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Bitcoin - Rise of the Decentralised Currency and its Scope in India

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INTRODUCTION

Nassim Taleb, an author, a philosopher, and an alumnus of 'Wharton School of Business', who is known for his famous book, '*The Black Swan*' tweeted on 20th March 2013, "*Bitcoin is the beginning of something great: a currency without a government, something necessary and imperative*".[1] Bitcoin is a cryptographic currency or '*cryptocurrency*', the one that uses '*cryptography*', which is coding or making a program, to control its creation or management instead of depending upon an independent or central authority like a central bank for its existence.[2] Creation of bitcoins is known to have come from the hands of an unknown person or a group of persons using the pseudonym '*Satoshi Nakamoto*'.[3] An online paper was published by him describing bitcoin as a '*cryptocurrency*' for the first time. In his paper, the prominent problem that came up with the fiat currency was that of '*trust*' which is required to get the system running. He said that while looking into the history of fiat currencies, one can see that it is full of breaches of such '*trust*' and some of those discrepancies have been discussed in this paper. He further stated that banks use the currency entrusted to them to lend it out in '*waves of credit bubbles*', with hardly anything in reserve as is done in a loan making process.[4] In order to curb these malpractices of financial institutions, an overarching framework is needed and bitcoins, being a new mode of transaction, serve as an alternative to fiat currency. It is a software based online payment system introduced as an open source in 2009[5] and is believed to be world's first decentralized currency.[6]

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CRYPTO CURRENCY SYSTEM FUNCTIONING

Unlike Indian Rupee, bitcoins have no intrinsic value or legal form. Thus, it cannot be regarded as a legal tender and is not supported by the Central government. This system is completely private without any traditional financial institutions backing its transactions. Every bitcoin and its user is encrypted with a unique identity and every transaction is recorded on a '*public ledger*' (also called '*distributed ledger*' or a '*blockchain*'[7]) which is decentralized and is completely visible to all computers on the network but does not reveal any private information of the parties that are involved in it. The technique to discover new bitcoins is called '*mining*'.[8] In order to make sure that a bitcoin is genuine, miners verify the transaction.[9] This is the only job miners have to do and they are rewarded for it with a certain number of bitcoins. The process of verification of a 'Bitcoin' is not very challenging to understand. There is a long list of blocks known as '*Blockchain*'[10] containing transactions made between different addresses of bitcoins. Whenever there is a new transaction, it is added to the '*blockchain*', thereby increasing its length, and since all of it is held virtually, it has to be 'trusted', which means that it is not tampered with by anyone. This is where the role of miners comes into play, as they take information of the block and after applying mathematical computational formula to it, turn it into a random series of characters and numbers called '*hash*'.[11] Each hash is unique and by changing even one character from a block, it changes completely. In case 'hash' is tampered with, or there is an attempt to fake a transaction by changing a block already stored, its 'hash' would change, which can be spotted by anyone on the network. This is called '*verification of transactions*' and this is how miners jostle with each other.[12] The result is verified by other miners in the network and when it is found to be correct, the system rewards him with few bitcoins.

Computers are generally good at doing this, and thus, bitcoin network makes tampering and faking difficult. There are other methods to obtain this currency, for instance, in exchange of conventional money such as

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Indian rupee. Once the purchase is made, the value of particular amount of 'Bitcoins' is transferred from one '*wallet*', electronic wallet such as '*citrus*' or '*state bank buddy*' to another, or as a mode of payment.[13] They can be obtained in exchange of sales of goods or services as well, for instance, a merchant accepting bitcoin from a buyer for sale of goods to him. "*Bitcoin is a remarkable cryptographic achievement and the ability to create something that is not duplicate in the digital world has enormous value*", says Eric Schmidt, [14] who served as the CEO of Google from 2001 to 2011. It has become a popular mode of transaction; even including those who are vendors of goods and provider of services.

RESPONSE OF NATIONS ON PROLIFERATION OF BITCOINS

Some nations are readily accepting the bitcoin regime whereas some are fretting over them, while some are still in a state of quandary. It's important to note that the first ever country to introduce a national law on the usage of bitcoin was Canada.[15] In Canada, those who deal in digital currencies have to register themselves as '*Money Service Businesses*' (also referred to as MSBs) with '*Financial Transactions and Report Analysis centre of Canada*' (also called FINTRAC') and all the businesses that are dealing in digital currency have now been subject to '*Proceeds of Crime (Money Laundering) and Terrorist Financing Act 2000*' (PCMLTF).[16] Also, we find that failure to comply with the obligations mentioned in the above statutes, results in a criminal offence punishable under the Canadian domestic law. Thus, in Canada, the use of bitcoins is legal and is subjected to their statutory interpretation as well.

