

Total Sec - 470

Total Sec = I to VII

Total chap = 29

# THE COMPANIES ACT, 2013

1. The provisions of the Companies Act shall apply to the following entities —

Sec 1

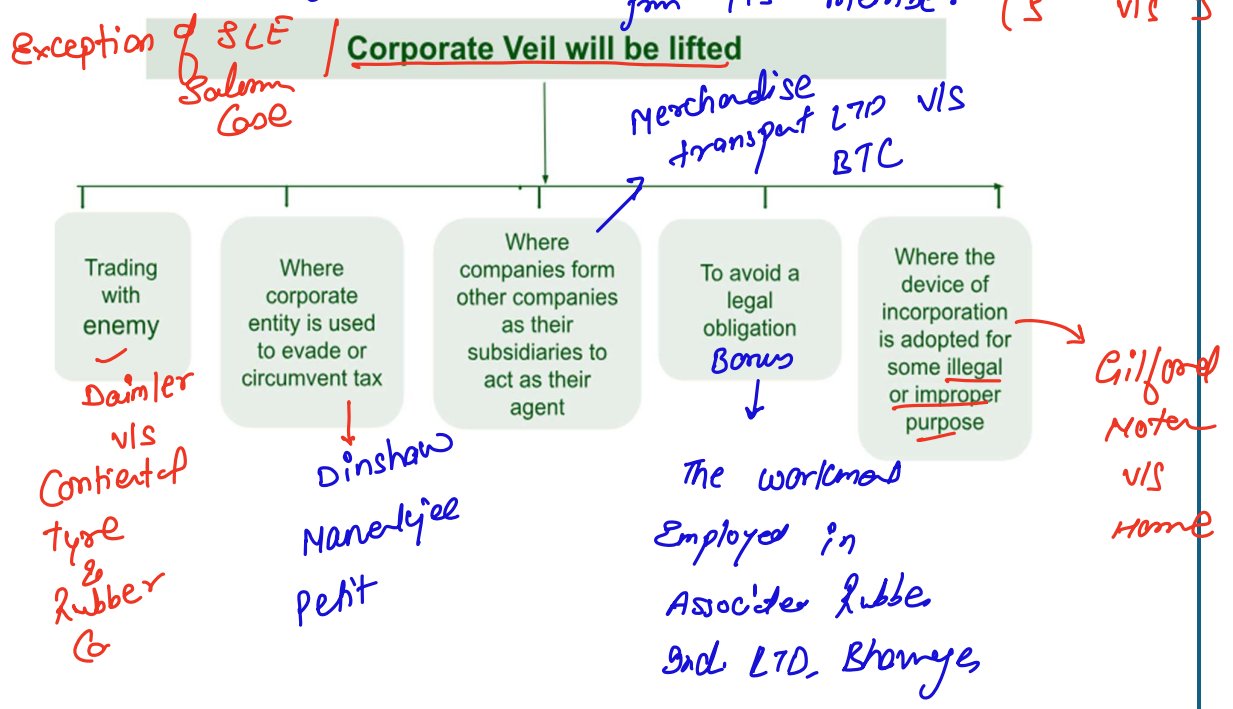


*Statutory Comp*

## 2. COMPANY — FEATURES

- **Separate Legal Entity** / CV / CP ⇒ *MACARA v/s Northern Assurance Comp (71)*
  - **Perpetual Succession**
  - **Limited Liability**
  - **Transferability of Shares**
    - RT Comp ⇒ *Transferable*
    - Sec 44 ⇒ *Movable Property*
    - Public Comp ⇒ *freely transfer*
  - **Artificial Legal Person**
  - **Common Seal**, if any
- by share*  
*by guarantee*

3. **CORPORATE VEIL** refer to legal concept whereby Comp *ideally separate* from its member *(S vs S)*



