

LIST OF TOP 100 QUESTIONS → MAY 2024 ATTEMPT ONLY
Set-1-List of Quest-1 to Quest-20
Chapters Covered- Preliminary and Incorporation of Company
Weightage as per Exams -Approx 10 Marks

Quest-1	<p>The information extracted from the audited Financial Statement of Pacific Solutions Private Limited as on 31st March, 2023 is as below:</p> <p>(1) Paid-up equity share capital ` 50,00,000 divided into 5,00,000 equity shares (carrying voting rights) of ` 10 each. There is no change in the paid-up share capital thereafter.</p> <p>(2) The turnover is ` 2,00,00,000.</p> <p>It is further understood that Smart Software Limited is holding 2,00,000 equity shares, fully paid- up, of Pacific Solutions Private Limited. Pacific Solutions Private Limited has filed its Financial Statement for the said year with the Registrar of Companies (ROC) excluding the Cash Flow Statement within the prescribed time line during the financial year 2023-24. The ROC has issued a notice to Pacific Solutions Private Limited as it has failed to file the Cash Flow Statement along with the Balance Sheet and Profit and Loss Account. You are to advise on the following points explaining the provisions of the Companies Act, 2013:</p> <p>(i) Whether Pacific Solutions Private Limited shall be deemed to be a small company whose significant equity shares are held by a public company?</p> <p>(ii) Whether Pacific Solutions Private Limited has defaulted in filing its financial statement?</p>
Solution	<p>According to section 2(85) of the Companies Act, 2013, small company means a company, other than a public company, having-</p> <p>(A) paid-up share capital not exceeding four crore rupees; and</p> <p>(B) turnover as per profit and loss account for the immediately preceding financial year not exceeding forty crore rupees:</p> <p>Provided that nothing in this clause shall apply to a holding company or a subsidiary company.</p> <p>Also, according to section 2(87), subsidiary company, in relation to any other company (that is to say the holding company), means a company in which the holding company exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies.</p> <p>In the given question, Smart Software Limited (a public company) holds 2,00,000 equity shares of Pacific Solutions Private Limited (having paid up share capital of 5,00,000 equity shares @ ` 10 totalling ` 50 lakh).</p> <p>Conclusion:- Hence, Pacific Solutions Private Limited is not a subsidiary of Smart Software Limited and hence it is a private company and not a deemed public company.</p> <p>Further, the paid up share capital (` 50 lakh) and turnover (` 2 crore) is within the limit as prescribed under section 2(85), <u>hence, Pacific Solutions Private Limited can be categorised as a small company.</u></p>
Quest-2	<p>Ram Pvt. Ltd. is the holding company of Laxman Pvt. Ltd. As per the last profit and loss account for the year ending 31st March, 2023 of Laxman Pvt. Ltd., its turnover was ` 1.80 crore; and paid up share capital was ` 80 lakh. The Board of Directors wants to avail the status of a small company. The Company Secretary of the company advised the directors that the company</p>

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	cannot be categorized as a small company. In the light of the above facts and in accordance with the provisions of the Companies Act, 2013, you are required to examine whether the contention of Company Secretary is correct, explaining the relevant provisions of the Act.
Solution	<p>As per section 2(85) of the Companies Act, 2013, small company means a company, other than a public company:</p> <p>(i) paid-up share capital of which does not exceed four crore rupees, and</p> <p>(ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed forty crore rupees:</p> <p>Provided that nothing in this clause shall apply to—</p> <p>(A) a holding company or a subsidiary company;</p> <p>(B) a company registered under section 8; or</p> <p>(C) a company or body corporate governed by any special Act.</p> <p>In the instant case, as per the last profit and loss account for the year ending 31st March, 2023 of Laxman Pvt. Ltd., its turnover was to the extent of ` 1.80 crore, and paid-up share capital was ` 80 lakh. Though Laxman Pvt. Ltd., as per the turnover and paid-up share capital norms, qualifies for the status of a 'small company' but it cannot be categorized as a 'small company' because it is the subsidiary of another company (Ram Pvt. Ltd.).</p> <p>Conclusion:- Thus, we may conclude that the Contention of the Company Secretary is correct.</p>
Quest-3	Mr. Ram along with his brothers got registered a company in the state of Telangana by furnishing false information knowingly. What action may be taken against the company and its promoters under the provisions of the companies act, 2013?
Solution	<p>As per section 7 of the Companies Act, 2013 where a company has been got incorporated by furnishing any incorrect information, the Tribunal may on an application made to it, on being satisfied that the situation so warrants:</p> <p>(a) pass orders for regulation of the management of the company including changes, if any, in its memorandum and articles; or</p> <p>(b) direct that liability of the members shall be unlimited; or</p> <p>(c) direct removal of the name of the company from the register of companies; or</p> <p>(d) pass an order for the winding up of the company; or</p> <p>(e) pass such other orders as it may deem fit:</p> <p>Provided that before making any order under this sub-section the company shall be given a reasonable opportunity of being heard in the matter; and the Tribunal shall take into consideration the transactions entered into by the company.</p>