In USA, the bill titled '*The Crypto-Currency Protocol Protection and Moratorium Act*', which is yet to be deliberated upon, when passed, would hold off any kind of '*statutory restrictions or regulations*', which may exist presently.[17]

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The US Supreme Court in *Knox* v. *Lee*[18] opined that "*every contract for the payment of money simply is necessarily subject to the constitutional power of the government over the currency, whatever that power may be, and the obligation of the parties is therefore assumed with reference to that power*". On June 3, 2015, New York became the first ever state to establish a dedicated framework for the control of virtual currency business when its department of financial services issued regulations for the supervision of digital currency businesses operating in New York.[19] Also, it issued its first virtual currency licence to bitcoin exchange, 'itBit' Trust Company, LLC also received a licence to operate as a trust under New York's state banking laws.[20]

The much awaited law which came into existence in Japan on April 1, 2017 treats bitcoins as a legal mode of payment.[21] According to this law, every bitcoin exchange would come under regulatory scrutiny. Since, it is now required as a legal tender, it would mean that all the laws and regulations that govern banks and other financial institutions, would be applied to bitcoins.[22]

EMERGING TRENDS ON BITCOINS IN INDIA

One of the prominent objectives of demonetization was to curb black money, corruption and fake money menace. Digitalisation has always been the primary task of the current government and demonetization is only an effect of digitalization.

It is significant to note here that the ultimate objective is to make India a cashless society. "*All the monetary transactions have to be through the banking methods and individuals have to be accountable for each penny they possess. It is a giant step towards the dream of making a digital India.*"[23]

It is not ironic that Milton Friedman, author of a leading treatise on the 'Interaction of currency, macroeconomics and governmental action' prophesized of a time when the internet would help evolve a new currency.[24] Recently, a surge has been seen in the use of bitcoins as a mode of payment. This is because the fee charged in case of making payments with the use of bitcoins is lower than the general 2-3% interest imposed by credit card processors.[25]

India is also ushering in the same direction as many established and rookie entrepreneurs are enthused about bitcoin system and all eyes are on the Reserve Bank of India (*hereinafter RBI*), which is yet to come out with an ultimate verdict. Assistant General Manager of RBI in a press release said, "*Although, RBI has issued a press release cautioning users, holders and traders of Virtual currencies, including Bitcoins, about the potential financial, operational, legal, security related risks that they are exposing themselves to*".[26]

The principle laws concerning existence of bitcoins in India are:

POWER TO MAKE LAWS ON BITCOINS UNDER THE CONSTITUTION OF INDIA

In order to understand the position of bitcoins with respect to the Constitution of India, Article 246 read with Seventh Schedule which enumerates the list of activities that the Central Government and the State Governments are allowed to legislate upon, has to be referred to.

Entries 36 and 46 of List I of the Seventh Schedule states that the Central Government is allowed to legislate in matters concerning currency, coinage, legal tender, foreign exchange and bills of exchange, cheques, promissory notes and other like instruments respectively.[27]

If bitcoins fall within any of the aforementioned categories, then the Central Government shall have the exclusive power to legislate. So the task has now been reduced to only determine the category under which the bitcoins fall.

CAN BITCOINS BE TREATED AS 'CURRENCY' OR 'LEGAL TENDER' UNDER 'FOREIGN EXCHANGE MANAGEMENT ACT', 1999 ("FEMA") AND 'RESERVE BANK OF INDIA ACT', 1934?

Section 2(h), FEMA, 1999 defines 'currency' as including, "*all currency notes, postal notes, postal orders, money orders, cheques, drafts, travellers cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank*"[28]. The definition of currency is not exhaustive but inclusive. Hence, it leaves the discretion of conferring the status of currency on bitcoins in the hands of RBI and there has been no such declaration yet.

'Legal tender' has not been defined anywhere under Indian Law. The exclusive power to issue bank note is conferred upon RBI. The bank note issued by RBI is treated as a legal tender.[29] 'Legal tender' is the money that is recognised by the law of the land, as valid for payment of debt. It must be accepted for discharge of debt.[30] The RBI Act of 1934, which gives the central bank the sole right to issue bank notes, states that 'Every bank note shall be legal tender at any place in India in payment for the amount expressed therein'.[31] Thus, due to the aforementioned reasons, the reasonable deduction is that bitcoins do not fall under the category of 'legal tender'.

