



# **Dr. Durgavati**

**Institute Of Law , Jiwaji University , Gwalior (M.P.)**


**Email- [durgaadvocate1982@gmail.com](mailto:durgaadvocate1982@gmail.com)**

**Subject - cyber law (Unit-II)**

**(Topic – communication process (attribution,acknowledgement& dispatch e-records)**

**Class- B.A. LL.B. X Sem**

**Date - 04.04.2020**



**Communication processes-  
Attribution, Acknowledgement &  
Dispatch of Electronic records**

# Communication

- ❑ The information technology act, 2000 has not amended or substituted the contract act , 1872 in any manner whatsoever . In order to form a valid electronic contract one needs a promisor and a promisee. The IT Act grants legal recognition to communication process involving computer , computer system and computer network by identifying attribution, acknowledgement and dispatch of electronic records as key statutory provisions in its chapter IV section 11 to 13.

## **The Act identifies three parties to the electronic transmission process:-**

1. Originator - section 2(1)(za)
2. Intermediary – section 2(1)(wz)
3. Addressee – section 2(1)(b)

(The categories ‘originator-intermediary-addressee facilitate end to end communication process.)

## ATTRIBUTION OF ELECTRONIC RECORDS (SECTION 11)

- **An electronic records shall be attributed to the originator-**

- A. If it was sent by the originator himself.
- B. By a person who had the authority to act on behalf of the originator in respect of that electronic record.
- C. by an information system programmed by or on behalf of the originator to operate automatically.

( With respect to IT At 2000, attribution of electronic records means **fixing identity of sender and receiver**. Here originator is a person **who sends or generates any electronic record**. The receiver of electronic record is termed as Addressee.

### **For example-**

If 'X' sends an email to 'Y', then 'X' is a sender or originator and 'Y' is reciever or Addressee.

In normal course of communication (postal communication or paper communication), it's very easy to identify originator and addressee but in electronic communication it's not the same.

- The electronic record can be sent by the originator himself or by the person who has been authorized by the originator or by an information system that the originator has authenticated.)

## ACKNOWLEDGMENT OF RECEIVING OF ELECTRONIC RECORD (SECTION 12)

- If the originator has not specified any specific mode of acknowledgement (an act by the addressee that he/she has received the electronic record), the acknowledgement can be given by a return mail by the addressee or an automated response by the addressee or an act by addressee that shows the acknowledgement.

### **For example-**

when a person receives an email by an estate agent, for real estate properties, the person can send a thank u mail or can send an automatic reply or can show interest in the offer given by the agent by visiting him. All the three option show an acknowledgement.

- If the originator has specified a format and time period for sending the acknowledgement, then the addressee must send the acknowledgement in that format and within the given time period otherwise the originator can send a notice to the addressee stating that no acknowledgement was received.

## **ACKNOWLEDGMENT OF RECEIVING OF ELECTRONIC RECORD (SECTION12)**

- Where the originator has not stipulated that the electronic record shall be binding only on receipt of such acknowledgment, and the acknowledgment has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed to within a reasonable time, then the originator may give notice to the addressee stating that no acknowledgment has been received by him and specifying a reasonable time by which the acknowledgment must be received by him and if no acknowledgment is received within the aforesaid time limit he may after giving notice to the addressee, treat the electronic record as though it has never been sent.

## **TIME AND PLACE OF Dispatch of Electronic Record(Section 13)**

- (1) Save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.
- (2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely :-
  - (a) if the addressee has designated a computer resource for the purpose of receiving electronic records –
    - receipt occurs at the time when the electronic, record enters the designated computer resource, or
    - if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee.
  - (b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.

## **TIME AND PLACE OF DISPATCH OF ELECTRONIC RECORD(SECTION 13)**

- (3) Save as otherwise agreed to between the originator and the addressee, an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business.
- (4) The provisions of sub-section (2) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under sub-section (3).
- (5) For the purposes of this section -
- if the originator or the addressee has more than one place of business, the principal place of business, shall be the place of business.
  - if the originator or the addressee does not have a place of business, his usual place of residence shall be deemed to be the place of business.
  - "usual place of residence", in relation to a body corporate, means the place where it is registered.



## TIME AND PLACE OF DISPATCH OF ELECTRONIC RECORD(SECTION 13)

- (This section states that when a person sends an electronic record from his computer then that particular time becomes the time of dispatch.

### **For example-**

If Mr. X composes an email at 3.30 am and presses the “Send” button at 4.30 am then time of dispatch will be 4.30 am. because after pressing send button the sender cannot make any changes to the record.)



Thank you