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	Also, the promoters, the persons named as the first directors of the company and the persons making declaration at the time of registration of company shall each be liable for action under section 447.
Quest-4	<p>Country Pool Club was formed as a Limited Liability Company under Section 8 of the Companies Act, 2013 with the object of promoting cricket by arranging introductory cricket courses at district level and friendly matches. The club has been earning a surplus. Lately, the affairs of the company are conducted fraudulently and dividends are paid to its members. Mr. New, a member, decided to make a complaint with the Regulatory Authority to curb the fraudulent activities by cancelling the licence given to the company.</p> <p>(i) Is there any provision under the Companies Act, 2013 to revoke the licence? If so, state the provisions.</p> <p>(ii) Whether the Company may be wound up?</p> <p>(iii) Whether the Country Pool Club can be merged with Cool Net Private Limited, a company engaged in the business of networking?</p>
Solution	<p>(1) According to section 8(6) of the Companies Act, 2013,</p> <p>the Central Government may by order revoke the licence of the company where</p> <ul style="list-style-type: none"> the company contravenes any of the requirements or the conditions of section 8 subject to which a licence is issued or where the affairs of the company are conducted fraudulently, or in violation of the objects of the company or prejudicial to public interest, <p>and on revocation, the Registrar shall put 'Limited' or 'Private Limited' against the company's name in the register. But before such revocation, the Central Government must give it a written notice of its intention to revoke the licence and opportunity to be heard in the matter.</p> <p>Conclusion: - Hence, in the instant case, the Central Government can revoke the license given to Country Pool Club as section 8 company, as the affairs of the company are conducted fraudulently and dividend was paid to its members which is in contravention to the conditions given under section 8.</p> <p>(2) Where a licence is revoked, the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section.</p> <p>However, no such order shall be made unless the company is given a reasonable opportunity of being heard.</p> <p>Conclusion:- Thus in the given case, the stated company may be wound up.</p> <p>(3) A company registered under this section shall amalgamate only with another company registered under this section and having similar objects.</p>

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	<p>Conclusion:- In the instant case, Country Pool Club cannot be merged with Cool Net Private Limited as the objects of both the companies are different and not similar.</p>
Quest-5	<p><i>Mr. R is an Indian citizen, and his stay in India during the immediately preceding financial year is for 130 days. He appoints Mr. S, a foreign citizen, as his nominee, who has stayed in India for 125 days during the immediately preceding financial year.</i></p> <ol style="list-style-type: none"> <i>1. Is Mr. R eligible to be incorporated as a One-Person Company (OPC)?</i> <i>2. If yes, can he give the name of Mr. S in the Memorandum of Association as his nominee?</i> <i>3. What would be the procedure for change on nominee and if any such change shall amount to alteration in Memorandum</i> <i>4. What would be the procedure for Withdrawal of consent by nominee</i> <p><i>Justify your answers with relevant provisions of the Companies Act, 2013.</i></p>
Solution	<p>As per the provisions of the Companies Act, 2013 along with rule 3 and 4 of the Companies (Incorporation) Rules, 2014</p> <p>Only a natural person who is an Indian citizen and resident in India (person who stayed in India for a period of not less than 120 days during immediately preceding financial year) -</p> <ul style="list-style-type: none"> • Shall be eligible to incorporate an OPC • Shall be a nominee for the sole member. <p><i>Case-1- Mr. R eligible to be incorporated as a One-Person Company</i></p> <p>In the given case, Mr. R is an Indian citizen and his stay in India during the immediately preceding financial year is 130 days which is above the requirement of 120 days.</p> <p>Conclusion:- Thus, we may conclude that Mr. R is eligible to incorporate an OPC.</p> <p><i>Case-2- If name of Mr. S in the Memorandum of Association as his nominee can be given</i></p> <p>In the given case, Mr. S's name is mentioned in the Memorandum of Association as nominee and his stay in India during the immediately preceding financial year is more than 120 days, he is a foreign citizen and not an Indian citizen.</p> <p>Conclusion:- We may conclude that S's name cannot be given as nominee in the memorandum since he is not an Indian Citizen.</p> <p>3. Procedure for change in nominee</p> <p>The member may change the name of the person nominated by him at any time for any reason including in case of death or incapacity to contract and nominate another person (new nominee) after obtaining the prior consent of such another person in Form No. INC-3.</p>

