

# 8

## CHAPTER

# Declaration and Payment of Dividend

### LDR Questions



Q. 7

Q. 9

Q. 11

Q. 13

Q. 17

Q. 19

Q. 22

Q. 27

### ICAI Module Descriptive Questions

#### Section 123 Declaration and Payment of Dividends

1. Alex limited is facing loss in business during the financial year 2023-2024. In the immediately preceding three financial years, the company had declared dividend at the rate of 7%, 11% and 12% respectively. The Board of Directors has decided to declare 12% interim dividend for the current financial year at least to be in par with the immediately preceding year. Is the act of the Board of Directors valid?

#### Solution:

As per Section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

According to the given facts, Alex Ltd. is facing loss in business during the financial year 2023-2024. In the immediately preceding three financial years, the company declared dividend at the rate of 7%, 11% and 12% respectively. Accordingly, the rate of dividend declared shall not exceed 10%, the average of the rates  $(7+11+12=30/3)$  at which dividend was declared by it during the immediately preceding three financial years.

The act of BOD to declaration of interim dividend at rate 12% during the FY 23-24 is not valid.

#### Section 123

2. YZ Medical Instruments Limited is a manufacturing company & has proposed a dividend @ 10% for the year 2023-2024 out of the profits of current year. The company has earned a profit of ₹910 crore during 2023-2024. The company does not intend to transfer any amount to the general reserves out of the profits. Is YZ Medical Instruments Limited allowed to do so? Comment.

#### Solution:

According to section 123 of the Companies Act, 2013 a company may, before the declaration of any dividend in any financial year, transfer such percentage of its profits for that financial year as

it may consider appropriate to the reserves of the company. Such transfer is not mandatory and the percentage to be transferred to reserves is at the discretion of the company.

As per the given facts, YZ Medical Instruments Limited has earned a profit of ₹910 crore for the financial year 2023-2024. It has proposed a dividend @ 10%. However, it does not intend to transfer any amount to the reserves of the company out of the profits of current year.

As per the provisions stated above, the amount to be transferred to reserves out of profits for any financial year is at the discretion of the company acting through its Board of Directors. Therefore, at its discretion, if YZ Medical Instruments Limited decides not to transfer any profit to reserves before the declaration of dividend at 10%, it is legally allowed to do so.

### Section 123

**3. Referring to the provisions of the Companies Act, 2013, examine the validity of the following:**

The Board of Directors of ABC Tractors Limited proposes to declare dividend at the rate of 20% to the equity shareholders, despite the fact that the company has defaulted in repayment of public deposits accepted before the commencement of this Act.

**Solution:**

Section 123(6) of the Companies Act, 2013, specifically provides that a company which fails to comply with the provisions of section 73 (Prohibition of acceptance of deposits from public) and section 74 (Repayment of deposits, etc., accepted before the commencement of this Act) shall not, so long as such failure continues, declare any dividend on its equity shares.

In the given instance, the Board of Directors of ABC Tractors Limited proposes to declare dividend at the rate of 20% to the equity shareholders, in spite of the fact that the company has defaulted in repayment of public deposits accepted before the commencement of the Companies Act, 2013. Hence, according to the above provision, declaration of dividend by the ABC Tractors Limited is not valid.

### Section 8 Prohibition on Declaration of Dividend

**4. Alpha Herbals, a Section 8 company is planning to declare dividend in the Annual General Meeting for the Financial Year ended 31-03-2024. Mr. Chopra is holding 800 equity shares as on date. State whether the act of the company is according to the provisions of the Companies Act, 2013.**

**Solution:**

According to Section 8(1) of the Companies Act, 2013, the companies licenced under Section 8 of the Act (Formation of companies with Charitable Objects, etc.) are prohibited from paying any dividend to their members. Their profits are intended to be applied only in promoting the objects for which they are formed.

Hence, in the instant case, the proposed act of Alpha Herbals, a company licenced under Section 8 of the Companies Act, 2013, which is planning to declare dividend, is not according to the provisions of the Companies Act, 2013.

### Section 124 Time Limits on Dividend

**5. The Board of Directors of Future Fashions Limited at its meeting recommended a dividend on its paid-up equity share capital which was later on approved by the shareholders at the Annual General Meeting. Thereafter, the directors at another meeting of the Board passed a board resolution for diverting the total dividend to be paid to the shareholders for purchase of certain short-term investments in the name of the company. As a result, dividend was paid to shareholders after 45 days.**

Examining the provisions of the Companies Act, 2013, state whether the act of directors is in violation of the provisions of the Act and if so, state the consequences that shall follow for the above violative act.

**Solution:**

According to section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of the declaration, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in any scheduled bank to be called the Unpaid Dividend Account.

Further, according to section 127 of the Companies Act, 2013, 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 30 days from the date of declaration to any entitled shareholder, every director of the company shall, if he is knowingly a party to the default, be liable for punishment.

In the present case, the Board of Directors of Future Fashions Limited at its meeting recommended a dividend on its paid-up equity share capital which was later on approved by the shareholders at the Annual General Meeting. Thereafter, the directors at another meeting of the Board decided by passing a board resolution for diverting the total dividend to be paid to the shareholders for purchase of certain short-term investments in the name of the company. As a result, dividend was paid to shareholders after 45 days.

