SHREE H. N. SHUKLA COLLEGE OF I.T. & MGMT.
(AFFILIATED TO SAURASHTRA UNIVERSITY)
3- Vaishalinagar
Nr. Amrapali Railway Crossing
Raiya Road, Rajkot – 360001
Ph. No–(0281)2471645
2 – Vaishalinagar
Nr. Amrapali Railway Crossing
Raiya Road, Rajkot - 360001
Ph.No–(0281)2440478, 2472590

COMPANY LAW

B.COM - 1

INDEX	
Sr. No.	**Subject Name**
1	AN INTRODUCTION TO COMPANY'S ACT 2013
2	STRATEGY OF COMPANY FORMATION
3	DEVELOPMENT OF COM. LAW ADMINISTRATION
4	PROVISION OF COMPANY's ACT 2013 REGARDING DIVIDEND AND INTEREST

UNIT-1
INTRODUCTION TO COMPANIES ACT 2013

TOPIC: Definition of a company and its features/characteristics.

Introduction:

A company is one of the forms of business organization. It is a voluntary association of persons and is formed for certain common purposes. Its capital is raised by selling shares and the persons holding such shares are known as shareholders. The liability of shareholders is limited to the extent of the shares they hold.

Meaning:

A company is a voluntary incorporated body, which is an artificial legal person, having a separate legal entity, created by law with limited liability having a common seal and perpetual succession. If an association is not incorporated under the Companies Act, it neither enjoys any independent and distinct existence nor does it become a body corporate. A company formed possesses a legal personality only when it is registered under the Companies Act. This is so because the law confers on a company, on its registration, distinct personality and it becomes a very different person or entity from its member or the individuals composing it.

Definition:

1. Section 2(20) of the Companies Act, 2013 defines 'Company' as under: "Company" means a company incorporated under this Act or under any pervious company law.

2. Let us consider the definitions stated by Lord Justice Lindley and Haney. "A company is an artificial person, a mere creation of law and it gives every right to possess or to create assets, to incur liabilities and to carry on the business activities according to the provisions of the law."

Characteristics of a company:

1. Artificial person created by law:

A company has no body, no soul, and no conscience nor is it subject to affection of the body. These physical disabilities make the company an artificial person. But then a company really exists and it is not a fictitious entity.

2. Voluntary organization:

A company is a voluntary association of persons to earn profits. It is formed for the accomplishment of some public good. The profit is divided among its shareholders. A company cannot be formed to carry on any activity against the public policy and having no profit motive/objective.

3. Separate legal entity:

A company is regarded as an entity separate from its members. In other words, it has an independent corporate existence. A member of the company cannot, therefore, be held liable for the acts of the company. Even if he holds the whole share capital of the company. Law as a single person regards a company. It has a legal personality. This rule applies even in the case of 'one Person Company'.

4. Company can be sued and be sued:

A company can sue and be sued in its corporate name. It may also be or suffer wrongs. It can in fact do or have done to it most of the things which may be done by or to a human being.

5. Perpetual Succession:

A company is a juristic/legalistic person with a perpetual succession as such it never dies. Its life does not depend on the life of its members. It is not affected by insolvency, mental disorder or retirement of any of its members. Members may come and go but the company goes on forever.

6. Common seal:

Since the company has no physical existence, but it is person created by law, it must act through its agents and all contracts entered into by its agents must be under the seal of the company. It is called the common seal of the company. The common seal acts as the official signature of the company.

7. Transferability of shares:

The capital of a company is divided into parts called shares. These shares are subject to certain conditions, freely transferable so that no shareholder is permanently or necessarily attached to the company.

8. Separate property:

A company as already observed is a legal person different from its members. It is therefore capable of owning enjoying and disposing of property in its own name. Although the shareholders contribute the capital and assets of the company, they are not the private and joint owners of the property of the company.

9. Limited Liability:

The liability of the members of a company may be limited by shares or limited by guarantee. In a company limited by shares, the liability of the members is limited to the unpaid value of the shares. In a company limited by guarantee, the liability of members is limited to such amount as the members may undertake to contribute to the assets of the company at the time of winding up of the company.

10. Management:

The board of directors, whole time directors, managing directors or manager, manages a company. These persons are selected in the manner provided by the Act. A shareholder, as such cannot participate in the management.

11. Number of members:

In the case of a private limited company, the minimum number of members is 2 while the maximum is 200. But in the case of a public limited company, the minimum number is fixed at 7 while there is no maximum limit on membership.

➢ ONE WORD QUE AND ANSWER

Sr no	QUE	ANS
1	In the case of a private limited company, the minimum number of members is	2
2	the case of a public limited company, the minimum number is fixed at	7
3	A company is managed by	BOD
4	The liability of the members of a company may be	Limited by shares or limited by guarantee.

5 6	In the case of a private limited company, the maximum is there is no maximum limit on membership.	200 IN public company

TOPIC:- History/Development of Company Law in India.

Introduction:

The law relating to business such as companies and partnership regulates important areas of daily life, and allows you to see that there is a connection between the law and the way in which people think and behave when running a business. It allows you to consider the implication of creating a legal framework, which regulates the aspects of daily life. It allows a study of how and why law is made, and how and why it changes; it allows an appreciation, of some of the pressures, which bring about change in and development of law and what roles individuals may play.

1. Act of 1850:

Company legislation in India owes its origin to the English Company Law. The Companies Acts passed from time to time in India have been following the English Companies Acts with certain modifications to suit Indian conditions. The first legislative enactment for Registration of Joint Stock Companies" was passed in the year 1850. This Act was based on the English Companies Act, 1844 (known as the Joint Stock Companies Act of 1844) which recognized the company as distinct legal entity, but did not grant to it the privilege of limited liability.

2. Act of 1857:

The Act of 1850 was replaced by a new act bearing the same name in 1857. In this act, the principle of limited liability was introduced for the first time in India. The English Companies Act, 1856 (known as the Joint Stock Companies Act of 1856) replaced both theActsof 1844 and 1855. Under this Act, the company legislation assumed for the first time a form which has been broadly handed down almost to the present day, subject to various amendments which were made from time to time to suit various exigencies. Under this Act, 7 or more persons could form themselves into an incorporated company, with or without limited liability, by signing a Memorandum of Association and complying with the requirements of the Act.

3. Act of 1860:

Both the English Act of 1856 and the Indian Act of 1857 did not extend the privilege of limited liability to banking company This usability was removed in England by the Joint Stock (Banking Companies Act of 1857 and the Joint Stock (Banking) Companies Act of 1858 which brought banking companies, both with limited and unlimited liability, within the operation of the Act of 1856. In India, the Joint Stock Companies Act of 1860, passed on the lines of the English Act of 1856 enabled, banking companies to register, subject to certain condition with limited liability. Acts relating to companies were passed in 1860, 1866, 1882, 1895, 1910 and 1913. This Act of 1866 was based on the English Companies Act of 1862, which has been called "a masterpiece of legislation". Sir Francis Palmer described it as the "magna carta of co-operative enterprise."

4. Act of 1913:

Following the English companies consolidation act 1908, the Indian Companies act, 1913 was passed. This Act also like its predecessors was almost a verbatim reproduction of the English Act of 1908. 'It may be noted that since this Act closely followed the English Act of 1908, the decisions of the English Courts under the English Company Law were also closely followed by the Indian Courts. As such, some amendments were made in the Act in the years 1914, 1915, 1920, 1926, 1930 and 1932. The Act was extensively amended in 1936 on the lines of the English Companies Act of 1929. From 1937to 1951, further amendments were made almost every year in the 1913 Act and it remained in force upto 1956.

5. Act of 1956

In 1950,the government appointed an expert committee under the chairmanship of Shri C.H.Bhabha to suggest how the company law can be reformed. The companies Act of 1956 is based mainly on the recommendations of the committee. The Act of 1956 has been amended in 1960, 1963, 1965, 1969, 1971 and 1974. The companies (Amendments) Act of the 1974, was applied from 1st February, 1975. Thereafter based on the recommendations of the Sachar Committee Report, the companies Act of 1956 was again amended.

6. Act of 1996:

In the year 1996, a working group was constituted to rewrite the companies Act in order to facilitate the healthy growth of the Indian Corporate sector to make it more competitive under the changing global situation. Many important amendments were introduced in the year 1996, 1997, 2000, 2001, 2002 and 2006. Due to change in the economic scenario at the national and international level, economy has become more dynamic and complex.

Functioning of the companies, now days is not restricted to what existed half a century back. They are now more into the exports and imports. It was therefore felt necessary that more autonomy of operations and innovation was required for the corporate entities. Therefore, a comprehensive review of company law was felt necessary and govt. of India took the herculean task of revamping the existing law in force.

7. Act of 2013:

On 4th August 2004, a 'Concept Paper on New Company Law' was placed on the website of Ministry of Companies Affairs. Govt. of India and Suggestions were Called from the stakeholders. An expert committee comprising of representatives from various concerned departments, professional and trade bodies etc. was constituted under the Chairmanship of Dr. J.J. Irani On 2nd December, 2004, to discuss the suggestions. Companies Law Bill, 2008 was introduced in the Parliament but was lapsed due to the dissolution of LokSabha. Since then revamped Companies Law Bill was introduced to the parliament, in various forms in 2010, 2011 and finally in 2012. The said bill was pass by LokSabha on 18 December 2012 and by RajyaSabha on 8thAugust, 2013. It received assent from the president of India on 29thAugust, 2013 and was enforced w.e.f. 1 April 2014. The new Act has been consolidated into 29chepters, 470 sections and 7 schedules as against 13 parts, 658 sections and 15 schedules of the previous Act.

TOPIC-Briefly explain the different Kinds/Types of Companies:

Introduction:

Companies can be divided into various categories according to the nature of incorporation, type of liability and nature of control. According to the nature of incorporation, company can be categorized as, statutory company, chartered company, registered or incorporated company.

Types of companies

Incorporated company:

The companies may be classified into two types based on incorporated companies. The incorporated companies are those companies, which are registered under the company's act 1956.

They are i. Registered company
ii. Statutory company

[i] Registered Company:

These are the companies, which are formed and registered under the Indian companies act. It is further divided into many types.

□ On the basis of number of members:

□ Private Company:

Section 2 (68) defines a private company as follows: "Private Company" means a company having a minimum paid up share capital of one lakh rupees or such higher paid up share capital as may be prescribed, and by its Articles-

(i) restricts the right to transfer its shares,

(ii) Except in case of one-person company, limits the number of its members to 200

(iii) Prohibits any invitation to the public to subscribe for any securities of the company

. It provides that where two or more Persons hold one or more shares jointly then they be treated as a single shareholder/member. The persons who are in employment of the company or have been formerly in the employment of the company and have received shares shall not be included in the number of members;

□ Public Company:

A public company defined in Section 2(71) "public company" means a company, which is not a private company. It has a minimum paid up share capital of five lakh rupees or such higher paid-up capital as may be prescribed. A public company means a company, which by its articles does not-

□ restricts the right to transfer its shares.

□ Limit the number of its members

. □ Prohibit the invitation to public for subscribing in shares or debentures of the company.

One Person company:

Section 2 (62) defines 'One Person company' is a company which has only one persons as a member. Section 3(1)(c) provides as "A company may be formed for any lawful purpose by-one person, where the company to be formed is to be one person company, that is to say, a private company, by subscribing their names or his name to a memorandum and complying with the requirements of this Act in respect of registration."

On the basis of liability of members:

Limited by shares:
The liability of members is limited up to the unpaid amount of shares held by the members. The company limited by shares may be a private, public or one-person company.

Limited by guarantee:
There is no share capital in this company. The liability of the members is decided by guaranteed amount by the members to contribute to the assets of the company at the time of winding up of the company.

Unlimited liability:
The member's liability in such companies is unlimited. It is not fixed. The personal property of members is also liable to pay off debts.

On the basis of control:

Holding Company:
A company is deemed the holding company of another if, but only if, that other company is its subsidiary company.

Subsidiary company:
A company is called a subsidiary company if some other company controls that company.

Government Company:
A company in which at least 51% of the paid up share capital is held by the central government or by any state government or partly by central and partly by state government.

On the basis of location of its registered office:

A national company:
When the operations of a company are confined only within the boundaries of the country in which the company is registered, such a company is called a national company.

A Multinational Company:
When the operations of a company are extended beyond the boundaries of the country in which the company is registered, such a company is called a multinational company.

A Foreign Company:

Section 2(42) states that a foreign company is a company or body corporate incorporated outside India which- (a) has a place of business within India whether by itself or through an agent, physically or through electronic mode (b) conducts any business activity in India in any other manner;

Other types of companies:

Association not for profits:

Sections 8(1) lays down "Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this act as a limited company-
(a) Has in its objects the promotion of commerce, art, science, social welfare, religion, charity, protection of environment or any such other object;
(b) Intends to apply its profits, if any, or other income in promoting its objects; and
(c) Intends to prohibit the payment of any dividend to its members."

[ii] Statutory Company:

It is formed and registered under any act or law or statute of UTI, Central or state government.

Unincorporated companies:

These companies are not be registered under the companies' act 1956, if the number of members exceeds 10 in banking business and 20 in non-banking business. The unincorporated companies are like large partnership firms and do not have separate entity. The liability of the members is unlimited but transfer of shares is possible. It does not end with death or resignation.

One word QUE. And Answer

SR NO	QUE	ANS
1	The unincorporated companies are like large partnership firms and do not have separate	True

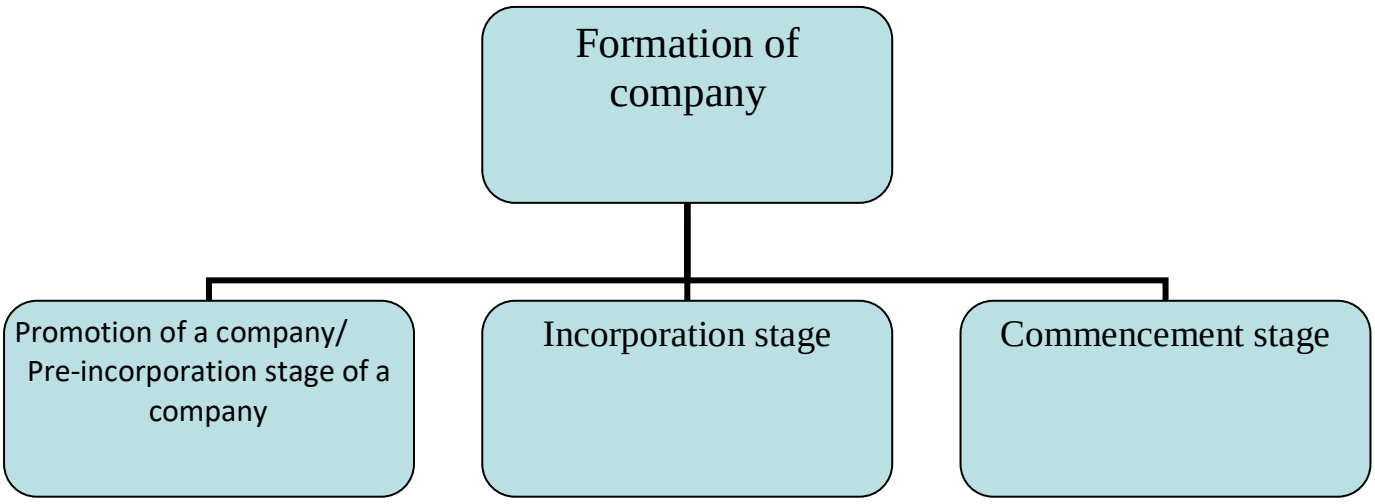
	entity.	
2	When the operations of a company are confined only within the boundaries of the country in which the company is registered, such a company is called a national company.	**True**
3	A company is deemed to be the……. company of another if, but only if, that other company is its subsidiary company.	**Holding**
4	A company is called …company if some other company controls that company.	**Subsidiary**
5	A company in which at least 51% of the paid up share capital is held by the central government	**Govt.company**

UNIT 2
Strategy of Formation of company

1.00 Introduction:

According to Section 3(1): "A company may be formed for any lawful purpose by-
(a) Seven or more persons, where the company to be formed is to be a public company;
(b) Two or more persons, where the company to be formed is to be a private company; or
(c) One person, where the company to be formed is to be one-person company.
In other words, a company may be formed by making an application to the Registrar of companies, in the format prescribed by the act. Application has to be accompanied with the statutory documents such as Memorandum of Association, articles of association and consent letters, prospectus etc. such company can be formed with limited or unlimited liabilities and where the company is formed with limited liability, it can either be limited by shares or by guarantee. The formation of company has to undergo different stages as given below:

Diagram:



2.00 Pre-incorporation stages of a company:

After the inception of an idea, to start with a new business there comes a phase to convert this idea into reality. I.e. concrete form. Promoters undergo following procedure during the pre-incorporation stage.