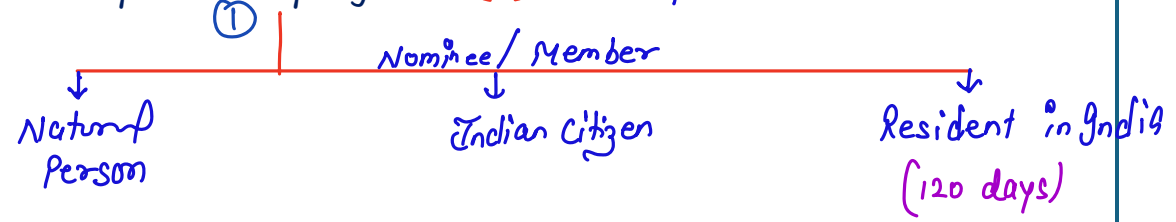
4. CLASSIFICATION OF COMPANY

Diff. b/w LBS & CBS

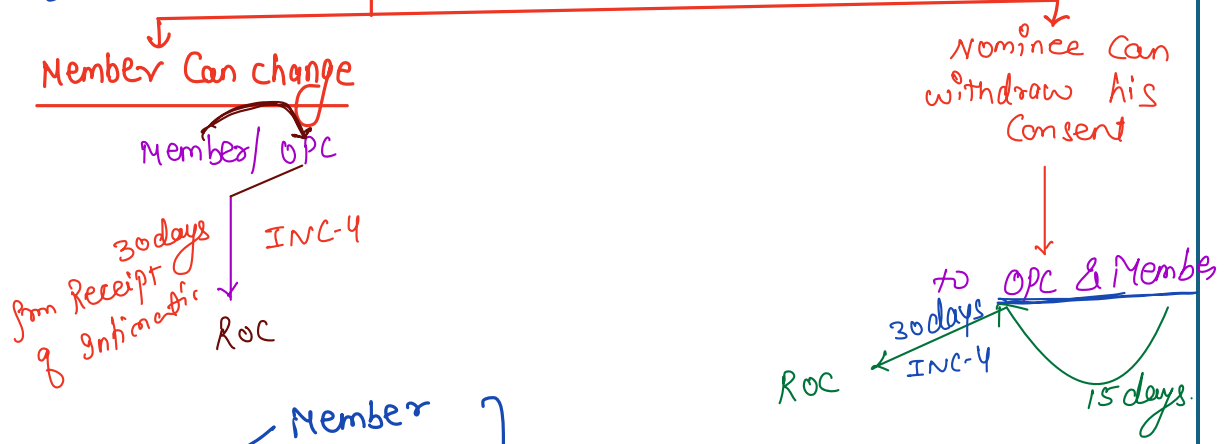
A. Companies limited by shares:- limited to the amount unpaid on the shares  
 1. Nominal value ✓  
 2. unpaid ✓

B. Companies limited by guarantee:- limited to a fixed amount which the members undertake to contribute to the assets of a company in the event of its being wound up - MOA

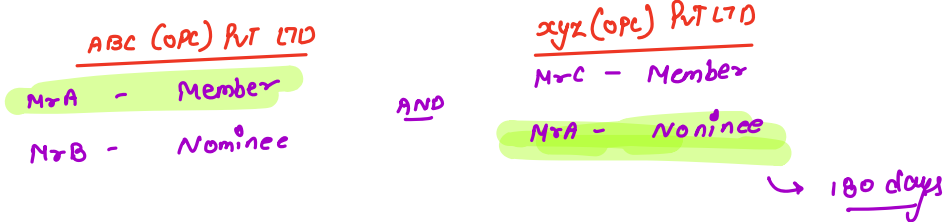
C. One person company:- 2(52) - one person as member



2. change in nominee



3. a person   
 Member   
 AND   
 Nominee   
 } one OPC



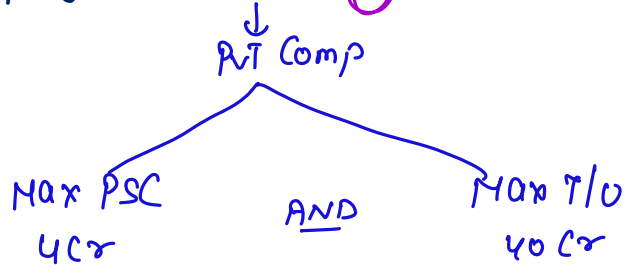
4. Nominee become Member → 15 days

5. OPC  $\xrightarrow[\text{Investment X}]{\text{Share X}}$  Comp/BC

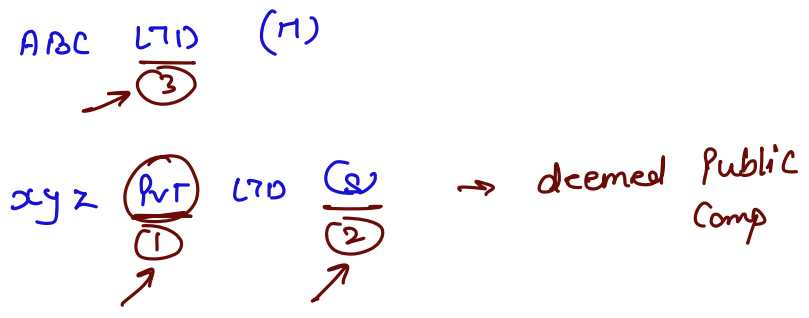
6. OPC  $\xrightarrow{\text{Convert X}}$  Sec 8 Comp

