



### Bitcoins per se are not illegal in India: Nishith Desai

With regulatory and enforcement agencies clamping down on Bitcoin operators in India, leading international legal and taxation expert Nishith Desai has given this cryptographic digital product a clean chit stating that Bitcoins per se are not illegal in India but how one deals with these may be matter of legality.

◆ Our Bitcoins Practice Group examined the issue from techno-legal perspective, and we have found that Bitcoins per se are not illegal in India. This is in consonance with international approach, ◆ said Nishith Desai, Founder & Managing Partner of Nishith Desai Associates.

◆ Every new technology comes with new legal and tax problems and technology is a double-edged sword. It is very important that the new technology is understood in timely basis and appropriate regulatory regime is developed so that India does not miss out from a vast opportunity. We should not throttle this business, ◆ Mr. Desai said.

He said ten years ago, lot of people lost lot of money in dotcoms and now only the e-commerce business has taken off. Similarly, Bitcoins, may be highly risky now but it can be an alternative to general currency and can be a major financial instrument in future.

White paper

Mr. Desai's law firm has been hired by Bitcoins Alliance India (BAI), a community of Bitcoin entrepreneurs, to examine the legality of Bitcoins and come out with a white paper evaluating all aspects of this new concept.

◆ In some situations, dealing in Bitcoins can be illegal. You cannot export goods from India and receive payment in Bitcoins and park it outside. Proceeds of exports must be repatriated to India in terms of foreign exchange through normal banking channels. An intermediary needs to pay service tax. If Bitcoins are sold for a price in terms of ◆ money ◆, then Sale of Goods Act would apply but accepting Bitcoins against goods should not attract the provisions of Sale of Goods Act.

Provisions of Foreign Exchange Management Act (FEMA) would not be triggered especially when the transactions are intra-India. ◆ Importation of Bitcoins would be legitimate if transactions are carried out through proper banking channels, ◆ Mr. Desai said. ◆ AP

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Published by Maynal Hossain Chowdhury on behalf of East West Media Group Limited, Plot No: 371/A, Block No: D, Bashundhara R/A, Baridhara, Dhaka -1229 and Printed at Plot No: C/52, Block-K, Bashundhara, Khilkhet, Badda, Dhaka.

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