2.1 Idea of Business:

The promotion of the company is one idea or one concept. It should occur on what basis a company is to be established. The promoter thinks of establishing a company due to various relations like idea of a new product and its production, thinking of any available product in the market or idea of any new type of services, etc.

2.2 Primary test:

Company cannot be established directly just after having an idea on the part of the promoter. It is to be tested, how much practical is the idea, would it be economically possible to convert an idea into reality or not.

2.3 Detailed investigation:

After primary test, the promoter carries out detailed investigation of the business. The investigation includes collection of information about location and sight for the company, raw material, capital requirement, present and potential demand of the product, etc. For this purpose the help of C.A., Cost Accountants, and Engineers, Marketing experts or management consultant are needed.

2.4 Mobilizing the resources:

Now the promoter has to collect human and physical resources. Contracts for the appointment are to be made with persons and officers needed for the proposed company. The land, machinery, plant, etc. are to be acquired.

2.5 Arrangement of Finance:

For collecting the resources, finance is to be obtained how much and from where the finance is to be obtain requires following points to be considered:

1. Funds to be obtained should be owned or borrowed.
2. Shares to be issued privately or to public at large.

3.00 Procedure to get certificate of incorporation:

Joint Stock Company has to get the certificate of incorporation. Following procedure has been imposed by the Indian companies act.

3.1 Memorandum of Association (M.O.A.):

This is the main and basic document of a company. It contains the name of the company, address of the registered office, purpose of the company, share capital and other information of the company. MOA is compulsory for both private and public company. It is a

constitution charter of the company containing important information regarding the company.

3.2 Articles of Association (AOA):

It is the subsidiary document of the company. AOA is the base for internal administration of the company. The information about share capital, directors, managers, meetings, voting rights of the members etc. are contained in it. It is compulsory for a private company. Whereas public company can prepare Table-A instead of AOA.

3.3 List of Directors:

Public and registrar of company should know who is going to manage the company. Therefore, the list of name, address, business, nationality, etc. of the directors should be given to the registrar. It is not compulsory to prepare such list in case of private company.

3.4 Written consent of directors:

The name of any person cannot be enlisted baselessly as directors. His name has to be registered with his consent. For this purpose, his written consent to work, as a director must be obtained and to be submitted to the registrar.

3.5 Acceptance to subscribe for qualification shares:

Many companies are making such provisions that the proposed directors have to purchase certain minimum shares to become a director. These shares are known as qualification shares. Each director has to give written consent that he will purchase these shares which is to be registered with the registrar.

3.6 Statutory Declaration:

In addition to fulfillment of procedure stated above, the company should file with the registrar a statutory declaration. It is a statement stating that all the provisions have been observed and the entire document have been registered with the company registrar.
The registrar will issue certificate of incorporation of business after the completion of above-mentioned procedure. The company comes into existence on the date when the company receives the certificate of incorporation.

4.00 Procedure to get certificate of commencement of business:

A private company can immediately start business after getting certificate of incorporation. However, a public company can start business only after getting certificate of commencement from the registrar. For this following procedure is followed:

4.1 Address of registered office:

Company registrar and public should have information about the place from where operation and the transaction will be made for this purpose. The address of registered office is to be registered with the company registrar within 15 days and verify it within 30 days from getting the certificate of incorporation. It is necessary to register the address in case when it is not given in MOA

.

4.2 Issuing Prospectus:

Prospectus means inviting public to participate in company's capital. Due to the publication of prospectus public comes to know about the starting of the company.

Many a times a company needs not to get capital from the public. So it is not required to provide information to the public. Hence instead of prospectus, statement in lieu of prospectus is to be registered with the registrar.

4.3 Listing in recognized stock exchange:

If buying and selling of shares can be made freely, the prestige of company increases. So many companies are enlisting their shares on a recognized stock exchange where buying and selling of shares of companies takes place easily of course it is not compulsory to enlist the shares on stock exchange.

4.4 Minimum subscription:

If a company, wants to start a business it will require certain minimum capital. The minimum requirement of capital is known as minimum subscription. Company has to give information of minimum subscription in prospectus. Minimum subscription should be at least 90% of issued capital. Company should prepare statement indicating that it has collected minimum subscription within stipulated time period that is within 120 days from the period of issue of prospectus.

4.5 Approving preliminary contracts:

It is necessary for the company to enter into contracts during promotion and incorporation period.Eg. The company might have purchased land, machinery, etc. contracts to get services of engineers, architect, C.A., Managers etc. might have been made. Now the company has come into existence. So the contracts should be approved.

4.6 Qualification shares:

The directors have to hold certain qualification shares at the time of obtaining certificate of incorporation. Directors have to give acceptance of holding such shares. Now before getting

certificate of commencement they have to register a statement with the registrar that they have actually subscribe for their shares.

4.7 Statutory declaration:

At the last company should file with the registrar a statutory declaration stating that all the provisions have been followed and all the document have been registered with the company registrar. The company must pay necessary fees and stamp duty to the registrar.
The registrar will issue certificate of commencement of business after the completion of above-mentioned procedure. After getting this certificate, a public company can commence the business.

Note: for the formation of public company write all 3 stages and for the formation of private company write only first 2 stages.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	Minimum subscription should be at least	90%
2	If a company wants to start a business it will require certain minimum capital.IS known as	Minimum subscription
3	The address of registered office is to be registered with the company registrar within	15 days
4	Whereas public company can prepare Table-A instead of	AOA
5	This is the main and basic document of a company.	MOA

TOPIC: The Process of private company becomes a public company.

Following procedure is required for a private company to convert into public company:

Procedure for conversion:

1.0 Conduct board meeting:

A. Usually the board of directors takes the decision to convert a private company into public company.
B. It is necessary to conduct the board meeting for the purpose of further resolution.
C. After the resolution is passed, the board would seek the permission of shareholders.
D. For this purpose the directors will conduct extra ordinary general meeting.
E. The place and day of general meeting will be informed to the members through the newspapers.
F. Necessary changes in Articles of Association (AOA) and Memorandum of Association (MOA) will be made in this meeting.

2.00 Company law provision:

According to provision of the company, law board the company that desires to convert itself into public company has to file with the registrar the following documents:
A. True copy of resolution passed at the general meeting
B. A statement showing increase in the share capital of the company.
C. A copy of articles of association is required by a public limited company.

3.00 Stock Exchange:

A. The company will have to file 6 copies of amendments/changes made in articles of association and memorandum of association.
B. except one copy the rest of them are to be sent to the concerned stock exchange.

4.00 Registration of prospectus:

A. The true copy of the prospectus or statement in lieu of prospectus must be file with the registrar before it is issued to the public.
B. Such a copy must be file within 30 days of passing the resolution. The resolution contains details about conversion of private company into public company.

5.00 Alteration of Name:

A. Due to conversion of private company into public company there will be a change in the name of the company.
B. Such company will enjoy the status of a public company.
C. Change in the name of the company must be done when the permission of central government is received.

D. The company will have to give application to the central government through the company law-board.
E. After noticing some provisions related to conversion the central government gives approval for a new company.
F. Thus "A private Ltd. Company" will now enjoy the status of "A public ltd. Company"

TOPIC: Public company conversion into private company.

The companies act does not allow public company to turn into private company but it neither prohibits such conversion. No clear provision of section 31(1) for converting public company into private company is made.
The conversion will require the following procedure:
A. Public company can be converted into a private company by altering the articles. Incorporating the three restrictions mentioned in section 31(3) by passing special resolution.
B. Approval of central government is necessary for converting a public company into private.
C. Special resolution is to be passed within 30 days after getting approval of central government for conversion.
D. Changing the name of the company by adding the word "private" to the word "limited" as per section-21. It doesn't require special resolution to be passed
E. Filing of printed copy of articles as altered with the registrar within 1 month of approval of central government.

The conversion of public company into private company does not affect the identity of the company.

TOPIC: Social responsibility & Company's Social responsibility towards different section.

1.0 Introduction:

Company is the creditor of the society & as well as debtor of the society, Company is creditor of the society because,
- it fulfills consumer's wish for new thing.
- it provides force to economic development of the nation.

Company is not only creditor but it is debtor more than creditor because,

- Society creates its great personality
- Society provides all facilities for establishing industry.

As a company is intended to, the society, it becomes its moral duty to pay its debt towards the society.

2.00 Meaning of Company's Social Responsibility:

Company's social responsibility means whatever is to be returned by it to the society from moral point of view as a reward of various types of benefit, facilities offered by the society to it.

Peter Drucker rightly said that, "During the last few years, if there has been an important development in the business field, it is the owner of the commercial activity – Company has realized its social responsibilities".

Thus, whatever company is today it is only because of the society & it is the debtor of society. The paying of debt to the society is known as company's social responsibility.

3.00 Responsibility towards employee:

It is fact that because of special skill of the employee, company can make its dreams true. If a company could not get positive response from its employees, company's dream would remain dream only. So a company should undertake honest &sincere efforts for protecting its employees. To protect employee's interest, a company should fulfill the following responsibilities.

- Pay reasonable wages.
- Healthy facilities in the factory.
- Recognize labor union
- Determine condition of service
- Adopt compromising approach for the solution of problem
- Provide facility of social security
- Adopt intensive method
- Formation of joint managing committees

.

4.00 Responsibility towards investors:

In the modern age, the size of the industry has become very big so naturally company has to get more capital. Company cannot arrange whole capital alone. Therefore, for purpose of getting capital, it has to issue share or it has to borrow money from other financial institutes. So company must fulfill following social responsibility towards investors.

- Regular payment of returns
- Protect interest of investors of all the classes
- Protect the capital of investors
- Provide the first opportunity for investment in new, profitability enterprise.
- Give idea of real activities to the investors at certain intervals of the time
- To invite investors in the meeting.

5.00 Responsibility towards nation:

Company gets benefit provide by local state institutes, state government & central government. Therefore, it becomes the responsibility of a company towards that nation that is as follow:

- Total use of production capacity.
- Keep away from corruption
- Obey government law
- Make efforts for the growth in nation's prosperity
- Pay all taxes honestly
- Execution of new industrial policy of government should help in nation's foreign trade by increasing exports.
- Be helpful in the company development programme of government
- Co-operate in the achievement of five-year plan targets.
- Give priority of inventions.

6.00 Responsibilities towards consumer:

Consumer is king of the market. A company establishes an industrial unit & produces things for consumers only. So it becomes the social responsibility of a company that it should make all the efforts to keep consumers satisfy.

- Maintain the standard of business ethics
- Obtain patent rights for protected selling
- Take reasonable price
- Should not allow artificial scarcity of goods to be created
- Bring change in the trends of consumers
- Study the market condition
- Should provide new type of goods

7.00 Responsibilities towards local people:

The place where industry is set up, society of that area gets some benefits but many difficult problems are also born out. For Example: Victims of polluted atmosphere, industrial strikes,

noise, painful outcome out of natural imbalance etc. so a company should become helpful in solving economic, social & health related problems. Company should fulfill the following responsibilities in the interest of local people.

- Undertake steps to remove population
- Help in national programmes
- Offer guidance to the local young company
- Give priority to the local people in employment
- Become helpful in developing new industries by local means
- Local survey
- Offer economic help at the time of natural calamities.
- Undertake programmer for the upliftment of the society.

TOPIC: New provisions of the company's act 2013.

Following are the changes made in the previous companies act and new provisions have been included in the Company's act 2013:

1. Companies are allowed to maintain and supervise its documents by E-governance:

Minimum Government and Maximum Government is the new way of the Government of India. Due to inclusion of digitalization in Indian Economy, the companies are now allowed to maintain and share digitally. In addition, in case of any Governmental processes, digitally signed documents are accepted officially.

2. One Person Company (OPC):

It is a Private Company having only one Member and at least One Director. No compulsion to hold AGM. Conversion of existing private Companies with paid-up capital up to Rs. 50 Lacs and turnover up to Rs. 2 Crores into OPC is permitted.

3. Woman Director:

Every Listed Company /Public Company with paid up capital of Rs 100 Crores or more / Public Company with turnover of Rs. 300 Crores or more shall have at least one Woman Director.

4. Doctrine of Corporate Social Responsibility and its Committee was introduced:

Companies with more than 100 crores are bound to contribute minimum 2% of their profits for non-profit activities for society in which they are operating.

5. Accounting Year:

Every company shall follow uniform accounting year i.e. 1st April -31st March. If any company follows English calendar year then they have to change their accounting year.

6. Loans to director –

The Company cannot advance any kind of loan / guarantee / security to any director, Director of holding company, his partner, his relative, Firm in which he or his relative is partner, private limited in which he is director or member or any bodies corporate whose 25% or more of total voting power or board of Directors is controlled by him.

7. Articles of Association-

In the next General Meeting, it is desirable to adopt Table F as standard set of Articles of Association of the Company with relevant changes to suite the requirements of the company. Further, every copy of Memorandum and Articles issued to members should contain a copy of all resolutions / agreements that are required to be filed with the Registrar.

8. Disqualification of director-

All existing directors must have Directors Identification Number (DIN) allotted by central government. Directors who already have DIN need not take any action. Directors not having DIN should initiate the process of getting DIN allotted to him and inform companies. The Company, in turn, has to inform registrar.

9. Financial year-

Under the new Act, all companies have to follow a uniform Financial Year i.e. from 1st April to 31st March. Those companies, which follow a different financial year, have to align their accounting year to 1st April to 31st March within 2 years. It is desirable to do the same as early as possible since most the compliances are on financial year basis under the new Companies Act.

10. Appointment of Statutory Auditors-

Every Listed company can appoint an individual auditor for 5 years and a firm of auditors for 10 years. This period of 5 / 10 years commences from the date of their appointment. Therefore, those companies have reappointed their statutory auditors for more than 5 / 10 years; have to appoint another auditor in Annual General Meeting for next year.

ONE WORD QUE AND ANSWER

SR NO	QUESTION	ANSWER
1	Every Listed company can appoint an individual auditor for	**5 YEARS**
2	Under the new Act, all companies have to follow a uniform Financial Year i.e. from	**1st April to 31st March.**
3	All existing directors must have Directors Identification Number (DIN) allotted by	**Central government**
4	Every Company must have a director who stayed in India for a total period of… or more in previous calendar year.	**182 days**
5	It is a Private Company having only one Member and at least One Director. No compulsion to hold	**AGM**
6	Approval of central government is necessary for converting a public company into private.	**TRUE**

UNIT-2
STRATEGY OF COMPANY FORMATION

TOPIC – Memorandum of Association.

1.00 Introduction:

MOA is one of the most important documents, which a company is required to prepare to get the certificate of incorporation. MOA is to be prepared by both, private as well as public company and get it registered at the office of company registrar. MOA helps all the interested parties such as shareholders, creditors etc. to know about existence of a company and gives them all the required information about the company affairs

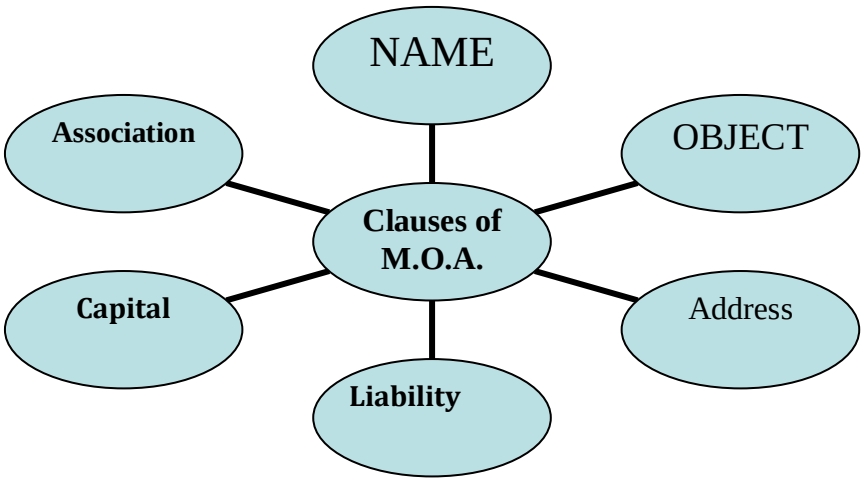
.

2.00 Meaning & Definition:

According to Lord Cairns, "MOA is a fundamental charter of a company".
According to Lord McMillan, "the aim of MOA is to inform the shareholders, creditors and all others dealing with the company about the scope of activity of the company."
Thus, MOA is the charter constitution and fundamental document of a company.