2 (85)

D. Small company:- Max PUSC 4cr (& turnover 40cr - not included CHSS



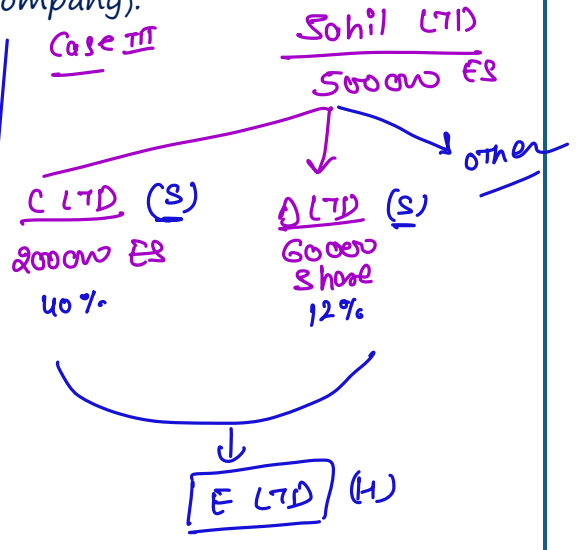
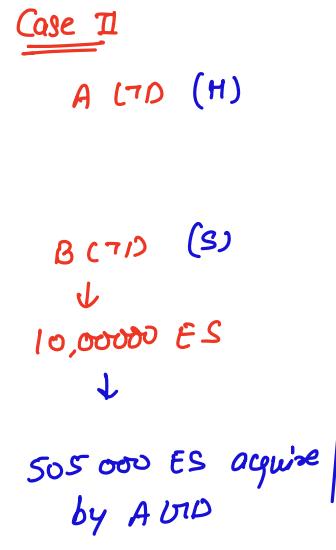
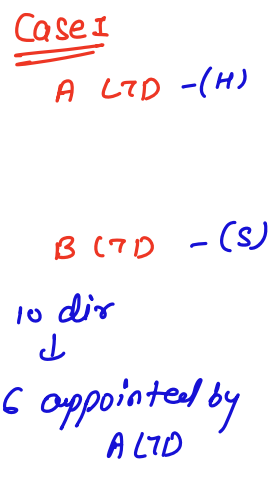
E. Deemed Public Company:- 2(71)



F. Holding and Subsidiary Companies: 2(46) 2(87)

Holding Comp

- A company is known as the holding company of another company if it has control over that other company.
- A company becomes a holding company of another if:
  - it can appoint or remove all or a majority of the directors of the latter company or;
  - if it can exercise more than 50% of the total voting power of the latter. own or together with sub.
- A company is known as a Subsidiary of another company when control is exercised by the latter (called holding company).



G. **Associate Company [Section 2(6)]**: In relation to another company, an Associate company means a company in which that other company has a significant influence [control of at least twenty per cent of total voting power, or control of or participation in business decisions under an agreement], but which is not a subsidiary company of the company having such influence and includes a joint venture company.

A LTD  
 ↓ SI - Min 20% VR

B LTD

H. **Listed Company [Section 2(52)]**: It is a company whose securities are listed on any recognised stock exchange.

$$PvT + Deb + RSE = X$$

$$Public Comp + \text{only Deb} + RSE = X$$

only PS

$$Public Comp + ES + RSE = \checkmark$$

I. **Government Company [Section 2(45)]**: A government company means any company in which not less than 51% of the paid-up share capital is held by —

- The Central Government, or
- Any State Government, or governments, or
- Partly by the central government and partly by one or more state governments.

CG or SG or Both

↓ 51% or more PSC

Sub:

↳ Comp - Govt Co

J. **Foreign Company [Section 2(42)]**: It is any company or body corporate incorporated outside India which —

- has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- conducts any business activity in India in any other manner.

