

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed

[www.ijlra.com](http://www.ijlra.com)

## DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

**Copyright © International Journal for Legal Research & Analysis.  
All rights reserved.**

## ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

## ***PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT***

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

# LEGAL ISSUES SURROUNDING CRYPTOCURRENCY AND VIRTUAL DIGITAL ASSETS IN INDIA

AUTHORED BY - DR K RAMA KRISHNA BABA  
Faculty, Dr B R Ambedkar Department of Legal Studies  
Acharya Nagarjuna University, Guntur, Andhra Pradesh

## ABSTRACT

*Cryptocurrency and Virtual Digital Assets (VDAs) represent one of the most disruptive financial and technological innovations of the twenty-first century, challenging established legal categories of property, currency, security, and commodity. In India, the regulatory trajectory of cryptocurrency has been characterised by profound ambivalence: from the Reserve Bank of India's blanket banking prohibition in 2018, through its dramatic reversal by the Supreme Court in Internet and Mobile Association of India v Reserve Bank of India (2020), to the Finance Ministry's introduction of the VDA tax regime in the Union Budget 2022 imposing a flat 30% tax on VDA gains and 1% TDS on transactions. This paper undertakes a comprehensive legal analysis of the regulatory framework governing VDAs in India, examining the definitional challenges, property law classification, securities regulation implications, anti-money laundering obligations under the Prevention of Money Laundering Act 2002 (as amended to include VDAs in 2023), taxation framework, and consumer protection concerns. A comparative analysis of regulatory approaches in the EU (MiCA Regulation 2023), the United States, the United Kingdom, Singapore, and Japan illuminates alternative models for comprehensive VDA regulation. The paper further analyses legal issues arising from Non-Fungible Tokens (NFTs), Decentralised Finance (DeFi), Central Bank Digital Currency (CBDC — the Digital Rupee), and the emerging Web3 ecosystem.*

**Keywords:** *Cryptocurrency, Virtual Digital Assets, VDA Taxation, PMLA, MiCA Regulation, Digital Rupee, NFT, DeFi, Crypto Regulation India*

## 1. INTRODUCTION

The emergence of Bitcoin in 2009 and the subsequent proliferation of thousands of cryptocurrencies and blockchain-based tokens has fundamentally challenged the conceptual categories upon which financial law, monetary policy, property law, and consumer protection are built. Unlike conventional financial instruments, cryptocurrencies are decentralised digital assets that exist on distributed ledger networks, are secured by cryptographic protocols, are not issued or guaranteed by any sovereign authority, and are traded on largely unregulated global platforms with minimal barriers to entry.

India's cryptocurrency ecosystem has grown at a remarkable pace. By 2024, India ranked first globally in cryptocurrency adoption by volume (Chainalysis Global Crypto Adoption Index 2024), with an estimated 15-20 million active cryptocurrency holders and a market capitalisation exposure of over \$16 billion. This growth reflects India's young demographic profile, its growing digital-native population, the relatively high returns historically generated by cryptocurrency investments, and the accessibility of cryptocurrency exchanges through smartphone applications.

Yet the legal landscape for cryptocurrency in India remains characterised by profound uncertainty and regulatory ambivalence. The RBI has consistently expressed concerns about cryptocurrency's implications for monetary stability, financial integrity, and consumer protection. The Finance Ministry has oscillated between approaches ranging from outright prohibition to de facto tolerance accompanied by punitive taxation. The absence of comprehensive legislation creates a vacuum in which investors operate without legal protection.

