

## CoLAW - unit - 1 Ch - 1 to 6

Q.1

a).

→ AS per the provisions of Companies Act, 2013 the Companies have limited liability & no other person will be held liable unless specified by the act.

ii) Lifting up of Corporate veil means ignoring the corporate status of the company & holding the actual person ~~to~~ liable for unjust actions.

iii) This doctrine is used by courts to punish the Directors, employees, officers, etc.

ii) Main objective behind usage of this doctrine is principles to deliver the natural justice & punishing the actual person who is responsible for this act, so that such person doesn't repeat these acts.

i) This doctrine is similar to doctrine of Alter-ego.

b).

→ Buy-back means buying back our own securities.

ii) Buy-back can be done out of Free reserve, Secer Security premium A/c & issue proceeds of different kind of securities.

The benefits of Buy-back are as follows:-

i) To prevent take-over.

b). Contd.

→

b). To increase the promoter's shareholding.

c). To avoid mismanagement of the affairs of the company.

c).

→ Facts: -

Provision: - As per the provision of Companies Act, deposit means any amt recd. as deposit or loan. If the company has issued deposit to 500 or more person then such Co. shall appoint a debenture trustee.

ii). Debit

→ Facts: -

Provision: -

As per the provision of Companies Act, 2013 deposit ~~that~~ means any amount received as deposit by means of loan & such amount shall be repaid within specified time period along with the interest.

ii). Only eligible public company can accept deposits from public & not even public Co. but only eligible public Co.



iii). The minimum term of deposit is 12 months & maximum term is 36m.

iv). The minimum rate on these deposits shall be the rate which is specified by RBI for NBFC.

Conclusion: -

As depositor has approached consumer forum so company can argue in court that consumer forum can accept only those matters which are specified in consumer protection Act & in this transaction the relation of consumer is missing.

d). → As per the provisions of companies Act, 2013 ideally a charge shall be registered within 30-days of its creation.

ii). It can be registered via form CHG-1 for debentures & CHG-9 for other than debentures by paying nominal fees.

3 iii). However, if co. fails to regist. the charge within 30-days then additional 30-days will be given but company will have to pay additional fees.

4 iv). If co. fails to register the charge within these 60-days then additional 60-days will be given but co. will have to pay ad valorem fees.

v). If co. fails to regist. the charge within these 120-days then ~~it~~ further it cannot be regist. & it will be treated as void.

- vi). Effects of unregistered charge are as follows:
- a). This charge will be treated as void & lender will be treated as unsecured creditor i.e during liquidation
  - b). The lender will be treated as unsecured.
  - c). If a subsequent charge is created on that same Asset & if it is regst. then subsequent chargeholder will get priority over unsecured charge holder.

Quality of the answer is not up to the marks

Q.2  
(a). →

As per the provisions of companies Act, 2013 One person company is a company in which there is one & only one person as a member of company.

- ii). To overcome the limitations faced by sole-Trading concern, OPC was introduced.
- iii). The OPC has limited liability, Sperate legal entity, etc.
- iv). It also has perpetual succession & for that company has to mention the name of nominee in MOA's nomination clause
- v). The minimum no of directors required in OPC is 1 & the max limit is 15.
- vi). It is a form of Private Company which has lower compliance cost.



vii) It shall only hold atleast 1 Board meeting in each 1/2 of the calendar year & gap between 2 Board meeting shall be 90-days.

viii) The provision of Annual General meeting is not applicable.

b).  
→  
• Facts: -

Good Attempt

• Provision: -

As per the provision of Companies Act, 2013 Dividend is a part of net-profit which is distributed to members of the company.

i). There are 2 types of dividend Final & Interim dividend.

ii). Interim dividend is a type of dividend which is declared any-time between 2 AGM.

iii). It is recommended & declared both by Board of directors in Board meeting by passing Board resolution.

iv). Dividend once declared becomes debt to the company & hence cannot be revoked

v). But, in case of Interim dividend it can be revoked under one case when it has been declared illegally & that too shall be revoked with the permission of Shareholders.

vi). Declared illegally means BOD not attended the B-M, no proper quorum, etc.

- Conclusion: -  
As per the above provisions this dividend can be revoked by the company as it was declared illegally because one of the BOD was not present in the meeting but before that Co. will have to take Shareholders approval.

Q.3

a).

→

Facts: -

Provision: -

As per the provision of Companies Act, 2013 prospectus is an offer document which is issued to invite public to purchase or subscribe the securities of Body corporate.