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	<p>Despite name of such other (old nominee) and another person (new nominee) specified in memorandum, any such change in the name of the person shall not be deemed to be an alteration of the memorandum.</p> <p>Withdraw of Consent by Nominee- Nominee may withdraw his consent by giving a notice in writing to such sole member and to the One Person Company</p> <p>In this case, the sole member shall nominate another person as nominee within 15 days of the receipt of the notice and shall send an intimation of such nomination in writing to the Company, <u>along with the written consent of such other person</u> in Form No. INC-3.</p>
Quest-6	<p><i>Alpha Ltd., A Section 8 company is planning to declare dividend in the Annual General Meeting for the Financial Year ended 31-03-2018. 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.</i></p>
Solution	<p>According to section 8 of the Companies Act, 2013, the Central Government may allow person or an association of persons to be registered as a Company under the Companies Act if it has been set up for promoting commerce, arts, science, sports, education, research, social welfare religion, charity protection of environment or any such other useful object and intends to apply its profits or other income in promotion of its objects.</p> <p>As per Section 8 of the Companies Act, 2013, <u>the companies having licence under Section 8 of the Act are prohibited from paying any dividend to its members.</u> Their profits are intended to be applied only in promoting their objects</p> <p>Conclusion:- Thus, the proposed act of Alpha Ltd., a company registered under the provisions of Section 8 of the Companies Act, 2013, to declare dividend, is not according to the provisions of the Companies Act, 2013.</p>
Quest-7	<p><i>As at 31st March, 2018, the paid-up share capital of S Ltd. is ₹1,00,00,000 divided into 10,00,000 equity shares of ₹10 each. Of this, H Ltd. is holding 6,00,000 equity shares and 4,00,000 equity shares are held by others. Simultaneously, S Ltd. is holding 5% equity shares of H Ltd. out of which 1% shares are held as a legal representative of a deceased member of H Ltd. On the basis of the given information, examine and answer the following queries with reference to the provisions of the Companies Act, 2013:</i></p> <ol style="list-style-type: none"> <i>1. Can S Ltd. make further investment in equity shares of H Ltd. during 2018-19?</i> <i>2. Can S Ltd. exercise voting rights at Annual general meeting of H Ltd.?</i> <i>3. Can H Ltd. allot or transfer some of its shares to S Ltd.?</i>
Solution	<p>As per Sec 19 of Companies Act 2013</p> <p>No company shall, either by itself or through its nominees</p>