CAN BITCOINS BE TREATED AS 'GOODS' UNDER 'SALE OF GOODS ACT', 1930?

"Goods mean every kind of moveable property other than actionable claims and money; and include stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale."[32]

Since bitcoins are an intangible asset, the definition of 'goods' under The 'Sale of Goods Act', 1930 leaves a pretty fine scope for them to be categorised as 'goods'.

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They have been listed and traded on different stock exchanges around the world. Some of the stock exchanges are 'Mt. Gox in Japan, BTC China, Bitcurex in Poland, Bitbox in United States, Bitsamp in Slovenia'.[33]

In *Tata Consultancy Services* v. *State of A.P.*[34], the Supreme Court held that '*the term "goods" as used in Article 366(12) of the Constitution, and as defined in the said Act is very wide and includes all types of moveable properties, whether those properties are tangible or intangible. In India, the test to determine whether property is 'goods', for the purposes of sales tax, is not whether the property is tangible or intangible or incorporeal. The test is whether the item concerned is capable of abstraction, consumption and use, and whether it can be transmitted, transferred, delivered, stored, possessed, etc*.'[35]

After scrutinizing the pertinent laws and case laws decided by Supreme Court, it can be deduced that bitcoins have a wide possibility to fall under the category of 'goods'.

CAN BITCOINS QUALIFY AS 'SECURITIES' OR 'DERIVATIVE' UNDER SECURITIES CONTRACTS (REGULATION) ACT, 1956?

The Securities Contracts (Regulation) Act, 1956 (*hereinafter SCRA*) was enacted in order to prevent undesirable transactions in securities and to regulate the working of stock exchanges in the country. The transactions relating to and involving securities are being regulated by SCRA. "*Securities include-*[36]

i) shares, scripts stocks, bonds, debentures, debenture stock or other marketable securities of a like nature in or of any incorporated company or other body corporate;

a) [derivative;

b) units or any other instrument issued by any collective investment scheme to the investors in such schemes][37]

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c) security receipt as defined in clause (zg) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;[38]

d) units or any other such instrument issued to the investors under any mutual fund scheme[39]

ii) Government securities

iii) rights or interests in securities"

All the above instruments can be distinguished from bitcoins with ease, as these instruments carry an underlying capital asset, for e.g., the assets of a company are referred as security, whereas bitcoins do not carry such capital assets. These instruments are issued by a proper authority whereas bitcoins being autonomous are not issued by anyone and are procured through the process of mining.

Another question which arises here is whether bitcoins qualify as a derivative or not.

In order to answer this question it is pertinent to look into the definition of 'derivative', which says "*derivative includes*[40]—

a) a security derived from a debt instrument, share, loan, whether secured or unsecured, risk instrument or contract for differences or any other form of security;

b) a contract which derives its value from the prices, or index of prices, of underlying securities."

Since bitcoins do not fulfil any of the conditions of being a 'derivative', they are out of the gamut of derivatives.

CAN BITCOINS QUALIFY AS A VALID CONSIDERATION UNDER 'INDIAN CONTRACT ACT', 1872?

In the context of public policy, history is evident that it has been a very difficult task to determine what may pop up as a next altercated issue under

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the head of public policy. The notable question which arises under Indian Contract Act, 1872 is whether or not bitcoins are opposed to public policy under Section 23 of the Act?

Firstly, it is imperative to understand what constitutes 'public policy'. No exhaustive definition of public policy is available under Indian law. The term is in itself, so wide, vast, and ever evolving that if one endeavours to define it exhaustively, he would still see a sliver of it. It is capable of encompassing umpteen heads within it. Burrough J., back in 1824, held that "*public policy is an unruly horse; once you get astride it, you* *never know where it will carry you*".[41]

'WHAT CONSIDERATION AND OBJECTS ARE LAWFUL, AND WHAT ARE NOT?'

According to The Indian Contract Act, 1872:

"The consideration or object of an agreement is lawful, unless—

It is forbidden by law; or is of such nature that, if permitted it would defeat the provision of any law or is fraudulent; or involves or implies, injury to the person or property of another; or the Court regards it as immoral, or opposed to public policy. In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful is void."[42]

Bitcoins, statutorily are not in contravention of any such law which culminates in breach of public policy. In countries like Japan, Canada, United States of America, China, etc., their use has been validated, and this fact in itself is a harbinger of them not being opposed to public policy.

