

Q-1 Mr. Anil formed a One Person Company (OPC) on 16th April, 2018 for manufacturing electric cars. The turnover of the OPC for the financial year ended 31st March, 2019 was about ₹ 2.25 Crores. His friend Sunil wanted to invest in his OPC, so they decided to convert it voluntarily into a private limited company. Can Anil do so? (Sugg-Nov'19, 4 Marks)

Ans. **Provision:**

him.

Q-3 A, an assessee, had large income in the form of dividend and interest. In order to reduce his tax liability, he formed four private limited company and transferred his investments to them in exchange of their shares. The income earned by the companies was taken back by him as pretended loan. Can A be regarded as separate from the private limited company he formed?

(MTP-April'21, MTP-March'21, MTP-March'18, MTP-April'19, MTP-March'19,

RTP-May'19, Sugg-Nov'19, 3 Marks)

Ans Provision:

Provision :-

According to The Companies Act 2013, One person company means the company which has only one member. One person company can be voluntarily converted into Private limited company, and Public company but not in section 8 Company i.e. Nidhi company.

Facts of case :-

In the present case, Mr. Anil formed an One Person company which deals in manufacturing of electric cars, however, his friend Sunil wants to invest in his One person company.

Conclusion :-

Yes, Anil can voluntarily convert his One person Company into a Private limited Company.

Q.3 Provision :-

According to the Companies Act, 2013 there is provision that the members and the company are separate legal entity, from its members, however there is also a concept i.e. Lifting of Corporate veil, (Whenever the intention of the person is to protect the tax liability by deceiving government, it will be void under the law). There is right of law to lift the corporate veil and pretend the member and the company same identity or same person. The intention of A was to save his Tax liability from the government as similar as the case of Dinshaw Manekjee Petit.

Facts of case :-

In the given case, A has large income in the form of interest and dividend and to save it from tax he created four Pvt Ltd companies and invested in them and took money from that companies in the form of loan to prevent Government tax.

Conclusion :-

A cannot be regarded separate from the Pvt Ltd Companies and will be held liable.

Krishna's income will be clubbed with income of these companies.

4 Sound Syndicate Ltd., a public company, its articles of association empowers the managing agents 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 above said loan. Later on, Sound Syndicate Ltd. refused to repay the money borrowed on the pretext that no resolution authorizing such loan have been actually passed by the company and the lender should have enquired about the same prior providing such loan hence company not liable to pay 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 ?

(Sugg-May'19, 4 Marks)

Q.4

Provision:-

As per the Companies Act 2013, any outsider is presumed to know all the public documents of the company before entering into the contract. However the outsider cannot be presumed to know the internal facts of the company. If there is internal resolutions the outsider should not be presumed to know that internal facts about the company. This provision of law falls under The Doctrine of Indoor Management, that the outsider cannot be presumed to aware about the internal irregularities. The similar situation has taken place in the case Royal British Bank vs. Turquand

Facts of the case:-

Sound syndicate Ltd is a public company which allows its managing director to take both long and short term loans and Mr. Liddle the Managing director of the company approved Easy Ltd which is a non-banking finance company and took loan of ₹ 25,00,000 which is taken by him without passing any such resolution.

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Date _____

Conclusion :-

The contention of sound syndicate is incorrect the company is liable to repay the loan. The Easy Finance Ltd cannot be presumed to know about the internal irregularities.

the matter.

Q-6 Popular Products Ltd. is company incorporated in India, having a total Share Capital of ₹20 Crores. The Share capital comprises of 12 Lakh equity shares of ₹ 100 each and 8 Lakhs Preference Shares of ₹ 100 each. Delight Products Ltd. and Happy Products Ltd. hold 2,50,000 and 3,50,000 shares respectively in Popular Products Ltd. Another company Cheerful Products Ltd. holds 2,50,000 shares in Popular Products Ltd. Jovial Ltd. is the holding company for all above three companies namely Delight Products Ltd; Happy Products Ltd.; Cheerful Products Ltd. Can Jovial Ltd. be termed as subsidiary company of Popular products. Ltd., if it. Controls composition of directors of Popular Products Ltd. State the related provision in the favour of your answer.

