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**AWARENESS ASSESSMENT OF LEGAL ASPECTS OF MOBILE WALLETS: A CASE STUDY OF AMISTHAPUR**

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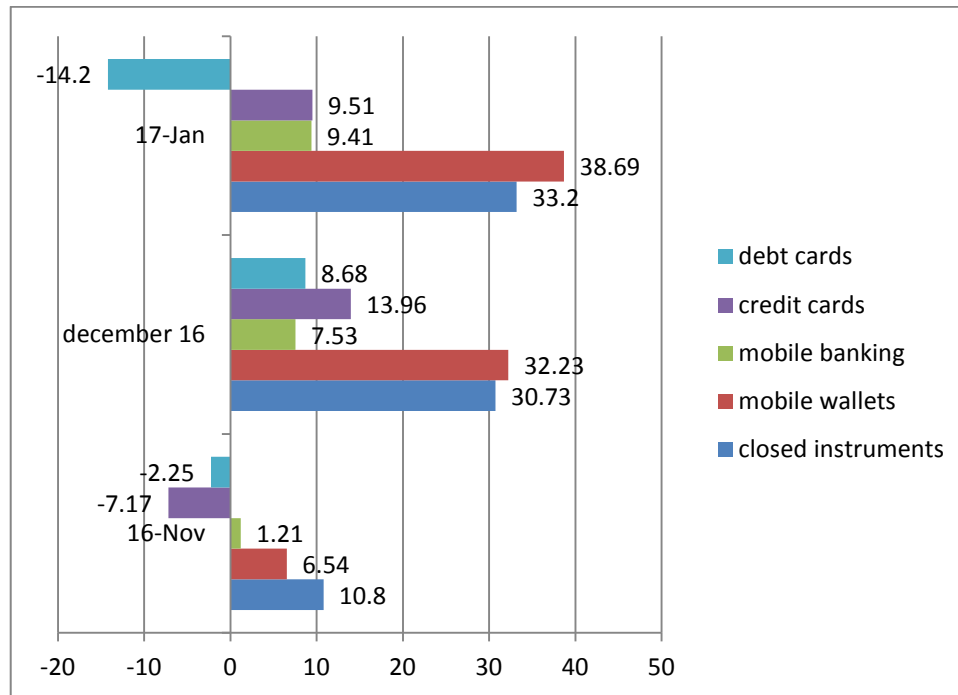
**ABSTRACT**

The phrases ‘demonetization and cash less economy’ led to the rejuvenation of mobile wallets in India, which were opaque for many parts of the country or confined only to urban arcades until the stand of government is made explicit on promoting cashless transactions. The pre-paid payment instruments like mobile wallets have made rapid strides with the winds of demonetization, and virtually occupied space in every smart phone to conglomerate ten million odd transactions a day amid the legal framework of RBI and conditions effectuated by the service providers. Most of these legal tenets are not in the cognitive sphere of end users, though they are given for the usage of mobile wallets. Indeed, the legal aspects regulating mobile wallets are overlapped with the provisions of different laws such as Information Technology Act, Payments and Settlements Act, Guidelines of RBI on Pre-Paid Payment Instruments and conventional laws like Contract Act. Thus, there is a dire need to collectively study such interrelated aspects and to assess the awareness of end users on the legal issues of mobile wallets. Accordingly, a paper titled “Awareness Assessment on Legal Aspects of Mobile Wallets- A Case Study of Amisthapur” is animated, as the village of Amisthapur was selected as a pilot project to implement cashless transactions by the district authorities of Mahabubnagar in January 2017 to accelerate cashless transactions.

**Key WORDS:** mobile wallets, RBI, Legal Aspects.

**INTRODUCTION**

The advent of internet Banking has sown the seeds of cashless transactions and gradually started sprouting with the entry of smart phones and mobile applications. It took hardly any time to enter Indian economy as a convenient mode of executing transactions. Indeed, the concept of cashless transactions had been brought to the fore by the proactive motivators like saving of time and ease of pursuance. But, the decision of Indian government to demonetize the currency bearing the denomination of Rs 1000 and Rs 500 on the 8<sup>th</sup> of November, 2016 has fueled reactive motivators of fostering cashless transactions and induced millions of petty cash transactions to route through pre-paid payment instruments, of which, mobile wallets occupies ineluctable importance due to the large scale economies of smart phones. This statement is corroborated beyond any peradventure with the facts cited in the following chart.



