

CHEQUE BOUNCE ? : NOT TO TAKE IT EASY.

Cheque bounce is a serious offense under section 138 of the negotiable instruments Act 1881. There is a provision in the law to punish the drawer of a cheque if the same cheque has been dishonored by the bank due to insufficiency of funds in a bank account of the drawer of the cheque. In India cheque bounce cases fall under civil and even criminal laws as well.

There are many reasons for bouncing a cheque. Some of the usual cheque bounce reasons are Insufficient funds in the concerned bank account of the drawer of the cheque, mismatch of signature, missing signature, overwriting of date, numeric amount, or even anywhere on the cheque. The cheque may be dishonored by the bank due to even an invalid date written on the cheque, if the cheque is damaged, a stop payment order has been issued to the bank by the drawer of the cheque. If there is a difference in the amount in words and numbers mentioned on the cheque and if the bank account is frozen. These are the reasons by which the drawer's bank can dishonor a cheque. So it is the sole responsibility of the drawer of a cheque to ensure there is an absence of the above-mentioned reasons of dishonor of a cheque before handing over a cheque to the drawee or payee.

When dishonor of a cheque becomes a case:

Merely dishonored of a cheque does not invite a case instantly. There is sufficient time to correct the mistake in the process of a case. The cheque dishonor process starts when the bank sends the dishonored cheque to the drawee/ payee along with a memo attached to the physical cheque. The memo contains the reason for the dishonor of the cheque. Dishonor of the cheque does not mean starting a police case immediately. Even the cheque bounce case procedure starts after a specific time. First of all, there will be information in the drawer of the cheque for the same. Now there is the responsibility of the drawer to manage his bank account regarding the insufficiency of the fund so that the drawee or payee can reproduce the cheque to the bank for the payment. If the drawer does not manage the insufficiency of the fund then steps from the drawee or payee will serve a legal notice to the drawer within 30 days from the date of dishonor of the cheque. The legal notice contains details regarding payment requirements and the case of bouncing of cheque under section 138 wherein the given time limit will be for 15 days. Once these 15 days have expired, the payee can initiate the cheque bounce case procedure within 30 days.

The seriousness of the Cheque Bounce Case:

It is to be noted by the drawer of the cheque that section 138 of Negotiable Instruments Act, 1881, cheque dishonor due to insufficiency of funds invites punishment of double the amount mentioned in the cheque or imprisonment up to 2 years or both. It is a bailable and compoundable offense which makes it a less serious financial offense. "Finance ministry has proposed to decriminalize a host of minor offenses, including those relating to cheque bounce and repayment of loans to help businesses tide over the crisis caused by the coronavirus outbreak".

Managing technique of cheque bounce case:

The drawer should take care of his bank account balance before drawing a cheque, In case the cheque has bounced, the drawer should take efforts to fix or correct the same. Insufficiency of funds must be managed. The drawer should avoid cash payment against the cheque dishonored. The drawer should take action to compromise and anyhow he should pay the required amount to settle immediately.

Reference:

- (1) Economic times, Apr 07, 2022 <https://economictimes.indiatimes.com/news/india/decriminalisation-of-minor-offences-welcome-step-say-legal-experts/articleshow/90711099.cms>
- (2) Ridhi Khurana (2022) <https://www.vidhikarya.com/legal-blog/cheque-bounce-case-procedure-in-india>