Ans. Provision:

(Sugg-May'19, 3 Marks)

Q.6 Provision:-

According to the Companies Act, 2013
If a company controls the composition
of Board of Directors of another
company or holds more than 50% of
total voting power of another company
either at its own or together with
its subsidiary, then the another company
shall be the subsidiary company.

Conclusion:-

- Total voting power of Popular Ltd is 12
crores (12 lakhs $\times$ 100).
- Delight Happy and Cheerful Ltd holds
2,50,000 350,000 and 250,000 shares
respectively in Popular Ltd.
- Joyal Ltd is the Holding company for
Delight, Happy and Cheerful.
- Joyal Ltd together with its subsidiary
is holding 70.83% of Total Voting Power
of Popular Ltd. $\left(\frac{8.5}{12} \times 100 \right) = 70.83\%$.

holding company as per the definition.

Q-7 A company registered under section 8 of the Companies Act, 2013, earned huge profit during the financial year ended on 31st March, 2018 due to some favorable policies declared by the Government of India and implemented by the company. Considering the development, some members of the company wanted the company to distribute dividends to the members of the

company. They approached you to advise them about the maximum amount of dividend that can be declared by the company as per the provisions of the Companies Act, 2013. Examine the relevant provisions of the Companies Act, 2013 and advise the members accordingly.

(MTP-Oct'19, Sugg.-Nov'18, 4 Marks)

Q.7

Provision:-

According to The Companies Act 2013, Section 8 Company (Nidhi Company) deals with the formation of companies which are formed to promote the charitable objects of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment etc and prohibiting the payment of any dividend to its members, and if the company does so, then the Government can revoke its license.

Facts of the case:-

In the given case a Section 8 company earned huge profits hence few of its members demanded distribution of dividend.

Conclusion:-

Applying the relevant provision it can be said that the company should not distribute any dividend to its members otherwise Central government may revoke its license.

9
-9 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 to 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.

Analyse the situation and decide whether Mr. X is free from his liability.

(MTP-April'21, MTP-Oct'19, MTP-March'19, Sugg-Nov'18, 3 Marks)

Ans. Provision:

Q.9 Provision:-

As per The Companies Act 2013, the outsider is presumed to know about Memorandum and Articles of Association, however according to the provision Doctrine of Indoor Management, the outsider cannot be presumed as or not deemed to know the internal management and internal irregularities within the company. This also took place under the case Royal British Bank vs. Turquand.

Facts of the Case:-

In the present case Mr. X purchased few goods on 1 month of Credit from M/s ABC Ltd. Mr. X went to the Company for repayment but he only found Mr. Z who was factory supervisor, Mr. X paid the payment to him and issued taken receipt of that payment from him.

Conclusion:-

Mr. X would be free from his liability. Mr. X cannot be presumed to know about the internal irregularities of the Company.

hence Mr. X would be free from his liability.

Q-10 Ravi Private Limited has borrowed ₹ 5 crores from Mudra Finance Ltd. This debt is ultra vires to the company. Examine, whether the company is liable to pay this debt? State the remedy if any available to Mudra Finance Ltd.?

(Sugg-May'18, 4 Marks)

Ans. Provision

is ultra vires. Such

Q.10

Provision:-

According to the Companies Act 2013, the Act beyond the memorandum of the company is ultra vires. A company cannot perform the act which is beyond its powers. There is also a case happened on this named, Royal British Ashbury Railway Carriage and Iron Company Ltd vs. Riche.

Facts of the case:-

Ravi Finance Ltd have borrowed ₹5 crore from Mudra Finance Ltd which is beyond the powers of the company.

Conclusion:-

Ravi Private Limited is not liable to pay this debt. There will be no any remedy for Mudra finance Ltd because the loan was ultra vires.