3.00 Clauses of MOA:

As per the requirement of companies' act 2013, 6 clauses are included in MOA:



3.1 Name Clause:

A company is free to choose any name it likes but the act laid down certain conditions before a company can choose its name. They are as Follows:

- Name of the president or governor or any name related to them must not be permitted.
- The name should not symbolize any undesirable meaning as per rules and conditions of the act.
- The name connected to any international organization such as UNO, WHO is not permissible.
- The name should not resemble the name of such registered company.

- The word "limited" should be used for public company and 'Private Ltd.' should be used for private company.
- Companies which are formatted for the purpose of promoting science, religion, etc the word limited can also be removed if such company acquire special license from the central government.
- In case of one person company, the words "one person company" should be printed in brackets, below its name.

3.2 Domicile clause (Address clause):

- Every company must have its registered office to which all the communication and notices are sent. Therefore this clause indicates the place of the state where the registered office is situated.
- The company registrar notes the address of the office of that company and after that it is called registered company.
- Documents, registers and books of accounts are maintained at this office.
- This clause determines the legal jurisdiction and gives the company its domicile and nationality i.e. the company is Indian company or foreign company.
- The actual and full address of the registered office must reach to the registrar within 15th day from the date of its incorporation.

3.3 Object Clause:

- This clause lays down the object for which the company is formed.
- It also determines the extent of the power and the authority which the company can have in order to achieve its objectives. This clause is considered as most important clause because

the company cannot undertake any activity which is not mentioned in the clause. Such activity will be considered illegal to the company.

- Eg.: The object clause says that the company will produce and sell cement and if the same company does the business of cotton textile in the long run then this activity will be ultra-vires for the company.
- Thus, objectives of the company cannot be against the general laws of the company.

3.4 Liability clause:

- This clause states the whether the liability of members is limited or unlimited or limited by guarantee.
- In case of limited liability the liability of shareholder is limited to the face value of shares held by them.
- Company registered with unlimited liability need not have to mention the liability clause in MOA.
- Shareholders of such company can get their liability limited by passing special resolution and obtaining permission from the court.
- In case of liability limited by guarantee the liability of share holders is limited to the amount they have guaranteed at the time of incorporation.
- In Case of one person company the name of the person who in the event of death of the subscriber, shall be nominated the member of the company must be stated in the liability clause.

3.5 Capital clause:

- This clause mentions the authorized capital, face value of shares and total issue of shares of the company.
- Authorized capital is the total amount of capital which the company requires during its lifetime.
- The company obtains its capital through the issue of equity shares and preference shares.
- In the case of a company limited by guarantee, the amount up to which each member undertakes to contribute at the time of winding up should be specified. If the company limited by guarantee also has a share capital the capital clause of such company has two capital clauses, (i) one relating to the guarantee and (ii) another relating to share capital.

3.6 Association Clause:

- In this clause the promoter declares that they desire to form a company and they agree to take shares stated against their name. Each promoter must sign in the presence of at least one witness.

- Each subscriber has to purchase at least 1 share.
- This subscriber have to submit such an agreement to the registrar.
- In case of private company at least 2 subscriber are required and in public company at least 7 subscribers are required.in case of one person company, atleast one member is required.

4.00 Conclusion:

Thus, the MOA contains main aspects of company in form of clauses. All these details must be given properly in the memorandum of Association so that it shows the true picture of a company.

ONE WORD QUE.AND ANSWER

SR NO	QUE	ANS
1	the promoter declares that they desire to form a company and they agree to take shares stated against their name. Each promoter must sign in the presence of at least one witness.	**Association Clause:**
2	This clause mentions the authorized capital, face value of shares and total issue of shares of the company.	**CAPITAL CLAUSE**
3	This clause states the whether the liability of members is limited or unlimited or limited by guarantee.	**LIABILITY CLAUSE**
4	This clause lays down the object for which the company is formed.	**OBJECT CLAUSE**
5	A company is free to choose any name it likes but the act laid down certain conditions before a company can choose its name.	**NAME CLAUSE**

TOPIC :- Procedure for alteration clause in MOA.

1.0 Introduction/Meaning/Definition:

As per Q.1

According to section-2(1) of Indian company's act alteration includes the making of addition or admission for the purpose of alteration.

2.00 Alteration of clauses:

2.1 Alteration of name clause:

 According sec -2(1) a company may change its name by a special resolution and with the approval of central government giving in writing.
 In case if the name is resembling to that of other such company by enhanced or by opinion of central government then it may change its name by ordinary resolution and with the previous approval of central government.
 A company should inform the registrar about the alteration of name.
 When a company changes its name the registrar will enter the new name in the register in place of the previous name. It will also issue a fresh certificate of incorporation to the company.
 The change of name cannot affect any right of the company as per Indian company's act.

2.2 Alteration of domicile clause:

Company can change the address of its registered office; company has to follow provisions of Indian company's act in such cases. Address can be changed by following three ways:

 If company wants to change its registered office from one place to another place within the same city, then following procedure is followed:
 To pass a resolution in the meeting of board of directors.
 To inform the company registrar about new address within 15 days.
 To inform the general public about new address.

 If company wants to change its office from one city to another city within the same state. Then the following procedure is followed:
 To pass a special resolution in the shareholders meeting.
 To obtain permission from regional directorate.
 To inform the company registrar.
 To inform the general public and creditors.

 If company wants to change its office from one state to another state in the same country then it is very difficult. Following procedure is followed:
 The alteration of address will not be effected unless it is approved by central govt.
 To pass a special resolution in the shareholders meeting and a copy there of should be filed with the registrar within 30 days.
 To obtain the confirmation from the company law board.
 To file a copy of special resolution with the registrar of both states.

 To file a copy of confirmation of company law board and alter MOA with registrar of both the states.
 To get a fresh certificate of incorporation from the new company registrar.

 To inform the general public and creditors.

2.3 Alteration in object clause:

Object clause of a company can be changed only on the following conditions:
(a) a company cannot deviate from the object without passing special resolution for which the capital is raised.
(b) No alteration made in the object clause shall be effective until it has been registered by the registrar of companies.
(c) Change in the object clause of Memorandum of Association can be made giving any member right to participate in the divisible profits of a company, when a company is limited by guarantee and does not have share capital. Any other change of object clause shall be void.

2.4 Alteration of liability clause:

Generally the liability of shareholders of a company is limited or unlimited.
Alteration can be made in the liability of shareholders of a company by following two ways:
A. The liability of shareholders of a company limited by shares or company limited by guarantee cannot be made unlimited, unless each & every member of the company, agree to it. For this purpose a special resolution should be passed in the general meeting.
The liability of directors, managing directors or managers can be made unlimited by passing resolution if the articles permitted. Company registrar should be informed about this alteration.
B. Shareholders of unlimited liability company can make their liability limited by passing a special resolution and obtaining permission from the court.
A copy of special resolution within 30 days of its passing and a copy of courts confirmation order must be file within 3 months of the order with the registrar.

2.5 Alteration of capital clause:

Alteration of capital clause can be made in any of the following cases:
A. Increase in capital:

The company for needs in monitory requirements may increase its capital within the limits of its authorized capital by passing a special resolution.
From time to increase in the capital within 30 days copy of special resolution and altered memorandum must be filed with the registrar.

B. Decrease in capital:

Usually a company cannot reduce capital because capital is life blood of business. But with the compliance with the procedure of the act, company can alter its capital clause in the form of reduction.
For the purpose of alteration a special resolution should be passed and approval of court is required. Order of the approval of the court and altered MOA and AOA and special resolution should be filed with the registrar within 30 days of the order. After that a registrar issues new certificate of incorporation.

C. Rearrangement of capital:

Company can rearrange its capital in the below stated any manner:
 Consolidation (combine) or low priced share into high price.

Ex.: 10 shares of Rs. 10 each can be consolidated into 1 share of Rs. 100 each.
 Sub division of high priced shares into low price share.

Ex.: 1 share of Rs. 100 each may be divided into 10 shares of Rs. 10 each
 Conversion of fully paid up shares into stock.

For this purpose ordinary resolution must be passed in the shareholders meeting. A copy of altered MOA and AOA must be filed with the registrar within 30 days of passing a resolution.

2.6 Alteration of association clause:

Alteration cannot be made possible in this clause.

TOPIC: Doctrine of ultra-vires:

ANS.: Any company has the power to do all these things which are:
 Authorized to be done by the company's act 1956.
 Necessary for achieving the objectives as specified in the memorandum.
 Reasonably and fairly identical (related) to its objectives.

The word 'Ultra' means 'beyond' and 'vires' means 'power'. The term ultra-vires the company means that doing such activity which is beyond the legal power and authority of the company.
The purpose of the registration is to protect:
 Investors in the company so that they can know objects in which their money is invested.

 Creditors by ensuring that company's fund are not wasted in unauthorized activities.

1.0 Effect of ultra-vires transaction:

1. Injunction:
Whenever a company does something beyond the scope of its activity or object as laid down in the MOA, any of its members can get an injunction form the court for stopping the company from proceeding with ultra-vires activity.

2. Personal liability of directors:
Any member of the company can take actions against the directors of the company to force them to give back those funds to the company which have been use by them for ultra-vires transactions. It is the duty of the directors of a company to assure that the funds of a company are used for achievements of the object for which the company is incorporated.

3. Breach of warranty of authority:
Any agent is personally liable for breach of warranty of authority to the third party, if he exceeds his authority. The directors of a company are its agents. Thus, if they include any outsider to enter into a contract which is ultra-vires the company then such directors will be personally liable to that outsider for his loss incurred for breach of warranty of authority
.

4. Ultra-vires contract:
A contract of a company which is ultra-vires the company is void from the beginning and has no legal effects. Neither the company nor the other contracting party can force the contract which is ultra-vires the company.

5. Ultra-vires acquired property:
Although ultra-vires transactions are void, yet if a company has acquired some property under an ultra-vires transaction, it has a right to hold that property and protect it against the damages of other person.

6. Ultra-vires torts (Mistakes):
A company is not liable for torts committed by its agent during the course of ultra-vires transaction. A company is however liable for the torts if it can be shown that activities in the course of which that was committed falls within the scope of memorandum and the agent committed the tort within the course of his employment.

TOPIC - Articles of Association

1.0 Introduction:

Articles of a company is a document which lays down rules and regulations for its internal management. This sets out provision in which company is to be administered. Thus AOA contains the rules and regulations which are framed for the internal management of the company. This document is the sub-ordinate to the memorandum. Therefore, while making rules and regulation, the company must not exceed the power obtained by it.

2.00 Meaning:

"Articles means the Articles of Association of a company as originally framed or as altered from time to time applied in pursuance of any previous company law or the company act, 2013."
"Articles means the set of rules governing the internal administration of a company."

3.00 Importance:

The provisions of the articles of Association of a company cannot be contrary to the provision of memorandum of association. It implies that the provisions of memorandum of association of a company are binding to articles of association. Memorandum of association is the basic document of a company; whereas articles of association determines the rules of internal administration of a company within the limits of its memorandum of association. The importance of articles of association can be described as under:

(1)Useful in Daily Administration:

It shows the necessary policy and rules for proper administration and functioning of a company by remaining within the area of work shown in the Memorandum of Association. With the help of Articles the daily administration of a company goes on.

(2)Important for Secretary :

Articles of Association is very important for the Secretary. The definite rules prescribed in the Articles of Association regarding the interpretation of various routine works of a company, how to distribute the shares, how to call for installments of shares, how to forfeit and transfer shares etc. help the Secretary in office administration and functioning of a company. It also provides guidance to secretary for appointment of Directors, auditors and clarifies their authority, duties and responsibilities.

(3)Useful for the Shareholders :

Articles of Association is helpful to fulfill the objects stated in the Memorandum of Association. Articles of Association also contains clarification of the rights and liabilities of

the Shareholders. Articles of Association is the supplementary document of Memorandum of Association.

(4)Useful for Determining Various Relations:

Articles of Association determines the relation between the company and its members. It also regulates the mutual relations of the members of a company and internal relations of the members.

(5)Useful to Ascertain the Nature of a Company:

Articles of Association is a document through which whether a company is a public company or a private company can be known.

3.00 Registration of Articles:

It is not compulsory for a public limited company to register the articles, but private limited companies, companies limited by guarantee and companies with unlimited liability have to prepare AOA compulsorily and filed with the registrar of companies. A public limited company may or may not prepare articles of association. It can accept Table-A of schedule-1 in place of articles.

An article is important document like memorandum. It is printed and maintained at the head office. Every individual who has signed the memorandum must sign in presence of a witness.

4:00 Contents of Articles of Association:

Generally, the Articles of Association contains the following particulars:

1. Explanation of the words given in the Companies Act, 2013.
2. Common seal of the company and explanation of its use.
3. Details of acceptance of contract and their implementation.
4. Details related to share-capital, their issue and its allotment.
5. Different types of shares and rights of the shareholder.
6. Details related to transfer of shares, lien on shares, share forfeiture, etc.
7. Procedure for issue of share certificate.
8. Procedure for issue of share warrant.
9. The time lag between call on share.
10. Conversion of shares into stock.
11. Payment of commission on shares and debentures to underwriters.
12. Rules of absorption of preliminary contracts.
13. Re-organization of share capital.
14. Alteration of share-capital.

15. Borrowing powers of the company.
16. Procedure for holding and conducting different types of general meeting.
17. Voting rights of the members, process and polls.
18. Procedure for transfer and transmission of shares.
19. Payment of dividend and creation of reserves.
20. Appointments, qualifications, powers, duties, retirement, remuneration, authority, etc of directors, managers and secretary.
21. Use of common seal of the company.
22. Keeping the books of account and their audit.
23. Capitalization of profit.
24. Board meetings and proceeding thereof.
25. Rules regarding resolution i.e. ordinary, special, etc.
26. Details about management of the office.
27. Winding up of the company.

TOPIC - Table-A:

ANS. According to company's act-1956, a public company limited by shares is not required to compulsorily prepare and register the articles.
Following are the contents of the Table-A:
Same as ans.4- point 4.00

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	According to company's act-1956 a public company limited by shares is not required to compulsorily prepare and register	THE ARTICALS
2	It is not compulsory for a public limited company to register the articles, but private limited companies, companies limited by guarantee and companies with unlimited liability have to prepare	AOA
3	It can accept…… of schedule-1 in place of articles.	Table-A
4	is a document through which whether a company is a public company or a private company can be known.	**AOA**

5	Articles of Association is the supplementary document of	Memorandum of Association.
6	A company is not liable for torts committed by its agent during the course of	Ultra-vires transaction.

TOPIC: Doctrine of Indoor Management.

1.00 Doctrines of constructive notice:

In consequences of the registration of the memorandum and articles of association of the company with the Registrar of Companies, a person dealing with the company is deemed to have constructive notice of their contents. This is because these documents are considered as "public document" under Section 399 of the Companies Act, 2013. Accordingly, if a person deals with a company in a manner incompatible with the provisions of these documents or enters into transaction, which is *ultra vires* to these documents, he must do so at his risk. If someone supplies goods to a company in which it cannot deal according to its objects clause, he will not be able to recover the price from the company! Suppose the articles provide that two directors must sign a bill of exchange, if the bill is actually signed by one director only the holder thereof cannot claim payment thereon. However, the doctrine of constructive notice is not a positive one but a negative one like that of estoppel of which it forms parts. It operates only against the person who has been dealing with the company but not against the company itself; consequently, he is prevented from alleging that he did not know that the constitution of the company rendered a particular act or a particular delegation of authority ultra vires.

2.00 Doctrine of Indoor Management:

The doctrine of constructive notice does in no sense mean that outsiders are " deemed to have notice of the internal affairs of the company. For instance, if an act is authorised by the articles or memorandum, an outsider is entitled to assume that all the detailed formalities for doing, that act have been observed.
The outsider dealing with the company should assume that as far as internal proceedings are concerned everything has been done regularly. It is supposed that outsiders have read this document and have been proposed that dealing is done according to same principles as laid down in articles. The outsiders can't inquire about the regularity of internal proceeding. They have to presume that all is being done regularly. This limitation is called doctrine of indoor

management. It is also known as "Turquand's rule" exception to the doctrine of indoor management.

For example, the directors of R.B.B. Ltd. gave a bond to T, the articles empowered the directors to issue such bonds under the authority of a proper resolution. In fact, no such resolution was passed. Notwithstanding that, it was held that T could sue on the bonds on the ground that he was entitled to assume that the resolution had been duly passed [The Royal British Bank vs. Turquand(1956)] This is the doctrine of indoor management, popularly known as Turquand Rule, which is the only limitation to the doctrine of constructive notice discussed above:

3.00 Exceptions to the Doctrine of Indoor Management:

3.1Knowledge of Irregularity:

The rule does not protect any person when the person dealing with the company has notice, whether actual or constructive, of the irregularity. Thus, director of a company cannot normally claim the benefit of the rule in the Turquand Case where he is also acting for the company in the transaction.

