Banking Laws (Amendment) Act, 2012

Section 14 - Amendment of Section 56."

In Section 56 of the principal Act,"

(a) in Clause (j) relating to substitution of Section 18,"

(A) in sub-section (1),"

(i) for the words "State Co-operative Bank", the words "a co-operative bank" shall be substituted;

(ii) for the brackets and words (hereinafter referred to as a "scheduled State co-operative bank")', the brackets and words (hereinafter referred to as a "scheduled co-operative bank")' shall be substituted;

(iii) for the words "at least three per cent", the words "such per cent" shall be substituted; and

(iv) after the words "second preceding fortnight", the words "as the Reserve Bank may specify, by notification in the Official Gazette, from time to time having regard to the needs for securing the monetary stability in the country" shall be inserted;

(B) in the Explanation,"

(i) in Clause (a),"

(1) in sub-clause (ii), the words "the Development Bank" shall be omitted;

(2) in sub-clauses (iii) and (iv), for the words "State co-operative bank", the words "Co-operative Bank" shall be substituted;

(ii) in Clause (c), for the letter and words "a corresponding new bank", the letters and words "a corresponding new bank or IDBI Bank Ltd." shall be substituted;

(C) after sub-section (1), the following sub-sections shall be inserted, namely:"

"(
1-A) If the balance held by co-operative bank referred to in sub-clause (cci) of Clause (c) of Section 56 of the Banking Regulation Act, 1949 (10 of 1949), at the close of business on any day is below the minimum specified under sub-section (1), such co-operative bank shall, without prejudice to the provisions of any other law for the time being in force, be liable to pay to the Reserve Bank, in respect of that day, penal interest at a rate of three per cent above the bank rate on the amount by which such balance falls short of the specified minimum, and if the shortfall continues further, the penal interest so charged shall be increased to a rate of five per cent above the bank rate in respect of each subsequent day during which the default continues.

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1-B) Notwithstanding anything contained in this Section, if the Reserve Bank is satisfied, on an application in writing by the defaulting co-operative bank, that such defaulting co-operative bank had sufficient cause for its failure to comply with the provisions of sub-section (1), it may not demand the payment of the penal interest.

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1-C) The Reserve Bank may, for such period and subject to such conditions as may be specified, grant to any co-operative bank such exemptions from the provisions of this Section as it thinks fit with reference to all or any of its officers or with reference to the whole or any part of its assets and liabilities.";

(b) in Clause (o) relating to the modification of Section 22,"

(A) in sub-section (1),"

(i) Clause (a) shall be omitted;

(ii) after the proviso, the following proviso shall be inserted, namely"

"Provided further that nothing in this sub-section shall apply to a primary credit society carrying on banking business on or before the commencement of the Banking Laws (Amendment) Act, 2012, for a period of one year or for such further period not exceeding three years, as the Reserve Bank may, after recording the reasons in writing for so doing, extend.";

(B) in sub-section (2),"

(i) for the words "every primary credit society which becomes a primary co-operative bank after such commencement shall before the expiry of three months from the date on which it so becomes a primary co-operative bank", the words, brackets and figures "every primary credit society which had become a primary co-operative bank on or before the commencement of the Banking Laws (Amendment) Act, 2012, shall before the expiry of three months from the date on which it had become a primary co-operative bank" shall be substituted;

(ii) the words "other than a primary credit society" shall be omitted;

(iii) in the proviso,"

(a) in Clause (ii), for the words "thereafter, or", the word "thereafter," shall be substituted;

(b) Clause (iii) shall be omitted;

(c) in Clause (q) relating to modification of Section 24,"

(a) sub-clause (i) shall be omitted;

(b) for sub-clause (ii), the following sub-clause shall be substituted, namely"

(ii) for sub-section (2-A), the following sub-section shall be substituted, namely"

"(
2-A) A scheduled co-operative bank, in addition to the average daily balance which it is, or may be, required to maintain under Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934) and every other co-operative bank, in addition to the cash reserve which it is required to maintain under Section 18, shall maintain in India, assets, the value of which shall not be less than such percentage not exceeding forty per cent of the total of its demand and time liabilities in India as on last Friday of the second preceding fortnight as the Reserve Bank may, by notification in the Official Gazette, specify from time to time and such assets shall be maintained in such form and manner, as may be specified in such notification." ;

(d) after Clause (ri), the following Clause shall be inserted, namely" (ria) in Section 26-A, for the words "banking companies", the words "co-operative bank" shall be substituted;',

(e) in Clause (s), in the opening portion, for the words and figures, "Sections 29 and 30", the word and figures "Section 29" shall be substituted;

(f) after Clause (s), the following Clause shall be inserted, namely"

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sa) for Section 30, the following Section shall be substituted, namely"

"30. Audit."(
1) Without prejudice to anything contained in any other law for the time being in force, where the Reserve Bank is satisfied that it is necessary in the public interest or in the interest of the co-operative bank or its depositors so to do, it may at any time by general or special order direct that an additional audit of the co-operative bank accounts, for any such transactions or class of transactions or for such period or periods as may be specified in the order, shall be conducted and may by the same or a different order appoint a person duly qualified under any law for the time being in force to be an auditor of companies to conduct such audit, and the auditor shall comply with such directions and make a report of such audit to the Reserve Bank and forward a copy thereof to the co-operative bank.

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2) The expenses of, or incidental to, the additional audit specified in the order made by the Reserve Bank shall be borne by the co-operative bank.

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3) The auditor referred to in sub-section (1) shall have such powers, exercise such functions vested in and discharge the duties and be subject to the liabilities and penalties imposed on auditors of companies by Section 227 of the Companies Act, 1956 (1 of 1956) and also that of the auditors, if any, appointed by the law establishing, constituting or forming the co-operative bank to the extent the provisions of the Companies Act, 1956 are not inconsistent with the provisions of such law.

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4) In addition to the matters referred to in the order under sub-section (1) the auditor shall state in his report"

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a) whether or not the information and explanation required by him have been found to be satisfactory;

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b) whether or not the transactions of the co-operative bank which came to his notice have been within the powers of the co-operative bank;

(
c) whether or not the returns received from branch offices of the co-operative bank have been found adequate for the purpose of his audit;

(
d) whether the profit and loss accounts, shows a true balance or profit or loss for the period covered by such account;

(
e) any other matter which he considers should be brought to the notice of the Reserve Bank and the shareholders of the co-operative bank."