Another question that arises here is whether or not bitcoins can be a lawful consideration under the said Act?

According to Section 2(d)[43], consideration is defined as: "*When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or*

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abstain from doing something, such act or abstinence or promise is called consideration for the promise".

As per the definition of 'consideration', it is not necessarily required to be in monetary terms, the manner in which such consideration is supposed to be paid by one party to another party has not been provided. Accordingly, the Act leaves a wide ambit for bitcoins to be a valid consideration.

Hence, under Indian Contract Act, bitcoins serve as a valid 'consideration', whereas under The Sales of Goods Act, they serve as 'goods' and not consideration. This is because under the latter, 'consideration' has to be in monetary terms, as has been held by the Supreme Court in *CIT* v. *Motors and General Stores (P) Ltd.*[44]

CRISIS OF BANK CREATED MONEY

The Bank of England in its '*Quarterly Bulletin 2014 Q1*', released a report in which it unveiled the mystery as to how banks make money out of nothing.[45] It said, "*Most of the money in our economy is created by banks, in the form of bank deposits - the numbers that appear in your account. Banks create new money whenever they make loans. In UK 97% of the money in the economy today is created by banks, whilst just 3% is created by the government*."[46]

In the modern economy, most money takes the form of 'bank deposits' or 'bank's liability'. But how those bank deposits are created is often misunderstood: the principal way is through commercial banks making loans. Whenever a bank makes a loan, it simultaneously creates a matching deposit in the borrower's bank account, thereby creating new money.[47] This new virtual money created by bank represents new spending power or money in the economy.

Sir Mervyn King, Governor of the Bank of England (2003-13) in a speech to the South Wales Chamber of Commerce at The Millenium Centre, Cardiff on 23 October 2012 said, "*when banks extend loans to their customers, they create money by crediting their customers' accounts.*"[48]

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The money created by banks in UK is not limited by reserve ratio. In fact, there has been no reserve ratio for years which means that total amount of money in the economy is not really limited. The bank created money can expand out of control and Bank of England wouldn't be able to stop it; at least not within the current monetary system.[49] In 2006, the bank-created money was 80 times bigger than the 'base money' (which comprises of real money).[50]

The repercussions of this money created by bankers exude inflation which ultimately culminates into house price bubbles and gambling on financial markets. This has led to ever widening inequality, the highest personal debt in history and house prices that very few people can afford, before even mentioning the financial crisis.

This paper will discuss as to how bitcoins provide the best remedy for all these problems which are deliberately caused by the present banking systems across the world.

BITCOINS AS LEGALIZED VIRTUAL CURRENCY

Already a lot of trade and business is going on in the form of bitcoins; the only thing that they need is a formal recognition from the part of government. All the laws that are applied to the fiat currency, more or less in the same manner can be applied to them as well. So far as India is concerned, there has been nothing more than a press release by RBI[51], where it only warned against bitcoins.[52] Further, there's no law which expressly deals with the prospect of virtual currency. Internet usage in India is rising on the back of the mobile phone revolution, there are 105 crore wireless connections (TRAI; September 30, 2016) for a population of 133 crore (World Bank; October 6, 2016).[53]

Digitization of our country paves way for the usage of a virtual currency, as it would be easier for people having internet access to get their hands on it and use it for carrying out their daily transactions. Since there is no

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certain regulatory policy for bitcoin in India, it's important to adopt one. RBI issued a press release in December 2013, cautioning the traders and holders of virtual currencies about the financial, legal and operational risks that they are exposing themselves to.[54]

The regulatory standard that could be used for monitoring bitcoins might somewhat be similar to that set by RBI. For instance, 'KYC' norms also known as 'know your customer' norms are the ones which are set by RBI, which make it an obligation on the part of banks to continuously monitor the transactions of their customers and keep a record of their activities related to it so as to track the customer's usual pattern of behaviour and any deviation from it so that it becomes easier to identify a possible case of fraud or any other suspected behaviour.[55] Similarly, bitcoins use '*Blockchain*' technology that allows the system to keep a record of all the transactions that are carried out through them.[56] Transactions are recorded and it becomes easier to track them, in case there is some fraud. Therefore, monitoring them and their transactions won't be difficult. Further, section 3 of FEMA says "*no person shall deal in or transfer any foreign exchange or foreign security to any person not being an authorized person*;

1. *Make any payment to or for the credit of any person resident outside India in any manner;*
2. *Receive otherwise through an authorized person, any payment by order or on behalf of any person resident outside India in any manner; and*
3. *Enter into any financial transaction in India as consideration for or in association with acquisition or creation or transfer of a right to acquire, any asset outside India by any person*."[57]

It can be inferred that if an Indian buys bitcoin from a resident of a foreign country then the act of purchasing or making payments would not be in contravention of the provisions of section 3 of FEMA.