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	<p>(i) hold any shares in its holding company, and</p> <p>(ii) no holding company shall allot or transfer its shares to any of its subsidiary companies, any such allotment or transfer of shares of a company made to its subsidiary company shall be void</p> <p>Exceptions</p> <p>(a) where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or <i>(Right to vote shall be available to subsidiary)</i></p> <p>(b) where the subsidiary company holds such shares as a trustee; or <i>(Right to vote shall be available to subsidiary)</i></p> <p>(c) Where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company. <i>(No right to vote shall be available to subsidiary)</i></p> <p>Now, in the given case, The paid-up share capital of S Ltd. is ₹1,00,00,000 divided into 10,00,000 equity shares of ₹10 each. Of this, H Ltd. is holding 6,00,000 equity shares. Thus, we may conclude that H Ltd. is the holding company of S Ltd. and S Ltd. is the subsidiary company of H Ltd. by virtue of section 2(87) of the Companies Act, 2013.</p> <p>Conclusion:-</p> <ol style="list-style-type: none"> S Ltd. cannot make further investment in equity shares of H Ltd. during 2018-19. A subsidiary company shall have a right to vote at a meeting of the holding company only in respect of the shares held by it as a legal representative or as a trustee. Therefore, S Ltd. can exercise voting rights at the Annual General Meeting of H Ltd. only in respect of 1% shares held as a legal representative of a deceased member of H Ltd. Section 19 also provides that no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void. Therefore, H Ltd. cannot allot or transfer some of its shares to S Ltd. 			
Quest-8	<p><i>Following are some of the securities, issued by different companies related with each other, as follows: -</i></p> <table border="1" data-bbox="240 1765 1544 1805"> <thead> <tr> <th data-bbox="240 1765 475 1805">Company</th> <th data-bbox="475 1765 991 1805">Securities Issued</th> <th data-bbox="991 1765 1544 1805">Remarks</th> </tr> </thead> </table>	Company	Securities Issued	Remarks
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	Kleshrahit Ltd.	Listed non-convertible redeemable preference shares issued on private placement basis in terms of relevant SEBI Regulations.	Has the power to appoint 2/3rd. directors in Indriyadaman Ltd.
	Indriyadaman Ltd.	Listed non-convertible debt securities issued on private placement basis in terms of relevant SEBI Regulations.	Holding 60% voting power in Sajagta (P) Ltd.
	Sajagta (P) Ltd.	Listed non-convertible debt securities issued on private placement basis in terms of relevant SEBI Regulations.	The company holds 52% equity shares in Pratibodh Ltd. as an investment on behalf of another company in a capacity of a trustee.
	<p><i>Equity shares issued by the Kleshrahit Ltd. and Indriyadaman Ltd. are not listed in any of the recognized stock exchanges.</i></p> <p><i>In the context of aforesaid facts, answer the following question(s): -</i></p> <ol style="list-style-type: none"> <i>Whether the aforesaid companies can be considered as listed company(ies)?</i> <i>Explain the relationship between the aforesaid companies?</i> 		
Solution	<p>Mention about Sec 2(52) along with Rule 2A of the Companies (Specification of definitions details) Rules, 2014</p> <ol style="list-style-type: none"> Kleshrahit Ltd. - Equity shares issued by the company are not listed. However, the company has issued listed non-convertible redeemable preference shares issued on private placement basis in terms of relevant SEBI Regulations which falls in the exceptions to the listed company, given as per clause (a)(ii) to Rule 2A, as aforesaid, and accordingly, Kleshrahit Ltd. shall not be considered as a listed company. Indriyadaman Ltd. Equity shares issued by the company are not listed. However, the company has issued listed non-convertible debt securities issued on private placement basis in terms of relevant SEBI Regulations which falls in the exceptions to the listed company, given as per clause (a)(i) to Rule 2A, as aforesaid, and accordingly, Indriyadaman Ltd. shall not be considered as a listed company. Sajagta (P) Ltd. The company has issued listed non-convertible debt securities issued on private placement basis on a recognised Stock Exchange in terms of relevant SEBI Regulations which falls in the exceptions to the listed company given as per clause (b) to Rule 2A, as aforesaid, and accordingly, Sajagta 		

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	<p>(P) Ltd. shall not be considered as a listed company.</p> <p>For relationship-Define Sec 2(87)</p> <p>(i) <u>Relationship between Kleshrahit Ltd. & Indriyadaman Ltd.</u> Indriyadaman Ltd. is the subsidiary company of Kleshrahit Ltd. while the latter is the holding company of Indriyadaman Ltd.</p> <p>(ii) <u>Relationship between Indriyadaman Ltd. & Sajagta (P) Ltd.</u> As per sub-clause (ii) to section 2(87), it can be understood that Sajagta (P) Ltd. is the subsidiary company of Indriyadaman Ltd. while the latter is the holding company of Sajagta (P) Ltd. as Indriyadaman Ltd. controls more than one-half of the total voting power of Sajagta (P) Ltd.</p> <p>(iii) <u>Relationship between Kleshrahit Ltd. & Sajagta (P) Ltd.</u> Sajagta (P) Ltd. is deemed to be subsidiary company of Kleshrahit Ltd. while the latter would be considered as the holding company of Sajagta (P) Ltd.</p> <p>(iv) <u>Relationship between Sajagta (P) Ltd. & Pratibodh Ltd.</u> Sajagta (P) Ltd. & Pratibodh Ltd. do not share any holding- subsidiary relationship as the former holds shares in latter just in a fiduciary capacity on behalf of another company.</p>
Quest-9	<p>In response to the advertisements made by the company to buy shares in the company, applications have been received for 10,00,000 shares but company actually issued 700,000 shares where company has called for ` 8 per share.</p> <p>All the calls have been met in full except three shareholders who still owe for their 6000 shares in total.</p>
Solution	<p>Amount of various share capital</p> <p>Authorized share capital = ` 2,00,00,000 (2 crores)</p> <p>Issued capital = 7,00,000 x 10 = ` 70,00,000</p> <p>Subscribed capital = 10,00,000 x 10 = ` 1,00,00,000 (1 Crore)</p> <p>Called-up capital = 7,00,000 x 8 = ` 56,00,000</p> <p>Paid-up capital = 56,00,000 - (6000 x ` 8) = ` 55,52,000</p>
Quest-10	<p>List down some of the relaxations available to One person company under the companies Act 2013</p>
Solution	<p>Relaxations available to an OPC include:</p> <ul style="list-style-type: none"> ◆ Not required to prepare a cash-flow statement with effect of section 2(40). ◆ The annual return to furnished under section 92 can be signed by the Director and not necessarily a Company Secretary, even abridged annual return may be prescribed. ◆ Further, following the similar line, section 134 provides it would suffice if one director

