CHAPTER SIX

BANK- CUSTOMER RELATIONSHIP

Introduction

Banking is a trust-based relationship. There are numerous kinds of relationship between the bank and the customer. The relationship between a banker and a customer depends on the type of transaction. Thus the relationship is based on contract, and on certain terms and conditions.

These relationships confer certain rights and obligations both on the part of the banker and on the customer. However, the personal relationship between the bank and its customers is the long lasting relationship. Some banks even say that they have generation-to-generation banking relationship with their customers. The banker customer relationship is fiducially relationship. The terms and conditions governing the relationship is not be leaked by the banker to a third party.

Classification of Relationship:

The relationship between a bank and its customers can be broadly categorized in to General Relationship and Special Relationship. If we look at **Sec 5(b)** of Banking Regulation Act, we would notice that bank's business hovers around accepting of deposits for the purposes of lending. Thus the relationship arising out of these two main activities is known as General Relationship. In addition to these two activities banks also undertake other activities mentioned in Sec.6 of Banking Regulation Act. Relationship arising out of the activities mentioned in Sec.6 of the act is termed as special relationship.

General Relationship:

1. **Debtor-Creditor:** When a 'customer' opens an account with a bank, he fills in and signs the account opening form. By signing the form he enters into an agreement/contract with the bank. When customer deposits money in his account the bank becomes a debtor of the customer and customer a creditor. The money so deposited by customer becomes

bank's property and bank has a right to use the money as it likes. The bank is not bound to inform the depositor the manner of utilization of funds deposited by him. Bank does not give any security to the depositor i.e. debtor. The bank has borrowed money and it is only when the depositor demands, banker pays. Bank's position is quite different from normal debtors.

Banker does not pay money on its own, as banker is not required to repay the debt voluntarily. The demand is to be made at the branch where the account exists and in a proper manner and during working days and working hours.

The debtor has to follow the terms and conditions of bank said to have been mentioned in the account opening form. {Though the terms and conditions are not mentioned in the account opening form, but the account opening form contains a declaration that the terms and conditions have been read and understood or has been explained. In fact the terms and conditions are mentioned in the passbook, which is issued to the customer only after the account has been opened.}

In the past while opening account some of the banks had the practice of giving a printed handbill containing the terms and conditions of account along with the account opening form. This practice has since been discontinued. For convenience and information of prospective customers a few banks have uploaded the account opening form, terms and conditions for opening account, rate charge in respect of various services provided by the bank etc., on their web site.

While issuing Demand Draft, Mail / Telegraphic Transfer, bank becomes a debtor as it owns money to the payee/ beneficiary.

2. **Creditor–Debtor:** Lending money is the most important activities of a bank. The resources mobilized by banks are utilized for lending operations. Customer who borrows money from bank owns money to the bank. In the case of any loan/advances account, the banker is the creditor and the customer is the debtor. The relationship in the first case

when person deposits money with the bank reverses when he borrows money from the bank. Borrower executes documents and offer security to the bank before utilizing the credit facility.

In addition to opening of a deposit/loan account banks provide variety of services, which makes the relationship more wide and complex. Depending upon the type of services rendered and the nature of transaction, the banker acts as a bailee, trustee, principal, agent, lessor, custodian etc.

Special Relationship:

1. Bank as a Trustee: is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.' Thus trustee is the holder of property on behalf of a beneficiary.

A trustee is bound to deal with the trust-property as carefully as a man of ordinary prudence would deal with such property if it were his own; and, in the absence of a contract to the contrary, a trustee so dealing is not responsible for the loss, destruction or deterioration of the trust-property.' A trustee has the right to reimbursement of expenses (Sec.32 of Indian Trust Act.).

In case of trust banker customer relationship is a special contract. When a person entrusts valuable items with another person with an intention that such items would be returned on demand to the keeper the relationship becomes of a trustee and trustier. Customers keep certain valuables or securities with the bank for safekeeping or deposit certain

money for a specific purpose (Escrow accounts) the banker in such cases acts as a trustee. Banks charge fee for safekeeping valuables

2. Bailee – Bailor: Sec.148 of Indian Contract Act, 1872, defines "Bailment" "bailor" and "bailee". A "bailment" is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them.

The person delivering the goods is called the "bailor". The person to whom they

are delivered is called, the "bailee".

Banks secure their advances by obtaining tangible securities. In some cases physical possession of securities goods (Pledge), valuables, bonds etc., are taken. While taking physical possession of securities the bank becomes bailee and the customer bailor. Banks also keeps articles, valuables, securities etc., of its customers in Safe Custody and acts as a Bailee. As a bailee the bank is required to take care of the goods bailed.

3. Lessor and Lessee: defines lease, Lessor, lessee, premium and rent. As per the section “A lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.”

Definition of Lessor, lessee, premium and rent:

(1)The transferor is called the lessor,

(2)The transferee is called the lessee,

(3)The price is called the premium, and

(4)The money, share, service or other thing to be so rendered is called the rent."

Providing safe deposit lockers is as an ancillary service provided by banks to customers. While providing Safe Deposit Vault/locker facility to their customers bank enters into an agreement with the customer. The agreement is known as "Memorandum of letting" and attracts stamp duty.

The relationship between the bank and the customer is that of lessor and lessee. Banks lease (hire lockers to their customers) their immovable property to the customer and give them the right to enjoy such property during the specified period i.e. during the office/ banking hours and charge rentals. Bank has the right to break-open the locker in case the locker holder defaults in payment of rent. Banks do not assume any liability or responsibility in case of any damage to the contents kept in the locker. Banks do not insure the contents kept in the lockers by customers.

4. **Agent and Principal:** defines "an agent" as a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done or who is so represented is called "the Principal".

Thus an agent is a person, who acts for and on behalf of the principal and under the latter's express or implied authority and the acts done within such authority are binding on his principal and, the principal is liable to the party for the acts of the agent.

Banks collect cheques, bills, and makes payment to various authorities' viz., rent, telephone bills, insurance premium etc., on behalf of customers. . Banks also abides by the standing instructions given by its customers. In all such cases bank acts as an agent of its customer, and charges for these services. As per Indian contract Act agent is entitled to charges. No charges

are levied in collection of local cheques through clearing house. Charges are levied in only when the cheque is returned in the clearinghouse.

5. **As a Custodian:** A custodian is a person who acts as a caretaker of something. Banks take legal responsibility for a customer's securities. While opening a demand account bank becomes a custodian.

6. **As a Guarantor:** Banks give guarantee on behalf of their customers and enter in to their shoes. Guarantee is a contingent contract. Guarantee is a "contingent contract ". Contingent contract is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

It would thus be observed that banker customer relationship is transactional relationship.

Termination of relationship between a banker and a customer:

The relationship between a bank and a customer ceases on:

(a) The death, insolvency, lunacy of the customer.

(b) The customer closing the account i.e. Voluntary termination

(c) Liquidation of the company

(d) The closing of the account by the bank after giving due notice.

(e) The completion of the contract or the specific transaction