

Promotion & Incorporation of Company

Q1 Introduction to Promoter

Defⁿ = Sec 2(69) = Named (Prospectus or AR) or Direct/Indirect Control or Shadow Director

Meaning = Individ/Firm/LLP/Co. + Bring Co. into existence + Conceive idea & induce others + Originate Scheme + Arrange Subscribers + MOA & AOA + Bankers + First Dir + Preliminary Contract

Lydney & Wigpool Iron Ore Co. Ltd. v/s Bird } ⇒ Promoter must have business interest.

Legal Position = ~~Agent~~ + ~~Trustee~~ = Fiduciary Relationship

Q2 Duties of Promoter

Fiduciary Relation (+) No Undisclosed Profit [Cluckstein v/s Barnes]
 Disclosure to indep Dir (if no ID)
 Disclosure to Shareholders

Q3 Remedies Available to Company against Promoter

[Rescind Contract or Pay Original Cost or Sue for misfeasance]
 Breach of duty to disclose

Q4 Remuneration of Promoters

[Lump Sum or Shares or Comⁿ on Shares or Property on Over Valuation]
 [Amount or Shares]

Re-English & Colonial Produce Company

Promoter can only claim remuneration if valid pre-incorporation contract.

Q5 Pre-Incorporation Contract [Preliminary or Promoter's Contract]

p^o + Before COI + On behalf of Co. + Personal Capacity + Co. not liable.

Kehner v/s Baxter → Company can't satisfy such contracts.

Howard v/s Patent Ivory Manufacturing Co. → Company may novate such contract.

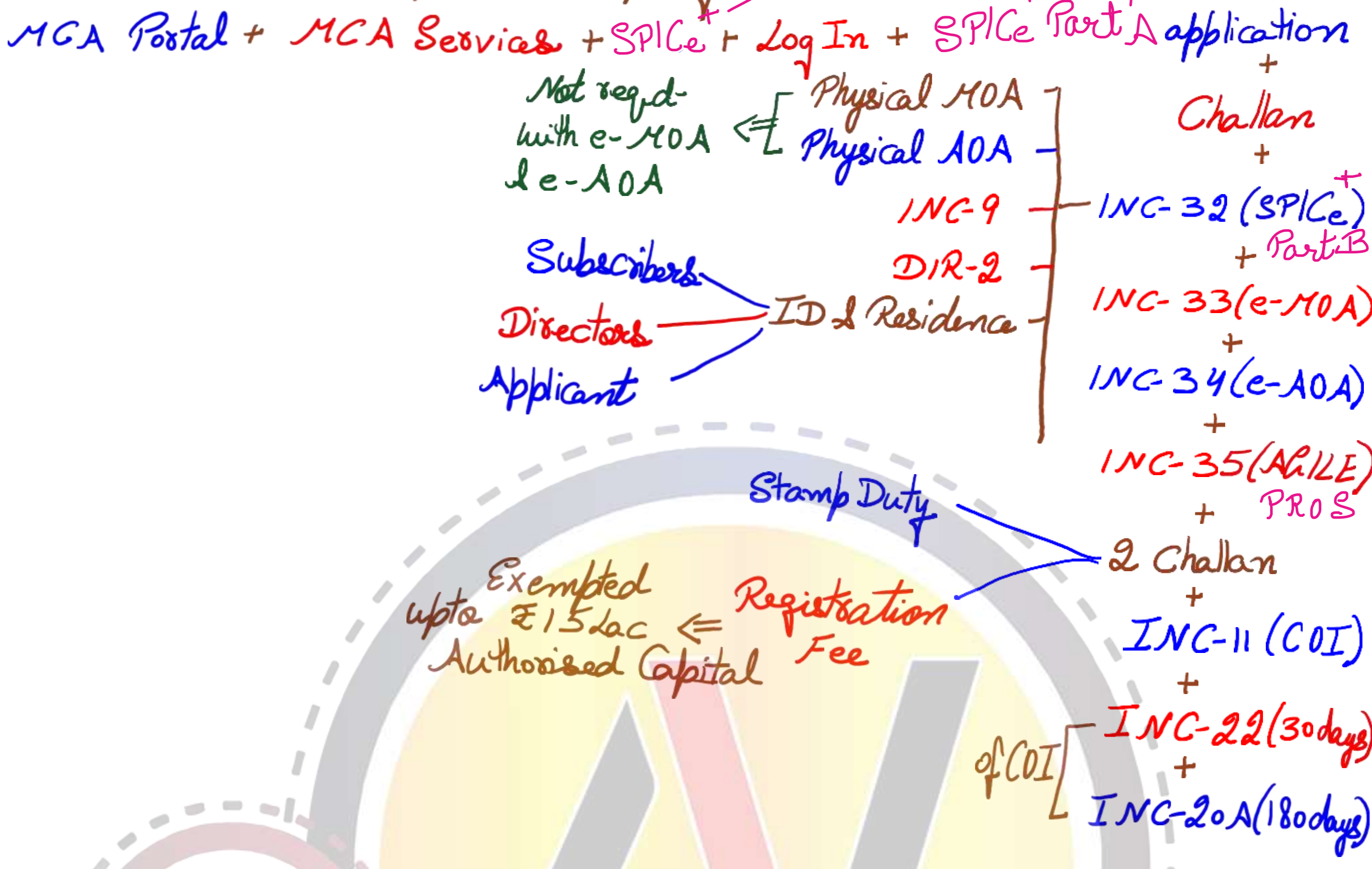
Q6 Conclusiveness of COI or "When Once COI is issued, nothing is to be inquired as to regularity of prior proceedings".

1. Jubilee Cotton Mills v/s Lewis
2. Moosa v/s Ebrahim
3. Bowman v/s Secular Society Ltd.

Q7 Liabilities of Promoters

Sec 7 + Sec 26 + Sec 35 + Sec 36 + Sec 42 + Sec 284

Q8 Procedure to Incorporate Company ^{Part A}



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