either by body corporate or other ways. No mandate report action has been provided against offenses like cyber money laundering, phishing, pharming, 'ATM fraud's and other financial fraud where in innocent consumers are cheated and defrauded. Guidelines provided by RBI are just precautionary measures. In order to make the E banking safe and reliable, It is very important to add penal stringent provisions in the information technology act 2000 (2008).it is seen that the lack of complete legislation relating to privacy and data protection has been a matter of great discussion &demand in India. even though the data protection laws are not specifically laid down in any statute as yet ,however, with strict regulations and privacy norms recommended by the Reserve Bank Of India, the Indian financial industry have begun the process of sensitizing the government and people. in the process of sensitization the consumer must take a responsibility regarding the privacy swells awareness in their day to day online transactions. in order to deal with online challenges it is very important to implement legal provisions effectively in the country abroad By so-called foreign entities/individuals or to Indian residence acting as representative of such entities/individuals

The Concluding observation

it is observed that e-Banking means using the power of online networks, computers communications and digital interactive media to reach banks service & other commercial services. online banking does not replace traditional forms or banking in anyways. instead,it both adds to and subtracts from today's banking .it does add more interactivity,howweverit does subtracts costs .it facilitates customers as well as it removes dependence on paperwork..growing commercial concern about retention of customers is forcing the banks to implement more effective security environment .in order to provide strong shield to customers from online frauds bank need strong security solutions to manage individual element of their operations with secure and safe mechanism. As we know e-banking supports indirectly to the e-commerce as all the transactions which done in the commercial shopping websites are done through the banking system whether by internet banking or card .we all need the aid of the e-banking because e banking helps us to pay money online to any merchants or sellers directly in their bank accounts etcso we can say that e-banking is the *part n parcel* of the e-commerce and to prromote -cpmmmerce we need to be secure through e-banking system so that the people are always free.