- (i) Since, declared dividend has not been paid within 30 days from the date of the declaration to any shareholder entitled to the payment of dividend, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in any scheduled bank to be called the Unpaid Dividend Account.
- (ii) The Board of Directors of Future Fashions Limited has violated section 127 of the Companies Act, 2013 as it failed to pay dividend to shareholders within 30 days due to its decision to divert the total dividend to be paid to shareholders for purchase of certain short-term investments in the name of the company.

**Consequences:** The following are the consequences for violation of the above provisions:

- (a) Every director of the company shall, if he is knowingly a party to the default, be punishable with maximum imprisonment of two years and shall also be liable for a minimum fine of rupees one thousand for every day during which such default continues.
- (b) The company shall also be liable to pay simple interest at the rate of 18% p.a. during the period for which such default continues.

### Section 127 Consequences for delay or default in payment

6. The Annual General Meeting of ABC Bakers Limited held on 30th May, 2024, declared a dividend at the rate of 30% payable on its paid-up equity share capital as recommended by Board of Directors. However, the company was unable to post the dividend warrant to Mr. Ranjan, an equity shareholder, up to 25th July, 2024. Mr. Ranjan filed a suit against the company for the payment of dividend along with interest at the rate of 20 percent per annum for the period of default. Decide in the light of provisions of the Companies Act, 2013, whether Mr. Ranjan would succeed? Also, state the directors' liability in this regard under the Act.


**Solution:**

Section 127 of the Companies Act, 2013 lays down the penalty for non- payment of dividend within the prescribed time period of 30 days. According to this section 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 30 days from the date of declaration of dividend to any shareholder entitled to the payment of dividend:

- (i) every director of the company shall, if he is knowingly a party to the default, be punishable with imprisonment maximum up to two years and with minimum fine of rupees one thousand for every day during which such default continues; and
- (ii) the company shall be liable to pay simple interest at the rate of 18% per annum during the period for which such default continues.

Therefore, in the given case Mr. Ranjan will not succeed if he claims interest at 20% interest as the limit under section 127 is 18% per annum.

### Section 127

-  7. PQ Ltd. declared and paid 10% dividend to all its shareholders except Mr. Kumar, holding 500 equity shares, who instructed the company to deposit the dividend amount directly in his bank account. The company accordingly remitted the dividend, but the bank returned the payment on the ground that the account number as given by Mr. Kumar doesn't tally with the records of the bank. The company, however, did not inform Mr. Kumar about this discrepancy. Comment on this issue with reference to the provisions of the Companies Act, 2013 regarding failure to distribute dividend.

#### Solution:

Section 127 of the Companies Act, 2013 provides for punishment for failure to distribute dividend on time. One of such situations is 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 not been communicated to the shareholder.

In the instant case, PQ Ltd. has failed to communicate to the shareholder Mr. Kumar about non-compliance of his direction regarding payment of dividend. Hence, the penal provisions under section 127 will be attracted.

### Section 127

8. Star Computers Limited declared and paid dividend in time to all its equity holders for the financial year 2023-24, except in the following two cases:
- (i) Mrs. Sheela Bhatt, holding 250 shares had mandated the company to directly deposit the dividend amount in her bank account. The company, accordingly remitted the dividend but the bank returned the payment on the ground that there was difference in surname of the payee in the bank records. The company, however, did not inform Mrs. Sheela Bhatt about this discrepancy.
  - (ii) Dividend amount of ₹50,000 was not paid to the successor of Late Mr. Mohan, in view of the court order restraining the payment due to family dispute about succession.

You are required to analyse these cases with reference to provisions of the Companies Act, 2013 regarding failure to distribute dividends.

#### Solution:

- (i) Section 127 of the Companies Act, 2013 provides for punishment for failure to distribute dividend on time. One of such situations is where a shareholder has given directions to the company regarding the payment of the dividend and those directions could not be complied with but the non-compliance was not communicated to him.


In the given situation, the company has failed to communicate to the shareholder Mrs. Sheela Bhatt about non-compliance of her direction regarding payment of dividend. Hence, the penal provisions under section 127 will be applicable.

- (ii) Section 127, inter-alia, provides that no offence shall be deemed to have been committed where the dividend could not be paid by reason of operation of law.

In the present case, the dividend could not be paid because it was not allowed to be paid by the court until the matter was resolved about succession. Hence, there will not be any liability on the company and its directors, etc.

## RTP, MTP and PYQ Descriptive Questions

### Section 2(35) Dividend

 **9.** Green Ltd., a power generating company, attracted numerous investors due to its strong growth potential. Mr. Arju, one of the investors purchased a significant number of shares in Green Ltd., expecting regular returns in the form of dividends. Over the years, Green Ltd. performed well and consistently declared dividends. However, in 2023-2024, despite reporting profits, the board of directors decided not to distribute dividends, citing the need to reinvest earnings for future expansion.

Seeing this, Mr. Arju argued that as a shareholder, he had an absolute right to receive dividends. He believed that since the company was in profitable state, dividends should be mandatorily distributed. He raised his concerns at the Annual General Meeting (AGM), questioning the board's decision. Looking at the given scenario, assess the argument of Mr. Arju in the light and support of the relevant legislation. **(MTP May 25)**

#### **Solution:**

**Law :** Section 2(35) of the Companies Act, 2013, defines the term “dividend” as any distribution of profits by a company to its shareholders, whether in cash or in kind, out of free reserves available for the purpose.