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INITIATIVE OF INDIAN DIGITAL BANKS

For now, even though bitcoins lack recognition, it would be incorrect to call them illegal in India because presently, there is no statute declaring them illegal nor any legalizing it. Further, the government never passed an order mandating people to stop trading in them. People, including dealers of bitcoins and those working in bitcoin exchanges are positive that they would be legalized soon along with proper taxation procedure.[58] "*Technology changed the way of life, technology changed the social life, it changed the way we do banking*", said Chanda Kochhar, the CEO of ICICI Bank during the launch of '*Pockets*', India's first digital bank.[59] It is important to note that the reason for digitalising the banking sector of our country is to make it more efficient.

IndusInd Bank, in 2014 launched its first digital branch in Gurugram.[60] Each and every function or task that an ordinary bank branch does which includes, deposition and dispensation of cash, transfer of funds, opening of accounts can be done here without help of any bank authority.

In March 2017, Kotak Mahindra launched India's first downloadable bank account, '*Kotak 811*', which would offer an interest up to 6% per annum and a '*virtual debit card*'.[61] Creation of digital bank, a digital bank branch and a downloadable bank account, all reflect a digital revolution in the financial sector of our country. Legalizing and recognising bitcoins as an official mode of transaction would be another step in achieving the fruits of this digital revolution. During the first week of June, according to Zebpay, which is India's largest exchange of Bitcoins, 1 Bitcoin equals roughly around Rs. 1,40,000. While this is the buying price, the selling price is however, lower and is about Rs. 1,20,000.[62]

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HOW BITCOINS CAN BE TAXED IN INDIA

Taxation is another very important aspect, when it comes to understanding bitcoins. Currently its legal status in India is very ambiguous and hence it is important to understand how the bitcoin traders in India are dealing with the issue of imposition of taxes on it. Business means trade, occupation or a commercial activity.[63] The safest assumption that can be made since nothing has been made clear by the government, on the legality of Bitcoin is that it is a commercial activity having a clear history of payments and transactions taking place in India as well as other countries.

Being a type of commercial activity, it is a business. Therefore, like any other business, whenever there is a profit or loss as a result of purchasing or selling of bitcoins, income tax has to be paid. Income tax can be imposed in two ways. One, when a businessman provides for a mode, where he accepts trading with bitcoins, the income which is generated by him in this way can be treated as a business income and tax can be imposed on that business income. Secondly, when a person purchases or sells bitcoins as a commodity, tax can be imposed on the basis of capital gains. In the context of capital gains, assuming bitcoins are taxable, the question arises whether they should be treated as '*long term capital gains*' or '*short term*'? This question is important because the rate of taxation in the case of '*short term capital gains*' is 30% on the income more than 10 lakh rupees and in the case of '*long term capital gains*', it is 20%.[64] In either case, the tax will not be on bitcoin, but on its rupee equivalent in India. In India, taxation is supervised under the Income Tax Act, 1981 which takes into account the worldwide income of the residents of India. They can be considered as a currency, if a law is passed to that effect in India, as well as a capital asset, both of which can be taxed. As per Indian law, when a capital asset is sold, the profit or gain which arises out of such sale, which is also called as 'capital gains' is treated as a taxable income[65]. The tax liability is then calculated by deducting the cost of acquisition of the capital asset from the sales proceeds and then applying the rate of tax to the calculated difference.[66] As per the tax code in India, income, profits and gains are taxable even if they are received in money's worth instead of real money or currency, because they can be converted to their real money equivalent.