3.2 Negligence:

When a person dealing with a company can discover the irregularity by making proper inquiry then he cannot claim the benefit of the rules of indoor management. When the circumstances are of suspicious nature and the person who is outsider has failed to inquire into it then he shall not entitled to be protected.

Anand Bihari Lal V/s Bins haul and company, the plaintiff accepted a transfer of company's property from its accountants it was held that transfer was void as such a transaction was merely beyond the scope of accountant's authority. The plaintiff should have seen the power executed in favor of accountant by the company.

3.3 Forgery:

The rule of doctrine of indoor management does not apply upon a document that turns out to be forged. Since nothing can validate forgery. A company can never be held bound for forgery committed by its officers. The document is forgery when the seal of the company is fixed without any signature of an authorized person of the company.

Ex.: Rubel V/s Great Fingallcompany the secretary of a company issued a share certificate under the common seal with his own signature and signature of a director forged by him. It was held that the same certificate was not binding on the company. The person who gave

money on the strength of this certificate was not entitled to be the shareholder of the company.

3.4 Acts outside the scope of apparent authority:

If an officer of a company enters into a contract with a third, party and if the act of the officer is beyond the scope of his authority then the company is not responsible in such case. Plaintiff cannot claim the protection of the rule of indoor management. Just because under the articles the power to do the act should not be delegated to him.

Ex.: Credit bank V/s schenker's limited a branch manager of a company drew endorsed bill of exchange on behalf of a company in favor of a payee to whom he was personally indebted. Actually, he had no authority from the company to do so. It was held that company was not bound to pay the personal expenses of a manager.

TOPIC- What is prospectus? Explain its contents in details.

ANS:

1.00 Introduction:

Prospectus may be defined as any circular, newspaper or advertisement published by the promoter after the formation of a company to induce, to invest in the shares of the company. Prospectus is an important document which contains terms and conditions of issue by which invites subscription from the public.

2.00 Meaning/Definition:

According to sec-2(36) of the company's act-1956, "Prospectus means any document distributed, prescribed or issued as a prospectus and include any notice, circular, advertisement or any other document inviting offers from the public for subscription, purchase of any shares or debentures of a body corporate"

A notice, circular advertisement or other document inviting deposits or any documents inviting general public to subscribe or purchase the shares or debentures of a body corporate".

Prospectus is a link between company and public. It brings them close prospectus is a company's authentic proposal. Hence, it should not contain misleading, false or misrepresented information of the company. Prospectus is a bridge where by people and investors can reach at the door of a company.

3.00 Contents of Prospectus:

The important contents of prospectus are sub-divided into two parts:

1. Part one of Schedule – II
2. Part two of schedule-II

3.1 Part one of Schedule –II:

1. General Information:
 Name and address of the company's registered office.

 Consent of the central government for the issue of shares.
 Name of the regional stock exchange and other stock exchange where application is made for listing of shares.
 Provision relating to punishment for fictitious application.
 Date of opening of issue and closing of issues.
 Declaration about refund of the issue if minimum subscription 90% is not received within 90 days from the closer of the issue.
 Underwriting of issue Ex.: Name and address of the underwriter and amount underwritten by them.

2. Capital structure of the company:
 Authorized issued and paid up capital of the company.
 Size of the present issue giving separate reservation for share allotment to promoters and others.
 Paid-up capital after the conversion of debentures into shares.

3. Terms of the present issue:
 Terms of payment.
 How to apply for availability of forms or prospectus and mode of payment.
 Special tax-benefits for the company and shareholders.

4. Particulars of the issue:
 Objects of the issue.
 Project cost.
 Means of financing.

5. Company management and project:
 History and main object of the present business of the company.
 Name and address of the subsidiary company if any.
 Promoters of the company and their background.

 Name, address and occupation of managers, managing directors and other directors of the company.
 Plant and machinery, technological process etc.
 Infrastructure facilities, raw material, electricity, water etc.

6. Particulars regarding other company's under same management:
 Name of that company
 Year of the issue
 Type of the issue
 Amount of the issue
 Date of closer of issue and Date of completion of delivery of share certificate.
 Rate of dividend paid.
 Important matters which affect the operation and finance of the company like dispute in tax liability or any cases filed against the company if any

3.2 Part two of schedule-II:
1. General Information:
 Consent of directors, auditors, advocates, registrar of issue and bankers to the company.
 Experts opinion obtained if any.
 Change, if any in directors and auditors during the last three years and reasons there of
 Details of resolution passed for the issue.
 Name and addresses of the company secretary, legal advisors, auditors, managers and bankers to the company.
 Procedure and time schedule for allotment and issue of certificates.

2. Financial information:
 Report of the auditors, explaining profit & Loss, assets and liabilities and the rates of dividend paid by the company during the last 5 financial years.
 Reports of accountants on the profit & loss of the business for the last 5 financial years.
 Principle terms of loan and assets charged as security.

3. Statutory and other information:
 Minimum subscription on which directors can allot the shares.
 Expenses of the issue giving separately fees payable to advisers, registrar of the issue and managers to the issue.
 Underwriting commission and brokerage, details of purchase of property if any.

4. Details of debentures and redeemable preference shares:

- the amount of issue of shares at premium or discount.
- Types of members regarding voting, dividend etc.

5. Process of modification of such rights and forfeitures of shares:

- Restrictions if any transfer and transmission of shares.
- Revaluation of assets if any during last 5 years.
- Material contracts and inspection of documents.
- In case the company has been in existence for some time and it is proposed to issue a prospectus then such a prospectus must contain the auditor's reports regarding the profit of the company for the previous 5 financial years. If the company has been in existence for less than 5 years taken profit for all the years must be stated in provisions stated in part-3 of the schedule-II.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	In case the company has been in existence for some time and it is proposed to issue a prospectus then such a prospectus must contain the auditor's reports regarding the profit of the company for the previous	5 financial years.
2	A notice, circular advertisement or other document inviting deposits or any documents inviting general public to subscribe or purchase the shares or debentures of a body corporate".	**PROSPECTUS**
3	When a person dealing with a company can discover the irregularity by making proper inquiry then he cannot claim the benefit of the rules of indoor management	**TRUE**
4	If the company has been in existence for less than……. taken profit for all the years must be stated in provisions stated in part-3 of the schedule-II.	5 years
5	Prospectus is a link between company and public.	**TRUE**

TOPIC: 'Statement in lieu of Prospectus'

1.0 Meaning:

A public company having a share capital may not invite public to subscribe for its shares.
 if it arranges the required capital from sources other than inviting the general public.
 if it did issue a prospectus, but the issue is failure and it didn't allot any shares and it arranges the required finance from sources other than inviting the general public to its capital.

In such a case obviously, companies shall not issue the prospectus. The company's act requires that in such a case the company must file with the registrar statement in lieu of prospectus containing particulars set out in schedule-III of act. However, information required under schedule-III is similar to the information required in case of a prospectus.

2.00 Registration of statement in lieu of prospectus:

 Statement must be filed at least three days before the first allotment of shares or debentures.
 It must be signed in by every person named there in as a director or proposed director of the company.
 A private company is not required to file a statement in lieu of prospectus.

3.00 Penalty/Find:

 If a company starts to allot shares without filling statement in lieu of prospectus at least before 3 days of allotment of shares then the defaulting officers and the company shall be liable to fine extending to Rs.10,000.
 If the statement contains any untrue statement or omission of fact to the liability of related persons of the company is the same as in case of prospectus, that they have civil liability for compensating those who suffer any loss due to misstatement and they have criminal liability that are liable for imprisonment up to 2 years or find up to Rs. 50,000 or both.

We can avoid liability if we prove either that the statement was immaterial or that he had reasonable ground to believe that the statement was true.

TOPIC: - Red Herring prospectus:

The expression "red herring prospectus" means a prospectus, which does not include complete particulars of the quantum or price of the securities included therein.
The law relating to the red herring prospectus given under section 32 is as follows;

(1)Issue of red herring prospectus prior to prospectus:
Company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus.

(2)Filing with the registrar:
A company proposing to issue a red herring prospectus shall file it with the Registrar at least three days prior to the opening of the subscription list and the offer.

(3)Obligation and any variation in the red herring prospectus is same as that of prospectus:
A red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus" and a prospectus shall be highlighted as variations in the prospectus.

(4)Prospectus with the details not included in the red herring prospectus:
Upon the closing of the offer of securities under this section, the prospectus stating therein the total capital raised, whether by way of debt or share capital, and the closing price of the securities and any other details as are not included in the red herring prospectus shall be filed with the Registrar and the Securities and Exchange Board.

TOPIC: Shelf Prospectus

The Companies Act, 2013 defines the term "shelf prospectus" which means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus. '
Section 31 of the Companies Act, 2013 state the following law regarding the issue of the shelf prospectus:

(1) Filing of shelf prospectus with registrar:
Any class or classes of companies, as the Securities and Exchange Board may provide by regulations in this behalf, may file a shelf prospectus with the Registrar.

(2) Filing of shelf prospectus: It can be filed-
(i) at the stage of the ***first offer of securities*** included therein, which shall indicate a period not exceeding one year as the period of validity of such prospectus which shall commence from the date of opening of the first offer of securities under that prospectus, and

(ii) in respect of a **second *or subsequent offer of such securities*** issued during the period of validity of that prospectus, no further prospectus is required.

(3) Filing of an information memorandum containing all material facts with the registrar:

A company filing a shelf prospectus shall be required to file an information memorandum containing all material facts relating to:
(i) new charges created,
(ii) changes in the financial position of the company as have occurred between the first offer of securities or the previous offer of securities and the succeeding offer of securities, and
(iii) such other changes as may be prescribed,

-with the Registrar within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus:

(4) Intimation of changes to the applicants:

Where a company or any other person has received applications for the allotment of securities along with advance payments of subscription before the making of any such change, the company or other person shall intimate the changes to such applicants and if they express a desire to withdraw their application, the company or other person shall refund all the monies received as subscription within fifteen days thereof.

(5) Shelf prospectus with information memorandum deemed to be prospectus:

Where an information memorandum is filed, every time an offer of securities is made with all the material facts with the registrar, such memorandum together with the shelf prospectus shall be deemed a prospectus.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus. '	shelf prospectus"
2	A company proposing to issue a red herring	3

	prospectus shall file it with the Registrar at least ….. days prior to the opening of the subscription list and the offer.	
3	Company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a	prospectus.
4	a prospectus which does not include complete particulars of the quantum or price of the securities included therein.	a red herring prospectus
5	If the statement contains any untrue statement or omission of fact to the liability of related persons of the company is the same as in case of prospectus, that they have	civil liability
6	If a company starts to allot shares without filling statement in lieu of prospectus at least before	**3 DAYS**

TOPIC: - The liability of the Company for untrue statement

1.00 Meaning of misstatement:

A misleading prospectus contains false, incorrect and fraudulent statement using false data, material facts are hidden in prospectus. According to sec-65, "An untrue statement or misstatement is one which is misleading in form and contents in which it has been included in the prospectus", where certain matter, which is material enough, has been omitted from the prospectus and the omission is calculated to mislead those who act on the faith of the prospectus. The prospectus shall be deemed in respect of such omission to be prospectus in which untrue statement is included. The prospectus in these circumstances may be described as misleading prospectus.
The following types of liability occur for misstatement in the prospectus.

2.00 Liability for misstatement in prospectus:

2.1 Civil liability:

A person who has been induced to subscribe for shares by keeping faith on misleading prospectus has remedies against the company directors, promoters and experts.

1. **Remedies against the company:**

A. Recession of contract:

If the statement in the prospectus are false or if some material information is not disclosed than the shareholders can apply to the court for the recession (cancelation) of contract. Therefore they have taken shares by keeping faith on the statement of prospectus.
The shareholder must apply within a reasonable time period and before the company goes into liquidation.
He will have to give back the shares allotted to him to the company, then his name is removed from the register of members and he gets back his money paid to the company along with interest.

B. Claim for damages:
A shareholder who gets induced by the false statement of prospectus can sue that company for damages.
 He must be able to prove some matters in order to claim damages.
 He must show that he has repudiated the shares and has not acted as the shareholder after the discovery of fraud.

2. Remedies against the directors, promoters and experts:
People who are liable to pay the compensation for any loss & damages to the shareholders who have purchased any shares by keeping faith on misleading prospectus are:
 Directors during issue of prospectus.
 Person who have authorized themselves to be named as directors.
 Promoters.
 Person who have authorized the issue of prospectus.

A. Liability for damages for the misstatement in prospectus:
Every director, promoters and every person who is authorized to the issue of prospectus is liable to pay compensation for the losses & damages, which the subscriber may have incurred because of any untrue statement in prospectus.
Any directors shall not be liable for compensation if:
 He withdraws consent before the issue of prospectus.

 Prospectus is issued without his knowledge or consent.
 He is ignorant of the untrue statement in the prospectus.
 He has a reasonable ground to believe that the statement is true.

B. Liability under the general law(Sec-62)

Under general law a person who can only be liable for fraud inprospectus when he make the statement to be acted upon by subscribers of the shares which is false and is made:

- Knowingly
- Without belief in the truth
- Recklessly not caring whether it was true or false.

C. Liability for damages for non-compliance with the act(Sec-56):-

If any matter is required to be included by sec-56 and such matters are omitted from prospectus, then losses and damages incurred by the subscribers of the shares has to be paid. The directors may be liable according to sec-56.

Directors, promoters and experts may not be liable if,

- He is ignorant of the matters which are not disclosed.
- Non-compliance is due to an honest mistake of fact on this part.
- Non-compliance is not so important.

2.2 Criminal liability:

Every person who is authorized to issue the prospectus containing any untrue statement is punishable with imprisonment up to 2 years or with fine up to Rs. 50,000 or both.

Any person will not be liable to pay if he proves that,

- Statement in prospectus was immaterial.
- He had a reasonable ground to believe that the statement was true.
- If any person fraudulently induced other person to invest money, he will be punishable with imprisonment up to 5 years or with fine of Rs. 1,00,000 or both.

TOPIC: - Provisions of Public offer.

(1) A public company may issue securities:-

(a) to public through prospectus (herein referred to as "public offer.") by complying with the provisions of this Part; or

(b) through private placement by complying with the provisions of Part II of this Chapter; or

(c) through a rights issue or a bonus issue in accordance with provisions of this Act and in case of a listed company or company which intends to get its securities listed also with the provisions of the Securities and Exchange Board of India Act, 1992 and the rules and regulations made there under.

(2) A private company may issue securities:-

(a) by way of rights issue or bonus issue in accordance with the provisions of this Act; or

(b) through private placement by complying with the provisions of Part II of this Chapter. (Explanation,-For the purposes of this Chapter, "public offer" includes initial public offer or further public offer of securities to the public by a company, or an offer for sale of securities to the public by an existing shareholder, through issue of a prospectus)

TOPIC:-State the provisions of the companies act regarding Private Placement.

1.00 Meaning of Private Placement

By publication of prospectus the public company invites the public at large to purchase its securities. But instead of inviting public for purchasing prospectus such company may make private placement for the Guarantee Subscription. As per the Companies Act 'Private placement means company makes an offer to allot securities to definite group of person to purchase securities.'

Maximum 50 persons or such number of persons as fixed by the SEBI can be invited for the Minimum Subscription over and above institutional purchasers and employees qualified under the Employees Stock Option Scheme.

2.00 Provisions of the Companies Act Regarding Private Placement :

(1) The amount regarding this type of subscription can be paid through a cheque or draft or by Bank transactions. Payment cannot be done in cash.

(2) The allotment should be made within 60 days for such type of subscriptions. If the directors do not make such allotment within 60 days, the applicants should be refunded the amount within 15 days after the expiry of 60 days.

(3) On failure to make payment within 15 days after expiry of 60 days, the interest of 12 % per annum is to be paid by the company from the date of expiry of 60 days till the date of refund.

(4) The amount received in such type should be kept in a separate account of a Scheduled Bank.

(5) Only such persons will be given the intimation for the private placement, whose names are registered by the company before giving invitation for subscription. Such persons will be intimated for subscription by name.

(6) The records regarding such intimation will be maintained as decided and after passing resolution regarding concerned private placement. The Complete detail about it shall be presented before the Registrar within 30 days.

(7) The companies resolving to have private placement in such a manner shall not be entitled to make any advertisement for providing information to public about such resolution.

(8) When company allots subscription in this manner, the names, addresses, number of allotted subscription and all other information about the Indemnity Holders are required to be presented before the Registrar of Companies.

TOPIC: - Laws and procedure for Online filling of documents.