The above statement implies that shareholders do not have an inherent or guaranteed right to receive dividends from a company.

The decision to declare dividends lies with the board of directors, subject to shareholder approval and legal provisions under the Companies Act, 2013. The board of directors has the authority to recommend dividends. If they believe distributing dividends is not in the best interest of the company, they may choose not to declare them, even if the company has sufficient profits. Shareholders cannot force the company to declare dividends.

Thereby, the distribution of dividends is subject to multiple considerations, including the company's profitability, legal compliance, and the board's discretion. The Companies Act, 2013, ensures that dividends are declared in a financially responsible manner, protecting both the company and its investors. Since shareholders cannot demand dividends as a matter of right, it is evident that dividends are not an absolute right but a discretionary benefit provided when the company deems it appropriate.

**Conclusion:** As per the stated facts, Mr. Arju argued that as a shareholder, he had an absolute right to receive dividends. He believed that since the company was in profitable state, dividends should be mandatorily distributed. His expectation of dividends was based on his investment, but the law does not guarantee an absolute right to dividends. The board has the authority to withhold dividends if it deems reinvestment necessary for the company's long-term growth. Therefore, while shareholders have a reasonable expectation of returns, they do not possess an unconditional entitlement to dividends.

Therefore, the argument of Mr. Arju is invalid in the light of the legal provision given in section 123 of the Companies Act, 2013.

### Section 123 Declaration and Payment of Dividends

- 10.** The Directors of East West Limited proposed dividend at 15% on equity shares for the financial year 2017-2018. The same was approved in the Annual general body meeting held on 24th October 2018. The Directors declared the approved dividends. Mr. Binoy was the holder of 2000 equity of shares on 31st March, 2018, but he transferred the shares to Mr. Mohan, whose name has been registered on 18th June, 2018. Who will be entitled to the above dividend? **(MAY 2019)**

#### Solution:

**Law:** Payment of dividend: According to section 123(5) of the Companies Act, 2013, dividend shall be payable only to the registered shareholder of the share or to his order or to his banker.

**Conclusion:** As said in the question, East West Limited proposed dividend for Financial Year 2017-2018. Mr. Binoy was the holder of 2000 equity shares on 31st March, 2018. He transferred the shares to Mr. Mohan, whose name was registered on 18th June 2018 in the register of members.

Since, Mr. Mohan became the registered shareholder before the declaration of dividend in the Annual General Meeting of the company held on 24th October, 2018 he will be entitled to the dividend.

### Section 51

- 11.** Energy Mills Ltd. has issued equity shares with a face value of ₹10 per share. Mr. Amit and Mr. Burman are both friends. Mr. Amit holds 1,000 fully paid-up shares (₹10 per share paid), while Mr. Burman holds 1,000 partly paid-up shares (₹5 per share paid). When the company declares a 10% dividend, a dispute arises and Mr. Burman expects the same dividend amount as paid to Mr. Amit. However, the company insists on paying dividends based on the actual amount paid-up on the shares as mentioned in AOA.



- (i) In the light of the given provisions under the Companies Act, 2013, elucidate the legal position in the following situation:
- (ii) Whether the company's decision to distribute dividends based on the paid-up amount is legally valid? How does the Companies Act, 2013 regulate dividend distribution in such cases? What role does the Articles of Association play in determining this situation?

**(MTP May 25)**

#### Solution:

##### Law:

- (i) The Companies Act, 2013, under Section 51, provides two possible ways for distributing dividends:
  - (a) Equal Dividend on All Shares
  - (b) Proportional Dividend Based on Paid-up Amount
- (ii) Section 51 of the Companies Act, 2013. It states that the company if so authorised by article, may be permitted to pay dividends in proportion to the amount paid-up on each share. The Board of Directors of a company may decide to pay dividends on pro rata basis if all the equity shares of the company are not equally paid-up.

**Conclusion:** According to the given scenario

- (i) Mr. Amit has 1,000 shares × ₹10 (fully paid) = ₹10,000 10% of 10,000 = ₹1000
- (ii) Mr. Burman has 1,000 shares × ₹5 (partially paid) = ₹5,000 10% of 5000 = ₹500

Hence Mr. Amit receives ₹1,000 as he holds fully paid-up shares, whereas Mr. Burman receives ₹500, as his shares are partly paid-up (₹5 per share instead of ₹10).

Hence following shall be the answer to the questions:

- (i) The decision of the company to distribute dividends in proportion to the paid-up amount on shares is legally valid, provided that its Articles of Association (AOA) explicitly permit such a practice.
- (ii) The Articles of Association play a crucial role in deciding how dividends are paid. If the AOA is silent on the matter, dividends must be paid equally on all shares of the same class. If the AOA expressly allows, dividends may be paid in proportion to the paid-up value of shares.

### Section 123

- 12.** Vishal Limited has paid dividend consistently every year at the rate of 10% on its equity share capital in the last 5 years (2015-2016 to 2019-2020). The company has incurred loss in the current financial year (FY 2020-2021). It still wants to declare dividend for the FY 2020-2021. Whether the company can do so? Explain. (RTP May 2022)

#### Solution:

As per second proviso to Section 123(1) of the Companies Act, 2013 read with Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014, where in any year there is absence of profit or there are no adequate profits for declaring dividend, the company may declare dividend out of the profits of any previous year transferred by it to the free reserves, only in accordance with the procedure laid down.