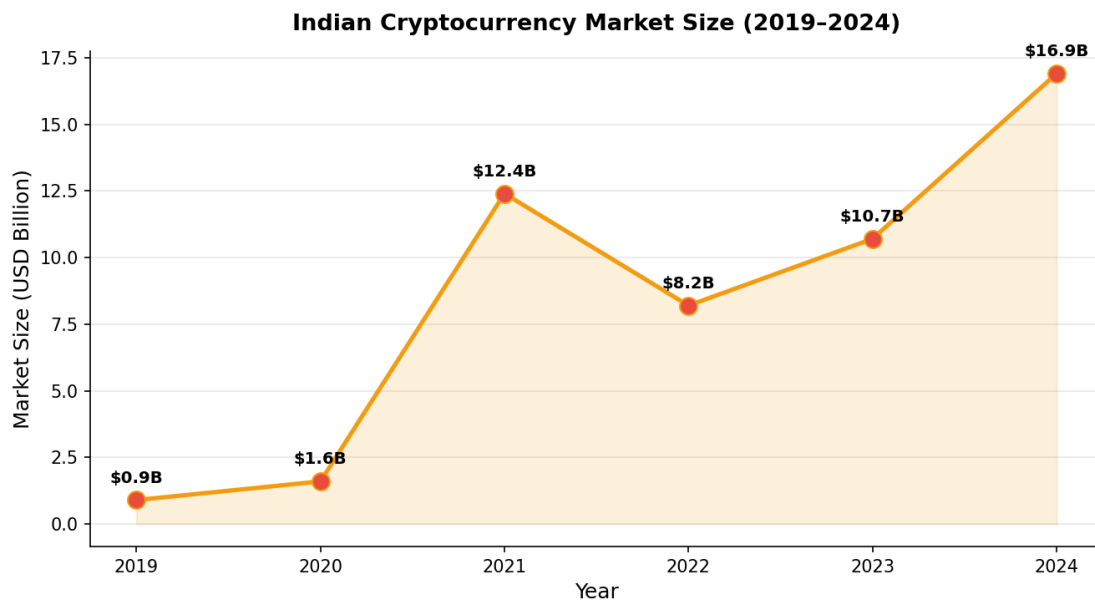


Figure 1: Indian Cryptocurrency Market Size (USD Billion) (2019–2024) — Source: Chainalysis India Crypto Report 2024

### 1.1 Research Objectives

- To analyse the legal status of cryptocurrency and VDAs under Indian property law, monetary law, and securities regulation.
- To critically examine the Supreme Court's decision in Internet and Mobile Association v RBI (2020) and its continuing relevance.
- To evaluate the VDA taxation framework under the Income Tax Act 1961 and its economic and regulatory implications.
- To analyse the anti-money laundering obligations applicable to VDA service providers under the PMLA 2002 (as amended 2023).
- To undertake a comparative analysis of VDA regulatory frameworks in the EU, USA, UK, Singapore, and Japan.
- To examine the regulatory implications of NFTs, DeFi protocols, and the Digital Rupee (CBDC).

## 2. LEGAL STATUS OF CRYPTOCURRENCY IN INDIA

### 2.1 The Classification Problem

The fundamental legal question for any regulatory framework is the classification of cryptocurrency: is it currency, property, a commodity, a security, or a novel asset class requiring its own legal category? The RBI Act 1934 defines 'currency' as notes and coins issued

by the RBI. Cryptocurrency does not fit this definition. Under the Transfer of Property Act 1882 and the Sale of Goods Act 1930, cryptocurrency is most naturally classified as intangible moveable property, supported by the Finance Ministry's treatment of VDA gains as income from capital assets under Section 2(47A) of the Income Tax Act 1961 (inserted by the Finance Act 2022).

The SEBI Act 1992 defines 'securities' to include shares, bonds, debentures, units of collective investment schemes, and derivatives of securities. The classification of cryptocurrency as a 'security' for SEBI regulatory purposes has not been definitively established, though certain categories of tokens (particularly those representing fractional ownership in real assets or profit-sharing rights) may meet the functional definition under the Howey Test adopted from US securities law.

### 2.2 The Supreme Court's Landmark Decision (2020)

The Supreme Court's decision in *Internet and Mobile Association of India v Reserve Bank of India (2020) 10 SCC 274* is the foundational judicial authority on the regulatory status of cryptocurrency in India. The case arose from a challenge to the RBI's April 2018 circular prohibiting regulated financial entities from providing services to cryptocurrency businesses. The Supreme Court set aside the RBI circular on the grounds that the RBI had failed to demonstrate that the activities of cryptocurrency exchanges had caused actual harm to any of the entities regulated by the RBI, and that the blanket prohibition failed the proportionality test.

