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Ban on Cryptocurrency Trading Removed

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Why in News

The Supreme Court has **struck down a ban on trading of Virtual Currencies (VC) in India**, which was imposed by the **Reserve Bank of India (RBI)** in April 2018.

- The RBI order prohibited banks and entities regulated by it from dealing in VCs or providing services for facilitating any person or entity in dealing with or settling VCs.
- Such services include maintaining accounts, registering, trading, settling, clearing, giving loans against virtual tokens, accepting them as collateral, opening accounts of exchanges dealing with them and transfer/receipt of money in accounts relating to purchase/ sale of VCs.

WHERE OTHER COUNTRIES STAND

Canada: Cryptocurrencies permitted as a payment system and as a form of investment; income from them is taxed

Switzerland: Permitted as a payment system (including consumer-to-government transactions) and as a form of investment

Japan: Permitted and regulated as a payment system

China: Banned for all purposes

Virtual Currencies

- There is no globally accepted definition of what exactly is virtual currency. Basically, virtual currency is the larger umbrella term for **all forms of non-fiat currency being traded online**.
Fiat Money is a kind of currency, issued by the government and regulated by a central authority such as a central bank. Such currencies act like legal tender and are not necessarily backed by a physical commodity.
- Virtual currencies are mostly created, distributed and accepted in local virtual networks. Virtual Currencies **also includes cryptocurrencies**.
- Cryptocurrencies have an extra layer of security, in the form of encryption algorithms.
 - Most cryptocurrencies now operate on the **blockchain or distributed ledger technology**, which allows everyone on the network to keep track of the transactions occurring globally.
 - **Popular forms of cryptocurrencies** include Bitcoin, Ethereum, etc.
- **Satoshi Nakamoto**, widely regarded as the founder of the modern virtual currency **bitcoin** and the underlying technology called blockchain, defines bitcoins as “a new electronic cash system that’s fully peer-to-peer, with no trusted third party (central regulator)”.

Reasons Behind Banning Virtual Currencies

- Lack of any underlying fiat, episodes of excessive volatility in their value, and their anonymous nature which **goes against global money-laundering rules**.
- Risks and concerns about data security and consumer protection.
- Potential impact on the effectiveness of monetary policy.

Arguments in Support of Use of Virtual Currencies in India

- Digital/virtual currencies (both private or government backed) are integral part of digital economy and digital countries.
 - 5 million Indians are engaged in virtual currency activities.
 - India is the second largest user of Pundi X’s blockchain wallet.
- India is at the forefront of all things digital and an inspiration to the world. Its balanced approach between risk and innovation can become a role model for the world.

Highlights of the Judgement

- **Test of Proportionality**
 - The ban did not pass the “proportionality” test. The test of proportionality of any action by the government must pass the test of **Article 19(1)(g) of the Constitution**, which states that all citizens of the country will have the right to practise any profession, or carry on any occupation or trade and business.
 - Till date, the RBI has **not come out with a stand** that any of the entities regulated by it have suffered any loss or adverse effect directly or indirectly, on account of VC exchanges.
 - Besides, the court found that the RBI **did not consider the availability of alternatives** before issuing the order i.e. achieving the same objective by imposing a less drastic restraint.
- **Inconsistent with the RBI’s Stand:** The RBI’s order was disproportionate” with an otherwise consistent stand taken by the central bank that VCs are not prohibited in the country.
- **Referred to the Global Approach:** Organisations across the globe have called for caution while dealing with virtual currencies, while also warning that a blanket ban of any sort could push the entire system underground, which in turn would mean no regulation.
- **On RBI’s Power:** The Court held that the RBI has powers to regulate any currencies in the system.

Possible Impact of the Judgement

- With the order, resumption of operations at cryptocurrency exchanges and backward linkages with the banking sector are expected.
 - Even as virtual currency investors and businesses will welcome the Supreme Court’s order on cryptocurrency, the relief for such players may be only temporary given that the Centre, in a draft law, has **proposed to ban all private cryptocurrencies.**
- The Supreme Court’s judgment could lead to the RBI rethinking its policies surrounding virtual currencies.

Source: TH