However, such declaration shall be subject to the following conditions:

- (a) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the three years immediately preceding that year.  
Provided that this sub-rule shall not apply to a company, which has not declared any dividend in each of the three preceding financial year.
- (b) The total amount to be drawn from such accumulated profits shall not exceed 10% of the sum of its paid-up share capital and free reserves as appearing in the latest audited financial statement.
- (c) The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.
- (d) The balance of reserves after such withdrawal shall not fall below 15% of its paid-up share capital as appearing in the latest audited financial statement.

Hence, if the company wants to pay dividend in the current financial year, it can do so if all the above conditions have been fulfilled.

### Section 123

- 13.** MNP Ltd. has a paid up share capital of ₹10 crore and free reserves of ₹50 crore, as on 31st March, 2019. The company made a loss of ₹40 lakh after providing for depreciation for the year ended 31st March, 2019 and as a result, the company was not in a position to declare any dividend for the said year out of profits. However, the Board of directors of the company announced the declaration of dividend of 20% on the equity shares payable out of free reserves. The average dividend declared by the company in the last three years is 25%. Referring to the provisions of the Companies Act, 2013, examine the validity of declaration of dividend. (RTP MAY 2020)

### Solution:

**Law:** As per Second Proviso to Section 123 (1), in the event of inadequacy or absence of profits in any financial year, a company may declare dividend out of the accumulated profits of previous years which have been transferred to the free reserves. However, such declaration shall be subject to the following conditions as per Rule 3 of Companies (Declaration and Payment of Dividend) Rules, 2014.

- (i) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the immediately preceding three years. Provided that this sub-rule shall not apply to a company, which has not declared any dividend in each of the 3 preceding financial year.
- (ii) The total amount to be drawn from free reserves shall not exceed one-tenth i.e., 10% of its paid-up share capital and free reserves as per the latest audited financial statement.
- (iii) The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.
- (iv) After such withdrawal from free reserves, the residual reserves shall not fall below 15% of its paid-up share capital as per the latest audited financial statement.

### Conclusion:

Companies (Declaration and Payment of Dividend) Rules, 2014

Particulars	Calculation	Amount
1. Maximum Dividend Rate = Average Dividend rate during immediately preceding 3 F.Y.	25% (given)	2.5 cr (25% of 10 cr)
Maximum Amount to be drawn out of FR = 10% of (PUSC+ FR) Less:- Set-off the losses incurred in the current financial year(condition 3)	=10% of 60cr = 6cr (40 lacs)	5.6 cr
Minimum balance in FR after withdrawal = 15% of PUSC So, Maximum Amount that can be drawn from FR = Less: Set-off the losses incurred in the current financial year	=15% of 10 cr = 1.5 cr =50cr -1.5cr = 48.5cr (40 lacs)	48.1 cr
Maximum dividend that can be paid =LOWEST of the Three		2.5 cr = 25%

Thus, the company can declare Maximum dividend at 20% . Taking into account all the conditions, it can be said that declaration of dividend by MNP Limited is valid.

### Section 123

**14.** AB Limited is a public company having its registered office in Coimbatore. The company has incurred a net loss of ₹20 lakhs in the Financial Year (FY) 2019-20. The Board of Directors (BOD) wants to declare dividend for the FY 2019-20. The balances of the company as per the latest audited financial statements are as follows:

- (i) Equity Share Capital (₹10 each) - 100 lakhs
- (ii) General Reserve - 150 lakhs

(iii) Debenture redemption Reserve - 50 lakhs

The company has not declared any dividend in the preceding three financial years. Decide whether AB Limited is allowed to declare dividend or not for the FY 2019-20 by explaining the relevant provisions of the Companies Act in this regard.

If allowed to declare dividend then state the maximum amount of dividend that can be paid by AB Limited as per the Section 123 of Companies Act 2013. (2 + 2 = 4 Marks) (Nov 2020)

**Solution:**

**Law:** Same like above question

**Conclusion-** In the given case, AB Limited has not made adequate profits during the current year ending on 31st March, 2020, but it still wants to declare dividend. Therefore, Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014 will be applied as follows:

Particulars	Calculation	Amount
1. Maximum Dividend Rate = Average Dividend rate during immediately preceding 3 F.Y. this sub-rule does not apply since it has not declared any dividend in each of the 3 preceding financial year.	Not Applicable	Not Applicable
2. Maximum Amount to be drawn out of FR = 10% of (PUSC + FR)	= 10% of [100+150] = 25 Lacs	
Less: Set-off the losses incurred in the current financial year	(20 lacs)	5 lacs
3. Minimum balance in FR after withdrawal = 15% of PUSC	= 15% of 100 = 15 Lacs	
Therefore, Maximum Amount that can be drawn from FR =	150 - 15 = 135 Lacs	
Less: Set-off the losses incurred in the current financial year	(20 lacs)	115 lacs
Maximum dividend that can be paid = LOWEST of the Three		5 lacs = 5%

Hence, by following above provisions, AB Limited is allowed to declare dividend for the FY 2019-2020 and the maximum amount of dividend that can be paid is ₹5 Lakhs.