1.00 Company Law in a Computerized Environment

Section 398 of the Companies Act, 2013 empowers the Central Government to make rules in regard to filing of various applications, documents, returns etc. service or delivery of documents, notice or communication etc., maintenance of various applications, documents and returns filed etc. in the electronic form.

Ministry of Company Affairs (MCA), has initiated MCA 21 program, for easy and secure access to MCA services in a manner that best suits the businesses and citizens.

The program goals have been set as follows keeping in mind stakeholders' needs:

 Business shall be enabled to register a company and file statutory documents quickly and easily

 Public to get easy access to relevant records and effective grievances redressed

 Professionals to be able to offer efficient services to their client companies

 Financial Institutions to easily find charges registration and verification

 Employees to ensure proactive and effective compliance of relevant laws and corporate governance

2.00 Steps for the e filing:

Following are the steps given below to proceed to do e-filing:

1. Select a category to download an e-Form from the MCA 21portal (with or without the instruction kit)
2. At any time, we can read the related instruction kit to familiarize with the procedures (download the instruction kit with e-form or view it under Help menu).
3. Fill the downloaded e-Form.
4. Attach the necessary documents as attachments.
5. Use the Prefill button in e-Form to populate the grayed out portion by connecting to the Internet.
6. The applicant or a representative of the applicant needs to sign the document using a digital signature.
7. Need to click the Check Form button available in the e-Form. System will check the mandatory fields, mandatory attachment(s) and digital signature(s).
8. Upload "the e-Form for pre-scrutiny. The pre-scrutiny service is available under the Services tab or under thee-Forms tab by clicking the Upload e-Form button. The system will verify (pre- scrutinize) the documents. In case of any inadequacies, the user will be asked to rectify the mistakes before getting the document ready for execution (signature).
9. The system will calculate the fee, including late payment fees based on the due date of filing, if applicable.

10. Payments will have to be made through appropriate mechanisms - electronic (credit card, Internet banking) or traditional means (at the bank counter through challan).
(a) Electronic payments can be made at the Virtual Front Office (VFO) or at PFO
(b) If the user selects the traditional payment option, the system will generate 3 copies of pre-filled challan in the prescribed format. Traditional payments through cash, cheques can-be done at the designated network of banks using the system generated challan. There will be five banks with estimated 200 branches authorized for accepting challan payments.
11. The payment will be exclusively confirmed for all online (Internet) payment transactions using payment gateways.
12. Acceptance or rejection of any transaction will be explicitly communicated to the applicant (including facility to print a receipt for successful transactions).
13. MCA21 will provide a unique transaction number, the Service Request Number (SRN) which can be used by the applicant for enquiring the status pertaining to that transaction.
14. Filing will be complete only when the necessary payments are made.
15. In case of a rejection, helpful remedial tips will be provided to the applicant.
16. The applicants will be provided an acknowledgement through e-mail or alternatively they can check the MCA portal.

3.00 Procedure Of Electronic Filing:

How to file paper attachments with the E-form.

You have to first get the paper attachments scanned and saved as a soft copy in PDF format. Then attach the same in the attachment section -of the e-Form by clicking the appropriate 'Attach' button.

How to upload/ submit the scanned documents

You can upload / submit the scanned documents by attaching the same with the e-form and submitting on the MCA Portal.

How to ensure that the size of scanned PDF documents is not excessive

To ensure that the size of scanned PDF document is within the permissible size limits, it is recommended that scanning should be done in "black & white" mode at 200 dpi resolution and should not exceed 2.5 MB,

How to sign an e-form

An e-form can be signed by the authorized signatory/ representative using the Digital Signature Certificate (DSC). Click the red colour signature box in the e-form to affix the

digital signature. To avoid increase in size of the e-form beyond permissible limit of 2.5 NIB, always affix the DSC using the 'Sign and Save As' option.

How to make payment electronically

Payments can be made electronically through credit card/Debit Cards or Internet Banking. During the e-Filing process, the system will prompt you to make payment. You can choose the mode of payment and make the payment accordingly.

How to make offline payment

"If you are not having a credit card or Internet banking facility, you can make payment at the counter of an authorized bank through the pre-filled challan generated by the system after e-Filing.

Payments of value above Rs. 50,000, stakeholders would have the option either to make the payment in electronic mode, or paper challan, However such payments would also be made in electronic mode w.e.f .1st October2011.)

For the purpose of collection of payments numerous branches in all major cities and towns of the following five Banks have been authorised:

(1)State Bank of India .
(2)Punjab National Bank
(3) Indian Bank
(4) ICICIBank
(5) HDFCBank

Details of the branches of the above banks offering this facility are given on 'List of Authorized Banks' link on the MCA21 portal.

On Successful e-Filing and payment you can view the status of your transaction using the "Track your transaction status" link and you would be required to enter the SRN no; Once the form has been approved by the concerned official of the Ministry, you will receive an email regarding the same and the-status of the form will get changed to Approved.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	Payments can be made electronically through	credit card/Debit Cards or Internet Banking.
2	An e-form can be signed by the authorized signatory/ representative using the	Digital Signature Certificate (DSC)

3	it is recommended that scanning should be done in "black & white" mode at 200 dpi resolution and should not exceed	2.5 MB,
4	' company makes an offer to allot securities to definite group of person to purchase securities.'	Private placement
5	A misleading prospectus contains false, incorrect and fraudulent statement using false data, material facts are hidden in prospectus.	TRUE
6	A person who has been induced to subscribe for shares by keeping faith on misleading prospectus has remedies against the company directors,	**Civil liability:**

UNIT-3
DEVELOPMENT OF COMPANY LAW ADMINISTRATION

TOPIC: Setting-up of Company Law Administration in India.

Under the Companies Act, 2013, as originally enacted, the Company Law Administration had a three-tier set-up, namely,
(a) Department of Company Law Administration (now Department of Company Affairs)
(b) Regional Directors for four Regional Offices, and
(c) Registrar of Companies for each State.
In addition, there were Liquidators known as Official Liquidators attached to each High Court in the States. The Central Government also set up an Advisory Commission to advise it on certain matters as required by Sec. 410 of the Act.
The above set-up was changed by the Companies (Amendment) Act of 1963. Under the Amendment Act, a Board of Company Law Administration (popularly known as the Company Law Board) was established. A Companies Tribunal was also set up to take speedy action in cases of fraud, misfeasance, malpractices and irregularities in company management. The Tribunal was, however, abolished in 1967. Under the Amendment Act of 1963, the Central Government was also empowered to appoint a Public Trustee by notification in the Official Gazette to discharge the functions and exercise the rights and powers conferred on him by or under the Act,
The Companies (Amendment) Act of 1965 deleted Secs. 410 to 415 of the Act dealing with Advisory Commission which has now been abolished, A new Sec. 410 was enacted which now provides for the appointment of an Advisory Committee.

□ Present Set-up of Company Law Administration

The present set-up dealing with company law administration of various stages and providing for various administrative authorities is as follows:
(1) The Central Government
(2) The Board of Company Law Administration.

The administrative set-up of the Board consists of (1) the Central Office. (2) the Regional Offices headed by Regional Directors, and (3) the Registrar of Companies.
(3) The Public Trustee
(4) National Advisory Committee
(5) The Securities and Exchange Board of India (SEBI)
(6) The Official Liquidators
(7) The Advisory Committee

TOPIC: Write a note on Department of Company Affairs.

Ans. The Ministry is primarily concerned with administration of the Companies Act 2013, the Companies Act 1956, the Limited Liability Partnership Act, 2008 & other allied Acts and rules & regulations framed! there-under mainly for regulating the functioning of the corporate sector in accordance with law.
The Ministry is also responsible for administering the Competition Act, 2002 to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of its consumers through the commission set up under the Act.

Besides, it exercises supervision over the three professional bodies, namely, Institute of Chartered Accountants of India(ICAI), Institute of Company Secretaries of India(ICSI) and the Institute of Cost accountants of India (ICAI) which are constituted under three separate acts of the Parliament for proper and orderly growth of the professions concerned.

The Ministry also has the responsibility of carrying out the. functions of the Central) Government relating to administration of Partnership Act, 1932. The Companies (Donations to National Funds) Act, 1951 and Societies Registration Act, 1980.
The Ministry of Corporate Affairs (MCA) is an Indian government ministry. The Ministry is primarily concerned with administration of the Companies Act 2013, the Companies Act 1956. the Limited Liability Partnership Act, 2008 & other allied Acts and rules & regulations framed there-under mainly for regulating the

functioning of the corporate sector in accordance with law. It is responsible mainly for regulation of Indian enterprises in Industrial and Services sector. The current minister of corporate affairs is Arun Jaitley.

TOPIC: Company Law Board

The Board of Company Law Administration (popularly known as the Company Law Board) was set up in February 1964 by the Central Government "for the better and convenient administration of the Companies Act," The Board was constituted to exercise and discharge such powers and functions conferred on the Central Government by or under the Companies Act as may be specified or by any other law and also to deal with any other matter that was delegated to it by the Central Government. Prior to the amendment of Sec. 10-E by the Amendment Act of 1988, the Company Law Board, in the exercise of its powers and discharge of its functions, was subject to the control of the Central Government and the procedure of the Board was such as was prescribed. Even the composition of the Board was from among the officers of the Central Government. The demand for an autonomous Board was therefore raised from time to time. The Amendment Act of 1988 now makes provision for the setting up of an independent Company Law Board to discharge such judicial and quasi-judicial functions as were being exercised either by the Court or the Central Government and these have been transferred to the Company Law Board.

□ Provisions of the amended Sec. 10-E:

The other provisions of the amended Sec. 10-E are as follows:

(1) Constitution of the Company Law Board

As soon as may be after the commencement of the Companies (Amendment) Act, 1988, the Central Government shall, by notification in the Official Gazette, constitute a Board to be called the Board of Company Law Administration.

(2) Powers and functions of the Board

The Company Law Board shall exercise and discharge such: powers and functions as may be conferred on it, by or under the Companies Act, 1956 or any other law. It shall also exercise and discharge such other powers and functions of the Central Government under this Act or any other law as may be conferred on it by the Central Government, by notification in the Official Gazette, under the provisions of this Act or that other law.

(3) Number of members

The Company Law Board shall consist of such number of members, not exceeding 9 as the Central Government deems fit, to be appointed by notification in the Official Gazette: The limit was raised from 5 to 9 by the Companies (Amendment) Act, 1974 to enable the Board to deal with the new business which has been transferred to it under the Companies (Amendment) Act, 1974. One of the members of the Company Law Board appointed by the Central Government shall be its chairman. No act of the Company Law Board shall be called in question on the ground only on any defect in the constitution of, or the existence of any vacancy in, the Company Law Board.

(4)Qualification of members

The members of the Company Law Board shall possess such qualifications and experience as may be prescribed.

(5)Formation of Benches

The Company Law Board may form one or more Benches from among its members to exercise and discharge such of the Board's powers and functions as may be specified in the order.

Every order made or act done by a Bench in exercise of such powers or discharge of such functions shall be deemed to be the order, or act, as the case may be, of the Company Law Board.

Every Bench shall have the powers of Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely,

(a) discovery and inspection of documents or other material objects producible as evidence

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses
(c) compelling the production of documents or other material objects producible as evidence and impounding the same;
(d) examining witnesses on oath;
(e) granting adjournments; and
(f) reception of evidence on affidavits.

(6) Principles and procedures

The Company Law Board shall in the exercise of its powers and the discharge of its functions under the Act or any other law be guided by the principles of natural justice and shall act in its discretion.
As regards the procedure to be followed by the Company Law Board, it shall have power to regulate its own procedure. This right of the Company Law Board is however subject to the provisions of Sec. 10-F,
- Appeals against the orders of the Company Law Board (Sec. 10-F). The orders of the Company Law Board have been made appealable to High Court on questions of law by the Amendment Act of 1988 by introducing anew Sec. 10-F. According to this Section, any person aggrieved by any decision or order of the Company Law Board may file an appeal to the High Court within 60 days' from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order. This period of 60 days may be extended by, the High Court to a further period up to 60 days if it is-satisfied that the appellant was prevented by sufficient cause from filing the appeal within the period of 60 days.

TOPIC: Regional Director

Ans. Four regional offices of the Board, each headed by a Regional Director, for the 4 zones into which the country has been divided have been set up at Bombay, Calcutta, Madras and Kanpur. This has been done with a view to decentralizing some of the functions of the Company Law Board. The Regional Directors function under the control and supervision of the Company Law Boards They

have no statutory authority under the Companies Act. They can exercise only the powers and functions delegated to them by the Company Law Board.

The main functions of the Regional Directors are as follows:

(a) to maintain close contact with the offices of the Registrars of Companies in their respective zones and exercise supervision and control over them on behalf of the Board and to coordinate their activities
(b) to advise and guide Registrars on technical and administrative matters;
(c) to look after progress of investigations instituted by the Company Law Board and to pursue prosecutions arising out of investigations and other breaches of the provisions of the Act
(d) to report to the Government on important events and trends in the zone in the sphere of trade and commerce in general activities and operations of companies and developments in the capital market in particular;
(e) to discharge the functions of public relations officers, to attend to complaints or difficulties of companies, and to help them by giving them expert advice and guidance;
(f) to function as a link between the Central Government and the State Governments in their respective zones.

TOPIC: Security Exchange Board of India (SEBI)

In 1988 the Securities and Exchange Board of India (SEBI) was established by the Government of India through an executive resolution, and was subsequently upgraded as a fully autonomous body (a statutory Board) in the year 1992 with the passing of the Securities and Exchange Board of India Act (SEBI Act) on 30th January 1992. In place of Government Control, a statutory and autonomous regulatory board with defined responsibilities, to cover both development & regulation of the market, and independent powers have been set up. Paradoxically this is a positive outcome of the Securities Scam of 1990-91.

The basic objectives of the Board were identified as:

- to protect the interests of investors in securities;

- to promote the development of Securities Market;
- to regulate the securities market and
- for matters connected therewith or incidental thereto.

Since its inception SEBI has been working targetting the securities and is attending to the fulfillment of its objectives with commendable zeal and dexterity. The improvements in the securities markets like capitalization requirements, margining, establishment of clearing corporations etc. reduced the risk of credit and also reduced the market.

SEBI has introduced the comprehensive regulatory measures, prescribed registration norms, the eligibility criteria, the code of obligations and the code of conduct for different intermediaries like, bankers to issue, merchant bankers, brokers and sub-brokers, registrars, portfolio managers, credit rating agencies, underwriters and others. It has framed bye-laws, risk identification and risk management systems for Clearing houses of stock exchanges, surveillance system etc. which has made dealing in securities both safe and transparent to the end investor.

Another significant event is the approval of trading in stock indices (like S&P CNX Nifty & Sensex) in 2000. A market Index is a convenient and effective product because of the following reasons:

- It acts as a barometer for market behavior.
- It is used to benchmark portfolio performance.
- It is used in derivative instruments like index futures and index options.
- It can be used for passive fund management as in cap Index Funds.

Two broad approaches of SEBI is to integrate the securities market at the national level, and also to diversify the trading products, so that there is an increase in number of traders including banks, financial institutions, insurance companies, mutual funds, primary dealers etc. to transact through the Exchanges. In this context the introduction of derivatives trading through Indian Stock Exchanges permitted by SEBI in 2000 A.D. is a real landmark.

SEBI appointed the L. C. Gupta Committee in 1998 to recommend the regulatory framework for derivatives trading and suggest bye-laws for Regulation and Control of Trading and Settlement of Derivatives Contracts. The Board of SEBI in its meeting held on May 11, accepted the recommendations of the committee and approved the phased introduction of derivatives trading in India beginning with Stock Index Futures. The Board also approved the "Suggestive Bye-laws" as recommended by the Dr. L.C. Gupta Committee for Regulation and Control of Trading and Settlement of Derivatives Contracts.

SEBI then appointed the J. R. Verma Committee to recommend Risk Containment Measures (RCM) in the Indian Stock Index Put future Market. The report was submitted in November 1998.

However the Securities Contracts (Regulation)Act 1956 (SCRA) required amendment to include "derivatives" in the definition of securities to enable SEBI to introduce trading in derivatives. The necessary amendment was then carried out by the Government in 1999. The Securities Laws(Amendment) Bill. 1999 was introduced. In December 1999 the new framework was approved.
Derivatives have been accorded the status of Securities. The ban imposed on trading in derivatives in 1969 under a notification issued by the Central Government was revoked. Thereafter SEBI formulated the necessary regulations/bye-laws and intimated the Stock Exchanges in the year 2000. The derivative trading started in India at NSE in 2000 and BSE started trading in the year 2001.