Source: RBI Monthly database

Thus, it is very much obvious that volume of transactions through mobile wallets had been increased from 6.54 percent to 38.69 percent within three months of announcing the decision of demonetization, whereas, the other modes of cashless transactions could not show such improvement, nevertheless, closed pre-paid instruments have witnessed similar growth. Therefore, mobile wallets seem to have partially come to the rescue of cash strapped individuals and households during the tenure of liquidity crunch caused by demonetization. Banks, NBFCs like Paytm and government agencies have conducted awareness campaigns in all the nooks and corners of the country to further the usage of mobile wallets and divert the mounting pressure of feeble liquidity. But the central question that forms the core of this paper is whether such campaigns led to the mere increase in usage of mobile wallets or created complete awareness on the legal issues and redressal mechanism of any grievances faced by the new users. The literature available in this pursuit is reviewed to answer the same.

## REVIEW OF LITERATURE

Gajanan 2013<sup>1</sup> has cited in his research that a regulatory framework governing mobile wallet in India is still at nascent stage. He has conducted a cross country analysis of European Union, United States of America and India with respect to the laws governing mobile wallets and drew that lack of single law on digital payments may lead to legal entanglement of multiple laws and multiple interpretations. **Xavier 2013**<sup>2</sup> has however revealed in his study that Payment and Settlement System Act 2007 and guidelines issued by Reserve Bank of India on Prepaid Payment Instruments in 2009 are well chalked out to address the legal issues and regulatory requirements of mobile wallets and such other instruments. No doubt that the timely notifications and circulars of RBI mirrors the current issues of prepaid payment instruments like mobile wallets, but they exhibit dichotomy in implementation as found by Diman 2016<sup>3</sup> in his research paper. He cites that one of the provisions laid down by RBI with respect to the privacy policy of

end users is set aside by Wallet operators who impose a condition requiring the access of browsing history which is often overshoot by the end users. Similar observations are made by Sheddar 2016<sup>4</sup> who tried to assess how many end users of mobile wallets firmly read and understand the terms and conditions at the time of downloading a mobile application or a wallet. He found from the study of very large sample that only three percent of the end users could attempt to understand the legal milieu of mobile wallets.

Agarwal & Sahani 2017<sup>5</sup> has conducted a survey to know the frequency of legal issues faced by the wallet users. They have concluded that most of the issues arising in the due course of mobile wallet transactions are pertaining to technical flaws of internet or payment gateways which are addressed by the operators. Sakshi 2017<sup>6</sup> also cited in her paper that mobile wallets have hardly witnessed major legal issues owing to the ceiling imposed on the value of transactions in a month.

### **GAPS IN LITERATURE**

Fair attempts are being made by the researchers to find the legal issues pertaining to the usage of mobile wallets, though it had acquired a new facet in terms of value and volume of transactions in the wake of cashless economy. Few gaps are still presumed to be existing in the literature, as hardly any attempt is made to assess the awareness of wallet users in rural areas and see whether conditions prevailing in rural areas are conducive to foster cashless economy. Similarly, very feeble endeavours are made to study the rubrics of Information Technology Act and Indian Contract Act that shows direct impact on the milieu of mobile wallets in India. Therefore two broad objectives are proposed to cement such gaps.

### **Objectives of the Study**

1. To study the legal framework governing mobile wallets in India.
2. To assess the awareness of end users on the legal aspects of mobile wallets in the selected rural area.

### **RESEARCH METHODOLOGY**

The first objective is accomplished through studying the tenets of RBI guidelines on Prepaid Payment Instruments, Payment & Settlement System Act 2007 and other relevant laws. On the other hand, the second objective is pertaining to the collection of primary data at the selected village of Amisthapur in the district of Mahabubnagar of Telangana which is collected through a questionnaire. The questionnaire is administered on a random sample of one hundred respondents from Amisthapur who took part in the awareness programme conducted by the district administration on mobile wallets in January 2017.

### **LEGAL FRAMEWORK GOVERNING MOBILE WALLETS IN INDIA**

The Payments and Settlements System Act 2007 is an edifice on which mobile wallets are regulated. This act empowers the Reserve Bank of India to issue timely guidelines as it deem necessary to regulate the wallets and also grants licenses to Banks and NBFCs to operate the mobile payment gateways in the form of wallets. Accordingly, RBI has issued detailed guidelines on Prepaid Payment Instruments in 2009 and supplemented with the series of other instructions in 2015 and 2017 to vanguard the interests of wallet users and to make the payments accountable within the legal sanctions. But, these guidelines are only persuasive and not conclusive. Because the operations of mobile wallets are subjected to other laws

apart from the prudential regulation of RBI, and standing prone to the legal chaos which this paper pens in the pursuit of its first objective.