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	<p>signs the audited financial statements and abridged form of director report may be prescribed.</p> <ul style="list-style-type: none"> ◆ Holding annual general meeting as required under section 96 is not necessary in case of OPC. Moreover, certain specific provisions related to general meetings and extraordinary general meetings, specified under sections 100 to 111 not applicable to OPC. ◆ Even relaxation is also there in convening board meetings section 173 requires an OPC to hold only one meeting of the Board of Directors in each half of a calendar year. ◆ Vide section 137, the OPC are allowed to file financial statements within six months from the close of the financial year as against 30 days.
Quest-11	Section 4 of companies Act impose certain restrictions on Name clause such as name shall not be identical or resemble to the name of any existing company. List out few of the instances where name of company shall be deemed as Resemble
Solution	<ol style="list-style-type: none"> a. Plural or singular form of words in one or both names (Green Technology Ltd. is same as Greens Technology Ltd. and Greens Technologies Ltd.) b. Type and case of letters, spacing between letters, and punctuation marks used in one or both names (ABC Ltd. is same as A.B.C. Ltd. and A B C Ltd.) c. Use of different tenses in one or both names (Ascend Solutions Ltd. is same as Ascended Solutions Ltd. and Ascending Solutions Ltd.) d. Slight variation in the spelling of the two names including a grammatical variation thereof (Disc Solutions Ltd. is same as Disk Solutions Ltd. but it is not same as Disco Solutions Ltd) e. Use of different phonetic spellings including use of misspelled words of an expression (Bee Kay Ltd is same as BK Ltd, Be Kay Ltd., B Kay Ltd., Bee K Ltd., B.K. Ltd. and Beee Kay Ltd) f. Complete translation or transliteration, and not part thereof, of an existing name, in Hindi or in English (National Electricity Corporation Ltd. is same as Rashtriya Vidyut Nigam Ltd.) g. Use of host name such as 'www' or a domain extension such as '.net', '.org', '.dot' or '.com' in one or both names (Ultra Solutions Ltd. is same as Ultrasolutions.com Ltd. But Supreme Ultra Solutions Ltd. is not the same as Ultrasolutions.com Ltd.) h. The order of words in the names (Ravi Builders and Contractors Ltd. is same as Ravi Contractors and Builders Ltd.) i. Use of the definite or indefinite article in one or both names (Congenial Tours Ltd. is same as A Congenial Tours Ltd. and The Congenial Tours Ltd. But Isha Industries Limited