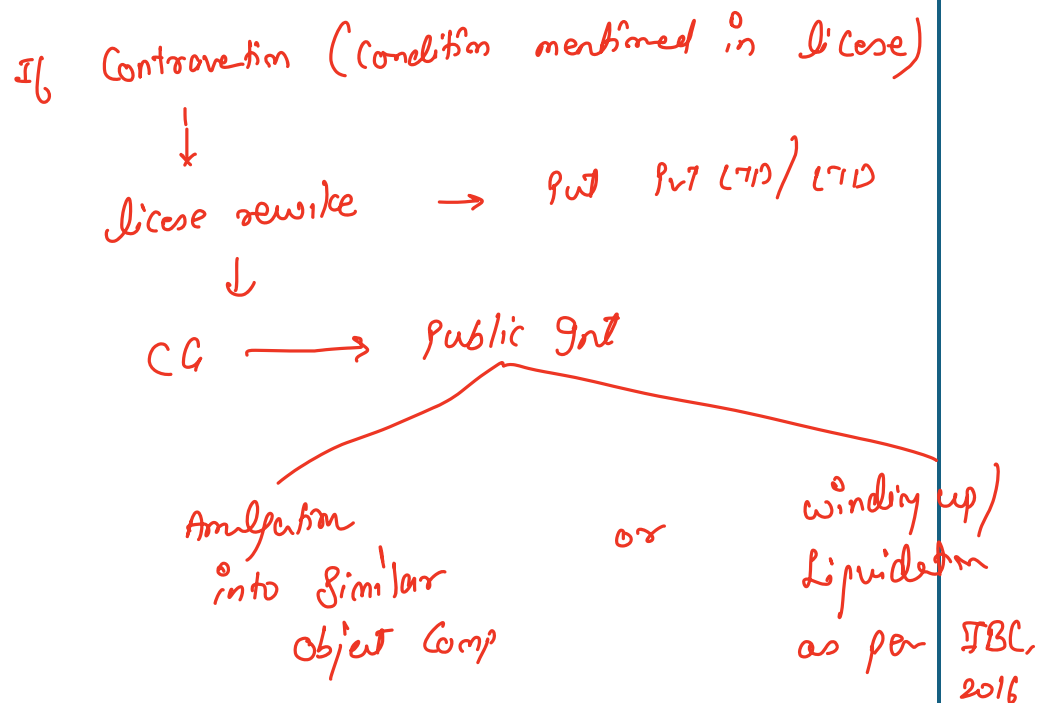
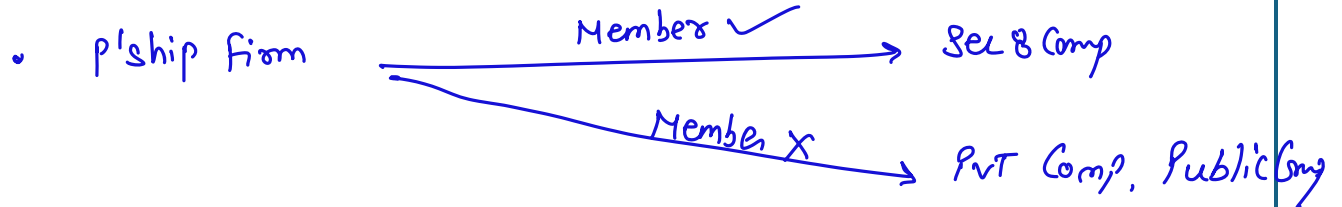
## Sec 8

### K. Companies with charitable objects [Section 2(8)]:

- Company which is formed to promote the charitable objects of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment, etc.
- Such company intends to apply its profit (if any) in:
  - promoting its objects and
  - prohibiting the payment of any dividend to its members.

These companies are licensed by the Central government and the registrar, on application, register such a person or an association of persons as a company under this section 8.

- On registration, the company enjoys the same privileges and obligations as a limited company.
- Examples: FICCI, ASSOCHAM, National Sports Club of India, CII, etc.



L. **Dormant companies [Section 455]**: Where a company is formed and registered under for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar for obtaining the status of a dormant company. The term 'Dormant' means sleeping or inactive.

