

Q(b) Law

According to Section 2(46), 2(87) & 2(6) of the Companies Act 2013

A holding company is a company having one or more subsidiary company

A subsidiary is a company where the other company holds

- more than one half of the total voting power or

- power to appoint or controls the composition of board of directors.

A company is an associate company where the other company has significant influence over the affairs of such other company includes a joint venture but not a subsidiary

Provided that - significant influence shall arise from voting power of atleast 20% of the equity share capital and convertible preference share capital.

Conclusion

- The fact that MNO is subsidiary of JKL Pvt Ltd does not establish any relation between JKL Pvt Ltd and DEF Ltd. This is irrelevant whether MNO and DEF are related or not, whether MNO Ltd or DEF Ltd are holding subsidiary or not the relation between MNO and JKL is not established.

- Since MNO Pvt Ltd holds 5000 shares of the total capital of 20,000 shares, that is only 25% of voting power which creates a relationship of Associate between the two companies.

YT - 360 find
CA-Shantanu Gupta

Insta - @shaan-gupta

Q1

Law

According to Section 142 read with section 143 of the Indian Contract Act 1872.

Any Guarantee which is obtained by misrepresentation of facts by the Creditor towards the surety, such guarantee is void, i.e. invalid.

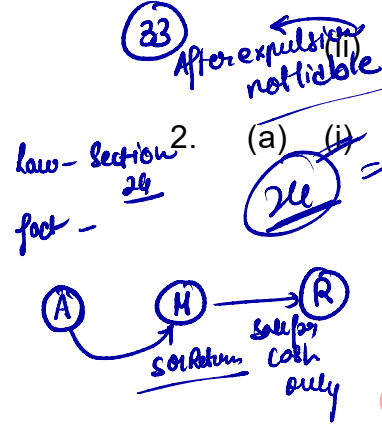
Provided that, in case of a valid guarantee on insolvency of the principal debtor the surety shall be liable for the balance due on such guarantee towards the creditor shall be paid by the surety.

According to Section 23 a partner may be expelled from the partnership
 — Good faith — Test of Good faith
 — Express Agreement
 — Majority Partners
 Notice + Reasons + Opportunity of being heard

(c) Referring to the provisions of the Indian Partnership Act, 1932, answer the following:

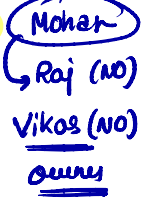
(i) "If a partner is otherwise expelled the expulsion is null and void." Discuss. (4 Marks)

"The partner who is expelled will cease to be liable to the third party for the act of the firm done after expulsion." Analyse. (2 Marks)

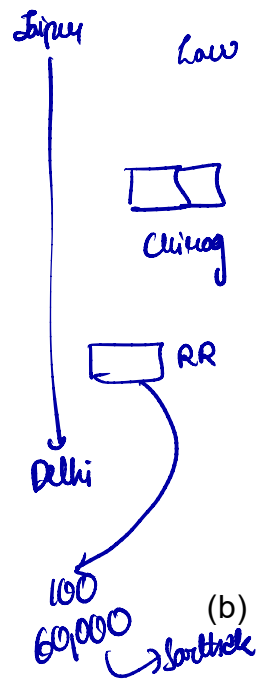


(a) (i) Ashish, a trader, delivered a camera to Mohan on 'sale or return' basis. Mohan delivers the camera to Raj on the terms of 'sale for cash only or return'. Afterward, Raj delivered it to Vikas on a 'sale or return' basis without paying cash to Mohan. The camera, which was in possession of Vikas, was lost by theft though he exercised due care for its safety. Referring to the provisions of the Sale of Goods Act, 1930, analyse the situation and advise whether Mohan, Raj or Vikas are, jointly or severally, liable to pay the price of the camera to Ashish. (4 Marks)

Only Mohan is liable since he is the owner



(ii) Akash of Jaipur sold 100 smart TV set @ ₹ 50,000/- per set to Barun of Delhi. He delivered the TV sets to Chirag, a transport carrier for transmission to Barun. Barun further sold these 100 TV sets to Sarthak @ ₹ 60,000/- per set. On reaching the goods at the destination, Barun demanded the delivery but Chirag, wrongfully, refused to deliver the goods to Barun. That is why; he failed to deliver TV sets to Sarthak and suffered a huge loss on account of non-delivery. Akash came to know about this. He directed Chirag to stop the delivery to Barun and re-deliver the goods to him at Jaipur.