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	<p>is not the same as Anisha Industries Limited.)</p> <p>j. Addition of the name of a place to an existing name, which does not contain the name of any place; (If Salvage Technologies Ltd. is an existing name, it is same as Salvage Technologies Delhi Ltd. But Retro Pharmaceuticals Ranchi Ltd. is not the same as Retro Pharmaceuticals Chennai Ltd.)</p> <p>k. addition, deletion, or modification of numerals or expressions denoting numerals in an existing name, unless the numeral represents any brand (Thunder Services Ltd is same as Thunder 11 Services Ltd and One Thunder Services Ltd.)</p>
Quest-12	Prescribe the procedure for conversion of Section 8 company into either Private Limited company or Public limited company
Solution	<p>A company registered under section 8 of the companies Act 2013, may convert itself into company of any other kind only after complying with such conditions as may be prescribed in rule 21 and 22 of the <i>Companies (Incorporation) Rule 2014</i> as described below;</p> <p>a. A company shall pass a special resolution at a general meeting for approving such conversion</p> <p>b. An explanatory statement to notice of such general meeting must set-out the details on reason of such conversion.</p> <p>c. The company shall file an application in Form No. INC-18 with the Regional Director with the fee along with a certified true copy of the special resolution and a copy of the Notice convening the meeting including the explanatory statement for approval for conversion.</p> <p>Also attach the proof of serving of the notice served by registered post or hand delivery, to:</p> <ul style="list-style-type: none"> ◆ the Chief Commissioner of Income Tax having jurisdiction over the company, ◆ Income Tax Officer who has jurisdiction over the company, ◆ the Charity Commissioner, ◆ the Chief Secretary of the State in which the registered office of the company is situated, ◆ any organisation or Department of the Central Government or State Government or other authority under whose jurisdiction the company has been operating.

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	<p>d. A copy of the application with annexures as filed with the Regional Director shall also be filed with the Registrar.</p> <p>e. The company shall, within a week from the date of submitting the application to the Regional Director, publish a notice at its own expense, and a copy of the notice, as published, shall be sent forthwith to the Regional Director and the said notice shall be in Form No. INC-19 and shall be published;</p> <ul style="list-style-type: none"> • at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated, and having a wide circulation in that district, and at least once in English language in an English newspaper having a wide circulation in that district; and • on the website of the company, if any, and as may be notified or directed by the Central Government. <p>f. The company should have filed all its financial statements and Annual Returns upto the financial year preceding the submission of the application to the Regional Director and all other returns required to be filed under the Act up to the date of submitting the application to the Regional Director</p> <p>g. On receipt of the application, and on being satisfied , the Regional Director shall issue an order approving the conversion of the company into a company of any other kind subject to such terms and conditions as may be imposed in the facts and circumstances of each case.</p> <p>h. Before imposing the conditions or rejecting the application, the company shall be given a reasonable opportunity of being heard by the Regional Director</p> <p>i. On receipt of the approval of the Regional Director, the company shall convene a general meeting of its members to pass a special resolution for amending its memorandum of association and articles of association and the Company shall thereafter file these with the Registrar (with declaration to adhere conditions if any, imposed by Regional Director)</p> <p>j. On receipt of the documents referred above, the Registrar shall register the documents and issue the fresh Certificate of Incorporation.</p>
Quest-13	<p><i>Aman an engineer has started a new company with the name of Nuts and Bolts Private Limited. He got registered a company with the same name. However, Nuts and Bolts is a registered trademark. After 5 years when the owner of trademark came to know about the same, it filed an application with relevant authority. Can the company be compelled to change its name by</i></p>

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	<i>the owner of trademark? Can the owner of registered trademark request the company and then company change its name at its discretion?</i>
Solution	<p><u>According to section 16 of the Companies Act, 2013</u></p> <p>Situation of Rectification</p> <p>Sometime through inadvertence, company is registered with a name which is identical with or too nearly resembles the name by which a company in existence</p> <p>or</p> <p>the name is identical with or too nearly resembling to a registered trade mark.</p> <p>In this case, Central Government may issue a direction for rectification of name to company and Company may rectify its name by adopting the following procedure: —</p> <ol style="list-style-type: none"> 1. By passing an ordinary resolution, and 2. By obtaining the previous approval of the Central Government in writing <p>Time limit for Rectification</p> <ul style="list-style-type: none"> ▪ A registered trademark owner has to file an application for rectification of name, within 3 years of incorporation of company or change of name. ▪ In case of rectification of name due to similarity with registered trademark, rectification shall be done within 3 months <p><u>In the given case</u>, owner of registered trade-mark is filing objection after 5 years of registration of company with a wrong name.</p> <p>Conclusion:- Company cannot be compelled to change its name as application by registered trademark owner should have filed the same within 3 years</p> <p>If company can change its name at its discretion</p> <p>Company can anytime change its name by passing a special resolution and taking approval of Central Government.</p> <p>Therefore, if owner of registered trademark requests the company for change of its name and the company accepts the same then it can change its name voluntarily by following the provisions of section 13.</p>
Quest-14	<p><i>Examine the validity of the following different decisions/proposals regarding change of office by A Limited under the provisions of the Companies Act, 2013:</i></p> <p><i>(i) The Registered office is shifted from Thane (Local Limit of Thane District) to Dadar (Local limit of Mumbai District), both places falling within the jurisdiction of the Registrar of Mumbai, by passing a special resolution but without obtaining the approval of the Regional Director.</i></p>

