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CHEQUE -

Cheque is a bill of exchange drawn on a banker, payable on demand. (Dictionary of Law by L.B. Curzon). According to Sec. 6 of the Negotiable Instruments Act, 1881, a "Cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand and it provides the electronic image of a truncated cheque and a cheque in the electronic form. Under Explanation 1 of the Section 6, for the purposes of this Section, the expressions- (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; (b) "a truncated cheque" means a cheque which is truncated during the course of a clearing cycle, either by the clearing house or by the bank whether paying or receiving payment, immediately on generation of an electronic image for transmission, substituting the further physical movement of the cheque in writing. As per provisions of Explanation II of Sec. 6, for the purposes of this Section, the expression "clearing house" means the clearing house managed by the R.B.I. or a clearing house recognised as such by the R.B.I. Under Explanation III of Sec. 6, for the purposes of this Section, the expressions "asymmetric crypto system", "computer resource", "digital signature", "electronic form" and "electronic signature" shall have the same meaning respectively assigned to them in the Information Technology Act, 2000.

Essentials- 1. A Cheque must be in writing. It may not be oral. 2. There must be an order to pay the amount. 3. Such order for payment must be unconditional. 4.

Drawee must be a certain bank. 5. The amount to pay must be certain. 6. Payee must be certain. 7. A cheque is payable on demand only. 8. The cheque must be signed by the drawer. An account holder of the bank can draw the cheque.

All the cheques are bills of exchange but all the bills of exchange are not cheques. It differs in many ways. In *Bank of Baroda v. Punjab National Bank*, (1944) A.C. 177, it was observed that a cheque is presented for payment while a bill of exchange is presented at first for acceptance (except bills of exchange payable on demand).

Distinction between Cheque and Bill of Exchange

S.No.	Cheque	Bill of Exchange
1	It may be drawn only on a banker.	It can be drawn on any person including a banker.
2.	The amount is always payable on demand.	The amount may be payable on demand or after a specified time.
3.	The cheque is not entitled to days of grace.	It is entitled to three days of grace.
4.	Acceptance is not needed.	A bill payable after sight must be accepted.
5.	A cheque can be crossed.	Crossing of the bill of exchange is not possible.
6.	Notice of dishonor is not required. The parties thereon remain liable, even if no notice of dishonor is given.	Notice of dishonor is necessary to hold the parties liable. A party who does not receive a notice of dishonor can generally escape its liability thereon.
7.	A cheque is not to be noted or protested in case of dishonor.	A bill is noted or protested in case of dishonor.
8.	The protection given to the paying banker in respect of crossed cheques is peculiar to this instrument.	No such protection is available in case of bills of exchange.

Specimen

(1)

	Central Bank of India Cantonment Road, Lucknow No. H/58 24016 Date 12-12-2003
Pay to Mr.....or bearer Rupees Five thousand only Rs. 5000/-	
LF	
Account No. 20153	Sd./-B.K. Srivastava

(2)

No. SB/E 23459	54/006
The Bank of Rajasthan Limited (Regd. Office Clock Tower, Udaipur) Bapu Nagar, Jaipur	
	9-12-2003
Pay Mr.....X.....or bearer	
Rupees Five thousand only.	Rs. 5000/-
S.B. A/C No. 201553	B.K. Srivastava

Specimen

(1)

Rs. 10,000
Stamps

New Delhi
30-12-06

On demand pay to M/S X, or order a sum of Rupees ten thousand only for value received.

Sd./-Mr. Y.

To,
M/S. Z
Mumford Ganj, Allahabad

(2)

Rs. 10,000
Stamp

New Delhi
30-12-06

Three months after date, pay to us or our order the sum of Rs. Ten thousand only, for value received.

For Y & Co.

To,
M/S Z Brothers
Mumford Ganj, Allahabad

Accepted

Z
for M/S Z Brothers

Y
Manager