Answer the following questions under the provisions of the Sale of Goods Act, 1930:

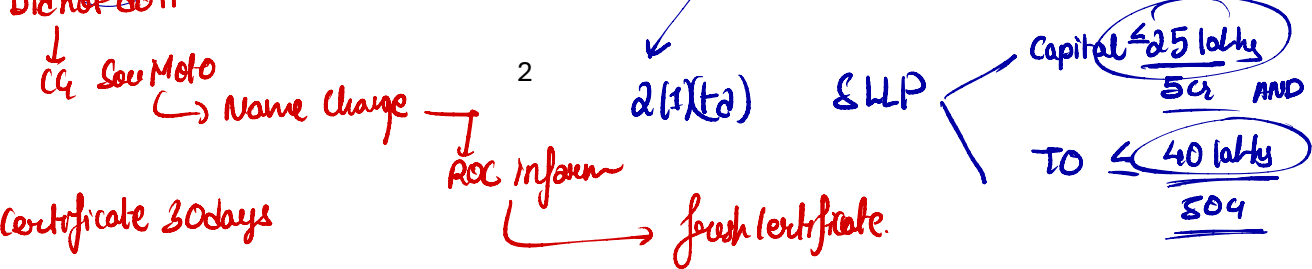
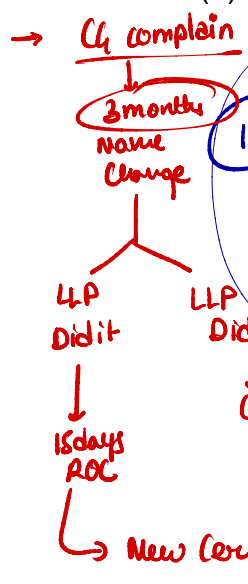
- (A) Whether Akash has the right to stop the goods in transit? NO
- (B) Whether Barun can claim loss suffered due to non-delivery from Akash? 57 (3 Marks)

(b) Ram wants to incorporate a company in which he will be the only member. According to provisions of the Companies Act, 2013, what type of company can be incorporated? What are the salient features of this type of company? OPC (7 Marks)

(c) Referring to the provisions of the Limited Liability Partnership Act, 2008, answer the following:

(i) Under what circumstances a Limited Liability Partnership is compulsorily required to change its name? Also, explain the compliance requirement following the change of name and the consequences, if any, in case of default therein. (4 Marks)

(ii) What do you mean by a Small Limited Liability Partnership? (2 Marks)



52

TIP

K-D Bhai I am Sorry
Chup hoja

2(a)

(ii) Law

According section 50 read with section 57 of the Sales of Goods Act 1930.

Stoppage in transit can only occur when :

- Goods are in transit
- Buyer is insolvent
- Price is unpaid

Where the buyer has incurred any loss due to non delivery of goods, he is entitled to recover all damages from the seller suffered due to non delivery.

Q.10

Conclusion

Hence, Mohan is the one responsible to compensate the price of the camera to Ashish.

- Raj is not responsible for any damages as he is not the owner since sale made to him was on cash only therefore since no payment was made no ownership was transferred.
- Vikas is not the owner since Raj could not transfer ownership which he did not have.
- Mohan has made implied acceptance by sale of camera to Raj hence he is the owner and liable for payment.

Conclusion - Gaurav is only liable to Sahil since only Gaurav represented himself to be a partner of the firm and such representation was not made to Madhav, therefore Gaurav is only liable to Sahil.

3. (a) Referring to the provisions of the Indian Partnership Act, 1932, answer the following:

CA Shantam Gupta

(i) Ram and Shyam are partners in a partnership firm named as RS & Co. (the firm). Gaurav, a renowned businessman, is their common friend. Ram introduced Gaurav to Sahil, a supplier to the firm, as his newly joined partner. Gaurav knowing that he is not a partner preferred to keep quiet on such an introduction. This information about Gaurav, being a partner of the firm, was shared by Sahil with another businessman Madhav. Next day, Sahil supplied the raw material on credit and Madhav lent ₹ 5 lakhs to the firm for a short period on the understanding that Gaurav is a partner of the firm. On due dates, the firm failed to discharge its liability towards both. Advise Gaurav, whether he is liable to Sahil and Madhav for the aforesaid liability of the firm. (4 Marks)