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	(ii) The registered office situated in certain place of a city is proposed to be shifted to another place within the local limits of the same city under the authority of Board Resolution.
Solution	Regarding the validity of Proposals w.r.t change of registered office by A Limited in the light of section 12 of the Companies Act, 2013: (i) In the first case, the Registered office is shifted from Thane to Dadar (one District to another District) falling under jurisdiction of same ROC i.e. Registrar of Mumbai. As per Section 12 of the Act which deals with the change in registered office outside the local limit from one town or city to another in the same state, may take place by virtue of a special resolution passed by the company. No approval of regional director is required. Accordingly, said proposal is valid. (ii) In the second case, change of registered office within the local limits of the same city. Said proposal is valid in terms it has been passed under the authority of Board resolution.
Quest-15	Parag Constructions Limited is a leading infrastructure company. One of the directors of the company Mr. Parag has been signing all construction contracts on behalf of company for many years. All the parties who ever deal with the company know Mr. Parag very well. Company has got a very important construction contract from a renowned software company. Parag constructions will do construction for this site in partnership with a local contractor Firozbhai. Mr. Parag signed partnership deed with Firozbhai on behalf of company because he has an implied authority. Later in a dispute company denied to accept liability as a partner. Can the company deny its liability as a partner?
Solution	As per section 22 of the Companies Act, 2013 a company may authorise any person as its attorney to execute deeds on its behalf in any place either in or outside India. But common seal should be affixed on his authority letter or the authority letter should be signed by two directors of the company or it should be signed by one director and secretary. This authority may be either general for any deeds or it may be for any specific deed. A deed signed by such an attorney on behalf of the company and under his seal shall bind the company as if it were made under its common seal. In the present case company has not neither given any written authority not affixed common seal of the authority letter. Conclusion: We may conclude that Mr. Parag is not legally entitled to execute deeds on behalf of the company. Therefore, deeds executed by him are not binding on the company. Therefore, company can deny its liability as a partner.
Quest-16	Yadav dairy products Private limited has registered its articles along with memorandum at the time of registration of company in December, 2019. Now directors of the company are of the view that provisions of articles regarding forfeiture of shares should not be changed except

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	by a resolution of 90% majority. While as per section 14 of the Companies Act, 2013 articles may be changed by passing a special resolution only. One of the directors said that they cannot make a provision against the Companies Act. You are required to advise the company on this matter.
Solution	<p>As per section 5 of the Companies Act, 2013 the article may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if more restrictive conditions than a special resolution, are met.</p> <p>The provisions for entrenchment shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.</p> <p>Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in prescribed manner.</p> <p>In the present case, Yadav dairy products Private Limited is a private company and wants to protect provisions of articles regarding forfeiture of shares. It means it wants to make entrenchment of articles, which is allowed. But the company will have to pass a resolution taking permission of all the members and it should also give notice to ROC regarding entrenchment of articles.</p>
Quest-17	Shri Laxmi Electricals Ltd. (S) is a company in which Hanuman power suppliers Limited (H) is holding 60% of its paid up share capital. One of the shareholder of H made a charitable trust and donated his 10% shares in H and ` 50 crores to the trust. He appoint S as the trustee. All the assets of the trust are held in the name of S. Can a subsidiary hold shares in its holding company in this way?
Solution	<p>According to section 19 of the Companies Act, 2013 a company shall not hold any shares in its holding company either by itself or through its nominees. Also, holding company shall not allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be void.</p> <p>Following are the exceptions to the above rule;</p> <p>(a) Where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or</p> <p>(b) Where the subsidiary company holds such shares as a trustee; or</p> <p>(c) Where the subsidiary company is a shareholder even before it became a subsidiary company of the holding company, but in this case, it will not have a right to vote in the meeting of holding company.</p> <p>In the given case, one of the shareholders of holding company has transferred his shares in the holding company to a trust where the shares will be held by subsidiary company. It means now subsidiary will hold shares in the holding company. But it will hold shares in the capacity of a trustee. Therefore, we can conclude that in the given situation S can hold shares in H.</p>
Quest-18	Ashok, a director of Gama Electricals Ltd. gave in writing to the company that the notice for any general meeting and of the Board of Directors' meeting be sent to him only by registered post at his residential address at Kanpur for which he deposited sufficient money. The company