## 3. THE VDA TAXATION FRAMEWORK: ANALYSIS AND CRITIQUE

VDA TDS Revenue Collection (Section 194S) – FY2023 vs FY2024

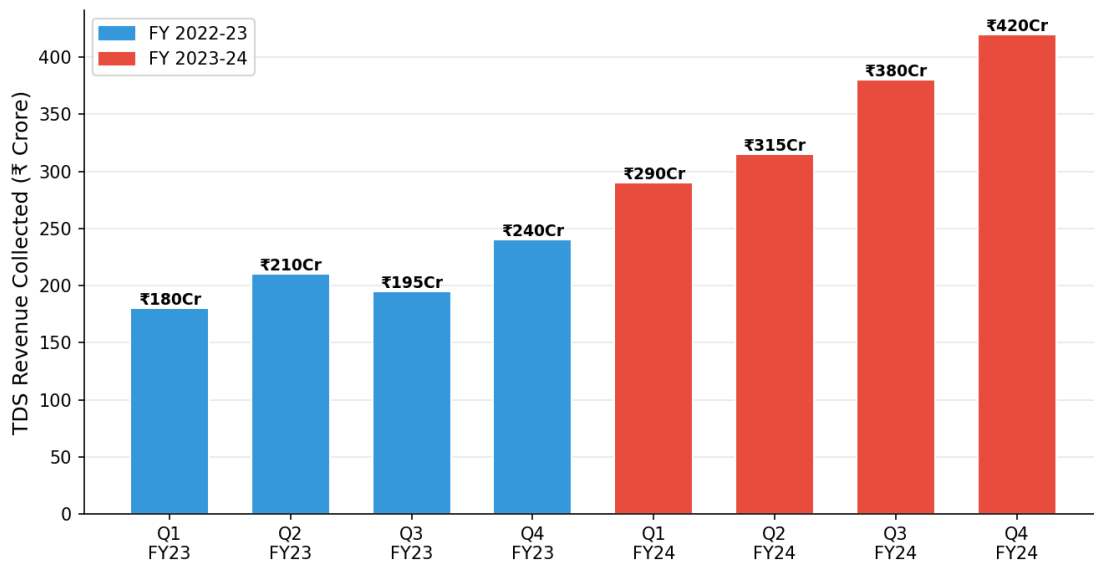


Figure 2: VDA TDS Revenue Collection (Section 194S) — FY2023 vs FY2024 — Source: Ministry of Finance & Income Tax Department Data

### 3.1 The Finance Act 2022 VDA Tax Regime

The Finance Act 2022 introduced a dedicated VDA taxation framework in the Income Tax Act 1961 through three principal provisions: (i) Section 115BBH imposing a flat 30% tax rate on income from transfer of VDAs, without the benefit of any deduction other than the cost of acquisition; (ii) Section 194S requiring 1% TDS on payments in consideration of transfer of VDAs where the consideration exceeds Rs.10,000; and (iii) Section 2(47A) defining VDA for the purposes of the Act.

### 3.2 Critical Assessment of the VDA Tax Regime

The VDA tax regime has attracted criticism from multiple quarters. The flat 30% rate, without the benefit of deductions for business expenses, losses from previous periods, or set-off against other heads of income, is the highest effective rate in India other than the 42% surcharge on the highest income slab. This creates a punitive tax burden that is disproportionate to the regime applied to other asset classes such as equities, bonds, and real estate. Industry estimates suggest that the 1% TDS requirement led to a 70-80% reduction in domestic exchange volumes, as traders shifted to foreign platforms.

Tax Parameter	VDA (India)	Equities (India)	Crypto (Singapore)	Crypto (UK)
Capital Gains Rate	30% flat (Sec. 115BBH)	STCG 15%; LTCG 10%	0% (no CGT)	20% / 18%
Loss Set-off	Not permitted	Permitted	N/A	Permitted
Business Deductions	Only cost of acquisition	Full deductions	Full (if business)	Full (if trade)
TDS/Withholding	1% (Sec. 194S)	0.1% on gains	None	None
Gifting	Taxed as transfer	Taxed as transfer	Tax-free (personal)	Taxed at CGT rate

Table 1: Comparative VDA Taxation — India vs. Other Asset Classes and Jurisdictions (2024)

## 4. ANTI-MONEY LAUNDERING AND VDA SERVICE PROVIDERS

### 4.1 The 2023 PMLA Amendment

A landmark development in India's VDA regulatory landscape was the March 2023 notification under the Prevention of Money Laundering Act 2002 (PMLA) extending AML obligations to Virtual Asset Service Providers (VASPs). This notification, issued under Section 2(1)(sa) of the PMLA, designated VASPs — including cryptocurrency exchanges, token issuers, digital wallet providers, and custodians — as 'reporting entities' under the PMLA, with obligations to carry out Customer Due Diligence (CDD) and Know Your Customer (KYC) verification, maintain transaction records for five years, and report suspicious transactions to the Financial Intelligence Unit — India (FIU-IND).