Q-12 Naveen incorporated a "One Person Company" making his sister Navita as the nominee. Navita is leaving India permanently due to her marriage abroad. Due to this fact, she is withdrawing her consent of nomination in the said One Person Company. Taking into considerations the provisions of the Companies Act, 2013 answer the questions given below.

- (a) If Navita is leaving India permanently, is it mandatory for her to withdraw her nomination in the said One Person Company?
- (b) If Navita maintained the status of Resident of India after her marriage, then can she continue her nomination in the said One Person Company?

[RTP-May '20]

Q.12 Provision :-

According to The Companies Act 2013, One person company means the company which consist of only one person as a member. One person company consist of a nominee which is ~~perisid~~ resident of India and should not be the nominee of another OPC at the same time but can be member of another OPC at the same time. If the nominee can maintain her/his status as resident of

Facts of case :-

Here, in the given case Naveen incorporated one person company and his sister as a nominee however, Naveeta is leaving India permanently due to her marriage abroad.

Conclusion :-

Naveeta cannot continue as a nominee if she is leaving India permanently.

- (i) If she is leaving India permanently it is mandatory for her to withdraw her nomination
- (ii) If Naveeta can maintain her status as resident of India (120 days in India in a year) then she can continue as nominee in the OPC.

Q-22 Alfa school started imparting education on 1st April, 2010, with the sole objective of providing education to children of weaker society either free of cost or at a very nominal fee depending upon the financial condition of their parents. However, on 30th March 2018, it came to the knowledge of the Central Government that the said school was operating by violating the objects clause due to which it was granted the status of a section 8 company under the Companies Act, 2013. Describe what powers can be exercised by the Central Government against the Alfa School, in such a case?

Provision :-

According to the Companies Act 2013, Section 8 company means the company which requires the license from Central Government to registered under section 8 after fulfillment of certain conditions i.e objects some charitable purpose, the company must intend to apply profits ~~for~~ to its objectives, ~~etc~~, for social welfare, etc.

The Section 8 company cannot distribute its profits to their members or shareholders even neither in the form of dividend.

If Section 8 companies do not work as per their objectives then the Central Government can revoke its license and wind it up or can amalgamate with other Section 8 company, having similar objectives.

Conclusion :-

~~The Alfa school~~ ~~ca~~ The Government can revoke the license of Alfa school and can pass the order to winding up or can amalgamate with other section 8 company with similar objectives, because ~~Government~~ Alfa school is violating their objectives.

Q-40 ABC Limited was into sale and purchase of iron rods. This was the main object of the company mentioned in the Memorandum of Association. The company entered into a contract with Mr. John for some finance related work. Later on, the company repudiated the contract as being ultra vires.

With reference to the same, briefly explain the doctrine of "ultravires" under the Companies Act, 2013. What are the consequences of ultravires acts of the company?

0.40 Provision:-

As per The Companies Act 2013, It is a fundamental rule of company law that the objects of a company as stated in its memorandum can be departed from only to the extent permitted by the Act, thus no far and no further. The impact of the Doctrine of ultra vires transactions, nor can it sue on it. Since the memorandum is a "public document", it is open to public inspection. Therefore, when one deals with a company one is deemed to know about the powers of the company. If inspite of this you enter into a transaction which is ultra vires the company, you cannot enforce it against the company. The fact of the above case are similar to the case law

Conclusion:- (Ashbury Railway and Iron Company vs. Riche)

In the given case ABC Limited cannot enter into a contract outside the purview of its object clause of memorandum of association as it becomes ultra vires and thus null and void. When Mr. John deals with ABC Limited, he is deemed to know about the powers of the ABC Ltd. If inspite of this ABC Ltd and Mr. John entered into a transaction which is ultra vires the ABC Ltd, the contract will become null and void.