**Section 123**

15. A company has accumulated Free Reserves of ₹75 lakhs during last five years. It has not declared any dividend during these years. Now, the company proposes to appropriate a part of this amount for making payment of dividend for current year in which it has earned a profit of ₹12 lakhs. The Board proposes a payment of dividend of ₹30 lakhs i.e. 30% on the paid-up capital. Examine, as per the provisions of the Companies Act, 2013, whether, the proposal of the company is valid?

(PYQ Nov 2022)

**Solution:****Law:** Law same like above question**Conclusion:** Calculations For Each Condition

Particulars	Calculation	Amount
1. Maximum Dividend Rate = Average Dividend rate during immediately preceding 3 F.Y. this sub-rule does not apply since it has not declared any dividend in each of the 3 preceding financial year.	Not Applicable	Not Applicable
2. Maximum Amount to be drawn out of FR = 10% of (PUSC + FR) Less: Set-off the losses incurred in the current financial year	=10% of [100+75] = 17.5 Lacs (Nil)	17.5 lacs
3. Minimum balance in FR after withdrawal = 15% of PUSC	=15% of 100 = 15 Lacs	
Therefore, Maximum Amount that can be drawn from FR = Less: Set-off the losses incurred in the current financial year	75 - 15 = 60 Lacs (Nil)	60 lacs
Maximum dividend that can be paid = LOWEST of the Three		17.5 lacs = 17.5%

Thus, the company can declare a dividend of ₹17.5 lakh i.e. at a rate of 17.5% on its paid-up capital of ₹100 lakh.

Hence, the proposal of company for payment of dividend of ₹30 lakh i.e. 30% on the paid up capital in the current year in which it has earned a profit of ₹12 lakh, is invalid.

**Section 123**

**16.** Sunday Ltd. is a listed entity engaged in the business of providing engineering solutions to clients across the country. The company followed consistent growth over the years. Rate of Declaration of dividend in immediately preceding three financial years were 15%, 20%, and 25%.

Unfortunately, due to obsolescence of a special part of machinery, company incurred losses in current financial year.

Even though, during the financial year 2023-24, the company declared interim dividend of 10% on the equity shares. The Board of Directors of the company approved the financial result for the financial year 2023-24 in its meeting held on 5th August, 2024, and recommended a final dividend of @15% in this board meeting.

The general meeting of the shareholders was convened on 31st August, 2024. The shareholders of the company demanded that since interim dividend @10% was declared by the company, so the final dividend should not be less than 20%. It was also submitted that rate of declaration of dividend in immediately preceding three years were 15%, 20% and 25%, but the Company Secretary emphasised that final dividend cannot be increased.

Advise whether the decision of Company Secretary is correct? What should be correct rate of final dividend?

Justify your answer with reference to provisions of the Companies Act, 2013. (MTP Sept 24)

**Solution:**

**Law:** Interim dividend: As per section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

**Final dividend:** The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board. [Clause 80 of Table F in Schedule I]

**Conclusion:** According to the given facts, Sunday Ltd. incurred losses in current financial year 2023-24. It is also provided that, in the immediately preceding three financial years, the company declared dividend at the rate of 15%, 20% and 25% respectively. Accordingly, the rate of dividend declared shall not exceed 20%, the average of the rates  $(15+20+25=60/3)$  at which dividend was declared by it during the immediately preceding three financial years.

Board of Directors of Sunday Ltd. recommended a final dividend @15% for financial year 2023-24 in the meeting held on 5th August 2024. It was approved in the general meeting. However, shareholders demanded that since Interim dividend was at the rate of 10%, so final dividend should not be less than 20%. The general meeting cannot declare the dividend at a rate higher than the rate of dividend recommended by the Board.

Yes, the decision of Company Secretary that final dividend cannot be increased beyond the rate of 15% as recommended in the Board Meeting, is correct.

## Section 123

 **17.** ESPN Heavy Engineering Ltd. is a listed entity engaged in the business of providing engineering solutions to clients across the country. The company followed consistent growth over the years. Rate of Declaration of dividend in immediately preceding three financial years were 15%, 20%, and 25%.

Unfortunately, due to obsolescence of a special part of machinery, company incurred losses in current financial year.

Even though, during the financial year 2021-22, the company declared interim dividend of 10% on the equity shares. The Board of Directors of the company approved the financial result for the financial year 2021-22 in its meeting held on 5th August, 2022, and recommended a final dividend of @15% in this board meeting.

The general meeting of the shareholders was convened on 31 st August, 2022. The shareholders of the company demanded that since interim dividend @10% was declared by the company, so the final dividend should not be less than 20%. It was also submitted that Rate of Declaration of dividend in immediately preceding three years were 15%, 20% and 25%, but the Company Secretary emphasised that final dividend cannot be increased.

- (i) Whether company can declare interim dividend, if company incurred losses during the current financial year? What should be correct rate interim dividend?
- (ii) Do you think decision of Company Secretary is correct? What should be correct rate of final dividend?

Justify your answer with reference to provisions of the Companies Act, 2013. (PYQ May 2023)

**Solution:**

**Law:**

**Interim dividend:** As per section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

Provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years.

**Final dividend:** The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Board. [Clause 80 of Table F in Schedule I]

**Conclusion:** Accordingly, following shall be the answers:

- (i) **Interim dividend:** According to the given facts, ESPN Heavy Engineering Ltd. incurred losses in current financial year 2021-2022. In the immediately preceding three financial years, the company declared dividend at the rate of 15%, 20% and 25% respectively.