### 4.2 Money Laundering Through Cryptocurrency: Enforcement Challenges

The Enforcement Directorate (ED), empowered under the PMLA, has taken increasingly aggressive action against cryptocurrency platforms alleged to have facilitated money laundering. Landmark ED actions include the attachment of assets of WazirX (2022), Binance (2024), and multiple smaller exchanges for alleged PMLA violations. The Binance case was particularly significant, raising complex jurisdictional questions about the application of Indian AML law to foreign-registered VASPs operating in India.

## 5. COMPARATIVE INTERNATIONAL REGULATORY FRAMEWORKS

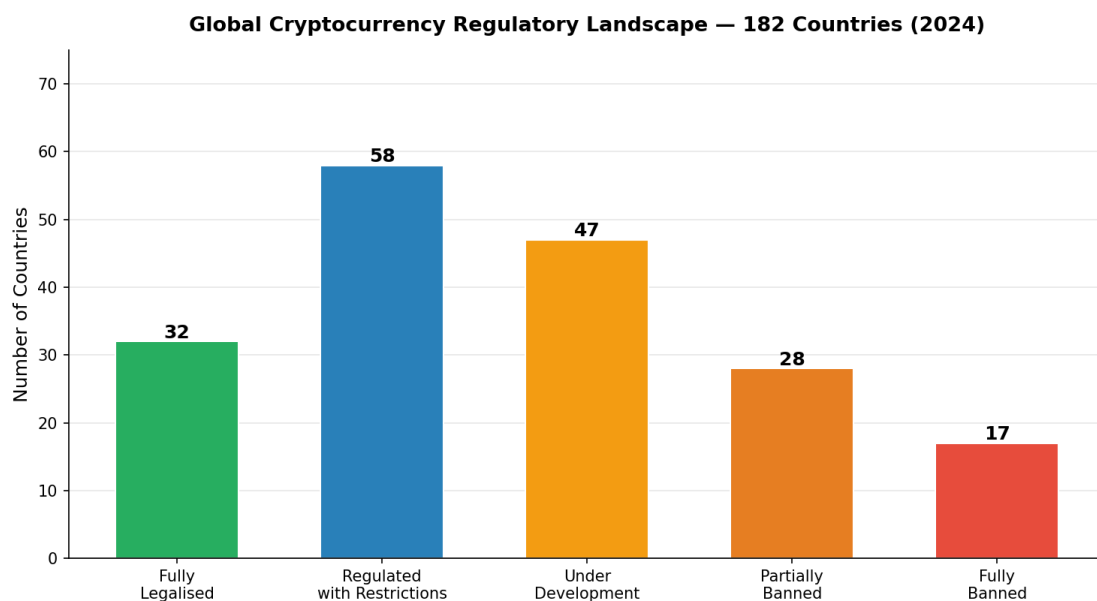


Figure 3: Global Cryptocurrency Regulatory Landscape — 182 Countries (2024) — Source: *Elliptic Global Crypto Regulation Tracker*

### India VDA Regulatory Timeline (2020-2024)

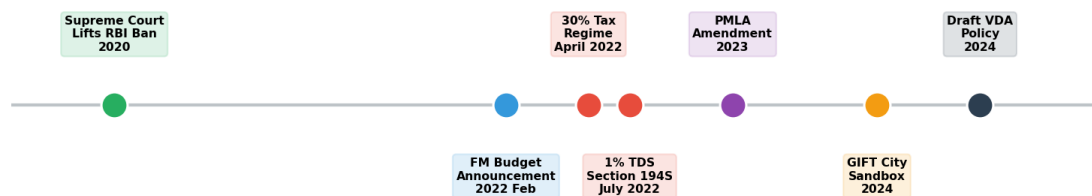


Figure 4: India VDA Regulatory Timeline (2020–2024) — Source: Government Notifications, Parliamentary Records & Supreme Court Orders

### 5.1 European Union: Markets in Crypto-Assets (MiCA) Regulation 2023

The EU's Markets in Crypto-Assets (MiCA) Regulation, entering into force in December 2024, provides the world's most comprehensive bespoke legislative framework for VDAs. MiCA creates a unified licensing framework for Crypto-Asset Service Providers (CASPs), categorises crypto-assets into three regulated classes (asset-referenced tokens, e-money tokens, and other crypto-assets), and imposes comprehensive consumer protection, disclosure, and governance requirements.

