# The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2025
Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

## UNEQUAL COINS: THE FISCAL BIAS BETWEEN STABLECOINS AND INDIA'S DIGITAL RUPEE

*~ Sonali Panigrahi*

**ABSTRACT**

The rise of Central Bank Digital Currencies represent a shift in monetary systems. India's Digital Rupee, launched by the Reserve Bank of India under its 2022 pilot, points to an official embrace of digitized value transfer. Yet, the nation's fiscal approach to privately issued stablecoins raises questions. Through Section 115BBH and Section 194S of the Income Tax Act, 1961, stablecoins are subjected to a straight 30% flat tax, no loss set off, and a 1% TDS on every transaction, treating it as a speculative gambling rather than legitimate digital money. This article argues that such taxation is arbitrary, disproportionate and unjust towards users. It contends that India's fiscal bias towards its own CBDC, along with fiscal hostility toward private stablecoins, undermines both innovation and equality before law. The article concludes that tax neutrality, rather than such blatant discrimination, is essential to ensure fairness and coherence in India's digital monetary regime.

*Keywords:* Stablecoins | CBDC | Cryptocurrency | Fiscal discrimination | Tax law

**INTRODUCTION**

When we study the current scenario of digital coins in India, one cannot help but ask a burning question- 'If two instruments perform the same economic function to store and transfer value digitally, why does the Indian laws treat one as innovation and the other as speculation?' Since 2022, India has adopted a dual approach to digital currency. On one hand, the Reserved Bank of India has launched the Central Bank Digital Currency as legal tender backed by the sovereign authority. On the other hand, privately issued stablecoins, which maintain value parity with the rupee and other fiat currencies through reserve backing, have been heavily taxed, with their regulatory space being stigmatized. This dichotomy is not only administrative,

but is a fiscal discrimination under the masquerade of policy. By classifying stablecoins as virtual digital assets under Section 2(47A) of the Income Tax Act, 1961[1], and imposing a heavy tax of 30% under Section 115BBH[2], along with 1% TDS under section 194S[3], the state has successfully crippled their usability. Meanwhile the digital Rupee enjoys tax neutrality. This article contends that the differential tax treatment between CBDCs and stablecoins constitutes arbitrary classification under Article 14 of the Constitution. It fails both prongs of the "reasonable classification" test as the intelligible differentia (public vs private issuance) bears no rational nexus to the object of taxation (income generation).

## STABLECOINS AND CBDC

To understand the extent of this legal disparity, we first need to understand the instruments in question. Stablecoins are a class of crypto assets which are designed to minimize volatility by pegging their value to a fiat currency or other stable asset. They are issued by private entities that maintain reserves (in the same or different currencies) to preserve parity. Examples can include USDC(Circle) and Tether (USDT) as both of them are backed by US Dollar. The Central bank Digital Coin is a virtual form of sovereign currency issued directly by a Central Bank. The RBI's concept note on CBDC from October 2022 defines it as a 'legal tender issued by the central bank in digital form, exchangeable at par with existing currency and accepted as a medium of payment, legal tender, and a safe store of value'[4]. Functionally, both the coins are the same. They enable electronic transfers without physical currency, denote value in terms of fiat currency and maintain purchasing power parity through technological or institutional mechanisms. India's attitude towards digital currency has changed. The Reserved Bank of India Act, 1934, amended in 2022, gave RBI a green signal to issue digital currency as legal tender. On the other hand, the Financial Act, 2022 amended the Income tax Act, 1961 and introduced some despotic provisions. Section 115BBH imposes a 30% tax on income from transfer of Virtual Digital Assets without allowing any deductions except cost of acquisitions. Section 194S requires deduction of 1% TDS on payments made for transfer of the above assets. Now, cryptocurrencies and similar tokens are included under VDA under Section 2(47A). Stablecoins fall directly within this definition due to their digital form and cryptographic nature even though their purpose and function differ radically from speculative cryptocurrencies like

---

[1] Section 2(47A), Income Tax Act, 1961
[2] Section 115BBH, Income Tax Act, 1961 (Introduced through the Finance Act, 2022)
[3] Section 194S, Income Tax Act, 1961
[4] Reserve Bank of India, *Concept Note on Central Bank Digital Currency,* 2022, summary note

Bitcoin and Memecoins. This ends up with legal over-inclusion and stablecoins are punished for only their form. The Digital Rupee enjoys both legal status and fiscal immunity. Under section 26 of the RBI Act, legal tender issued by the RBI is exempt from taxation in circulation. This asymmetry between CBDC and Stablecoins raises a big red flag. The State is acting as both regulator and competitor while using its fiscal power to give privileges to its own while penalizing private innovation. While the state may argue its sovereign right to promote its own digital currency through favourable tax treatment, we have to understand that Sovereignty doesn't make fiscal discrimination legitimate. No one is stopping the state from promoting CBDC. They are welcome to do so while also allowing other alternatives to exist in the market.

## THE LEGAL AND FISCAL ARCHITECTURE

The Government justifies its approach to crypto taxation as a matter of transparency and traceability, and that strict rules makes it difficult for illicit uses. But this reasoning falls flat when we juxtapose it on the CBDC. The Digital Rupee too is fully digital and capable of pseudonymous transactions. What steps will government take to secure them? Section 115BBH of the Income tax Act, inserted by the Finance Act, 2022 explicitly states that a straight 30% tax will be deducted from an income generated from transfer of any virtual digital asset. On the top of it, there is a provision for absolute disallowance of deductions except for the acquisitions cost and prohibition on offsetting losses. Section 194S also mandates 1% TDS on every transfer exceeding 10,000/- rupees. Conversely, the Digital Rupee operates under the RBI Act, 1934 and enjoys explicit statutory legitimacy as sovereign currency. Section 22A, introduced through the Finance Act, 2022, authorizes the RBI to issue digital currency, treated as banknotes in digital form. As legal tender, Digital Rupee transactions are non-taxable exchanges, I.e no income arises from spending or receipt of legal tender. Yet, stablecoin transactions, which are economically identical (e.g., a rupee-backed token exchange), are taxable events. This selective taxation undermines both neutrality and fairness. The State cannot, under constitutional scrutiny, create unequal fiscal burdens for identical functions without a rational and proportionate justification.

