

UNIT 2 - Banker's Right of Appropriation- Explained



INTRODUCTION

Where a debtor has several debts with a creditor with the appropriation of payments made by the debtor to the creditor

EXPRESS INSTRUCTION BY DEBTOR

Where the debtor, owes more than one debts to one person and he makes payment, either with express intimation or under circumstances, implying that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly by the creditor.

OMISSION BY DEBTOR TO INTIMATE

Where the debtor has not indicated the account and circumstances also do not indicate to which debt, the payment is to be applied, the creditor at his discretion, can apply the payment to any lawful debt, actually due and payable to him from the debtor, whether its recovery is or is not barred by the law of limitation of suits.

NON-APPROPRIATION

Where neither the debtor indicates nor the creditor party appropriates, the payment shall be applied in discharge debts, in order of time, whether they are or are not barred by the law of limitation. If the debts are of equal standing, the payment shall be applied in discharge of each proportionately.

BANKER'S RIGHT OF APPROPRIATION

The above principle of appropriation also applies to the loans obtained from bank, when there are two or more debts due to a single customer.

PRIORITY

The general principle is that in case of a debt due with interest, any payment made by the debtor should be first applied by the bank to the interest and thereafter to the principal amount, unless there is agreement to the contrary.

CONDITION PAYMENTS

Bank is not bound to accept the payment from the burrower on the condition proposed by him. But where the condition is accepted, it has to be fulfilled.

For example: Where the customer deposits money to meet the payment of a particular bill payable by him, bank cannot utilize this money against any other loan/advance account.

TIME OF APPROPRIATION AND COMBINING OF ACCOUNTS

Right can be exercised only at the time of a payment. Bank cannot unilaterally combine all the accounts of customer

NOTICE BEFORE APPROPRIATION

Where the bank decides to appropriate the payment it has to send a notice to the customer. When appropriation comes to the notice of the customer, it becomes irrevocable

FREQUENT TRANSACTIONS

Where the customer has one single overdraft account and he makes frequent transactions by way of deposits and withdrawals, each credit entry is deemed to be appropriated against debit entries in chronological order