

# Loan your cash at your risk – S. 138 may not help you !



Cash

## Loan your cash at your risk !

So you have a large “unaccounted cash ” lying at home. Unaccounted as in not declared in your Income Tax Returns. You loan it to someone and get a Cheque from him in return. The Cheque bounces.

Can you use the provisions of S. 138 of the Negotiable instruments Act to recover the amount ?

The Law says NO !

See :

[Sanjay Mishra vs Ms.Kanishka Kapoor @ Nikki on 24 February, 2009](#)

( Bombay High Court decision )

Held :

” The provision of section 138 can not be resorted to for recovery of an unaccounted amount. A cheque issued in

discharge of alleged liability of repaying "unaccounted" cash amount cannot be said to be a cheque issued in discharge of a legally enforceable debt or liability within the meaning of explanation of section 138 of the said Act. Such an effort to misuse the provision of section 138 of the said Act has to be discouraged."