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	<p>sent notice to him by ordinary mail under certificate of posting. Ashok did not receive this notice and could not attend the meeting and contended that the notice was improper.</p> <p>Decide:</p> <p>(i) Whether the contention of Ashok is valid.</p> <p>(ii) Will your answer be the same if Ashok remains in U.S.A. for one month during the notice of the meeting and the meeting held?</p>
Solution	<p>According to section 20 of the Companies Act, 2013, a document may be served on Registrar or any member by sending it to him by post or by registered post or by speed post or by courier or by delivering at his office or address, or by such electronic or other mode as may be prescribed.</p> <p>Provided that a member may request for delivery of any document through a particular mode, for which he shall pay such fees as may be determined by the company in its annual general meeting.</p> <p>Thus, if a member wants the notice to be served on him only by registered post at his residential address at Kanpur for which he has deposited sufficient money, the notice must be served accordingly, otherwise service will not be deemed to have been effected.</p> <p>Accordingly, the questions as asked may be answered as under:</p> <p>(i) The contention of Ashok shall be tenable, for the reason that the notice was not properly served.</p> <p>(ii) In the given circumstances, the company is bound to serve a valid notice to Ashok by registered post at his residential address at Kanpur and not outside India.</p>
Quest-19	<p>The Secretary of a Company issued a share certificate to 'A' under the Company's seal with his own signature and the signature of a Director forged by him. Borrowed money from 'B' on the strength of this certificate. 'B' wanted to realise the security and requested the company to register him as a holder of the shares. Explain whether 'B' will succeed in getting the share registered in his name.</p>
Solution	<p><u>Given problem is based on doctrine of indoor management</u></p> <ul style="list-style-type: none"> ▪ Every person dealing with the company is presumed to have understood the contents of company's memorandum and articles of association. ▪ If he enters into a contract with the company which is contrary to the provisions of memorandum articles of association, then he will not get any right under such contract. ▪ Such rule has one exception which is known as 'doctrine of indoor management'. ▪ According to this doctrine, a person dealing with the company is not presumed to the knowledge of internal proceedings of the company ▪ This doctrine was first evolved in the case of <u>Royal British Bank v Turquand</u> ▪ However, benefit under this doctrine cannot be claimed in case of forgery as it was held in the case of [<u>Rubben v Great Fingal Consolidated</u>]

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	<p>Conclusion: Share certificate is not binding on company as it contained forged signatures. Thus, no title could be transferred to A even if he is a bonafide purchaser since as per the general rule forgery is nullity</p>
Quest-20	<p>Mr. X had purchased some goods from M/s ABC Limited on credit. A credit period of one month was allowed to Mr. X. Before the due date Mr. X went to the company and wanted to repay the amount due from him. He found only Mr. Z there, who was the factory supervisor of the company. Mr. Z told Mr. X that the accountant and the cashier were on leave, he is in-charge of receiving money and he may pay the amount to him. Mr. Z issued a money receipt under his signature. After two months, M/s ABC Limited issued a notice to Mr. X for non-payment of the dues within the stipulated period. Mr. X informed the company that he had already cleared the dues and he is no more responsible for the same. He also contended that Mr. Z is an employee of the company whom he had made the payment and being an outsider, he trusted the words of Mr. Z as duty distribution is a job of the internal management of the company.</p> <p>Analyse the situation and decide whether Mr. X is free from his liability.</p>
Solution	<p>The Doctrine of Indoor Management is the exception to the doctrine of constructive notice.</p> <p>This doctrine is important to persons dealing with a company through its directors or other persons.</p> <p>As such other person is entitled to assume that the acts of the directors or other officers of the company are validly performed, if they are within the scope of their apparent authority.</p> <p>In the given question, Mr. X has made payment to Mr. Z and he (Mr. Z) gave to receipt of the same to Mr. X. Thus, it will be rightful on part of Mr. X to assume that Mr. Z was also authorised to receive money on behalf of the company.</p> <p>Thus, Mr. X will be free from liability for payment of goods purchased from M/s ABC Limited, as he has paid amount due to an employee of the company</p>