Q-32 Manicar Limited has allotted equity shares with voting rights to Nanicar Limited worth ₹ 10 Crores and issued Non-Convertible Debentures worth ₹ 30 Crores during the Financial Year 2017-18. After that total Paid-up Equity Share Capital of the company is ₹ 100 Crores and Non-Convertible Debentures stands at ₹ 150 Crores. Define the Meaning of Associate Company and comment on whether Manicar Limited and Nanicar Limited would be called Associate Company as per the provisions of the Companies Act, 2013?

Ans. A

(MTP-Nov'21, 3 Marks)

Q.32 Provision:-

As per the Companies Act 2013, an Associate Company in relation to another company, means a company in which that other company has significant influence, which is not a subsidiary company and includes Joint Venture. "Significant Influence" means control at least 20% ^{Total voting right} and to maximum 50% of the company or the business decisions are controlled under an agreement. The total share capital include means paid-up share capital and convertible preference share. If any company holds at least 20% to 50% of the total voting power then or controls over the business decision of that company then the company will consist as associate company.

Conclusion:-

As per the provision of the law we conclude that Manicar Ltd and Nanicar Ltd would not be called Associate company because the total voting power is 10% and issue of non-convertible Debenture cannot be able to made it associate because it is not convertible. The company only holds 10% of voting power $\left(\frac{10 \times 100}{10000}\right)$ which is not enough for associate company.

holder

Marks)

ated by

ct. Such

Q-33 The paid-up capital of Ram Private Limited is ₹10 Crores in the form of 7,00,000 Equity Shares of ₹ 100 each and 3,00,000 Preference Shares of ₹ 100 each. Lakhan Private Limited is holding 3,00,000 Equity Shares and 3,00,000 Preference Shares in Ram Private Limited. State with reason, Whether Ram Private Limited is subsidiary of Lakhan Private Limited?

(MTP-Oct'21, 4 Marks)

"subsidiary company"

Q.33

Provision:-

According to The Companies Act, 2013, If the company controls the composition of the Board of Directors of another company or holds more than 50% of the total voting power of another company then the company called as the Holding company of the another company and the another company called as considered as subsidiary company of the holding company.

Conclusion:-

In the given case it is not Lakhan Private Limited will not regarded as holding company of the Ram Private Limited because Lakhan Private Limited only holds ~~50%~~ 42.86% of voting powers and not more than 50%.

$$\frac{300,000}{700,000} \times 100 = \underline{\underline{42.857\%}}$$

own surplus which may remain after the entire capital has been repaid.

Q-56 MTK Private Limited is a company registered under the Companies Act, 2013 on 5th January, 2021. The company has not started its business till now. On 7th April, 2023, a notice has been received from ROC for non-filing of FORM No-INC-20A. Identify under which category MTK Private Limited company is classified. Explain the definition of the category of the company in detail.

[Sugg-Dec'23, 3 Marks]

Ans: Dormant Comp

Page _____
Date _____

Q.56 Provision :-

According to the Companies Act 2013, where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction as may be prescribed for obtaining the status of a Dormant Company.

Significant accounting transaction does not include

(i) Payment of fees of :-

- (i) ROC
- (ii) fulfill requirements
- (iii) allotment of shares
- (iv) Payment for maintenance of its office & record.

Inactive company does not carrying business operation or significant accounting transaction during last 2 years and not filed financial status & annual returns last 2 years.

Conclusion :-

In this case at the base of the provisions MTK private limited ~~is~~ falls under Inactive company because the company has not started business till now after registration and notice has been received from ROC for non-filing of FORM No-INC-20A.

Ordinary shareholders.

Q-39 Rohan incorporated a "One Person Company". The memorandum of OPC indicates the name of his brother Vinod as the nominee of OPC. However, Vinod is starting his new business in abroad and needs to leave India permanently. Due to this fact, Vinod is withdrawing his consent of nomination in the said One Person Company. Taking into considerations the provisions of the Companies Act, 2013 answer the questions given below:-

- I. If is it mandatory for Vinod to withdraw his nomination in the said OPC
- II. Can Rohan make his 17 year old son as a nominee in such a case.