### 5.2 United States: Multi-Regulator Approach

The United States has adopted a multi-regulatory approach to cryptocurrency, with the SEC, CFTC, FinCEN, and OCC all asserting jurisdiction over different aspects of the VDA ecosystem. The SEC has aggressively pursued enforcement actions against crypto exchanges and token issuers on the ground that many cryptocurrencies constitute unregistered securities under the Howey test.

### 5.3 Singapore: Payment Services Act Licensing Framework

Singapore's Monetary Authority of Singapore (MAS) has established a clear licensing framework for Digital Payment Token (DPT) service providers under the Payment Services Act 2019 (as amended in 2021). The framework requires mandatory licensing of all entities providing VDA exchange, wallet custody, and transfer services, with tiered requirements based on transaction volume and type of services provided.

## **6. EMERGING VDA ISSUES: NFTs, DeFi, AND THE DIGITAL RUPEE**

### **6.1 Non-Fungible Tokens (NFTs): Legal Classification and Issues**

Non-Fungible Tokens (NFTs) represent a unique sub-category of VDA that raise distinct legal issues. Unlike fungible cryptocurrencies such as Bitcoin, NFTs are unique digital assets representing ownership of a specific digital or physical item, authenticated on a blockchain. The legal issues arising from NFTs in the Indian context include: (i) whether purchase of an NFT confers copyright or merely a token representing ownership; (ii) what intellectual property rights are transferred when an artist creates and sells an NFT; (iii) taxation as VDAs under Section 2(47A) IT Act; and (iv) consumer fraud prevalence in the form of 'rug pulls' and exit scams.

### **6.2 Decentralised Finance (DeFi) and Regulatory Arbitrage**

Decentralised Finance (DeFi) protocols, which provide financial services including lending, borrowing, trading, and yield generation through smart contracts on blockchain networks without centralised intermediaries, pose perhaps the most challenging regulatory questions in the VDA space. Because DeFi protocols operate through code rather than corporate entities, they lack the legal personality and physical presence that conventional regulatory frameworks require.

### **6.3 The Digital Rupee: India's Central Bank Digital Currency**

The Reserve Bank of India launched pilots for the Digital Rupee (e-Rupee) — India's retail and wholesale Central Bank Digital Currency (CBDC) — in 2022 and 2023 respectively. The regulatory and legal framework for the Digital Rupee is established through the Finance Act 2022 amendment to the RBI Act 1934, which authorises the RBI to issue CBDCs as 'bank notes.' Unlike cryptocurrencies, the Digital Rupee is issued by the RBI, constitutes legal tender, and is pegged 1:1 to the Indian Rupee.

## **7. CONSUMER PROTECTION AND INVESTOR RIGHTS IN THE VDA ECOSYSTEM**

### **7.1 Investor Vulnerability**

The Indian VDA investor population is characterised by a demographic profile — predominantly young (18-35), digitally literate, but with limited financial market experience — that makes it particularly vulnerable to the unique risks of the crypto market: extreme price

volatility, fraudulent schemes (pump-and-dump, exit scams), exchange insolvency, and regulatory uncertainty. Unlike bank deposits (protected by DICGC up to Rs.5 lakh) or securities investments (protected by SEBI investor protection frameworks), VDA investments carry no statutory consumer protection.

## 7.2 The WazirX Crisis: A Case Study in VDA Governance Failures

The 2024 cyberattack on WazirX, India's largest domestic cryptocurrency exchange, resulting in the theft of approximately \$230 million in digital assets (approximately Rs.1,900 crore), crystallised the consumer protection vulnerabilities in India's unregulated VDA ecosystem. The attack, attributed to the North Korean Lazarus hacking group, raised acute questions about exchange operational security standards, customer fund segregation, insurance obligations, and the legal remedies available to WazirX's 1.5 million depositors.

# 8. TOWARDS A COMPREHENSIVE VDA REGULATORY FRAMEWORK FOR INDIA

## 8.1 Legislative Architecture

- A clear, comprehensive definition of VDAs encompassing cryptocurrencies, stablecoins, NFTs, DeFi tokens, and other blockchain-based assets, with a mechanism for the regulatory authority to include or exclude categories as technology evolves.
- A risk-based licensing framework for VDA Service Providers (VASPs), with tiered requirements based on the risk profile and scale of operations.
- Mandatory segregation of customer funds from exchange operating funds, with customer asset protection mechanisms analogous to the Investor Protection Fund in the securities market.
- A proportionate VDA tax regime that replaces the punitive 30% flat rate with a structure that distinguishes between short-term and long-term gains, allows loss set-off against VDA gains, and permits deduction of legitimate business expenses.
- Consumer dispute resolution mechanisms specific to the VDA sector, including a Fast Track Digital Asset Court or Ombudsman.