ONE WORD QUE. AND ANSWER

SR NO	QUE	ANS
1	the new framework OF The Securities Laws(Amendment) Bill was approved in	December 1999
2	SEBI formulated the necessary regulations/bye-laws and intimated the	2000

	Stock Exchanges in the year	
3	The derivative trading started in India at NSE in	**2000**
4	BSE started trading in the year	**2001**
5	SEBI then appointed the…… Committee to recommend Risk Containment Measures	J. R. Verma
6	SEBI appointed the…… Committee in 1998 to recommend the regulatory framework for derivatives trading	L. C. Gupta
7	…….introduced the comprehensive regulatory measures, prescribed registration norms, the eligibility criteria, the code of obligations and the code of conduct	**SEBI**

TOPIC : Objectives and Functions of SEBI.

The main objective of establishing SEBI was to create a healthy environment, which would facilitate mobilization of adequate resources through the securities market and its efficient management. SEBI has its head office at Bombay.

Objectives of SEBI:

(1)Objectives towards the investors. : It intends to protect the rights and interest of the investors through necessary regulations.
(2)Objectives towards capital issuers. : It aims to create a good market environment in which the issuers of capital can raise necessary funds by offering securities in form of shares, debentures and bonds.
(3)Objectives towards intermediaries. : It aims at generating professionalism among the different intermediaries such as brokers, Underwriters, portfolio managers, and others.

 Powers and Functions of SEBI. : SEBI is empowered with powers to perform the following functions:

(1) Protection of investors' Interest:

SEBI frames rules and regulations to protect the Interest of investors. It monitors whether the concerned parties are following the rules and regulations i.e., issuing companies, mutual funds, brokers and others. It handles investor grievances or complaints against brokers, securities issuing companies and others.

(2) Guidelines on capital issues:

SEBI has framed necessary guidelines in connection with capital issue. The guidelines are applicable to.

- First Public Issue of New Companies.
- First Public Issue by Existing Private / Closely Held Companies.
- First Issue by Existing Listed Companies.

(3) To regulate working of mutual funds:

SEBI has laid down rules and regulations to be followed by Mutual Funds. SEBI has prescribed the SEBI (Mutual Funds) Regulations, 1993. The regulations are to be followed by all mutual funds in India.

(4) Restriction on insiders trading:

SEBI restricts insider-trading activity. It prohibits dealing, communication or counselling on matters relating to insider trading. SEBI regulation states that no insider (connected with company) shall-either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange based on any unpublished price sensitive information.

(5) Regulates merchant banking:

SEBI has laid down activities regulations in respect of merchant banking in India. The regulations are in respect of registration, code of conduct to be followed, submission of half-yearly results and so on.

(6)Regulates stock brokers activities:

SEBI has also laid down regulations in respect of brokers and sub-brokers. No broker or sub-broker can buy, sell or deal in securities without being a registered member of SEBI,

(7)Portfolio Management:

SEBI has also enacted regulations to regulate the working of portfolio managers. It has laid down that no person or institution can operate as a portfolio manager without the registration. The portfolio managers have to follow the regulations laid down by SEBI.

(8) To Regulate Take-over, and Mergers:
SEBI has issued a set of guidelines to-protect the interest of the investors in the case of takeover and mergers.

(9) Research and Publicity:
SEBI also conducts surveys in respect of investments and opportunities. In 1990-91, SEBI along with Bombay Stock Exchange and others conducted a survey called 'Survey on Indian Share Owners'. It publishes two monthly bulletins called 'SEBI Market Review' and 'SEBI Newsletter.

(10) Other Functions.
 It prohibits fraudulent and unfair trade practices relating to securities market.
 It promotes and regulates self-regulatory organizations.
 It promotes investor's education, and also training of intermediaries in securities market.
 It conducts inspection, inquiries and audits of stock exchanges and intermediaries and self-regulatory organizations securities market.
 To monitor the online trading on stock exchange.

 To regulate & monitor the dematerialization trading in securities.

TOPIC: The authorities of SEBI.

Ans. SEBI is a statutory body comprising of six members as under:
(1) Chairman
(2) Officials from Central ministries
(3) Professionals having experience in securities trading and financial markets
(4) from the Reserve Bank of India
The RBI member is nominated by the RBI while all other five members are appointed by the Central Government. The authorized role and functions of the SEBI are governed by the Ministry of Finance and Ministry of Economic Affairs, Government of India.
The SEBI is authorized to register, monitor and regulate the securities markets and securities trading as under

(1) To issue guidelines and policies for Primary Market. Intermediaries, Self-Regulatory Organizations (SROs); In Grievances and Guidance to Investors.
(2) To issue guideline and policies for Secondary Market, Operations and administrations of stock exchanges, Inspection of operation.
(3) To issue guidelines for securities issues management.
(4) To issue guidelines for Industrial Investments like Mutual Funds (MFs), Venture Capital Funds (VCFs) and Foreign Institutional Investments (FIIs).
(5) The legal department looks after the legal matters relating to securities market viz, securities issues and securities trading.
(6) The investigation department carries out the inspection of any alleged malpractices or frauds relating to securities market.
All these authorities are exercised through various independent departments of the SEBI.

TOPIC: Role of SEBI in Primary Market.

Role of SEBI in Primary Market:

To protect the interest of the investors and to bring back the small Investors to the market several measures have been undertaken by SEBI. Entry and disclosure norms are tightened to prevent the exploitation of Investors by the unscrupulous promoters. Allocation of shares and Promoters' contribution are regulated.

Role of SEBI in Primary Market

(1) Entry Norms

SEBI has issued guidelines to tighten the entry norms for companies accessing the capital market.
(i) A company should have a record of accomplishment of dividend payments for a minimum period of 3 years preceding the issue.
(ii) A company whose shares are already listed would fulfill the entry-level requirement only if the post issue net worth becomes more than five times the pre issue net worth.
(iii) If a manufacturing company does not have such a record of accomplishment it could access the public issue market, provided a public financial institution or a scheduled commercial bank appraises its project. The appraising entity should also participate in the project fund.
(iv) It would be necessary for a corporate body making a public issue to have at least five public shareholders for every Rs. 1 lac of the net capital offer made to the public.

(2) Promoters' Contribution

Promoters' contribution means contribution by those described in the prospectus as promoters, directors, friends, relatives and associates.
(i) Promoters' contribution should not be less than 20% of the issued capital irrespective of the issue size.
(ii) The entire promoters' contribution should be received before the public issue. If the issue size exceeds 100 crores, the promoters can bring in not less than 50% of their contribution before opening of the issue and bring in the balance before the calls are made on the shareholders.
(iii) SEBI announced that not more than 20 per cent of the entire contribution brought in by promoters cumulatively in public or preferential issue would be locked in for 5 years. SEBI lifted the provision of lock in period for promoters, contribution in case of listed companies with 3 years record of accomplishment of dividend payment.
(iv) According to the decision taken by the SEBI Board, in case of non-underwritten public issue promoters could bring their own money or procure subscription from elsewhere within 60 days of the closure of the issue subject to such disclosures in the offer document.

(3) Disclosure

The draft prospectus filed with SEBI is made as a public document to enhance transparency. The draft prospects should provide all the needed information to the investor regarding the present position of the company, the future prospect and the risk factors associated with the investment of the company.

(4) Book Building

Book building has been accepted as one of the modes of public issue. SEBI issued guidelines relating to 100 per cent book-building in an issue of security to the public through prospectus.

(5) Allocation of Shares

To bring back the small investors to the primary market, the minimum application of share has been reduced from 500 to 200. Proportionate allotment of shares is made. A reservation of minimum 50 % of net offers to the small investors is being made. Small investors mean those who have applied for 1000 or fewer shares or securities.

(6) Market Intermediaries

Licensing of merchant bankers or authorization by SEBI was the first step undertaken to regulate the intermediaries. This licensing of merchant bankers is based on the capital adequacy as well as the track record of the capital market related activities. In course of time,

other financial intermediaries such as underwriters, registrars and transfer agents came to be licensed. SEBI has the right to inspect the records of the intermediaries.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	SEBI has its head office at	Bombay.
2	SEBI has issued a set of guidelines to-protect the interest of the investors in the case of takeover and mergers.	**TRUE**
3	Who publishes two monthly bulletins called 'SEBI Market Review' and 'SEBI Newsletter.	**SEBI**
4	Book building has been accepted as one of the modes of public issue.	**TRUE**

TOPIC: Registrars of Companies

Ans. The Registrar of Companies of India is the official agency that deals with administration of Companies Act 1956 & Companies Act 2013. It falls under Ministry of Corporate Affairs. lt has offices in all major states of India, The Registrar of Companies is the primary regulator for company-related matters in India. It is popularly known as ROC. It is the Government agency deals with regulation and Management of all types of Companies covered under the Companies Act 1956 & Companies Act 2013 in India i.e. Private Limited & Public Limited. The Registrar of Company takes care of Company registration (Also known as Incorporation or Setup) in India, complete reporting and regulation of Companies w.r.t its Directors. Shareholders, Government, Reporting of various matters including the annual filling of various documents.
For the purposes of registration of companies, there shall be registration offices at such places as the Central Government thinks fit. For the carrying out of the registration of companies, the Central Government is empowered to appoint Registrars, as well as Additional. Deputy or Assistant Registrars as it thinks necessary and to make regulations with respect to their duties the salaries of these officers are fixed by the Central Government.

The Central Government may also direct a seal or seals of the Registrar to be prepared for the authentication of documents required for or connected with, the registration companies. The Registrars are the Held officers who occupy the lowest tier in the organisational set-up of the Company Law Board They deal directly with the companies registered or intended to be registered within their jurisdiction.

Role of Company Registrar:-

There is a Registrar of Companies in each State of India. He is full-time officer and is appointed by the Central Government; He is responsible for the administration of the company law in that State. One of his main functions is to register companies on production of the requisite documents and payment of fees and issue certificates of incorporate and certificates to commence business. He has also to receive document notices, resolutions, returns, reports etc. required to be filed with him by
the companies under the Companies Act. Moreover, to file and register these as required by the Act. He has to maintain the necessary Registers as required by the Companies Act. He has to permit the inspection by any person the documents filed with him as per the Companies Act. If default made by any company in complying with any provisions of the Companies Act, he has to issue the necessary notices. He can also apply to the Central Government through the Company law Board, for investigation of the affairs of any company or for taking any other action as he thinks necessary.

Provisions and role of advisory Committee in India.

Following are the main provisions of company in respect of Advisory Committee:
(1) The Tribunal may, while passing an order of winding up of a company, direct that there shall be. An advisory committee to advise the Company Liquidator and to report to the Tribunal on such matters as the Tribunal may direct
(2) The advisory committee appointed by the Tribunal shall consist of not more than twelve members, being creditors and contributories of the company or such other persons in such proportion as the Tribunal may, keeping in view the circumstances of the company under liquidation, direct.
(3) The Company Liquidator shall convene a meeting of creditors and contributories as ascertained from the books and documents of the company within thirty days from the date of order of winding up for enabling the Tribunal to determine the persons who may be members of the advisory committee.
(4) The advisory committee shall have the right to inspect the books of account and other documents, assets and properties of the company under liquidation at a reasonable time.

(5) The provisions relating to the convening of the meetings, the procedure to be followed thereat and other matters relating to conduct of business by the advisory committee shall be such as may be prescribed.
(6) The meeting of advisory committee shall be chaired by the Company Liquidator.

TOPIC : Meaning and Functions of Company's High court and Tribunal

Meaning of Court and Tribunal

A tribunal is an assembly of people with special knowledge about a subject who are called to resolve a dispute. It is usually less formal and faster than a judge and jury trial. Tribunals exist in parallel to the traditional court system, but they are not part of it. Tribunals are usually assembled when there is no court with jurisdiction over a specific issue, such as with war crimes. The United Nations frequently appoints tribunals to hear international matters because there is no court that has jurisdiction over world matters.

Another major difference between courts and tribunals is that, with the exception of the members of the Supreme Court, who are appointed, judges are typically elected officials in the United States. Tribunal members are usually appointed because of their knowledge or experience with the issue that the tribunal is attempting to resolve. Judges, by contrast, are individuals with general knowledge about the law. Tribunals are faster, less expensive options to a traditional judge and jury trial because they do not involve a jury selection process. Rather, a tribunal acts as both judge and jury in a tribunal proceeding. A tribunal is typically a panel of people, although it does not have to be so by definition.

Functions of Companies High Court and Tribunal

(1) The Companies Tribunal or a member of the Tribunal acting alone in accordance with this the Companies Act. 2008 (Act No. 71 of 2008) may:

(a) Adjudicate in relation to any application that may be made to it in terms of this Act. In addition, make any order provided for in this Act in respect of such an application;
(b) Assist in the resolution of disputes as contemplated in Part C of Chapter 7; and
(c) perform any other function assigned to it by or in terms of this Act or as mentioned in Schedule 4.
(2) The chairperson is responsible to manage the caseload of the Companies Tribunal. and must assign each matter referred to the Tribunal to:

(a) a member of the Tribunal, to the extent that this Act provides for a matter to be considered by a single member of the Tribunal: or
(b) a panel composed of any three members of the Tribunal, in any other case.

(3) When assigning a matter to a panel in terms of subsection (2) (b), the chairperson must:

(a) Ensure that at least one member of the panel is a person who has suitable legal qualifications and experience; and
(b) Designate a member of the panel to preside over the panel proceedings.

(4) If because of resignation, illness, death, or withdrawal from a hearing in terms of section 206(3). A member of the panel, unable to complete the proceedings in a matter assigned to that panel, the chairperson must:
(a) Direct that the hearing of that matter proceed before the remaining members of the panel, subject to the requirements of subsection (3)(a): or
(b) Terminate the proceedings before that panel and constitute another panel, which may include any member of the original panel, and direct that panel to conduct a new hearing.

(5) The decision of a panel on a matter referred to it must be in writing and include reasons for that decision.

(6) A decision of a single member of the Companies Tribunal hearing a matter as contemplated in subsection (l)(a), or of a majority of the members of a panel in any other case, is the decision of the Tribunal.

(7) A decision by the Companies Tribunal with respect to a decision of or a notice or order issued by, the Commission is binding on the Commission, subject to any review by or appeal to a court.

(8) An order of the Companies Tribunal may be filed in the High Court as an order of the court, in accordance with its rules.

(9) A member of the Tribunal may not represent any person before the Tribunal.
(10)If, on the expiry of the term of office of a member of the Companies Tribunal, that member is still considering a matter before the Tribunal, that member may continue to act as a member in respect of that matter only.

TOPIC: National Company Law Board (NCLT)

Introduction:-

The National Company Law Tribunal (NCLT) is a quasi-judicial body in India that adjudicates issues relating to companies in India. The NCLT was established under the Companies Act 2013 and was constituted on 1 June 2016.

The NCLT has eleven benches, two at New Delhi (one being the principal bench) and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai. Justice M.M. Kumar, a retired judge of the Punjab and Haryana High Court has been appointed as President of the NCLT.

The NCLT has the power under the Companies Act to adjudicate proceedings initiated before the Company Law Board under the previous act (the Companies Act 1956); pending before the Board for Industrial and Financial Reconstruction, including those pending under the Sick Industrial Companies (Special Provisions) Act 1985: pending before the Appellate Authority for Industrial and Financial Reconstruction; and pertaining to claims of oppression and mismanagement of a company, winding up of companies and alt other powers prescribed under the Companies Act.

Decisions of the N C LT may be appealed to the National Company Law Appellate Tribunal.

Constitution of National Company Law Tribunal (Sec. 408)|

The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, a Tribunal to be known as the National Company Law Tribunal consisting of a President and such number of Judicial and Technical members, as the Central Government may deem necessary, to be appointed by it by notification, to exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

Qualification of President and Members of Tribunal (Sec. 409)

(1) The President shall be a person who is or has been a Judge of a High Court for five years

(2) A person shall not be qualified for appointment as a Judicial Member unless he-

(a) Is, or has been, a judge of a High Court; or

(b) Is, or has been, a District Judge for at least five years; or

(c) Has, for at least ten years been an advocate of a court. Explanation. For the purposes of clause
(c) in computing the period during which a person has been an advocate of a court, there shall be included any period during which the person has held judicial office or the office of a member of a tribunal or any post, under the Union or a State, requiring special knowledge of law after he become an advocate.
(3) A person shall not be qualified for appointment as a Technical Member unless he-
(a) has, for at least fifteen years been a member of the Indian Corporate Law Service or Indian Legal Service out of which at least three years shall be in the pay scale of Joint Secretary to the Government of India or equivalent or above in that service; or
(b) Is. or has been, in practice as a chartered accountant for at least fifteen years; or
(c) Is, or has been, in practice as a cost accountant for at least fifteen years; or
(d) Is, or has been, in practice as a company secretary for at least fifteen years; or
(e) Is a person of proven ability, integrity and standing having special knowledge and experience, of not less than fifteen years, in law, Industrial finance, industrial management or administration, industrial reconstruction, investment accountancy, labor matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies; or
(f) Is, or has been, for at least five years, a presiding officer of a Labor Court, Tribunal or National Tribunal constituted under the Industrial Disputes Act, 1947.