① Future project or assets or IPR

AND

② NO SAT

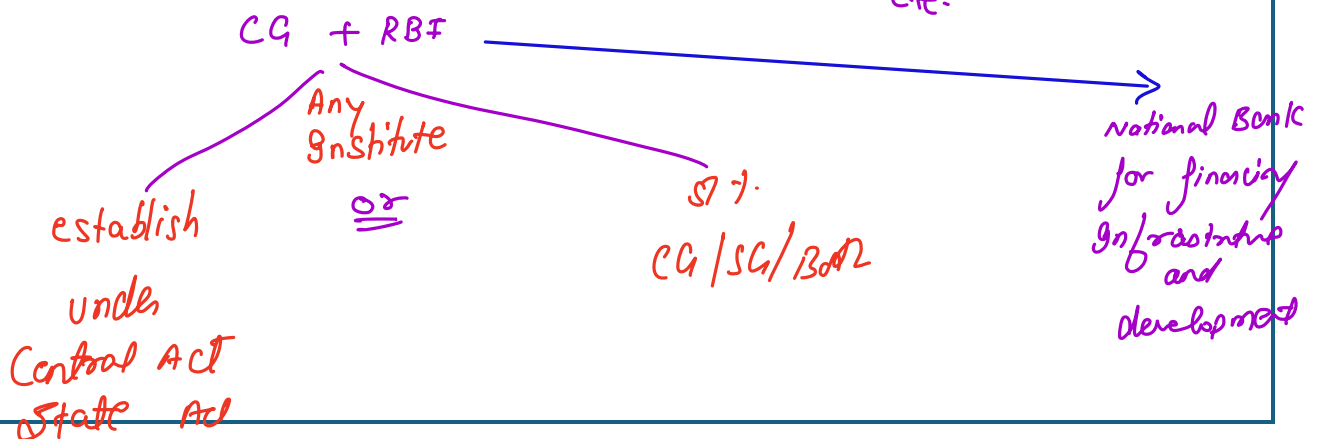
M. **Nidhi companies [Section 406(1)]**:

(part of Public Comp + Nidhi LTD)

- These companies are also called the 'Mutual benefit society', which means a company that the Central Government may declare to be a Nidhi or Mutual Benefit Society.
- Its main objective is to **lend and borrow money to the members**, for the purpose of their mutual benefits and to **cultivate savings habits** among the members.

N. **Public Financial Institutions [Section 2(72)]**: The following institutions are to be regarded as public financial institutions:

- UTI ✓
- LIC ✓
- IDFC ✓
- institute notified by CG v/s UA of CA 1956 (NABARD, SIDBI etc.)



5 yr

SAT other than

- 1.
- 2.
- 3.
- 4.

## 5. DOCTRINE OF ULTRA VIRES (Ashbury railway carriage and iron company ltd vs riche)

- When an act is performed, which though legal in itself, is not authorized by the object clause of the memorandum, or by the statute, it is said to be ultravires the company, and hence null and void.
- An act which is ultravires, the company cannot be ratified even by the unanimous consent of all the shareholders.
- An act which is ultravires the directors<sup>POA</sup>, but intravires the company, can be ratified by the members of the company through a resolution passed at a general meeting.
- If an act is ultravires the Articles,<sup>but intravires the Comp</sup> it can be ratified by altering the Articles by a Special Resolution at a general meeting.

Summary →

### 1) ultra vires the Comp. Act, 2013

- Beyond the Comp Act
- void - ab. initio
- Can't be justify by SH

### 2) ultra vires the MOA

- Beyond the Comp power/object clause
- 
- 

### 3) ultra vires the directors / AOA but intravires the Comp

- Beyond the power of dir
- Can be justify by SH

## Effect of ultra vires

- void - ab - initio
- injunction / stay order
-

## 6. DOCTRINE OF INDOOR MANAGEMENT (Royal British Bank vs Turquand)

- The Doctrine of Indoor Management is the exception to the doctrine of constructive notice.
- The aforesaid doctrine of constructive notice does in no sense mean that outsiders are deemed to have notice of the internal affairs of the company.
- For instance, if an act is authorised by the articles or memorandum, an outsider is entitled to assume that all the detailed formalities for doing that act have been observed.

Exception :-

1. no knowledge of MOA / AOA
2. knowledge of irregularity
3. Negligence
4. Forgery

## 7. Classification of capital :-

- Nominal, Authorised, or Registered Capital
  - Issued Capital ✓
  - Subscribed Capital ✓
  - Called-Up Capital ✓
  - Paid-Up Capital ✓
- Called up Capital - Calls in Aror.