## 8.2 Regulatory Architecture

The regulatory oversight of VDAs should be rationalised across a clear jurisdictional framework: SEBI would regulate security tokens and investment-related VDA instruments;

RBI would oversee payment-related VDAs and stablecoins; a new VDA Regulatory Authority (VDARA) would oversee exchanges, wallets, and other VDA service providers; and the Enforcement Directorate and FIU-IND would continue to exercise AML jurisdiction with enhanced digital assets enforcement capabilities.

VDA Category	Legal Classification	Applicable Tax	Regulatory Authority	Key Legal Risk
Bitcoin/Ethereum	Property/VDA (Sec. 2(47A))	30% gains + 1% TDS	FIU-IND / ED	Speculative loss; fraud
Stablecoins	VDA / Quasi-currency	30% (income tax)	RBI (potential)	Systemic risk if widely used
Security Tokens	Likely 'security' (SEBI)	Sec. 115BBH / SEBI	SEBI	Unregistered securities
NFTs	VDA per Finance Ministry	30% + GST (18%)	FIU-IND / ED	IP infringement; fraud
DeFi Tokens	VDA (likely)	30% on income	Unclear	Regulatory arbitrage
Digital Rupee	Legal Tender (CBDC)	Not taxable (currency)	RBI	Data privacy concerns

Table 2: Legal Classification and Regulatory Status of Key VDA Categories in India (2024)

## 9. CONCLUSION

Cryptocurrency and Virtual Digital Assets present India with both extraordinary economic opportunity and profound regulatory challenges. India's position as the world's largest VDA adopting nation by volume, combined with its deep technology talent pool, established fintech ecosystem, and large institutional investor base, positions it uniquely to become a global VDA financial centre if it can establish a regulatory framework that provides clarity, investor protection, and innovation-enabling governance.

The current regulatory landscape — characterised by punitive taxation, fragmented AML obligations, no comprehensive licensing framework, and continuing RBI ambivalence — is producing sub-optimal outcomes: capital flight to offshore platforms, suppressed domestic exchange volumes, investor vulnerability to fraud, and missed economic opportunities. The

enactment of a dedicated VDA Act, the rationalisation of the tax regime, the establishment of a clear regulatory authority, and India's full FATF compliance in the VDA sector are essential preconditions for India's aspiration to lead the global digital economy.

## REFERENCES

1. *Internet and Mobile Association of India v. Reserve Bank of India*, (2020) 10 SCC 274 (Supreme Court of India).
2. *Finance Act, 2022. (Act 6 of 2022) — Sections 115BBH, 194S, 2(47A)*. Government of India.
3. *Prevention of Money Laundering Act, 2002 (as amended 2023)*. Government of India.
4. *European Parliament. (2023). Markets in Crypto-Assets Regulation (MiCA), Regulation (EU) 2023/1114*.
5. *Reserve Bank of India. (2022). Report on Currency and Finance 2021-22*. RBI.
6. *RBI. (2023). Digital Rupee — Pilot Programme Report and Framework*. Reserve Bank of India.
7. *FATF. (2023). Updated Guidance for a Risk-Based Approach — Virtual Assets and VASPs*. Financial Action Task Force.
8. *Chainalysis. (2024). Global Crypto Adoption Index 2024*. Chainalysis Inc.
9. *Ministry of Finance. (2022). FAQs on Virtual Digital Asset Taxation*. Government of India.
10. *SEC v. Ripple Labs Inc., Case No. 20-cv-10832 (S.D.N.Y. 2023)*.
11. *Gupta, S., & Sinha, A. (2023). Cryptocurrency and the Law in India*. *National Law School of India Review*, 35(2), 78-114.
12. *Monetary Authority of Singapore. (2022). Guidelines on Licensing for Digital Payment Token Service Providers*. MAS Notice PSA-N02.
13. *IMF. (2023). Crypto Regulation: Global Trends and Implications for Emerging Markets*. IMF Staff Discussion Note.
14. *Elliptic. (2024). The State of Global Crypto Regulation*. Elliptic Research Report.
15. *KPMG India. (2024). Virtual Digital Assets in India: Regulatory & Tax Outlook 2024*. KPMG LLP.