Accordingly, the rate of dividend declared shall not exceed 20%, the average of the rates  $(15+20+25=60/3)$  at which dividend was declared by it during the immediately preceding three financial years.

Yes, as per law company can declare interim dividend, even if company incurred losses during current financial year. Dividend to be declared shall be given at the rate not exceeding 20%.

- (ii) **Final dividend:** Board of Directors of the Company recommended a final dividend @15% for financial year 2021-2022 in the meeting held on 5th August 2022. It was approved in the general meeting. However, shareholders demanded that since Interim dividend was at the rate of 10%, so final dividend should not be less than 20%. The general meeting cannot declare the dividend at a rate higher than the rate of dividend recommended by the Board.

Yes, the decision of Company Secretary that final dividend cannot be increased beyond the rate of 15% as recommended in the Board Meeting, is correct.

### Section 124 Time Limits on Dividend

- 18. RST Ltd. declared dividend at the rate of 20% for the financial year 2017-2018 in the AGM scheduled on 15th June 2018. As RST Ltd. is left with certain unpaid and unclaimed dividend, it transferred amount of unpaid and unclaimed dividend to UDA (unpaid dividend account). After remaining unpaid and unclaimed for more than 2 years in the UDA, some of the entitled shareholders made liable RST Ltd. for noncompliance of section 124, and claimed for their unpaid dividend amount. RST Ltd. denies saying that there were certain legal issues on the entitlement of the dividend amount to the respective shareholders. State in the light of the given facts, whether the allegation marked by shareholders and claim for the divided amount, against RST Ltd. is justifiable?

(RTP MAY 2019)

### Solution:

**Law:** As per section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid/claimed to/by shareholder within 30 days from the date of the declaration, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid/unclaimed to the Unpaid Dividend Account.

The company shall, within a period of 90 days of making any transfer of an amount, prepare a statement containing the names, their last known addresses and the unpaid dividend to be paid to each person and place it on the web-site of the company, if any, and also on any other web-site approved by the Central Government for this purpose, in such form, manner and other particulars as may be prescribed.

**Conclusion:** Accordingly, in the given situation, RST Ltd. failed to give statement of Unpaid/unclaimed dividend and so liable for the said noncompliance of section 124 of the Companies Act, 2013. Any person claiming to be entitled to any money transferred under section 124(1) to the Unpaid Dividend Account of the company may apply to the company for payment of the money claimed. Since RST Ltd. failed to comply with the requirements of this section as to the preparing of a statement of unpaid dividend, so shall be punishable with fine which shall not be less than five lakh rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to 5 lakh rupees.

### Section 124

- 19.** Manish, a shareholder of a company has not claimed his dividends from the company for the last 10 years due to different reasons. He wants to know whether he will be able to recover the dividends declared by the company for all these years. Explain to him, the relevant legal provisions.



(PYQ Jan 2025)

### Solution:

**Law:** Section 124 of the Companies Act, 2013 contains the provisions relating to Unpaid Dividend Account (UDA).

Unpaid or Unclaimed Dividend to be transferred to the Unpaid Dividend Account.

Where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of declaration, the company shall, within 7 days from the expiry of the said period of 30m days, transfer the total amount of unpaid or unclaimed dividend to a special account called the 'Unpaid Dividend Account' which shall be opened in any scheduled bank.

If any money transferred to this Unpaid Dividend Account remains unpaid or unclaimed for a period of seven years from the date of transfer of such account, it shall be transferred by the company along with interest accrued thereon to the Investor Education and Protection Fund established under section 125(1) of the Companies Act, 2013 maintained and administered by the Central Government.

As per section 124(6) of the Act, all shares in respect of which the dividend has not been paid or claimed for 7 consecutive years or more shall be transferred by the company in the name of Investor Education and Protection Fund along with a statement containing the prescribed details.

**Conclusion:** As per the facts of the question, Manish, a shareholder of the company has not claimed his dividends from the company for the last 10 years. Eventually, after expiry of the 7th consecutive year, the shares of Manish along with the dividends due to him for the last 10 years would have been already transferred by the company to the Investor Education and Protection Fund along with a statement containing the prescribed details.

Therefore, Manish should claim his shares along with the dividends due from IEPF in accordance with the prescribed procedure and on submission of prescribed documents.

### Section 125 IEPF

20. X-Sale Ltd. declared a dividend in 2015, but some shareholders did not claim it. As per the Companies Act, 2013, the unclaimed dividend was transferred to the Unpaid Dividend Account. After 2022, the unclaimed amount was transferred to the Investor Education and Protection Fund (IEPF). **(MTP MAY 2019)**

On the basis of above given facts answer the following question-

- (i) Define IEPF and write what amounts are credited to the IEPF?
- (ii) How is the IEPF utilized?
- (iii) What steps should Mr. Victor, the shareholder take to reclaim his dividend?

**(MTP May 25) (MTP Sep. 23)**

#### Solution:

- (i) The Investor Education and Protection Fund (IEPF) is a fund established by the Central Government under Section 125 of the Companies Act, 2013. It is meant to collect and utilize unclaimed or unpaid amounts related to investments, such as dividends, matured deposits, and debentures, and to promote investor awareness and protection.