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In the same way, before coming of Goods and Services Tax (hereinafter GST), Service tax could also be imposed on bitcoins. The 2017 budget increases the rate of service tax to 16-18% from 14%.[67] For it to apply on bitcoins, they need to fall under the category '*taxable services*', which are defined as "*services to any person, by any person, in relation to online information or database access or retrieval or both in electronic form through computer network*".[68] In this regard, it can be rightly inferred that the activity of '*mining*'[69] can be considered as a 'taxable service' under the Finance Act, 1994 because 'mining' is one of the ways a person can legitimately earn bitcoins with his '*proof of work*'.[70]

The Enforcement Directorate officers raided the offices of *RBItco* and *buysellbit.co.in* and at the same time, Indian Revenue Services officers raided the office of Satwik Vishwanath, founder of *coinmonk* and *unicoin*, and it was found that he had all the documents that could prove that he was paying taxes, turning the raid into a technical discussion on taxation of bitcoins in India.[71] As a result of the raid, all the major bitcoin sites had to be shut down. Further, on surfing these websites, users found a maintenance error message. He says that the officials including director and deputy director of investigating wing asked him to seek legal advice before re-launching the sites as according to them[72], "*there are other departments that might have problem with the currency*". What other departments they were referring to is the question here. This is something that cannot be confirmed at this moment. However, it can be found that the growth of bitcoins appears to be a threat to the banks and government[73], because it rules out the need for a centralized regulatory body for the circulation and regulation of currency and allows the people to trade according to their own discretion. Further, the cost of mining bitcoins at a faster rate is very high because of the computational cycles involved. Thus, the miners have to pool their money and resources for the fulfilment of their endeavour. Deducting the cost of electricity and other utilities such as computer software and

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hardware parts, the profit in the short term would be minimal and there would be profit only in case of a long term process of mining and selling.

IMPLICATION OF 'GOODS AND SERVICES TAX': AUSTRALIAN & INDIAN PERSPECTIVES

Like income tax and service tax, GST is also important in the context of bitcoins. In Australia, first, the proof of Australian government's support to financial technology could be seen, when the treasurer, Hon Scott Morrison, backed statement which was made by '*fintech*', an Australian startup community, in March 2016, which included a promise to address the double taxation on digital currency, which was a problem under the GST.[74] Double taxation on digital currency was an impediment to the growth and development of digital currencies in Australia.[75] Bitcoins are treated as '*intangible property*' under their 'GST Act', 1999 and are thus subjected to GST. In Australia, GST is applied twice, first, when a person buys bitcoins and second, when he uses it to exchange other goods that are subject to GST.[76] For example, when a person buys bitcoins from a domestic exchange worth $33, he would have to pay 1/11th of it which would amount to $3 in the form of GST. Now, if he decides to use that to buy coffee, which would come under the scope of '*taxable supply*' under GST, he will be charged with another $3; total being $6 instead of the $3 that would have been charged had he paid in domestic currency.

It's important to note that in Australia, the export of digital currency is GST free and the '*Productivity commissions*', '*Inquiry into business, setup, transfer and closure*' suggests to treat digital currency as '*money*' in order to remove double taxation from it.[77] Their suggestion to treat bitcoins as money, in order to remove double taxation, would bring bitcoins under the scope of various other statutes that govern 'money'. The new Australian GST that applies from 1 July 2017, is quite broad when it comes to the issue of taxation on digital goods and services. It places a burden on the sellers, and they would have to pay, like before, 1/11th of the cost of every digital product or service to the government but then will be allowed to forward the cost to their buyers or consumers at 10% price increase and thereby rule-out the double taxation impediment which existed earlier.

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Looking into the Indian context, 'money' is defined as "*the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value.*"[78] In view of this statement, the part which talks about the recognition from RBI makes bitcoins immune from the purview of money under Central Goods and Services Tax (hereinafter CGST). However, after recognition, GST will be applied on them as applied on money. However, in Australia Bitcoin is treated as money, also it is an '*intangible property*' and can come under the purview of 'goods' under Sale of Goods Act. Also, since a long time India has been the world's largest remittance market.[79] The majority of remittance is in small amounts and for these 'small amounts' Indians have to pay 15% of the fee to companies like Paypal, Western Union or to banks as transfer or exchange rates.

Now, these virtual currencies make it easier to send small amount of this remittance back home (that is back to India), adding it to its wealth and saving a lot of money which is paid to third parties as their fees.

ASTOUNDING GROWTH OF BITCOINS

Unlike 'fiat currencies', bitcoins do not require issuance by government, and no promises to pay an equivalent amount of gold in lieu of the money. These are certain elements which distinguish them from 'fiat currency' and are responsible for their free and frictionless mobility in the market.