- The prospectus shall be true & fair.
- If there's any mis-statement or in prospectus or if any material information is concealed then the Co., promoter & person involved can be held liable for civil as well as criminal liability.
- Civil liability: -  
The Co., promoter & person involved will have to compensate each & every person who've suffered losses.
- Criminal liability: -  
The promoter & person involved may be imprisoned for min. period of 6m which may increase.



upto 10 yrs & also fine maybe levied which won't be less than the Amt involved & it may extend upto 3 times.

Also, if Co. wants to declare dividend i.e. in case of inadequate profit then it shall not exceed the Avg. rate of 3 immediately preceding financial years.

• Conclusion :-

a) As it is not specified whether B has purchased the shares from stock-exchange or whether he was allotted by Co. so

b) If B was IF the shares were allotted by the Co. then he would succeed in this suit.

c) Even, if he has purchased the shares from stock-exchange then also he may succeed because the rate of dividend shall not exceed the Avg rate & no other reserve can be utilized for payment of dividend except free reserve & Co. has used secret reserve.

PoT.O

the company in its prospectus stated that the company has paid dividend regularly but it did not disclose the source of profits. Also, the company was into losses since last 5 years which was also not disclosed. Hence the contention of shareholder, that the prospectus is false, is correct

b).  
→ Dividend is a part of net-profit which is distributed to members of the company.

ii). Dividend once declared becomes debt to the company & hence, cannot be revoked except in case of interim dividend when it has been declared illegally & that too with the permission of Shareholders.

iii). Once, the dividend has been declared then it shall be paid within next 30 days.

iv). After declaring dividend it shall be transferred to separate Bank A/C within 5 days.

v). IF the dividend is not paid within 30-days then the following reasons may be considered as valid reasons: -

i). Strike in Postal department

ii). Time taken by post

iii). Dispute between Transferor & Transferee i.e. in case of ~~rec~~-transfer of shares.

iv). Any specific mode which has been requested by the shareholder i.e. the shareholder asked to pay dividend in cash.

v). IF the above point is not possible & that has been conveyed to Shareholder, et.

3



Q.4  
(a) →

Facts :

Ramu is a shareholder of Alexandra India Ltd. According to the Board, the Act of Ramu are detrimental to company and thus they decided to expel him. The action of Board is illegal and if Ramu files a case against the Board then he will win the case

Provision :-

As per the provision of Companies Act, 2013 the provisions of AOA of the company are for the internal management of the Co.

ii). These provisions help in the daily affairs of the Co.

iii). The AOA also binds the Co. & its members.

iv). As per AOA Members are bound to Co. i.e. the members will have to do all the works specified by the Co.

v). As per AOA members are bound to other members i.e. no member shall work in such a way which will affect the interest of Co. & other members.

vi). As per AOA Co. is bound to its members i.e. in case of any infringement of right by Co. then shareholders can sue the Co.

Conclusion :-

Mr. Ramu won't succeed because he is director of competitor company & also he is working against the company. So he can be expelled by the Co.

b).  
→ Facts: -

explanation should be more accurate

Provision: -

As per the provision of Companies Act, 2013 Deposit means any Amt recd. as loan but it excludes amount recd. from the following.

- i). Any Amt recd. from C.G / S.G / Local authority or by statutory authority
- ii). Any Amt recd. from third party whose guarantee is provided by C.G / S.G
- iii). Any Amt recd. from foreign Bank, financial institution Corp. & citizen.
- iv). Any Amt recd. from Banking Co. or SB.
- v). Any Amt recd. from Public financial institution, regional financial institution, scheduled commercial bank
- vi). Any Amt raised by issuing commercial paper.
- vii). Application money recd.
- viii). Any Amt brought by promoter by way of unsecured loan.
- ix). Any Amt recd. from other co. (i.e. Intercompany)

Conclusion -  
As the above Amt will not be treated as deposit if it doesn't matter whether the charge is regst. or not.

2

113 mins taken to complete the paper



Optional: -

Q.2

b).

→ Debenture trustee is a person who is appointed by the company to protect the interest of debenture holders.

ii). A Co. may appoint a debenture trustee when it offers its debentures to 500 or more persons.

iii). The Co. shall mention the name of debenture trustee in the offer document

iv). Co. shall also take his consent to act as a debenture trustee.

v). The debenture trustee shall ensure the following things

a). Whether the debentures are redeemed on time or not.

b). Whether the interest on debentures is paid on time or not.

c). Whether the debentures are secured via Asset or not.

vi). Even if any 1 of the above condition has been breached then debenture trustee can appoint a nominee director in the Co.

before attempting the question you must understand the exact requirement