### THE LEGAL CHAOS

The terms and conditions imposed by mobile wallets reveals that the service provider shall have access to the browsing history of the wallet user which is against the provisions of section 72 of Information Technology Act. However, the service providers have been infringing section 72 by means of prior approval and consent from the end user at the time of downloading the mobile wallet. Similarly, one of the terms imposed by the service providers is pertaining to right to change in terms and conditions without the prior consent of the user. This is against the provisions of section 62 of Indian Contract Act which makes the existing contract between the wallet user and the service provider void on the grounds of alteration of terms and conditions. Similarly, the guidelines of RBI stipulate that, the grievances could be addressed to an Ombudsman for speedy redressal. But the terms and conditions imposed by wallet service providers like Paytm reveals that, any legal issues between the users of wallet and service provider are subjected to the legal jurisdiction of Civil Court in Noida. Finally, the major setback observed in the existing legal framework of mobile wallets is the very commercial nature of the contract between users and service providers and its enforceability that rests on the merits of 'consideration'. This induces the wallet user to forgo the status of consumer within the ambit of Section 2(d) of Consumer Protection Act. There shall be no problem with respect to the wallets offered by Bankers to their customers, as consideration of maintaining the account is presumed to hold good for the wallet services either. But, wallets which can be downloaded free of cost and retail transactions made without any commission or charges do not bind the parties owing to the lack of consideration. For example, Paytm does not charge anything for mobile to mobile transfer of money. Thus, it is not possible to state that legal framework governing mobile wallets is flawless.

### AWARENESS OF WALLET USERS ON THE LEGAL ASPECTS

There has been an exponential growth in the usage of mobile wallets ever since the announcement of demonetization. No matter, whether it is urban or rural folk, mobile wallets have made their acquaintance in majority of the households. How many of them are conversant with the legal issues of such wallets is the central theme around which this paper is incarnated. Therefore, an awareness assessment is made at Amisthapur village which is selected by the district authorities to implement a pilot project on cashless transactions.

### A CASE STUDY OF AMISTHAPUR

Amisthapur is a Gram Panchayath of Telangana spread in 1282 Hecters of Mahabubnagar district which is six Kilo Meters away from the district headquarters. It enfolds 1400 households with the population of 6669 members with 800 smart phones. I.e. 57.1 % of the households have got access to smart phones which are compatible for the installation of mobile wallets. It also represents 60 normal mobile devices which can also be used to make mobile enabled payments. The district administration has selected 140 students of government degree colleges along with ten teachers who were initially trained on mobile wallets in collaboration with two nationalized banks and an NBFC offering wallets and divided into fourteen groups to visit the village and create awareness on mobile wallets. The survey conducted with

the random sample of one hundred respondents in the post awareness campaign period to assess the level of awareness gained by the households, has brought forward the following results.

S.NO	question	% answered 'yes'	% answered 'No'
1	Did you read the terms & conditions of your mobile wallet	06	94
2	Do you know who regulates mobile wallets in India.	12	88
3	Have you heard about Banker's Ombudsman.	14	86
4	Are you aware of the provisions of RBI that governs mobile wallets in India.	04	96
5	Have you heard about KYC of mobile wallet	16	84
6	Do you know that your personal information stored in mobile can be accessed by wallet provider	28	72
7	Do you know the difference between closed, semi closed & open wallets	12	88
8	Do you know that wallet provider can change the terms & conditions without your consent	05	95
9	Do you know whom to approach if amount is misappropriated in your wallet	29	71
10	. Did anyone try to explain you the legal aspects of mobile wallets	17	87

Source: Primary Data Collected through Questionnaire

It is found from the survey that only 17 % of the respondents could firmly admit that they were taught on the legal aspects of mobile wallets and surprisingly only 6 % of them have read the terms and conditions of mobile wallets. 86to 88 percent of respondents could not identify who regulates the wallets and who is an Ombudsman. However, they felt themselves conversant with the remedy available in the case of misappropriation, as 29 percent have answered 'yes' to the corresponding question. The informal answer<sup>4</sup> obtained during the survey was that, they will approach customer care center of the service provider. 72 percent of the respondents said that they are not only aware of the fact that, the information stored in the mobile can be accessed by the app providers, but also expressed the astonishment during the survey. Majority of those who said that they have read the terms and conditions have also expressed that they are not aware with the provision to change such terms without their consent.

## CONCLUSION

- There is a dire need to conglomerate the legal aspects of Indian Contract Act, Information Technology Act and Payment and Settlement System Act to issue fresh guidelines on mobile wallets.
- All the mobile wallet transactions should bind the service providers and end users with some monetary consideration to avoid the legal issues and reckon every wallet users as a consumer
- The awareness programmes designed to promote cashless transactions should not confine the scope only to the usage techniques of mobile wallets. Rather they should cover the basic legal aspects which govern them.

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