The most salient feature which makes bitcoins exclusive and peculiar is that they root out the need for a trusted third party such as a governmental agency, bank or any other body.

In order to run any system effectively the most vital thing required is trust but bitcoins have weeded out the requirement of trust. This system works on proof, as pointed out by Satoshi Nakamoto, "*with e-currency based on cryptographic proof, without the need to trust a third party middleman, money can be secure and transactions effortless*".[80] The 'proof'

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implies that there is a unique way of mining or producing bitcoins which cannot be copied or used falsely to generate more bitcoins and convert them into equivalent amount of money, because if it so happened, everyone would use it to generate them and that would decrease their value.[81]

On 12th January 2012, the first transaction involving bitcoins took place between Satoshi and Hal Finney, a developer and cryptographic activist.[82] On 5th October 2012, *New Liberty Standard* published an exchange rate that established the value of a bitcoin at 'US$1 = 1,309.03 BTC', using an equation that included the cost of electricity to run a computer that generated bitcoins.[83]

In 2017, they surged miraculously to '1 BTC = US$2200'[84] by touching and then going ahead of all the milestones. Many exchanges have been established for the sole purpose of doing business in bitcoins across the world. The Chartered Financial Analysts, Market Analysts, etc., all were awestruck and aghast at the same time after observing the augmentation in the value of Bitcoins in such a short span of time.

In the wake of 2008, when the subprime mortgage crisis occurred in the United States, a situation arose involving a nationwide banking emergency which resulted to the U.S. recession of December 2007 - June 2009.[85] The repercussions of the recession were so crippling and adverse that people lost confidence in the currency issued by government (fiat currency) as well as in government's and bank's ability to manage the economy; and even the supply of money got very limited.

Huge amount of money was handed over to banks and insurance companies to unencumber them. This implies that the money was being printed in order to stimulate the economy. It was during this time that an online paper was published by Satoshi Nakamoto in which he explained the concept of

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'Bitcoins'.[86] He pointed out the flaws in 'fiat currency' and provided solutions for such shortcomings in the form of a new crypto currency.

As we talk about breach, one prominent instance of such breach happened in US in 2013 when debit and credit card data got stolen on a large scale. Target reported that a range of 70 million to 110 million citizens' personal information had been stolen. The theft is one of the largest ever of retail data.[87] In an article published in *The New York Times*, it was said, "*Until now, the most extensive data breach on record for a retailer was the theft of 90 million records from T.J. Maxx in 2005. The biggest breach over all, however, was in 2009, when the card processor Heartland Payment Systems was targeted and 130 million credit card numbers were stolen.*"[88] These were some major incidents which took place due to the breach of trust.

Globally, there are over 11 million Bitcoins, worth over $1.2 billion, in circulation.[89] At present, India does not have a centralised Bitcoin exchange, but users in India can buy and sell coins through websites such as localbitcoins.com. The community here is believed to be some 50,000-strong, with as many as 23,000 India-based users having an online Bitcoin wallet where the digital currency is stored.[90]

As we talk about India, it is important to understand that despite the Reserve Bank's call for cautioning people against the use of virtual currencies, a domestic bitcoin exchange said it is adding over 2,500 users a day and has reached five lakh downloads[91]. The reason for this surge is that they have proven to be beneficial to the people and have led to their growth, in context of their businesses, trades, etc. The benefits of using Bitcoins are huge, including user anonymity, low transaction fees to absence of third party interruptions, which makes them a popular choice.

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Despite being a virtual currency, they can be subjected to various statutes and that too without any ambiguity or confusion. Also, relevant taxes can be levied on them.

CONCLUSION

As British Prime Minister Benjamin Disraeli, who served as the PM of UK from 1874 to 1880 said, "*change is inevitable and change is constant*". India is a developing nation, and most of the developments that are taking place in the present scenario are associated with its digital sector. India has always been a perfect stage for innovation and growth and the reason behind this is its ability to welcome and accept change steadfast and move forward. It learns what is good for nations and tries to imbibe it. Bitcoins, a unique cryptographic currency that has been in vogue since past few years, finds India as a place where it could flourish and is already being used by many people. It is important to understand that despite being a virtual currency, it can be subjected to various statutes along with proper taxation that could be levied, if not on them, then on their money equivalent which can be treated as taxable income. The government would soon realize that digital currencies like Bitcoins are a boon to the citizens and the economy of our country.

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