## THE FISCAL DISPARITY PROBLEM

Taxation is not merely an instrument of revenue but also an expression of state policy. Yet, when taxation creates artificial economic hierarchies between functionally equivalent assets, it risks violating constitutional guarantees of fairness and equality. Under the current laws, the stablecoins including the Rupee backed tokens issued by private entities, are taxed as

speculative VDAs, while CBDCs enjoy the privileges of legal tender. Such a framework implies that a rupee in private digital form is taxable commodity while that same rupee in public digital form is sovereign and tax free. And this raises a big question- Is such dual approach even constitutionally proper? And even if they were to be taxed 30% only for the gains and not for everyday use, why would an ordinary user use that commodity? The 1% TDS is still applicable over every transfer consideration even if no profit occurs. Moreover, the arguments about risk regulation doesn't hold much ground. Risk regulation and income taxation serve distinct constitutional purposes. Moreover, risk-based discrimination must be proportionate, and taxing all stablecoins at 30% because one algorithmic token collapsed is akin to taxing all banks for a single bank's failure.

## CONSTITUTIONAL ARGUMENTS

Article 14 of the Indian Constitution guarantees equality before the law and equal protection of the laws. The Supreme Court in *Budhan Choudhry vs State of Bihar*[5] laid down the dual test for reasonable classification. Firstly, the classification must be based on an intelligible differentia and secondly, it must have a rational nexus to the object sought to be achieved. Here the government's alleged objective to distinguish between CBDCs and Stablecoins is to ensure financial stability, consumer protection and curbing illicit use. And how exactly are the unjust taxes going to fix this? The means adopted bear no rational nexus to the objective the executors are giving. The government already has adequate regulatory instruments like RBI Act, 1934, Foreign Exchange Management Act, 1999 and Prevention of Money Laundering Act, 2002, to achieve these objectives. The Supreme Court in *E.P.Royappa vs State of Tamilnadu*[6] have already held that arbitrariness is antithetical to equality. When two entities performing the same economical functions are treated disparately without rational justification, then the differentiation collapses into arbitrariness. Let's even assume that government's actions are legitimate. Still, the fiscal means adopted by them must satisfy proportionality. As held in the *Modern Dental College vs State of M.P.* the state's action must be suitable and rationally connected to the goal, absolutely necessary and balanced. A flat 30% tax on Stablecoins, denial of loss set off and mandatory TDS fail all the three limbs of the doctrine of proportionality. The Government has to understand that excessive taxation on anything does not deter illegality. The activity just goes underground and is driven farther from government regulations.

[5] *Budhan Choudhry And Others vs The State of Bihar,* 1955 AIR 191
[6] *EP Royappa vs State of Tamilnadu & Another,* 1974 AIR 555

Moreover, regulations through already present methods like KYC norms or reserve audits could achieve the same goals without being too much intrusive. The punitive rate effectively eliminates legitimate financial innovation, violating economic freedom under Article 19(1)(g). Another problem here is of conflict of interests. The state is both the competitor and the regulator. Where is the competitive neutrality? The OECD's "Neutrality Principle" in taxation requires that tax systems not distort competition or favor particular entities or technologies. When India taxes stablecoins punitively while exempting its own digital currency, it effectively weaponizes fiscal power to suppress market alternatives, a conduct incompatible with the rule of law.

## THE WAY FORWARD

India's current approach is leading to various systemic consequences. Startups developing rupee pegged tokens face prohibitive compliance and tax burdens. It is stifling the financial innovation. And as a consequence, developers move to crypto-friendly locations like Singapore and the U.S. Users become wary of stablecoins. The best policy would be to adopt tax neutrality. Digital assets should be taxed based on their economic use and not on the basis of what technology they use or who issued them. The Section 2(47A) must be amended to exclude fiat backed stablecoins which are 1:1 backed and are redeemable in rupees, from the definition of Virtual Digital Assets. A distinction must be made between transactional use and investment, just like Singapore did. Transactional payments must be tax neutral like CBDCs while gains from investments may be taxed under capital gains. The provisions of disallowance of deductions and prohibition of offsetting loses are also needed to be revisited. The TDS should either be applied at a higher ceiling or should be scrapped altogether. As the Supreme Court recognized in *Internet and Mobile Association of India v. RBI*, the State cannot impose total prohibitions under the guise of regulation

## CONCLUSION

India stands at the crossroads of fiscal sovereignty and technological innovation. The Digital Rupee marks a significant milestone in financial modernization. But its success should not come at the cost of fiscal suppression of private alternatives. The punitive taxation of stablecoins represents a deeper constitutional malaise: the State acting as both player and referee in the digital economy. Equality before law requires neutral taxation of functionally equivalent instruments. A rupee, whether printed, tokenized, or centrally issued should not change its constitutional identity based on who issues it. The Finance Act, 2022, by conflating

innovation with speculation, fails this basic test. A recalibrated policy grounded in tax neutrality, proportionality, and constitutional fairness is essential to ensure that India's digital monetary future is built not on fiscal coercion, but on legal equality and economic rationality.