The following amounts inter alia are credited to the IEPF:

- (a) Unpaid dividends that remain unclaimed for seven years.
- (b) Matured deposits and debentures unclaimed for seven years.
- (c) Proceeds from fractional shares due to mergers or bonus issues.
- (d) Application money for securities that were never allotted and remained unclaimed.
- (e) Interest accrued on unclaimed deposits and debentures.
- (f) Donations, grants, and income from investments of the fund.

- (ii) IEPF is utilized in the following manner:

The IEPF safeguards investor interests by holding unclaimed dividends, matured deposits, and debentures.

It allows investors to reclaim their money after proper verification.

The fund is also used for investor education, awareness programs, and legal reimbursements for class action suits.

It prevents companies from misusing unclaimed funds and ensures they remain accessible to rightful owners.

- (iii) Mr. Victor can recover his unclaimed dividend by following the proper procedure.

Mr. Victor must visit the IEPF portal and download Form IEPF-5. He should fill in all the required details in the Form. After submission, the company will verify and forwards the claim to the IEPF Authority. Upon successful verification the IEPF Authority will process the refund, and Mr. Victor will receive his unclaimed dividend.

### Section 127 Consequences for Delay or Default in Payment

21. Anoj Limited declared a final dividend to its shareholders at the Annual General Meeting on 1st August, 2024. As per the decision, the dividend payment was to be made within the stipulated 30-day period. However, due to internal financial constraints, the company failed to pay the declared

dividend and did not dispatch the dividend warrants to the shareholders within the required timeframe. The default continued until 15th October, 2024, leading to shareholder complaints. In light of this scenario, what specific punishments and liabilities could the company and the directors face due to this failure to pay the declared dividend within the 30-day period? Give your answer as per the provisions of the Companies Act, 2013. (MTP Jan 25)

**Solution:**

According to section 127 of the Companies Act, 2013, in case a company fails to pay declared dividends or fails to post dividend warrants within 30 days of declaration, following punishments are applicable:

Every director of the company shall be punishable with imprisonment of up to two years, if he is knowingly a party to the default. And, he shall also be liable to pay minimum fine of ₹1,000 for every day during which such default continues.

The company shall be liable to pay simple interest at the rate of 18% p.a. during the period for which such default continues.

**Section 127**

 22. Sun Light Limited was incorporated on 22nd January 2019 with the objects of providing software services. The Company adopted its first financial year as from 22nd January 2019 to 31st March 2020. The financial statement for the said period, after providing for depreciation in accordance with Schedule II of the Companies Act, 2013 revealed net profit. The Board of Directors declared 20% interim dividend at their meeting held on 7th July 2020, before holding its first Annual General Meeting. In the light of the provisions of the Companies Act, 2013 and Rules made thereunder: (4 Marks) (Nov 2020)

- (i) Whether the Company has complied due diligence in declaring interim dividend?
- (ii) Whether the Company can declare dividend in case it was registered under Section 8 of the Companies Act, 2013?
- (iii) What are the penal consequences in case of failure to pay the interim dividend?

**Solution:**

**Law:**

- (i) According to section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare interim dividend during any financial year or at any time during the period from closure of financial year till holding of the annual general meeting out of the surplus in the profit and loss account or out of profits of the financial year for which such interim dividend is sought to be declared or out of profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend.
- (ii) According to section 8 (1) of the Companies Act, 2013, a company having licence under Section 8 (Formation of companies with charitable objects, etc.) is prohibited from paying any dividend to its members. Its profits are intended to be applied only in promoting the objects for which it is formed.

**Conclusion:** In the instant case,

- (i) Sun Light Limited has complied due diligence in declaring interim dividend as the Interim Dividend was declared by Board of Directors at their meeting held on 7th July, 2020 before holding its first Annual General Meeting. Also, the financial statement revealed net profit so the interim dividend can be paid out of profits of the financial year ending 31st March, 2020.

- (ii) If company is sec 8 company it is prohibited to distribute dividend
- (iii) Penal consequences: According to section 127 of the Companies Act, 2013, 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 eighteen per cent per annum during the period for which such default continues.

### Section 127

- 23.** Smart Limited declared dividend at its Annual General Meeting held on 31-07-2023. The dividend warrant to Mr. A, a shareholder was posted on 22nd August, 2023. Due to postal delay Mr. A received the warrant on 5th September, 2023 and encashed it subsequently. Can Mr. A initiate action against the company for failure to distribute the dividend within 30 days of declaration under the provisions of the Companies Act, 2013? **(MTP May 24)(MTP Oct. 23)**

#### **Solution:**

**Law:** Section 127 of the Companies Act, 2013, requires that the declared dividend must be paid to the entitled shareholders within the prescribed time limit of 30 days from the date of declaration of dividend. In case dividend is paid by issuing dividend warrants, such warrants must be posted at the registered addresses within the prescribed time. Once posted, it is immaterial whether the same are received within 30 days by the shareholders or not.

**Conclusion:** In the given question, the dividend was declared on 31.07.2023 and the dividend warrant was posted within 30 days from date of declaration of dividend (posted on 22nd August, 2023). It is immaterial if Mr. A has received it on 5th September 2023 (i.e., after 30 days from 31.07.2023). Hence, Mr. A cannot initiate action against the company for failure to distribute the dividend within 30 days of declaration.