28
Gaurav
Sahil only
Madhav Not

(ii) On admission as a new partner, Ashwin agreed to be liable for the existing debts (referred to as the old debts) of the firm by an agreement signed by all partners including Ashwin. Examine, whether Ashwin will be liable in a suit filed by the creditor against the firm and all existing partners for recovery of the old debt of the firm. (3 Marks)

Section 23

(b) (i) MN Limited borrowed a secured loan of ₹ 5 crore from Star Bank Limited (the bank) to meet its working capital requirement. However, the borrowing powers of the company, under its Memorandum of Association, were restricted to ₹ 1 crore. The bank released the loan amount in two instalments of ₹ 1 crore and ₹ 4 crore. On the due date for repayment of the loan, the company refused to accept the liability of ₹ 5 crore on the ground that the borrowing was ultra vires the company. The company's books of accounts show that the company has utilized the loan amount of ₹ 3 crore for repayment of its lawful debts. The utilization of the remaining ₹ 2 crore cannot be traced. Referring to the doctrine of ultra-vires under the Companies Act, 2013, examine the validity of the decision of the company denying the repayment of the loan and explore the remedy, if any, available to the bank for recovery of the loan. (4 Marks)

Law
UV → NOA
↓
scope outside
void
Co deny Yes
Bank new
creditor
to → 3 cr

(ii) After incorporation of Unique Private Limited (the company) on 15th May, 2024 the share certificates were issued to Arnav, Sohail and Suman being subscribers to the Memorandum of Association of the company without affixing the common seal thereon and under the signature of Arnav and Sohail, the directors of the company. The company has yet to appoint a company secretary. On objection raised by Suman, a director, about the validity of the share certificate signed by other two directors, Arnav and Sohail, clarified that since the company has opted not to have the common

Law



According to Section 23 of Indian Partnership Act 1922, where a partner is admitted to a partnership and accepts liability by an agreement between all partners for the debt accepted by the firm prior to such admission, the incoming partner shall also be liable for prior period transactions.

Conclusion

Ashwin will be responsible for the old debts of the firm since he has accepted the liability under an agreement between partners.

Section 9 of Co Act
Amend Co Act 2015

Co Sec X

2 directors ✓

NO

seal for the company the share certificates (i.e. the document) signed by two directors are valid. Referring to the provisions of the Companies Act, 2013, examine the correctness of the objection raised by one of the directors and in response, the clarification offered by other directors.

Would your answer be different, if the company had a company secretary? 2X 10/12 + 1/18 (3 Marks)

(c) Explain the term Wagering agreement in the light of the Indian Contract Act, 1872. Also, explain some transactions resembling wagering transaction but which are not void. (6 Marks)

→ tomorrow

4. (a) (i) Mr. R extended a loan to Mr. D with X, Y, and Z as sureties. Each surety executed a bond with varying penalty amounts, X with a penalty of ₹ 10,000, Y with ₹ 20,000 and Z with ₹ 40,000, in the event of Mr. D's failure to repay the borrowed money to Mr. R. Examine the liabilities of the sureties in accordance with the Indian Contract Act, 1872, when Mr. D defaults to the tune of ₹ 42,000. Additionally, assess the situation, if there is no contractual arrangement among the sureties. (4 Marks)

10,000 14,000 ← X 10,000
14,000 ← Y 20,000
14,000 ← Z 40,000
42,000
3
14,000

X agrees to pay Y ₹ 1,00,000 if Y kills Z. To pay Y, X borrows ₹ 1,00,000 from W, who is also aware of the purpose of the loan. Y kills Z but X refuses to pay. X also to repay the loan to W. Explain the validity of the contract.

- (A) Between X and Y
- (B) Between X and W (3 Marks)

(b) A promissory note, payable at a certain period after sight, must be presented to the maker thereof for payment. Under which scenarios, presentment for payment is not necessary and the instrument is dishonoured at the due date for presentment according to the provisions of the Negotiable Instrument Act, 1881? (7 Marks)

3 x Part
4/ →

→ Kol 12

(c) What do you understand by Law? Also, elaborate the procedure for making a law. (6 Marks)

→ Kol 12

5. (a) (i) Karan agreed to sell his laptop to Vishal for a price to be fixed by Kiran a hardware engineer. However, before the delivery of the laptop, Karan changed his mind and did not share any particulars and configuration of the laptop with Kiran, which made her unable to do the valuation. Kiran refused to do valuation.