(MTP March '22, 4 Marks)

Q.39 Provision:-

As per the Companies Act 2013, One person company means the Company which has only one member. One person company bound to have one nominee which should be resident of India ~~ie 182 days~~ ^{immediately} ~~preceding~~ ^{preceding} financial year ~~ie 182 days~~ during the immediate preceding financial year. Or the ~~natural~~ one who has stayed in India for a period of not less than 120 days during the immediate preceding year. A minor cannot be a nominee of OPC ~~or~~ member or holds any beneficiary interest.

Conclusion:-

- (A) Yes, it is mandatory for Vinod to withdraw his nomination in the said OPC as he is leaving India Permanently as only a natural person who is an Indian citizen and resident in India or otherwise and has stayed in India for a period of not less than 120 days during the immediately preceding financial year shall be a nominee in OPC. Since Vinod will not satisfy this condition, so he needs to withdraw his nomination.
- (B) No, Rohan cannot make his 17 years old son as a nominee in such a case because no minor shall become nominee or member or can hold beneficiary interest in One Person Company.

Q-50 ✓ 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? [RTP Dec.'23]

Q.50

Provision:-

According to the Companies Act 2013, Government company means any company which more than 50% of paid up capital is held by Central Government or State Government or Governments or partly by Central and partly by state government or governments and the subsidiary considered company of Government company is also a Government Company.

Conclusion:-

In the given case, by taking the base of provision Navendra Motors limited is a Government Company which have Shah Auto Pvt Ltd as subsidiary, so, Shah Auto Pvt Ltd will be considered as Government Company.

$$\begin{aligned} \text{Subsidiary company cal}^n &= \frac{505000 \times 100}{10,00,000 \times 100} \times 100 \\ &= \underline{\underline{50.5\%}} \text{ which} \\ &\quad \text{is more than} \\ &\quad 50\% \therefore \text{subsidiary} \end{aligned}$$

is fulfilled that is of maximum 200 members.

Q-26 SK Infrastructure Limited has a paid-up share capital divided into 6,00,000 equity shares of INR 100 each. 2,00,000 equity shares of the company are held by Central Government and 1,20,000 equity shares are held by Government of Maharashtra. Explain with reference to relevant provisions of the Companies Act, 2013, whether SK Infrastructure Limited can be treated as Government Company. [Sugg-Jan'21, 3 Marks]

Ans Government Company [Section 2(45) of the Companies Act, 2013]: Government Company

Q.26 Provision:-

As per the Companies Act 2013, Government company means the more than 50% paid-up total voting rights of the company held by the central government or by state government or governments or partly by central government and partly by state government or government, and also ~~includes~~ ^{considers} the subsidiary company of government company as government company.

Conclusion:-

Yes, SK Limited should be treated as government company because central government and state government together holds more than 50% in SK Limited Company.

$$\left[\frac{3,20,000}{600,000} \times 100 \right] = 53.33\% \text{ held by the central and state Government}$$

Q-49 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? [RTP Dec.'23]

Ans.

Q.49

Provision:-

According to the Companies Act 2013, Subsidiary company in relation to any other company means a company in which the holding company controls the composition of Board of Directors or exercise or controls more than 50% of the total voting power at its own or together with its subsidiary or subsidiaries.

Conclusion:-

(i) PQ limited is the subsidiary company of BC Private limited together with its subsidiary KL private limited which together holds $\left(\frac{160,000 \times 10}{300,000 \times 10} \right) 53.33\%$ of Total voting power of PQ Limited.

(ii) If KL private limited holds 160,000 shares in PQ limited my answer will remain the same because KL private limited is the subsidiary company of BC Private limited. Hence, the subsidiary of the subsidiary company becomes the ~~sub~~ indirect subsidiary company of Holding Company i.e. BC Private limited.