

Para 38. Thus, although the cheques issued by the accused were collected by the **complainant at New Delhi and were presented for clearance with the Corporation Bank at New Delhi, yet in my view, it could be said that the cheques were presented through an account, i.e., the account maintained by the complainant with the Bank of Baroda, Fertilizer Nagar Branch, Vadodara.** Without the account of the complainant DIGEST ON Sec. 138 N.I. ACT, 1881 Page **11** of **189** maintained with the Bank of Baroda, Fertilizer Nagar Branch, Vadodara, the Corporation Bank could not have given credit if, ultimately, the cheques would have been cleared. **What is important is the account maintained by the complainant with the Bank of Baroda, Fertilizer Nagar Branch at Vadodara.** The Corporation Bank has made itself very clear in the certificate dated 07.09.2015 that the cheques were deposited and dishonored to the account No. 02090500000002 at the Bank of Baroda, Fertilizer Nagar Branch, Vadodara, Gujarat. Giving strict interpretation to the words “through an account”, as suggested by the learned counsel appearing for the applicants will frustrate the very object, with which, section 142 of the N.I. Act came to be amended. I find it extremely difficult to accept the argument of Mr. Parikh that in the case on hand, the payee could not be said to have used his account nor his Bank to deal with the cheques. If the cheques are account payee, such cheques, for the purpose of clearance, are bound to be “through an account”. Of course, it is the argument of Mr. Parikh that a situation like the one on hand would fall within the clause (b) to section 142(2) and presenting the cheques across the counter is not the only mode, which would bring the case within the ambit of clause (b). However, I do not find merit in such submission. It is also difficult for me to accept the argument that the original account of the complainant with the Bank of Baroda has nothing to do with the independent agreement and understanding between the GSFC and the Corporation Bank. **As noted above, it is the original account of the complainant maintained with the Bank of Baroda, which is important and without the said account, the arrangement with the Corporation Bank can never come into play.**

Para 39. My above noted interpretation of the words “through an account” would sub serve the object of the amendment of section 142 of the N.I. Act and insertion of new section 142(a) by amendment. Any other interpretation would frustrate the object. The complainant company is a government undertaking and its business is spread across the various parts of the country. The Fast Collection Service provided by the Corporation Bank helps the complainant to a considerable extent. The cheques received at the different places in the country can be deposited at a convenient FCS Branch of the Corporation Bank and the funds so collected are credited to the bank account of the complainant.

Para 40. The effect of the rule of strict construction might almost be summed up in the remark that where an equivocal word or ambiguous sentence leaves a reasonable doubt of its meaning which the canons of interpretation fail to solve, the benefit of the doubt should be given to the subject and against the legislature which has failed to explain itself. But it yields to the paramount rule that every statute is to be expounded according to its expressed or manifest intention and that all cases within the mischief aimed at are, if the language permit, to be held to fall within its remedial influence.

Mahendra Kumar Kedarnath Modi and Ors.Vs.State of Gujarat and Ors.

2018(2)Crimes441(Guj.), 2018GLH(1)288