100
20 ✓
40

Vishal needed laptop for his project, so he promised Karan that, if the laptop is delivered to him, he would pay a reasonable price for it. However, Karan decided not to sell his laptop to Vishal. Now, Vishal wants to know from you, being a legal expert, whether Karan is bound by his promise as he agreed earlier to deliver his laptop

20 - CA
20 → (today)

400 (i) Law.

According to the relevant provisions of the Contract Act 1872, where the co-sureties have joined to guarantee a debt in a ratio of pre-determined amount, the recovery shall be possible only upto the amount guaranteed by them, the joint sureties are jointly responsible for the debts of the principal debtor.

Conclusion

Mr. X shall be liable upto 10,000 only while the other two sureties are liable for 14,000 each.

Irrespective of the fact that whether there is a mutual contract between the sureties or not the liabilities are unaffected

(10) valuation by third → void

Section 9
↓
RP

to him at a reasonable price. If he does not agree to deliver what is the other remedy available to Vishal? Advise, referring to the provisions of the Sale of Goods Act, 1930. **(3 Marks)**

(ii) Mrs. Meenu went to the local rice and wheat wholesale shop and asked for 100 kgs of Basmati rice. The Shopkeeper quoted the price of the same as ₹ 125 per kg to which she agreed. Mrs. Meenu insisted that she would like to see the sample of what would be provided to her by the shopkeeper before she agreed upon such a purchase.

Goods

4/100

The shopkeeper showed her a bowl of rice as a sample. The sample exactly corresponded to the entire lot.

Mrs. Meenu examined the sample casually without noticing the fact that even though the sample was that of Basmati Rice, but it contained a mix of long and short grains.

The cook on opening the bags complained that the dish if prepared with the rice would not taste the same as the quality of rice was not as per the requirement of the dish.

Now Mrs. Meenu wants to file a suit for fraud against the seller alleging him of selling a mix of good and cheap quality rice. Will she be successful?

Decide the fate of the case and options open to Mrs. Meenu for grievance redressal as per the provisions of Sale of Goods Act, 1930?

What would be your answer in case Mrs. Meenu specified her exact requirement as to the length of rice? **(4 Marks)**

(b) "Indian Partnership Act, 1932 does not make the registration of firms compulsory nor does it impose any penalty for non-registration." In light of the given statement, discuss the consequences of non-registration of the partnership firms in India? **(7 Marks)**

(c) (i) In case of breach of contract, the court may award compensation or damages. Explain the circumstances when court may award ordinary damages, special damages and liquidated damages under the provisions of the Indian Contract Act, 1872. **(3 Marks)**

Kol 12

(ii) What are the conditions need to be fulfilled to make the following agreements valid without consideration as per the provisions of the Indian Contract Act, 1872?

(A) Agreement made based on natural love and affection

(B) Promise to pay time-barred debts

(3 Marks)

Kol 12

5 → 6 → 138 + 139 + 140

6. (a) Mr. Y issued a cheque for ₹ 10,000 to Mr. Z which was dishonoured by the Bank because Y did not have enough funds in his account and has no authority to overdraw. Examine as per the provisions of the Negotiable Instruments Act, 1881 whether-

Conclusion

- (i) Mr. Y is liable for dishonor and consequences are
- two years of imprisonment or
 - twice the amount of penalty or
 - both

- (i) Mr. Y is liable for dishonour of cheque, if yes, what are the consequences for such an offence?
 (ii) What would be your answer if issued a cheque as a donation to Mr. Z? (7 Marks)

(b) Explain the term 'Quasi Contracts' and state their characteristics. → Kol 12 (6 Marks)

(c) Distinguish between 'Sale' and 'Hire Purchase' under the Sale of Goods Act, 1930. Kol 12 (7 Marks)

(d) If the cheque is drawn on donation or illegal consideration then section 138 shall not apply.

Law

According to section 138, 139, 140 of the Negotiable Instrument Act 1881 an instrument being cheque when drawn for valuable consideration if dishonored due to non payment or account of insufficiency of funds or stop payment, the penalty shall be twice the amount of the cheque or prison upto 2 years or both.

The holder of the cheque is presumed to have ownership of such instrument such assumption rebuttable.

The drawer of the instrument cannot claim that he was unaware about adequacy of funds as per section 138.