8. AOA

- 1) Guinness v/s Land Corporation of Ireland → Internal Rule & Regulated
- 2) SS Rajkumar v/s Perfect Copy (P) Ltd → Moneys Code

9. MOA

- 1 N - Name
- 2 R - State
- 3 O -
- 4 L - L/UL
- 5 C - ASC
- 6 S - Sign = 1 share = Individual

OPC - 7. Nominee clause



Sec 5

Table F

H

Q

J

I

Q. Ratanmul Milk India Limited is a public company and formed on 01.01.2023. On this date, Mr. Sharman was appointed as Legal Advisor of the company. It was mentioned in the Articles of Association of the company that Mr. Sharman will not be removed from the post of Legal Advisor till 31.03.2027. On 01.07.2024, a Special Resolution was passed for the alteration in Articles of Association and Mr. Sharman was removed from the company. Mr. Sharman filed the suit against Ratanmul Milk India Limited for removal as a Legal Advisor. Referring the provisions of the Companies Act, 2013, whether can company remove Mr. Sharman?

Q. XYZ Ltd. was incorporated to hold the patent for a new product. The company is expecting to start its commercial production within the next two years. In the meanwhile, for timely installation, the company has placed the purchase order for plant and machinery with a down payment of ` 1 crore. Referring to the provisions of the Companies Act, 2013 examine, whether the company can go for acquiring the status of a dormant company?

Q. A, B and C has decided to set up a new club with name of ABC club having objects to promote welfare of Christian society. They planned to do charitable work or social activity for promoting the artwork of economically weaker section of Christian society. The company obtained the status of section 8 company and started operating from 1st April 2021 onwards. However, on 30th September 2023, it was observed that ABC club was violating the objects of its objective clause due to which it was granted the status of section 8 Company under the Companies Act, 2013. Discuss what powers can be exercised by the Central Government against ABC club, in such a case?

Q. Nolimit Private Company is incorporated as unlimited company having share capital of ` 10,00,000. One of its creditors, Mr. Samuel filed a suit against a shareholder Mr. Innocent for recovery of his debt against Nolimit Private Company. Mr. Innocent has given his plea in the court that he is not liable as he is just a shareholder. Explain, whether Mr. Samuel will be successful in recovering his dues from Mr. Innocent?

Q

BC Private Limited and its subsidiary KL Private Limited are holding 90,000 and 70,000 shares respectively in PQ Private Limited. The paid-up share capital of PQ Private Limited is ₹ 30 Lakhs (3 Lakhs equity shares of ₹ 10 each fully paid). Analyse with reference to provisions of the Companies Act, 2013 whether PQ Private Limited is a subsidiary of BC Private Limited. What would be your answer if KL Private Limited is holding 1,60,000 shares in PQ Private Limited and no shares are held by BC Private Limited in PQ Private Limited?

Q.

Narendra Motors Limited is a Government Company. Shah Auto Private Limited have share capital of ₹ 10 crore in the form of 10,00,000 shares of ₹ 100 each. Narendra Motors Limited is holding 5,05,000 shares in Shah Auto Private Limited. Shah Auto Private Limited claimed the status of Government Company. Advise as legal advisor, whether Shah Auto Private Limited is Government Company under the provisions of Companies Act, 2013?

*Q. Mr. Dhruv was appointed as an employee in Sun moon Timber Private Limited on the condition that if he was to leave his employment, he will not solicit customers of the company. After some time, he was fired from company. He set up his own business under proprietorship and undercut Sun moon Timber Private Limited's prices. On the legal advice from his legal consultant and to refrain from the provisions of breach of contract, he formed a new company under the name Seven Stars Timbers Private Limited. In this company, his wife and a friend of Mr. Dhruv were the sole shareholders and directors. They took over Dhruv's business and continued it. Sunmoon Timber Private Limited files a suit against Seven Stars Timbers Private Limited for violation of contract. Seven Stars Timbers Private Limited argued that the contract was entered between Mr. Dhruv and Sunmoon Timber Private Limited and as company has separate legal entity, Seven Stars Timbers Private Limited has not violated the terms of agreement. Explain with reasons, whether separate legal entity between Mr. Dhruv and Seven Stars Timbers Private Limited will be disregarded*

*Q. AK Private Limited has borrowed ₹ 36 crore from BK Finance Limited. However, as per memorandum of AK Private Limited, the maximum borrowing power of the company is ₹ 30 crore. Examine whether AK Private Limited is liable to pay this debt? State the remedy, if any available to BK Finance Limited*

Q. Tycoon Private Limited is the holding company of Glassware Private Limited. As per the last profit and loss account for the year ending 31st March, 2025 of Glassware Private Limited, 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 Glassware Private Limited 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.