Constitution of Appellate Tribunal (Sec. 410)

The Central Government shall, by notification, constitute, with effect from such date as may be specified therein, an Appellate Tribunal to be known as the National Company Law Appellate Tribunal consisting of a chairperson and such number of Judicial and Technical Members, not exceeding eleven, as the Central Government may deem fit, to be appointed by it by notification, for hearing appeals against the orders of the Tribunal.

Qualifications of chairperson and Members of Appellate Tribunal (Sec. 411)

(1) The chairperson shall be a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court.
(2) A Judicial Member shall be a person who is or has been a Judge of a High Court or is a Judicial Member of the Tribunal for five years.
(3) A Technical Member shall be a person of proven ability, integrity and standing having special knowledge and experience, of not less than twenty-five years, in law, industrial finance, industrial management or administration, industrial reconstruction, investment,

accountancy, labour matters, or such other disciplines related to management, conduct of affairs, revival, rehabilitation and winding up of companies.

Selection of Members of Tribunal and Appellate Tribunal (Sec. 412)

(1) The President of the Tribunal and the chairperson and Judicial members of Appellate Tribunal shall be appointed after consultation with the Chief Justice of India.
(2) The Members of the Tribunal and the Technical Members of Appellate Tribunal shall be appointed on the recommendation of an election Committee consisting of-
(a) Chief Justice of India or his nominee-Chairperson;
(b) a senior Judge of the Supreme Court or a Chief Justice of High Court- Member;
(c) Secretary in the Ministry of Corporate Affairs-Member;
(d) Secretary in the Ministry of Law and Justice-Member; and
(e) Secretary in the Department of Financial Services in the Ministry of Finance- Member.
(3) The Secretary, Ministry of Corporate Affairs shall be the Convener of the Selection Committee.
(4) The Selection Committee shall determine its procedure for recommending persons under sub-section (2).
(5) No appointment of the Members of the Tribunal or the appellate Tribunal shall be invalid merely by reason of any vacancy or by defect in the constitution of the Selection Committee.

Term of office of President, chairperson and other Members (Sec. 413)

(1) The President and every other Member of the Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.
(2) A Member of the Tribunal shall hold office as such until he attains,-
(a) in the case of the President, the age of sixty-seven years;
(b) in the case of any other Member, the age of sixty-five years:

(1) Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:
(2) Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

(3) The chairperson or a Member of the Appellate Tribunal shall hold office as such for a term of five years from the date on which he enters upon his office, but shall be eligible for re-appointment for another term of five years.

(4) A Member of the Appellate Tribunal shall hold office as such until he attains,-
(a) in the case of the Chairperson, the age of seventy years; ,(b) in the case of any other Member, the age of sixty-seven years:
Provided that a person who has not completed fifty years of age shall not be eligible for appointment as Member:

(3) Provided further that the Member may retain his lien with his parent cadre or Ministry or Department, as the case may be, while holding office as such for a period not exceeding one year.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	The President and every other Member of the Tribunal shall hold office as such for a term of	five years
2	The President of the Tribunal and the chairperson and Judicial members of Appellate Tribunal, shall be appointed after	consultation with the Chief Justice of India.
3	The NCLT was established under the Companies Act 2013 and was constituted on	1 June 2016.
4	The……. has eleven benches, two at New Delhi (one being the principal bench) and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.	NCLT
5	Justice……, a retired judge of the Punjab and Haryana High Court has been appointed as President of the NCLT.	M.M. Kumar….

UNIT-4
PROVISIONS OF COMPANY LAW 2013

REGARDING DIVIDEND & INTEREST

TOPIC: 'Dividend' and rules regarding the payment of dividend

1.00 Introduction:

All the trading companies are formed with a view to earn profits for their members. It may be noted that every company has the power to distribute the part of its profit among its members. In order to determine the profits made in a particular year, proper accounts are to be maintained by the companies. These accounts enable the members to know about the affairs of the company. The accounts should be properly checked and examined. So that true and correct position be presented before the members.

2.00 Meaning of Dividend:

The term dividend may be defined as the portion of the profits that falls to the share of each individual share holder of the company. In other words, it is the return on the share that each share holder gets from the company out of its profits. The term dividend also includes any interim dividend.

3.00 Rules regarding the payment of dividends:

We know that every company has the power to distribute its profits among its shareholders in the form of dividend. It will be interesting to know that the power to declare and pay dividends need not only be given by the MOA or AOA of the company but the company has an implied power to pay dividends. The following rules must be followed as regards its payment.

3.1 Resolution at the annual general meeting:

The dividend is declared by the company by the resolution passed at the annual general meeting. The B.O.D. determines the rate of dividend to be declared and recommends it to the meeting of share holders. The rate determined by the board is to be sanctioned by the members of the company in general meeting. They may reduce the rate but they cannot increase it. Therefore, dividend can only be declared by the members of the company.

3.2 Payment of dividend in proportion to paid up capital:

A company may, if so authorized by its articles, pay dividends in proportion to the amount paid up on each share, where unequal amounts have been paid on some shares, the dividend may be unequal as among different shareholders. In absence of such clause in articles,

members are entitled to dividend in proportion to the nominal value of shares and not in proportion to the amount paid thereon.

3.3 Dividend to be paid only out of profits:

The dividends can be paid only out of profits, and can never be paid out of the capital of the company. The payment of dividends out of capital is illegal. The directors who pay the dividends out of capital are personally liable to pay that much amount to the company. The dividend is paid put of following 3 sources.

1. Profits of the company for the current year.
2. The undistributed profits of the previous financial years; or
3. The money provided by the central or state government for the payment of dividend in respect of the guarantee given by it.

3.4 Dividends payable in cash only:

The dividends are to be paid in cash only. However, the company may decide to use its accumulated profits by issuing bonus shares. The dividends payable in cash may be paid by cheque or warrant sent through the post.

3.5 Dividend to the registered shareholders only:

The dividend shall be paid to the holder of shares whose name appears in the register of members or to his banker and if the share warrant has been issued, then to the bearer of the share warrant or to his banker.

3.6 Transfer to the reserves up to 10% out of profits:

Before any dividends is declared or paid, out of the current year, certain percentage of profit as may be prescribed by the central government, but not exceeding 10% will have to be transferred to the reserves of the company. The company may however voluntarily transfer the higher profits to the reserves.

3.7 Interim Dividends by B.O.D:

The B.O.D. may also declare an interim dividend at any time between the 2 annual general meetings of the company. The amount of interim dividend so declared shall be deposited in a separate bank account within 5 days from the date of declaration of such dividend. The amount so deposited shall be used for the payment of interim dividend.

3.8 Dividend becomes debt-payable:

Once a dividend is declared, it becomes debt due form the company to its shareholders and the shares entitled to the dividend can enforce the payment through court within 3 years of declaration. The company may however deduct from the dividend any call due to the

company or any other amount payable in relation to the shares. However, the interim dividend does not become a debt payable by the company, because it is open to the directors to revoke the resolution before the payment of interim dividends.

3.9 Liability of directors in case of payment out of capital:

The dividends must be paid within 30 days from the date of declaration of the dividends. The dividend warrant if issued should also be posted within 30 days period. If it is not paid within this time, director in default shall be punishable with imprisonment up to 3 years and with a fine of Rs. 10,000 for every day during which default continues. The company will also have to pay interest at the rate of 18% per annum for the period of default.

3.10 provisions of section 73 & 74:

A company, which fails to comply with the provisions of sections 73 and 74, shall not, so long as such failure continues, declare any declare any dividend on its equity shares.

4.00 Conclusion:

Thus, the company is required to follow this rules and regulations of declaring the dividend otherwise; they need to be punished for the imprisonment and penalty. The B.O.D. cannot declare dividend out of capital otherwise, they will be personally liable.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	**A company, which fails to comply with the provisions of sections 73 and 74, shall not, so long as such failure continues, declare any declare any dividend on its equity shares.**	**TRUE**
2	**The dividends must be paid within……. from the date of declaration of the dividends.**	**30 days**
3	**The company will also have to pay interest at the rate of ….per annum for the period of default.**	**18%**
4	**Once a dividend is declared, it becomes debt due form the company to its share**	**TRUE**

5	**holders and the shares entitled to the dividend can enforce the payment through court within 3 years of declaration. The B.O.D. may also declare an interim dividend at any time between the…… annual general meetings of the company.**	**2**

TOPIC: What is the punishment for failure to distribute dividends (Sec. 127)

Ans: Where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has not been posted within thirty days from the date of declaration to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment which may extend to two years and with fine which shall not be less than one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of 18 per cent, per annum during the period for which such default continues: Provided that no offence under this section shall be deemed to have been committed:-

(a) where the dividend could not be paid by reason of the operation of any law;
(b) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with and the same has been communicated to him;
(c) where there is a dispute regarding the right to receive the dividend;
(d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder; or
(c) There for any other reason, the failure to pay the dividend or to post the warrant within the period under this section not due to any default on the part of the company.

TOPIC. Different types of Dividend.

There are two types of dividend:

Different Types of Dividend

(1) Interim dividend
(2) Final or Annual Dividend

(1) Interim dividend

Interim dividend is paid generally in the mid of the year i.e. for the period of six months. It is paid as per the provisions of Indian Companies Act, 1956 and in accordance with Articles of Association. In absence of Articles of Association. Table-A is taken into consideration. Profit is calculated for the period of six months for the distribution of dividend. It can be distributed by the unanimous decision of the management. The management passes a resolution for the distribution of dividend along with the permission granted by the members of general meeting. It is not compulsory for the company to pay such dividend once declared. It is paid keeping in mind past years profit and by making estimation of profit for coming next six months period.

(2) Final or annual dividend

The dividend paid at the end of the accounting year from net divisible profit of the year is known as final or annual dividend. The management of the company decides the rate of such dividend. The declaration of final dividend is made in the annual general meeting. Such dividend is considered as liability for the company. It is because interim dividend though declared may not be paid to shareholders by the will of the management. However, final dividend once declared is to be paid by the management to the shareholders. If not paid to shareholders then shareholders may claim for it.

Differences between Interim Dividend and Final Dividend

An interim dividend differs from a final dividend in the following respects:
(1) The Board of Directors declares an interim dividend while the shareholders in the Annual General Meeting declare a final dividend.
(2) An interim dividend is declared before the preparation of the final accounts. A final dividend, on the other hand, can be declared only after the accounts are prepared and the profit is ascertained.
(3) Interim dividend relates to a part of the year (i.e.,) usually six months. A final dividend relates to the full year.
(4) The Board can declare an interim dividend only when the Articles expressly permit a declaration. There need not be any express provision in the Articles for declaring a final dividend. It is an inherent right of the shareholders.
(5) An interim dividend once declared shall not become a debt due from the company to the shareholders. While a final dividend, once declared, shall become a debt due from the company.
(6) The directors are also empowered to cancel the declaration of the interim dividend after it is declared. The shareholders, once declared final dividend, cannot cancel the declaration.

TOPIC: Unpaid dividend account.

1.00 Introduction:

We know that the dividend must be paid within 30 days of the declaration of the dividend and if the dividend is not paid within this period, the directors are punishable with a fine and imprisonment. It may further be noted that in such a case, the company will have to open an account in any schedule bank to be called "Unpaid Dividend A/C of ……. Co. Ltd." And unpaid dividend is to be transferred to this account within 7 days after the expiry of the said period of 30 days. If company fails to transfer the amount to the "Unpaid Dividend A/C" within 7 days, the company shall have to pay interest @ 12% p.a. from the date of default.

2.00 Provisions:

Other provisions relating to the "unpaid dividend Account" and payment of unpaid dividend may be discussed as under:

1. In case the amount transferred to the unpaid dividend account, remains unpaid or unclaimed for a period of 7 years from the date of transfer, the company has to transfer the same to the "Investor Education and Protection Fund." The company shall also give the authority or committee appointed by the central government, the details of person entitled to claim the dividend.
2. On transferring the amount to "Investor Education and Protection Fund", the company shall get a receipt, which is an effective discharge of company in respect of amount transferred to the fund. This means the company shall not be liable to any claim in respect of the amount so transferred.
3. The amount transferred to "Investor Education and Protection Fund" shall be utilized for the promotion of investor awareness and for protection of the interest of investors.
4. On the transfer of unclaimed dividend to the "Investor Education and Protection Fund", no person shall be entitled to claim the same. The newly added Sec. 205-C, specially provide that no claim shall lie against the company for individual amounts which were unclaimed for a period of 7 years from the date they first become due for the payment.

3.00 Penalty:

If company fails to comply with the provisions regarding transfer of unpaid dividend, the company and every officer in default shall be punishable with a fine up to Rs. 5000 for every day during which the default continues.

TOPIC: Duties of Auditors for the payment of Dividend

(1) Auditor has to refer carefully the memorandum of association and articles of association of the company.
(2) He has to check whether dividend is declared as per memorandum of association and articles of association.
(3) It is compulsory for the company to pay dividend within 42 days after the declaration of such dividend is made.
(4) It is the duty of the shareholders to obtain such dividend within three years.
(5) Dividend is paid to the shareholders whose name appears in the register of the company. He has to check whether it is paid to the persons specified in the register of the company or not.
(6) Dividend is to be paid from the net divisible profit of the company. Auditor has to check whether it is paid from such profit or not.
(7) Dividend is to be paid by the company after deducting tax at source. The tax deducted at source must be in accordance to the provisions laid down in the income tax act.
(8) The procedure for the declaration of dividend as well as for the payment of dividend is followed properly or not is to be checked by the auditor.
(9) Minute checking is needed from the side of the auditor. If dividend is paid through cheque i.e. bank, bank statement must be verified properly.
It must be noted that if any encumbrances are found regarding both declaration as well as payment of dividend, auditor will be wholly held liable.

TOPIC: "Divisible profits and points are to be taken into consideration by determining divisible profit

1.00 Introduction:

The object of any company is to earn profits and distribute it among the proprietors of business. Hence, the question of determination of profit assumes great significance. The directors, M.D., are sometimes paid remuneration at a specified percentage of such profit. Moreover, the entire profit cannot be distributed inform of dividend to the shareholder so it is important to know what is divisible profit.

2.00 What is profit

The company's act is silent on the definition of profit and it does not say as to what profit is and what profit is divisible.
"Profit is defined as excess of income over expenditure relating to the period."
"Profit implies a comparison between the states of business at two specific dates usually separated by an interface of a year."

3.00 Definition of Divisible Profit:

The term, 'Divisible profit' relates to those profits, this can be legally distributed among the shareholders of the company, by the way of dividend.

4.00 Guiding Principles in computing divisible profits:

The following principles must be kept in mind:

4.1 The generally accepted principle of accountancy:

It is necessary to follow normally accepted principles. A proper allocation of income and expenses into capital and revenue is required. Before distributing current profits, the losses of earlier years must be set off against the profits, etc.

4.2 Regulation of MOA and AOA:

The articles lay down the rules for internal management of a company. The profit can be distributed only by following the regulations of MOA & AOA.

4.3 Legal decision:

In absence of any specific definition of term, divisible profit, reliance has to be placed on the decision of court.

4.4 Provisions of the company's Act:

Sec-205 lays down that no dividend shall be paid out of profits of the company before providing depreciation on fixed assets.

5.00 Factors influencing divisible profit:

The following factors affects divisible profits:

5.1 Capital profits:

Capital profits are not to be distributed. There must to be distribution as to capital profit to be distributed as Bonus shares or cash dividends. Capital profits are made available if-

(A) The articles do not prohibit distribution in this way.

(B) The capital profit should have been realized.

(C) The surplus profit remains even after revaluation of fixed assets of the company.

5.2 Capital losses:

The losses on capital may arise due to depreciation of capital assets. If company has lost part of its capital, it may declare or pay dividend without making good the capital, which has been lost

.

5.3 Depreciation:
It is compulsory for all the companies to charge depreciation before it can pay dividend to shareholders.

5.4 Past losses:
The company Act-205 says that the company may not declare the dividend out of the profit of current year without writing off the previous revenue losses.

5.5 Transfer of reserves:
Directors are free to create reserves out of profit of current year before the distribution of dividend, if it is provided in AOA.