### Section 127

- 24.** The Director of Happy Limited proposed dividend at 12% on equity shares for the financial year 2016-17. The same was approved in the annual general meeting of the company held on 20th September, 2017. The Directors declared the approved dividends. Analysing the provisions of the Companies Act, 2013, give your opinion on the following matters:
- (i) Mr. A, holding equity shares of face value of 10 lakhs has not paid an amount of Rs. 1 lakh towards call money on shares. Can the same be adjusted against the dividend amount payable to him?
  - (ii) Ms. N was the holder of 1,000 equity shares on 31st March, 2017, but she has transferred the shares to Mr. R, whose name has been registered on 20th May, 20-17. Who will be entitled to the above dividend? **(RTP MAY 2018)**

#### **Solution:**

#### **Law:**

- (i) The given problem is based on the proviso provided in the section 127 (d) of the Companies Act, 2013. As per the law where the dividend is declared by a company and there remains calls in arrears and any other sum due from a member, in such case no offence shall be deemed to have been committed where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder.

- (ii) According to section 123(5), dividend shall be payable only to the registered shareholder of the share or to his order or to his banker.

**Conclusion:** As per the facts given in the question,

- (i) Mr. A is holding equity shares of face value of ₹10 Lakhs and has not paid an amount of ₹1 lakh towards call money on shares. Referring to the above provision, Mr. A is eligible to get ₹1.20 lakh towards dividend, out of which an amount of ₹1 lakh can be adjusted towards call money due on his shares. ₹20,000 can be paid to him in cash or by cheque or in any electronic mode.
- (ii) According to the above-mentioned provision, company can adjust sum of ₹1 lakh due towards call money on shares against the dividend amount payable to Mr. A.
- (iii) Facts in the given case state that Ms. N, the holder of equity shares transferred the shares to Mr. R whose name has been registered on 20th May 2017. Since, he became the registered shareholder before the declaration of the dividend in the Annual general meeting of the company held on 20th September 2017, so, Mr. Raj will be entitled to the dividend.

## Section 127

25.

- (i) Mr. Bindra is holding 950 equity shares of Bio safe Herbals, a section 8 company. Bio safe Herbals is planning to declare dividend in the Annual General Meeting for the Financial Year ended 31-03-2020. Examine whether the act of the company is in accordance with the provisions of the Companies Act, 2013.
- (ii) Kiara, holder of 5000 equity shares of ₹100 each of Kanpur Leather Shoes Limited did not pay final call of ₹10 per share. Kanpur Leather Shoes Limited declared dividend @ 10%. Examine with reference to relevant provisions of the Companies Act, 2013, the amount of dividend Kiara should receive. **(RTP MAY 2021)**

**Solution:**

**Law:**

- (i) According to Section 8(1) of the Companies Act, 2013, the companies licenced under Section 8 of the Act (Formation of companies with Charitable Objects, etc.) are prohibited from paying any dividend to their members. Their profits are intended to be applied only in promoting the objects for which they are formed.

Hence, in the instant case, the proposed act of Bio safe Herbals, a company licenced under Section 8 of the Companies Act, 2013, which is planning to declare dividend, is not in accordance to the provisions of the Companies Act, 2013.

- (ii) As per the proviso to section 127 of the Companies Act, 2013, no offence will be deemed to have been committed by a director for adjusting the calls in arrears remaining unpaid or any other sum due from a member against the dividend declared by the company.

**Conclusion:** Thus, as per the given facts, Kanpur Leather Shoes Limited can adjust the unpaid call money of ₹50,000 against the declared dividend of 10%, i.e.  $5,00,000 \times 10/100 = 50,000$ . Hence, call money of ₹50,000 not paid by Kiara can be adjusted fully from the entitled dividend amount of ₹50,000 payable to her.

## Section 127

26. Karan was holding 5000 equity shares of ₹100 each of M/s. Future Ltd. A final call of ₹10 per share was not paid by Karan. M/s. Future Ltd. declared dividend of 10%. Examine with reference to relevant provisions of the Companies Act, 2013, the amount of dividend Karan should receive. (Nov 2018)

### Solution:

**Law:** As per the proviso to section 127 of the Companies Act, 2013, no offence will be said to have been committed by a director for adjusting the calls in arrears remaining unpaid or any other sum due from a member from the dividend as is declared by a company.

**Conclusion:** Thus, as per the given facts, M/s Future Ltd. can adjust the sum of ₹50,000 unpaid call money against the declared dividend of 10%, i.e.  $5,00,000 \times 10/100 = 50,000$ . Hence, Karan's unpaid call money (₹50,000) can be adjusted fully from the entitled dividend amount of ₹50,000/-.

27. ABC Ltd. has declared dividend of ₹2/- per equity share in the general meeting. Mr. Suresh is holding 5000 equity shares of ₹10 face value each, on which ₹10,000 towards call money is due. Whether the dividend amount payable to him be adjusted against such dues as per the provisions of the Companies Act, 2013? Give reasons for your answer. (PYQ May 2022)

### Solution:

**Law:** As per clause (d) of proviso to section 127 of the Companies Act, 2013, where the dividend is declared by a company and there remains calls in arrears or any other sum due from a member, then the dividend can be lawfully adjusted by the company against any such dues.

**Conclusion:** Thus, ABC Ltd. can adjust the call money dues from Mr. Suresh of ₹10,000 against the dividend amount payable to him of ₹10,000 (5000 shares x ₹2 /- per share).