Q. In the Flower Fans Private Limited, there are only 5 members. All of them went on a pleasure trip in a boat into an open sea. The boat overturn and all of them were drowned. Explain with reference to the provisions of the Companies Act, 2013:

(A) Is Flower Fans Private Limited no longer in existence?

(B) Further is it correct to say that a company being an artificial person cannot own property and cannot sue or be sued? **False**

Q. An employee, Mr. Karan, signed a contract with his employer company, ABC Limited, that he will not solicit the customers after leaving the employment from the company. But after Mr. Karan left ABC Limited, he started up his own company, PQR Limited and started soliciting the customers of ABC Limited for his own business purposes. ABC Limited filed a case against Mr. Karan for breach of employment contract and for soliciting their customers for own business. Mr. Karan contended that there is a corporate veil between him and his company and he should not be personally held liable for this. In this context, the ABC Limited seeks your advice as to the meaning of corporate veil and when the veil can be lifted to make the owners liable for the acts done by a company.

Q. Pacific Motors Limited is a Government Company. Rama Auto Private Limited is a private company having share capital of ten crores in the form of ten lakh shares of ` 100 each. Pacific Motors Limited is holding five lakh five thousand shares in Rama Auto Private Limited. Rama Auto Private Limited claimed the status of Government Company. Advise as legal advisor, whether Rama Auto Private Limited is a Government Company under the provisions of the Companies Act, 2013?

Q. Jagannath Oils Limited is a public company and having 220 members of which 25 members were employees in the company during the period 1st April, 2006 to 28th June 2016. They were allotted shares in Jagannath Oils Limited first time on 1st July, 2007 which were sold by them 1st August, 2016. After some time, on 1st December, 2016, each of those 25 members acquired shares in Jagannath Oils Limited which they are holding till date. Now company wants to convert itself into a private company. State with reasons:

(I) Whether Jagannath Oils Limited is required to reduce the number of members.  
220

(II) Would your answer be different if above 25 members were the employee in Jagannath Oils Limited for the period from 1st April, 2006 to 28th June, 2017

$$220 - 25 = \underline{195}$$

Q Yadav dairy products Private limited has registered its articles along with memorandum at the time of registration of company in December, 2014. Now directors of the company are of the view that provisions of articles regarding forfeiture of shares should not be changed except 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. (4 M)

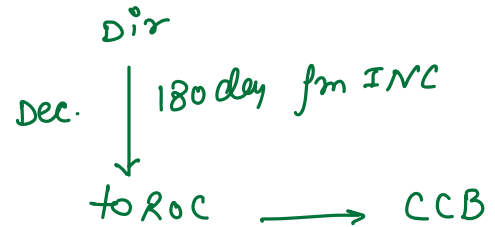
Q. Sound Syndicate Ltd. is a public company. Its articles of association empower the managing agents (Directors) to borrow both short- and long-term loans on behalf of the company, Mr. Liddle, the director of the company, approached Easy Finance Ltd. a non-banking finance company for a loan of ₹ 25,00,000 in name of the company. The Lender agreed and provided the said loan. Later Sound Syndicate Ltd. refused to repay the money borrowed on the pretext (ground) that no resolution authorizing such loan have been actually passed by the company and the lender should have enquired about the same prior to providing such loan. Hence, the company is not liable to repay such loan.

Analyse the above situation in terms of the provisions of Doctrine of Indoor Management under the Companies Act, 2013 and examine whether the contention of Sound Syndicate Ltd. is correct or not?



## Imp Topics

Section :- 2(22), 2(42), 2(45), 2(85), 2(87)  
Sec 3A, Sec 8, Sec 10A, Sec 455



TOPICS :- ultravires, indoor MGT, kind of SC

Case studies :-

- 1) Mac. — SCE
- 2) Daimler — LCV
- 3) Eilford — LCV
- 4) SS Raj Kumar — Magni Carta  
(AOA)