5.6 Profits prior to incorporation of company:
Profit before incorporation of company cannot be legally distributed amongst the shareholders, as the company had not come into existence until that day/date

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	Profit before incorporation of company cannot be legally distributed amongst	the shareholders,
2	Directors are free to create reserves out of profit of current year before the distribution of dividend, if it is provided in	AOA.
3	Relates to those profits, this can be legally distributed among the shareholders of the company, by the way of dividend.	Divisible profit’
4	……is defined as excess of income over expenditure relating to the period.”	Profit
5	In case the amount transferred to the unpaid dividend account, remains unpaid or unclaimed for a period of 7 years from the date of transfer, the company has to transfer the same to the”	“Investor Education and Protection Fund.

TOPIC: Principles of divisible profit

Following are the important principles of divisible profits:

(1) According To the Company Rules

The articles of association are the rules of the company. The directors are entitled to distribute the profits under rules. They also follow the company law. The dividend can be paid out of revenue profit.

(2) Follow the Court Cases

While calculating the divisible profits, the court cases must be kept in mind. The auditors must know the decisions of the courts announced time to time.

(3) Profit Not Out Of Capital

The capital cannot be used to pay dividend. The revenue profits can be used for the payment of dividend

.

(4) Approval of Shareholders

In the annual general meeting, shareholders may approve the rate of profit recommended by the directors. So, divisible profits can be used to pay dividend after approval

.

(5) Right of Proposal

The directors can propose the rate of dividend out of divisible profits. After completing the legal formalities, the directors can decide the dividend.

(6) Undistributed Profit

It is the right of the directors to use such profit for the payment of dividend at the end of a year. It is are venue of the provision year.

(7) Secret Reserves

If according the articles association it is allowed to create and use such reserves then these can be used for the payment of dividends.

(8) Revaluation of Assets

After the revaluation of asset, if it becomes surplus then it can be used after realization. Profit may be paid after selling the assets.

(9) Revenue Profits

According the principle of divisible profit dividend must be paid out of revenue profit. However, it is essential that calculation should be correct

(10) Asset Goodwill Written Down &Up

If a company has written down good will out of profits, it may also write up this asset, with the appreciation. However, the value written up should not excess than the true value.

TOPIC: 'Stock Exchange' and its features

Stock Exchange (also called Stock Market or Share Market) is one important constituent of capital market. Stock Exchange is an organized market for the purchase and sale of industrial and financial security. It is convenient place where trading in securities is conducted in systematic manner i.e. as per certain rules and regulations.
It performs various functions and offers useful services to investors and borrowing companies. It is an investment intermediary and facilitates economic and industrial development of a country.

Stock exchange is an organized market for buying and selling corporate and other securities. Here, securities are purchased and sold out as per certain well-defined rules and regulations. It provides a convenient and secured mechanism or platform for transactions in different securities. Such securities include shares and debentures issued by public companies, which are duly listed at the stock exchange; and bonds and debentures issued by government, public corporations and municipal and port trust bodies.

Definitions of Stock Exchange

(1) Literal definition.
"Stock'' means fraction of a capital of a company and "exchange" means a place for purchasing and selling something. Thus, stock exchange is a market where there is a trading in stock (capital) of different companies.

(2) Hastings.
"Stock exchange or securities market comprises all the places where buyers and sellers of stocks and bonds or their representatives undertake transactions involving the sale of securities."

(3) Husband and Dockeray.
"Securities or stock exchanges are privately organized markets which are used to facilitate trading in securities."

(4) Securities Contract Regulation Act 1956.

"Stock exchange is at association, organization or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating and controlling business of buying, selling and dealing in securities".

Features of Stock Exchange

Characteristics or features of stock exchange are:

(1) Market for securities

Stock exchange is a market, where securities of corporate bodies' government and semi-government bodies are bought and sold.

(2)Deals in second hand securities

It deals with shares, debentures bonds and such securities already issued by the companies. In short, it deals with existing or second hand securities and hence it is called secondary market.

(3)Regulates trade in securities

Stock exchange does not buy or sell any securities on its own account. It merely provides the necessary infrastructure and facilities for trade in securities to its members and brokers who trade in securities. It regulates the trade activities to ensure free and fair trade.

(4)Allows dealings only in listed securities

In fact, stock exchanges maintain an official list of securities that could be purchased and sold on its floor. Securities, which do not figure in the official list of stock exchange, are called unlisted securities. Such unlisted securities cannot be traded in the stock exchange.

(5)Transactions effected only through members

All the transactions in securities at the stock exchange are effected-only through its authorized brokers and members. Outsiders or direct-investors are not allowed to enter in the trading circles of the stock exchange. Investors have to buy or sell the securities at the stock exchange through the authorized brokers only.

(6)Association of persons

A stock exchange is an association of persons or body of individuals-which may be registered or unregistered.

(7)Recognition from Central Government

Stock exchange is an organized market. It requires recognition from the Central Government.

(8) Working as per rules
Buying and selling transactions in securities at the stock exchange are governed by the rules and regulations of stock exchange as well as SEBI Guidelines. No deviation from the rules and guidelines is allowed in any case.

(9) Specific location
Stock exchange is a particular market place where authorized brokers come together daily (i.e. on working days) on the floor of market called trading circles and conduct trading activities. The prices of different securities traded are shown on electronic boards. After the working hours, market is closed. All the working of stock exchanges is conducted and controlled through computers and electronic system.

(10) Financial Barometers
Stock exchanges are the financial barometers and development indicators of national economy of the country. Industrial growth and stability is reflected in the index of stock exchange.

TOPIC: Functions of stock exchange.

(1) Provides ready and continuous market
The stock exchange provides a ready and continuous market the sale and purchase of listed securities. Because of the ready continuous nature of the market, liquidity of securities is ensured; facility boosts the confidence of the investors.

(2) Measure of safety and fair dealing
The stock exchange operates under the regulations framed by central government from time to time. The rules, regulations, and byelaws are approved by central government are meant to ensure that a reasonable measure of safety is provided to investors and transactions that take place on the stock exchange.

(3) Evaluates the worth of securities
The price of the securities on the stock exchange depends upon the demand and supply of securities in the market. Of course, there is manipulation and speculation. The securities are traded at ascertain price on the stock market. This enables the investors to determine the real worth of their holdings in form of shares and debentures, which are listed on the exchange.

(4) Flow of capital in productive channels

Companies, which have more potential can raise substantial funds through the stock market, whereas, companies which lack potential find it difficult to raise funds through the stock exchange. As a result, the stock market facilitates the flow of funds in the most productive and profitable channels.

(5) Stimulates industrial development
The stock markets facilitates the mobilization of long-term funds, which can be put to industrial use. New projects can be set up; existing projects can be modernized, expanded and diversified. Thus, the stock exchanges are responsible for the industrial development of the country.

(6) Promotes capital formation
The stock exchange do encourage the investors to invest in the primary or secondary market-. The investors do save a good amount of money to invest in form of shares and debentures. Thus, stock markets do encourage the capital formation in the country.

(7) Promotes efficient management of the listed companies
Stock exchanges to a extent do indirectly promote efficiency in the management of listed companies. This is because the efficiency of the company is reflected in the share prices on the stock markets. Therefore, the management do strive to bring out best possible results to earn name and goodwill among the investors in primary and secondary market.

(8) Acts as a clearing house of securities
The stock exchange acts a clearinghouse of securities. It performs the work of arranging for delivery and payment of securities. It facilitates easy and quick clearance of transactions between the buyers and sellers of securities.

(9) Provides commercial information
The stock exchanges provide commercial information in respect of performance related information about the listed companies through daily quotations, weekly and monthly reports and other forms of information.

(10) Facilitates bank borrowings
The listed securities on the stock exchange can be kept as collateral security with the banks, when an investor is in need of funds.

TOPIC: **Advantages of stock exchange.**

Advantages of stock exchange to Investors are as under:

(1) Easy Liquidity
It is the very first benefits of investing, In stock market shares and securities are traded in very high volume which make it a volatile market so there is very easy liquidity in stock market, like if you want to turn your investment in stock market into cash then you can do that very easily.

(2)Flexibility
Investing in stock market is very flexible like the market have difficulties in prices at every trade session, price of stock market moves with the rapidity and flexibility of this market.
(3)Regulatory Framework
Stock Market works under some regulatory framework to protect and safeguard all its investors. For example: In India the Securities and Exchange Board of Indie (SEBI) works as a Regulatory Framework Body to safeguard all investors.

(4)Maximum Returns
According to the long-term perspective, it is found that Investing in Stock Market gives maximum returns. For example: 1 Lakh INR (Indian Rupees) invested in stock market in the year 1992 (when SENSEX was 2020 INR) is now near about 9 Lakh 50 Thousand INR (Indian Rupees) (today SENSEX is 18,900 INR)

(5) Business Taste
Well According to me it is the best benefits of investing in stock market you can ever have, here from Business Taste I mean that when a person trades or invest in stock market everything is here works like a business a modern style business.

(6) Sole Proprietorship
If you invest in stock market then you are starting your own business where your investment is your capital, like the more your trade is in profit **ie** more your business grows and you are the only person to run this business that is why investing in stock market is your sole proprietorship business.

□ Advantages of stock exchange to Company:

In addition to the prestige a company gets when their stock is listed on a stock exchange, other advantages for the company include:
(1) Raise additional funds
Being able to raise additional funds through the issuance of more stock.

(2)Acquisition

Companies can offer securities in the acquisition of other companies

(3) Attractive to top talent
Stock and stock options programs can be offered to potential employees, making the company attractive to top talent

(4) For obtaining loans
Companies have additional leverage when obtaining loans from financial institutions

(5) Market exposure
Having a company's stock listed on an exchange could attract the attention of mutual and hedge funds, market makers and institutional traders.

(6) Indirect advertising
The filing and registration fee for most major exchanges includes a form of complimentary advertising. The company's stock will be associated with the exchange their stock is traded on.

(7)Brand equity-
Having a listing on a stock exchange also affords the company increased credibility with the public, having the company indirectly endorsed through having their stock traded on the exchange.

Advantages of stock exchange to Economy

Advantages of stock exchange to economy are as under:
The economic stability of a country is essential for the growth of healthy industrial atmosphere and participation's of people in productive economic investments. Capital is the lifeblood for industries. The Government is providing the major equity for further expansion or to survive in a different economic condition. The stock Exchange provides assistance to the enterprises by creating avenues for selling shares and stocks to the public to generate fund. Thus, the Stock exchange is a unique yard-stick to assess the industrial activity and investment opportunities of a country.

Disadvantages of stock exchange.

(1) Volatile Investments
Investment in BSE is subjected to many risks since the market is volatile. The shares of a company go up and come down so many times in just a single day. These price fluctuations

are unpredictable most of the times and the investor sometimes have to face severe loss due to such uncertainty.

(2) Brokerage Commissions Kill Profit Margin

Every time an investor buys or sells his shares, he has to pay some amount as a brokerage commission to the broker, which kills the profit margin.

(3) Time Consuming

Investment in NSE is not as easy as investing in a lottery as you have to complete many formalities in the process and hence is time consuming.

TOPIC: Listing of securities and types of documents needed for the purpose of listing

Introduction:

Securities play important role in the capital structure of the company. Securities are considered as important sources of external financing. We all know that the existence, performance and liquidation of companies are carried out as per the prevailing laws of the country. Due to this, there is an ease for investors regarding the safety of their hard-earned money. Listing of securities is one such aspect. Listing of security is recording of security in stock exchanges. There are specific rules and regulations that a company has to follow before listing.

Essential Documents Required for Listing.

The company willing for listing its securities in stock exchange has to make an application for this purpose. Along with the application, it has to submit various documents. As per section 19 of Securities Contract Regulations, 1956 the submission of these documents is statutory. These documents are as under:

(1) Memorandum of Association
(2) Articles of Association
(3) Prospects or statement in lieu of prospectus
(4) Debenture trust deed in case of issue of debentures
(5) The shares and other securities held by the promoters of the company. The name of the promoters and number of shares and other securities held by the promoters must be mentioned.
(6) The details of securities that are to be listed.
(7) Alterations (if any) made in the capital structure of the compare
(8) Audited books of accounts of last five years.

(9) Auditor's certificate regarding audited books of accounts
(10) If a company is new then the books of accounts of the company must be audited till the period of submission of such report.
(11) The nature of issue of securities i.e. issued at par. premium or discount
(12) The amount of dividend accrued for last ten years
(13) The particulars of undistributed dividend of last ten years

TOPIC: State the legal provisions regarding listing of securities

The listing of securities is done as per the legal provisions of Securities Contract Regulations, 1956. The companies intended to list their securities in stock exchanges have to make several contracts with the stock exchanges. The essential legal provisions that are to be followed by the companies are as under:
(1) The company has to make advertisements of atleast 49% of its securities from the total securities. The newspaper advertisement is the offer made by the company to the public.
(2) The stock exchange will make listing of securities only when public is interested to invest in such securities. Such securities must be issued in public interest. These aspects are checked by the stock exchange before listing.
(3) The company has to make following provisions in its Articles of Association for the purpose of listing of securities:
(i) The right of the company for partly paid up shares and shares without lien shall be restricted upto the amount not recovered.
(ii) The company has a right to collect interest on the amount not recovered by it.
(iii) The company has to give notice to the stock exchange before fifteen days before the closing of share transfer book.
The authorities of stock exchange verify all the above mentioned documents and if they are satisfied then only securities are listed in stock exchange.

TOPIC : Importance of listing.

The question arises here is that why listing is necessary? We know that the market price of securities keeps on changing. Moreover, trading of securities i.e. purchasing and selling is done frequently by their holders. Lots of financial frauds and scams are evident nowadays regarding new issue markets. Thus, there is an utmost requirement for safe platform to be provided to investors. Due to this, there is necessity of listing. Most of the companies are involved in financial scams. Their involvement in financial scams can be stopped by listing their securities. The transparency of securities can be maintained by listing. The trusts of

shareholders remain maintained in securities by listing. The goodwill of the listed securities increases. Due to this, the security holder is able to raise a loan by mortgaging his securities.

Advantages of Listing of Securities:

Various advantages of listing of securities are as under:
(I) Advantages from the point of view of company
(II) Advantages from the point of view of investors

(I) Advantages from the point of view of company

Advantages from the point of view of company are as under:

(1) Trustworthiness

The trust of investors is more in listed companies. Due to this, the price of securities of trustworthy companies is more.

(2) Increase in goodwill

Listing of securities in stock exchange increases the goodwill of the company. Due to increase in goodwill, company is benefited in two ways. Firstly, it is benefited by high market price of its securities. Secondly, it is benefited at the time of issue of new securities in future.

(3) Advantages of financial/money market

Various advantages of money market are available to those companies whose securities are listed in stock exchange. Listed securities are traded internationally. So, benefit of overseas profit is available to the company.

(4) Increase in familiarity

The familiarity of listed companies increases. There is an increase in number of investors of the company due to increased familiarity.

(5) Creation of optimum capital

There is decentralization of powers of the company because of listing of securities in stock exchange. It leads to creation of optimum capital. Optimum capital created in this manner reduces the cost.

(6) Risk reduction

Very high risk is associated with the securities of a new company. Most of the new companies appoint underwriters at the time of issue of securities. Underwriters prefer to do

underwriting work of listed securities only. Thus, underwriters can be appointed easily and speedily by new-companies when its securities are listed in stock exchange.

(II) Advantages from the point of view of investors

Various advantages of listing of securities available to investors are as under:

(1) Safety

The investors are safe for those securities that are listed in stock exchange. The safety is regarding holding of securities, purchasing, selling, etc. transactions related to securities.

(2) High return

High return is available to the investors because of listing of securities. The price fluctuations in securities are recorded daily in stock exchange. The investors are able to gain the advantage of rise in prices of securities.

(3) Protection

Investors are given legal protection regarding those securities that are listed in stock exchange. The legal protection granted to investors is as per Securities Contract Regulations. 1956.

(4) Increase in awareness

The awareness of investors increases because of listing of securities. They are aware about the increase or decrease in prices of securities Due to increase in awareness, they are able to take instant buying selling decisions.

(5) Information

Speedy and accurate information is available to the investors. Based on such information, they are able to take different important decision

(6) Assurance

Assurance regarding allotment of shares is available to the investors in case of listed securities. The promoters of the companies have to follow the rules and regulations of the stock exchange and the have to follow the guidelines issued by SEBI.

ONE WORD QUE AND ANSWER

SR NO	QUE	ANS
1	Assurance regarding allotment of shares is	listed securities.

	available to the investors in case of ?	
2	The promoters of the companies have to follow the rules and regulations of the ?	stock exchange
3	Investors are given legal protection regarding those securities that are listed in stock exchange. The legal protection granted to investors is as per	Securities Contract Regulations. 1956.
4	…….is available to the investors because of listing of securities.	High return
5	The listing of securities is done as per the legal provisions of	Securities Contract Regulations, 1956.
6	Securities play important role in the capital structure of the company. Securities are considered as important sources of external financing.	TRUE